

ALEXANDER HUGH HOLMES STUART
*at the age of seventy, when
he retired from public life*

Alexander Hugh Holmes Stuart

1807—1891

A BIOGRAPHY

By

ALEXANDER F. ROBERTSON



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TO
MARY STUART McGUIRE
AND
MARGARET BRISCOE STUART ROBERTSON
THE ONLY SURVIVING CHILDREN OF
ALEXANDER HUGH HOLMES STUART
THIS BOOK IS AFFECTIONATELY DEDICATED BY
THE AUTHOR

“There can be no nobler spectacle presented than that of an honorable man, standing as it were alone, breasting the storm of popular passion and prejudice. It requires more true courage to do so than to charge a battery; and, in the end, higher honor and more enduring esteem will be the reward of this noble self-sacrifice. Let your rule through life be to do what you believe right, without regard to the clamor of the public; and after the passions of the hour have passed away you will enjoy the richest of all rewards—the confidence of your countrymen and the consciousness of duty faithfully performed.”

A. H. H. STUART, *Address at the University of Virginia,*
June 20, 1866.

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INTRODUCTION



THE world has passed into a new era since the events chronicled in this volume moulded into definite shape the government of a great country founded in the struggles of our Revolutionary progenitors, and established upon fundamental principles that their wisdom inspired and developed. Among the Builders, who erected upon the foundations laid by the Fathers of the Republic the edifice of a great Nation, were many men who are no less worthy than they of the grateful remembrance of their descendants. These Builders of the superstructure did their work with patriotism, with ability, with far-sightedness and with devotion; and to their labors in settling vexed questions, in developing natural resources, in broadening knowledge, and in stabilizing for every citizen the opportunities of liberty and of the pursuit of happiness, is due no small part of the greatness and power of a country that has become the greatest and most powerful of the countries of the earth.

These men of the period succeeding that of the patriots, who laid the foundations in Declarations of Independence and written Constitutions and Bills of Rights, were confronted with difficulties and dangers in their construction and interpretation no less grave than those which were encountered by the men who had formulated and cemented them in the suffering and blood of the Revolution. They met these difficulties and dangers with the patriotic spirit, the courage, and the ability of their fathers; and they deserved well of the Republic.

High on the roll of these Builders stands the name of Alexander Hugh Holmes Stuart.

The period of Mr. Stuart's public life was one of mighty differences of opinion, of wide divergences of view as to the process of economic development, and of great sectional antagonisms. To the righteous solution of these vital questions he brought a broad-minded and unselfish patriotism, a singular devotion, an unceasing patience and a distinguished ability that mark him as an outstanding and noble figure in an epoch of crises and of perils. He gave his life to the peaceable adjustment of difficulties that grew inevitably out of the compromises which had been wrought into the Constitution of the Union, and to the preservation and perpetuation of the Constitution itself; and when the experiment of a free government, theretofore untried in the world, seemed threatened with destruction through a disruption that he had spent himself in seeking to avert, he devoted himself, with equal patriotism, patience and ability to the preservation and perpetuation of the principles on which the Union had been founded, and to the healing of the wounds that followed its attempted dissolution.

No one can read this biography without the conviction that love of country was the corner-stone of his character, and that to its vindication he devoted all of his great intellectual powers.

Mr. Stuart came of the race known in American history as "the Scotch-Irish,"—men who were descendants of Scots, who for the sake of civil and religious liberty, had gone from Scotland into Ulster, the northern province of Ireland, and emigrating thence to the Western Hemisphere, have since given to the country of their last adoption statesmen, soldiers, scholars and divines, the bed-roll of whose names includes, in addition to his own, those of many men illustrious in the story of the Union—Houston, and Preston, and McDowell, and Breckinridge, and Alexander, and Benton, and Crittenden, and Jackson, and Hampton, and Calhoun. It was a race that was characterized by an innate love of freedom; and its traditions and creeds were inheritances of his blood. Of his immediate progenitors, begin-

ning with the immigrant, Alexander Stuart, his great-grandfather, his biographer has given brief accounts in this book, which demonstrate that they were all imbued with a liberty-loving and patriotic spirit, and were prominent in the affairs of their successive generations.

Mr. Stuart's earlier political experience as a legislator of his native state, and as one of its representatives in the Federal Congress, was followed by his incumbency of the office of Secretary of the Interior in the Cabinet of President Fillmore. In his legislative services he evinced great powers of study and investigation and an unusual constructive ability. His utterances on political questions and measures were marked by an accuracy of knowledge, a power of logic, and a singular eloquence that made him a conspicuous and influential figure from the beginning to the end of his political life. To the administrative office of Cabinet Secretary he brought a remarkable knowledge of the workings of the Federal government, a wide acquaintance with the public men of his time, a trained and acute intellect, a systematic attention to details and much patience and industry in their management; and thus equipped, and inspired as he was with the conscientious purpose of serving his people, he discharged the duties of the office with notable ability and distinction.

But it was as a proponent and expositor of governmental and economic principles, and as a leader and actor in national affairs that he was most able and effective. He was a fine type on the hustings and in the halls of legislation of that breed of highly educated and thoroughly informed statesmen who adorned the annals of the country in the period preceding the War of the 'Sixties, and who have since in a large measure passed away; and as a polemic writer on all subjects connected with the public events and questions of his time, he had few equals and no superiors.

The clearness of his literary style, the moderation of his expression, the logic of his argument and the earnestness and profundity of his conviction, are all vividly illustrated

in his writings that are included in this volume. His exposition in "the Madison Letters" of the principles and policies of the American party, the great fundamental doctrine of which was the proper control of foreign immigration into the United States, reveals a marked power of investigation, a wealth of knowledge, a force of logic, and a vigor of statement that make these papers notable examples of controversial political argument; and they remain today the ablest presentation of the principles and policies of that short-lived organization that has ever been written.

In the pronouncement of his facts and deductions in these notable "Letters" are visible the clearness, the logical ability and the moderation of language, which are characteristics of his writings. Between the lines of all his controversial papers, as in his public speeches, are perceptible the urbanity, the courtesy, the earnestness, the forbearance which were throughout his life among his distinguishing personal and intellectual attributes.

He wielded the keen-edged scimitar of Saladin in behalf of the American party; and when that party went down in Virginia in 1855 before the blows of the Crusader's battle-axe in the hands of Henry A. Wise, it had had no unworthy support in Mr. Stuart's powerful presentation of its doctrines and purposes.

Wise, after his defeat of the "Know-Nothings," as they were called by their adversaries on account of the secret methods of their organization, made the picturesque boast: "I have met the Black Knight with his visor down, and vanquished him." But Mr. Stuart, himself, was no "Black Knight" with closed visor. The mysterious mummeries and rituals of the American party, which conduced to its defeat, were expressly repudiated by him in the "Madison Letters," in which he exposed with keen logic and prophetic vision the threatening dangers of an unrestricted and uncontrolled foreign immigration, that has since inundated the United States with masses of "undesirable citizens," and has sown

the seeds of Bolshevism and Communism in certain sections of the country.

His Report to the Virginia Legislature in 1860 on the "John Brown Raid" is a vigorous and powerful exposure of the treasonable conspiracy by Northern abolitionists against the Federal Government, which culminated in the capture and legal execution of Brown and his associates; and contains an illuminative discussion of the then burning question of slavery. This Report affords a singular comparison, in its vigor and fearlessness, with the majority Report of the Senate Committee of Congress on the same subject, signed by James M. Mason, Jefferson Davis and G. N. Fitch, which has been pronounced by Brown's biographer, Villard, "disappointingly ineffective from the slavery point of view, when it is considered that such able men as Jefferson Davis and James M. Mason constituted it."

In the fateful Virginia Convention of 1861, in which the Union men were in an overwhelming majority, Mr. Stuart was an earnest and persistent champion of the Union; and not until the people of the Commonwealth ratified by their votes the Ordinance of Secession, wrung from a reluctant majority by Lincoln's call for troops to suppress "rebellion" in the seceded Southern States, did he attach his name to the instrument. Up to the last moment, hoping against hope, he sought, with his brother-in-law, Colonel John B. Baldwin, and Summers and Janney and others of the Union leaders in the Convention, to keep Virginia in the Union, and to bring back the seceded Southern States. In the often angry dissensions of the delegates he kept a cool head and a prudent tongue, and a dignified composure, whether while Wise in the lobby outside the Convention hall, apostrophized Houdon's statue of Washington as "Glorious old Rebel!" or when the Union-loving women of Richmond crowned Baldwin, after a great argument against secession, with a wreath of roses; and more in sorrow than in anger he beheld the pen, made from an eagle's feather, brought

in for the use of the forty-five original secession delegates, who had constituted for weeks the minority, in signing their names to the Ordinance.

But when the die had been cast and the Rubicon crossed, there was no faltering on Mr. Stuart's part, nor shadow of turning. Like that other great Union-lover, Robert E. Lee, he conceived it to be his patriotic duty to go with his state; and he went unhesitatingly.

Throughout the long and heart-breaking struggle he bore himself with the innate spirit of his breed and blood; and scorning to deny that he had rendered "aid and assistance to the Rebellion," when the end came, he turned his back with contemptuous rejection on the infamous "Test Oath," which a relentless and vindictive conqueror imposed on a brave and vanquished people.

When the sun of the Confederacy had "gone down in the gloom of eternal night," he bent himself with noble energy to binding up the wounds left by the bloody and devastating conflict. He sought by every means within the compass of his sagacity and his ability to restore, as much as might lie within the bounds of human effort, the physical territory of the Mother of States, who had given to the Union, without money and without price, the imperial domain of the Northwest Territory, in which she had forbidden through all time the existence of African slavery; and who had suffered the loss of one-third of her possession, in the unhallowed rape of West Virginia.

He guided the stricken Commonwealth, with prescient wisdom, by means of the "Committee of Nine," into an avenue of honorable escape from the Reconstruction horrors that befell the other Southern states; and he thus foiled the sordid purposes of the carpet-baggers and scalawags, with their following of ignorant and illiterate negro ex-slaves, that had been "injected into the belly of the Constitution" by the malignancy of the Stevenses and Mortons, who sat in the seats of the mighty among the relentless conquerors.

When this achievement had been accomplished, he took

up the great matter of education in Virginia and the South; and as Rector of the University of Virginia, and as member of the Peabody Board, he was a pioneer among the earliest of those Southerners who sought, through schools and colleges, to dissipate the ignorance, and to make capable and efficient the citizenship of white and black alike in the South.

However much Mr. Stuart differed with others of his generation and time, or they with him, in views of governmental measures, or in the partisan politics of a period of great differences, no one, whatever his political inheritances or beliefs, can peruse this story of his life, so modestly and clearly written by his son-in-law, Mr. Robertson, without the profound conviction, upon the retrospect of it all, that he was a lofty patriot, a true American, and a devoted Virginian; and that he gave of his best, which was of the best, with unselfish devotion to the service of his country and of his fellow-citizens.

ARMISTEAD C. GORDON.

Staunton, Virginia,
October, 1925.

Alexander Hugh Holmes Stuart

CHAPTER I

ANCESTRY



ALEXANDER HUGH HOLMES STUART was of Scotch-Irish descent and came from a distinguished ancestry, both on the paternal and maternal side. His great-grandfather, Archibald Stuart—the first of the family who came to America—was a Scotch-Irishman who lived not far from Londonderry. His will, written by himself and now in the office of Augusta County, Virginia, dated 1759, and recorded in 1761, presents unquestionable proof that he was a man of education. In early life he married Janet Brown, a sister of John Brown, who studied divinity at Princeton and became the pastor of Providence Church in what is now Rockbridge County, Virginia. He occupied this pulpit for forty-four years, and was the second rector of Liberty Hall Academy, now Washington and Lee University. Archibald Stuart had two children by his wife, Janet, while living in Ireland—a son named Thomas, and a daughter named Eleanor.

About 1725-26 the persecutions of the Presbyterians and other dissenters became so intolerable that Archibald Stuart became one of the active promoters of an avowed insurrection or rebellion to defend their rights.

The military power of the government was invoked to suppress the rebellion, and when that was done Archibald Stuart was one of those proscribed; and if he could have been arrested, he would have been executed for treason.

Being compelled to fly for his life, he made his escape to the coast, where he contrived to get on board a ship bound for America, leaving his wife and two children in Ireland. He reached America in safety and sought refuge in western Pennsylvania, where he remained in concealment

for seven years. Finally an act of amnesty enabled him to send for his wife and children. In 1732 they came over under the escort of John Brown, brother of Mrs. Stuart, and joined Archibald Stuart in his new home. They remained in Pennsylvania about seven years, and during that time two other children were born, Alexander and Benjamin.

After the proclamation of the Governor of Virginia in 1738, granting freedom of religious opinion and worship to immigrants who would move to the Valley of Virginia and protect its western frontiers against the incursions of the Indians, Archibald Stuart with his family came to Virginia, accompanied or followed by John Brown, and settled in Augusta County.

The three sons of Archibald Stuart married in early life daughters of leading settlers of the Valley. Thomas was a prominent man in Augusta County, and is the person of that name referred to by Hugh Blair Grigsby in his address on "The Founders of Washington College." Benjamin, the youngest son, is represented to have been a man of admirable character and fine intellect. He inherited the family mansion of his father and lived a quiet life, not taking any active part in public affairs. He married and left a number of children.

Archibald Stuart's daughter, Eleanor, married Edward Hall and left a large family. Among her descendants were Dr. Isaac Hall, who graduated at the University of Edinburgh in the latter part of the eighteenth century, settled in Petersburg, Virginia, and became an eminent physician. His son, John Hall, moved to North Carolina and was judge of the Supreme Court of that State. One of Eleanor Stuart's daughters married Andrew Fulton, an officer in the Revolutionary War, and among the offspring of this marriage were John H. Fulton, of Abingdon, who was for several years a member of Congress, and Andrew Fulton, judge of the Wythe District.

Alexander Stuart, Sr., was the second son of Archibald Stuart, Sr., the fugitive from Ireland. He was born in Pennsylvania and was brought by his parents at the age of

four to Augusta County, where he was reared to manhood. He received a common school education, and was versed in the simple branches of mathematics. At the age of twenty he married Mary Patterson, by whom he had two sons, Archibald and Robert, and several daughters. For some time after his marriage he lived in Augusta County about three miles northwest of Waynesboro. Subsequently he moved to a farm, which his father had given him lying in what is now Rockbridge County, near Brownsburg. Having lost his wife, he married the second time Mrs. Paxton, a widow, whose maiden name was Moore. By her he had two sons, Alexander and James, and a number of daughters. Alexander Stuart, Sr., is the person referred to by Grigsby as one of the Founders of Liberty Hall Academy. He was deeply impressed with the importance of education, and took an active part in having the academy removed from its original location in Augusta County to a point near Timber Ridge Church. To accomplish this, he and his neighbor, Samuel Houston, the father of President Samuel Houston of Texas, offered the trustees a donation of forty acres of land and liberal subscriptions in money. The offer was accepted, and the four sons of Alexander Stuart were educated at the academy.

The struggle for the independence of the colonies was then progressing, and when the seat of war was transferred to the South by the invasion of Cornwallis, the militia troops of the Valley and southwestern Virginia were called into active service and ordered to proceed southward to join the army of General Green. Among these was the regiment of which Samuel McDowell was Colonel, consisting mainly of troops from Augusta and Rockbridge. Colonel McDowell was a brave and experienced officer, but some time before the battle of Guilford Court House he had an attack of malarial fever which unfitted him for active service in the field, and the command of the regiment devolved upon Major Alexander Stuart, who was the senior officer in the absence of Colonel McDowell. This regiment was composed mainly of the young men of the Valley, who

fought with the enthusiasm of patriots and the steadiness of veterans. They were stationed at a point particularly exposed to the fire of the British artillery, and suffered greatly in the battle.

Major Alexander Stuart, according to every account, conducted himself with great gallantry, and two horses were killed under him during the battle. The first horse was killed in an early stage of the conflict, but Major Stuart promptly mounted another and resumed his command. At a late period of the fight, when the British artillery was brought to bear upon the American troops, a shell exploded so near Major Stuart that the fragments killed his horse and inflicted a severe wound upon himself. Being disabled and his horse having fallen upon him, he was compelled to lie helpless upon the field until he was captured and sent as a prisoner to the British hospital, where his wounds were properly attended.

It is told that when Major Stuart was taken before the enemy and questioned about the battle, Cornwallis inquired, "Who was the damn rascal who commanded the troops near the apple tree?"

"I had that honor," Major Stuart replied.

"Well," retorted Cornwallis, "that regiment did me more damage than any in the fight!"

Whereupon Major Stuart, with a low bow, replied, "Your Lordship is pleased to be complimentary."

The sword which he wore at the battle of Guilford was of domestic manufacture, roughly forged on his own place, and was afterward presented to the Virginia Historical Society.

When Major Stuart was well enough to be moved, he was transferred, with other prisoners, to one of the ships on the coast, where he was detained for more than six months, before he regained his liberty by an exchange of prisoners.

Archibald Stuart, the father of Alexander Hugh Holmes Stuart, was the oldest son of Major Alexander Stuart and his wife, Mary Patterson. He was born at the homestead about nine miles southeast of Staunton, March 19th, 1757.

His boyhood was spent in Augusta County, but his father having removed to the neighborhood of Brownsburg, in Rockbridge, he became a resident of that county, and was a pupil in Liberty Hall Academy. While a student there he exhibited a strong thirst for knowledge and an unusual capacity to acquire it; and as he had decided to adopt the law as his profession, his father determined to send him to William and Mary College.

In the fall of 1777 or 1779, he entered William and Mary College, and during a large portion of his residence there he lived with the family of Bishop Madison, president of the college. He thus had the opportunity of meeting the best society in the city and of becoming acquainted with many of the men who were prominent in the councils of the State, Williamsburg being then the seat of the Government. The college itself then contained a large number of youths who were destined to act a conspicuous part in public affairs.

"It is creditable," says Grigsby, "to the standing of Stuart that among such students he was conspicuous. His personal appearance and address, as well as that accurate scholarship which was characteristic of the pupils of Graham, contributed to his popularity. His erect, sinewy form (which exceeded six feet in height), his placid face and expressive black eyes, his long black hair falling about his neck, the blended austerity and gentleness of his deportment, presented to his young associates one of the finest models of the Western Virginian. There had been lately instituted in William and Mary a literary association * * * which was then in its early prime—the Society of the Phi Beta Kappa—of this association Stuart was elected President."¹

On his return to college in 1780, Stuart found the eastern part of the State infested by the British. The exercises of the college were soon suspended and affairs were in an almost desperate condition. Stuart at once hastened to the scene of active war, joined the army as

¹Vice-President.

a private soldier in the regiment from Rockbridge, of which his father was the major, and was promoted to an office in the commissariat department. But when the advance of Cornwallis rendered an engagement certain, he took his station in the ranks and fought gallantly at Guilford. It was in this battle that he saw his father instantly stripped of his clothing by the Tories, after he fell wounded while commanding the regiment, and conveyed a prisoner within the enemy's lines.

During the remainder of the war Stuart had in his possession the official seal of the Phi Beta Kappa Society, of which he was the Vice-President, and, as the society became extinct, he retained the seal until his death. Many years after his death the seal was found in a secret drawer of his escritoire, where it had remained more than half a century, and was transmitted by his son to the society which had been revived at William and Mary.

On the return of Stuart from the war he studied law with Mr. Jefferson, and ever cherished for his preceptor the highest admiration and esteem. Some of his law books he procured from Mr. Jefferson. What Wythe had been to Jefferson, Jefferson became to young Stuart, adviser, friend and revered associate through life. Their intimacy lasted during the life of Jefferson. When Stuart was elected judge, his district included the county of Albemarle, and, in attending the sessions of his court, he regularly spent a night with Jefferson at Monticello. As a politician Stuart sustained Jefferson's administration, and was a Republican elector until the series of Virginia Presidents who had borne a part in the Revolution was ended. In the Stuart papers there is in the handwriting of Mr. Jefferson a form of a Constitution for Virginia, drawn in 1791.²

"Archibald Stuart," says Mr. Stuart, speaking of this period of his father's life, "spent the greater part of the next two years in the study of the law with Mr. Jefferson. After he had completed his course of reading, he returned

²Virginia Historical Collections, Vol. X, page 10.

to the residence of his father, in Rockbridge County, with a view to confer with his friends as to his future settlement in life. Some of them thought it would be advisable for him to become a candidate for a seat in the House of Delegates at the election which was then near at hand. The elections were then, and continued for a half century later, to be held on the first day of the county courts of April in the respective counties. The April term of the County Court of Rockbridge was then, and I believe still continues to be held on the Monday before the first Tuesday in April, and all the votes were cast at the courthouse. In compliance with the wishes of his friends he became a candidate, but was defeated by a majority of thirteen votes.

"On the day after the election he was requested by his father to go to Botetourt County to close matters of unsettled business with Colonel George Skillern, who resided about two miles from Pattonsburg. Accordingly, on Wednesday he went to the residence of Colonel Skillern, and on the following day closed up the business which was the object of his visit, so as to enable him to return to his father's on Friday, according to his original plan.

"In the meantime an invitation had been sent to him as the guest of Colonel Skillern to attend a barbecue to be held on Friday at Pattonsburg. At the urgent solicitation of Colonel Skillern he consented to remain and attend the festival, at which it was expected most of the leading gentlemen of the county would be present.

"During the progress of the entertainment a toast was offered in honor of the soldiers of the Revolutionary War, and Archibald Stuart was called on to respond to it. This he did at some length, and apparently to the satisfaction of his audience, to whom he was a stranger. Many inquiries were made about him, and it having been made known that he was the son of Major Alexander Stuart, who had commanded the Valley Regiment at Guilford, and that he had left William and Mary College some weeks in advance of the battle to join the army, and had himself actively participated in the fight, the favorable impression made by his

speech was strengthened; and some one having referred to the fact that he had been defeated as a candidate for the Legislature in Rockbridge on the preceding Monday, it was suggested that the people of Botetourt should elect him as one of their delegates at the election to be held on the following Monday. The suggestion was promptly adopted, and a committee appointed to wait upon Mr. Stuart and communicate to him their wishes and invite him to be their candidate. This action was wholly unexpected by him, and after thanking them for their kind wishes he was obliged to decline their offer, on the ground that he was ineligible for Botetourt, not being a freeholder in the county. Colonel Skillern, who was a man of wealth, promptly replied that he was prepared to remove that objection by conveying to Mr. Stuart a small house and lot which he owned in Fincastle. The proposition was finally accepted, and all the arrangements perfected, and at the close of the barbecue the gentlemen who had been present returned to their homes prepared to announce to their neighbors that Mr. Stuart would be a candidate for a seat in the House of Delegates from Botetourt at the election to be held on the following Monday.

"He remained as the guest of Colonel Skillern, who was an old friend of his father, but on Monday morning he appeared at Fincastle, and the deed from Colonel Skillern to him having been deposited in the Clerk's Office, which made him eligible, he was regularly announced as a candidate for the House of Delegates from Botetourt County, and proceeded to address the large crowd, which, attracted by the novelty of the circumstances, had assembled at the courthouse, on the political topics of the day, and at the close of the polls he was announced as one of those duly elected.

"Thus it happened that the young man who had left his father's house a week before a defeated candidate for the House of Delegates for Rockbridge County returned a 'delegate-elect' for Botetourt."¹

¹Virginia Historical Collections, Vol X, p. 387.

During that year—1783—Archibald Stuart removed to Staunton, where he soon acquired a large practice, and he was also a regular attendant on the District Courts held at New London, Abingdon, the Sweet Springs and Rockingham.

He represented Botetourt in the sessions of the General Assembly for 1783-84, 1784-85, and 1785-86. In 1786 he was elected a delegate from Augusta County, and was re-elected in 1787. In 1788 he was elected a member of the Virginia Convention which ratified the Constitution of the United States. There he was brought in association with Edmund Pendleton, Patrick Henry, George Mason, James Madison, Edmund Randolph, John Marshall,¹ James Monroe, George Nicholas, and other distinguished men of the State.²

On May 4, 1791, Archibald Stuart married Eleanor Briscoe, second daughter of Colonel Gerard Briscoe, of Frederick County, Virginia. Colonel Briscoe was a native of Maryland, and had served in the Revolutionary War. For many years he had lived in Montgomery County, Maryland, near Rockville; but, having married Margaret Baker of Virginia, he subsequently removed to an estate he owned near Winchester, Virginia.

In 1797 Archibald Stuart took his seat as a member of the Senate of Virginia. While a member of that body he was elected judge of the General Court, and on January 1, 1800, entered upon the duties of his office, which he continued to discharge until 1831, when, having attained the age of seventy-three, he declined re-election. He was a Washington elector in 1793; a Jefferson elector in 1800 and 1804; a Madison elector in 1808 and 1812; a Monroe elector in 1816 and 1829; a Crawford elector in 1824; and an Adams elector in 1828.

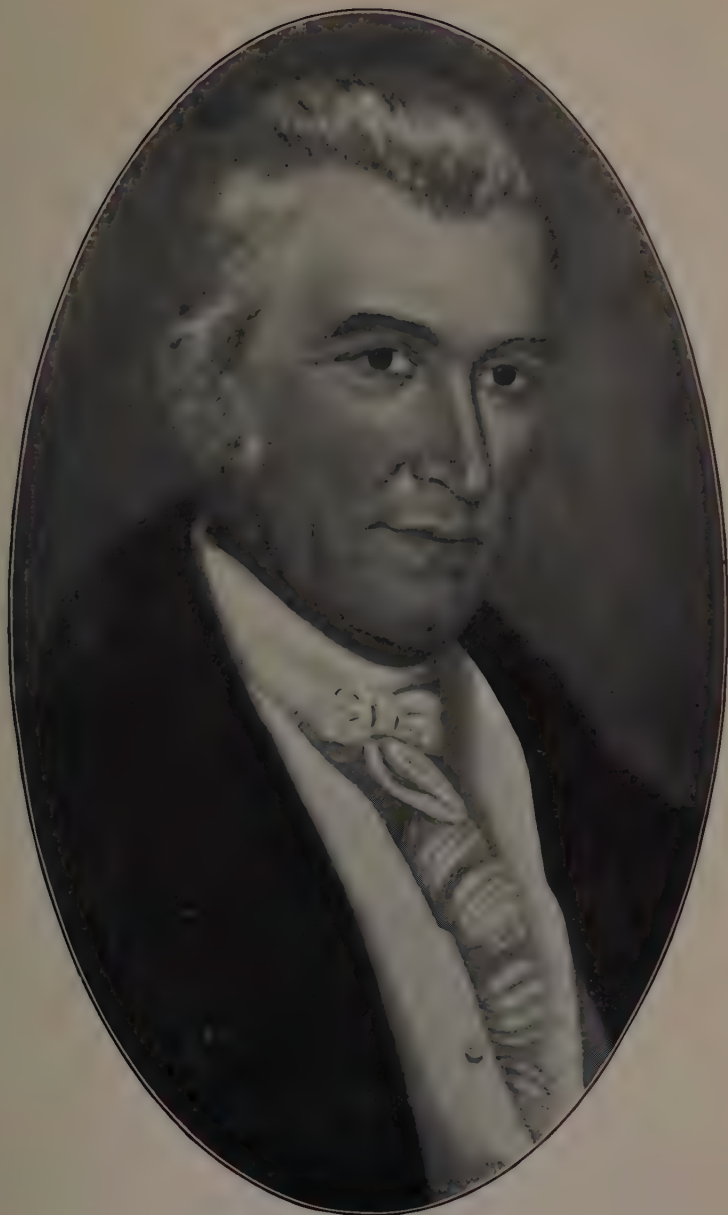
Archibald Stuart furnished William Wirt some interesting sketches for his *Life of Patrick Henry*, and it was owing

¹For interesting letters of John Marshall to Archibald Stuart, see Beveridge's "The Life of John Marshall," Vol. II, pp. 103, 111, 118.

²Virginia Historical Collections, Vol. X, pp. 387-9.

to his knowledge of mathematical science that the General Assembly appointed him a commissioner, with General Martin and Chancellor Taylor, to run the dividing line between Virginia and Kentucky, and that in early life he was offered the chair of mathematics in the College of William and Mary.

The plan of Judge Stuart's house, in Staunton, was drawn by his friend, Jefferson, who was a frequent visitor there, and one chamber has always been known as Mr. Jefferson's room. Judge Stuart occupied this house as his residence for nearly fifty years, until his death on July 11th, 1832. He is buried in Trinity Churchyard in Staunton, and by his side rests the body of his wife, and that of his half-brother, Alexander Stuart, grandfather of General J. E. B. Stuart.



JUDGE ARCHIBALD STUART
1757-1832

CHAPTER II

BOYHOOD—STUDENT AT WILLIAM AND MARY COLLEGE AND AT THE UNIVERSITY OF VIRGINIA



ALEXANDER HUGH HOLMES STUART, the youngest child of Archibald Stuart and his wife, Eleanor Briscoe, was born in Staunton, Virginia, April 2, 1807, and was named for his paternal grandfather, Major Alexander Stuart, and for Judge Hugh Holmes of Winchester, Virginia, who married a sister of Eleanor Briscoe. Another sister married Dr. Cornelius Baldwin, father of Judge Briscoe G. Baldwin of the Supreme Court of Appeals of Virginia.

In early childhood Stuart was of delicate constitution, of a nervous, high-strung nature, with strong will and energy. He was fond of books and, with his father's library to draw upon, soon became a diligent reader. At the age of fourteen he was well advanced in Greek, Latin and mathematics. The characteristics of the boy—indomitable will, energy and perseverance, exuberant spirits and gay humor—marked him throughout life, and were the secrets of much of his influence and success in manhood. Whether racing through the old academy grounds in Staunton at some favorite game, or caricaturing some companion or teacher, or deep in some mathematical problem, he was always enthusiastic, absorbed and indefatigable.

In those days, when houses were heated by open fires, it was a matter of much discomfort when doors were left open. Young Stuart had gone to the academy one cold morning when a knock was heard upon the door, and Judge Stuart's body servant, silent and dignified as the judge himself, appeared with the message that "Marse Sandy must come home." The boy, alarmed and breathless, fearing

some disaster, ran all the way back and appeared in the presence of his father. Looking up with great calmness, the judge remarked, "Sandy, shut that door." Needless to say, doors were shut and orders not forgotten from that day forth.

On one occasion when Mr. Jefferson was to visit Judge Stuart, the judge, hoping to interest his sons and to call their attention to Mr. Jefferson's correct use of English, told them to listen attentively to Mr. Jefferson and, if they could detect him in a grammatical error, he would give them each a shilling.

The boys hung upon the words of their elders with an interest so intense that even Mr. Jefferson was gratified, when suddenly they sprang forward, exclaiming, "There Father, we've won it! He said 't'other'." That was the period when "children should be seen and not heard," but Judge Stuart told the story to Mr. Jefferson, who was highly amused. He then went on to defend his use of the expression, "one or t'other," as good English, but told Judge Stuart the boys deserved the reward as good listeners and that they were correct from their point of view.

For his own family Mr. Stuart cherished deep and devoted affection. Reared in what would now be considered a rather stern school of parental discipline, he revered and admired his father and mother in no common degree. From his mother, no less than from his father, he inherited a strong will and that practical common sense characteristic of the women born and reared during the Revolutionary Era. From his father he inherited his physical as well as his mental qualities: his tall, erect figure, six feet four inches in height; his brilliant dark eye, now twinkling with merriment, now flashing forth lightning of wrath, and now overflowing with tears of sympathetic emotion. His hair of raven blackness, his mobile mouth and even white teeth, his dark complexion, and strong, clear-cut features made an appearance strikingly handsome. Add to this a voice deep, rich and melodious, and one may appreciate that he was highly favored among men.

From his father he imbibed his taste for literature, no less than his lofty sense of honor and deep love of his country. Standing, as he did, a connecting link between the old regime and the new, associated through his father with the leaders of his country's cause in the Revolutionary War and with the defenders of her rights in the councils of the nation, he was taught the principles of justice, liberty and independence. From his father he heard the stirring events of the Revolution, in which he and Major Alexander Stuart had borne such a conspicuous part at the battle of Guilford Courthouse, and from his father he learned also the history of the formation of the Federal Government and the glory of the Union. After receiving his early education at the academy in Staunton, Stuart was sent to William and Mary College; and on returning home, he read law one year under the direction of his father.

In 1827 he entered the University of Virginia and pursued his legal studies under Professor John Tayloe Lomax, an accomplished teacher and distinguished law writer, as evidenced by his "Executors and Administrators," and "Digest of the Laws Respecting Real Property," both of which became at once accepted authorities upon those subjects. The University was formally opened March 7th, 1825, and on July 4th, 1826, Thomas Jefferson expired. It may well be imagined what a disappointment it was to Archibald Stuart that his friend passed away before his son entered the University and enjoyed the privilege of visiting that great statesman and accomplished scholar in his home at Monticello.

On August 19th, 1828, young Stuart, having procured his license, began the practice of law at the Staunton bar.

CHAPTER III

PROFESSIONAL ADVANCEMENT—MARRIAGE—CHILDREN



THE bar of Staunton then numbered among its members some of the most learned lawyers of the day. Among them may be mentioned Daniel Sheffey, Chapman Johnson, John H. Peyton, Briscoe G. Baldwin and Thomas Michie, all men whose legal attainments and powers as advocates would have placed them in the front rank of lawyers at any bar in the country. Surrounded by such legal talent, it was no easy task for a young man to gain distinction. This environment, however, fired the ambition of young Stuart, and he applied himself assiduously to his profession, adopting as his motto the words: "*Qui non proficit, deficit.*"

In those days the lawyers of Virginia did not confine their practice to the local bar, as is so much the case now, but attended regularly the courts of adjoining counties. These trips were usually made on horseback with saddle-bags and leggings, or in two-wheeled gigs so common in that day. In accordance with this practice, Mr. Stuart at once began to attend the monthly courts of Rockbridge, at Lexington, a distance of thirty-six miles, and of Bath, at the Warm Springs, a distance of sixty miles; and for many years he rarely missed a term of those courts.

Hardly had he become well established in his profession before he was called upon to mourn the death of his father. Judge Stuart passed away after a brief illness on July 11th, 1832, in the seventy-fifth year of his age. Judge Stuart at the date of his death owned large landed properties in Augusta County and in other parts of the State, as well as in Kentucky.

When Mr. Stuart became Secretary of the Department

of the Interior in 1850, he exacted a promise from his mother that she would pay him a visit in Washington during his term of office. She had never traveled except in her own carriage, but in visiting her son she took the public stage at Staunton to Ivy Depot in Albemarle, the western terminus of the Virginia Central Railroad, where she changed to the train for Aquia Creek, and there embarked on a boat to Washington. Thus she had the novel experience of traveling for the first time in a stage coach, on a railroad and by steamboat. Mrs. Stuart died on the 24th day of October, 1858, in the ninety-first year of her age from the effects of an injury sustained by a fall while on a visit to her son, Gerard Briscoe Stuart.

On August 1st, 1833, Mr. Stuart married Frances Cornelia Baldwin, daughter of Judge Briscoe G. Baldwin. Judge Baldwin was a member of the Staunton bar and also conducted a law school at his home, "Spring Farm," adjacent to the town and now embraced in Gipsy Hill Park. The house was occupied first by Chancellor Brown, and standing in a cluster of trees on a knoll from which the ground gently sloped in all directions, commanded a beautiful view of the surrounding country. The house was built by Hessian prisoners, with wide portico, quaint old stairways, dormer windows, and queer shaped rooms. Here for several generations lavish hospitality was dispensed to all comers. Some years ago the old mansion was torn down by the City Council of Staunton, and a modern pavilion erected on its site.

Around that spot clustered the tenderest associations of Mr. Stuart's life; there he played in boyhood, and there when he grew to manhood, he won his cousin as his bride. This union lasted more than fifty years, but Mr. Stuart outlived all of nine children except three married daughters. His four-year-old daughter, Martha, the third child, died February 1st, 1845. His son, Briscoe Baldwin, after receiving a preparatory education at the private schools in Staunton, entered the University of Virginia and remained there four years, taking the law course in 1857. After

leaving the University he formed a partnership with his father for the practice of his profession in Staunton, and at once gave every promise of a successful career, when his life was cut down by a tragic death. He was engaged to be married to Miss Elizabeth Lockett, of Louisiana, who had been a pupil at the Virginia Female Institute, now Stuart Hall, in Staunton, and was on his way to be married. While traveling down the Mississippi River his boat was sunk by an exploding boiler and he was fatally injured. His father and mother, as soon as the news reached them, set out for the bedside of their son. After a slow and fatiguing journey they reached him in Memphis. But all hope of his recovery had vanished, and in spite of all that medical skill could do, he expired on May 8th, 1859, in the twenty-third year of his age.

Fanny Peyton married the Rev. J. M. P. Atkinson, D. D., President of Hampden-Sidney College. She was deeply interested in the work of her husband, and unusually popular with professors and students. After several years' residence at Hampden-Sidney her health became impaired and instinctively she turned to her father's home, where she passed away January 5th, 1875.

Eleanor Augusta never married. She was attractive in person, a favorite in social circles and devoted to church work, especially a mission church near Staunton to which she gave liberally of her time and means. She died January 5th, 1878.

Alexander H. H. Stuart, Jr., was sent to the Virginia Military Institute in 1863, and participated in the battle of New Market with the corps of cadets on May 15th, 1864. Lieutenant Carter Berkeley, describing the battle in "Boy Soldiers of the Confederacy," by Mrs. Susan R. Hall, says:

* * * * *

"Soon after the fight I met young Sandy Stuart, one of the cadets. I remember what a gallant looking fellow he was. He was wringing wet and his hands and face were black with powder. They had muzzle loaders then and

the men had to bite the cartridges before putting them in the gun."

Continuing in the Confederate service until after the close of the war, Sandy entered the academic department at the University of Virginia in 1865-66, where he proved to be a diligent student and made a creditable record in his studies. But at the close of his second session he came home ill with typhoid fever, and died on July 6th, 1866, at the age of twenty years.

Mr. and Mrs. Stuart had left only four of their nine children surviving: Mary, who married Dr. Hunter McGuire of Richmond; Susan Baldwin, who married the Rev. Robert A. Gibson, afterwards Bishop of Virginia; Margaret Briscoe, who married Alexander F. Robertson, a lawyer of Staunton; and Archibald Gerard Stuart, the last surviving son and youngest child.

CHAPTER IV

PRESIDENTIAL ELECTION OF 1832—THE GENERAL ASSEMBLY OF 1836



R. STUART began his life's work at an eventful era. After the Presidential election of 1824, which resulted in the election of John Quincy Adams by the House of Representatives, there was a decided division among the followers of Clay and Jackson. The canvass of 1828 brought about a complete separation of the divergent elements in what had been up to that time the Republican party. The adherents of Jackson became the Democratic party, while the opponents of his administration during his first term took the title of National Republicans.

In April, 1832, although Mr. Stuart had only been at the bar four years, he had already been active in the politics of the county. On April 30th of that year two public meetings of the citizens of the community who favored the election of Henry Clay as President were held in Staunton. The first was a meeting of the citizens generally, and one of the resolutions adopted provided for the appointment of a committee to correspond with those who advocated the election of Mr. Clay in the fall of that year. A committee of fifty men was appointed and among the number was Mr. Stuart.

The other meeting held on the same day was composed of young men favoring the same object. Mr. Stuart was appointed on the committee to report the resolutions, and was sent as a delegate to the Young Men's National Convention which assembled in Washington on May 7th, 1832. Among other delegates to this convention from Virginia were Robert E. Lee, E. C. Fitzhugh, Andrew Hunter and

Charles J. Faulkner. The object of the convention was to ratify and approve the action of the National Republican Convention which had nominated Henry Clay and John Sergeant as candidates for the Presidency and Vice-Presidency. The convention consisted of three hundred and sixteen members, representing almost every State. Mr. Stuart was chairman of the committee to prepare an address to the young men of the country, and participated otherwise in the deliberations during the five days the convention was in session. Near the close of the session Mr. Clay addressed the convention.

Mr. Stuart, upon his return from Washington, took an active part in the movement to call a State convention of those who were favorable to the election of Clay and Sergeant. Meetings to appoint delegates to this convention were held at different times in the several counties, the meeting in Wythe preceding that in Augusta. Mr. Stuart and Thomas J. Michie, with Charles L. Crockett and others, were chosen as delegates from Wythe. It thus appears that in the reports of the convention they were always referred to as from Wythe. The convention assembled in the Presbyterian Church in Staunton on July 16th, 1833. Charles J. Faulkner was chosen permanent chairman and Richard H. Toler, of the Lynchburg *Virginian*, secretary.

At the head of a committee to prepare the order of business for the convention appears the name of Mr. Stuart. He had difficult questions to deal with, but his report met with the unanimous approval of the convention, which, in addition to the men already named, was composed of such men as Goggin of Bedford, Moore and Dorman of Rockbridge, Newton of Norfolk, Tayloe of King George, Lewis of Westmoreland, Francis T. Anderson, John Janney, and a long list of others who afterwards attained high positions in the legal profession and in public service. A resolution endorsing Mr. Clay's nomination was offered by Mr. Lyttleton Waddell of Augusta, and was seconded by General Dorman. Mr. Stuart offered a resolution endorsing Sergeant for Vice-President which he supported

by a forcible and eloquent address. While the convention was in session it was rumored that Mr. Clay had left Washington for his home in Kentucky, and would probably reach Staunton before the convention adjourned. A committee, of which Mr. Stuart was a member, was appointed to wait upon Mr. Clay and invite him to address the convention. Mr. Clay, however, was delayed and did not arrive in Staunton until after the convention had adjourned. He spent one day in Staunton and was called upon by a large number of the citizens of the county and town. General Jackson spent the night at Waynesboro a few days previously on his way to his home in Tennessee, and thus both of the candidates for the Presidency were in Augusta County almost at the same time.

Mr. Stuart entered upon the Presidential campaign with all the enthusiasm of youth, and made a most effective canvass. When the election closed he enjoyed an enviable reputation as an eloquent and forcible speaker, and was recognized as one of the most promising men in the State.

When Mr. Stuart came to the bar, the courthouse was an old stone building which stood on the ground now occupied by the present building. It was antiquated and unsuitable for its purposes, and Mr. Stuart was most active in demanding that a new one be erected. In 1832, he moved the court to summon the justices of the county in full bench at the August term of that year to consider the erection of a new courthouse. In the meantime he prepared plans for a new building, which he presented and explained to the justices in such a manner as to meet their approval. An order was entered appointing Mr. Stuart, Joseph Brown, James Crawford, John H. Peyton and Briscoe G. Baldwin commissioners to superintend the erection of a building, and Mr. Stuart, the youngest of the commissioners, became their chairman. The building was completed in 1836, and for its day was one of the best in the State.

By this time Mr. Stuart was firmly established in his profession, and by the canvass he made for Clay in 1833, had become widely and favorably known in the western part

of the State. He possessed a fine legal and miscellaneous library, and was a close student of both political parties and of the science of government. It is not strange, therefore, that he was soon pressed by his friends to announce himself as a candidate for the House of Delegates. It happened that the county was then represented by two gentlemen to whom he was warmly attached, and he declined to become a candidate so long as they desired to occupy the positions they held. But at the close of the session of 1835, these gentlemen declined re-election, and Mr. Stuart was chosen one of the members of the House of Delegates for the session of 1836, and was twice re-elected. At the close of his third term he realized that his withdrawal from his office interfered materially with his professional interests and declined re-election.

When Mr. Stuart entered the Legislature one of the absorbing subjects of the day was internal improvements. It was one of the leading issues in the Presidential election of 1832, and was advocated by Mr. Clay and approved by General Jackson. Professor W. B. Rogers, the "Father of American Geology," who had been commissioned by the Legislature to make a geological survey of the State, had completed his report upon its mineral resources, and thereby added new interest to the subject. Mr. Stuart was an earnest advocate of internal improvements, both by the State and Federal Governments. He had made a profound study of the subject previous to his election to the Legislature, especially during his canvass in the Presidential election.

In the Legislature he was assigned to the Committee of Roads and Internal Navigation, and during the session of 1838, as chairman of that committee, he prepared an elaborate report recommending a general system of improvements. A motion was made to postpone indefinitely this report, and Mr. Stuart spoke in its defense on February 8th, 1838. He began by saying he believed that much of the future wealth and prosperity of Virginia materially depended upon the adoption of some such scheme of improve-

ment as that recommended by the report of the committee. The report, he said, presented distinctly, for the decision of the Legislature, the question whether the councils of the State on the subject were to be controlled by the same policy which had theretofore governed them, or whether they were to give place to a more enlarged and statesman-like policy, which should cherish a generous system of internal improvements, stimulate the enterprise and industry of all classes of the citizens of Virginia, and develop her almost boundless resources.

The first great work recommended by the committee, he declared, was the construction of a railroad commencing on the Tennessee line, and extending eastwardly to Evansham, in the county of Wythe, and thence by two divergent branches, one reaching to the James River at the most eligible point, and the other striking the Roanoke at Danville. This road would penetrate the choicest portion of the State, abounding in all the elements of national wealth; containing inexhaustible quantities of gypsum, lime, iron, salt, lead, coal and timber; possessed of water power sufficient for every manufacturing purpose; adapted to the production of every necessity of life; and consequently capable of sustaining a dense population. The development of these resources, and the additions which they would bring to the wealth and commerce of the State, would alone be sufficient to justify a wise government in undertaking the enterprise. But Mr. Stuart declared that, great as these objects were, they sank into comparative insignificance when viewed in connection with the immense accession of foreign commerce and travel which would be brought into Virginia from Tennessee, Alabama, Mississippi, Louisiana, and other States by means of the southwestern railroads.

The second work recommended by the committee, he said, was the road from Parkersburg to Scottsville. The effect of this road would be most beneficial to the whole country through which it passed. It would traverse a fertile section which was almost entirely cut off from access to the commercial parts of the State. It would unlock its resources,

stimulate the industry and enterprise of the people, augment the value of real property, enhance production in a ten-fold degree, and increase in the same ratio all the subjects of taxation. Next in order stood the Valley Road, which constituted the connecting link between the Tennessee railroad and the Winchester and Potomac road.

Mr. Stuart gave the reasons, why in his opinion, these works should be undertaken and paid for by the State, the last two entirely and the first in part. He traced the plan the State had been pursuing in regard to internal improvements since 1816, when the internal improvement fund was established and the Board of Public Works was chartered. This was the "compromise plan," whereby two-fifths of the capital of every company incorporated for the purpose of internal improvement should be subscribed by the State whenever three-fifths was subscribed by individuals.

"No discretion was allowed to the Board," he declared. "The direction was mandatory; but in a very short time it was found that this principle operated most ruinously. The fund was frittered away in objects of a local character, to the exclusion of the more important improvements. This led in a very short time to the repeal of the famous compromise act. The mandatory direction to the board was rescinded, and they were not even allowed the discretion of subscribing to works of improvement. The whole subject was thrown back upon the Legislature, and so the subject stands to the present day. A legislative direction is always necessary to enable the board of public works to subscribe to any improvement.

"At first," continued Mr. Stuart, "the Legislature, admonished by the evils of the compromise system, exercised with much caution this power of direction to the Board of Public Works; they scrutinized the character of the improvements narrowly, and looked to the condition of the fund with a jealous eye. But in a short time this caution was relaxed; legislative directions became more and more frequent to the board, until now we have in practice, though

not by our laws, returned to the system of 1816. In other words, Sir, it is now regarded universally as a matter of right, that the State shall subscribe two-fifths, whenever individuals have fulfilled the condition precedent of subscribing three-fifths of the capital stock of any company. I have never known an instance of such an application having been successfully opposed. There may have been examples, but if there have been, I ask gentlemen to point to one; I know of none.

“I am warranted, then, in assuming such to be the *principle* of the State on this subject, for such is its *practice*.”

He declared that the partnership principle, as then practiced, would inevitably bankrupt the Commonwealth; that it led to useless and unprofitable expenditures of public money; that it was unequal and unjust, and destroyed all discrimination as to the works to be undertaken; that the rich districts of the country then monopolized all the benefits of the fund, because they could afford to invest the three-fifths, whilst the West, whose resources were locked up, was left destitute of all the benefits of a judicious system of improvement, because it was too poor to subscribe.

The report was ably discussed and aroused great interest, but the Legislature refused to adopt it. An act was passed, however, authorizing the turnpike to be built from Staunton to Parkersburg at the expense of the State, and one from Staunton to Winchester upon the basis of three-fifths of the cost being paid by the State and the rest by private subscriptions.

At this session of the Legislature an act was passed, March 31st, 1838, for the establishment of an institution for the education of the deaf and the blind. It was provided that the school should be located at such place as the Legislature might by joint resolution select, and at the next session Staunton was chosen as the site. This school has been in successful operation ever since, and has been enlarged from time to time. It has large and beautiful grounds, the buildings are set in the midst of splendid oak trees, and it is one of the noblest charities of the State.

CHAPTER V

HARRISON AND TYLER ELECTED PRESIDENT AND VICE-PRESIDENT—MR. STUART ELECTED A MEMBER OF THE TWENTY-SEVENTH CONGRESS



THE election in 1840 resulted in the choice of General William Henry Harrison, of Ohio, for President, and John Tyler, of Virginia, for Vice-President — the Whig candidates.

The two dominant parties were known as the Democratic party and the Whig party. The latter name was adopted in lieu of the National Republican party, and Nathan Sargent¹ says he was responsible for the new name. A number of men, he says, were about to publish a tri-weekly paper, to be called the *Star-Spangled Banner*, in the interest of the National Republican party, and Sargent suggested that they drop the name by which the opponents of the Jackson administration were then called, and adopt one that appealed to the masses. The term "Whig" was the name by which the patriots of the Revolution were known, and was synonymous with a friend of liberty and an opponent of arbitrary government. Accordingly, he wrote an article proposing the change, which appeared in the first number of the *Star-Spangled Banner* on February 11th, 1834, and that paper thereafter always referred to the party as the Whig party, and soon that name was generally adopted. On the other hand, Cole² says the opponents of Jackson in South Carolina adopted the name "Whigs."

In 1841, Mr. Stuart was nominated as the Whig candidate for Congress by the convention which met at

¹"Public Men and Events," Vol. I, page 262.

²The Whig Party in the South, page 18.

Pattonburg, in Botetourt County. The district was then composed of Augusta, Alleghany, Rockbridge, Botetourt, Roanoke, Montgomery and Floyd counties. Some years before his death he wrote an account of his canvass for Congress, which presents a strong contrast to the manner in which elections are now conducted.

“My competitor,” says Mr. Stuart,¹ “nominated by the Democrats, was James McDowell, of Rockbridge. He was a man of high tone, of great ability, and our families had been intimate for generations. His grandfather was the colonel, and my grandfather was the major of the Guilford Regiment that went from this part of the country in the Revolutionary War. The canvass was conducted on a plane of high courtesy, and at its close we were even better friends than at its beginning.

“The public questions of 1841, which divided the people into parties, may be stated by saying that the Democrats insisted on State banks, a tariff for revenue only, and opposed internal improvements by the general government, and the distribution of the public lands under Mr. Clay’s bill; while the Whigs favored a United States Bank, a protective tariff, a liberal system of internal improvements by the general government, and the distribution of the public lands for educational purposes. The canvass between McDowell and myself lasted six weeks, and we traveled in company on horseback over the district, which was one hundred and sixty miles long. The canvass would have been longer, but at its opening McDowell was absent in Mississippi. I waited a month for his return, and he not coming, I started out and opened at Fincastle, where Mr. John Letcher² represented my competitor. I then went to Roanoke, and from there to Montgomery, where McDowell, who had returned, joined me, and we had a joint discussion of seven hours’ duration. We agreed there upon our program: two hours each, an hour’s rejoinder, and to close

¹Staunton *Vindicator*, April 16, 1885.

²Afterwards Governor of Virginia.

alternately. The congressional election in that day took place on the fourth day of April.

"The congressional election was the first under President Harrison's administration, and I remember it was at Pulaski we received news of his death in Washington. In my opening in Fincastle I had said in my speech that in six weeks every bank in the country would be suspended. The statement excited considerable condemnation among some who heard it, and a staunch Whig came to me after the meeting and said he had intended to support me, but was not certain that he would now support a candidate who would make such wild and improbable statements in order to alarm the public mind. On our return to Botetourt, some weeks after, we received the first news by the stage that the banks of the country had suspended. I did not, however, have an opportunity to see my friend and ascertain if he had experienced a change of opinion. The news made a great change in Botetourt, and instead of its usual Democratic majority of five hundred, it only gave McDowell one hundred and sixty.

"At the close of the congressional session in 1843, I came to the conclusion that I could not afford to remain in public life. The pay of congressmen in that day was eight dollars per day for the actual number of days the session lasted. It paid about \$900.00 for the short session and about \$1,400.00 for the long, giving an average of a little more than eleven hundred dollars a year. I had broken up my law practice to a large extent by my service in Congress, and had a growing family; so the pecuniary state of the case did not admit of my service longer."

President Harrison was inaugurated on March 4th, 1841, as the ninth President of the United States. It was necessary that the tariff be revised to increase the revenue, that the currency be improved, and that provision be made to refund the public debt. The President, therefore, issued a proclamation for a meeting of Congress, in extra session, on May 31st, 1841; but he died on April 4th, 1841, one month after the day of his inauguration; and this was the

first time that a President had died during his term of office. John Tyler, the Vice-President, thereupon became President.

The Twenty-Seventh Congress, which was known as the "Whig Congress," convened on May 31st, 1841, pursuant to the proclamation which President Harrison had issued. After long years of struggle, the Whigs were at last in control of the Federal Government; but the sudden death of President Harrison, at the very beginning of his administration, filled the Whigs with doubt and consternation. No one knew what the policies of President Tyler would be. Under these circumstances, Mr. Stuart took his seat in Congress.

John White of Kentucky was elected Speaker, and at once an acrimonious contest arose over the adoption of the rules to govern the House, and more than two weeks were consumed in discussion before the House was finally organized. The rules of the preceding House contained the famous "twenty-first rule," which provided that all abolition petitions should be laid on the table without discussion or reference. This rule grew out of the fact that Congress at every session was flooded with petitions from the North asking for the abolition of slavery. Upon a motion to adopt the former rules the debate took a wide range, and involved the repeal of the twenty-first rule and the right of petition generally. On a motion to strike out this rule, which failed of passage, Mr. Stuart was one of five members from the South who voted for the motion.¹ The constant presentation of these petitions in the House was as distasteful to him as to any one else, but he believed that the people had the right to petition their representatives in the most unrestricted manner, and therefore he did not hesitate to vote for the rescission of the rule, though he knew his colleagues from the South were almost unanimously against him and that his course would be unpopular, for a time at least.

After two weeks had been consumed in bitter discussion,

¹Cole, *The Whig Party in the South*, 108.

Mr. Stuart offered the following resolution to solve the difficulty:

“Resolved, That all the rules and orders of the last House of Representatives, not superceded by any rule or resolution adopted at the present session and now in force, be and the same are hereby adopted for the regulation of this House at the present session. And that a Select Committee be appointed to receive and enter the rules hereby adopted, and that they have leave to report at all times.”

In offering the resolution, he said his object was to compromise the difficulty which had agitated the House for two weeks; and that the resolution did not undertake to decide one way or the other the important question involving the right of petition. Its effect was merely to postpone the question for that session. It would allay excitement and arrest discussion, and enable the House to proceed at once to the discharge of the duties for which its members had been sent there from the people. He called attention to the fact that the Committee on Rules had reported, and their report had been adopted, providing that all subjects not included in the President's message should be suspended until the regular session, except a general bankrupt law, limiting in this manner the action of all the committees, except the Committees on Elections, Ways and Means, and Mileage.

A long debate took place upon the resolution offered by Mr. Stuart. Every Democrat in the House opposed it, and also a few Whigs, led by John Adams. Adams declared that nothing would satisfy him but the repeal of the twenty-first rule, while the Democrats, with Wise and Gilmer, Whigs, insisted that the rule should be retained in all its force, and that the subject should be fought out then and there. The resolution finally came to a vote and was adopted, the vote being 119 to 103. Every vote in the affirmative was cast by a Whig, while every Democrat and fourteen Whigs voted in the negative, among the Whigs being Wise and Gilmer of Virginia and John Adams of Massachusetts.

Thus the house was organized, and proceeded to the transaction of business.

An editorial in the Boston *Atlas* of June 21st, 1841, from which the above facts are taken, thus refers to the part Mr. Stuart bore in this remarkable contest:

“The whole country owes to this gallant and gifted Virginian a deep debt of gratitude, which we trust they will be neither slow to render nor ready to forget. He has evinced from the first of the recent disreputable discussion, on a subject so foreign as abolition to the object of the extra session, a manliness, a true nobility of thought and feeling, and a frank and praiseworthy independence worthy of the highest esteem. Most warmly and cordially as we approved of his first course in voting against the twenty-first rule, still more do we commend his patriotic and conciliatory conduct in the House on Wednesday last, in bearing into it the olive branch in triumph, and healing, in spite of the sneers and scoffs of open enemies or false friends, the breach so fast widening between the friends of the administration. Well and nobly has he acted. His conduct through the whole trying scene has been admirable in the highest degree. Firm and yet moderate, dignified and yet conciliatory, thanks to his decision and promptness, the friends of order and their country’s good have contrived to get through the trials of the past week in a manner which the warmest patriot could hardly have hoped at the commencement. With a few more Mr. Stuarts, and a few less such mischief-makers as Wise, and how soon would all feeling of jealousy and want of harmony between North and South be removed forever?”

In the Twenty-Eighth Congress, which convened in December, 1843, and which was largely Democratic, the twenty-first rule was repealed, and thus the action of Mr. Stuart in the extra session of 1841, was vindicated by his political opponents. After this action was taken, there was no more agitation in the House on the subject of abolition

petitions, and Mr. Adams soon ceased to appear as an agitator.¹

At an early day of the extra session of Congress a bill was introduced "to incorporate the subscribers to the Fiscal Bank of the United States." It was known that the President objected to the name "Bank," and had suggested calling whatever institution might be created a "Fiscal Agent," or "Fiscal Corporation." Hence it was named "Fiscal Bank" in deference to his views. When the bill came up for consideration in the House, Mr. Stuart spoke in support of it on August 2nd, 1841. He exhibited close study and perfect familiarity with the subject from the establishment of the first bank in 1791. He referred to the fact that it had been said in the debate, as it had been contended in the country for the past fifty years by the opponents of the bank, that the first bank was a Federal measure; and that the bank of 1816, and the measure then under consideration, were merely off-springs of that political heresy. He demonstrated from official records that a large number of Federalists had uniformly voted against bank bills whenever they were before Congress, and that they had been passed by the combined votes of Federalists and Republicans, many of the latter voting in the negative. He also defended the constitutionality of the bill, saying that he regarded "that question settled by the judgment and acquiescence of both the great political parties of the country, in both branches of Congress, under circumstances of the most solemn and imposing character, by the unanimous judgment of the Supreme Court of the United States, with John Marshall at its head, and by the sanction, either directly or indirectly, of every President and of every Secretary of the Treasury, from the foundation of the government to the present day."

No one now questions the expediency or the constitutional power of Congress to establish a bank, and the recent Federal Reserve Bank has been acclaimed on all sides as one

¹Stevens History of the United States, 469.

of the wisest and the most beneficial acts Congress ever passed.

The bank bill passed the House, 128 to 97, and on July 28th, it passed the Senate by a vote of 26 to 24. The President vetoed the bill on August 16th, and, failing to receive the necessary vote to pass it over the veto, it was defeated. The Whigs were filled with disappointment at this act of the President, while the Democrats were elated; the former felt that they had been betrayed; the latter, though defeated in the campaign of 1840, realized that they were enjoying the fruits of victory. Many of the Democrats in the Senate, headed by Mr. Buchanan, and members of the House, headed by Mr. Gilmer, called in a body upon the President at the White House on the very day the veto was sent in to offer him their congratulations upon his patriotic course.¹ The action of the President was a heavy blow to the Whigs, although not entirely unexpected, as rumors had become current that the bill would be vetoed, though none of the Cabinet, as was subsequently disclosed, had been consulted upon the subject.

The Whigs at once undertook the preparation of a second bill, which was intended to meet the objections urged by the President in his veto. The result of these deliberations, and of consultations with the President, was the second bank bill, called "The Fiscal Corporation of the United States," which, as Mr. Ewing, Secretary of the Treasury, in tendering his resignation to the President, said, "was framed and fashioned according to your own suggestions."² The bill passed the Senate and House and was sent to the President on September 4th. Great anxiety was felt regarding the fate of the bill, in spite of the fact that it was understood to be acceptable to the President. This anxiety was due in a large measure to persistent rumors about the Capitol, and especially to a letter in the *New York Herald*, which foreshadowed the objections the President would make to

¹Public Men and Events, Vol. 2, page 125.

²Public Men and Events, Vol. 2, p. 136; Niles' Register, Vol. 1, p. 34.

the bill. The President did not leave the nation long in doubt, as he sent his veto message to Congress on September 9th, and Congress adjourned on the 13th.

The rupture between the President and the Whig party was now complete. On September 11th all the members of the Cabinet, except Mr. Webster, resigned; and Ewing, Bell and Badger published statements giving the reasons which had actuated them in taking this action.¹ Mr. Webster continued a member of the Cabinet until May, 1843, when he resigned. His position had become uncomfortable, and there was little in common between him and his colleagues. The course of Mr. Webster in remaining in the Cabinet was sharply criticized by the Whigs, but it was understood that he remained to complete the Webster-Ashburton treaty, although he held his office long after the treaty had been ratified.

¹"The Statesman's Manual," Vol. 2, p. 1415. At page 1408 will be found the letter of John Minor Botts, addressed to the Coffee House at Richmond, not intended for publication, however, which created a great sensation in Washington and doubtless contributed to the veto of the bill, although Mr. Botts was heartily in favor of its passage.

CHAPTER VI

ADAMS OFFERS ABOLITION PETITIONS — PROVISIONAL TARIFF BILL PASSED AND VETOED — MR. STUART SPEAKS ON VETO MESSAGE AND ON SECOND TARIFF BILL



THE second session of the Twenty-Seventh Congress met in December, 1841, and continued until August, 1842.

On the 24th day of January, Mr. Adams offered in the House a large number of petitions asking for the abolition of slavery, and one from forty-six citizens of Haverhill, Massachusetts, praying for the dissolution of the Union. This provoked a running debate full of bitterness. Mr. Gilmer of Virginia offered a resolution declaring that the member from Massachusetts had justly incurred the censure of the House. Mr. Marshall offered a substitute that Mr. Adams might well be held to merit expulsion from the house. The subject was discussed daily by Mr. Marshall, Mr. Gilmer, Mr. Wise and others until the 7th of February, when upon motion the subject of censure was laid on the table and the House refused to receive the petitions by a vote of 40 yeas to 166 nays.

During this session a very dramatic scene occurred in the Senate. On March 31, 1842, Mr. Clay resigned his seat in that body. It was known that he was to take leave of the senate on that day and the galleries were filled with spectators eager to hear him. His address, delivered in his best style, was one of intense pathos and eloquence. Every eye was fixed upon him and the audience was moved to tears. Mr. Stuart in a letter to Judge Briscoe G. Baldwin, written a few days after the speech was delivered, thus describes the scene :

“The valedictory of Mr. Clay presented the most august scene I ever witnessed in my life. The abdication of Charles V was nothing to it in moral sublimity. Every senator was in his seat, every nook and corner in the galleries, the lobbies and the avenues was crowded to suffocation, and every eye was riveted on the Old Dictator. He spoke in the most solemn and impressive manner, evidently under the influence of the deepest feeling, and the rich mellow tones of his organ voice reached every heart.

“When he spoke of Kentucky you might observe a convulsive working of his face which arrested his utterance, the tears gushed from his eyes, which he covered with his hand, and he was compelled to stand for several seconds in that still and solemn crowd without being able to articulate a syllable. But when he did speak his words gushed from the pure fountain of his heart, and scarcely an eye was dry in the whole audience. Many of the senators wept bitterly, and when he was done, Calhoun, who had been sitting on the opposite side of the hall listening with the most profound attention, came around to Mr. Clay, seized his hand—pressed it most affectionately; and they, the two great champions of so many hard-fought contests, who had not spoken for years, embraced and shed tears in each others arms. Not a word was spoken by either for their emotion was too strong for expression.”

Few public men of eminence were ever more abused and slandered than Mr. Clay. Among other things he was charged with great fondness for the gambling table. From an article written by Mr. Stuart the following extract is made:

“While speaking of Mr. Clay and his reputed fondness for the gambling table, I will add that from 1841 to the date of his death I saw a great deal of Mr. Clay in private and social life, and I can say I recall but one occasion on which I saw him play a game of cards, and that was at the house of John Quincy Adams in Washington City. When Lord Ashburton came as Minister Plenipotentiary to the

United States to negotiate the Treaty of Washington, Mr. Adams gave an elegant entertainment at which I was one of the guests, in honor of the distinguished visitor, and among other means of entertaining him, he had caused a whist table to be set out in his library. In the course of the evening a party consisting of Lord Ashburton, Mr. Bodisco, the Russian Minister, Mr. Clay and Mr. Crittenden assembled to have a game of whist. In cutting for partners, Lord Ashburton and Mr. Crittenden fell together, and Mr. Clay and Mr. Bodisco. As Mr. Clay held the cards in his hands preparatory to commencing the game, he bowed gracefully to Lord Ashburton and asked what the stake should be. Lord Ashburton replied that Mr. Clay must name it. Mr. Clay declined, but as Lord Ashburton insisted, Mr. Clay finally yielded, with a courteous inclination of his head, and said, 'Then in deference to her Gracious Majesty, let it be a Sovereign.'

A provisional tariff bill was passed "to extend for a limited period the present laws for laying and collecting duties on imports" and was vetoed by the President. Mr. Stuart delivered a speech on the veto message in which he took sharp issue with the President on the objections he made to the bill, and declared "that it was the first occasion upon which a President of the United States had ventured to veto a bill on the ground of expediency alone, where there were no constitutional objections, that the subject of taxation belonged peculiarly to the immediate representatives of the people and was the last with which the Executive ought to intermeddle. If the President could at his mere will and pleasure, interfere with the exercise of the most delicate function of the House of Representatives, and dictate to them the mode and manner in which they should tax their own constituents, it would be a complete inversion of the principles of the Constitution on the subject of taxation, which provided that all bills for imposing taxes on the people should originate in the House of Representatives. If the President had the right to recommend what laws should be

passed, and the unqualified power to forbid by his veto, the passage of any that did not conform to his recommendations, then he would be invested with absolute legislative authority and the veto power would be perverted from its legitimate purpose. Instead of being a *negative* power, it would become a *positive* power. Instead of being used to prevent hasty, or mischievous legislation, it would be employed to *produce* legislative action, and to compel conformity to Executive' dictation."

The bill failed to receive the two-thirds majority and was defeated.

The financial condition of the country was so depressed that it was imperative that Congress should do something to relieve the situation. Another tariff bill was, therefore, immediately prepared and on July 7th Mr. Stuart addressed the House on the subject. He stated that it was simply a revenue bill and not in the ordinary acceptance of the term a bill for protection. It proposed to raise just so much money as would be necessary to defray the expenses of the Government with all practicable economy; and subordinate to that primary consideration, it proposed incidently to afford protection to the great agricultural and manufacturing and commercial interests of the country. In discussing the constitutional right of Congress to pass the bill, with incidental protection, he appealed to the opinions of Washington, Jefferson, Adams, Madison, Monroe and eminent statesmen who followed them, to sustain his position. He next proceeded to meet some of the objections to the protective power drawn from considerations of expediency. On this branch of the subject he took a brave and patriotic view and said:

"Many gentlemen have treated this subject as if it were a mere sectional question—a struggle between the North and the South. For my part, I look upon it in a very different aspect. I regard it as a *national* question—an *American* question—one which belongs to the *whole country*. It is true, there may be partial and temporary inequalities result-

ing from the operation of laws like that now before us, as there will be from all human laws. But they will be but temporary in their duration. The country will soon accommodate itself to the new condition of affairs, and the general benefits will greatly outweigh the partial evils. In my opinion, it will be found, if we take a comprehensive and statesmanlike view of our whole Confederacy, that there is in truth no necessary conflict of interest between the North and the South, or the East and the West. The very diversities of soil, of climate, of population and of production, which at the first view might be supposed to create antagonistic interests, are, when rightly considered, the most fruitful sources of strength and union and harmony. Providence seems to have wisely ordained that as we are separated by the broad Atlantic from the eastern hemisphere, we should have all the elements of national greatness, and wealth and power within our own borders. We have a climate and a soil adapted to every constitution, to every production and to every occupation. We have all the elements of national prosperity, vegetable and mineral, in the greatest abundance; and all that is necessary for their full development is a liberal and enlightened system of legislation. Who can unroll the map of this great Confederacy and cast his eye over its extended surface without feeling emotions of pleasure and pride, mingled with sentiments of gratitude to the great Disposer of events for the magnificent inheritance which He has been pleased to bestow upon us? Let him then contemplate, for a moment, the separate and distinctive characteristics imposed upon each geographical division, by the hand of the Creator himself, and how will these sentiments be strengthened and invigorated! Then let him reflect upon the mutual relations and dependence of each division upon the other, and of the capacity of each to minister to the wants of the others, and how profoundly must he be penetrated with the sense of the wisdom and the beneficence of Him whose hands prepared the dry land!"

He then described the productions of the tropical climate, such as sugar and rice; the cotton region; the grain-growing and grazing fields of the great West with their flocks and herds; and the extreme North, whose less genial climate and comparatively sterile soil, discouraged the labor of the husbandman, but developed a hardy, industrious, and intelligent population devoted to manufactures, to commerce, and to the sea. These diversities of climate, and soil and population, necessarily produced diversities of production and occupation among the inhabitants of the various districts, and thus supplied the wants of the whole country.

“When we undertake to legislate for a country like this,” he declared, “we should look at it as a *whole*, and not confine our views to mere local or sectional interests. We should indulge a catholic spirit, a spirit of enlarged patriotism, which can embrace in its grasp the whole Confederacy, from the St. Lawrence to the Sabine. We should look at the great interests of the nation, not as something *separate* and *distinct* from each other, but as constituting parts of a grand system, intimately connected together, wisely fitted to each other, and when properly brought into action, working harmoniously together, and mutually giving and receiving nutriment and support.”

This speech was received with great favor by the Whigs of the country, and the author received many letters of commendation, among them one from Horace Greeley saying that he had received a copy of the speech “but had barely had a chance to read it before it was spirited away from my table,” and requesting Mr. Stuart to send him a copy as he wanted to publish it in his *American Laborer*.

The bill passed both houses of Congress, but the President vetoed it, because it contained the land revenue distribution clause. The Whigs thought that the proceeds of the sale of public lands should not be treated as a source of revenue for the support of the Government but belonged to the States; while the Democrats and Tyler men insisted

that these proceeds should go into the Treasury and constitute a part of the national revenue.

The veto message was referred to a select committee of thirteen. Mr. Adams, the chairman, in a few days submitted a report signed by all the committee, except two members, in which the President was censured for his vetoes of the two bank bills and the two tariff bills, especially the last one. The report of the committee was adopted by a large majority, but the tariff bill failed to receive the necessary votes to pass it over the veto. President Tyler sent in a protest to the House against the report of the committee on his tariff veto message. During the discussion on the protest it developed that President Tyler was a member of the Senate in 1834, when that body adopted resolutions condemning President Jackson for removing the deposits from the Bank of the United States. President Jackson sent to the Senate a protest against the right of the Senate to express any opinion censuring his public course, and that body after long discussion adopted three resolutions. The first denied the right of the President to make a formal protest against the proceedings of the Senate, or to request that such protest should be entered on its journal as illegal and unconstitutional. The second declared that the protest was a breach of the privileges of the Senate, and the third that the President had no right to send a protest to the Senate against any of its proceedings. The vote was taken on each of these resolutions separately, and all three were adopted, Tyler voting for all of them. A resolution was offered and carried to adopt these resolutions in regard to President Tyler's protest, and thus the matter was closed.

Congress had now been in session nine months and could not adjourn without providing for the Treasury. A third bill was, therefore, prepared raising duties above twenty per centum, thereby suspending the land revenue distribution. This bill passed both houses of Congress and was approved by the President on August 30th, and Congress adjourned.

Mr. Stuart had taken an active part in the organization of the House and in the debates on the bank and on the tariff bills. His speeches exhibited a thorough acquaintance with all the details of those subjects, and were delivered in a manner that commanded the close attention of the House. At the close of the session he was recognized as one of the leading members of the Whig party, a position he continued to hold until that party disintegrated.

Sargent¹ describes Mr. Stuart's style of speaking on the President's veto of the tariff bill as follows:

"Mr. Stuart spoke with the coolness of an experienced statesman. He took issue with Mr. Tyler upon some points of his message and with much dignity, courtesy of manner and fairness of argument overthrew the position assumed by the message. He occasionally indulged in a strain of scornful reproach; but these indulgences were only used as condiment to give zest to his general remarks. He elicited most respectful attention from both sides of the House."

¹Public Men and Events, p. 173.

CHAPTER VII

WRITES FOR THE RICHMOND WHIG—DELIVERS ADDRESS BEFORE THE AMERICAN INSTITUTE.



AT the close of the Twenty-Seventh Congress, Mr. Stuart retired from public life and resumed the practice of his profession.

In the early spring of 1843 there was a strong feeling to nominate Henry Clay for the Presidency in 1844, and it was deemed important in advance of the Presidential election to arouse the interest of the Whigs. Mr. Stuart, therefore, took some part in the campaign. At this time the two leading papers in the State were the *Enquirer*, Democratic, and the *Whig*, both published in Richmond. The former was edited by Mr. Ritchie and the latter by Mr. Pleasants. These gentlemen were accomplished scholars and able journalists, and their papers held a commanding position in the State and wielded a powerful influence upon public sentiment. Mr. Ritchie challenged the *Whig* to publish a certain number of articles on the Democratic side of the questions involved in the approaching election, and he would publish an equal number in the *Enquirer* from the Whig standpoint. Mr. Pleasants accepted the proposition as a fair one, and asked Mr. Stuart to write the articles. The *Enquirer* did not meet the engagement but the *Whig* published the articles written by Mr. Stuart, in February, 1844, under the title of "The Fair Proposition." They were seventeen in number and treated in an exhaustive manner the United States Bank and the tariff. They were received with much favor, and were republished in pamphlet form and used as campaign documents in the Presidential election of that year.

In 1844 Mr. Stuart accepted an invitation to deliver the

seventh anniversary address before the American Institute of the City of New York. He spoke at the Broadway Tabernacle on the subject of "The Rights, Duties and Responsibilities of the Working Men of America."

He said that in attempting to form a correct estimate of the rights and duties of the industrial classes of the United States it was necessary to examine the condition of similar orders in the various countries of Europe; to review their history, and to understand their social and political relations. This retrospect would prepare their minds for the inquiry, how the rights and duties of the American people were affected by the peculiar structure of their institutions.

He discussed the adoption of the feudal system, which was the basis of all of the governments of modern Europe, and, while not undertaking to enter upon a minute history of the rise and progress of that system, he showed that however well adapted it might have been to maintain the dominion of half-civilized conquerors, none could have been devised more destructive of the true principles of liberty, or more fatal to the security and happiness of the people. All its features were aristocratic, and all its tendencies to the oppression and degradation of the great masses of society. The majority of the people were serfs and condemned to a life of villenage or absolute slavery. They were appendages to the lands on which they lived and were bought and sold with the land. Agriculture was loaded with burdens and commerce shackled with vexatious restraints and exactions. The condition of the towns and cities was little, if at all, more tolerable. The towns were situated either upon the lands of the sovereign, or of some of the great barons, and were subject almost entirely to their will.

The first step in the great march of civil liberty was made by the oppressed and despised villages and towns inhabited by merchants and mechanics. Municipal corporations were introduced, and the necessities of the kings and barons compelled them to yield privileges to the citizens in exchange for the means necessary to support their foreign expeditions; and thus in the course of a few years most of the

principal boroughs had either extorted by force, or purchased with money, charters embracing many of the most essential elements of freedom. These privileges, originally acquired by the towns, were gradually extended to the country, and the husbandman, secure of reaping the harvest he had sown, became the farmer, and in many instances the proprietor, of the fields in which he had formerly toiled as a degraded serf. Thus, declared Mr. Stuart, "We are indebted to the inhabitants of the towns and cities, men devoted to commerce and manufacture, for the first principles of free government."

Continuing, he said: "The municipal charters of Europe contain the first germs of constitutional freedom. They are the ground work, not only of the liberal institutions of Europe, but of all the limited and written constitutions of the world. Superficial readers are taught to believe that *Magna Charta* is the great fountain of British liberty, and that the largest debt of gratitude for the priceless heritage we enjoy is due to the bold barons who extorted it at Runnymede. This view of the subject has been favored by interested historians who sought rather to recommend themselves to the favor of the aristocracy than to disclose the truth. But a slight examination will be sufficient to show the fallacy of this opinion. *Magna Charta* was to a great extent but a definition and declaration of pre-existing rights. It was not the parent but the offspring of the spirit of liberty, it was the *consequence* and not the *cause* of that great movement which has resulted in the emancipation of a large portion of the civilized world. The movement had its origin many years before, in the Lombard cities, and received a new impulse in its progress through France, Germany and England. *Magna Charta* bears testimony on its face to the truth of this assertion, for it secured London and all cities and boroughs their *ancient* liberties, and immunities, and free customs. It does not grant new franchises, but provides for the security of *old* ones. I think, then, I hazard little in saying *Magna*

Charta was but an embodiment and extension of the principles of the municipal charters, and that the barons of England, in wresting it from King John, were only following the examples which had been set by the merchants and mechanics of the cities more than half a century before.

“The history of the working men may indeed be said to be the history of civil freedom. Their courage imposed the first restraints upon lawless tyranny. Their vigilance kept the sacred fires alive on the altars of liberty. Their charters gave the world the first model of a written constitution.”

He then contrasted the condition of the working men in Europe with that of those of America and exclaimed:

“Who can turn from the contemplation of such a picture, and view the condition of the working men of America without a feeling of deep and heartfelt satisfaction?”

He said that the two great subjects of all governments were *persons* and *property*, and the two great elements of every society were *labor* and *capital*. These subjects were intimately connected. Capital was the product of industry. Labor was the agency by which capital was acquired. Capital gave employment to labor and labor repaid capital by its profits. They were mutual allies, and mutually beneficial. Capital was the vivifying principle which gave activity and animation to labor. Without capital there could be no exercise, upon an extended scale, of the useful arts, nor could any public improvement of magnitude be accomplished. Without it agriculture would languish, and foreign commerce be discontinued. On the other hand, labor was the instrument by which capital achieved its wonderful results. They were inseparably associated, and he who was against the one necessarily assailed the other. It is the ascendancy of the one or the other of these interests, which, in a great measure, determines the character of all governments. And it is the struggle for that ascendancy which is the most fruitful source of revolutions and civil wars.

The violence of the convulsion will always be in proportion to the previous derangement of the balance between them.

“Whenever *capital* is the controlling power, the government by whatever name it may be known, or under whatever form it may be disguised, will be essentially an oligarchy, because capital is always in the hands of a few. But when *labor* holds the reins, it invariably leaves the impress of freedom and republicanism on the institutions of the country, because the laboring men are always in the majority.”

He maintained that the superior powers and immunities which the productive classes of the United States enjoyed imposed upon them duties of the most solemn and weighty character. “They stand upon the same platform with the highest in the land. The destiny of the country is in their hands. The sovereign power resides in them. The law is but the expression of their will, and its administrative officers their agents. All our institutions, social and political, are but the reflected image of their genius and character.”

As the duties of the citizens were enlarged, and they were required to exercise the most important functions in the administration of the government, involving a high degree of intelligence and virtue, so the government was bound by the soundest considerations of justice and morality, to use its constitutional powers to render the people virtuous and intelligent and to keep them up to the level of our institutions. There were two great measures, in his opinion, which were indispensably necessary to the welfare of the people—protection to American industry, and a liberal system of popular education.

In discussing the subject of protection Mr. Stuart considered it first as a matter of popular right and on this view of the subject said:

“It is the recognized duty of every government, in consideration of the allegiance of the citizen, to afford protection to his person and property. This is a fundamental principle of every social organization. Our Federal Gov-

ernment can claim no exemption from this obligation. Let us now follow this principle to its legitimate, practical result. There is no dispute as to the duty to protect the property of the citizen. That is a matter conceded on all hands. The only difficulty arises in regard to its application. The property of the capitalist consists of his lands, houses, chattels and *choses in action*. These are admitted subjects of protection. But the poor man owns few or none of the articles which I have enumerated. His property consists exclusively of his labor, the product of his mind and muscles. That is his all. It is his only commodity for market. It is all he can give in exchange for the necessaries of life. Now I should like to know if he has not as good a right to have his property protected against foreign aggressions as the capitalist? For my part, I must acknowledge, I have been unable to discover any good ground for this distinction. Is it because it is not material or tangible in its character? You extend protection to inventive genius by letters patent, and you guard the rights of talent and learning, which are equally intangible, by a system of copyrights; and why should you make a discrimination against the labor of the operative? If government takes the value of a farthing from the property of the capitalist, consisting of the accumulations of past industry, the law affords ample redress for the injury. And why should there not be a corresponding obligation to provide for the security of the laboring classes? Why should a system of legislation be adopted which is calculated to reduce the wages which are the price for which labor is sold? The system of free trade, as it is called, has this effect. It strikes at labor. It tends to enhance the value of capital by depressing the relative value of labor. It deprives the workingman of his fair reward, that the capitalist may buy his foreign luxuries at a cheaper price. Its heaviest blows fall on the mechanic. It brings foreign pauper labor into competition with American labor; it tends to bring down American labor to the level of the wages of Europe. When that is accomplished I hazard little in saying that the day will not be far distant when the

citizens of the United States will stand on a level in more respects than one with the subjects of the despotic governments of Europe."

Mr. Stuart next considered protection as a question of *expediency*, and then passed on to the subject of an enlarged system of popular education. "By education I do not mean merely instruction in the arts of reading and writing, but that whole system of moral, intellectual, and religious training and cultivation which is necessary to develop the nobler faculties of our nature, and give to the character of man the impress and likeness of Him in whose image he was created."

Towards the close of the address Mr. Stuart made this almost prophetic statement, in view of what has since occurred, in reference to sectional jealousies and geographical divisions:

"In looking forward to the future career, and probable destiny of our Republic, the only danger that seems to beset her path is from those sectional jealousies and geographical divisions against which we were so solemnly warned by the prophetic wisdom of the Father of our country.

"It would be an easy matter to prove, not only that there is no just foundation for such unfriendly sentiments, but that on the contrary the diversities in soil, climate, and population and production, which at first view would seem to constitute the grounds of a difference in interests, are in truth the strongest bonds of union between the different parts of our Confederacy. A wise Providence seems to have arranged these geographical peculiarities with a view to a national division of labor, and to render each part necessary for the prosperity of the whole. But we see, nevertheless, as was foretold in the farewell address of Washington, that 'designing men do endeavor to excite a belief in the minds of the people that there is a real difference of local interests and views.' In the language of that address, which has been justly pronounced to be the highest effort of uninspired wisdom, I would say to the American

people: 'You cannot shield yourselves too much against the jealousies and heart burnings which spring from these misrepresentations. They tend to render alien to each other those who ought to be bound together by fraternal affection.' This admonition cannot be too often repeated or too deeply impressed upon the public mind. No intelligent man can close his eyes to the melancholy fact that 'jealousies and heartburnings' have been excited between different portions of the country. In some quarters a purpose to dissolve the Union has been openly avowed, unless certain concessions are made to local prejudices, which it must be known never can be granted. And in other sections, bodies of men are found who profess to deprecate such a result as one of the greatest national calamities, and yet are madly urging the adoption of measures which must inevitably lead to its consummation.

"It is time that this spirit, in whatever form it may exhibit itself, should meet with a decided and emphatic rebuke. The people in all parts of the country should speak out in a voice that cannot be misunderstood. Those who talk of a dissolution of our glorious Confederacy must be taught to know that allegiance to the government is not a thing to be put on and off like a garment, but a continuing and permanent duty, which will be enforced at all hazards. And those whose approaches to the same objects are more stealthy and insidious, *those sappers and miners of the Constitution*, who, under the mask of attachment to liberty, seek to overthrow the great bulwark of freedom, must be made to feel that treason is none the less criminal and detestable because it is disguised under the pretence of devotion to the cardinal rights of mankind."

And in conclusion he exclaimed:

"Let us all, then, without respect for party or geographical divisions unite in endeavoring to cherish and perpetuate those noble institutions which the courage, and patriotism, and wisdom of our ancestors have established! Let the counsels of Washington be graven upon our hearts! Let

his Farewell Address have its place in our houses, with our Bibles and our prayer books! Let its lessons of wisdom and patriotism be studied by our youth and read in our public assemblies! Let our children learn to lisp its solemn warnings as a part of their Sabbath-school instruction, and thus have their duty to their country blended in intimate and sacred association with their duty to their God! Then may we bid defiance to the foul spirit of discord! Then may we look forward to a glorious futurity, in which men of the North and of the South, of the East and of the West, may assemble around the tomb of Washington and, linking their hearts and their hands in fraternal fellowship above his sleeping dust, swear, as upon a holy altar, eternal allegiance to the American Union!"

CHAPTER VIII

SECRETARY OF THE INTERIOR



IN 1850 Mr. Stuart was invited to become a member of Mr. Fillmore's Cabinet. He had held no public office for some years, although he took an active part in the Presidential election in 1848 for Taylor and Fillmore, the Whig candidates. The circumstances attending this appointment are so unique that they will be given as related by Mr. Stuart in an interview published in the *Staunton Vindicator* of April 16th, 1886. In reply to the question of the reporter as to how he gave up his determination to resume the practice of law, and re-entered public life, he said:

“Well, it came about in this way. One night in September, 1850, after I had made arrangements, which consisted in those days of packing my saddlebags, to go to Rockbridge Court the next day, some one knocked at my door about midnight. The gentleman sent an apology for waking me, but said he had business which required he should see me that night. While I dressed, my wife and I discussed what could be the cause of a call at that hour of the night, and we could think of nothing else but that it was an important criminal case in which I was wanted. He renewed his apologies for so late a disturbance and asked if I was Mr. Stuart? Was I Mr. Alexander Stuart? I was. Then he had a letter for me. The letter had nothing official in its appearance, being the size of a lady's note in plain envelope, the only official symptom about it being the frank ‘D. Webster’ in the corner. The following is the letter:

Washington, 7th Sept., '50.

To the Honorable Alexander H. H. Stuart, Staunton, Va.

My dear Sir:

I am directed by the President of the United States to apprise you that it is his wish to nominate you to the Senate for the office of Secretary of the Department of the Interior. He deems it important, however, that no step should be taken on so important a subject without first acquainting himself with your wishes and inclinations. To ascertain those is the object of this letter, which I transmit by a messenger of the Department of State, with directions that if not found at your own residence, he proceed immediately to the place where you are supposed to be, and there to receive your answer. Let me assure you, my dear Sir, that it is not only the sincere wish of the President, but also of all those, whom, on such an occasion he naturally consults, that you should not decline the offer. We all desire your efficient aid and co-operation in the Executive Councils of the Government at this important crisis. The President hopes that you will be able to repair to your post at an early day, the earlier the better, as the place has been some time vacant, and a competent discharge of its duties is especially desirable during the present session of Congress. After that, perhaps, some little interval might be indulged without detriment to the public interest.

The bearer of this is confidential. If you please to signify your acquiescence in the President's wishes to him, he will telegraph this Department on his return as soon as he reaches a telegraphic station. I trust, my dear Sir, that both the message and the wire will bring us the agreeable intelligence of your acceptance.

Very cordially yours,

Dan'l Webster

"The messenger who bore this letter was Mr. George Bartle. He said he wished an immediate answer. He had come by stage to Waynesboro, and when the stage stopped

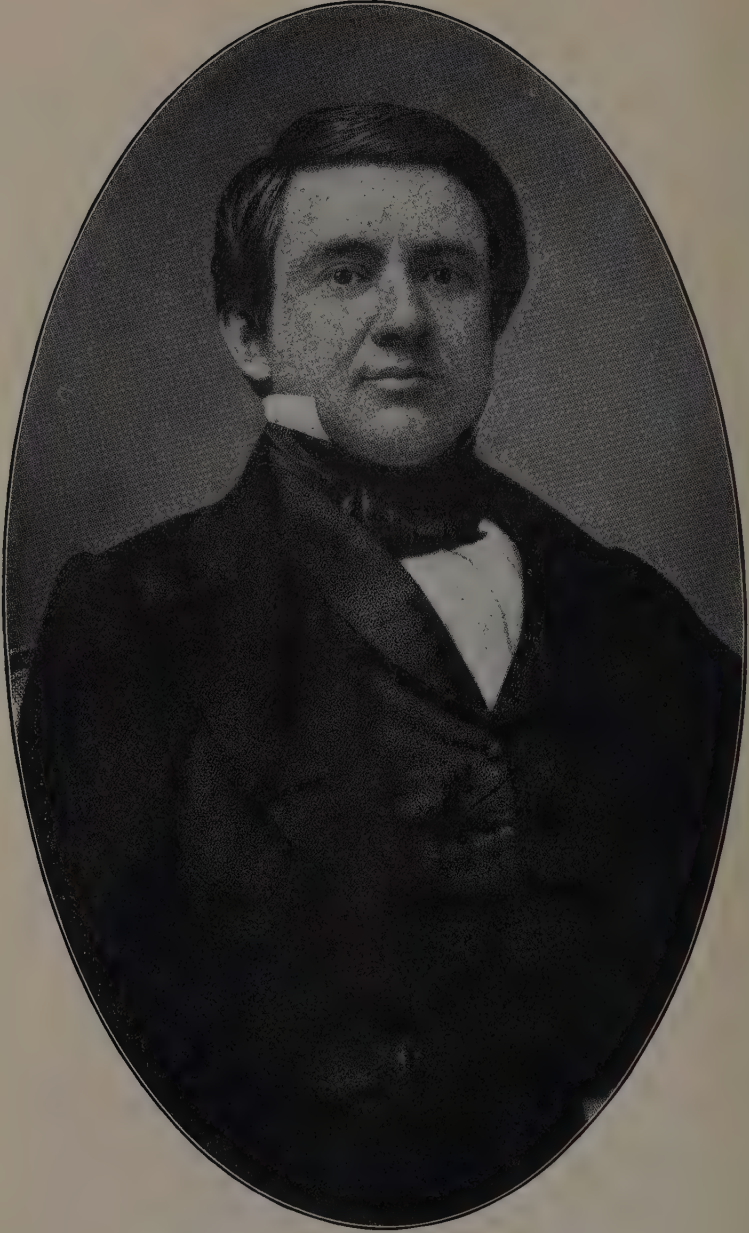
there for supper had left it and ridden express to Staunton in order to get my answer and start by the Valley stage for Winchester (the nearest telegraph office) at one o'clock that night. I told him I could not give him an immediate answer and he would have to wait until the next day for it. The tender of a place in the Cabinet was wholly unexpected to me, the more so as Virginia was a Democratic State, and a cabinet officer from it in a Whig administration was improbable; and further, because I had been out of active political life for some years. When I had determined to accept, and arrived in Washington, I found the Department of the Interior, which had been only recently created, a very large one, which, before I left it, numbered several thousand men in its employment. When I assumed the position at its head I did not know a man in it. I introduced a sort of private civil service test, to ascertain the capacity of the men in my own immediate offices; I would take memoranda on various subjects and give them to the clerks to prepare papers from, and by the results finally classified them. And speaking of civil service, I may say that in the whole thousands of positions, I never made a change merely on account of politics. The Department included the Bounty Land Office, Commissioner of Public Lands, and Commissioner of Pensions. One of the young men whom I discovered by the test applied was a thousand dollar clerk named George C. Whiting from Clarke County. He showed such remarkable aptitude that I continued promoting him until he reached the position of my chief clerk, although nominally he was a Democrat. Another remarkable advancement was John Wilson, who had commenced life as a carpenter. He became Commissioner of Public Lands, a position that he resigned to take charge at \$10,000.00 a year of the land office of the Illinois Central Railroad, which received a large land grant.

"The head of the Cabinet, Mr. Webster, the Secretary of State, I was already acquainted with. In 1850, I, with others, argued the great Wheeling Bridge case before the United States Supreme Court. Reverdy Johnson was

on the same side with myself. After the case had been heard, Mr. Johnson asked if I had seen Mr. Webster, that he was looking for me. When we met Mr. Webster said: 'I want to have a party of Southern gentlemen to dine with me next Thursday, I would like to see you there. This is not a formal invitation, but if you stand on formality I will,' he added laughing, 'have an invitation made out in due form of law, with the seal of the court annexed.' During the dinner, he asked with great interest after the Sheffey family, having served in the house with Daniel Sheffey.

"He told me of Daniel Sheffey's celebrated reply to John Randolph of Roanoke. Sheffey came to this State from Maryland, and while working at his trade studied law, and was sent to Congress from the Wythe District. He was one of the ablest and most brilliant men of his day, and at once became prominent in the House. This did not meet with the aristocratic views of John Randolph, who was exceedingly annoyed by his colleague's prominence. One day after Sheffey had made one of his most brilliant efforts, Randolph arose and with irony complimented him on his effort, and added with a sneer, that he 'would take the liberty of a colleague to offer the member from Wythe a word of admonition and advice, which was in future to confine himself to his appropriate field of logic and strong, vigorous common sense, and never again make an abortive effort to figure in the field of fancy and wit.' As quick as lightning Sheffey rose and said: 'Mr. Speaker, I accept the admonition of my colleague in the spirit in which it is offered, and assure him that I will never again encroach upon his dominion, particularly as he never poaches upon mine.' The keen retort brought down the House.

"Among the other members of the Cabinet was Thomas Corwin of Ohio, Secretary of the Treasury. He had been a wagoner in the West in early life. He often told me that the happiest moments of his life had been when the long line of wagons would come to a halt and the drivers would



ALEXANDER HUGH HOLMES STUART
Secretary of the Interior
During Fillmore's Administration

go to the provision box for their bottles and dinner. He enjoyed that more, he said, than the entertainments in Washington. He was wonderful in anecdote and had the dramatic power of a Garrick. He was a true and noble gentleman. The Secretary of War, C. M. Conrad, of Louisiana, was a Virginian; Governor W. A. Graham, of North Carolina, was Secretary of the Navy; John J. Crittenden, of Kentucky, another Virginian and graduate of Washington College at Lexington, was Attorney-General; Judge N. K. Hall, of New York, a former law partner of Mr. Fillmore, was Postmaster-General. Three of the Cabinet either died or resigned during his administration. When Mr. Webster died, Edward Everett of Massachusetts took his place. When Secretary Graham was nominated for Vice-President on the ticket with Winfield Scott, John P. Kennedy of Maryland took his place. When Postmaster-General Hall was appointed Circuit Judge, Samuel D. Hubbard of Connecticut took his place."

Mr. Stuart's annual reports and numerous written opinions on file in the Land, Pension and Indian Offices furnish abundant proof of the satisfactory manner in which he discharged the duties of his department. The task of organizing the Department of the Interior devolved largely upon Mr. Stuart, as his predecessor, Mr. Ewing had, during the few months that he had filled the office, been so much occupied by his general duties as a member of President Tyler's Cabinet, that he had not been able to give much attention to the details necessary to the complete organization of his special department.

CHAPTER IX

THE AMERICAN PARTY



AFTER the defeat of General Winfield Scott and William A. Graham, the Whig candidates for President and Vice-President in 1852, the Whig party gradually disintegrated, leaving the Democratic party and the anti-slavery agitators in possession of the political field. Shortly after this time the American party was formed and it soon gained support throughout the country. At first its meetings were held in secret, but it soon threw off the garb of secrecy, and, as Mr. Stuart said in the first Madison Letter, presented itself "as an open organization in the full light of day with its principles emblazoned upon its banners, challenging the confidence, the admiration, and the affection of true patriots."

Mr. Stuart had been a zealous Whig all his life. He could not accept the policies of the Democratic party, which he had uniformly opposed, and the anti-slavery party was, of course, unthinkable. He therefore turned to the American party. His own words in reference to Mr. Fillmore, in Madison Letter number eleven, accurately describe his own situation:

"When the Whig party, after the defeat of 1852, retired from the field, Mr. Fillmore had to choose between the American party whose principles he had approved as early as 1844, as appears by his letter to Mr. Clay in that year, and the Democracy. I have no doubt that Mr. Fillmore was attached to the Whig party. He had been nurtured in its lap; he had been reared in its conservative principles; he had proudly borne its banner both in victory and defeat; he had learned wisdom at the feet of its great sages, Webster and Clay. Mr. Fillmore's opposition to Democracy was a matter of principle, not of expediency. It was

not a thing which he could pick up and lay down as interest or caprice might prompt. He had denounced its tyranny, its misrule, its disregard of the Constitution, and its reckless extravagance, from the conviction that his denunciations were just. He could not, therefore, when the old adversary of that party retired from the conflict, eat his own words, retract his own charges, and falsify his whole life, by affiliating with a party which he had contended to be unworthy of trust. Interest might have dictated such a course, but duty and patriotism forbade it. Mr. Fillmore saw the Democracy, in violation of all its pledges, renewing the agitation of the slavery question which he had composed; opening the floodgates of sectional strife; and endangering the peace and security of the Union. Knowing that the only available power to stay the torrent which threatened to overwhelm the country was the American party, with the energy and promptness which distinguished him, he extended the right hand of fellowship to it and sought to aid it in the fulfilment of its great mission of peace."

Mr. Stuart did not espouse the cause of the American party upon a sudden impulse, but after the most mature consideration of its principles and from a firm conviction that the best interests of the country would be served by the triumph of those principles. The Democratic party and the anti-slavery party were so bitter in their denunciation of each other; and party and sectional feeling was so intemperate that he believed unless a new party, composed of the great mass of the conservative thinking people, gained control of the government there would soon be violence and an attempt at disunion.

On June 2nd, 1856, the Democratic party nominated James Buchanan of Pennsylvania, for President, and John C. Breckinridge of Kentucky, for Vice-President. The anti-slavery party, organized for the first time under the name of "Republican," on June 17th nominated John F. Fremont, of California, and William L. Dayton, of New Jersey, while the American party named as their candidates for

these offices, Mr. Fillmore, of New York, and Andrew J. Donelson, of Tennessee. Such was the condition of political parties in 1856.

In April, 1856, Mr. Stuart wrote a series of twelve letters, signed "Madison," in defence of the American party which were originally published in the *Richmond Whig*. These letters were extensively copied in the newspapers of the country, and were afterwards issued in pamphlet form and used as campaign literature in the Presidential election of that year.

Cluskey¹ says of the Madison Letters: "The contents under this caption contain the material portions of eleven or twelve letters, written over the signature of Madison in vindication of the American party. The editor has examined carefully all the defences of the American organization and considering this the most able of them all, written as it is said by the Hon. A. H. H. Stuart, of Virginia, he yields it a place in his work."

¹Political Text-Book, page 283.

CHAPTER X

MADISON LETTER NUMBER ONE—THE VITAL PRINCIPLE OF THE AMERICAN PARTY



ENTLEMEN:—On the 3d March, Mr. Wise, the Governor of Virginia, addressed a letter to the Washington Union, ostensibly to correct an alleged misreport of some remarks attributed to him, but really, it would seem to me, to make an occasion for an unjust and unprovoked assault on the American party. In that letter Mr. Wise uses the following language:

“Certainly the cause of civil and religious freedom, maintained by the Democracy of Virginia, was nobly supported by many of the truly conservative, conscientious, and constitution-loving Whigs of our State, but I never was able to fix their number. We gladly took them in exchange for the renegade Democrats who sneaked away from their former friends, and took a test oath in the secrecy of the culvert, by the light of a dark lantern. Whether these Whigs can be reclaimed by the new nomination at Philadelphia, time will show. I think they cannot be. Mr. Fillmore is no longer a Whig; he has been changed by the hocus pocus of the necromancy of Sam. In the next Presidential canvass there will be new issues presented by three parties: the white man’s party—the Democratic; the black man’s party—the Black Republicans; the mulatto party—the cross of northern and southern Know Nothings, and the ticket of Messrs. Fillmore and Donelson. All nature abhors vacuums and mongrels and so do conscientious, conservative, and constitution-loving Whigs of Virginia. They can put up better with pure Africans—wool, flat nose, odor, ebon skin, and gizzard foot and all, better than they can bear that cross of the Caucasian and Cuffey, which you call a mulatto.”

With regard to the taste displayed by Mr. Wise in regard to his epithets and illustrations, I have not one word to say, for an old proverb admonishes us that there is no disputing about tastes. Nor shall I stop to inquire whether it is altogether in accordance with the usages of the past, for the Chief Magistrate of the Commonwealth to descend to the arena of party politics. Passing all these things by, I propose to make Mr. Wise's letter my text for a series of articles intended to explain the true doctrines and policy of the American party, and to show that they are obnoxious to none of the charges and insinuations made by Mr. Wise, but, on the other hand, that they are sanctioned by the principles of the Constitution, by the practice and known opinions of the Fathers of the Republic, and by the obvious dictates of patriotism and common sense.

Vague and indefinite assertions like those indulged in by Mr. Wise may for a time impose on the unenlightened, particularly when supported by the prestige of a distinguished name, and high official position, but, with men of sense, they will pass as the idle wind unless they are sustained by proof.

It is to be regretted that Mr. Wise should allow his prejudices and impetuosity of temper to mislead him so far as in effect to question the patriotism of near one-half of his fellow-citizens, men quite as intelligent and quite as honest as himself.

The reason, doubtless, is, that Mr. Wise is a man of great talent and self-reliance, and much quickness of perception, but by no means given to patient investigation and the calm and dispassionate examination of facts and principles. When he glances at a subject, he readily embraces prominent views of it, and fancies that he has seen it in all its aspects and understands it in all its relations and details.

Unfortunately the American party was first presented to Mr. Wise under circumstances peculiarly unfavorable to his forming a fair judgment of its principles and merits. He was a candidate for the office of Governor of Virginia, when the American party first became recognized in the State, and

he saw it in an attitude of antagonism to himself. He saw it like a lion in his path, and a lion somewhat shrouded in mystery. Without stopping to inquire what the principles of the party were, and what its policy was likely to be, he forthwith made fierce and unrelenting war upon it and brought all his powers of mind, and body, too, into the contest. He had no opponent on the hustings—he traversed the whole State representing Americanism to be just what his heated imagination supposed it to be—and after a campaign against a phantom of his own creation, he came off the victor by near ten thousand votes. It is not to be wondered at then, that Mr. Wise, after dwelling upon his distempered views of Americanism for more than a year, should conscientiously believe that it is some dreadful monster, threatening the peace and welfare of the country.

And I will add here that it is a suitable retribution upon that party that it should have been misrepresented and misunderstood for its shameful delinquency in the contest of 1855, in not sending forth a champion to do battle in its behalf,—to explain its doctrines,—to vindicate its principles,—to exhibit to the public its proposed policy,—and to scatter to the winds the thousand and one idle stories that were circulated in regard to it.

But all that is past; we have to deal now with the Americanism of 1856, not with the blunders and follies of 1855. The party has cast aside the veil of secrecy, and all its cumbrous mummery, and it now presents itself as an open organization,—in the full light of day,—with its principles emblazoned on its banners,—challenging the confidence, the admiration and the affection of true patriots.

All it asks is to be tried by its principles and the measures which it proposes as the legitimate result of those principles. It asks Virginians to look at them fairly and dispassionately, and to say whether they are not the principles of the Constitution,—both State and Federal,—the principles of Washington, Jefferson, Madison, and the other Fathers of the Republic,—the principles best calculated to arrest the tide of radicalism, and socialism, and black republicanism,

which have for years past been sweeping over this land; and to maintain inviolate the institutions of the South, the guarantees of the Constitution, and the interests of the country. If they be not such, then I ask no support for them.

These are the propositions which I mean to establish, not by vague assertion, not by catch-words and empty declamation, but by substantial and well-authenticated facts, drawn from the Constitution, the laws, and history of our country. I shall state nothing which I will not prove by evidence which I deem worthy of credit. I invite the strictest scrutiny, and if I inadvertently fall into any error, I will cheerfully correct it when satisfied by proof that I am wrong.

The opinions of men on all political, as well as moral questions, will be as diverse as the minds of those who entertain them. Much latitude must be allowed and much toleration practised on this subject. But historical facts are fixed and unchangeable and are susceptible of being brought to a standard by good reasons. My facts will rest on authorities which I will cite wherever the matters are not of such recent occurrence and general notoriety as to render the citation of authority unnecessary.

I will also state in advance that it is my purpose studiously to abstain from all harsh and offensive expressions; to make no personal imputations, and to observe that courtesy to those who differ from me which should always distinguish the intercourse of gentlemen.

With these preliminary remarks, I proceed to examine some of the positions assumed by Mr. Wise.

“Certainly,” says that gentleman, “the cause of civil and religious freedom, maintained by the Democracy of Virginia, was nobly supported by many of the truly conservative, conscientious, constitution-loving Whigs of our State, but I never was able to fix their number.”

I presume that there can be no rational doubt that the fair inference to be drawn from this sentence is that the American party, and those Whigs and Democrats who cooperated with them in the canvass of last spring, were, in the judgment of Mr. Wise, *opposed* to the cause of civil

and religious freedom. He regards the cause of civil and religious freedom as having been an issue in that contest, and he says that the Democrats and a portion of the Whigs who acted with them "maintained" and "nobly supported" that cause. Now, unless it had been opposed, or in some way assailed, there would have been no necessity for maintaining and no merit in nobly supporting it. The fair, nay the inevitable inference then is, that those who were arrayed against Mr. Wise and his friends were waging war on the cause of civil and religious freedom.

How did they oppose it? Certainly not by the mere act of voting against Mr. Wise. He doubtless means that the warfare was carried on by attempting to establish the ascendancy of the principles and measures of the American party. This naturally leads us to inquire what those principles and measures are, and to the consideration of the question whether there is any antagonism between them and the cause of civil and religious freedom.

Some great fundamental principle lies at the bottom of every party organization. It is the root to which all the measures and policy of the party may be traced. It gives the complexion and character to all its legislative and executive action.

The leading principle of the Whig party was *conservatism*, exhibiting itself in opposition to what it conceived to be unwarranted assumptions of power by the Federal Executive; in a deep devotion to the Constitution; in a love of law and order; and in a reverent looking up to the Fathers of the Republic for instruction and guidance in the affairs of government.

The cardinal principle of modern Democracy, as it appears to me, is *radicalism*, exhibiting itself in utter disregard of the teachings of history and experience; an abject subserviency to what Mr. Randolph called "King Numbers"; a reckless spirit of innovation under the specious disguises of "Progress" and "Manifest Destiny"; a disposition to regard the will of the majority as the measure of its power and the guide of its policy, however much that "will" may be op-

posed to the letter and spirit of the Constitution; and an arrogant assumption that minorities have no rights, and may be trampled on, proscribed, disfranchised, and gerrymandered at pleasure.

The vital principle of the American party is *Americanism*, developing itself in a deep-rooted attachment to our own country, its constitution, its union, and its laws; to American men and American measures, and American interests; or, in other words, a fervent patriotism—which, rejecting the transcendental philanthropy of abolitionists and that kindred batch of wild enthusiasts, who would seek to embroil us with foreign countries, in righting the wrongs of Ireland, or Hungary, or Cuba, would guard with vestal vigilance American institutions and American interests against the baneful effects of foreign influence.

In my next number I will unfold in detail the measures and policy which legitimately spring from this principle, and endeavor to show their beneficent influences on the prosperity and happiness of the country.

MADISON.

CHAPTER XI

MADISON LETTER NUMBER TWO—MEASURES AND POLICY OF THE AMERICAN PARTY



ENTLEMEN:—I closed my first number by stating what I conceived to be the vital principle of the American party,—the principle which, like the mainspring of a watch, imparts activity to its whole machinery.

Let us now consider what are the measures and policy which these Americans propose to adopt, to give practical efficiency to this great principle. There is, doubtless, among the members of that party, as among the members of all other parties, much difference of opinion in regard to matters of detail; and mutual forbearance and concession must and will be practiced in giving shape to their measures. No one can, therefore, tell with certainty what form they may ultimately assume.

For the present I will refer to the action of the National Council as the most authentic exposition of the opinions of the party. Its creed, as expressed by that body, is embraced in the following propositions:

* * * * *

Second. The perpetuation of the Federal Union as the palladium of our civil and religious liberties and the only sure bulwark of American independence.

Third. Americans must rule America, and to this end, native-born citizens should be selected for all state, federal, and municipal offices or government employment in preference to all others; nevertheless,

Fourth. Persons born of American parents residing temporarily abroad should be entitled to all the rights of native-born citizens; but,

Fifth. No person should be selected for political station (whether of native or foreign birth) who recognizes any allegiance or obligation, of any description, to any foreign prince, potentate, or power, or who refuses to recognize the Federal and State Constitutions (each within its sphere) as paramount to all other laws, as rules of political action.

Sixth. The unqualified recognition and maintenance of the reserved rights of the several States, and the cultivation of harmony and fraternal good will between the citizens of the several States, and to this end, non-interference by Congress with questions appertaining solely to the individual States, and non-intervention by each State with the affairs of any other State.

Seventh. The recognition of the rights of the native-born and naturalized citizens of the United States, permanently residing in any territory thereof, to frame their constitution and laws and to regulate their domestic and social affairs in their own mode, subject only to the provisions of the Federal Constitution, with the privilege of admission into the Union whenever they have the requisite population for one representative in Congress; provided always that none but those who are citizens of the United States under the Constitution and laws thereof, and who have a fixed residence in any such territory, ought to participate in the formation of the constitution or in the enactment of laws for said Territory or State.

Eighth. An enforcement of the principle that no State or Territory ought to admit others than citizens of the United States to the right of suffrage or of holding political office.

Ninth. A change in the laws of naturalization making a continued residence of twenty-one years of all not hereinbefore provided for an indispensable requisite for citizenship hereafter, and excluding all paupers and persons convicted of crime from landing upon our shores; but no interference with the vested rights of foreigners.

Tenth. Opposition to any union between church and

state; no interference with religious faith, or worship, and no test oaths for office.

Eleventh. Free and thorough investigation into any and all alleged abuses of public functionaries, and a strict economy in public expenditures.

Twelfth. The maintenance and enforcement of all laws constitutionally enacted until said laws shall be repealed or shall be declared null and void by competent judicial authority.

These propositions may be classed for greater perspicuity, under three heads.

I. Those that relate to reforms in the naturalization laws which require legislation.

II. Those that relate to the appointment and election of officers which are purely ministerial.

III. Those that refer to the general policy of the party in the management of the Government, which apply to both the legislative and executive departments.

I intend to discuss these subjects in the order in which they are stated.

It is proposed to modify the naturalization laws in four particulars:

1. To make them prescribe uniform rules of naturalization throughout all the States and Territories;

2. To exclude convicts and paupers from the country;

3. To extend the period of residence of the applicant for naturalization, so that he may have time to understand our language and become acquainted with our laws and institutions before he is intrusted with the right to participate in their administration;

4. To guard against fraudulent abuses of the right of naturalization.

I am aware that there is a very prevailing idea that Congress has no constitutional power to provide by law that the rules of naturalization shall be the same in all the States;

and I have heard this difficulty suggested as being fatal to the objects of the American party. But the objection is wholly without foundation. The Constitution of the United States provides in terms "that Congress shall have power to establish an uniform rule of naturalization." Article 1, Section 7, Clause 4.

This provision has repeatedly been the subject of judicial consideration and interpretation, and although the opinion was at one time expressed by the Circuit Court of the United States for the District of Pennsylvania that the power was *concurrent* in the State and Federal governments, that opinion has long been overruled, and it is now held by Judge Iredell in *U. S. vs. Vellato*, 2 Dallas, 370; by Judge Washington in *Gordon vs. Prince*, 3 Wash., C. C. R. 313; by Judge Marshall in *Chirac vs. Chirac*, 2 Wheaton, 269; by Judge Story in *Houston vs. Moore*, 5 Wheaton, 49; by Chancellor Kent, 1 Comm. 423; and by Judge Taney in *Norris vs. Boston*, and *Smith vs. Turner* Howard, that the *exclusive* power is in Congress. The remarks of Chief Justice Taney are so clear, not only in regard to the power but also as to the policy of exercising it, that I readily adopt his argument, as far more satisfactory than any I could offer. He says:

"It cannot be necessary to say anything upon the article of the Constitution which gives to Congress the power to establish an uniform rule of naturalization. The motive and object of this provision are too plain to be misunderstood. Under the Constitution of the United States, the citizens of each State are entitled to the privileges and immunities of citizens in the several States, and no State would be willing that another should determine for it what foreigner should become one of its citizens and be entitled to hold lands and vote at its elections. For without this provision, any one State could have given the right of citizenship in every other State; and as every citizen of a State is also a citizen of the United States, a single State, without this provision, might have given to any number of foreigners it

pleased the right to all the privileges of citizenship in commerce, trade, and navigation, although they did not even reside among us.

“The nature of our institutions under the Federal Government made it a matter of absolute necessity that this power should be confided to the government of the Union, where all the States were represented and where all had a voice; a necessity so obvious, that no statesman could have overlooked it. The article has nothing to do with the admission or rejection of aliens, nor with immigration, but with the rights of citizenship. Its sole object was to prevent one State from forcing upon all the others, and upon the General Government, persons as citizens, whom they were unwilling to admit as such.”

Another subject of kindred character, if not indeed falling under the same head, will also doubtless engage the attention of the party, with a view to see if the Constitution does not supply the means of redressing an evil which is of the most flagrant character. I allude to the want of uniformity in the State constitutions in regard to the right of suffrage by foreigners. By the Constitution of Virginia, none but citizens of the United States can vote; and as no one can legally become a citizen of the United States unless he has been a resident of the country for five years, it follows that no one can be a voter in Virginia who has not been a resident of the United States for five years. But, by the Constitution of Illinois, it is provided (Article 2, Section 27) “that in all elections, all white male inhabitants above the age of twenty-one having resided in the State six months next preceding the election shall enjoy the right of an elector.”

Now as the vote of every man cast in Illinois for members of the Legislature which elects United States Senators, for members of Congress, and for Presidential electors, has a direct bearing on the interests of Virginia, it is well worthy of inquiry whether Virginia is, under the Constitution, to be governed by the votes of aliens. It is a new and grave

question. There is certainly a difference in form between the question of elective franchise and the question of naturalization. But is not this system of allowing aliens to vote before they are naturalized an abuse, if not an evasion of the Constitution? A sensible writer on the subject has well remarked, "If individual States can admit to the elective franchise those who are not citizens, thereby neutralizing the vote of citizens, not only the Federal power over naturalization becomes a nullity, but a minority of actual citizens, by the aid of aliens, may control the government of the State, and, through the States, that of the Union."

Who will deny that this is a crying abuse, and that all the constitutional powers of the Government ought to be brought into requisition to correct it?

2. It is proposed to exclude by State and Federal authority convicts and paupers from landing on our shores to corrupt the morals of citizens, to plunder our property, to fill our penitentiaries and alms-houses, and to burden our people with taxation for their support. This is no new policy, and it will at once commend itself to the favorable regard of all reflecting men. It is an evil which attracted the attention of the Founders of the Republic at an early day, and has from time to time been pressed upon the attention of the Government, but thus far no adequate measures of prevention have been adopted.

On the 16th of September, 1788, the Continental Congress, then about to close its labors, adopted the following resolution: "Resolved, That it be, and it hereby is recommended to the several States to pass proper laws to prevent the transportation of convicted malefactors from foreign countries into the United States." *Journal*, page 867.

On the 13th of November, 1788, Virginia did pass such a law imposing a penalty of £50 on masters of vessels who should land convicts in this State.

In 1836 the matter was brought to the attention of Con-

gress by Mr. Davis of Massachusetts, who made a long and able speech to the Senate on presenting certain resolutions of the legislature of Massachusetts on the subject.

In 1838, Mr. Van Buren, in reply to a call of the House, sent a message to Congress accompanied by many documents. A bill was reported to correct the evil, but amidst the press of business, it was overslaughed. See Congressional Globe, 1837-'38, page 489, and 1838-'39, page 168.

In 1845, Mr. Berrien made an elaborate report on the subject accompanied by a great mass of testimony establishing in the most conclusive manner the certainty and magnitude of the evil. See Sen. Doc. 173, 28th Cong. No final action, however, was taken.

In 1847, Mr. Buchanan, as Secretary of State, adopted measures to obtain information on the subject, and a report was made by Mr. A. D. Mann, on the 13th of September, 1847.

On 1st January, 1855, Mayor Wood, of New York, addressed a strong letter to President Pierce invoking his aid. He says:

¹“It has long been the practice of many governments on the continent of Europe to get rid of paupers and convicts

¹In confirmation of Mayor Wood's statement I refer to the following facts derived from the census tables of 1850:

The whole number of criminals in the United States during the preceding year was 26,679—of these, 12,988 were natives and 13,691 were foreigners.

The following is a table showing the ratio in four of the Northern States:

MASSACHUSETTS		NEW JERSEY	
Native criminals	3,366	Native criminals	346
Foreign criminals	3,884	Foreign criminals	257
NEW YORK		PENNSYLVANIA	
Native criminals	3,962	Native criminals	564
Foreign criminals	6,317	Foreign criminals	293

In the free States there were 10,822 native criminals and 12,988 foreign.
 In the slave States there were 2,166 native criminals and 1,902 foreign.

by sending them to this country, and most generally to this port (New York). The increase of crime here can be traced to this cause, rather than to defect in criminal laws or their administration. An examination of the criminal and pauper records shows conclusively that it is but a small proportion of these unfortunates who are natives of this country. One of the very heaviest burdens that we bear is the support of these people, even when considering the direct cost, but when estimating the evil influence on society, and the contaminating effect upon all who come within the range of their depraved minds, it becomes a matter exceedingly serious and demanding immediate and complete eradication."

Mayor Wood, being a Democrat and in no way attached to the American party, I presume he will be regarded as a good authority, and I will here rest this branch of the subject; and I hope I may console myself with the reflection that, as far as we have progressed in the examination of the propositions of the American party, nothing has yet been discovered in conflict with "the cause of civil and religious freedom."

My next number will be devoted to the necessity of legislation to extend the time of residence and to prevent frauds on the right of naturalization.

MADISON.

CHAPTER XII

MADISON LETTER NUMBER THREE — NATURALIZATION LAWS — NECESSITY OF EXTENDING TIME OF RESIDENCE



THE boon of citizenship is one of the highest privileges which any country can bestow on the subjects or citizens of another. It carries with it rights and duties of the gravest character. It imposes upon the person naturalized the obligation of obedience to the laws, and it confers on him the right to protection in his person and property by the whole power of the government. It is a privilege which, in most countries, both ancient and modern, was, and is, conferred with great caution. Among the Romans it was a mark of great distinction, prized as of the highest value; and the simple announcement by an individual, "I am a Roman citizen," was a passport to respect throughout the world. In our country this privilege has been granted more freely than in any other, and I think there is a growing conviction in the public mind that it has been rendered too cheap. I have had neither the time nor means to make a complete investigation of the subject of naturalization by the Colonies and States before the adoption of the Federal Constitution. But I will furnish a few striking incidents.

The 42nd Section of the Constitution of New York, adopted in 1777, conferred power on the Legislature of that State to naturalize foreigners, but with the following restriction:

"Provided all such persons so to be by them naturalized, as being born in parts beyond sea, and out of the United States of America shall come to settle in, and become subjects of this State, shall take an oath of allegiance to this

State and abjure and renounce all allegiance and subjection to all and every foreign king, prince, potentate, and state, in all matters ecclesiastical as well as civil." See Kent. Com. V. 2, p. 73.

From this clause it will be seen that New York, at that early day, went a bow-shot beyond the American party—she requiring a renunciation of ecclesiastical and civil allegiance, whilst the Americans demand only a renunciation of civil or temporal allegiance.

By act of 1779, Maryland required the applicant for naturalization to subscribe a declaration of his belief in the Christian religion, and to take, repeat and subscribe an oath of fidelity, and that "I do not hold myself bound to yield allegiance or obedience to any king or prince, or any state or government."

The first law of the United States on the subject of naturalization was approved 26th March, 1790. The bill was without any opposition in either house of Congress, but a number of members availed themselves of the opportunity to express sentiments which are almost identical with those of the American party of the present day.

James Jackson, of Georgia, said:

"He conceived the present subject to be of high importance to the respectability and character of the American name; the veneration he had for, and the attachment he had to this country, made him extremely anxious to preserve its good name from injury. He hoped to see the title of a citizen of America as highly venerated and respected as a citizen of Rome. I am clearly of opinion that rather than have the common class of vagrants, paupers, and outcasts of Europe, that we had better be as we are, and trust to the natural increase of our population for inhabitants. If the motion made by the gentleman from South Carolina should obtain, such people will find an easy admission indeed to the rights of citizenship; much too easy for the interests of the people of America. Nay, Sir, the terms required

by the bill on the table are, in my mind, too easy. I think before a man is admitted to enjoy the high and inestimable privilege of a citizen of America, that something more than a mere residence among us is necessary. I think he ought to pass some time in a state of probation, and at the end of the time be able to bring testimonials of a proper and decent behavior. No man who would be a credit to the community would think such terms difficult or indelicate; if bad men should be dissatisfied on this account and should decline to immigrate, the regulations will have a beneficial effect, for we had better keep such out of the country than admit them into it."

Theodore Sedgwick, of Massachusetts, in the same debate, said:

"He was against the indiscriminate admission of foreigners to the highest rights of human nature upon terms so incompetent to secure the society from being overrun by the offcasts of Europe; besides, the policy of settling the vacant territory by immigration is of a doubtful nature. * * * The citizens of America preferred this country because it is to be preferred; the like principle he wished might be held by every man who came from Europe to reside here; but there were at least some grounds to fear the contrary; their sensations, impregnated with prejudices of education acquired under monarchical and aristocratical governments, may deprive them of that wish for pure republicanism which is necessary in order to taste its beneficence with that magnitude which we feel on the occasion. Some kind of probation, as it is termed, is absolutely necessary to enable them to feel and be sensible for the blessing—without that probation we should be sorry to see them exercise a right which we have so gloriously struggled to attain."

Michael J. Stone, of Maryland, said:

"A foreigner who comes here is not desirous of interfering immediately with our politics, nor is it proper that he should. His immigration is governed by a different prin-

ciple; he is desirous of obtaining and holding property. I should have no objection to his doing this from the first moment he sets his foot on the shore in America; but it appears to me that we ought to be cautious how we admit foreigners to the other privileges of citizenship, and that for a reason not yet mentioned; perhaps it may allude to the next generation more than to this; the present inhabitants were most of them here when we were engaged in a long and hazardous war. They have been active in rearing up the present Government and feel, perhaps, a laudable vanity in having effected what its most sanguine friends hardly dared to contemplate. There is no danger of these people losing what they so greatly esteem; but the admission of foreigners to all places of government may tincture the system with the dregs of their former habits, and corrupt what we believe the most pure of human institutions."

Here we have the principle of the American party on this subject clearly expounded by patriots of the earlier and better days of the Republic. The act of 1790 was very short and simple in its provisions. The substance of it is embraced in the clause which enacts:

"That any alien, being a free white person, who shall have resided within the limits and under the jurisdiction of the United States for the term of two years, may be admitted to become a citizen thereof on application to any common law court of record in any one of the States wherein he shall have resided for the term of one year at least, and making proof to the satisfaction of such court that he is a person of good character, and taking the oath or affirmation prescribed by law to support the Constitution of the United States, which oath or affirmation such court shall administer."

This act was passed at a time when the population of the United States was but little more than three millions, scattered mainly along the sea coasts; when we had boundless wastes of unsettled territory, comparatively unexplored; and

when along our whole Western Frontier, we were exposed to the incursions of savage enemies who required a strong force to keep them in check. There was then every motive to extend inducements to foreigners to emigrate to this country to strengthen us against foreign and domestic enemies, and to subdue and bring into cultivation our wild and unsettled domain. It is not a matter of surprise, therefore, that the law was so loosely drawn as not even to require a renunciation by the applicant of his allegiance to his native sovereign.

A very few years, however, sufficed to show the mistake that had been committed. In 1793, Citizen Genet, the representative of French Democracy, came to this country and commenced a series of intrigues and proceedings in violation of our obligations of neutrality and intended to involve us in a war with England. By his artifices he raised up a strong French party in the country, and when General Washington and Mr. Jefferson interfered to arrest his unlawful proceedings, he boldly denounced them both and threatened to "appeal from the President to the People." Much excitement ensued, for foreign influence had been brought to bear with fearful power on the minds of the people, and nothing but the firmness of Washington and the veneration which was felt for his character could have stayed the angry storm. This seems to have opened the eyes of Congress.

In 1795 a much more stringent naturalization law was passed, which required the applicant to make:

"First, A declaration, three years before his admission, that it was his purpose to become a citizen, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, whereof such alien may at that time be a citizen or subject.

"Second, He was required, when admitted, to take an oath 'that he has resided within the United States five years at least,' and one year within the State or Territory in which he applied, and the court was to be satisfied of the truth of this declaration, and he was required, further, to swear

'to support the Constitution of the United States, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whatsoever, and particularly, by name, the prince, potentate, state or sovereignty, whereof he was before a citizen or subject.'

In the progress of the discussion of this bill many sound American sentiments were expressed which precisely accord with the sentiments of the American party of the present day.

Samuel Dexter, Jr., of Massachusetts, led off in the debate and expressed himself opposed "to the facility with which under the existing laws, aliens may acquire citizenship." He moved to strike out two years as provided in the law of 1790.

John Page, of Virginia, although in general very friendly to naturalization, said:

"He approved the design of the mover because he thought nothing more desirable than to see good order, public virtue, and true morality, constituting the character of citizens of the United States; for without morality, and indeed a general sense of religion, a republican government cannot flourish; nay, cannot long exist, since, without them disorders will arise which the strong arm of powerful government can alone correct or retrieve."

Mr. Dexter said:

"America, if her political institutions should, on experience, be found to be wisely adjusted, and she shall improve her national advantages, had opened to her view a more rich and glorious prospect than ever was presented to man. She had chosen for herself a Government which left to the citizens as great a portion of freedom as was consistent with a social compact. All believed the preservation of this Government in its purity indispensable to the continuance of our happiness. The foundation on which it rested was general intelligence and public virtue; in other words, wis-

dom to discern, and patriotism to pursue the general good. He had pride, and he gloried in it, in believing his countrymen more wise and virtuous than any other people on earth; hence he believed them better qualified to administer and support a republican government. This character of Americans was the result of early education, aided indeed by the discipline of the Revolution."

* * * * *

"Much information (he said) might be obtained by the experience of others, if, in despite of it, we were not determined to be guided only by a visionary theory. The ancient Republics of Greece and Rome (he said) see with what jealousy they guarded the rights of citizenship against adulteration by foreign mixture. The Swiss Nation (he said) in modern times had not been less jealous on the same subject. Indeed no example could be found in the history of man to authorize the experiment which had been made by the United States. It seemed to have been adopted by universal practice as a maxim that the republican character was in no way to be formed but by early education. In some instances, to form this character, those propensities which are generally considered as almost irresistible were appeased and subdued. And shall we (he asked) alone adopt the rash theory that the subjects of all governments, despotic, monarchical, and aristocratical, are, as soon as they set foot on American ground, qualified to participate in administering the sovereignty of our country? Shall we hold the benefits of American citizenship so cheap as to invite, nay, to almost bribe the discontented, the ambitious, and the avaricious of every country, to accept them?"

Mr. William Vans Murray, of Maryland, declared:

"He was quite indifferent if not fifty immigrants came into this country in a year's time. It would be unjust to hinder them, but impolitic to encourage them. He was afraid that coming from a quarter of the world so full of disorder and corruption, they might contaminate the purity and simplicity of the American character."

Mr. Ezekiel Gilbert, of New York, said:

"The term of residence, before admitting aliens, ought to be very much longer than that mentioned in the bill."

Mr. Theodore Sedgwick, of Massachusetts, said:

"He agreed to the idea of Mr. Gilbert. He wished that a method could be found of permitting aliens to possess and transmit property without at the same time giving them a right to vote."

This much must suffice for today. I had hoped to close the subject of naturalization with the present number, but I find the materials so abundant, and the champions of American principles so numerous among the Fathers of the Republic, that I cannot withhold from your readers a farther expression of their wise and patriotic counsels. Another number must therefore be devoted to this topic.

Truly, if we have been engaged in war upon civil and religious freedom, we have the sanction of the opinions of many men of the earlier and better days of the Republic, whom we have been taught alike to admire for their talents and to revere for their virtues.

MADISON.

CHAPTER XIII

MADISON LETTER NUMBER FOUR—FRAUDS ON NATURALIZATION LAWS



MY LAST number was devoted to the consideration of the naturalization laws of 1790 and 1795, and the opinions expressed by distinguished statesmen whilst those bills were under consideration. I come now to the law of 1798.

Between 1793 and 1798 our country had been the scene of great excitement. The people seemed to lose sight of their own affairs in their anxiety about the questions which agitated Europe to its centre. There were two great parties in the public councils and among the people; one of which was partial to England and the other to France. Foreigners flocked to our shores and openly attempted to control the politics of the country.

Under circumstances like these, the law of 1795 was found to be inefficient, and it was deemed necessary to frame one better adapted to the exigencies of the times, extending the term of residence before naturalization to fourteen years, and requiring the applicant, at the time of making his declaration, to enter on the record a description of his person, age, occupation, nativity, etc., so as to establish his identity and to prevent imposition by a fraudulent use of his paper. This certificate was to be filed in the office of the Secretary of State.

This bill was fully discussed by many distinguished men, but having devoted so much space already to this branch of the subject, I cannot extract largely from that debate. There is one speech, however, which contains so able an exposition of the principles of the American party that I

cannot forbear from giving a paragraph or two from it. I allude to the speech of Robert Goodloe Harper. He said:

“He believed it was high time we should recover from the mistake which the country fell into when it first began to form its constitutions, of admitting foreigners to citizenship. This mistake, he believed, had been productive of very great evils to this country, and, unless corrected, he was apprehensive these evils would greatly increase. He believed the time was now come when it would be proper to declare that nothing but birth should entitle a man to citizenship in this country. He thought this was a proper season for making a declaration. He believed the United States had experience enough to cure them of the folly of believing that the strength and happiness of the country would be promoted by admitting to the rights of citizenship all the congregations of people who resort to these shores from every part of the world.

Under these impressions, which, as he supposed, would have the same force upon others as upon himself, he should not detain the committee by dilating upon, and he proposed to amend the resolution by adding to it the following words, viz.: “that provision ought to be made by law for preventing any person becoming entitled to the rights of a citizen of the United States except by birth.”

Mr. Harper said he was for giving foreigners every facility for acquiring property, of holding property, of raising their families, and of transferring their property to their families. He was willing they should form citizens for us; but as to the rights of citizenship, he was not willing they should be enjoyed except by persons born in this country. He did not think even this was desirable by the persons themselves. Why, he asked, did foreigners seek a residence in this country? He supposed it was either to better their condition or to live under a government better and more free than the one they had left. But was it necessary these persons should at once become entitled to take a part in the concerns of the government? He believed it was

by no means necessary, either to their happiness or prosperity, and he was sure it would not tend to the happiness of this country. If the native citizens are not indeed adequate to the performance of the duties of government, it might be expedient to invite legislators or voters from other countries to do that business for which they themselves are not qualified. But if the people of this country, who owe their birth to it, are adequate to all the duties of the government, he could not see for what reason strangers should be admitted; strangers who, however acceptable they may be in other respects, could not have the same views and attachments with native citizens. Under this view of the subject, he was convinced it was an essential policy, which lay at the bottom of civil society, that no foreigner should be permitted to take a part in the government.

There might have been, Mr. Harper acknowledged, individual exceptions, and there might be again to this rule; but it was necessary to make regulations general, and he believed the danger arising from admitting foreigners generally to citizenship would be greater than the inconveniences arising from debarring from citizenship the most deserving foreigners. He believed it would have been well for this country if the principle contained in this amendment had been adopted sooner; he hoped it would now be adopted."

It will be perceived that Mr. Harper went further than the American party now propose to go, and that, too, at a time when the practical evil was not one-tenth the magnitude it has now attained. Yet who questions his patriotism? Who dreamed that he was arrayed against the "cause of civil and religious freedom?"

In the same debate William Craik, of Maryland, said:

"He was disposed to go much further than is proposed in the bill in restricting aliens from becoming citizens of this country. He should have no objection to say that no foreigner coming in this country after this time shall ever become a citizen."

James A. Bayard, of Delaware, said:

“Aliens cannot be considered as members of the society of the United States. Our laws are passed on the ground of our policy, and whatever is granted to aliens is a mere matter of favor, and if it is taken away, they have no right to complain.”

Upon the general principle of discouraging excessive immigration I will on this branch of the question quote but one other authority, and that is from the writings of Thomas Jefferson.

Candor compels me to admit that when Mr. Jefferson became a candidate for the Presidency he relaxed his opposition to foreigners to a very considerable extent, and that after his election he recommended a change in the law of 1798, which had been passed under the administration of his great rival and political antagonist, John Adams, so as to reduce the term of residence to five years.

But it will be seen that Mr. Jefferson's calm judgment in 1781, when he wrote his Notes on Virginia, and his practice whilst President (as I shall hereafter have occasion to show) conformed to the doctrines of the American party. In his Notes on Virginia, he says:

“Every species of government has its specific principles. Ours are more peculiar than those of any other in the universe. It is a composition of the freest principles of the English Constitution, with others derived from natural right and natural reason. To these nothing can be more opposed than the maxims of absolute monarchy, yet from such we are to expect the greatest number of immigrants. They will bring with them the principles of the government they imbibed in their early youth; or if able to throw them off, it will be in exchange for an unbounded licentiousness, passing, as is usual, from one extreme to the other. It would be a miracle were they to stop precisely at the point of temperate liberty. These principles, with their language, they will transmit to their children. In proportion to their numbers,

they will share with us the legislation. They will infuse into it, warp and bias its direction, and render it a heterogeneous, incoherent and distracted mass. I may appeal to experience during the present contest for a verification of these conjectures. But if they be not certain in event, are they not probable? Is it not safer to wait with patience twenty-seven years and three months longer for the attainment of any degree of population desired or expected? May not our government be more homogeneous, more peaceful, more durable? Suppose twenty millions of Republican Americans, thrown all of a sudden into France, what would be the condition of that kingdom? If it would be more turbulent, less happy, less strong, we may believe that the addition of half a million of foreigners to our present numbers would produce a similar effect here."

In 1797 Mr. Jefferson was quite as emphatic and much more practical in his opposition to foreigners. In a petition to the Legislature of Virginia, which he prepared in that year, he said:

"And your petitioners further submit to the two Houses of the Assembly whether the safety of the citizens of this Commonwealth, in their persons, their property, their laws and government, does not require that the capacity to act in the important office of a juror, grand or petty, civil or criminal, should be restrained in future to native citizens of the United States, or such as were citizens at the date of the Treaty of Peace, which closed our Revolutionary War; and whether the ignorance of our laws, and natural partiality to the countries of their birth, are not reasonable causes for declaring this to be one of the rights incommunicable in future to adopted citizens."¹

How does this sound in the ears of Democracy?

What would Mr. Jefferson have thought if he could have seen the day arrive when, instead of an aggregate of half a

¹Jefferson's Writings, Vol. 9, p. 453.

million foreign population, there would be an annual influx of that number of the worst classes of Europe?

Then indeed would he have uttered with increased earnestness the sentiment which we find in one of his letters:

“I hope we may find some means in future of shielding ourselves from foreign influence, political, commercial, or in whatever form attempted. I can scarcely withhold myself from joining in the wish of Silas Dean that there were an ocean of fire between this and the old world!”

How it must horrify the anti-Americans of the present day to find that the first and most eloquent teachers of the doctrines of the American party were the sages of the Revolution and the framers of our Constitution.

The naturalization laws were changed in many particulars by the acts of 1802, 1813 and 1816. The last named act guarded with peculiar care against abuses by introducing new provisions, which made the identification of the applicant more certain, and required the proof to be matter of record. This was a most valuable feature in the law. It required that the applicant should, when he made his declaration, file a description of himself so minute as to clearly establish his identity, and when he obtained his certificate of naturalization this description was incorporated into it and constituted a part of it. The law also provided that the date of the recorded declaration should be the evidence of the commencement of residence of five years. The effect of this was to exclude parol evidence on this point and thereby to prevent fraud and perjury.

In May, 1828, this law was altered so as to strike out the provisions requiring the application to be entered of record five years before naturalization. The object was to dispense with record evidence and to substitute the parol testimony of witnesses to prove residence. This change in the law was made a few months before an exciting Presidential election. One of those who urged the change was Mr. Buchanan who had, on a previous occasion, admonished his countrymen against the dangers of foreign influence.

That change was doubtless made to conciliate the foreign vote, and in all probability had that effect. As might have been anticipated, it threw open a wide door for fraud, and it has brought upon the country a train of evils the magnitude of which it would be difficult to conceive.

The American party now propose to guard against these frauds, not only by an extension of the time of residence, but by restoring the provision of the acts of 1798 and 1816, requiring record instead of parol proof of actual residence for the time prescribed by law.

No man at all familiar with the proceedings of courts of justice can have failed to be impressed with the facility with which such proof is now obtained, and to be shocked with the perjury in such cases which is hardly disguised. Gangs of men come to the witness box and swear for each other with as much readiness as they would go through any other mere matter of form.

But we are not left to conjecture in regard to the existence of fraud of this character. We all remember the celebrated case of the Plaquemine frauds, when 1,044 votes were cast in a district which contained but 400 voters. We also remember the other frauds of 1844, which became the subject of investigation before the Senate of Louisiana on an impeachment of Benjamin C. Elliott, Judge of the City Court of the City of Lafayette. Upon the trial it was discovered that the judge had fraudulently issued 1,748 false certificates of naturalization, and being duly convicted he was removed from office.

Similar frauds have been practiced to a very great extent in Baltimore, Philadelphia and New York.

In 1844, the subject was brought to the attention of Congress, and on the 27th January, 1845, Mr. Berrien, from the Committee on the Judiciary, made an elaborate report, accompanied by voluminous testimony taken at different points, to establish the frauds. This report will be found in Sen. Doc. 173, 2d Session of 28th Congress. Five thousand extra copies of the report were ordered to be printed, and it is a singular circumstance that the printing

of the extra copies of the report was ordered by a strictly party vote—every Democrat in the Senate voting against it.

The commissioners who were appointed to take the testimony reported that they had summoned indiscriminately witnesses of both political parties, but they add “they regret that those subpoenaed belonging to the Democratic party have generally omitted or refused to attend.”

This, to say the least of it, is a significant fact.

With developments like these before us, and when there is reason to believe that the elections in 1844, both in Louisiana and New York, were carried by fraudulent votes, and that the issue of the Presidential election was thereby changed, is it to be wondered at that the citizens of the United States should be aroused to a sense of the danger and degradation to which they are subjected by having the “whole policy of the country regulated and controlled by the fraudulent conduct of aliens?”

What good man, whether he be a native or adopted citizen, will withhold his aid in correcting abuses like these? It is quite as important to the conservative, law-loving, naturalized citizens, as to the natives of the country; and I am persuaded that it is only necessary to bring the facts to their knowledge to secure their cordial co-operation in the patriotic effort now on foot to guard against similar mischiefs in future.

My next number will be devoted to the consideration of the propriety of giving a preference to native citizens in the exercise of the power of appointment and election to public offices.

I shall endeavor to show that there is nothing wrong in principle in the doctrines of the American party, nothing opposed to the spirit of the Constitution, nothing at war with the cause of civil and religious freedom; but, on the contrary, that their views are sustained by the principles of the Constitution—by the practice of the government, and by the opinions of the wisest and best men that this country has ever produced.

MADISON.

CHAPTER XIV

MADISON LETTER NUMBER FIVE—ELECTION AND APPOINTMENT TO PUBLIC OFFICE—NATIVE CITIZENS PREFERRED TO FOREIGNERS



HAVING presented the views of the American party on the question of naturalization, I proceed now to consider the line of policy which they propose to adopt in regard to elections and appointments to office.

Their general proposition is to give a preference to native citizens over foreigners, for all places of public trust. They do not propose an absolute and entire *exclusion* of all foreigners, but a mere *preference* for natives as the general rule. This is obvious from the language of the third article of the platform adopted at Philadelphia. But if doubt remained in the mind of any one as to the true interpretation of that article, it must be removed by a reference to the fifth article which in terms recognizes the selection of officers of foreign birth.

The announcement of this preference of Americans for their own countrymen has been met by the most bitter denunciations by the courtiers of the foreign vote. It has been declared to be unjust, proscriptive, and contrary to the principles of the Constitution; and the whole vocabulary of vulgar abuse has been exhausted, by demagogues of every grade, in giving expression to their sentiments in regard to it. Without being in the slightest degree ruffled by such outpourings of vituperation, let us now inquire:

First. Is there any wrong, as a question of principle, in this preference for natives over foreigners for public stations?

Second. Is there anything in it contrary to the letter or spirit of the Constitution?

Third. What was the opinion of the Fathers of the Republic on the subject?

1. Is it wrong in principle? Here let it be remembered that it is not proposed to *legislate* on this subject. No one has yet suggested the idea of enacting a law to exclude foreigners from office. All that is contemplated is to awaken and to organize the American sentiment of the country; to create a wholesome public opinion, which will operate, alike on the people and the government to induce them, in the exercise of the elective franchise and the power of appointment, to give a preference to Americans for public stations.

What will be the effect in practice? Every man will be left free to exercise his constitutional right to vote as he may deem right. There will be no legal restraint upon him. His own discretion and sense of duty will be his only guides. Well, if in the exercise of my discretion, I do not choose to vote for a foreigner, has any one a right to complain? Do I wrong anybody by voting according to the dictates of my own conscience and judgment? Certainly not. It is of the very essence of freedom that I shall vote according to my own sense of right and duty without dictation from any man. And if I have the right, has not my neighbor, or any number of my neighbors, the same right? And may we not legitimately compare opinions, talk the matter over together, and agree to vote in the same way? Is not such every day's practice? Is it not the very basis of all party organization, that men who think alike should vote together? Do not Whigs and Democrats consult together in their respective primary meetings, caucuses, and conventions, and agree to vote together so as to accomplish their common objects by concert of action? Do not Whigs agree to vote against Democrats, and Democrats against Whigs, without incurring the censure of any one? And why may not Americans agree to vote against foreigners? Is it not as legitimate to vote together against foreigners as against our own countrymen of the opposite political party? Was it not as legitimate for our fathers to fight against the Hessians as against the

Tories, when they joined in a common warfare on our liberty and independence? And may not Americans of the present day lawfully and rightfully unite their votes against foreigners, as well as against the Democrats who use them to oppress us and deprive us of our constitutional rights?

Oh! but this is proscription! Proscription! It would cause a smile, if it did not provoke a graver feeling, to hear such a word from Democratic lips! Verily, our adversaries should take the beam out of their own eye before they seek to remove the mote from their brother's eye! They talk of proscription! Was it no proscription in them to banish every Whig from the public service and to put Democrats in their places? Was it no proscription to deny to 73,000 voters, representing near half a million of Virginians, a single member of Congress, in violation of the Constitution and of the official oaths of the legislators who gerrymandered the districts? It is true we now have one representative, but that is not through their justice, but in defiance of the efforts of the Democracy in the Legislature and at the polls to prevent it! Have not the Democratic organs announced fierce and unrelenting warfare on the American party? Have they not proclaimed that not even a county officer of the American party is to be spared? All, without regard to qualification or public service, are to be doomed to official decapitation! Has Governor Wise ever appointed, or will he ever appoint, one of the 73,000 American voters to any office of trust, honor, or profit? And yet, with facts like these staring them in the face, men professing to be Democrats—the guardians of popular rights—have the hardihood to cry out “proscription” against Americans, because they love and trust their own countrymen more than they love and trust the men of other countries!

What is patriotism but the love of our own country? Not merely the love of its broad plains, its beautiful rivers, its lofty mountains, and green hills and fertile valleys, but the love of our countrymen;—of the gallant men and lovely women, who constitute the chief element of the country which we are taught in infancy it is our highest duty to

love, and serve, and, if necessary, to die for! And shall we forget all these lessons of our childhood, shall we obliterate from our minds all the early lessons of patriotism, and at the bidding of demagogues, who are courting foreign votes, to aid in the advancement of their selfish purposes—adopt the notion that patriotism is a crime, and that it is a duty to love foreigners as well, or better, than the sons of those who achieved our independence and established our liberties? Long may it be before such sentiments find a response in the hearts of Virginians!

But let us now proceed to inquire whether the American party are seeking to inaugurate a new principle unknown to our fundamental laws, and at war with their spirit.

The principle of preference of natives is imbodyed in our Constitutions both Federal and State; and in the latter by the aid of the vote of Mr. Wise himself!

No foreigner can, by the organic law of the United States and of our Commonwealth, be President or Vice-President of the United States, or Governor or Lieutenant-Governor of Virginia. This great American principle is to be found in both these instruments.

Now if the principle be wrong, it should be stricken out of both. If injustice has been done to our adopted citizens; if the "cause of civil and religious freedom" has been invaded by those prohibitions, then they ought to be expunged from our fundamental laws!

But who will venture to make the proposition? Not Governor Wise, certainly, for he helped by his vote to engraft them on the Constitution of Virginia!

It is apparent, therefore, that the principle is not wrong, and the complaint must be not against the principle, but against the extent to which it is proposed to carry it in practice. Every friend of the Constitution as it stands must concede that it is proper to prefer natives for the highest executive offices. The only dispute is whether this preference shall be extended to inferior officers. Or in other words, the question sinks from one of principle into one of expediency. And it therefore necessarily follows, that even

Mr. Wise and his party are Americans in principle,—and the only difference between them and the American party is one not of principle, but of degree. They are not quite so intensely American as we are—that is all. They stop at the half-way house while we go to the end of our journey!

The same remark applies with equal force to the subject of naturalization. I presume no member of the Democratic party desires a total repeal of the restrictions imposed by the naturalization laws. No one asks that foreigners immediately on their arrival in this country may be admitted to all the rights of citizenship without some probation. I have yet to meet the man of any party who contends for that proposition. There are few, if any, who think that the present probation of five years is too long. Bearing this in mind, let us pursue the subject further.

The argument against the American party proceeds on the assumption that they propose to do injustice to foreigners. Now if injustice is to be done, it must be by infringing some right that foreigners possess. This leads us to inquire if they have any right whatever to become naturalized, unless we choose to confer it on them by law? No jurist will contend that they have. But if they have such a right, would not that right be as effectually invaded by a restriction of five years as by one of fifteen or twenty-one years? The difference would only be one of degree. The imposition of an illegal tax of five cents on my property is as much a violation of my rights as one of five dollars would be. And so a restriction on my natural rights for five years is as palpably unjust as one of twenty-one years. The one may be more burdensome than the other, but it is no more a violation of abstract right. If, then, the Democracy contend that the rights of foreigners are to be violated by the proposed policy of the American party, they are inevitably driven by their own argument to contend for a repeal of all restrictions. But they will assume no such position, for they know that naturalization is a mere matter of favor, which any government may rightfully grant or withhold at

its pleasure, and may repeal or modify as circumstances may render expedient.

Thus it is clear that upon this point, too, Mr. Wise and his party do not differ in principle from the American party. They will admit the right to impose restrictions on foreigners, and the expediency of doing so. They are content with a residence of five years as a prerequisite to citizenship; we think that too short a time, and contend some for ten,—some for fifteen,—and some for twenty-one years. Thus the whole question resolves itself into one of time and not of principle. The question is not as to the propriety of a probation, but as to the length of that probation.

It is consoling to the American party thus, by a logical analysis of the matters really in issue between them and the Democracy, to find the latter sanctioning our principles and giving us the weight of their great names on our side of the question! We are happy to find them recognizing the cardinal doctrines of the American party, and we confidently anticipate that after the next Presidential election shall have revealed the fact that their foreign allies, whom they have so assiduously courted, have deserted them and gone over to the Black Republicans, they will unite with us not only in endorsing our principles, but also in advocating our policy!

I think we may therefore safely assume that there is nothing wrong in the abstract in this great principle of Americanism; this idea of preferring our country and our own countrymen to foreign countries and foreign men; this feeling of nationality and patriotism which prompts the wish that "Americans shall rule America!" We may also set it down as an admitted fact that it is not opposed to the principles or spirit of our fundamental laws, because we find it incorporated in both the Federal and State Constitutions, and in regard to the highest offices known to our Federal and State Governments!

In my next number I will show what the Fathers of the Republic thought and said on this subject; and Governor

Wise may prepare to "bow down" before the great names of Washington, and the Richmond *Enquirer* and *Examiner* to succumb to the authority of the Legislature of 1798-'9 and the Great Apostle of Democracy,—Thomas Jefferson.

MADISON.

CHAPTER XV

MADISON LETTER NUMBER SIX—WHAT THE FATHERS OF THE REPUBLIC THOUGHT OF PREFERRING NATIVE CITIZENS TO FOREIGNERS



WHEN differences of opinion arise in regard to any matter of principle or policy connected with the administration of the government, it is a safe rule to refer to the opinions and practice of those who were its founders for instruction and guidance; for however much our country may have progressed in the arts and sciences since the days of the Revolution, I doubt whether we have made any material advance within that time in patriotism or knowledge of the true principles of the Constitution.

Acting on this idea, I now ask your attention to what the Fathers of the Republic thought of that doctrine of the American party which declares a preference for natives of the country over foreigners for all places of public trust.

The first evidence to which I will refer on this point is a resolution reported to the Continental Congress, in 1777, by a committee of which Thomas Jefferson was chairman, and Mr. Sherman, Mr. Gerry, Mr. Read and Mr. Williams were members. It is in these words:

“Resolved, That it is inconsistent with the interests of the United States to appoint any person not a natural born citizen thereof to the office of Minister, Charge d’Affaires, Consul, or Vice-Consul, or to any other civil department in a foreign country; and that a copy of this resolve be sent to Messrs. Adams, Franklin and Jay, Ministers of the said States in Europe.”

But what did George Washington think on this question?

The evidence on this point is abundant; but I must be satisfied with quoting but a few passages from his writings. Before doing so, however, I will call attention to some of his general orders whilst at the head of the army. They will be found in American Archives, 4th series, Vol. 2, p. 1630.

"You are not to enlist any person who is not an American born, unless such person has a wife and family, and is a settled resident of this country."

"The persons you enlist must be provided with good and complete arms.

"Given at headquarters, at Cambridge, this 10 July, 1775.
Horatio Gates, Adj. Gen."

"By His Excellency, George Washington:

"General Orders.

"Parole—Dorchester; Countersign—Exeter.

"The General has great reason and is displeased with the negligence and inattention of those officers who have placed as sentries at the outposts men with whose character they are unacquainted. He, therefore, orders that for the future no man shall be appointed to those stations who is not a native of this country; this order is to be considered a standing one, and the officers are to pay obedience to it at their peril.

"Fox, Adj. Gen. of the Day."

On 17th March, 1778, general orders were issued for one hundred men, "to be annexed to the guard of the Commander-in-Chief, for the purpose of forming a corps to be instructed in the manoeuvres necessary to be introduced into the army and serve as models for the execution of them."

In the description of the men to be selected we find among the other qualifications required, the following: "They must be Americans born."

In a letter from General Washington to Colonel Spotswood, dated in 1777, and to be found in a recent publica-

tion entitled "Maxims of Washington," p. 192, the following passage occurs:

"You will therefore send me none but natives, and men of some property if you have them. I must insist that in making this choice you give no intimation of my preference for natives, as I do not want to create any invidious distinction between them and foreigners."

The correspondence of General Washington, from the commencement of the Revolution almost to the date of his death, abounds in similar sentiments. I refer to a few of his letters:

"Morristown, May 7th, 1777.

"Dear Sir: I take the liberty to ask you what Congress expects I am to do with the many foreigners that have at different times been promoted to the rank of field officers, and by their last resolve two to that of Colonels? These men have no attachment for the country further than interest binds them. Our officers think it exceedingly hard after they have toiled in the service and have sustained many losses, to have strangers put over them, whose merit perhaps is not equal to their own, but whose effrontery will take no denial. It is by the zeal and activity of our own people that the cause must be supported, and not by the few hungry adventurers.

Geo. Washington."

"I am, &c.,

"To Richard H. Lee.

To the same: "You will, before this reaches you, have seen Monsieur Decoudray; what his real expectations are I know not; but I fear if this appointment is equal to what I have been told is his expectation, it will be attended with unhappy consequences, to say nothing of the policy of intrusting a department, on the execution of which the salvation of the army depends, to a foreigner who has no other tie to bind him to the interest of the country than honor. I would beg leave to observe that by putting M. Decoun-

dray at the head of the artillery you will lose a very valuable officer in General Knox, who is a man of great military reading, sound judgment, and closer inspections, and who will resign if any one is put over him.

I am, &c.,

George Washington."

"White Plains, July 24th, 1778.

"Dear Sir: The design of this is to touch cursorily upon a subject of very great importance to the well-being of these States, much more so than will appear at first sight. I mean the appointment of so many foreigners to offices of high rank and trust in our service.

"The lavish manner in which rank has hitherto been bestowed on these gentlemen will certainly be productive of one or the other of these two evils, either to make us despicable in the eyes of Europe, or become a means of pouring them in upon us like a torrent and adding to our present burden. But it is neither the expense nor the trouble of them I most dread; there is an evil more extensive in its nature and fatal in its consequence to be apprehended, and that is the driving of all our officers out of the service, and throwing not only our own army, but our military councils entirely into the hands of foreigners.

"The officers, my dear Sir, on whom you must depend for the defence of the cause, distinguished by length of service and military merit, will not submit, much if any longer, to the unnatural promotion of men over them, who have nothing more than a little plausibility, unbounded pride and ambition, and a perseverance in the application to support their pretensions not to be resisted but by uncommon firmness; men who in the first instance, say they wish for nothing more than the honor of serving so glorious a cause as volunteers, the next day solicit rank without pay, the day following want money advanced to them; and in the course of a week want further promotion.

"The expediency and policy of the measure remains to be considered, and whether it is consistent with justice or prudence to promote these military fortune-hunters at the

hazard of our army. Baron Steuben, I now find, is also wanting to quit his inspectorship for a command in the line. This will be productive of much discontent. In a word, although I think the Baron an excellent officer, I do most devoutly wish that we had not a single foreigner amongst us, except the Marquis de Lafayette, who acts upon very different principles from those which govern the rest.

Adieu. I am, most sincerely yours,
George Washington.

"To Gouverneur Morris, Esq."

During his Presidency he wrote thus:

"Philadelphia, Nov. 17th, 1794.

"Dear Sir: * * * My opinion with respect to immigration is that except of useful mechanics and some particular description of men and professions, there is no use of encouragement.

"I am, &c., G. Washington."

"To John Adams, Vice-President of the United States."

Mount Vernon, January 20, 1790.

"Sir: * * * You know, my good Sir, that it is not the policy of this government to employ foreigners when it can well be avoided, either in the civil or military walks of life. * * * There is a species of self-importance in all foreign officers that cannot be gratified without doing injustice to meritorious characters among our own countrymen, who conceive, and justly, where there is no great preponderance of experience or merit, that they are entitled to all the offices in the gift of their government.

"I am, &c.,

G. Washington."

"To J. Q. Adams, American Minister at Berlin."

About the same time he wrote to a foreigner who applied to him for office:

"Dear Sir: * * * It does not accord with the policy of

this government to bestow offices, civil or military, upon foreigners, to the exclusion of our own citizens.

Yours, &c.,

G. Washington."

To Sir John St. Clair, he wrote thus:

"I have no intention to invite immigrants even if there are no restrictive acts against it. I am opposed to it altogether."

No man will have the audacity to question that George Washington was a wise man as well as a true patriot. In the passages from his writings above cited, we have the clearest evidence of his concurrence in sentiment with the American party. May we not then assume, from the fact that he sanctioned them, that those sentiments are both wise and patriotic? And yet presumptuous men, who set themselves up as wiser and better than Washington, rail against those very sentiments as illiberal, unjust and unpatriotic! In whose judgment will the people of Virginia place the most confidence—in that of the partisan politicians of the present day, or in that of the illustrious Father of his country?

In discussing the subject of naturalization I have already had occasion to present some passages from the writings of Mr. Jefferson, showing his opinions of the unhappy effects of immigration and foreign influence, and his conviction that no foreigner should be allowed to serve on a jury, grand or petty, in any case, civil or criminal.

In this last proposition he went further than the Americans propose to go—much further than the writer of this article would be willing to go.

But these are not the only expressions of his sentiments on this subject. While Minister to France, in 1788, he wrote to Mr. Jay in the following words:

"Native citizens, on several valuable accounts, are preferable to aliens or citizens alien born. Native citizens possess our language, know our laws, customs, and commerce, have general acquaintance in the United States, give

better satisfaction, and are more to be relied on in point of fidelity. To avail ourselves of native citizens, it appears to me to be advisable to declare by standing law that no person but a native citizen shall be capable of the office of Consul."

Again, shortly after his election to the Presidency he addressed a political letter to Nathaniel Macon, dated Washington, May 14th, 1801, in which he details to Mr. Macon many of his reforms. In this letter we find the following remarkable paragraph:

"An early recommendation had been given to the Postmaster General to employ no printer, foreigner, or revolutionary Tory in any of his offices."

We may judge of his distrust of foreigners when we find him classing them with Tories!

George Mason, the author of the Bill of Rights and of the Virginia Constitution of 1776, a man who was pronounced by Mr. Jefferson to be "himself a host," and "a man of the first order of wisdom," also expressed his concurrence in this doctrine of the American party.

In the convention which framed the Federal Constitution, four years' residence had been proposed as a qualification for election to the Senate of the United States. Governor Morris proposed to substitute fourteen years, alleging as a reason, "the danger of admitting strangers into our councils."

A discussion thereupon ensued in which Mr. Pinkney said:

"As the Senate is to have the power of making treaties, and managing our foreign affairs, there is peculiar danger and impropriety in opening its doors to those who have foreign attachments. He quoted the jealousy of the Athenians on this subject, who made it death for any stranger to intrude his voice into their legislative proceedings."

"Colonel Mason highly approved of the policy of the

motion. Were it not that many, not natives of this country, had acquired great credit during the Revolution, he should be for restraining the eligibility into the Senate to natives."

I am happy to be able to add that his distinguished descendant, the Hon. James M. Mason, now honored by his native State with a seat in the Senate of the United States, has within the last three years expressed in his place in the Senate sentiments which justly entitle him to the thanks of the American party. In the debate on the Kansas Bill, the amendment of Mr. Pearce being before the Senate, James M. Mason of Virginia, said:

"I am one of those who regret very much that a majority of the American people—so far as opinion is to be gathered from the vote of their representatives—consider it wise or expedient to grant to any others than citizens a participation in political power. * * *

"Sir, I repeat it again, although I know but little, because it has not come in my way to know much of this foreign population that is streaming on our shores, I do know something of human nature, and of the sentiments of enlightened and intelligent men; and I say that the sober sense of that population, when it is brought to reflect upon the subject, ought to satisfy them that before they become American citizens, they should understand something of American institutions."

In the debate in the Federal Convention on the qualifications of members of the House of Representatives, Mr. Elbridge Gerry said that he wished "that in future the eligibility might be confined to natives. Foreign powers will intermeddle in our affairs and spare no expense to influence them. Persons having foreign attachments will be insinuated into our councils in order to be made instruments for their purposes. Every one knows the vast sums laid out in Europe for secret services."

The strength of the American feeling during the admin-

istration of Mr. Madison will be apparent from the fact that when he nominated Mr. Gallatin as one of the commissioners to negotiate the treaty of peace with Great Britain, William B. Giles, of Virginia, Samuel Smith, of Maryland, and Mr. Stone, of North Carolina, strongly opposed the nomination on the ground that Mr. Gallatin was a foreigner, and he was rejected in the Senate by a vote of 18 to 17.

Mr. Madison afterwards nominated Mr. Gallatin as Minister to France, and he was confirmed in the absence of the above-named gentlemen. The apology for this violation of the settled policy of the Government was that Mr. Gallatin came to the United States in 1781, prior to the formation of the Federal Constitution.

Mr. John Randolph was also a strong American in his sentiments. When the bill for chartering the Bank of the United States was before Congress, Mr. Randolph moved to add the word "native" in the clause which limited the choice of directors to citizens of the United States.

In the course of his remarks "he inveighed, with much acrimony, against the whole class of naturalized citizens; attributing to them the declaration of war, and almost all other political evils; maintaining that they ought to be admitted only as denizens without any participation in the councils of the country, and the benefit only of protection during good behavior."¹

But there is another authority which, among all professing to be Democrats, will, I presume, be regarded as of the most important character. I allude to the Virginia Legislature of 1798-99. That venerable body has received at the hands of the Democracy a sort of political apotheosis. Its patriotism and wisdom and profound knowledge of the Constitution are the constant themes of praise. The celebrated resolutions passed by it on 21st December, 1798, are regarded as of but little less authority than the Constitution itself. No convention of the party, State or Fed-

¹Niles Reg. 10, 31-47.

eral, closes its sessions without a reverent acknowledgment and reaffirmation of the doctrines of 1798-99.

Let us then see what that illustrious body of statesmen thought and officially declared in regard to the peculiar principles of the American party? By reference to the New Series of Hening's Statutes at Large, Vol. 2, p. 194, it will be seen that on the 16th day of January, 1799, the Legislature of Virginia, in response to certain resolutions of Massachusetts, passed the following preamble and resolution:

"The General Assembly, nevertheless, concurring in opinion with the Legislature of Massachusetts that every constitutional barrier should be opposed to the introduction of foreign influence into our National Councils:

"Resolved, That the Constitution ought to be so amended that no foreigner who shall not have acquired rights under the Constitution and laws at the time of making this amendment, shall thereafter be eligible to the office of Senator and Representative in the Congress of the United States, nor to any office in the Judiciary or Executive Departments."

What will our Democratic friends say to this? This solemn resolution emanated from the same source and is recorded in the same journal with the other resolutions of '98-'99, which constitute the basis of their political creed. How can they discriminate between them? How can they claim infallibility for the one set of resolutions, and denounce the other as containing a dangerous political heresy? Truly they are placed in an awkward dilemma!

But it would seem that the Democracy have not always been such devoted friends of foreigners as they now profess to be. Some twelve or fourteen years ago Mr. Webster, then Secretary of State, appointed Mr. Reynolds, a foreigner, to a clerkship in that department. This act at once drew down on Mr. Webster the most bitter denunciation of the Democratic press. The New York *Evening*

Post, edited by W. C. Bryant, published an article on the subject (which was copied by the *Globe*), from which the following is an extract:

“The appointment of a man named Reynolds, an alien, by Mr. Webster to a place in the Department of State has astonished those who knew him in this city. * * *

“The indecency of this appointment of an alien to a post in the department which has charge over our foreign relations will surprise those who have not, like us, ceased to be surprised at anything done by Mr. Webster.”

I will close this article (already too much extended) by a gem from the celebrated oration of Mr. Buchanan, the favorite candidate of the Democracy of Virginia for the Presidency. This oration was delivered at Lancaster, Pennsylvania, on 4th of July, 1815.

Mr. Buchanan said:

“Again we stand neutral towards all the European powers. What then should be the political conduct of our country in future? Precisely to pursue the political maxims adopted by Washington. We ought to cultivate peace with all nations by adopting a strict neutrality not only of conduct but of sentiment. We ought to make our neutrality respected by placing ourselves in an attitude of defence. We ought forever to abandon the wild project of a philosophic visionary (Query: Does he mean Mr. Jefferson?) of letting commerce protect itself. For its protection we ought to increase our navy. (No more gun-boats! I suppose.) We ought never to think of embargoes and non-intercourse laws without abhorrence. (A pretty hard hit at Mr. Jefferson!) We ought to use every honest exertion to turn out of power those weak and wicked men, (Mr. Madison was then President) who have abandoned the political path marked out for this country by Washington, and whose wild and visionary theories (the doctrines of the Democratic party) have at length been tested by experience and found wanting. Above all, we ought to drive

from our shores foreign influence and cherish exclusively American feelings. Foreign influence has been, in every age, the curse of Republics. Her jaundiced eyes see all things in false colors. The thick atmosphere of prejudice by which she is ever surrounded excludes from her sight the light of heaven. Whilst she worships the nation which she favors for this very crime, she curses the enemy of that nation for her very virtues. In every age she has marched before the enemies of her country, proclaiming peace when there was no peace, and lulling its defenders into fatal security while the iron hand of despotism was aiming a death-blow at her liberties. Already our infant Republic has felt her withering influences. Already she has involved us in a war which has nearly cost us our existence. Let us then learn wisdom from experience and forever banish this fiend from our society."

MADISON.

CHAPTER XVI

MADISON LETTER NUMBER SEVEN—IMMIGRATION: ITS GROWTH, EXTENT AND CHARACTER



THE next topic which I propose to discuss is the immigration to this country, its growth, extent and character, and its relations to crime, pauperism, social and political order, and to Southern institutions.

If the inquiry were propounded to any candid man whether, in his opinion, there is any great nation in Europe, at the present time, which is capable of sustaining Republican institutions, the answer would necessarily be in the negative. England, the most enlightened and best educated in the principles of liberty of all the countries of the old world, has made the experiment and failed. France, which boasts of its refinement and civilization, and which has outstripped every other country in its progress in the arts and sciences, has twice made the effort, and after passing through the most appalling scenes of anarchy and blood, has relapsed into despotism. Neither Russia, Prussia, nor Austria have ever ventured on the hopeless attempt. The spasmodic convulsions in Italy and Hungary have not been marked by a single circumstance tending to indicate that those who incited the people to insurrection had the faintest comprehension of the principles of national freedom. And yet it is from these countries that the immigrants flock to our shores. As a general rule, too, I may add that those who come are not of the better classes, not those who are educated and prosperous in their own country, but the ignorant, the starving and the depraved, those who "leave their country for their country's good." That there are many exceptions I am willing to admit, but that the general remark is correct will not be denied by any who have seen the hordes of for-

eigners who are crowding to our northwestern States, or who have visited our lines of internal improvements and the outskirts and alleys of our cities, or who have inspected the criminal calendars of our courts.

Assuming these propositions to be true, the inquiry very naturally suggests itself, if these people—even the best of them—are incapable of maintaining a free government at home, what additional qualifications do they acquire for the fulfilment of the high functions of a citizen of a republic, by being transported across the Atlantic? Can they change their nature, their habits, their prejudices, by a change in their geographical position? Do they become wiser and better men by a voyage across the ocean? No one will contend for a proposition so absurd upon its face. How, then, can we expect immigrants forthwith to understand the theory and practical operations of our complicated systems of governments, and to be prepared to participate intelligently in their administration? If the whole population was of this character, all will admit that our government could not stand many years. Nay, if one-half or one-third of our people were foreigners of recent importation, it must be manifest that the existence of our institutions would be in imminent jeopardy. And if such be the fact, does it not follow that, precisely as you augment the proportion of the foreign to the native population, you augment the perils to freedom?

Of all governments on earth ours requires the largest amount of virtue and intelligence to sustain it. Its very foundation is laid in the virtue, intelligence, and patriotism of the people. Let them become corrupt, ignorant, or careless in the discharge of their duties, and the government can no longer stand. Ignorance may be tolerated in a subject because he has no part to perform but to yield obedience. But where the people are the sources of all power, where they perform important functions in the administration of public affairs, if they are deficient either in knowledge of their duties, or in the integrity necessary to a faithful dis-

charge of them, the whole machinery must at once become deranged, and the most disastrous consequences ensue.

Bearing these facts in mind, let us now turn to the statistical tables, and see what has been the extent of immigration to this country since 1790 (the earliest date from which we have any information to be relied on) to the beginning of the year 1855.

From 1790 to 1800 the number of immigrants was.....	50,000
1800-1810	70,000
1810-1820	114,000
1820-1830	135,986
1830-1840	579,370
1840-1844	334,339
1844-1855	2,523,758

This is the estimate of Mr. De Bow in his census report made to Congress and published by its order.

The following statement will show the average annual immigration in the various periods above stated.

From 1790 to 1800 the average per year was.....	5,000
1800-1810	7,000
1810-1820	11,400
1820-1830	13,598
1830-1840	57,937
1840-1844	83,564
1844-1855	229,432

This table shows that for the last eleven years the average annual immigration was nearly thirty-fold greater than during the first decade! But startling as this fact is, it does not present the case in its strongest light.

Mr. De Bow's tables are compiled from the reports of the collectors of the principal ports, which are very often imperfect and do not present the whole truth, because captains of vessels being limited by law in regard to the num-

ber of their passengers, have a strong interest, when they violate it by bringing more than the number allowed by law, to conceal the fact by false returns.

Other tables made from returns in the office of the Secretary of State of the number of passengers who arrived in this country from 1843 to 1855 show the following result, in round numbers:

From 30th September, 1843.....	84,000
1844	119,000
1845	158,000
1846	232,000
1847	220,000
1848	309,000
1849	66,000
From 31st December, 1849.....	315,000
1850	408,000
1851	398,000
1852	400,000
1853	460,000

Aggregate (including fractions omitted) . . . 3,174,395

But even these tables do not show the whole amount of immigration, because they embrace only those who arrive by sea, and do not include such as come in by land from the British possessions, or any of the other contiguous countries.

It will, I doubt not, be safe to adopt the estimate of many well-informed persons that for the year 1853 the aggregate immigration of the United States by land and sea was not short of half a million of souls!

In this connection let us look at some other facts derived from the census tables, and in regard to the accuracy of which there can be no doubt.

In 1850 the white population of

Virginia was	894,800
Maryland	417,943
North Carolina	553,028

South Carolina	274,563
Georgia	521,572
Alabama	426,514
Louisiana	255,491
Florida	47,203

It will be seen that at the rate of immigration in 1853 there arrived in this country every year a sufficient number of persons to make a State embracing as large a white population as Maryland or Alabama! And within a fraction enough to make one having as large a white population as North Carolina or Georgia!

Every two years there would be enough to balance the white population of Virginia! Every six months there would be almost enough to offset South Carolina or Louisiana! And every five weeks a sufficient number to act as a counterpoise to the entire white population of Florida! And every year enough to weigh down in the political scale ten such States as Florida! Is this a picture to be contemplated with pleasure by the citizens of America?

But there is one other aspect in which I would present the subject to the people of the Southern States. In 1850 the aggregate white population of all the slave States was 6,547,993. Assuming the immigration to continue what it was in 1853, making no allowance for its increase, though the tables show it had been progressively and rapidly increasing every year, it will be seen that in thirteen years a foreign population would be poured on our shores equal to the entire white population of the fifteen slave States!

The next inquiry is, where do these foreigners settle? The census tables enable us to answer that question with accuracy.

In 1850 there were in the Free States,	
of foreigners	1,924,011
In 1850 there were in the Slave States,	
of foreigners	316,673

Or in other words, about six out of seven immigrants

settled in the Free States. But this statement is too favorable to the South, for it is well known that a large proportion of the foreigners reported as residents of the South were only temporary sojourners, as laborers on railroads, canals, etc., and as soon as their contracts were completed, they would naturally seek a climate and a population more congenial to their constitution and their tastes in the Northern States.

From these figures it is easy to see what has been at least one potential cause of the relative decline of the South in representation and influence in the national councils.

But unfortunately for the country, it happens that as the number of immigrants increases, their character for intelligence and virtue, and all the qualities that make good citizens depreciates.

In the early days of the Republic the immigrants constituted one of the most valuable classes of our population. They were generally men of adventurous spirit; of energy, intelligence, and education; men who were attracted here by commerce, or the arts, or the learned professions. Their education and refinement fitted them for association with the most cultivated society, and they soon assimilated with the circles in which they moved. Such were the Scotch and Irish merchants who settled in the valleys of the Rappahannock, the Potomac, and the James. Such were the refugees who fled from the horrors of the bloody days of the Goddess of Reason.

But what is the character of the great mass of those who crowd our immigrant ships now? They are the most ignorant of their countrymen, those who fly from starvation in their native land, whose highest aspiration is to satisfy the cravings of nature, who are ignorant of our laws, of our language and of our institutions, and whose idea of liberty is comprehended in the license to drink all the whiskey they can get, and to indulge in the luxury of riots and the gratification of provincial animosities without hindrance from the officers of the law.

I appeal to the history of the country, and to the personal

observation of every man who has seen large bodies of them assembled on public works, and in populous cities, for the truth of the picture that I have drawn.

Yet such are the people who are imported to this country at the rate of half a million a year, and by fraudulent devices, in a few weeks or months, invested with all the privileges and franchises of American citizens! Such are the men who are to give tone to our politics and to mould our legislation! Theirs is to be the standard of intelligence, and patriotism, and devotion to liberty, which is to be consulted by aspirants to places of honor and trust to be conferred by their suffrages! Each one of these is to weigh as much in the political scale as a Washington, a Henry, a Jefferson, or Madison, of the olden time; or a Rives, or Mason, or Hunter, or Summers, of the present day!

And because our American feeling revolts at this, we are to be taunted with being hostile to the "cause of civil and religious freedom!"

In my next number I will pursue this subject farther.

MADISON.

CHAPTER XVII

MADISON LETTER NUMBER EIGHT—IMMIGRATION: ITS RELATION TO CRIME AND PAUPERISM, AND TO SOCIAL AND POLITICAL ORDER



TO qualify a people for a Republican Government, they must not only have intelligence and virtue, but they must undergo a system of training and instruction in the principles of liberty, and in the practical workings of free institutions. They must learn to reverence the law and to obey it. They must acquire self-respect, and self-confidence, and understand that their well-being is inseparably interwoven with the peace and good order of society. They must comprehend that the restraints of social organization are not the arbitrary impositions of tyrannical power, but the voluntary surrender of a portion of their natural liberty for the more secure enjoyment of the residue.

Without such a training the efforts of our ancestors to establish our present form of government would have proved an abortion. For more than one hundred years they were educated in the principles of free government under the fostering care of the mother country. Widely separated from England, the Colonies were necessarily intrusted with the power of legislation, subject, of course, to the supervision of the supreme government of Great Britain. This led the colonists to study the principles of freedom, engrafted during a long succession of ages, on the British constitution, and to practice them in the regulation of their own affairs. When the crisis, therefore, arrived in their affairs, caused by the attempt of the mother country to violate the rights of the Colonies, they were prepared to understand the wrong that was about to be done them, and to assert the true doctrines of liberty in their own behalf.

The protracted struggle of the Revolution, and the dangers and sufferings incident to it, also tended to enlighten the minds of the people, and to fit them for the high responsibilities of their position. Discussion was the order of the day throughout the Colonies. The ablest men of the country were busily engaged in explaining to the people, in oral harangues, and published addresses, the nature of the evils with which they were threatened. The whole country was aroused to the highest pitch of excitement. Information was greedily sought for by all classes. The works of Milton, Locke, and Hampden were in every hand; and there never has been a day when the mind of a nation was so thoroughly aroused and so well instructed, not only in regard to the particular questions involved, but also in regard to the abstract nature of the rights and duties of the government and the people, as were the colonists at the close of the Revolutionary War.

Thus taught in a seven years' school of trial and adversity, when they came to form a government they brought to the council chamber an amount of knowledge of the true principles of freedom, which, I venture to say, no nation of the present day could equal. But with all these advantages, it was after long trial and tribulation that they were enabled to consolidate their liberties by the adoption of the admirable system of government under which we live.

Is it a matter of surprise, then, that Americans, the descendants of those who accomplished this great work, and who have learned, not only from history, but from the lips of their fathers, the dangers and troubles by which the country was surrounded, and the difficulty with which they were surmounted, should look with jealousy on everything which tends to put their priceless heritage in peril? Is it to be wondered at, that knowing the complexity and delicacy of the great machine intrusted to their charge, they should be unwilling to see it surrendered to ignorant, incompetent, or unfaithful hands?

How is it possible that foreigners can have the same interest in and attachment to our country and its institutions

as Americans? All their early recollections are associated with a far distant land. Their traditions, sympathies, and affections (if they be good men) are all with the homes of their childhood. As Archbishop Hughes remarked, with equal truth and beauty, "I would not exchange the bright memories of my early boyhood, in another land, and under another sky, for those of any other man living, no matter where he was born."

Who does not concur in the noble sentiments expressed by Henry Clay in the Senate on the 7th of February, 1839. "The Searcher of all hearts," said he, "knows that every pulsation of my mind beats high and strong in the cause of civil liberty; wherever it is safe and practicable I desire to see every portion of the human family in the enjoyment of it. But I prefer the liberty of my own country to that of any other people, and the liberty of my own race to that of any other."

Shall we then jeopard the liberty of our own country and our own race by intrusting it to the custody of people of foreign countries and of a race alien to our own?

But let us now turn to the statistics of pauperism, crime, intemperance, and vagrancy, and see what revelations they will make in regard to the virtue and intelligence and capacity for self-government of our foreign population.

The report of the superintendent of the census shows that in 1850 there was expended in the United States, of public money for the support of paupers, \$2,954,806. This was, of course, independent of all private charities. The number of paupers supported was 134,972; and of these, 68,538, or more than one-half, were foreigners.

New York had in that year 40,580 foreign paupers, and only 19,275 natives. In that State one in every sixteen of her foreign population was a pauper, whilst of the native population but one of every one hundred and twenty-seven was of that class.

In Pennsylvania, one in fifty-four of the foreign population was a pauper, and one in three hundred and forty-two of the native population.

From other sources, such as the Prison Discipline Journal, American Register, American Almanac, etc., the following facts have been ascertained:

From 1837 to 1840 there were 8,671 persons relieved and maintained in Massachusetts at public expense, and of this number 6,104 were foreigners.

The number received into the Baltimore almshouse in 1851 was 2,150, of which number about 900 were Irish and Germans. In 1854 the whole number received was 2,358, of whom 1,398 were foreigners; 641 being Germans, and 593 Irish.

In Louisville the number of inmates of the almshouse were 164, of whom 135 were foreigners.

In Buffalo, New York, the returns of commitments to the workhouse are as follows:

Year.	Native.	Foreign.	Total.
1852	254	708	962
1853	318	832	1,150
1854	344	854	1,198
1855	360	1,022	1,382
	1,276	3,416	4,692
Total in four years. . . .	1,276	3,416	4,692

In Chambersburg, Pennsylvania, the *Transcript* says that, during a period of nine months, 553 paupers were received at the poorhouse of Franklin county, of whom 522 were foreigners.

In New Orleans the number of commitments to the city workhouse for two weeks ending 3d August, 1855, was 108, of whom 92 were foreigners.

I might extend these details almost indefinitely, but those that I have given must be sufficient to satisfy any reasonable mind of the character of the mass of the immigrants.

I have already, in connection with the letter of Mayor Wood, and to confirm his statements, shown that more than half the criminals of our country are of foreign birth. I will now add a few more specific facts from the different States.

In Massachusetts there were, according to the tables of 1850, 7,250 convicts, of whom more than half were foreigners, and throughout all New England the proportion was about the same. In Missouri there were 908 convicts, of whom 666 were foreigners. In Connecticut the whole number was 850, of whom 305 were foreigners. In Illinois the whole number was 316, of whom 189 were foreigners. In Maine the whole number was 744, of whom 460 were foreigners.

But without going more at large into the subject, I will state the general fact that according to the census of 1850, the convictions among the native population were but one in every 1,580, those in the foreign population were one in every 165. In the four cities of New York, Brooklyn, Albany and Buffalo, the number of convictions in 1852 was 3,733, of whom 2,802 were foreigners. Of three hundred and one arrested in New York for drunkenness in the first week in August, 1855, two hundred and fifty-two were foreigners.

But I pass from these disgusting details to consider the indirect effects of this population on social and political order.

No argument can be necessary to show that such elements as those described in the statistics above cited must necessarily create disorder, riots, and violations of law in any community into which they may be thrown. The tables themselves show that fact. But such persons bring other and indirect evils on the country which, if possible, are more fatal to its security than those to which I have referred. When they become invested with the right of suffrage, candidates for office will seek their votes, and in order to get them, will pander to their prejudices, consult their pleasure, and adopt every means to win their favor. To do this the office-hunter must sink to their level. He must promise to do what accords with their wishes and tastes. He must associate with them, drink with them, flatter them, and if need be, bribe them. In this way the candidates become prostitutes, and the representatives become corrupt. After

election, being anxious to retain their places, their eyes are constantly fixed on the voters, and their legislative action is shaped, not by a regard to the principles of the Constitution and the welfare of the country, but by a desire to conciliate the favor of this potential element in elections. And having made large sacrifices to secure their seats, they think it but fair to seize the earliest opportunity to reimburse themselves by plundering the treasury under the guise of some contract or claim on the government. Have we not even beheld the humiliating spectacle of candidates for the Presidency courting the foreign vote in the most open and undisguised manner? And what are all the homestead-laws, and pre-emption laws, and land distribution laws at nominal prices, but palpable, and I had almost said corrupt bids, by political aspirants for the foreign vote? The dignity and independence of the officer is destroyed by practices like these, and he soon becomes a supple tool in the hands of an unscrupulous constituency.

The next step is from indirect to direct bribery. Instead of honeyed words, which do not satisfy hunger, or homesteads for men who would be too lazy to work them if they had them, money, ready money, will be demanded; yes, has been, and is now in some States, too often demanded as the price of votes. Thus money is made an element in political contests, and we already begin to see in our Republic the germ of that corruption which enabled the foreign Pretorian bands to put up the imperial crown of Rome at auction. Continue to import hordes of ignorant and depraved foreigners, and clothe them with the elective franchise, and the day is not far distant when the party that can command the most money will control the elections; and men of property will justify themselves with the idea that they are buying their peace because the alternative left them is corruption or agrarianism.

But this is not the only form in which the evil of foreign influence on political affairs develops itself. Many of the educated foreigners bring with them the most distorted views of the ends and aims of social organization. Many

of them are infidels, atheists, socialists, and agrarians, and by their wild and demoralizing ideas corrupt the very fountains of liberty. Mormonism is a striking illustration of this species of foreign importation. In it we behold the most disgusting exhibition that the civilized world has ever witnessed of imposture, irreligion, and beastly licentiousness introduced into the heart of our country, and sustained by the aid and influence of foreigners.

The political and religious, or rather anti-religious, theories of many of the Germans are quite as shocking to the moral sense of the mass of our people as the practices of the Mormons are revolting to their ideas of decency and propriety.

It is well known that some years ago an association was formed, under the title of "Free Germans," having its headquarters in Louisville, with branches in all the principal cities of the Union, which entertained and sought to give efficiency to the most dangerous and anarchical doctrines. In March, 1854, the branch in Richmond published a platform of its principles, and the measures designed to carry them into practice. This platform is now before me, and I would gladly incorporate it into this article did not its length forbid. But I hope that during the canvass it will be republished at large so that every Virginian may see and reflect upon it.

It denounces slavery as a "political and moral cancer"; protests against the extension of slavery into any new territory; demands a repeal of the fugitive slave law, as demoralizing and degrading, and as contrary to human rights and to the Constitution; and insists "that in national affairs the principle of liberty shall be strictly maintained, and even in the several States it be more and more realized, by gradual extermination of slavery." It further affirms that "in Free States the color of the skin cannot justify a difference in legal rights."

This platform also holds that "Sabbath laws, Thanksgiving days, prayers in Congress, and Legislative oaths upon the Bible, the introduction of the Bible into free schools,"

&c., shall be abolished "as an open violation of human rights."

It also demands a free cession of lands to all settlers, and that citizenship must be early acquired, and that new settlers shall be aided "with national means." All elections to be by the people, and the people to have the power to recall their representative at pleasure. Neutrality in our foreign relations to be abandoned. Women to have the same political rights and privileges as men and the death penalty to be abolished in all cases.

This is a summary of their avowed principles; but as this is a picture of their doctrines in "the green tree," let us see how they exhibit themselves when more fully developed. With this view I submit the following extract from a German paper published in St. Louis:

"The first and most principal mark whereby we distinguish ourselves from religious people is, that in a belief in a God and that which connects itself with this belief, we recognize a destructive cancer which for thousands of years has been gnawing at humanity and preventing it from attaining to its destiny. No individual can live as a human being; in no family can true happiness flourish; the whole human race is hastening on ways of error, so long as the most abominable hobgoblins God, Future Existence, Eternal Retribution, are permitted to maintain their ghostly existence. It is, therefore, the greatest task of every genuine revolutionist to put forth his best powers for the destruction of the flagitious non-trio, viz.: the hobgoblins, God, Future Existence, and Future Rewards and Punishments. No revolution is more than half executed unless the *vi et nerve* of the great Arch-Monarch beyond the stars is cut asunder; every attempted revolution is vain if the Ministers of this Monarch are not exterminated, as we are wont to exterminate ruinous vermin."

Can horrid blasphemy like this need a word of comment in a Christian community? And yet we find men denouncing the American party as "hostile to the cause of civil and

religious liberty" because they are unwilling to see wretches who hold doctrines like these elevated to places of power, and trust, and dignity, in this land of religion and liberty!

I had proposed in this number to present some views of the bearing of foreign immigration on Southern institutions; but as I find I have already transcended my accustomed limit, I will reserve what I have to say on that subject until a more convenient season.

My next number will be devoted to a consideration of the true relations of the American party to the members of the Romish Church; and to a vindication of it from the slanderous charges of intolerance, religious persecution, and a disposition to violate the rights of conscience.

MADISON.

CHAPTER XVIII

MADISON LETTER NUMBER NINE—ATTITUDE OF THE AMERICAN PARTY TO THE ROMAN CATHOLIC CHURCH



HERE is no subject on which the American party has been more misunderstood and misrepresented than in regard to its relations to the members of the Roman Catholic Church. It has been charged by its enemies with being hostile to religious freedom, and as making war on the Catholics on account of their peculiar modes of faith and worship. The motive which prompts these accusations is obvious. The purpose is to fasten the odium of intolerance and of a disposition to deny to individuals the right to worship God according to the dictates of their own consciences on the American party. But I affirm that all these charges are untrue. The American party seeks to interfere with the religion of no man. It cheerfully acknowledges that that is a matter which rests, and should continue to rest, between each individual and his Creator. It recognizes the freedom of religious opinion, and of religious worship in the broadest sense of the terms. It is as tolerant of the religious sentiments of Catholics as of Protestants. It proposes to interfere no more with the religious faith and worship of the one than of the other. Individual members of the order may be disposed to go further, but I challenge the production of evidence to show that the American organization, as a party, asserts any such doctrines. Turn to the authentic exposition of the principles of the party announced at Philadelphia, and see if it gives countenance to any such idea. The only provisions in the Philadelphia platform which bear on the subject of Catholicism in any form are the following, viz.: The Fifth:

“No person should be selected for political station

(whether of native or foreign birth) who recognizes any allegiance or obligation of any description to any foreign prince, potentate, or power, or who refuses to recognize the Federal and State Constitution (each within its sphere) as paramount to all other laws as rules of political action."

And the Tenth which is in these words: "Opposition to any union between Church and State; no interference with religious faith, or worship, and no test oaths for office."

It cannot be pretended that either of these indicate any disposition to interfere with the freedom of conscience, or to persecute Catholics on account of their faith or worship. On the contrary the doctrine emphatically proclaimed in the tenth section above quoted is: "no interference with religious faith"; "no union between Church and State"; and "no test oaths for office."

And yet, in the face of these solemn declarations of the creed of the party, our enemies persist in charging us with intolerance and persecution for opinion's sake.

This leads us to inquire why and in what respects there is any antagonism between the American party and the Roman Catholics?

That there is a controversy between the Americans and the Ultramontane branch of the Roman Church will not be denied. But that controversy is not of a religious character, but purely political. It has nothing to do with the faith or worship of the members of that division of the Church, but relates entirely to certain political opinions avowed by them in regard to questions not of an ecclesiastical character, but affecting the policy of the State. With the Gallican branch of the Roman Church, which professes the same religious faith, and practices the same forms of worship with the Ultramontane branch, but which repudiates the obnoxious political opinions, the American party have no controversy whatever. They can cordially extend to them the embrace of brotherhood, and sustain them, without any sacrifice of principle, for political office.

The Roman Church is now, and has been for near three

hundred years, divided into two great parties. One of these is known as the Gallican, or French branch, and the other as the Ultramontane, or Italian branch.

The latter maintain that the power of the Pope is supreme in temporal as well as spiritual things. They hold that he is lord over all kings, and potentates, and governments of the earth,—that the subjects and citizens of all government owe to him a higher allegiance than to their immediate sovereign; and that the Pope has the power to subvert republics, to nullify laws, and to absolve both subjects and citizens from their allegiance to any sovereign or republic which may incur his displeasure.

The Gallican branch of the Church recognize the supremacy of the Pope in all ecclesiastical matters, but utterly repudiate it in all temporal or political affairs.

Great misconception has arisen in the minds of men from not understanding the difference between the two branches of the Roman Church. And our adversaries, with a cunning worthy of Jesuits, have studiously endeavored to keep this important division in the background, whenever an American endeavors to show the danger of the Ultramontane doctrine, and its irreconcilable antagonism to the principles of our Constitution, they deny that the Roman Church entertains any such doctrines, and quote largely from members of the Gallican branch to prove their proposition.

Begging my readers not to lose sight of this marked distinction between the two branches of the Church, I will now endeavor to exhibit, from the highest authority, the present position of parties on this most important question.

Politicians are not generally very well informed on questions of an ecclesiastical character, and they may, therefore, be very naturally led into error by not understanding matters of detail.

A striking illustration of this fact was exhibited but a little more than a year ago in the Congress of the United States. In the course of a debate in that body some allusion was made to the claims of the Pope to supremacy in temporal affairs. This at once drew from Mr. Chandler, himself a

member of the Gallican branch of the Church, an eloquent reply in which he utterly disclaimed and denied any such assumption on the part of the Pope. The members of Congress, not being profoundly versed in Catholic lore, were at once silenced, and the speech went to the country as a conclusive answer to the unjust charge against the Church. But unfortunately for Mr. Chandler, neither Protestants nor the members of the Ultramontane branch of his Church were disposed to rest quietly under his exposition of the doctrines of the Church. The press, both in this country and Europe, teemed with articles denunciatory of the speech of Mr. Chandler as insincere, or founded in ignorance or cowardice.

Professor McClintock was among the first to correct the error. He said, "If Mr. Chandler had been well informed on the subject he would have told his auditors there are two parties in the Catholic Church on this question: one (the Ultramontane party) affirming, and the other (the Gallican party) denying that the Pope, by reason of the spiritual power, has also a supreme power, at least indirectly, in temporal matters."

He then proceeds to state the relative strength of the two powers, and shows that the Ultramontane is largely in the ascendency, and that the Gallican party is a mere faction which is rather tolerated than cherished by the Church. Indeed Gallicanism is stigmatized as the "half-way house to Protestantism."

Professor McClintock then says:

* * * * *

"It remains for me briefly to set forth the present state of Roman Catholic opinion. The Ultramontane doctrine is held, 1, by the Pope; 2, by all the cardinals without exception; 3, by all, or nearly all the Italian bishops; 4, by a majority of the bishops of Germany, Spain, and Portugal; 5, by about two-thirds of the French bishops. Among the religious orders it is held, 1, by the Jesuits without exception, as no man can be admitted to the order who denies it;

2, by a majority of the members of the other (sixty or more) religious orders, which vie with each other in devotion to the Pope, each of them having a General at Rome. As for the Catholic journals, 1, the *Civito Catalica* at Rome was established for the very purpose of maintaining this theory, and does maintain it most effectually; 2, the *Historisch Politische Blatter*, the most eminent Papal journal in Germany, is strongly Ultramontane; 3, the *Univers* of Paris is more Ultramontane than Bellarmine; 4, the Belgian papers, I think, without exception, are on that side; and 5, *Brownson's Review* in this country, is what I have shown you above. * * *

"I have now done all that I promised to do in the beginning. May I not hope that, after reading this letter, you will rise in your place in Congress at the first convenient opportunity and restate your theory of the Church? Does not your reputation as a scholar and a gentleman need such a vindication as you can only make by 'defining your position' anew? If you do not do this, my confidence in your candor and ingenuousness will have been sadly misplaced. If you do, I beg you to read in the course of your speech, the following truthful passage from the coryphaeus of Roman Catholic editors in America:

"There is, in our judgment, but one valid defence of the Popes in their exercise of temporal authority in the middle ages over sovereigns, and that is that they possess it by divine right; or that the Pope holds that authority by virtue of his commission from Jesus Christ, as the successor of Peter, the prince of the Apostles, and visible Head of the Church. Any defence of them on a lower ground must, in our judgment, fail to meet the real points in the case, and is rather an evasion than a fair, honest, direct, and satisfactory reply. To defend their power as an extraordinary power, or as an accident in Church history, growing out of the peculiar circumstances, civil constitution, and laws of the times, now passed away, perhaps forever, may be regarded as less likely to displease Non-Catholics and to offend the

sensibilities of power, than to defend it on the ground of divine right, and as inherent in the divine Constitution of the Church; but even on the low ground of policy we do not think it the wisest in the long run. Say what we will, we can gain little credit with those we would conciliate. Always to their minds will the temporal power of the Pope, by divine right, loom up in the distance, and always will they believe, however individual Catholics here and there may deny it, or nominal Catholic governments oppose it, that it is the real Roman Catholic doctrine, to be reasserted and acted the moment that circumstances render it prudent or expedient. We gain nothing with them but doubts of sincerity, and we only weaken among ourselves that warm and generous devotion to the Holy Father which is due from every one of the faithful, and which is so essential to the prosperity of the Church, in her increasing struggles with the godless powers of this world.'—*Brownson's Review*, Jan., 1854."

The *Dublin Tablet*, a Catholic publication of high authority, is equally emphatic in its condemnation of Mr. Chandler's speech. The writer, after arguing to prove the power of the Pope to depose sinful sovereigns, says:

"Mr. Chandler goes a great deal further, we are sorry to refer to him so often, and trenches on the real spiritual power which he is so anxious to guard inviolate. His words are these: 'I deny to the Bishop of Rome the right resulting from his divine office to interfere in the relations between subjects and their sovereigns,—citizens and their governments.'

"It is impossible that he can mean what these words imply. The Pope is at this moment interfering in Piedmont, defending one class of citizens there against the Government, and yet, in the House of Representatives, a Christian denies the right! Governments may and do prohibit good works, and the Pope interferes. They also encourage and commit evil; the Pope interferes; and good Christians prefer the Pope's authority to that of the State. The Godless colleges in Ireland, the hierarchy in England, the trou-

ble in Piedmont, all bear witness together against this un-Christian opinion which must have escaped from the speaker, who did not ponder his words."

The closing paragraph of the article in the *Tablet* is in these words:

"The old Gallican leaven, driven out of the Old World, fomented in the New, and the exploded opinions of obstinate men in Europe seem to have found favor in some quarters in America. Humanly viewed, the matter is easy of explanation; but it is not the less perilous, for unsound theories about the extent of the ecclesiastical power will never convert heretics, but are sure to pervert Catholics."

The opinions expressed by Mr. Chandler in the above extract from his speech are precisely the opinions of the American party, and yet when Americans announce them, they are charged with being persecutors and enemies of religious freedom!

The American party deny that the Pope has any temporal or political power outside of his own dominions. They deny that the subjects or citizens of any other government owe him any political allegiance. They deny that the Pope has any power to depose sovereigns or to overthrow republics. They deny that he has a right to absolve citizens or subjects from their allegiance to their own government. And they utterly repudiate the idea that there is a paramount allegiance due to him which overrides their own government.

And as a corollary to these propositions, they are unwilling to vote for any man for public office in this country who holds the opposite, or Ultramontane doctrine.

They hold that the Constitution of the United States is the supreme law of the land, and no man who denies that proposition ought to hold office under it. They hold that our first, highest, and only political allegiance is due to our own country, and that none is due to any other.

They disclaim and denounce "The Higher Law Doc-

trines" in all their length and breadth, whether they exhibit themselves in abolition fanaticism at the North, or in the recognition of a higher allegiance to the Sovereign of the Church than is due to the Government of our own Country.

They require that when a man swears to support the Constitution of the United States he shall do so in good faith, and according to its true spirit, and not with qualifications and mental reservations.

None who are unwilling to conform to these requisitions can receive the support of the American party.

Ah! but (say our adversaries) this recognition of the temporal power of the Pope is a part of the Catholic religion, and therefore you are interfering with their religious freedom! So, it may be said, polygamy is a part of the religious faith of the Mormons, and abolition is an element in the creed of Theodore Parker, H. W. Beecher, and others of their fanatical stripe! And would our adversaries be willing to elect a Mormon or an Abolitionist to high office? I presume not, and therefore the argument proves too much. No such device can be tolerated as that by blending obnoxious political sentiments with religious opinions, immunity can be claimed for both under the broad shield of the freedom of religion!

The Americans are charged with dragging religion into the political arena. This is wholly untrue. Their steadfast aim is to keep religion out of the party contests of the day. They have manifested no aggressive spirit. Throughout they have been on the defensive. It was not until the organs of the Ultramontane branch of the Roman Church avowed their purpose to war on the freedom of religion, to strive to gain the ascendancy in this country with the view to prostrate it at the footstool of Rome, to persecute Protestants, and for the accomplishment of these ends to vote as Catholics and in a body in such a way as to be most effective,—that the Americans were roused to resistance.

In my next number I will endeavor to establish this proposition by undoubted evidence.

MADISON.

CHAPTER XIX

MADISON LETTER NUMBER TEN—THE ULTRAMONTANE AND GALLICAN BRANCHES OF THE ROMAN CATHOLIC CHURCH



IN my last number I furnished some striking proofs of the extraordinary pretensions of the dominant party of the Romish Church to temporal power in the Pope. Before passing from this point I will add further evidence to support my position.

Brownson's Review is the accredited organ of that party. He ostentatiously parades the names of the Archbishop and Bishop on the cover of his book to give the stamp of authenticity to its sentiments, and he inserts in it that "I never think of publishing anything in regard to the Church without submitting my articles to the Bishop for inspection, approval, and endorsement." This declaration stands to the present day, uncontradicted, and, therefore, on every principle of evidence must be taken to be true.

Let us then look to his pages for an exposition of the devotions of his Church. In his number for January, 1853, he says:

"For every Catholic at least, the Church is the supreme judge of the extent and limits of her power. She can be judged by no one; and this, of itself, implies her absolute supremacy, and that the temporal order must receive its law from her." * * *

"Whenever the occasion occurred, she asserted her power, not in empty words only, but in deeds, to judge sovereigns, kings and Caesars, to bestow or take away crowns, to depose ungodly rulers, and to absolve their subjects from their oaths of allegiance."

Again, in the number for July, 1853, he says:

“The Church is supreme, and you have no power except what you hold in subordination to her either in spirituals or in temporals. * * * You no more have political than ecclesiastical independence. The Church alone, under God, is independent, and she defines both your powers and her own.”

“They have heard it said from their youth up, that the Church has nothing to do with politics, that she has received no mission in regard to the political order. * * *

“In opposing the non-juring bishops and priests, they believed they were only asserting their national rights as men, or as the State, and were merely resisting the unwarrantable assumption of the spiritual power. If they had been distinctly taught that the political authority is always subordinate to the spiritual, and had grown up in the doctrine that the nation is not competent to define, in relation to the ecclesiastical power, its own rights; that the Church defines both its powers and her own; and that though the nation may be and ought to be independent in relation to other nations, it has and can have no independence in the face of the Church, the kingdom of God on earth; they would have seen at a glance that to support the civil authority against the spiritual, no matter in what manner, was the renunciation of their faith as Catholics, and the actual or virtual assertion of the supremacy of the temporal power.”

In the same number, page 301, he says:

“She (the Church) has the right to judge who has or who has not, according to the law of God, the right to reign,—whether the prince has, by his infidelity, his misdeeds, his tyranny and oppression, forfeited his trust and lost his right to the allegiance of his subjects; and, therefore, whether they are still held to their allegiance, or are released from it by the law of God. If she has the right to judge, she has the right to pronounce judgment and order its execution; therefore to pronounce sentence of deposition

upon the prince who has forfeited his right to reign, and to declare his subjects absolved from the allegiance to him, and free to elect themselves a new sovereign."

I might multiply authorities on this point almost indefinitely, but it would seem to be unnecessary. Those who are disposed to pursue this subject will find it ably treated in the speeches of Hon. Erastus Brooks delivered last year in the Senate of New York.

Can any man who cherishes republican principles tolerate sentiments like these? Is it not obvious that they are diametrically opposed to the cardinal doctrine which lies at the basis of all free institutions, viz.: the sovereignty of the people? According to that authoritative doctrine of Mr. Brownson endorsed by his Church, all power is in the Pope. He is the supreme judge. If oppressed, the people must look to him for redress. They have no inherent and inalienable rights, and the doctrines of the Declaration of Independence are all dangerous falsehoods!

But let us now come to the more immediate purpose of this number, which is to show the aggressive spirit of the Ultramontane Catholics; their hostility to freedom of religion; their intolerance of Protestantism; their interference in politics; and their determination, if possible, to bring this country under the dominion of Rome.

As early as 1844 the Catholics as a body took their stand in the political arena. The illustrious Henry Clay and the virtuous and pious Theodore Frelinghuysen were the nominees of the Whig party for the Presidency and Vice-Presidency. I am not aware that there was any particular hostility entertained towards Mr. Clay, for at that time he was not a member of any church. But Mr. Frelinghuysen was a member of the Presbyterian Church, and what is more he was the President of the Board of Foreign Missions!

This fact at once drew, not only upon him, but upon his distinguished associate, Mr. Clay, the bitter animosity of the Catholic press and of the Catholic sect.

Brownson, in his number for July, 1844, in the heat of the contest thus assailed Mr. Clay:

“He is ambitious but short-sighted. * * * He is abashed by no inconsistency, disturbed by no contradiction, and can defend, with a firm countenance without the least misgiving, what everybody but himself sees to be a political fallacy or logical absurdity. * * * He is no more disturbed by being convicted of moral insensibility than intellectual absurdity. * * * A man of rare abilities, but apparently void of both moral and intellectual conscience; * * * and, therefore, a man whom no power under that of the Almighty can restrain; he must needs be the most dangerous man to be placed at the head of affairs it is possible to conceive.”

It will be seen that the denunciations of Mr. Clay are all vague and declamatory. No special objection is taken to him, and it is obvious that the opposition was not so much to him as through him to Mr. Frelinghuysen. The *Boston Pilot*, another Catholic organ, discloses the plot in its number of 31st October, 1844, about five days before the election. Here is what it said:

“We say to all men in the United States entitled to be naturalized, become citizens while you can; let nothing delay you for an hour; let no hindrance short of mortal disease banish you from the ballot-box; to those who are citizens we say, vote your principles, whatever they may be; never desert them; do not be wheedled or terrified, but vote quietly, seriously, and unobtrusively. Leave to others the noisy warfare of words. Let your opinions be proved by your deliberate and determined action. We recommend to you no party; we condemn no candidate but one, and he is Theodore Frelinghuysen. We have nothing to say to him as a Whig, we have nothing to say to Mr. Clay, or any other Whig as such; but to the President of the American Board of Foreign Missions, the friend and patron of the Kirks and Cones, we have much to say. We hate his intolerance; we dislike his associates; and we shudder at the blackness and bitterness of that school of

sectarians to which he belongs and amongst whom he is regarded as an authority.”

Presbyterians! Do you hear that? And do you think that Americans are warring on civil and religious freedom when they seek to rebuke sentiments of this character!

Appeals like these had their effect. The Catholics were rallied to the polls and decided the election.

On the 9th November, 1844, Mr. Frelinghuysen wrote to Mr. Clay as follows: “More than 3,000, it is confidently said, have been naturalized in this city (New York) alone since the 1st of October. It is an alarming fact that this foreign vote has decided the great questions of American policy and contracted a nation’s gratitude.”

But hear Brownson again:

“Heretofore we have taken our politics from one or another of the parties which divided the country, and have suffered the enemies of our religion to impose their political doctrines upon us; but it is time for us to begin to teach the country itself those moral and political doctrines which flow from the teachings of our own Church. We are at home here, wherever we may have been born; this is our country, and as it is to become thoroughly Catholic, we have a deeper interest in public affairs than any other of our citizens. The sects are only for a day, the Church forever.”

Here we have a candid declaration from the accredited organ of the Church that thenceforth Catholicism is to be made an element in the party contests of the country. Catholic politics are to be taught by the press, and Catholic votes are to be employed to make the country “thoroughly Catholic.”

True to his professions, and keeping his eye single to Catholic interests, we find Brownson alternately denouncing both the great parties of the country and villifying without measure their leading men.

General Cass having made a speech in the Senate in favor of free worship and the rights of conscience for Americans

abroad, Brownson, after commiserating his "confusion of ideas" and "drivelling," said in his number for October, 1852:

"We are glad to see General Cass laid on the shelf, for we can never support a man who turns radical in his 'old age.'"

When Mr. Fillmore's administration closed it was thus noticed by the *Freeman's Journal*, the organ of Archbishop Hughes, the provocation being a letter written by Mr. Everett asking the Grand Duke of Tuscany to release Medais from imprisonment:

"It does not escape the independent judgment of the *Universe* that the administration, now happily defunct, has been as bigoted as it has been imbecile. The *Universe* congratulates the country upon having elected a statesman for President, and for permitting the Unitarian ex-preacher, late Secretary of State, to return to his pulpit to proclaim that Jesus is not God, and Mr. Fillmore himself to become a village lawyer."

From this it would seem that General Pierce was a special favorite of the Catholic Church, as he had taken pains to conciliate it by appointing one of its members to a position in his Cabinet. But the moment a controversy arose between the United States and Catholic Austria in regard to Kosta's case, we find Brownson, with the instincts of a Jesuit, making his religion paramount to his civil obligations, and taking sides against his own country. In his number for January, 1854, after reviewing the case, he says:

"The secret of the whole transaction is not difficult to divine. It was to get up, if possible, a war with Austria in accordance with the plans and ardent wishes of Ludwig Kossuth. For this purpose, we doubt not, Kosta returned, or was ordered by Kossuth to return to Turkey, and very possibly with the knowledge and approbation of our Jacobinical Government."

Thus we see no political attachments, no gratitude for past favors, can bind this "Corypheus of Catholic editors," when the interests of his sect are in any wise involved. Catholicism is the all-absorbing idea.

Thus in his October number, 1852, Brownson says: "The sorriest sight to us is a Catholic throwing up his cap and shouting 'all hail Democracy.'" This, too, at the very time that he was supporting the Democratic party in the Presidential contest. He would sooner have heard the cry, 'All hail Catholicism,' and he was only using Democracy as an instrument to advance his primary wish.

These passages are sufficient to show that the Catholic press and Catholic Church have avowed their purpose to enter the political arena, and to make their religion an element in the future party contests of the country.

Hear, too, how the *Freeman's Journal* invokes the Catholic Irish in this country to bear themselves:

"Irishmen learn in America to bide their time. Year by year the United States and England touch each other more nearly on the seas. Year by year the Irish are becoming more powerful in America. At length the propitious time will come; some accidental, sudden collision, and a Presidential campaign at hand. We will use the very profligacy of our politicians for our purposes. They will want to buy the Irish vote, and we will tell them how they can buy it in a lump, from Maine to California, by declaring war on Great Britain, and wiping off at the same time the stains of concessions and dishonor that our Websters and men of his kind have permitted to be heaped upon the American flag by the violence of British agents."

Who can wink so hard as not to see that a religious and not a political war was in the mind of the writer, a war not to advance American interests, but to promote the cause of Catholicism in Ireland, was the real object in contemplation?

Having thus shown the purpose of the organs of the Catholic Church to become a party to the political contests of the country, with a view to the advancement of its in-

terests, let us now see in what way the power thus gained is to be employed; whether for the promotion of "the cause of civil and religious freedom," or for its overthrow.

The first authority which I will cite is the *Freeman's Journal*, the mouthpiece of Archbishop Hughes. That journal, in speaking of the labors of Mr. Hastings, the Protestant chaplain of the American consulate at Rome, amiably remarked that if he made a single convert, "He would be kicked out of Rome, though Mr. Cass (our Minister) should bundle up his traps and follow him."

The Pittsburgh *Catholic Visitor*, referring to the same subject, said:

"For our own part, we take this opportunity of explaining our hearty delight at the suppression of the Protestant Chapel in Rome. This may be thought intolerant; but when we would ask did we ever profess to be tolerant to Protestantism, or to favor the doctrine that Protestantism ought to be tolerated? On the contrary, we hate Protestantism; we detest it with our whole heart and soul; and we pray that our aversion to it may never decrease. We hold it meet that in the Eternal City no worship repugnant to God should be tolerated, and we are sincerely glad the enemies of truth are no longer permitted to meet together in the capital of the Christian world."

There certainly is a strong odor of religious freedom about these most Christian sentiments.

The Rambler, another Catholic journal, thus expresses itself:

"You ask if he (the Pope) were Lord in the land and you were in a minority, if not in number, yet in power, what would he do to you? That we say would depend entirely on circumstances. If it would benefit the cause of Catholicism, he would tolerate you; if expedient, he would imprison you, banish you, fine you, possibly hang you; but be assured of one thing, he would never tolerate you for the sake of the 'glorious principles' of civil and religious liberty."

This is undoubtedly marked by a most commendable degree of candor. The *Boston Pilot* very ingeniously observes:

“No good government can exist without religion; and there can be no religion without an inquisition, which is wisely designed for the promotion and protection of the true faith.”

Brownson says:

“Protestantism of every form has not and never can, have any rights where Catholicity is triumphant,” and again, “Let us dare to assert the truth in the face of the world, and instead of pleading for our Church at the bar of the State, summon the State itself to plead at the bar of the Church, its divinely constituted judge.”

On the 15th of August, 1852, the Pope addressed to his followers an Encyclical letter of which the following is an extract:

“The absurd and erroneous doctrine or raving in defense of liberty of conscience is a most pestilential error—a pest of all others most to be dreaded in a State.”

The Shepherd of the Valley, a leading paper, formerly published at St. Louis, Missouri, said:

“Protestantism of every description Catholicity inserts in her catalogue of moral sins, she endures it when and where she must, but she hates it and directs all her energies to effect its destruction.”

Again, on the 23d November, 1851, that paper says:

“The Church is of necessity intolerant. Heresy she endures when and where she must, but she hates it and directs all her energies to its destruction. If Catholics ever gain an immense numerical majority, religious freedom in this country is at an end. So our enemies say. So we believe.”

On the 22d of October, 1853, the same paper says:

“We think the ‘masses’ were never less happy, less respect-

able, and less respected than they have been since the Reformation, and particularly within the last fifty or one hundred years since Lord Brougham caught the mania of teaching them to read, and communicated the disease to a large portion of the English nation, of which, in spite of all our talk, we are too often servile imitators."

The Rambler, in 1853, says:

"Religious liberty, in the sense of a liberty possessed by every man to choose his religion, is one of the most wretched delusions ever foisted on this age by the Father of all Deceit."

Brownson, in his October number, 1852, page 456, says:

"The liberty of heresy and unbelief is not right. * * * All the rights the sects have, or can have, are derived from the State and rest on expediency. As they have, in their character of sects hostile to the true religion, no rights under the law of Nature or the law of God, they are neither wronged nor deprived of liberty, if the State refuses to grant them any rights at all."

I shall now close with two extracts from the *Paris Universe*, which Professor McClintock, in his reply to Mr. Chandler, speaks of as a leading Ultramontane journal. It says:

"A heretic, examined and convicted by the Church, used to be delivered over to the secular power and punished to death. Nothing has ever appeared to us more necessary. More than one hundred thousand persons perished in consequence of the heresy of Wickliffe; a still greater number for that of John Huss; and it would not be possible to calculate the bloodshed caused by Luther; and it is not yet over."

"As for myself, what I regret, I frankly own, is that they did not burn John Huss sooner, and that they did not likewise burn Luther; this happened because there was not found some prince sufficiently politic to stir up a crusade against Protestantism."

These citations will show which party has manifested the intolerant and aggressive spirit; which party is opposed to the cause of civil and religious freedom.

I offer no comments of my own, but leave every reader to judge for himself. The price of liberty is eternal vigilance. The remark applies to religious as well as to civil liberty. All we ask of the people is to be vigilant. Do not be so engrossed with the ordinary business of life as to close your eyes to the important events that are transpiring around you. Watch with jealousy every measure which is calculated to abridge your political or religious freedom, and resist it at the threshold. Prevention is easier than cure. There are some measures that are so monstrous as to seem incredible; but history tells us that bloody persecution has, in former times, been the order of the day. Martyrdom has been suffered, and the massacre of St. Bartholomew's did take place for religious opinion's sake. What has happened once may happen again. Let us, being forewarned, be likewise forearmed. Whilst we make no assaults on the liberty of others, let us not, by a blind sense of security and a culpable neglect of duty, suffer our own to be put in jeopardy. Such is the position of the American party. They feel no disposition to interfere with the faith or worship of the Ultramontane Catholics, but they are unwilling, by elevating them to positions of trust and influence, to give them the power to trample upon the rights of Protestants.

I have now completed my defense of the American party against the charge of being hostile to "the cause of civil and religious freedom." It will be for an impartial public to decide how far the vindication has been successful.

I propose to close the series by two additional numbers, one of which will be devoted to the examination of the grounds on which Mr. Wise stigmatizes the American ticket as "a mongrel" or "mulatto ticket," and the other to the claims of the Democratic party to the title of the "white man's party."

MADISON.

CHAPTER XX

MADISON LETTER NUMBER ELEVEN—GROUNDS UPON WHICH THE AMERICAN TICKET WAS STIGMATIZED AS A MONGREL TICKET



HAVING vindicated the principles of the American party from the more serious charges preferred against it by Mr. Wise, this number will be devoted to a commentary upon certain other passages of his letter, and more particularly to the subject of renegades, conscientious Whigs, and the mongrel or mulatto ticket.

Mr. Wise in his letter, says: "We gladly took them (the Whigs) in exchange for the renegade Democrats who sneaked away from their former friends, and took a test oath in the secrecy of the culvert by the light of a dark lantern."

It seems to me that Mr. Wise is somewhat harsh upon his old political friends. The term "renegade," to say the least of it, is by no means courteous, and the charge that they "sneaked away" is liable to the same criticism. It is true that many independent and upright Democrats, dissatisfied with the principles and policy of the Democratic party, left it, as did many of the Whigs, and joined the American party. But I was not before aware that it was such a heinous offense for a free citizen of this great Republic to change his party relations. I did not know that the shackles of party allegiance were not to be thrown off without incurring the odium of being "renegades," and subjecting themselves to the denunciation of having "sneaked away." I had thought that with all true patriots the obligation to country was stronger than that to party; that parties

were mere instruments to serve the best interests of the country; and that it was not only the right but the duty of every patriot to leave his party when he thought it was not ministering to the good of his country. Mr. Rives announced that every man should recollect that "he had a country to serve, as well as a party to obey," and the whole country applauded the sentiment as the offspring of a patriotic spirit. The right to change his party relations is one which has been exercised by Mr. Wise himself, and by hundreds of others now high in the confidence of the Democratic party. Where was there a more bold, eloquent, and fearless champion of Whig principles than Mr. Wise himself? His noble sentiment, "the union of the Whigs for the sake of the Union," thrilled the heart of every Whig in the nation; and yet Mr. Wise left the Whig party, and is now the accredited champion of the party which he once so vehemently opposed. Surely Mr. Wise ought to extend the same toleration and charity to others who have thought proper to change their political relations which he claims himself. He would hardly fancy the epithet of "renegade," or the charge of having "sneaked away from his former friends," if applied to himself, and he should therefore abstain from applying them to others.

But it seems to me the Democrats who left their party and joined the Americans have at least given the strongest evidence that they did not, like the brethren of Joseph, "Go into Egypt" after "corn." They could not have been influenced by selfish motives or the hope of advancement. They left a powerful party, flushed with a triumph unparalleled in the history of our country, and attached themselves to a new one, which could hold out to them no hopes of promotion. Surely this is the highest evidence of disinterestedness, and should at least protect them from imputations of improper motives. If the case had been reversed, if they had left a party whose fortunes were on the wane to join one in the zenith of its prosperity, able to confer high offices and rich rewards, then suspicion might have attached to their motives. But such not being the fact, justice and

charity alike concur in according to them the credit of being influenced by high and patriotic principles.

"Whether these Whigs can be reclaimed by the new nomination at Philadelphia," says Mr. Wise, "time will show. I think they cannot be."

And why not? Did not Mr. Wise himself in the canvass of 1852 contend that the failure of the Whig National Convention to nominate Mr. Fillmore was such an outrage on the party as to absolve its members from their allegiance? Was not Mr. Fillmore then the choice of the Whigs of Virginia? Was he not universally conceded to be a conservative, constitution-loving, law-abiding, and law-enforcing chief magistrate? Did he not fulfil every requisition of the Jeffersonian test? Was he not honest, and capable, and faithful to the Constitution? Did he not perform all his duties to the South and to the North with strict fidelity and impartiality? Did he not restore harmony to a distracted country? Did he not see that the laws were faithfully executed? Did he not maintain the honor of our country inviolate at home and abroad? Did he pander to sectional prejudices, or seek by duplicity, looking one way and rowing another, to conciliate popularity for himself? Was he not bold, straight-forward, manly, and true?

And what has he done since to forfeit the confidence of the union-loving Whigs and Democrats? Has he intrigued or manoeuvred for a nomination? Has he written letters or made promises to commend himself to popular favor and regard?

None of these things has he done, for he has been absent from the country for the greater part of a year. Why then, I repeat, should not Union and Conservative Whigs support him? The Democracy profess to regard the slavery question as the great question of the day. Has not Mr. Fillmore proved himself sound on that? Where is the Democrat who has given as strong evidence as Mr. Fillmore of his determination to uphold the guarantees and compromises of the Constitution? And can any one doubt that if elected he will do the same thing again? Why then not support

the man who safely guided the ship of state through the storms and tempests of 1850?

Is the fact that Mr. Fillmore is in favor of a modification of the naturalization laws; that he is an American in heart and sentiment; that he loves his own country and his own countrymen better than foreign countries and foreign men, sufficient to cancel the debt of gratitude which Virginia owes him, and to obliterate from the hearts of her sons the record of his virtues and his patriotic devotion to the national welfare? Oh, no! It cannot be! The hearts of the Whigs of Virginia will leap toward him. They will remember his ability, and fidelity, and truth; and although they may even differ with him on some of these questions, they will make them secondary to the great object of securing domestic tranquillity, and placing in the chair of Washington a man whose administration in times of peculiar peril was pronounced, if not by Mr. Wise, at least by the concurrent voice of the nation, "Washington-like."

But Mr. Wise says "Mr. Fillmore is no longer a Whig; he has been changed by the hocus-pocus of the necromancy of Sam."

When the Whig party, after the defeat of 1852, retired from the field, Mr. Fillmore had to choose between the American party, whose principles he had approved as early as 1844, as appears by his letter to Mr. Clay in that year, and the Democracy. I have no doubt that Mr. Fillmore was attached to the Whig party. He had been nurtured in its lap; he had been reared in its conservative principles; he had proudly borne its banners both in victory and defeat; he had learned wisdom at the feet of its great sages, Webster and Clay. Mr. Fillmore's opposition to Democracy was a matter of principle, not of expediency. It was not a thing that he could pick up or lay down as interest or caprice might prompt. He had denounced its tyranny, its misrule, its disregard of the Constitution, and its reckless extravagance, from the conviction that his denunciations were just. He could not, therefore, when the old adversary of that party retired from the conflict, eat his own words, retract

his own charges, and falsify his whole life, by affiliating with a party which he had contended to be unworthy of trust. Interest might have dictated such a course, but duty and patriotism forbade it. Mr. Fillmore saw the Democracy, in violation of all its pledges, renewing the agitation of the slavery question, which he had composed; opening the floodgates of sectional strife; and endangering the peace and security of the Union. Knowing that the only available power to stay the torrent which threatened to overwhelm the country was the American party, with the energy and promptness which distinguished him, he extended the right hand of fellowship to it, and sought to aid it in the fulfilment of its great mission of Peace.

And does Mr. Wise suppose the Whigs of Virginia, who for more than twenty years have been doing battle manfully against the Democracy; crying aloud and sparing not; denouncing its harsh tyranny; its vindictive proscription; its reckless prodigality; its gross usurpations of authority not conferred by the Constitution; its official corruptions; will now consent to impliedly admit that all their charges were false; that all their clamors were idle words; and tamely put on the Democratic yoke in order that they may, perchance, pick up a crumb as it falls from the rich man's table? If he cherishes any such hope, I think he sadly mistakes the metal of which Whigs are made. They are bold, gallant and true. Majorities have no peculiar charms for them. They have been long used to defeat. Principle, not success and its incidents, has been the object for which they struggled. They are not now prepared to admit that their whole career has been one of falsehood and unfounded calumny. They are not prepared, and cannot be persuaded to admit that they have all the time been slandering the Democracy, and that it is in truth pure and immaculate. No! The old-line Whigs, the conservative, union-loving Whigs may have been deterred by the faults and follies of the original organization of the American party from co-operating with it. They may have been misled by the secrecy which prevailed, and which was justly obnoxious, to fear that there

was some unhallowed purpose entertained by the American party, and therefore were opposed to it. But now that the veil of secrecy is thrown off, now that everything is revealed to their view, now that a sure guarantee is given to them by a presentation of their own trusted favorite Fillmore, as its standard-bearer, the Whigs can no longer doubt that the ends and aims of that party must be patriotic and national, whose battle-cry is "Americans must rule America," and who rally their hosts beneath the banner of Millard Fillmore!

Conservatism of principle, pride of consistency, and sympathy of old associations, will conspire to induce the Whigs of Virginia, either collectively or as individuals, to yield to Mr. Fillmore a cordial support in the coming contest, and to win for him a glorious triumph in the Old Dominion.

But Mr. Wise says there will be new issues presented in the next Presidential canvass by three parties, "the white man's party, the Democratic; the black man's party, the Black Republicans; the cross of Northern and Southern Know-Nothings, the ticket of Messrs. Fillmore and Donelson."

That there will be important issues presented in the coming election is unquestionably true; but I am not aware that they will be new issues. They are pretty much the same, though presented in a new phase, which have distracted the country in times past, and more especially since 1848. They still involve the slavery question, the same questions which convulsed the country in 1850; the same questions which Mr. Fillmore grappled with and put to rest from 1850 to 1853; the same questions which the Democratic party, by their solemn pledge given at Baltimore in 1852, promised not to agitate again, but which in violation of their pledge of faith to the country, they have reopened and reagitated with ten-fold more bitterness than ever, and which they have been unable to adjust.

The first inquiry which naturally suggests itself to the reflecting mind is, how is the country to be extricated from the

difficulties which now environ it? And the reply comes up at once, by invoking the aid of the man who settled similar difficulties before. Common sense would seem to indicate the propriety of such a course. If a physician by skillful treatment had brought you through a severe spell of illness, and you were attacked a second time with the same disease, would you not call him to your relief again? If a pilot had steered you safely through a dangerous storm, and you were again beset by tempests, would you not a second time call him to the helm? Why, then, should not the people of the United States again avail themselves of the services of the statesman whose wisdom and patriotism guided them in 1850 through perils like those that now threaten their safety?

MADISON.

CHAPTER XXI

MADISON LETTER NUMBER TWELVE—THE CLAIM OF THE DEMOCRATIC PARTY TO BE THE WHITE MAN'S PARTY— THE WHOLE DEMOCRATIC PARTY OFFICERED BY OLD WHIGS



IN the very unique letter with which Mr. Wise favored the public some weeks ago, he stated that there would be three parties to the next Presidential contest, viz.:

1. The white man's party—the Democratic.
2. The black man's party—the Republican.
3. The mongrel or mulatto—the American.

Mr. Wise also expresses the opinion that there will be new and important issues involved in that election.

I think it probable that Mr. Wise is right in supposing that there will be three parties in the field, unless the Democracy succeed in the effort, said now to be on foot, to buy up the Republicans, by nominating a candidate of "free-soilish" proclivities.

He is also right in supposing there will be important issues in the contest. The most momentous of these will be, whether "Americans shall rule America." The old questions connected with slavery, which were so happily adjusted under the administration of Mr. Fillmore, and which the country had hoped were finally and conclusively settled, will doubtless be revived in a new form. It is with reference to these latter questions that Mr. Wise favors us with his views of the divisions and appropriate designation of parties.

Inverting the order suggested by Mr. Wise, I propose now, briefly, to inquire why he denominates the American party, or rather the ticket which they have nominated, as

a mongrel or mulatto ticket, a cross between the Caucasian and Cuffey, as he is pleased to term it?

It certainly cannot be because a gentleman from one of the grand divisions of the country is nominated for President, and a gentleman from the other grand division for Vice-President. I say it cannot be for this reason, for if that circumstance justified him in stigmatizing it as a mongrel or mulatto ticket, then the ticket which was headed by George Washington would be a mongrel ticket, and so would every other ticket be that has been nominated from the foundation of the government. The rule has been uniform at all times and with all parties, when they took a candidate for the highest office from the North, to take the candidate for the second office from the South, and *vice versa*. Jackson and Van Buren, Van Buren and Johnson, Polk and Dallas, Cass and Butler, and Pierce and King, are illustrations of the usage of the Democratic party.

Why, then, is the ticket of Fillmore and Donelson a mongrel? The subject has given me great pain and uneasiness, for, in common with all Americans, I was mortified that the ticket did not meet with the approbation of Mr. Wise.

After much reflection on the matter, I have been forced to the conclusion that it is because Mr. Fillmore was a Whig, and Mr. Donelson a Democrat, that this heavy sentence has been pronounced upon them. I hope that the Democracy, being premonished, will not fall into the error into which we have been betrayed, and nominate James Buchanan, an old Federalist, on the same ticket with a Southern Democrat! If they do, they may certainly expect to hear it anathematized by Mr. Wise as a mongrel or mulatto ticket, a cross of the Caucasian and Cuffey! Consistency requires it, and no one will question Mr. Wise's consistency!

As we have committed the blunder, unadvisedly and unwisely, of course, it is now too late to repair it, and we are constrained to make the best of it, and to offer such excuse as we can.

I presume that, according to Mr. Wise's idea, the can-

didates, and the party which supports them, ought to be entirely homogeneous; they ought not only to think alike at the time of their nomination and election, but their past opinions should have been identical, and their antecedents should in all respects be the same!

What a blundering set the Americans were not to remember this! The Democracy never lose sight of it!

It is true Mr. Fillmore and Mr. Donelson think alike now on all the vital issues that divide the country; it is true that they now stand on the same platform and are prepared to co-operate in future on all the great measures of policy which are likely to affect the interests, the honor, the peace, and the safety of the country in the next four years! But then, in times that have passed, they differed from each other on the questions of the Bank, Tariff, Internal Improvements, and Distribution of the Public Lands! The union of such incongruous elements on the same ticket ought surely to expose them to the imputation of being a "mongrel" or "mulatto" ticket!

But have the Democracy never sinned in this particular? Have they never violated the unities of political action by nominating, and even electing to office, men whose antecedents have not been purely Democratic? Are the garments, even of the mother of Democracy, the good old Commonwealth of Virginia, free from this stain?

Let history answer the question.

Who is the present Democratic Governor of Virginia?
Henry A. Wise, an old Whig!

Who is the Democratic Lieutenant-Governor?
Elisha McComas, an old Whig!

Who is the Democratic Attorney-General?
Willis P. Bocock, an old Whig!

Who is the Democratic Speaker of the House of Delegates?

Oscar M. Crutchfield, an old Whig!

Who is the Democratic Superintendent of the Penitentiary?

Charles S. Morgan, an old Whig!

Who is the senior Democratic Senator of the United States from Virginia?

R. M. T. Hunter, a gentleman and a statesman, and an old Whig; at least, if he was not of the Whigs he was with them.

Who is the other Virginia Democratic Senator?

James M. Mason, an ornament to his party, never quite a Whig, but for a time a sojourner in Mr. Clay's "half-way house" of conservatism; and once overslaughed by a Democratic convention of his Congressional District by reason thereof!

Who is the member of Congress elected by the Democrats from the Accomac district?

Thomas H. Baily, an old Whig!

Who is the Democratic Representative from the Berkeley district?

Charles James Faulkner, an old Whig!

Who is the Democratic Representative from the Buckingham district?

Thomas S. Bocock, an old Whig!

Who is the Democratic Representative in the Petersburg district?

Wm. O. Goode, an old Whig!

Who is the Democratic Representative from the Richmond district?

John S. Caskie, I believe, though I am not certain, an old Whig!

Who was Mr. Goode's Democratic predecessor?

R. K. Meade, an old Whig!

Who was recently the Democratic Representative from the Fredericksburg district?

Willoughby Newton, an old Whig!

In fine, who are the ornaments of the party in all parts of the State, looked up to, courted and consulted, and honored by the highest places of trust?

As a general rule, old Whigs!

When the convention which nominated Governor Wise assembled to make their selections of candidates, such a large proportion of its members were old Whigs that it was remarked with equal wit and truth, that the contest seemed to be between the native and the naturalized Democrats, and that the naturalized had the upper hand! Mr. Leake was the candidate of the native, or old line Democracy, and Mr. Wise of the naturalized or newly converted!

The result proved that the naturalized had the power in their own hands, and they certainly did not use it in such a way as to subject their ticket to the imputation of mongrelism; for they made it altogether of old Whigs; and left the old liners the honor of electing the men who had been their bitterest opponents!

Thus it will be seen that the whole Democratic army is officered by old Whigs! The Democracy make very good soldiers but very bad officers. They are like the Turks in this respect. They fight well in the ranks when under the command of French or Austrian officers!

No wonder Whigs like to go over to the Democracy! No wonder Mr. Wise thinks that those who voted for him cannot "be reclaimed," when the Democracy virtually admit their own incompetency for responsible positions, by selecting Whigs to rule over them! There is hardly a place, from that of commander-in-chief to corporal, which is not filled by a Whig.

This offers strong inducements to ambitious Whigs, and they are prompt to avail themselves of the opportunity! Mr. Wise knows human nature well, and he therefore knows it is not easy to "reclaim" men when such temptations are set before them!

Democracy! Bah! They make good food for gunpowder! They will fill a political grave as well as other men! But

as for wearing the epaulettes! That is another matter altogether! These, by the immemorial usage of the party, belong to the converted Whigs.

Now these things being true, I respectfully submit it to Democrats, Americans and Whigs to say whether the Democracy have not a superior claim to the distinction of mongrelism? Certainly if incongruity of sentiment, antagonism of former opinion, and irreconcilable opposition of political antecedents constitute a claim to that distinction, theirs is pre-eminent and indisputable!

Before leaving this subject let us advert to another striking fact in the history of the Democratic party. For the last twenty years the creed of the Democracy has been embraced in four negative propositions.

First. Opposition to a Bank of the United States.

Second. Opposition to a Protective Tariff.

Third. Opposition to Internal Improvements by the General Government.

Fourth. Opposition to a Distribution of the Public Lands.

No Democratic convention has failed to fulminate its denunciations against these heretical measures. Every Democratic orator declaimed until he was hoarse against them as damned federal abominations. The rank and file were taught to regard each and every one of them as dangerous to the liberties of the country. And yet what a strange spectacle is now exhibited to the public by the Democratic party.

Besides General Pierce, the present incumbent of the Presidential chair, there are four prominent aspirants for the succession. And who are they, and what have been their relations to these articles of Democratic faith?

First. We have the Hon. Henry A. Wise, who in 1837, said in Congress: "Sir, I yield to no man in friendship for a properly organized, properly located, and well managed National Bank. * * * With Mr. Madison, I believe that a National Bank is absolutely necessary, and must, try what-

ever other experiments you please, be resorted to in the end!"

Second. Hon. James Buchanan, the very man who by his vote, aided by that of the peerless Democrat, Silas Wright, passed the Whig tariff of 1842!

Third. Hon. Stephen A. Douglas, who, as representative and senator, has voted for all the internal improvement bills which came before Congress during his service in the two Houses!

Fourth. Hon. R. M. T. Hunter, himself the author and advocate of the most obnoxious of all the schemes of distribution that have ever been proposed for the consideration of the National Legislature!

Here is consistency with a vengeance! Here are Democratic professions and Democratic practice placed side by side and beautifully illustrated! Here is a noble example of a rigid adherence to principle! But behold another example!

During the session of 1848-'9 of the Democratic Legislature of Virginia, the House of Delegates by a vote of 117 ayes to 13 noes passed the following resolution:

Resolved, That if, in disregard of the spirit and principles of the act of Congress on the admission of the State of Missouri into the Union, generally known as the Missouri Compromise, and of every consideration of justice, constitutional right and fraternal feeling, the fearful issue shall be forced upon the country which will result from the adoption and enforcement of the Wilmot proviso as an act of the General Government, the people of Virginia can have no difficulty in deciding between the only alternatives that will then remain, of abject submission to aggression and outrage on the one hand, or determined resistance on the other, at all hazards and to the last extremity!"

The Democracy seven years ago were ready to fight for the spirit and principles of the Missouri compromise! Yes! To fight "to the last extremity" for the integrity of the

principles embraced in that great measure of conciliation and harmony!

But now a change has come over the spirit of their dream! Now the Missouri Compromise is not only unconstitutional, but an abomination in the eyes of Democracy! Now the test of democratic orthodoxy is willingness to fight against the principles of that measure which seven years ago every Democrat was pledged to fight for! Verily, Democracy is a hard taskmaster to serve when it requires such sudden facings to the right about! And yet what party prates, with so grave a face, about principles and consistency!

But let us next inquire into the title of the Democratic party to be called the white man's party. By this I presume Mr. Wise intends to assert for his party a superior soundness over all others on the question of slavery. If so, it must be admitted that he is somewhat unfortunate in the selection of his language. His words would rather imply an opposition to the black race, and as the practical question now in issue is whether the blacks are to be permitted to occupy the new territories, the inference might be drawn that Mr. Wise wished the unsettled territory reserved exclusively for "the white man."

But whatever may be the natural import of Mr. Wise's words, I am satisfied that such was not his meaning. He intended to intimate that the Democracy were the true friends of the institutions and guaranteed rights of the South.

That all the Southern Democracy, and many members of that party in the North, are prepared to maintain the compromises of the Constitution I am willing to admit. But that the whole party in the North, as a party, possesses any peculiar claims on the confidence of the South, I stand ready not only to deny, but to disprove by unquestionable facts.

What is the history of the rise and progress of this Free-Soil party which has done, and is doing so much to disturb the harmony of the country? When did it have its origin? What is its parentage? Who are its sponsors in baptism?

Prior to 1848 we had no such party, *eo nomine*, in the

country. We had the Abolitionists, it is true, but they were few and weak and numbered amongst them only such men as Giddings, Garrison & Co. No statesman of any respectability or eminence thought for a moment of identifying his fortunes with theirs. They were looked upon almost with derision and contempt.

In May, 1848, the Democratic Convention met at Baltimore to select a candidate for the Presidency. Mr. Van Buren, who had been set aside in 1844, under the operation of the two-thirds rule, was again a prominent candidate. But again, under the operation of the same rule, he was overslaughed, and General Cass was nominated. This second disappointment was more than he could bear, and he and his friends at once repudiated the nomination, bolted from the ranks, and summoned a convention of their branch of the Democracy to be held at Buffalo, New York. This convention accordingly assembled and framed a platform for themselves, the leading principle of which was opposition to the extension of slavery, and christened the party the "Free-Soil party." Mr. Van Buren, once the favorite of Democracy, was nominated by this party and promptly placed himself on the platform, and took the field as the champion of its principles and policy.

Thus it will be seen that the first organized movement in favor of "free-soil" was purely and emphatically a Democratic movement, got up by Democrats, managed by Democrats, and headed by Mr. Van Buren, the man who was endorsed by the Democratic party in 1840, as "a Northern man with Southern principles," and far more to be relied on in regard to all questions affecting Southern institutions than William Henry Harrison, a native of Virginia, and a son of one of the signers of the Declaration of Independence.

I need not extend this article by giving the names of the distinguished Democrats who participated in or sympathized with this movement. It is sufficient to say it was Democratic all over. Its parentage was Democratic, and its sponsors in baptism were of the strictest sect of the Pharisees!

But look at other facts bearing on this point. Was not

David Wilmot, the author of the Wilmot proviso, a Democrat? Is not Grow of Pennsylvania, a Democrat? Who first sent John P. Hale to the Senate? Was it not the Democrats? Was not New Hampshire a Democratic State? Who elected Sumner to the Senate? The Democrats! Who sent Robert Rantoul to the same august body? The Democracy, of which he was a shining light! Who are Chase, and Wade, and Tappan, but Democrats from the Democratic State of Ohio? Whence come the Free-soilers, Stuart, Harlan, Durkee, and Trumbull? From the Democratic States of Michigan, Iowa, Wisconsin, and Illinois! Who appointed the Free-Soiler Reeder, Governor of Kansas? The Democratic President Pierce! Who proscribed Dickinson, Bronson, and all the national men of New York? The same Democratic President and his Democratic Secretary Guthrie! Who pronounced the Kansas bill "a measure in favor of freedom?" Franklin Pierce.

Who, in the recent elections in New Hampshire, sustained the action of the Democratic party on the Kansas Question on the ground that it would have the effect of preventing the introduction of any more Slave States? Woodbury and Harry Hibbard, the apostles of Democracy in that State! Who secured the election of Seward to the Senate by combining with the Free-Soilers against the American party? The Democrats of New York!

Who were the President and leading members and advocates of the recent Republican Convention at Pittsburg? Francis P. Blair, the friend of Jackson and Van Buren, the former editor of the organ of the Democratic party, was its president, and B. F. Butler, Abijah Mann, C. C. Cambreleng, Preston King, the Van Burens and others of the same stripe were its defenders and supporters!

Who are now the Democratic delegates from New York to the Cincinnati Convention? I am not familiar with the antecedents of all, but I will name a few as a specimen—*Expede Herculem!* Wm. C. Rhodes is one, the former editor of the *Elmira Gazette*, a rabid Free-Soil paper. Messrs. Todd and Bishop, two others are of the same

stripe; and another, whose name I have forgotten, is said by the New York papers to have been one of the rescuers of the fugitive slave, "Jerry," from the hands of the officers of the law.

Look too at the following resolutions passed by large Democratic conventions in Ohio and New York: Here is the resolution of the Democratic party of Ohio assembled in Convention on the 8th of January, 1855:

"Resolved, That the people of Ohio, now, as they have always done, look upon slavery as an evil, and unfavorable to the development of the spirit and practical benefits of free institutions; and that, entertaining these sentiments, they will, at all times, feel it to be their duty to use all power clearly given by the terms of the national compact to prevent its increase, to mitigate, and finally to eradicate the evil."

And here is one adopted by the Soft-Shell, Free-Soil administration Democrats of New York assembled in Convention at Syracuse in that State:

"Resolved, That while the Democracy of this State will faithfully adhere to all the compromises of the Constitution and maintain all the reserved rights of the States, they deem this an appropriate occasion to declare their fixed hostility to extension of slavery into free territory."

Neither should we overlook the following resolution, adopted in 1846 by the Democratic Convention of New Hampshire, especially as President Pierce was present at and addressed that body. The Democratic State Convention of New Hampshire in 1846 was held October 15th, and was addressed by Franklin Pierce, and after listening to his views, that body unanimously passed the following resolution:

"Resolved, That we approve of the vote of our Representative in Congress, in favor of Mr. Wilmot's amendment to prohibit slavery in any territory that may be acquired of Mexico."

See also what a convention of the Democracy of the Eighth Senatorial District of New Hampshire resolved, on the 2nd of January, 1850, and do not lose sight of the fact that the resolutions were proposed by H. D. Pierce, a brother of President Pierce. The following series of resolves were adopted at a Democratic Convention of the eighth senatorial district, the strongest Democratic district, by the way, in the State of New Hampshire, on the 2nd of January, 1850, and were introduced to the convention by H. D. Pierce, Esq., of Hillsborough, brother of Franklin Pierce, now President of the United States:

“Resolved, That we are opposed to the admission of any new States into the American Union with the proviso that slavery shall be tolerated.

“Resolved, That it is the duty of the members of our State Legislature, whenever the subject of slavery shall be brought before them, to give their influence in favor of freedom.

“Resolved, That those Democrats whose opinions do not accord with the sentiments of the preceding resolutions are unworthy of our support.

“Resolved, That we hope the time is not far distant when the threats of Southern members of our National Legislature may be put to the test in relation to the dissolution of the Union by the passage of the Wilmot Proviso.”

Pretty strong resolutions these, and certainly expressing strong maternal and fraternal feeling!

These resolutions, I presume, may be regarded as the response of New Hampshire to the resolutions of the Virginia House of Delegates in 1848-'9. The Granite State wanted to try the pluck of the Old Dominion, and to ascertain what she meant by “resisting at all hazards and to the last extremity”!

But it is useless to press the subject farther. The facts are of too recent occurrence, and too well known to the people to need a review. If declarations and actions like

those above set forth entitle the Democracy to be regarded as the "white man's party," then I disclaim all desire on the part of the Americans to contend with them for the honor. The Americans seek no such distinction. They are neither the white man's party nor the black man's. They are neither the party of the North nor of the South. They recognize no sectional divisions. They aspire to be the party of the Constitution, of the Union, and of the Country, and having vindicated their claims to this patriotic designation, my work is now completed.

MADISON.

CHAPTER XXII

ADDRESS BEFORE CENTRAL AGRICULTURAL SOCIETY OF VIRGINIA—MEMBER OF SENATE



NE month after Mr. Stuart returned home from Washington in 1853 he was nominated by the Whigs of Augusta County for the State Senate, but declined the nomination. He resumed the practice of his profession, but took an active part in bringing about the nomination of Mr. Fillmore by the American party for the Presidency in 1856. In 1857, without his knowledge, he was again nominated for the Senate from Augusta County by the convention which met in Staunton. When informed of his nomination he went before the convention and declined to accept, but, after he retired, the convention sent a committee to his office to urge him to accept the nomination, with directions to take no refusal. Under these circumstances he became a candidate, was elected, and remained a member of the Senate until 1861. In August, 1859, Mr. Stuart was invited to address the Central Agricultural Society of Virginia at its annual meeting in Richmond in the following October. The address was delivered on October 28, 1859, and his subject was the relation of agriculture to the other great industrial interests.

While admitting that agriculture was the most important interest of society; that it was the principal source of production and the basis of all other interests; that it supplied the raw material for a large proportion of our manufactures; gave occupation to a larger portion of our population than any other pursuit, and employed a larger amount of capital, yet he said, it was not an isolated interest. "It cannot prosper alone," he said. "It is intimately connected with other interests, and its success or failure is, in a great degree,

to be measured by the condition of other interests. * * *
“The function of agriculture is to produce; of manufactures to convert; and of commerce to exchange. And, as it is obvious that a large portion of the productions of the soil are of comparatively little value until they have been converted by the process of manufacture into new forms, and the surplus has been exchanged for such commodities as the producer may need, it follows, as a necessary consequence that there must be an intimate relation between agriculture, manufactures and commerce.”

At the time this address was delivered the prices of agricultural products were depressed. Mr. Stuart showed from the census tables of 1850 that the number of white adults in Virginia engaged in the various avocations at that date was 227,875. Of these 106,807 were farmers; 49,989 laborers; 1,374 planters, and 3,747 overseers. These figures seemed to him to indicate that too large a proportion of the people was engaged in the production of foods, and the low prices of almost every article of provisions confirmed the impression; that a larger quantity of food was produced than could be sold for remunerative prices, and that this evil should be corrected. “The most effective remedy that I can suggest,” he said, “is to diversify the occupations of our people; to withdraw a large number of them from agriculture; and to direct their labor to other pursuits; to build up home manufactures; to stimulate the development of our mineral resources; to encourage domestic commerce and all the mechanics arts; and thereby create a demand for the products of our farms at home.”

“By adopting this policy we shall diminish the number of producers, increase the number of consumers, and make some progress towards the establishment of a more just relation between the supply and demand.”

He next considered the relation of agriculture to the labor of the country; not merely to the labor which was directly employed in agricultural pursuits, but to a review of the whole system of American labor. He discussed the two

systems of labor, free and slave, which existed in the two great geographical divisions of the country, and combated the theory, that had been asserted in various quarters in the North, that there was an inherent and necessary antagonism between the two systems. He examined the origin of the system of slave labor in the United States, and showed that at the date of the Declaration of Independence the system of slavery prevailed in all the Colonies. This system continued in all the States until the citizens of the Northern and Middle States began to turn their attention to manufactures, where it was discovered that negro labor could not compete successfully with white labor in those avocations in which skill, ingenuity and intellect constitute important elements. Moreover, experience had shown that the negro could not endure the rigors of a Northern climate. These considerations led the people of that section to devise measures to get rid of their slaves. This was done, not by freeing those in being, but by providing that the offspring of female slaves, who should be born within the jurisdiction of the States passing such laws, after specified dates, should be deemed free.

“The laws were intended,” he said, “to operate only on after-born children, and the right secured to those were altogether contingent, and could never vest without the concurrence of the owner of the female slave. There was no prohibition of the removal of females. If the owner thought proper to retain them in the State which had adopted such laws, their offspring, born after the appointed day, became free. Freedom, therefore, even to the after-born children, was not the effect of legislation alone, but of legislation and the concurrent action of the master in retaining the female in the State until the law could take effect on the children. Without the consent of the master, indicated by retaining her in the State until after the prescribed date, the law would have been inoperative.

“It requires no great sagacity to see that the whole object and tendency of their legislation was, as I have already

stated, not the emancipation of slaves, but their removal to other States. It amounted simply to a notice to the owner to sell his female slaves before a given day, under penalty of forfeiting her increase. The practical effects were such as might have been reasonably anticipated. The owners of the females took especial care to send them southward before the laws took effect, and in this way the unprofitable slaves were transferred to the South, where the climate was more propitious, and the productions better adapted to their peculiar capacities for labor."

Mr. Stuart showed that the tendency of the labor of the country, for the past seventy-five years had been to adjust itself with reference to the productions of the different sections; free labor having acquired the ascendancy in all the mechanical, commercial, and manufacturing departments of industry, and slave labor in those connected with the production of rice, sugar, cotton and tobacco. He said:

"I maintain, therefore, that precisely the opposite of the proposition of the distinguished Senator from New York is true. As long as slavery exists, it will retain the negro population in the Southern States. It will keep them separate and apart, and prevent their coming into competition with the laboring classes of the North; and the fruits of their labor will be auxiliary to the interests of the white race."

He concluded with an appeal to his hearers to cultivate a comprehensive, catholic, national sentiment in everything that effected the interests of the country, and to remember that while each section had its appropriate function to perform, each was essential to the welfare and security of the whole.

CHAPTER XXIII

REPORT ON JOHN BROWN RAID AT HARPER'S FERRY, VIRGINIA



FOR many years the anti-slavery agitators had been carrying on their propaganda in the North and the Middle West with unbridled license. The legislatures of nearly all of these States had passed laws which practically forbade the rendition of fugitive slaves from service, and imposed fines and imprisonment upon any one attempting to reclaim them. They openly nullified the Constitution and trampled under foot the laws of Congress passed to carry it into effect. Preachers and politicians indulged in the most intemperate speeches.

Instigated by these agitators, who also supplied him with the necessary money to purchase arms and other supplies, John Brown, and a band of armed conspirators from the Northern States, came into the State of Virginia, at Harper's Ferry, in the night of October 15, 1859, for the purpose of inciting the slaves to insurrection, of placing arms in their hands, of aiding them in plundering the property of their masters, and in murdering them and their families and overthrowing the government of the State. Brown and his co-conspirators, twenty-three in number, while the inhabitants of the town were asleep, took possession of the United States armory at Harper's Ferry, which for a number of years had been without a military guard. Early the next day it was found that the armory and engine house were in possession of armed men whose numbers and purposes were unknown. Skirmishes began between the citizens and the bandits, and several men were killed on both sides. Troops from the neighborhood soon assembled in sufficient numbers to storm the engine house, but hesitated to do so, as many

citizens of the county were held prisoners in it, and their lives might be endangered. At this juncture of affairs Colonel Robert E. Lee arrived with a body of marines. A party of these, detailed for that purpose, stormed the engine house and released the captives, and the conspirators were either killed or taken prisoners. The latter, among whom was John Brown, were delivered over to the civil authorities of the State, and were promptly tried, convicted and executed.

When the General Assembly met in regular session in December, 1859, Governor Wise sent in a message communicating the fact of the John Brown Raid, and what action he had taken in regard to it. The Democrats had full control of the Executive and Legislative Departments of the Government, and, yet when that part of the Governor's message relating to the recent outrages at Harper's Ferry and its vicinity was referred to a joint committee of the two Houses, Mr. Stuart, an old Whig and then a member of the American party, was not only made a member of the committee, but was also chosen as its chairman. As chairman, he prepared an elaborate report which was adopted by the joint committee and read before the Legislature on January 26, 1860.

From that report the following excerpts are made:

"In the night of the 16th of October, last, a band of armed conspirators from the Northern States, in fulfilment of a design which had been long entertained and deliberately matured, made an incursion into the State of Virginia, at Harper's Ferry, for the purpose of inciting our slaves to insurrection; of placing arms in their hands; of aiding them in plundering the property of their masters; of murdering them and their families; and of overthrowing the government of the Commonwealth. The number of persons directly concerned in this nefarious conspiracy cannot be accurately ascertained, because many of them escaped and fled to the Northern States and the British Provinces. Their plan seems to have been conceived two years ago, and John Brown, the leader of the party, and his more active con-

federates, have been cautiously engaged for that length of time in procuring information by means of secret emissaries, and in collecting arms and ammunition to be used in the accomplishment of their fiendish purposes.

"To give greater dignity and importance to their movements, the conspirators met together at Chatham, in Canada West, in May, 1858, and formed what purported to be a constitution for a provisional government, which was to be substituted for the fundamental law of Virginia, when it should have been subverted. Under this instrument, it appears that W. C. Munroe, a free negro, was elected President; A. M. Chapman, Vice-President; John Brown, Commander-in-Chief; Richard Realf, Secretary of State; J. H. Kagi, Secretary of War; George R. Gill, Secretary of the Treasury; Owen Brown, Treasurer, and M. K. Delany, Corresponding Secretary. Subordinate military officers were appointed under the authority of this alleged constitution, all of whom were required to take oaths to support it.

"Having thus perfected their arrangements, Brown and his associates established a secret military rendezvous in Washington County, in the State of Maryland, a short distance from Harper's Ferry. To this point they caused to be conveyed two hundred Sharpe's rifles, which had been furnished to Brown by the Emigrant Aid Society of Massachusetts to accomplish his bloody purposes in Kansas; about the same number of revolvers and pistols; large quantities of ammunition and clothing, and 1,500 pikes, which had been manufactured to his order by Charles Blair of Collinsville, Connecticut. These pikes are very formidable weapons, and peculiarly adapted for the use of the slave population, who are unskilled in the management of firearms. The heads are about fifteen inches in length, with sharp edges, and the handles are longer than the ordinary musket, with a view to give those who employ them an advantage in a hand-to-hand contest with troops armed with the musket and bayonet."

The report then described the movements of the con-

spirators immediately prior to their seizure of the armory and engine house at night; the skirmishing next morning between them and the citizens of the town, when four of the latter were killed and ten wounded; the arrival of Colonel Robert E. Lee with a body of marines, who stormed the engine house, killed or captured all of the conspirators, and released the citizens who had been held as captives. It showed that in the assault upon the engine house one marine was killed and another wounded; that subsequently two more of the conspirators were apprehended in Pennsylvania and were promptly surrendered upon a requisition of the Governor of Virginia; and that all the prisoners except two who were in confinement awaiting trial, had been tried, convicted and executed. The report then proceeds:

“Thus, so far as the immediate actors are concerned, this atrocious and bloody invasion of Virginia has terminated. Five of them have paid the extreme penalty of the law, and the two remaining in custody will probably in a short time suffer an ignominious death on the gallows.

“But, in the opinion of your Committee, this is but a single and comparatively unimportant chapter in the history of this outrage. They would cheerfully have undertaken the task of investigating the subject in all its relations and ramifications if they had possessed the power to compel the attendance of witnesses who reside beyond the limits of the Commonwealth; but having no such power, they are constrained to leave that branch of the investigation in the hands of the Committee of the Senate of the United States.

“Your Committee have no hesitation, however, in expressing the opinion, from the evidence before them, that many others besides the parties directly engaged in the raid at Harpers’ Ferry are deeply implicated as aiders and abettors, and accessories before the fact, with full knowledge of the guilty purpose of their confederates. Some of these, like Gerritt Smith of New York, Dr. S. G. Howe of Boston, Sanborn and Thaddeus Hyatt of New York, and probably others, are represented to have held respectable posi-

tions in society; but whatever may have been their social standing heretofore, they must henceforth, in the esteem of all good men, be branded as the guilty confederates of thieves, murderers and traitors.

“The evidence before your Committee is sufficient to show the existence, in a number of Northern States, of a widespread conspiracy, not merely against Virginia, but against the peace and security of all the Southern States. But the careful erasure of names and dates from many of the papers found in Brown’s possession renders it difficult to procure legal evidence of the guilt of the parties implicated. The conviction of the existence of such a conspiracy is deepened by the sympathy for the culprits, which has been manifested by large numbers of persons in the Northern States, and by the disposition which your Committee are satisfied did exist to rescue them from the custody of the law.

“Near five hundred letters addressed to Governor Wise, after the arrest of Brown and his confederates, have been inspected by your Committee. Many of these were anonymous, and evidently written in bad faith, but the greater number were genuine letters, apparently from respectable sources. In some instances, the authors professed to state from their own knowledge, and in others, from information which they credited, that there were organizations on foot, in various States and neighborhoods, to effect the rescue of Brown and his associates; and they therefore urged the Governor to concentrate a sufficient military force about Charlestown (the county seat of Jefferson) to frustrate all such purposes. Several ministers of the gospel, and other citizens who valued the peace and harmony of the country, appealed to Governor Wise, as a measure of humanity, and to save the effusion of blood, to assemble such a body of troops around the prison as would intimidate the sympathizers from attempting a rescue. They justly foresaw that even an abortive attempt, attended with loss of life, would, in all probability, be followed by disastrous consequences to the peace of the country.

“Pending the trials, and after the conviction of the prison-

ers, a great many letters were received by the Governor from citizens of the Northern States, urging him to pardon the offenders or to commute their punishment. Some of them were written in a spirit of menace, threatening his life, and that of members of his family, if he should fail to comply with their demands. Others gave notice of the purpose of resolute bands of desperadoes to fire the principal towns and cities of Virginia, and thus obtain revenge by destroying the property and lives of our citizens. Others appealed to his clemency, to his magnanimity, and to his hopes of future political promotion, as presenting motives for his intervention in behalf of the convicted felons. Another class (and among these were letters from men of national reputation) besought him to pardon them on the ground of public policy. The writers professed to be thoroughly informed as to the condition of public sentiment in the North, and represented it as so favorable to the pardon or commutation of punishment of the prisoners as to render it highly expedient, if not necessary, to interpose the executive prerogative of mercy to conciliate this morbid popular opinion in the North."

* * * * *

"This invasion of a sovereign State by citizens of other States, confederated with subjects of a foreign government, presents matter for grave consideration. It is an event without a parallel in the history of our country. And when we remember that the incursion was marked by distinct geographical features; that it was made by citizens of Northern States on a Southern State; that all the countenance and encouragement which it received, and all the material aid which was extended to it, were by citizens of Northern States; and that its avowed object was to make war upon and overthrow an institution intimately interwoven with all the interests of the Southern States, and constituting an essential element of their social and political systems, an institution which has existed in Virginia for more than two centuries, and which is recognized and guaranteed by the mutual covenants between the North and the South, embodied in

the Constitution of the United States,—every thoughtful mind must be filled with deep concern and anxiety for the future peace and security of the country.”

The report showed that the subject of slavery had been a disturbing element in our political system from the foundation of the Confederate Republic; that at the date of the Declaration of Independence, slavery existed in every Colony of the Confederation; and while in the more Northern States the number of slaves was small, yet the institution was recognized and protected by their laws.

“Shortly after the Declaration of Independence,” the report states, “the Northern States adopted prospective measures to relieve themselves of the African population. Their policy was not, however, prompted by any spirit of philanthropy for the welfare of the negro race, but was dictated by an enlightened self-interest. Experience had shown them that the African race was not adapted to the high Northern latitudes. This discovery having been made, the people of the North at an early day began to dispose of their slaves, by sale to the citizens of the Southern States, whose climate, soil and productions were better adapted to their habits and capacities; and the legislation of the Northern States, following the course of public opinion, was directed, not to emancipation, but to the removal of the slave population beyond their limits. To effect this object, they adopted a system of laws which provided, prospectively, that all children born of female slaves within their jurisdiction, after certain specified dates, should be held free when they attained a given age. No law can be found on the statute book of any Northern State, which conferred the boon of freedom on a single slave in being. All who were slaves remained slaves.”

The report reviewed the action of the Convention which framed the Constitution in relation to the subject of slavery, showing, First: That it provided in regard to the relation of the slave population to representation and taxation, that three-fifths of the slave population should be counted in

establishing the ratio of representation, and in the imposition of direct taxes. Second: That in regard to the suppression of the African slave trade, it was first proposed that it should not be prohibited prior to the year 1800. A motion made to amend this proposition by striking out 1800 and inserting 1808 was passed, New Hampshire, Massachusetts, Connecticut, Maryland, North Carolina, South Carolina and Georgia voting in the affirmative; and New Jersey, Pennsylvania, Delaware and Virginia voting in the negative. Thus New Hampshire, Massachusetts and Connecticut voted to prolong the period during which the slave trade should be allowed to be carried on, and Virginia voted against it.¹

The third form in which the slavery question presented itself to the framers of the Constitution was in regard to fugitive slaves. By unanimous vote it was provided, "If any person be bound to service or labor in any State of the United States, and shall escape into another State, he or she shall not be discharged from such service or labor in consequence of any regulation subsisting in the State to which they shall escape, but shall be delivered up to the person justly claiming their services or labor."²

Congress enacted a law as early as 1793 to carry into effect this last provision of the Constitution. The census of 1850 showed that the number of slaves who escaped from their masters in the year 1849-50 was 1,011, whose aggregate value was near one million dollars.

The acquisition of Louisiana, Florida, and California was reviewed, and the compromises made in regard to slavery in this new territory were examined, and the great compromise measures passed in 1850 were recalled whereby California was admitted as a free State, and the status of the residue of the territory ceded by Mexico was to be determined by the people of the Territories when they sought admission into the Union. The report then discussed the

¹Elliott's Debates, Vol. 1, p. 295-6.

²Elliott's Debates, Vol. 1, p. 303.

abolition of the slave trade in the District of Columbia, and the more efficient laws adopted for the rendition of fugitives from labor to supply the defects in the law of 1793. It was believed by the friends of the Union that these compromise measures would remove the agitation of slavery from the halls of Congress, and leave the States in control of their own domestic affairs. But the slavery agitators were not satisfied, and their propaganda against slavery was continued. The report reviewed the unfriendly legislative acts of sixteen Northern and Western States passed with the view of obstructing and nullifying the Constitution, and the laws passed by Congress on the subject of fugitive slaves, and concluded in these words:

“Whether the recent outrages perpetrated upon the soil and citizens of Virginia will have the effect of awakening the conservative sentiments of the North into efficient action remains to be seen. Your Committee cannot relinquish the hope that such will be its effect, and thus good may come out of evil. Your Committee have no appeals or remonstrances to address to their fellow-citizens of the North. They doubtless comprehend their obligations under the Constitution to the people of the South. If they shall in the future show a readiness to fulfil those obligations, Virginia and the other Southern States are prepared to bury the past in oblivion, and to respond with cordiality to every manifestation of a returning spirit of fraternity. As Virginia was among the foremost in the struggle for national independence, and contributed as much as any other State to the formation of the constitutional Union, she would be among the last to abandon it, provided its obligations be faithfully observed. * * *

“But the Union which they have been taught to love and revere is the Union contemplated by the Constitution,—a Union of communities having equal rights,—a Union of sovereign States entitled to regulate their domestic affairs in their own way, and bound to fulfil their obligations to each other with scrupulous fidelity. When it shall cease to be such a Union, it will forfeit all claims to their respect

and affection. Virginia feels that she has discharged her whole duty to her sister States, and she asks nothing from them that is not guaranteed to her by the plain terms of the Federal Compact. She has not sought officiously to intermeddle with the domestic concerns of other States, and she demands that they shall refrain from all interference with hers.

“But it is clear, from the review of the condition of public sentiment of the Northern States for the last five years, as indicated by their legislation, and in other authentic forms, that many of their people have ceased to respect the rights of the Southern States, to recognize the obligations of the Federal Compact, or to cherish for us those friendly sentiments which gave birth to the Constitution of the United States. A proper sense of self-respect and the instinct of self-preservation, therefore, require that we should adopt such measures as may be necessary to secure ourselves against future aggression, and to meet every emergency which may hereafter arise. We desire nothing but friendly relations with our sister States of the North. We ask of them nothing to which they have not solemnly bound themselves by the compact of the Constitution. But we understand our rights, and we are resolutely determined to maintain them. We disclaim all aggressive purposes. But when we are threatened with the knife of the assassin and torch of the incendiary, we cannot fold our arms in blind security. We have no desire to rupture the political, commercial or social ties which bind us to the North, so long as our rights are respected; but admonished by the past, it is our duty to prepare for the future by placing ourselves in an attitude of defense, and by adopting such measures as may be necessary for our security and welfare.

“Your Committee therefore recommends to the General Assembly the following resolutions for adoption:

1. *Resolved*, That the appropriate standing committees of the two houses of the General Assembly be instructed to prepare and report such bills as in their judgment may be

necessary to organize, arm and equip the militia of the State for active and efficient service.

2. *Resolved*, That the committee on finance be instructed to prepare and report such bills as in their judgment may be most effectual (without violating the provisions of the Constitution of the United States) in encouraging the domestic manufactures of our own State, promoting direct trade with foreign countries, and establishing, as far as may be practicable, our commercial independence.

3. *Resolved*, That we earnestly invite the co-operation of our sister States of the South in carrying out the policy directed in the foregoing resolutions.

4. *Resolved*, That the committee for courts of justice be instructed to report such bills as may be necessary to secure the more prompt and effectual punishment of all foreign emissaries and others, who may be found guilty of conspiring against the peace of our community, or seeking to incite our slaves to insurrection.

5. *Resolved*, That the course of the late Governor, in regard to the Harper's Ferry affair, is amply vindicated by the evidence before the Committee, and entitles him to the emphatic commendation of the Country."¹

This report made a profound impression upon the General Assembly, and was received by the people of the State with universal commendation. It showed an accurate knowledge of the purpose of the Republican party in the North on the subject of slavery, and displayed a lofty spirit of patriotism for the Union contemplated by the Constitution. Brown and his confederates were midnight assassins and murderers. The report showed that they had hundreds of friends and sympathizers in the North and West and among them many men of national reputation. W. H. Seward was a member of the United States Senate; he was one of the most prominent men in the Republican party, and a prospective candidate for the nomination for the Presidency by

¹For full report on the John Brown Raid, see Appendix I.

that party. What he thought of the John Brown outrage is shown by the following occurrence.

On November 1, 1873, Mr. Thomas Jefferson Randolph of Virginia, in a letter to Mr. Stuart wrote:

“I will add an anecdote which I got a few days ago from Mr. W. W. Corcoran of Washington. Before the war Mr. Seward had a dinner party of sixteen; Crittenden and Trollope, the English novelist, of the party; after the cloth was removed, Seward rose and gave the following toast: ‘John Brown, he acted while we talked.’ Crittenden dashed his glass on the table and in a few words of burning eloquence said, ‘Brown was arrested as a murderer, tried and convicted as a murderer, and executed as such.’ Seward turned very pale and dead silence of some minutes ensued before conversation was renewed. Mr. Corcoran met Trollope that evening who related the anecdote to him. This, with many similar evidences, shows the crimes of the leading politicians of the time.”

CHAPTER XXIV

PRESIDENTIAL ELECTION IN 1860—STATE CONVENTION OF 1861—MR. STUART ONE OF THE COMMITTEE OF THREE APPOINTED TO VISIT PRESIDENT LINCOLN



ARTY feeling was now running high, and the time had arrived to nominate candidates for the Presidency. The friends of the Union were hopelessly divided among themselves. One section of the Democratic party nominated Stephen A. Douglas for President, and Herschel V. Johnson for Vice-President; another section nominated John C. Breckinridge and Joseph Lane for those offices. The American party nominated John Bell and Edward Everett, and the anti-slavery agitators, under the new name of the Republican party, nominated Abraham Lincoln and Hannibal Hamlin. The last named candidates were elected. Lincoln and Hamlin received 180 electoral votes; Breckinridge and Lane 72; Bell and Everett 39; and Douglas and Johnson 12. Of the popular vote Lincoln received 1,857,610 votes, while the combined vote of the other three candidates was 2,804,560. Thus while Lincoln was elected by a majority of the electoral college, he received a million less votes than his opponents, and had a popular majority in only sixteen of the thirty-three States of the Union. The eighteen States carried by him were all north of the Mason and Dixon line.¹

As soon as the result of the election was known, the people of the Southern States realized that a most serious crisis had arisen, and several of those States called conventions to take action to protect their rights. On December 20, 1860, South Carolina passed an ordinance of secession and other States soon followed her example.

¹Stephens' History of the United States, page 559.

The last session of Congress under President Buchanan's administration met on the first Monday of December, 1860. The President in his annual message made special reference to the disturbed condition of the Country. He maintained that no State could lawfully withdraw from the Union; but, if any of them did, Congress had no power to coerce them, and he advised concession and conciliation.

At an early day in the session Senator Crittenden offered, as a basis for the settlement of the sectional differences, the Missouri Compromise line of 36° 30' north latitude as a division of the public domain, by which all the territory north of that line was, whenever admitted into the Union, to be free of slavery, and all south of it was to be left for the decision of the people seeking admission to the Union. As the Supreme Court of the United States had decided some years before this time that slavery could not lawfully be prohibited in any of the Territories by act of Congress, this compromise measure of Mr. Crittenden was presented as a constitutional amendment. Senators Jefferson Davis, Robert Toombs, and the other extreme Southern Senators, with Stephen A. Douglas and all the conservative senators of the North, favored this amendment, but all the Northern agitators and every Senator who had voted for Lincoln refused to support it. Mr. Davis and Mr. Toombs, and most of the other Southern Senators then united in a telegram to the people of the Southern States advising them that their only safety was in withdrawing from the Union.¹

A large majority of the people of Virginia were opposed to secession. They were in favor of securing their rights in the Union, if possible, and of making further efforts to compromise and adjust the differences between the North and the South. Virginia was situated between the States adhering to the Federal Government, and those States of the South, which had already seceded, or were taking steps to do so, and the time for definite action had arrived.

At this juncture of public affairs Governor Letcher called

¹Stephens' History of the United States, page 560.

the Legislature in extra session on January 7th, 1861, to decide what action the State should pursue in regard to the threatened dissolution of the Union. Seven days after that body met, a bill was passed calling for a convention of the people to decide what course should be taken. The Convention consisted of one hundred and fifty-two members, and the election was held on February 4th, 1861. Mr. Stuart, who was a member of the State Senate then in session, was chosen one of the members of the Convention to represent Augusta County, and he was a pronounced Union man. The Convention was composed of many of the ablest men in the State, men of large experience in public affairs, and a majority of them were in favor of preserving the Union, if possible. The Convention assembled in Richmond on February 13th. Mr. Stuart was appointed a member of the Committee on Federal Relations, but asked to be and was excused from serving.

The Legislature was in sympathy with the well-known sentiments of a majority of the people of the State to preserve the Union. With this end in view, on the 19th day of January, it passed a resolution requesting all the States of the Union to send commissioners to a Congress to be held in Washington on the 4th day of February to consider the condition of the country, and to devise some means whereby the Union might be preserved and harmony restored. The commissioners chosen on the part of Virginia were Ex-President John Tyler, William C. Rives, Judge John W. Brockenbrough, George W. Summers and James A. Seddon. Twenty-one States were represented, and John Tyler was elected President of the Congress, afterward known as the Peace Congress. Without undertaking to go into a minute examination of the proceedings of this Congress, it will suffice to state that it failed to accomplish the objects for which it had been called. It did demonstrate, however, that the Republican party did not intend to respect the rights of the South.

Among the delegates was Senator Salmon P. Chase of Ohio. He had been one of the most outspoken of the anti-

slavery party, and great interest was felt as to what he would say. On the second day of the Congress he addressed the commissioners, and, among other things, said:

“Mr. Lincoln was the candidate of the people opposed to the extension of slavery. We have elected him. After many years of earnest advocacy and of severe trial, we have achieved the triumph of that principle. By a fair and unquestionable majority we have secured that triumph. Do you think we who represent this majority, will throw it away? Do you think the people would sustain us if we undertook to throw it away? I must speak to you plainly, gentlemen of the South; it is not in my heart to deceive you. I therefore tell you explicitly that if we of the North and West would consent to throw away all that has been gained in the recent triumph of our principles, the people would not sustain us, and so the consent would avail you nothing; and I must tell you further that under no inducements, whatever, will we consent to surrender a principle which we believe so sound and so important as that of restriction of slavery within State limits.”

This was said in reference to the power on the part of the Federal Government to prevent the people of the Southern States from going into the common territory, that is, where new States were formed with their slaves. The Supreme Court of the United States had decided four years previous to this time that the Federal Government had no right to exercise such power, and yet Chase deliberately stated that the people who elected Lincoln would not yield obedience to that decision.

Moreover, he declared, in regard to that clause of the Constitution concerning fugitives from service:

“The people of the free States, however, who believe that slaveholding is wrong, cannot and will not aid in recclamation, and the stipulation becomes therefore a dead letter.”¹

¹Stephens' History of the United States, p. 591.

Here was a Senator of the United States, who had taken a solemn oath to support the Constitution and laws of the United States, deliberately declaring that he, and those who had elected Lincoln, would do neither, when the Constitution and laws of Congress did not meet with their approval. Entertaining these views of the Constitution and the laws of the United States, President Lincoln deemed Chase a proper person to appoint Secretary of the Treasury in his Cabinet, and later Chief Justice of the Supreme Court of the United States.

The commissioners to the Peace Congress made their report to Governor Letcher, who communicated it to the Convention on March 6th. The report briefly stated that an article with seven sections, a copy of which accompanied the report, intended as an amendment to the Constitution, was adopted and submitted to Congress with the request that it should be recommended to the States for ratification, but the plan had failed to receive the support of Congress, and as that body had adjourned, it could take no further action upon it. Thus nothing was accomplished by the Peace Congress toward securing peace and harmony.

In the meantime Alabama, Florida, Louisiana, Georgia, Texas and South Carolina had passed ordinances of secession, and appointed delegates to a Congress which met at Montgomery, Alabama, on February 4th. Commissioners were appointed by several of the Southern States to visit Richmond and urge the Convention to pass an ordinance of secession and commit Virginia to the Southern Confederacy. Commissioners from Mississippi, Georgia and South Carolina appeared and asked permission to be heard orally before the Convention. On February 18th Fulton Anderson, Commissioner from the State of Mississippi, addressed the Convention, and also H. L. Benning, Commissioner from Georgia. The next day John S. Preston, Commissioner from South Carolina, in an eloquent speech urged Virginia to give her aid to the new Confederacy. The Convention, in spite of these strong appeals, and in spite of the fact that the Peace Congress had failed to effect a com-

promise because of the hostile attitude of the Northern agitators and the party which had voted for Lincoln, was not prepared to sever the ties which bound Virginia to the Union. There were some ultra-secessionists in the Convention, and among them were some very eloquent and persuasive speakers, but a majority of them were still Union men. Among the latter were John Janney, John B. Baldwin, Robert Y. Conrad, Robert E. Scott, R. L. Montague, Valentine W. Southall, William C. Rives, and Alexander H. H. Stuart.

The Committee on Federal Relations, which was composed of twenty-one members, sixteen of whom were Union men, submitted a report on March 9th, in which the committee set out the wrongs under which the Southern States were suffering, and declared that the powers granted under the Constitution were derived from the people of the United States, and might be resumed whenever those powers should be perverted to their injury and oppression. The report recommended various constitutional amendments and compromises, and also recommended that a convention of the Border States be held at Frankfort, Kentucky, on May 27th, to determine what course should be pursued by them toward the United States Government and the Confederate States.

This report, and substitutes which were offered for it, led to a protracted debate in which the subject was discussed, in all its details with the greatest ability, both by those who favored secession and those who were opposed to it. Finally, on April 4th, a motion was made to instruct the Committee on Federal Relations to report an ordinance of secession and the motion was defeated by a vote of 88 to 45. The anxious deliberations of the Convention, and its indisposition to pass an ordinance of secession, met with bitter opposition and ridicule from secessionists in all parts of the State, and those who opposed secession were denounced as submissionists. It was, no doubt, to this attitude of those who favored immediate secession that Mr. Stuart referred in a speech delivered in the Convention, when he said:

"I choose to dictate to nobody, and will submit to no dictation from anybody. I will listen with candor and fairness to the views of every gentleman that may be presented, and will endeavor, when we come to the closing scene of this great drama, to do what my judgment shall dictate as the best for the interest of our State and Country."

President Lincoln was inaugurated on March 4th, and neither from his inaugural address nor from the personnel of his Cabinet was there any indication of a satisfactory adjustment of the differences separating the North and the South. The position of Virginia was most unsatisfactory. Her desire to preserve the Union, if possible, and her unwillingness to secede brought down upon her the adverse criticism of both the North and the South.

On April 8th the Convention determined to make one more effort to prevent the dissolution of the Union and passed the following resolution:

"Whereas in the opinion of this Convention the uncertainty which prevails in the public mind as to the policy which the Federal Executive intends to pursue towards the seceded States is extremely injurious to the industrial and commercial interests of the country, tends to keep up an excitement which is unfavorable to the adjustment of pending difficulties, and threatens a disturbance of the public peace; therefore,

Resolved, That a Committee of three Delegates be appointed by this Convention to wait upon the President of the United States, present to him this preamble and resolution, and respectfully ask of him to communicate to this Convention the policy the Federal Executive intends to pursue in regard to the Confederate States."

Immediately after the adoption of this preamble and resolution, William Ballard Preston of Montgomery County, Alexander H. H. Stuart of Augusta County, and George W. Randolph of Richmond, were chosen as the delegates. The committee left the City of Richmond on the morning

of the 9th of April for Washington, but owing to a wash-out on the railroad caused by a violent storm, they did not reach the city until eleven o'clock on Friday, April 12th. They called upon the President at one o'clock that day and informed him that they had been appointed a committee by the Convention of Virginia, then in session, to make a communication to him from that body, and requested him to designate an hour when it would be agreeable to him to receive them. He replied that he would be happy to receive them at nine o'clock the next morning. At the appointed hour the committee waited upon the President and delivered to him the preamble and resolution of the Convention. The President then read to the committee a paper which he stated he had just prepared as his answer to the delegates from the Convention, stating that he had seen in the newspapers the proceedings of the Convention and the character of their mission. In it he referred to his inaugural address as the best evidence of his purposes, especially to that part of it where he had said:

“The power confided to me will be used to hold, occupy, and possess the property and places belonging to the government, and to collect the duties and imposts; but beyond what is necessary for those objects there will be no invasion, no using of force against or among the people anywhere. * * *

“But if, as now appears to be true, in pursuit of a purpose to drive the United States authorities from these places, an unprovoked assault has been made upon Fort Sumter, I shall hold myself at liberty to repossess, if I can, like places which had been seized before the government was devolved upon me. And in any event I shall to the extent of my ability repel force by force.”¹

The committee on their return to Richmond submitted their report to the Convention, accompanied with the answer of the President to the preamble and resolution of the Convention. The answer was considered by the committee, as

¹Munford, Code of Virginia, 1873, page 5.

well as by the members of the Convention, as highly unsatisfactory. Excitement was running high, and the feeling was steadily gaining ground that there was little, if any, escape from secession. Fort Sumter had been fired upon by South Carolina, and surrendered on April 14th. On the 15th of April, President Lincoln issued a proclamation calling for 75,000 troops to suppress combinations which were opposing and obstructing the execution of the laws of the United States, and to cause the laws to be duly executed in the States that had seceded. This call for troops produced alarm and indignation in the Border States of Maryland, Virginia, North Carolina, Tennessee, Kentucky, Arkansas and Missouri. It was regarded as indicating a purpose to wage war upon the Confederate States.

CHAPTER XXV

INTERVIEW WITH PRESIDENT LINCOLN—MR. STUART OPPOSES SECESSION



ON APRIL 16th William Ballard Preston offered an ordinance of secession, and at this critical moment Mr. Stuart addressed the Convention. This speech has an historical interest because it gave a co-temporaneous account of his mission to Lincoln; exhibited an accurate forecast of what the results of war would be to Virginia; and was an eloquent and patriotic appeal to delay the passage of the ordinance until further efforts were made with the Border States to preserve harmony and peace. The speech was set up in type, and a copy, pasted on brown paper, was sent to Mr. Stuart by the reporter for correction before publication. By an oversight of the reporter, a part of the speech of some other speaker was substituted for the conclusion of Mr. Stuart's address, which thus ends abruptly.

President Lincoln's call for troops to make war upon those States which had seceded caused many members of the Convention to change their attitude on the question of secession, and in the afternoon of April 17, 1861, the ordinance was adopted by a vote of 88 to 55. Under these circumstances, Mr. Stuart did not revise his speech and it was never published. He spoke as follows:

"I had not expected to open my lips during the remainder of this session, but in consequence of what has been said by the gentlemen who were associated with me in my mission to Washington, and in consequence of what seems to me to be an understanding that each member of that Commission shall give the benefit of his observations on that mission, I feel bound to say a few words.

“And first, Sir, I take occasion to express the pleasure which I feel at the harmony which existed among the members of that Commission, during the mission. When we were appointed, we were represented as belonging to different parties upon this floor. I was represented as belonging to the extreme Union party. My friend who sits before me, Mr. Preston, was represented as belonging to the middle party; and my other friend, who sits across the way, Mr. Randolph, was represented as belonging to the ultra-Southern party. But I am happy to say that there was no division of sentiment between us, in reference to anything that occurred during our mission.

“I do not think it necessary to repeat what has been said by those gentlemen in regard to what occurred in our interview with the President. We had not only an official interview in which we received an official answer, but we had also a conversation of considerable length which was intended to be somewhat explanatory of the written communication.

“The President said to us that he desired that the conversation should not be treated as a part of the communication, and as such reported to the Convention. He stated at the same time that it was from no indisposition that it should be known, but from an apprehension he entertained that it would not be correctly reported, and that any irregular communication was liable to misconception. There was an implied understanding between us that we would not detail that conversation, and, of course, my colleagues have refrained from doing so.

Mr. Preston: “I think the President observed that what transpired was under confidence between gentlemen.”

Mr. Stuart: “The gentleman reminds me that the President expressly said that what was said in the interview referred to was under confidence between gentlemen. I know that the obligation existed. I speak of it as an obligation which I do not mean to violate.

“But I may be permitted to say that I did not conceive a good portion of that conversation should go without an

answer. In the interview, Sir, my colleagues will remember, upon my own responsibility, disclaiming any authority from them, and professing to speak for myself alone, I gave him very plainly my views of his conduct and of his administration. I feel, Sir, that there is no obligation of secrecy upon me to withhold from the Convention what I said. That is my secret; that is subject to my control; and, while it may not be of much interest, yet as it may shed some little light upon the character of the interview, I will state, as fully as I can, what my remarks to him were.

“I stated to him, that while I could readily perceive his sense of obligation to enforce the law, and could give him credit for sincerity in his attempt to enforce it, I thought he had fallen into a great error. I instanced, in the first place, the revenue law, and stated that he ought to remember that while he was under an obligation to enforce the law, the law itself provided agencies and instrumentalities by which it was to be enforced; and that it was as much his obligation to pursue the mode pointed out by the law as it was to execute the law itself. These agencies, I said, were part and parcel of the law, and he was bound to respect them; and I remarked that whenever he undertook to depart from the mode which the law pointed out for its own enforcement, he was no longer enforcing the law, but usurping power not conferred upon him by law, and that did not exist. I stated much on the subject of the collection of duties, and at length came to where, as regards the lighter duties, the collector is authorized to make all the machinery necessary for the collection of the revenue. I then stated to him that, as this machinery did not exist, his authority ceased with it. He could only execute the laws through this agency, and when this agency no longer existed, he had no right to substitute others than those which the law itself provided. I then referred to the case of the courts. I remarked to him that the power to use the military authority of the country was in all cases subordinate to the civil power; and that as soon as the courts ceased to exist, and the civil authority was withdrawn from the seceded States, he had no authority

to employ the military power for the enforcement of the laws, and that any attempt to do so by him would be a violation of the law, instead of an enforcement of it.

"I then referred to the forts. I stated to him that I cherished the hope that he could find it consistent with his sense of duty to withdraw his troops, at least from those forts which were, strictly speaking, local; that he might find it consistent with his sense of official obligation to withdraw the troops from Fort Sumter, Fort Pickens, and any other local forts which had no great material functions to perform, but which were intended for the defence of the particular localities in which they were situated. It seems, Sir, that I was making the same discrimination, by accident, in regard to the forts, which was made in this Convention. I drew a distinction between the forts which I understood to be national, and those that were local. I referred to Fort Sumter and the Tortugas as illustrations, and stated that whilst the latter might be regarded as national in their purposes, as fulfilling national functions, which interested New York and Massachusetts even more than Florida, yet when it came to these local forts, such as Fort Sumter and others of its class, I could conceive that there was no public necessity for his retaining them. I said to him that upon this subject his power was plenary; that as commander-in-chief of the Army and Navy of the United States, he had power to dispose of these forts as to him seemed most expedient. I referred to the fact that it was an every-day occurrence to evacuate forts which it was no longer expedient to hold; and I had cherished the hope that he would find it was no longer expedient to hold Fort Sumter or Fort Pickens, because they were no longer necessary for purposes of local defence, at least for the present.

"I stated that he might have withdrawn the troops from these forts without any renunciation of the jurisdiction of the United States over them; but that he might have made a public proclamation of his purpose in withdrawing the troops; that it was in the interest of peace, and that he would

make an appeal to the people of the country to adjust these distracting issues which are now upon us.

"I stated to him that his predecessors had admitted that these questions were too grave and important to be dealt with by the Executive or Legislative authority of the country; that the only power competent to deal with them was either a Convention or a Congress of the United States, through the Legislatures. At this point he interrupted me by saying that he had made that appeal. I thanked him for referring to the fact, and assented to the truth of it, that he had in his inaugural address proceeded to make that appeal to the people of the United States; but I reminded him that he made that appeal after the Congress of the United States had adjourned.

"I reminded him of the fact that the Congress of the United States was the only agency through which a response could be obtained to that appeal. I here stated that it had been my expectation and hope that, in fulfilling the policy enunciated in his inaugural, he would have felt called upon to convoke Congress to carry out the policy which he indicated in his inaugural; but I called his attention to the fact that instead of enforcing the policy indicated by that inaugural, in carrying out this appeal, after having addressed the appeal to an arbiter of his own selection, before that arbiter had gone upon the judgment seat, he prejudged the result of the appeal by his course. I felt it due to myself to make these remarks to the President, which were, as near as I can recollect, without any premeditation or previous preparation.

"Now I desire to say a few words more. I confess, Sir, that like my friends who were associated with me, I regarded the President's answer as in the highest degree unsatisfactory. I regard it, while courteous in form, as almost hostile in intent. But I must confess, further, that I was utterly unprepared for the developments which have taken place since. All the inferences which my mind could draw from the interview were directly at variance with these subsequent developments.

“While his policy was decidedly expressed, yet I understood him, from our official communication, and the general impressions left on my mind favored that idea, as intending nothing like a general war; nothing in the shape of a general system of hostilities. I understood his whole efforts to be limited to the special purpose of re-occupying the forts. While he said in his communication to us that he would, after the attack upon Fort Sumter, feel himself at liberty to recapture, if he could, that and other public property seized by the seceded States, he did not indicate any determination of purpose to do so. While he indicated that he might be at liberty to discontinue the mails, yet he did not indicate any purpose to do so. The inference that I drew was that there was no such purpose as seemed to have existed; and while I cannot refer to anything which would justify me in imputing a want of candor, either to the Executive or to any of his advisers, yet I must confess that I was so entirely taken by surprise by the appearance of the proclamation that I did not for a moment believe that it was authentic. I believed that it was a sensational document gotten up by some mischievous persons; and such was my confidence of that fact, that as soon as I read the document yesterday I repaired to my room and prepared a dispatch to the Secretary of State, asking him whether it was genuine or fabricated. I received a response from him late last night that it was genuine, a response which I was prepared to receive, of course, from the news which we learned through the mail. Like my colleagues, I, therefore, think, in view of this communication of the President to the Convention, through this Committee, and in view of the proclamation of the President of the United States to the whole people, that there is no hope of an amicable arrangement with the Administration.

“I have cherished, Sir, a most ardent hope that matters would be solved peaceably. If there be any man upon this floor who has cherished a more ardent, a more decided, a more, I must say, religious and sincere love for this Union than any other, I claim to be that man. Seventy-nine years

ago, the people of Augusta deputed my father to this city as a member of the Convention to ratify and adopt the Constitution which formed this Union. After a lapse of three-quarters of a century, the same County, the descendants of the same constituency, have deputed me here to uphold and sustain it. I have, therefore, a traditionary attachment to the Union. I will stand by it, Sir, as long as I can stand by it consistently with the honor and the interests of Virginia. I must confess that my hopes in the perpetuation of the Union, as it now stands, have been greatly weakened, if they have not been entirely destroyed.

“It seems proper, then, for us to decide in this emergency what we, as Virginians, are to do. There are three lines of policy that lie before us. One is to remain in the Union as we are, and to lend our forces and our arms to the subjugation of our Southern sisters. I believe, Sir, that there is no man upon this floor who is prepared to stand here in that attitude. There is no man who desires to retain his connection with the present Union without those guarantees of protection, and without the adoption of that satisfactory line of policy which would be consistent with the interest and the honor of the Commonwealth. Sir, if we remain as we are, we abandon, in my judgment, all hope of obtaining any such guarantees; we abandon all hope of security; and we lend ourselves to the purposes of a dominant, sectional majority. I am not, then, Sir, for adopting that line of policy.

“But there are two others. One is to secede immediately, and the other is to ask the co-operation of our sister States which have not yet seceded. I propose to make a few remarks upon this subject, all unprepared as I am, and all unexpected as the discussion is to me. And, Sir, I wish to present them in a plain, practical point of view. I am a plain, practical man, who endeavors to look at things in a plain, practical, common-sense point of view. Now let us see what would be the effect if an ordinance of secession be adopted at this time.

“Here is a war waging. Here is an immense preparation made on the part of the United States Government for

carrying on that war. The present seat of that war is at a remote part of the Union. It is now confined to the region about the city of Charleston and the city of Pensacola. These are the points where the war is now seated. What would be the effect of the immediate secession of Virginia? It would be to transfer the seat of war from the Gulf of Mexico, and from the extreme southern part of our Atlantic coast, to the bosom of Virginia. Yes, Sir, your county,¹ that county situated upon the old highway, North and South; the county of Jefferson and the county of Berkeley, would be the Flanders in this war. I could not conceive of any greater favor that you could confer upon this Black Republican administration than to secede now. It is attended with great cost and with great danger to place every gun and every man at that remote point of our territory. The climate is unsalubrious; the warm season is advancing; and if the war is prosecuted there, you may expect pestilence to be a more valuable ally than your armies. You may expect that the miasma arising from the glades of Florida and the swamps that surround Charleston would sweep out of existence more of the invaders than the arms of the Commonwealth and of the Confederate States. All the provisions for the support of the Northern armies would have to be transported thousands of miles at great expense; and it is under great difficulties that they could be supplied at all. But, Sir, by Virginia's seceding, you transfer the seat of war to this fertile and salubrious country. You transfer it to a country that furnishes every supply that is necessary for the support of the troops; to a climate that is entirely salubrious to the Northern troops, who would be engaged in prosecuting the war. Yes, Sir, you bring it home to your own fair cities and families. You go into the war without any aid from any quarter. We have no alliance with the Confederate States, nor our sister Border States not yet seceded; and Virginia would stand alone between the Federal Government and the Confederate States of the South. She would be the battle-

¹The President of the Convention was John Janney, of Loudoun County.

ground. Her fields would be laid waste, and her citizens would become the victims of the conflict.

“And, Sir, what is our state of preparation? Where is our ordnance? Where is our musketry? Where are our rifles? Where, in fact, are any of the munitions of war which are indispensable for our security? Sir, you may talk about courage, and you may talk about chivalry; but I say it is not true courage and true chivalry to rush into such an unequal contest as that. I say, in my judgment, it would be folly and fool-hardiness in the extreme. What is the condition of our Treasury? Let me tell you, Sir, because it has been my melancholy duty to make myself familiar with it, being a member of the Senate of Virginia, and having occasion to examine the financial condition of the State. I tell you, you are bankrupt. In order to raise the money to buy a few arms, you were obliged to resort to the miserable expedient of attempting to issue one million of treasury notes. There is no money in your Treasury; your credit is gone; your bonds are selling now, as some gentleman remarked, at some sixty dollars. Even the munitions which are to be bought under the operation of the treasury note bill have not yet been supplied. Intimations have been given that the Governor has made a contract, and that there is some understanding in regard to a portion of it. But, Sir, all must concur that we are not in a condition to go to war; and I say that it is the part of common prudence, common sense and humanity that we should not engage in war until we shall have prepared ourselves for the conflict.

“My friend over the way, from the city of Richmond,¹ has suggested the idea of the capture of the Navy Yard at Gosport, and of the Armory at Harper’s Ferry. Let me call his attention, and that of the Convention, to the relations which we now bear to the Federal Government.

“An ordinance of secession does not terminate our relations with the Federal Government. An ordinance passed by this body is not a dissolution of the ties which bind us to

¹Mr. Randolph.

the Union. It goes forth simply as matter of advice to the people; and, without the ratification of the people, it is not worth the paper on which it is written. What, then, are we to do? Are we acting under the obligation of an oath to support the Constitution of the United States, as I venture to say almost every man in this body is? I ask, gentlemen, under these circumstances, if they are prepared, in view of the obligation of that oath, to make, as it were, a flagrant and unprovoked war upon the Government of the United States, by seizing upon these public arsenals? Sir, this property is left there in our charge, I may say, and I do not see how we can, consistently with our confederate relations, seize upon the property which lies within our borders, under the implied confidence, at least, that it will be secure in our midst.

“It is not my purpose to detain the Convention with any elaborate views of all the considerations which would forbid the idea of immediate secession. Sir, let us look to other consequences which must result. In my opinion, secession is not only war, but it is emancipation; it is bankruptcy; it is repudiation; it is widespread ruin to our people; nay, Sir, it must be more. It may result not only in a dissolution of the Union, but it may result in another dissolution which, to me, would be more painful even than the overthrow of the Union itself. It may result in a dissolution of the bonds which bind together the different great slopes of this State.

“We all know that communities are governed by their interests. We all know that there are certain laws of attraction which are laws of nature, which are not controllable, and which lead to the formation of commercial relations that are more binding than political relations. Here we have our State divided into two great mountain watersheds, one sloping to the Atlantic, and the other to the Ohio. We find the trade and the social relations of the mountain slope intertwined and associated with the great West. We find almost all its relations connected with the non-slaveholding States of the great West. These people, then, will be called upon to sever connections of the most intimate character—

connections which affect vitally every interest which they have—connections which are indispensable to their enjoyment, their social happiness and prosperity. We may count upon the patriotism of that region. I do not want to question it, Sir; but when this thing has gone on; when this merciless and desolating war shall have progressed for some length of time; when taxes shall have become intolerable and burthensome; you may rely upon it that the people will begin to look into the cause of the war; and, looking to the relations which they bear to this cause, they will be led, I fear, ultimately to conclude that their interest in the war is secondary to other interests which they have connected with their material prosperity.

“But, Sir, as wise, sagacious statesmen, we should not lose sight of these facts, and that before we take this fearful step; for fearful it is, Sir, in every aspect in which we can view it. We should pause and ponder well.

“But, Sir, there is another aspect of the case. We have already held out to our sister States that have not yet seceded the idea that we intended to co-operate with them. We have passed, in Committee of the Whole, which embodies this whole Convention, by a large majority, an invitation to these States to co-operate with us in this trying emergency. Three of these States have already responded to that call. They have either appointed or taken steps for the appointment of delegates, to meet delegates from this Convention, in consultation at Frankfort on the 27th of next month. Now, Sir, in what attitude would we stand? How would we be regarded if, in violation of our previous action and of our invitation to them, we should now precipitately rush ourselves out of the Union without consulting them? Did we not all complain of the action of South Carolina, in going out of the Union without consultation with any of her sister States? Did we not complain that she should go out of the Union without consultation with the other Southern States, and change their relations both with her and the General Government? I think there were few, if any, who did not believe that South Carolina acted rashly, unwisely and im-

properly. Now, Sir, I for one am not for following the example of South Carolina; but even if South Carolina did not stand in the same relation to the other States in which we stand to the sister States that have not seceded, there is our invitation gone forth, the invitation accepted by three or four of those States, and when the day arrives they will find that they have been treated with the most marked disrespect, and that without that conference we have undertaken to assume a new line of policy which changes their relations, as well as ours, to the General Government.

Mr. Morton of Orange and Green: "Will the gentleman permit me to interrupt him?"

"The gentleman is speaking of an invitation from Virginia to the Border States. I should be glad to hear from the gentleman what source was it that the invitation came from."

Mr. Stuart: "I have stated already that it was an invitation extended through the Committee of the Whole."

Mr. Morton: "I ask the gentleman if the action of the Committee of the Whole is the action of the Convention?"

Mr. Stuart: "Certainly not. I don't profess that it was a perfect invitation, but spoke of it as a qualified invitation—an invitation which was so well understood, and so well recognized, that it met with a response from three or four of our sister States. I discriminate between a quasi invitation; but still an invitation conveying the sense of the Convention, and an invitation having the formal approval of the Convention. The invitation having passed in Committee of the Whole by a large majority, it might readily be supposed that it would meet with the sanction of the body which was composed of the same material that composed the Committee.

"Let us look at the attitude in which we would stand. Here is Virginia surrounded on three sides by States that have not seceded, and on the other side bounded by the Atlantic Ocean. How would we stand if North Carolina, Maryland, Kentucky and Tennessee refused to secede? I think, Sir, that it is due to these States that we should consult them; that it is the part of prudence that we should

consult them before we take any final action. And upon the ordinary dictates of prudence, if a nation is going to war, does it not always seek such alliances as it may obtain—alliances offensive and defensive? When we were struggling for our Independence, did we not seek an alliance with France to aid us in our struggle for liberty? And I want to know if Virginia now, with a million inhabitants, is to go into this unequal contest rashly and precipitately, when here are our allies around us who, by paying proper respect to them, would co-operate with us, as we have every reason to believe, in this great future struggle, if it shall come? But, if we have this conference, if these other States should come into line with us, if we show an unbroken front, then I cherish the hope that the North, according to the argument which has been urged by our friends, the secessionists, will see that it is a hopeless task to attempt to subjugate these eight States, in addition to the seven seceded States; and that, instead of the bloody war which we now expect, we might have a peaceable adjustment of our difficulties.

“Sir, I am in favor of making this appeal. I am opposed to passing any ordinance of immediate secession. I am in favor of addressing this invitation to our sister States to meet us in conference at Frankfort on the 27th of next month. I want to have a full and fair interchange of opinion in secret session with them there, and I want to ascertain what they intend to do. I want to ascertain when they are ready to act. I want to tender the olive branch, not to the administration—because as I said, I am hopeless of any good from that quarter; but I believe that the relations of business interests and those social ties which connect the Border States on either side will exercise the most potent influence on either side of the dividing line; and I would be willing to tender to Illinois, Indiana, Ohio, Pennsylvania, New York and New Jersey such amendments of the Constitution, or such a new Constitution as we are willing to live under. I would invite their aid and concurrence. I would invite them to join us under a new Constitution, framed with such guarantees as would give to us effectual

security for all our rights. I would invite them to disconnect themselves from the extreme North and Northwest, and, unlike some of my friends, my information leads me to believe that such an appeal would be responded to by these States.

“Sir, fanaticism is a great evil, and I would avoid contact with it as I would a plague; but business relations, private interests, social ties, the ties of brotherhood, the ties of intermarriage and of communication, in every form and shape in which they can take place, must to a great extent counterbalance this odious fanaticism; and in severing those political ties I would seek to withdraw these States from their allegiance to the Federal Government. I would seek to induce them to become part and parcel of our new government. I would seek to have a tier of friendly States between the slaveholding States and the States of the extreme North and Northwest. By pursuing this policy we would, I believe, ultimately effect a reconstruction of the Union upon such terms as we would dictate. We could compel the young States to come into our terms, or to remain outside of this great Central Confederacy. We would establish such a government here in the great heart of this Continent that our Southern sisters would quickly unite with us; because under its flag they would feel there would be security from every foe, external and internal.

“Sir, let us look at some of the primary effects of immediate secession: Why, Sir, under the intimations thrown out by the President, this country might in one week after the passage of the ordinance of secession be in the condition of a man whose arms are paralyzed. Your mails might be broken up and all communication stopped, thus completely clogging all commercial operations with the great seats of commerce with which we hold the most important commercial relations. Sir, pass the ordinance of secession now and you incur another hazard. You incur the hazard that the people themselves, not quite as sensitive to the highest notions of chivalry as the members of this Convention, but looking with a more unimpassioned view at the

practical results; the interruptions to business, the burthen-some taxation, the onerous military services, all the privations of every description which they are to suffer, might be induced to vote down the ordinance of secession. And where would you then stand? The gentleman before me¹ says forcible revolution would follow. Revolution against whom? Against anybody and everybody? Well, Sir, that is very vague and indefinite. I must confess I cannot comprehend it. I know the gentleman would not be willing to turn his sword against his brother, who, cherishing a feeling of attachment to his country, might entertain a different notion of what is best for its interest. The gentleman says let him try. I know he is speaking under excitement. I know there is no feeling in his heart that would induce him to turn his sword against a brother. I do not question the gentleman's patriotism; but Providence has created man with different qualities. Providence has ordained these diversities of intellectual structure for many purposes. It enables man to look from different standpoints. It enables man to see subjects in different aspects; and it is by comparison of different views that we are enabled to get at a full knowledge of the entire subject. I occupy that position here. The subject presents itself in one light to my eye on one side, while on the opposite side it presents itself in an entirely different light; yet we are equally honest in our views, and it is only by comparison of each that we finally learn to comprehend the whole subject.

"I claim to be actuated by my own views of what is right, of what is just, patriotic and expedient under all the circumstances of the case, looking at it in every aspect in which I can view it, but holding myself open to conviction—for I am not one of those who are in the habit of adopting opinions from which they cannot be moved. It is said that men of sense change their opinions, but fools never do. I claim at least that amount of intellect which does make me, when the light of reason is shed upon a subject and new information

¹Mr. Morton.

is thrown upon me, cheerfully yield to its influence and change my opinion. But, as I was saying, under all the circumstances of the case, and looking at it in every aspect in which I can view it, it seems to me that the proper course for this Convention to pursue would be to meet our sister Border States in conference, and consult with them on that great question which we are here considering, in order thereby to secure concert of action. This, I believe to be the true policy.

"I have thus given my views upon this measure. I choose to dictate to nobody and will submit to no dictation from anybody. I will listen with candor and fairness to the views of every gentleman that may be presented, and will endeavor, when we come to the closing scene of this great drama, to do what my judgment shall dictate as the best interest of our State and Country."

For the reason already stated the speech ends abruptly at this point.


After a majority of the members of the Convention had voted to adopt the ordinance of secession, 88 for, to 55 against it, many of those who had voted in the negative changed their votes so that the final vote stood 103 to 46. The ordinance was submitted to the popular vote for ratification or rejection on May 23rd, and was ratified by a vote of 125,950 to 20,373. War had already been inaugurated, and the vote was a mere matter of form. Mr. Stuart voted for ratification, not because he approved it, but because he believed, under the circumstances, unless the people stood together internecine war would be added to civil war. At an adjourned session of the Convention some months afterward, he signed the ordinance because he believed it to be his representative duty to authenticate the people's act of ratification with the usual forms. But, when day after day, members were asking leave to change their votes against the ordinance, he refused to change his.

On May 1st, 1861, the Convention adopted a resolution providing that a committee of seven members be appointed

by the President of the Convention to consider and report to the Convention, at an adjourned session, such amendments to the constitution of Virginia as might be necessary and proper under the existing circumstances. As chairman of this committee, Mr. Stuart prepared a report for the committee which was submitted to the Convention and ordered printed, but as war was then being waged, no action was taken upon the report.

CHAPTER XXVI

MR. STUART DECLINES DIPLOMATIC MISSION TO CANADA

T WILL be recalled that Mr. Stuart was serving at the same time as a member of the State Senate and as a member of the Convention. When these bodies adjourned he returned to his home and retired from public life. He was past military age; he had exerted all his powers to avert war; and he thought that those who had advocated it should be responsible for the direction of public affairs. He was not, however, an indifferent spectator of the war. As the war progressed and the resources of the Confederate Government became more and more exhausted, he addressed public meetings, urging contributions for the relief of the suffering soldiers and prisoners going to as well as returning from the North. All his sympathies were with his own State and he had a son in the service. To use his own words: "I could not do otherwise than rejoice when she¹ rejoiced and mourn when she mourned. I was proud of Lee and Jackson and Johnston, and my kinsman Stuart, and the host of other gallant Virginians who won immortal honor in an ill-advised and unnecessary contest."

In January, 1864, Mr. Stuart was tendered a mission of a confidential and important character by President Davis. Colonel John B. Baldwin of Staunton, while in command of the 52nd Virginia Regiment, was elected a member of the House of Representatives of the Confederate Congress. He was a lawyer of great ability and a most eloquent and impressive speaker. He had been a strong Union man and as such was elected a member of the Convention of 1861,

¹Virginia.

and took an active part in the proceedings. When the act to suspend the writ of *Habeas Corpus* came before the House, he opposed it in a speech of great power and eloquence which made a profound impression, and he was at once recognized as one of the ablest debaters in that body. In January, 1864, Mr. Stuart received the following letter from him:

H. of Reps. Jan. 21/64.

Dear Stuart:

I have been recently approached in the most profound confidence by Hunter to know whether you would consent to undertake a mission of a confidential and most responsible and important character, involving the control of large sums of money—and the intercourse with parties requiring extreme caution and great tact. The suggestion is one highly honorable to you and I think you might do great public service, but I could not venture to pledge you to its acceptance, as it involves some risk and much trouble and labor. I write, therefore, simply to say that I will hold the matter in hand, and if it assumes a tangible shape I will telegraph you to come down and see for yourself what it all means. In the meantime this is of the very deepest and most profound confidence and secrecy. If, then, I telegraph you in general terms to come down you may understand what I mean.

Yours truly,

JOHN B. BALDWIN.

It is a well-known fact that in 1864, in the Confederate States, and particularly in Virginia, there was a great lack of the ordinary comforts and necessities of life. All kinds of devices were resorted to. There was a very great scarcity of writing paper and envelopes, and it was a common practice to "turn" old envelopes and use them again. The envelope in which the above letter was enclosed is of the cheapest kind of paper, and had been received by Colonel Baldwin from one of his constituents and had been "turned," no doubt by Mrs. Baldwin. Could anything show more

impressively the poverty of the Confederacy than this "turned" envelope? Here was a distinguished member of the House of Representatives writing to an eminent citizen upon a matter of "the very deepest and most profound confidence and secrecy," and yet he was under the necessity of using a "turned" envelope!

Nothing further was heard upon the subject of this mission until the following letter was received from J. P. Benjamin, Secretary of State of the Confederate States:

Richmond, 25th March, '64.

My Dear Sir:

Would it be in your power to come to Richmond as promptly as possible on a matter of great public interest? The President and myself are desirous of conferring with you in person, as the subject is too delicate for correspondence. I need scarcely say that it should not be known that you come on any but your own private business.

Yours very truly,

J. P. BENJAMIN.

Mr. Stuart, after the war, gave the following account of his visit to Richmond, and of his interviews with Secretary Benjamin and President Davis:

"After the lapse of a day I left for Richmond; in those hard Confederate times one could not start on a journey without some preparation, such as mending up a little and putting a button on here and there. The next morning after my arrival, I went to the State Department to see Secretary Benjamin. He received me very cordially and made known what I was called there for. He said that the President and himself had agreed upon me as a Commissioner of the Confederate States. The plan was that I should sail to Nassau and thence to Canada. Arrived there, I should have a sort of diplomatic family or court, the mission of which, by means of a secret service, would be to foster and give direct aid to a peace sentiment which it was understood was then active along the Border States, and par-

ticularly to give aid to a peace organization known as the 'Knights of the Golden Circle,' which flourished in the Northwestern States. I was to have a large amount of money at my disposal, Congress having placed a deposit of 3,000,000 pounds in London on which I could draw; and I was to be held to no accountability for the money except my certificate upon my honor that it had been spent in aid of the mission on which I had been sent. I was to have a Secretary and other officials under me on the Commission. Mr. Benjamin spoke with freedom and fullness of the scheme, and I soon found that he was laboring under a remarkable delusion as to the peace sentiment at the North, as well as about the probable efficiency of such a Commission as he proposed. I at once declined it. I explained to him that with three families at home under my charge I could not leave them to take any mission of the character named. I afterwards visited President Davis. I merely said to him that I had heard from Secretary Benjamin the object of my call to Richmond and had been obliged to decline. I thanked him for the confidence he had reposed in me, and expressed my regret that I could not serve him in the direction suggested. We had a brief conversation on unimportant matters, chiefly on the wonderful growth of Chicago, and I took my leave. The commission was afterwards formed, composed of Jacob Thompson of Mississippi, C. C. Clay of Alabama, and J. P. Holcombe, Professor of Law at the University of Virginia, who undertook the work which had been tendered me. They went to Canada with Mr. Saunders as their agent, but were able to effect nothing."

From this time until General Lee evacuated Richmond Mr. Stuart remained quietly at home and was not connected with public affairs.

CHAPTER XXVII

VIRGINIA DISMEMBERED



IT SEEMS proper at this point to give a brief account of the dismemberment of Virginia and of the formation of the "restored Government" at Wheeling, although Mr. Stuart had no connection with them, in order that the political situation in Virginia at the close of the war between the States may be understood.

In 1859, John Letcher was elected Governor of Virginia, succeeding Wise, and entered upon the duties of his office, January 1st, 1860. In the following November, Abraham Lincoln was elected President of the United States by the agitators and by the extreme anti-slavery party. As soon as the result of the election was known in the Southern States, there was great excitement, and conventions were called to take action as to the best course to pursue. Several of these States passed ordinances of secession, and Virginia was urged to cast her lot with them.

It was in this condition of public affairs that Governor Letcher called an extra session of the General Assembly, as provided by the Constitution, to meet in Richmond on January 7th, 1861, to take into consideration the alarming condition of the country. One week after the Assembly convened, an act was passed, on January 14th, 1861, providing for the election of members of a Convention to assemble in Richmond on Wednesday, February 13th. The election was to be held on February 4th, and a separate poll was to be opened, "to take the sense of the qualified voters as to whether any action of said Convention dissolving our connection with the Federal Union, or changing the organic law of the State, shall be submitted to the people for ratification or rejection."

It was further provided that immediately upon the passage of the act providing for the Convention, the Governor should issue a proclamation giving notice of the time of holding the election and of the meeting of the Convention. The Convention was to consist of one hundred and fifty-two members, to be chosen for and by the several counties and cities, as prescribed by the constitution of the State for the election of members of the House of Delegates. The delegates were duly elected, and at the same time the people by a large majority decided that any action taken by the Convention should be submitted to the people for ratification or rejection. The Convention assembled on February 13th; the ordinance of secession was passed on April 17th, and was submitted to the people on the 25th day of May, 1861, when it was ratified by an overwhelming majority. The vote in the counties east of the Alleghany Mountains was almost unanimous for ratification, while in those west of those mountains it was nearly as decisive in favor of rejection.

As soon as the ordinance of secession was passed, most of the members representing the counties and cities west of the Alleghany Mountains withdrew from the Convention and determined to oppose the action taken by every means in their power. Meetings were at once called in a number of those counties denouncing the action of the Richmond Convention in passing the ordinance of secession. One of these meetings, under the leadership of John S. Carlisle, who had been a delegate to the Richmond Convention, was held at Clarksburg, and was attended by a very large number of citizens from various counties. Resolutions were adopted declaring that the action resorted to by the secessionists to transfer the State from its allegiance to the Federal Government to the so-called Confederate States, was wholly unjustifiable and that they would resist such action to the bitter end. The meeting also recommended that the people of each of the counties in Northwestern Virginia should appoint not less than five delegates from each county to meet in convention at Wheeling on the 13th of May following "to determine upon such action as the people of

Western Virginia should take in the present fearful emergency."

In response to this invitation delegates were chosen and met in Wheeling on the appointed day. The convention was organized and the committee on credentials reported delegates from twenty-six counties present. The convention was divided upon the question of immediate action. Carlisle favored immediate action, division of the State, and the formation of a government for the counties represented. On the other hand, W. T. Willey insisted that this was an informal meeting, and that the convention could not bind the people by its action. He declared with much force that the vote of the people of Virginia upon the ordinance of secession had not been taken, and, therefore, the State of Virginia still had a government which was recognized by the Constitution of the United States, and any action taken for the purpose of forming a new government would be revolutionary.

An acrimonious debate arose which lasted two days, and it seemed as if nothing would be accomplished. Finally the committee on state and federal relations asked leave to report, and this interrupted the discussion. The report reviewed the secession controversy from its inception to that time; declared that the loyalty of the people represented there to the Union would continue in spite of the efforts of the people in the eastern part of the State to take them out; and recommended in the event of the ratification of the ordinance of secession at the election to be held on May 23rd, 1861, the day appointed for taking the vote, that the people in the various counties appoint delegates on June 4th to meet in a general convention on the 11th of the same month at some place to be thereafter designated, "to devise such measures as the safety and welfare of the people they represented should demand, each county to appoint a number of representatives to the convention equal to double the number to which it was entitled in the next House of Delegates; and that the senators and delegates to be elected at the general election on the fourth Thursday in May

should be entitled to seats in the convention as members." The report also recommended that a committee of nine members should be appointed with power to carry into effect the objects of the convention.

The report was unanimously adopted; the central committee was appointed, and this convention, known as "The First Wheeling Convention," adjourned *sine die*.¹

At the election held on May 23rd, the ordinance of secession was ratified by a large majority in the State at large, but the vote of the counties west of the Alleghany Mountains was largely for rejecting it. Delegates were elected in these last named counties on June 4th, as provided by the Wheeling Convention, and met on the 11th of that month in what is known as "The Second Wheeling Convention." Thirty-five counties were represented with seventy-seven delegates. The convention was organized, and a committee of thirteen members was appointed to prepare and report business. The officers and members were sworn to support the Constitution of the United States and the laws made in pursuance thereof as the supreme law of the land, anything in the ordinances of the Convention which assembled in Richmond on February 13th, 1861, to the contrary notwithstanding, and no reference was made to the Constitution of Virginia.

On June 13th, the committee submitted a report entitled: "A Declaration of the People of Virginia, represented in Convention at the City of Wheeling, Thursday, June 13, 1861." After appealing to the Supreme Ruler of the universe for the rectitude of their intentions, this Declaration proceeds: "We * * * in the name and on behalf of the good people of Virginia, solemnly declare that the preservation of their dearest rights and liberties, and their security in person and in property imperatively demand the reorganization of the government of the Commonwealth, and that all acts of said Convention and Executive tending to

¹Virginia and Virginians, Vol. 1, page 358.

separate this Commonwealth from the United States, or to levy or carry on war against them, are without authority and void; and that the offices of all who adhere to said Convention and Executive, whether legislative, executive, or judicial, are vacated."¹

The report was adopted on June 17th, and the convention proceeded to reorganize the government of Virginia. On June 19th an ordinance was passed authorizing the convention to appoint a Governor, Lieutenant-Governor, and Attorney-General for the State of Virginia, "to discharge the duties and exercise the powers which pertain to their respective offices by the existing laws of the State, and to continue in office for six months, or until their successors be elected and qualified."

The ordinance also declared that the delegates elected to the General Assembly on the 23rd day of May, 1861, and the senators entitled under existing laws to seats in the next General Assembly, together with such delegates and senators as might be elected under the ordinances of the Convention or existing laws to fill vacancies, who should qualify themselves by the oath or affirmation set forth, should constitute the Legislature of the State to discharge the duties and exercise the powers pertaining to the General Assembly. They were to assemble in the City of Wheeling on the 1st day of July, 1861, and proceed to organize themselves, as prescribed by existing laws, in their respective branches. They were to take an oath swearing or affirming that they would support the Constitution of the United States and the laws made in pursuance thereof as the supreme law of the land, anything in the constitution and laws of the State of Virginia, or in the ordinance of the Convention which assembled in Richmond on the 13th of February, 1861, to the contrary notwithstanding; and that they would uphold and defend the Government of Virginia as vindicated and restored by the convention which assembled at Wheeling on June 11th, 1861.

¹Acts of Assembly, 1861-65, page 40.

On June 20th the convention appointed Francis H. Pierpont, Governor, and Daniel Polsley, Lieutenant-Governor, and a few days later, James S. Wheat, Attorney-General. Thus thirty-five counties of the one hundred and forty embraced in the State met in an illegal convention, and restored the government of Virginia by utterly ignoring the Legislature and Convention then in session in Richmond, the members of which had been chosen at an election held in every county in the State; and this action was afterward sustained by the Supreme Court of the United States in the case of Virginia *vs.* West Virginia, decided in 1870!¹

The first General Assembly of the "restored government" met in Wheeling on July 1st, and on the 9th of that month elected L. A. Hagan, Secretary of the Commonwealth; Samuel Crane, Auditor of Public Accounts; and Campbell Tarr, State Treasurer; and on the same day John S. Carlisle and W. T. Willey were elected Senators to represent the State of Virginia in the Senate of the United States. These senators with the representatives from the three congressional districts west of the Alleghany mountains who had been elected on May 23rd, proceeded to Washington and were admitted to seats in the respective Houses of Congress, as senators and representatives from the State of Virginia. Shortly after the Legislature adjourned, the Governor issued a proclamation ordering elections to be held to fill vacancies in the several judicial circuits caused by the participation of the incumbents in the rebellion, or from their refusal to take the oath prescribed by the convention.

The convention re-assembled, pursuant to adjournment, in Wheeling on August 6th, 1861, and is known as "The Third Wheeling Convention." On the 9th an ordinance was passed declaring that, "All ordinances, acts, orders, resolutions and other proceedings of the Convention which assembled in Richmond on the 13th day of February last, being without the authority of the people of Virginia constitutionally given, and in derogation of their rights, are

¹11 Wallace, page 39.

hereby declared illegal, inoperative, null, void and without force or effect," and a similar ordinance was passed on August 20th declaring all the acts and proceedings of the General Assembly convened at Richmond, at its various sessions, illegal and void because passed by members illegally elected and not qualified according to the ordinances of the Convention at Wheeling, requiring a prescribed oath to be taken.

On August 20th, 1861, an ordinance was passed to provide for the formation of a new State out of a portion of the territory of Virginia to be called Kanawha. The new State was to consist of thirty-nine counties named in the ordinance, and an election was to be held in those counties on the fourth Thursday in October to vote on the question of the formation of the new State, and also for the election of delegates to a convention to form a constitution for the government of the proposed State. This last convention could change the proposed boundaries and include in the proposed State certain other counties named, including Berkeley and Jefferson, if the counties to be added should declare by a majority vote their wish to form a part of the proposed State, and should elect delegates to the proposed convention. The Governor, on or before November 15th, was to ascertain, and by proclamation make known the result of the election; and if a majority of the votes given was in favor of the formation of a new State, he was to so state in his proclamation, and call the delegates to meet in the city of Wheeling on November 26th to organize the convention and submit the constitution agreed upon to the voters within the proposed State for ratification or rejection. It was made the duty of the Governor to lay before the General Assembly at its next meeting for its approval, the result of the election, if a majority of the vote was in favor of the new State and also in favor of the constitution. The new State was to take upon itself a just proportion of the public debt of the State of Virginia prior to the 1st day of January, 1861. When the General Assembly gave its consent to the formation of the new State, it was to forward

to the Congress of the United States such consent with an official copy of the Constitution, with the request that the new State might be admitted into the Union of States.

An election was held on the fourth Thursday in October, and a majority of the votes was in favor of the formation of the new State. Less than twenty thousand votes were cast. Many voters were disfranchised by the oath required of them; many were absent in the Confederate and Union armies; large numbers were intimidated by the presence of soldiers of both armies; and many were refugees from their homes. The vote was 18,408 in favor of the new State and 781 against it. The counties embraced in the proposed new State could cast seventy-five thousand votes. Delegates were chosen at the same time for the convention, but there were no representatives from Jefferson, Berkeley and Monroe.

The convention met in Wheeling on November 26th, 1861, and framed a constitution for a new State which was to be named West Virginia. The proposed constitution was submitted to a vote of the people for their approval or rejection on April 3rd, 1862, and was adopted by a vote of 18,862 in its favor and 514 against it. The population of the forty-eight counties embraced in the proposed State was 334,921 white, and 12,771 colored persons, while the population of the whole State of Virginia was 1,596,079.¹ It thus appears that only forty-eight counties, out of one hundred and forty in the State, voted on the question of erecting the new State, and a mere fraction of the people voted even in those counties.

The legislature of the "restored government" met in Wheeling, in extra session, on May 6th, 1862, and gave its consent on the 13th of the same month, as the Legislature of Virginia, to the formation of the State of West Virginia, composed of forty-eight counties. The counties of Berkeley and Jefferson were not included in the new State, but the constitution provided that if a majority of the votes in these two counties was in favor of ratifying the Constitution, then

¹Munford, Code of Virginia, 1873, page 13.

they should form a part of the State of West Virginia. The act giving the consent of the Legislature of Virginia to the formation of the new State, and the proposed constitution, were presented to the Senate of the United States on May 29th, 1862. On July 10th, 1862, a bill was passed by the Senate admitting the State into the Union. This bill was not acted upon by the House until December 31st, when an act was passed by Congress giving its consent to the admission of the State into the Union, but requiring an amendment to the proposed constitution on the subject of slavery.

The constitution, as adopted by the Wheeling Convention, provided that no slave should be brought, and that no free person of color should be permitted to come into the State for permanent residence. The act of Congress changed this provision and provided that, "The children of slaves born within the limits of this State after the 4th day of July, 1863, shall be free; and all slaves within the said State who shall at the time aforesaid be under the age of ten years shall be free when they arrive at the age of twenty-one years; and all slaves over ten and under twenty-five years shall be free when they arrive at the age of twenty-five years; and no slave shall be permitted to come into the State for permanent residence therein." The constitution as thus amended was ratified by the Convention and the people of the new State, and on the 19th day of April, 1863, the President of the United States issued his proclamation declaring that after the expiration of sixty days thereafter the new State of West Virginia should constitute one of the States of the Union.¹

An election was held on May 28th, 1863, to ascertain the wishes of the people of Berkeley and Jefferson Counties as to whether they desired to be annexed to the new State or to remain as a part of the State of Virginia. Berkeley contained nine election precincts and Jefferson eight. As far as known, votes were polled in only two precincts in Jefferson County, at Shepherdstown and Harper's Ferry. No commis-

¹Munford, Code of Virginia, 1875, page 15.

sioners were appointed for the other precincts and the polls were not opened. At these two precincts less than one hundred votes were cast, though the normal vote of Jefferson County was over 1,700 votes.¹ In the face of these facts, Francis H. Pierpont, Governor of the "restored government of Virginia," certified to the Governor of West Virginia that a large majority of the votes cast was in favor of annexation, and the legislature of West Virginia on August 5th, 1863, admitted Berkeley County, and on November 2nd, admitted Jefferson County as a part of that State.²

On June 20th, 1863, before the new State was organized, Governor Pierpont moved the seat of the "restored government" from Wheeling to Alexandria, and the Legislature met there on December 21st, 1863, and passed an act providing for the election of delegates to a convention to assemble in the city of Alexandria on February 13th, 1864, to alter and amend the constitution of Virginia. Delegates from a small number of counties were elected on January 21st. A bill of rights and a constitution were adopted on April 7th, and the Governor, as provided in the schedule, issued his proclamation certifying that the new constitution had been adopted.

It is worthy of note that although Francis H. Pierpont, Governor of the "restored government" of Virginia, on July 22nd and September the 4th, 1863, had certified to the Governor of West Virginia that a large majority of the votes cast in an election held for the purpose on May 28th, 1863, in Jefferson and Berkeley Counties, was in favor of annexing those counties to the State of West Virginia, and the Legislature of the latter State had passed an act admitting them, yet the Congress of the United States had never given its consent to such annexation, as they were not included in the counties named in the constitution submitted to Congress for the formation of the new State; and the new constitution of the "restored government"

¹Munford, Code of Virginia, 1873, page 16.

²Munford, Code of Virginia, 1873, p. 17; Virginia and Virginians, Vol. 1, p. 363; Virginia vs. West Virginia, 11 Wallace, p. 39.

adopted at Alexandria on April 7th, 1864, treated them as still counties in the State of Virginia. Thus by article four, section five of that constitution, Berkeley and Jefferson counties were each entitled to elect two delegates to the General Assembly of Virginia. They constituted the twenty-fourth senatorial district, and each was entitled to elect one state senator, and with Clarke and Frederick Counties constituted the thirteenth judicial circuit.¹

Thus Virginia was deprived of one-third of her richest territory. The whole proceeding was a farce, and not one legal step was taken in the formation of the State of West Virginia. The Constitutions of the State of Virginia and of the United States were treated as scraps of paper. The "restored government" of Virginia was recognized by Congress, and by Presidents Lincoln and Johnson, as legal and possessing the power to give the consent of the State of Virginia to its dismemberment for the purpose of forming a new State, and, yet when the war ended, this same government was treated as rebellious and illegal, and Virginia was degraded from the rank of a sovereign State to Military District No. 1 by the action of Congress!

¹Acts of Assembly, 1861-1865, pages 10, 20, where the Alexandria Constitution is found.

CHAPTER XXVIII

THE FIRST POPULAR MOVEMENT IN THE SOUTH FOR PEACE—PIERPONT RECOGNIZED AS GOVERNOR OF VIRGINIA BY PRESIDENT JOHNSON



AFTER the evacuation of Richmond early in April, 1865, and the withdrawal of President Davis and his Cabinet, and of Governor Smith and the other state officers from the city, followed by the surrender of General Lee on April 9th, there was no government, civil or military, in the State to afford protection to either persons or property, and lawlessness and rapine were rife in the country. In this state of affairs, Mr. Stuart was largely instrumental in calling a mass-meeting of the people of Augusta County in the City of Staunton on May 8th, 1865, to consider and decide what should be done to meet the emergency which confronted them. This was the first organized popular meeting for peace held in the South. Mr. Stuart has given an interesting account of the inauguration of this meeting and what action was taken by it as follows:

“As this meeting set on foot the first organized popular movement for ‘peace,’ I cannot doubt that I will render an acceptable service to the public by putting the record of its proceedings in a more enduring form and placing it under the guardianship of the Virginia Historical Society.

“The meeting to which I refer was a large assemblage of the best people of Augusta County, held at their courthouse in Staunton on the 8th of May, 1865, in pursuance of a notice which had been circulated as widely as possible during the preceding week.

“The circumstances under which the meeting was held

were these: While intelligent and thoughtful men, who were correctly informed as to the exhausted condition of the Confederate treasury, of the absence of supplies of food, clothing, arms, and ammunition necessary to maintain an army in the field, and, above all, of the disparity of numbers and equipment of the troops which were arrayed under the banners of Grant and Lee, respectively, at the opening of the campaign of 1865, had been forced to the conclusion that the days of the Confederacy were numbered, such was not the belief among the masses of the people in the country. They had been misled to some extent by the defiant attitude assumed by the Confederate Government, and in large measure by their unbounded confidence in the abilities of their great leaders, Lee and Johnston, and their associates, which caused them still to cling to the hope of final success.

“When, therefore, it became known to the people of Virginia, in April, 1865, that President Davis and his Cabinet, and other executive officers of the Confederate Government, and Governor William Smith and the other state officers of Virginia, had been compelled to withdraw from Richmond, and that General Lee had been obliged to evacuate the city and retreat southward with the remnant of his starving army—followed, as the news was in a few days, by intelligence of the surrender of General Lee’s army at Appomattox, and the capitulation of General Johnston and his army—the tidings fell on the popular ear like a ‘fire-bell in the night,’ filling the public mind with consternation and dismay.

“Men of forethought saw at once that the Confederate cause was lost, and that a continuance of the struggle was hopeless and could result only in a wanton waste of blood and treasure, and an aggravation of the calamities which were inevitable. They saw, further, that we had been reduced to the sad condition of a people without any government, State or Federal. The Confederate Government had practically ceased to exist. The State Government had been overthrown. The officers of both were refugees, and there was no reasonable prospect of the re-establishment of either.

Every social bond had been ruptured. Society had been resolved into its original elements. All laws had become inoperative for want of officers to enforce them. All the safeguards of life, liberty, and property had been uprooted. Scenes of lawless violence and rapine were rife in the country. There were no officials who would be recognized as having authority to represent the people, or to give expression to their opinions and wishes.

“In a word, a condition of things had arisen in which, if the people wished their voice to be heard, they must speak for themselves.

“Such was the state of affairs which existed about the 1st of May, 1865, when half a dozen or more intelligent gentlemen of Staunton met together, informally, to consider and decide what should be done to meet the emergency which confronted them. After full and free discussion of the subject in all its aspects, they concluded that the wisest course would be to convoke a mass-meeting of the people of Augusta County to assemble at their courthouse on Monday, the 8th of May, 1865, to decide for themselves.

“Notices were accordingly issued, inviting the people to assemble at the time and place above mentioned to give formal expression to their sentiments on the grave questions to be submitted for their consideration. These notices were widely circulated by means of special messengers sent to all parts of the county during the week preceding the day appointed for the meeting; and on Sunday, the day before it was to be held, it naturally became the topic of conversation among the people at their homes, on the highways, and at their respective places of public worship. In this way the purpose to hold the meeting and its objects became known to almost every man in the county, and to many in adjacent counties.

“Among those who thus became acquainted with the purpose of the people of Augusta to hold the meeting on the 8th of May, and the subjects to be considered by it, was Governor William Smith. After he had been obliged to leave Richmond, before its formal evacuation, he had sought

refuge in a secluded part of Rockbridge County. On learning of the facts above stated, and doubtless influenced by a patriotic sense of official duty, he rode to Staunton, a distance of twenty-five miles or more, where he arrived about noon on Sunday, 7th of May. Soon after his arrival, he sent invitations to a number of gentlemen who had been active in getting up the 'mass-meeting,' requesting them to call on him at his hotel at three o'clock P. M. for conference.

"I was one of those invited, and at the hour appointed, accompanied by fifteen or twenty other gentlemen, went to the hotel, where we were politely received by the Governor. After the ordinary interchange of salutations and introductions, Governor Smith proceeded to open the interview by referring to the rumors he had heard of the proposed meeting and its objects. Without expressing any opinion, either favorable or unfavorable, to the objects which we had in view, he made known, in decided terms, his opposition to our holding it, on the ground that the proceeding would be irregular and, to some extent, revolutionary. He referred to the fact that he was the Governor of Virginia, and as such the constitutional representative of the State, and the only person empowered to open negotiations with the Federal authorities to secure peace and the restoration of the State to the Union. He insisted it was not competent for the people of any single county to inaugurate such a movement, thereby ignoring him and his constitutional powers and duties as chief executive officer of the Commonwealth, and, therefore, urged us to abandon the idea of holding the proposed meeting.

"In reply, it was stated that while under a normal condition of public affairs, in which he would be recognized as the lawful Governor of the State of Virginia, his views would be entitled to great weight, yet we thought it was obvious that he who had been a distinguished general in the military service of the Confederate States, and who had been elected Governor of one of the Confederate States under the auspices of the Confederacy, and had taken an

oath of allegiance to its Government, could not possibly be recognized by the Federal Government as the lawful Governor and constitutional representative of the State of Virginia under the new order of things. Such a recognition would be almost equivalent to a recognition of the Confederate Government itself. All purpose to ignore him or offer him any personal disrespect was earnestly disclaimed; but facts were stubborn things, which could not be ignored. They must be dealt with as they existed. The Confederate Government had collapsed, and there was no reasonable prospect of its ever being re-established. The State Government had been overthrown. We were, therefore, without any government, and liable at any time to be overwhelmed by all the horrors of anarchy. We had no representatives who would be recognized as having a right to speak for the people, and hence they must speak for themselves. He was told that he was mistaken in supposing that the people of Augusta proposed to act on behalf of the State. They claimed no such right. They meant only to give expression to the sentiments and wishes of the County of Augusta, leaving every other county free to take such action as its people might deem proper. The demand for prompt and decided action by the people was urgent. They could not afford to wait for the result of tedious and probably ineffectual diplomatic negotiations, and therefore we must persist in holding the proposed meeting. The conference then closed, without unkind feeling on either side, for each respected the motives of the other, and Governor Smith returned to Rock-bridge.

“Before dismissing the subject of this interview, it may be proper to say that the sequel proved the soundness of the reasoning of the advocates of the meeting and the fallacy of that of Governor Smith.

“The meeting having been held on the 8th of May, and a committee appointed to go to Richmond to confer with the military authorities, it was received with courtesy and attention by the general in command, as representing the people. But when Governor Smith shortly afterwards, in his

official character, appointed commissioners to negotiate with the military authorities, as soon as these gentlemen presented their credentials, they were arrested and held as prisoners, and a reward of \$25,000 was offered for the capture of the Governor and the delivery of his person to the officer in command! But, to the honor of our people, it must be added that no one could be tempted, even by such a munificent reward, to play the part of Judas Iscariot!

"After the close of the conference with Governor Smith on Sunday afternoon (7th May, 1865), I was notified that it was the wish of the gentlemen who had been most active in getting up the meeting on the 8th that I should preside over its deliberations, and that on taking the chair I should make an address to the people, explaining the objects and purposes of those who called it, with such suggestions as to the policy to be pursued as I might deem appropriate.

"After careful consideration, I concluded that in view of the gravity and importance of the questions to be submitted to the meeting, and of the liability of an oral address to be misunderstood and misrepresented, it would be best to commit to writing what I proposed to say. The occasion involved weighty responsibilities. It was proper that the words used should not only be well weighed, but plain and simple, such as could be readily understood by all who might be present. Another fact admonished me of the necessity for caution. A large body of Federal troops occupied the town of Harrisonburg, twenty-five miles distant, and I felt confident that a number of their enterprising 'Jesse Scouts' would be present as vigilant spectators and reporters of the proceedings of the meeting. I therefore wrote in advance the address which I proposed to make.

"At an early hour on the 8th of May the people began to assemble in the streets and public grounds near the courthouse to interchange opinions and discuss the great questions which they had been invited to consider and decide. Their solemn countenances and earnest demeanor indicated that they clearly understood and appreciated the gravity of the situation.

"Before the hour of twelve o'clock, which had been appointed for the organization of the meeting, a great crowd had assembled in the courthouse, which embodied a large share of the intelligence, patriotism and property of the county. It was in all respects a representative meeting, and therefore entitled to give authentic expression to the sentiments and wishes of the people of the county.

"Punctually at 12 o'clock the meeting was called to order, and the chairman and secretaries nominated and elected.

"Having been chosen as chairman, after a brief explanation of the reasons which had induced me to reduce to writing the address which I was about to make to the meeting, I proceeded to read it from the manuscript, which I did slowly and distinctly so that every word could be heard and understood by the large and attentive audience. After it had been read, at the request of the secretaries, I delivered the manuscript to them to be incorporated into their report of the proceedings. These proceedings were faithfully and accurately recorded by the secretaries, and as there was no newspaper published in Staunton at that time,¹ they were printed on the following day in hand-bills on the little hand press, to which I have already referred, and many copies were sent to representative men in other counties. A copy of that hand-bill is now before me, and will be annexed to this narrative. It is in the following words:

"MASS-MEETING OF THE PEOPLE OF AUGUSTA!

"In pursuance of a public notice, which had been extensively circulated, a large and respectable meeting of the people of Augusta County assembled at the courthouse on Monday, 8th of May, 'to take measures looking to a re-organization of the government of Virginia in conformity to the Constitution and laws of the United States.'

"On motion of Colonel Wm. A. Bell, Hon. Alex H. H. Stuart was called to the Chair and Dr. Thos. W. Shelton and W. H. H. Lynn were appointed secretaries.

¹General David Hunter destroyed the newspaper offices by breaking up their presses and scattering the type in the streets.

“On taking the Chair, Mr. Stuart spoke substantially as follows:

“Fellow Citizens: We have met together today to decide what course we ought to pursue under the peculiar circumstances by which we are surrounded.

“The war which has raged throughout our land for four years past, and has left so many evidences of its desolating power in every part of it, has at length ceased. The veteran armies of Lee and Johnston have capitulated and a similar fate doubtless awaits, if it has not already befallen, the Confederate forces west of the Mississippi. The President of the Confederate States and his Cabinet have been constrained to abandon the seat of government, without any reasonable prospect of being able to re-establish themselves and resume the exercise of their functions in any of the Southern States.

“The Governor of Virginia has also withdrawn himself from the Capital, taking with him most of the principal officers of the State Government.

“There has thus been a virtual abdication of the Confederate Government and a suspension of the functions of the authorities of the State.

“In this anomalous condition of things, when those officers who were chosen to represent the people and to be the guardians of their rights and interests have lost the power to do so, it becomes the duty of the people to speak for themselves, and to determine what measures may be best for the advancement of their safety and welfare.

“All must admit that the war is ended, and that there is no purpose to resume military operations. The recent surrenders of Generals Lee and Johnston embraced much the larger number of the experienced and skilful officers of the Southern Army, and the articles of capitulation and arrangements subsequently entered into have placed almost the entire organized military force east of the Mississippi under obligations not to take up arms against the United States until regularly exchanged.

“We are thus in the extraordinary condition of a people

deprived of the benefit of any regular government, either civil or military. The tendency of such a state of things is to disorder and anarchy. In some instances marauding parties of armed men have plundered our citizens, and acts of violence have been committed, which are calculated to create a sense of insecurity amongst our people.

“Under these circumstances, we are assembled to consider what course we shall adopt to secure the best protection of person and property, and the largest measure of our rights, both personal and political, which may be practicable.

“It has been suggested that our wisest course is to do nothing, but to await the development of events. I do not approve this suggestion. I think we should endeavor, as far as we can, to give shape and direction to our own destiny. If we fail, we will at least save ourselves the reproach of not having made an effort to do so. Those who advocate a policy merely passive, seem to act on the idea that we have lost all our rights and must accept such form of government as may be imposed on us. This notion arises from the fact that those who entertain it confound the idea of *power* and *right*, which are two very different things. A victorious party may have the *power* to impose an obnoxious form of government on its defeated adversary, but it by no means follows that it has the *right* to do so.

“In my judgment, it is proper that the people of Virginia should express in public meetings—the only mode left to them of giving authentic expression to their sentiments—their recognition of the fact that the war has ceased, finally ceased; that the attempted revolution has finally failed, and that there is no purpose on their part to renew it.

“When it is thus made manifest that the people accept the fate, which in the fortunes of war has befallen them, that the war is over and that they are prepared to recognize the authority of the Constitution of the United States, from that moment our relations to the United States Government are materially modified, and rights which may have remained in abeyance during the continuance of hostilities are immediately revived in full force and vigor.

“When the war is at an end, all these powers claimed as war powers, and as matters of military necessity must cease with it.

“The restoration of peace will bring up for discussion and decision many novel and complicated questions. The experience and precedents derived from the history of other nations will furnish very insufficient guides in their solution, because the history of the world affords no case that is parallel to ours. In other countries the relation of the citizen or subject to his government is simple and direct. He owes allegiance to but one government—under our complex system every citizen owes allegiance to two governments. Before the war every citizen owed allegiance to his State as well as to the United States. He was bound to defend both. It was thus a double or a divided allegiance with the line of demarcation not very distinctly defined. When, therefore, a conflict occurred it was not always easy to determine the path of duty or safe to pursue it, for what was obedience to one might be treason against the other.

“The war having terminated, and the Confederate Government having potentially ceased to exist, we are released from all claim of allegiance to it and remitted to our rights as citizens of Virginia. What may be the extent of those rights, or how far any individual may have forfeited his rights, may be a question to be determined hereafter in the mode prescribed by the Constitution of the United States. One thing, however, we may safely assume. A State in its political capacity cannot commit treason. A State as a political community cannot incur forfeitures. Treason can only be committed by individuals, and the penalties can be inflicted on individuals only. How far a State can throw the aegis of her protection over her citizens who acted under her authority will have to be settled hereafter.

“I take it, therefore, that Virginia still has rights under the Constitution of the United States, which have only been suspended during the abortive effort to sever her connection with the United States, and it seems to me to be our duty to try and have those rights recognized and respected.

"If it be true, as has been almost universally assumed in the Northern States, that the ordinances of secession were merely nullities and absolutely void, then the Southern States have never severed their connection with the United States—have never been out of the Union, and are therefore entitled, from the moment the war ceases, to resume their position as members of the Union.

"I advert to these questions with no view to discuss them, but simply to combat the idea that all our rights have been lost, and as a satisfactory reason for meeting promptly the issue which has been forced upon us, and declaring that so far as we are concerned (and we believe we speak the sentiments of Virginia) the war has finally closed; that we have no purpose to renew it; that we are prepared to conform our State Government to the changed condition of public affairs; and that we are convinced that by a wise and conciliatory policy on the part of the Federal authorities, peace and tranquility can soon be firmly and permanently re-established.

"After the close of Mr. Stuart's remarks, on motion of Hugh W. Sheffey, Esq., the chair was instructed to appoint a committee of thirteen to prepare and report suitable resolutions for the consideration of the meeting.

"The chair thereupon named the following gentlemen to constitute the committee:

"NAMES OF COMMITTEE

"H. W. Sheffey, T. J. Michie, Jno. B. Baldwin, W. M. Tate, D. S. Bell, J. M. McCue, M. G. Harman, Chesley Kinney, Bolivar Christian, George Baylor, Absolom Coiner, J. Givens Fulton.

"After some time spent in deliberation, the committee reported the following series of resolutions:

"RESOLUTIONS

"I. *Resolved*, That we believe we express the thorough convictions of the people of Augusta County, when we de-

clare that opposition to the authority of the United States within this County is at an end and that there is no purpose on the part of any of our people to attempt any renewal of it.

"2. *Resolved*, That the people of Augusta County, recognizing the necessity of reorganizing the government of Virginia so as to conform to the Constitution and laws of the United States, are prepared to co-operate in good faith with the people of other portions of the State for that purpose.

"3. *Resolved*, That in our opinion the best mode of effecting the object proposed is by a State Convention, chosen by the voters and organized upon the basis of the House of Delegates.

"4. *Resolved*, That a committee of five be appointed to go to Richmond, and ascertain whether the military authorities of the United States will interpose any objection to the election, assembling and action of such a convention for the purpose indicated, and that the chairman of this meeting be the chairman of said committee.

"5. *Resolved*, That this committee be also authorized to confer with similar committees to be appointed in other counties, and to adopt in concert such measures as will best promote the objects herein declared.

"In pursuance of the request of the committee, Hon. John B. Baldwin proceeded to explain the nature and purport of the resolutions and to urge their adoption in a speech of great power and eloquence, and which produced a profound impression on the audience.

"After the close of Colonel Baldwin's speech, no other person manifesting any desire to speak, the resolutions were again read to the meeting *seriatim*, and each resolution adopted by a unanimous vote.

"After the other resolutions had been adopted, on motion of Bolivar Christian, Esq., the chairman was instructed to appoint at his leisure the members of the committee contemplated by the fourth resolution.

“The proceedings of the meeting were marked by great solemnity and dignity, and evidently expressed the deliberate sense of the people of Augusta. The assembly was a full one, and embraced a large share of the intelligence and weight of the County.

“ALEX H. H. STUART, Chairman.

“Thos. W. Shelton,

“Wm. H. H. Lynn,

“Secretaries.

“I have nothing to add to the record made by the secretaries of the proceedings of this meeting. It is in all respects full and accurate.

“It will be observed that the fourth resolution provides for the ‘appointment of a committee of five, of which the chairman of the meeting shall be chairman, to go to Richmond and ascertain whether the military authorities of the United States will interpose any objection to the election and assembling of a State Convention chosen on the basis of the House of Delegates.’

“By a subsequent resolution ‘the chairman was instructed to appoint, at his leisure, the other members of the committee contemplated by the fourth resolution.’

“Under the power thus conferred upon me, I appointed as my associates on the committee, Judge Hugh W. Sheffey, Colonel John B. Baldwin, Colonel Michael G. Harman and Major William M. Tate.

“A few days afterwards the committee went to Richmond and sought an interview with the military authorities. We were courteously received, but were informed that the officer in command had no authority to consider or decide the questions which were the subject of our mission. We were also informed that Hon. Francis H. Pierpont had been recognized by the United States Government as Governor of Virginia, and that in a few days he would be in Richmond to enter on the discharge of his duties; and it was suggested that we had better await his arrival and make our communication to him. We accordingly remained in Richmond

until Governor Pierpont had been duly installed as Governor under military auspices. We then called on him and exhibited to him a copy of the resolutions which had been adopted by the people of Augusta, and explained fully the objects of our mission. A full and free discussion of all the questions connected with the restoration of Virginia to the Union ensued, the details of which it is not necessary to state. The Governor, throughout the conference, displayed an amicable and patriotic spirit, and closed the interview by giving such assurances of sympathy and friendly co-operation as were satisfactory to the committee, and thus their mission closed.

"It is proper to add that, during the sojourn of the committee in Richmond, we were met by delegates from other counties, whose people, having heard of the action taken by the people of Augusta, had hastened to hold similar meetings and select committees to co-operate with us.

"We also learned from the newspapers that the people of counties and cities of other Southern States were making movements of a similar character and with the same end in view.

"It will thus be seen that the first organized popular movement for peace and restoration of Virginia to the Federal Union was made by the people of Augusta in their great mass-meeting on the 8th of May, 1865.

"Results proved that the meeting was not only a bold but a wise and judicious movement. It dispelled many popular delusions caused by the over-confidence of the Confederate authorities. It uncovered the nakedness of the Confederate cause. It awakened public thought and gave a new direction to public opinion. It illustrated the genius of our institutions by a majestic exhibition of popular sovereignty. When politicians faltered and were at a loss what course to take, the people quietly took the reins of government from their hands and acted for themselves. Under their guidance hostilities ceased and social order was re-established. And thus the extraordinary spectacle was presented to the world of a fierce and bloody war of four years' dura-

tion being substantially closed by the direct action of the people themselves, without intervention of any of the forms of diplomacy. And there is good reason to believe that but for the atrocious murder of President Lincoln, and the exasperated feeling caused by it, the terms of permanent and satisfactory peace could have been adjusted at an early day. That deplorable event, and the subsequent quarrels between Congress and President Johnson, rendered it impossible to make any further movement for restoration during his ill-starred administration.

“It may be fairly inferred from the following letter, which was addressed to me by Governor William Smith, dated 27th of February, 1880, that in the light of subsequent events he had seen cause to change his opinion as to the wisdom of the meeting of the people of Augusta on the 8th of May, 1865. He wrote as follows:

Warrenton, February 27, 1880.

Hon. A. H. H. Stuart.

My dear Sir: I have your very satisfactory favor of the 25th instant, but am sorry to have again to trouble you, but I should be very glad to have a copy of the proceeding of your meeting of the 8th of May, 1865, as I may wish to publish it.

When I left Richmond the night of the 2d of April, 1865, it was with the firm resolve to do everything in my power still to change the current of our disasters. With that view, I declined President Davis's invitation to accompany him the night of the evacuation. With that view, I ordered the Capitol Officers, the Public Guard, and the State Cadets to report to me at Lynchburg, etc. And when they failed to do so, it was with this view that I followed President Davis to Greensboro, North Carolina, to obtain from him a transfer to me of all his authority, etc., in Virginia. And when, most strangely, after a full explanation of my plans and purposes, he refused my request, it was still with the same view, desperate as was the prospect, that I felt it to be my duty to collect public sentiment in every way I could, travel-

ing many a weary mile, and finally reaching your town on the 7th May, 1865, the time you state, and no doubt correctly, to know if the people were willing, in any form, to prosecute the war or quietly submit. I soon inferred from what passed during the evening I was with you and friends that your great county was hopeless, and that all further struggles were useless, etc. Now, I want your proceedings of the next day, because they were the first embodiment of such sentiments by so important a portion of the people, etc.

I shall be glad to get your educational report.

Yours very truly,

WILLIAM SMITH.

“This closes my narrative of the events of 1865. It shows what had been done towards restoration. The war had ceased, and the rights of person and property were comparatively safe. Anarchy had been averted. But much still remained to be done to secure the full measure of the civil and political rights of Virginia as one of the members of the Federal Union. The time for action on this subject, however, had not yet come. Prudence admonished the people to wait patiently, to watch vigilantly the development of events, and to seize promptly and boldly the first opportunity for action that offered a chance of success. Ali knew that while a great and good work had been done in re-establishing peace and social order, a much more important one—the restoration of Virginia to her rights in the Union—remained to be accomplished at a later day.”¹

On March 3rd, 1865, a joint resolution was passed by the Alexandria Legislature authorizing the Governor to change the seat of the government of the State to Norfolk, or other convenient place in the State, whenever in his opinion the interest of the State would be promoted by doing so, but it was expressly provided that the permanent seat of the government should be the city of Richmond when it could be safely occupied.

¹Restoration of Virginia to the Union, Alex. H. H. Stuart, page 4, Appendix, II.

President Johnson, on May 9th, 1865, issued an order declaring all the acts of the Richmond Government during the time when Letcher and Smith were the Governors of the State null and void, and that any person who should attempt to exercise any authority by virtue of said Government since the 17th day of April, 1861, should be deemed and taken as in rebellion against the United States; and the "restored government," with Francis H. Pierpont, Governor, was recognized as the legal government of Virginia.²

²Munford, Code of Virginia, 1873, p. 23.

CHAPTER XXIX

SEAT OF THE RESTORED GOVERNMENT MOVED TO RICHMOND—MR. STUART ELECTED TO CONGRESS IN OCTOBER, 1865—NOT ALLOWED TO TAKE HIS SEAT



IN ACCORDANCE with the authority conferred upon him by the Alexandria Legislature, Governor Pierpont, on May 23rd, 1865, transferred the seat of the State Government to Richmond, and the most important business that confronted him was the reorganization of the Government. The Alexandria Legislature was composed of members from a very small number of the counties, and its legal term expired on July 1st, 1865. The Alexandria Constitution required an oath of all voters to the effect that they had not since the first day of January, 1864, voluntarily given aid or assistance, in any way, to those in rebellion against the Government of the United States for the purpose of promoting the same; and this oath practically disfranchised all the white people in the State. The Governor was visited by leading citizens from various parts of the State, who called his attention to this condition of affairs; they stated, however, that the Constitution provided the means by which the Legislature could restore to voters who had been disfranchised the right to vote.

Dr. R. A. Brock in "Virginia and Virginians," Vol. 1, page 240, says:

"In response to his inquiries he learned that but few in any county, and in some none, could vote or hold office because of this disqualification imposed by the Alexandria Constitution for participancy in the rebellion. He at once sent his Adjutant-General personally to all the counties that

had elected delegates to the Alexandria Legislature, summoning to Richmond the members whose legal term expired on the 1st of July. They attended in June, and met in the gubernatorial reception room. The Governor explained to them that without the removal of the disfranchisement he could not reconstruct the State, as there was nobody to vote; that they had the power to remove the disability, and that if they would agree to do so, he would call them in extra session at once. They assented. The extra session was called, the disability to vote was removed, and a resolution was passed giving the next legislature conventional authority to remove the disqualification to hold office."

The extra session of the Legislature met on June 19th, 1865, and adjourned on the 23rd of the same month. It was composed of three senators and nine members of the House of Delegates.¹ Only fourteen acts were passed and three joint resolutions. The first act provided for submitting to the qualified voters of the State the question of amending the third article of the Alexandria Constitution so as to remove the disqualification to hold office, and an act was also passed prescribing a modified oath by means of which persons who had been disfranchised might be restored to the rights of voters. On the 22nd an act was passed fixing the second Thursday in October—the 12th—for elections to be held in the several congressional districts for representatives in the Congress of the United States, and in the several counties and corporations, in which such elections had not already been held, for members of the General Assembly.

At this election the Alexandria Constitution was amended so as to allow those who had aided the Confederacy to hold office, and, as already stated, the extra session of the Legislature, held in June, had so modified the oath required of voters as to permit the same class of citizens to vote. At the same time members of the General Assembly were chosen, and also members of the House of Representatives

¹History of Virginia (Morton) page 77. *Annals of Augusta County*, (Waddell), page 573.

of the United States. Mr. Stuart was elected to Congress over his competitor, John F. Lewis of Rockingham County. Both had been strong Union men before the war. During the canvass it was urged by the friends of Mr. Lewis that he should be elected because he could take the ironclad test oath while Mr. Stuart could not. In answer to this contention, Mr. Stuart issued an address to the voters of the district, in which he stated how consistently he had opposed secession and voted against the ordinance passed by the Convention of 1861; that, while his age relieved him from the obligation to render military service, he had fed the hungry and clothed the naked and nursed the sick Confederate soldiers, and had made and urged others to make, liberal donations for their relief; that candor compelled him to say he did this voluntarily, and that all his sympathies were with his own people. He rejoiced when Virginia rejoiced and mourned when she mourned, and "was proud of Lee and Jackson and Johnston and my kinsman Stuart, and the host of other gallant Virginians who won immortal honor in an ill-advised and unnecessary contest."

He next discussed the test oath and maintained with unanswerable logic that Congress had no power to require such an oath of members of Congress, since the Constitution of the United States prescribed in detail the qualifications of a member of the House of Representatives and Congress had no power to add to or take from those qualifications. He declared Mr. Lewis seemed to think all that was necessary to secure his admission to the House was that he should take the oath. In this he thought Mr. Lewis was mistaken. If the radicals had the power, they would exclude obnoxious members without regard to the oath. The address was as follows:¹

To the Voters of the Sixth Congressional District:

Fellow-Citizens:

In obedience to earnest solicitations from many citizens

¹Staunton *Spectator*, September 19th, 1865.

of different counties of the district, seconded by the unanimous wish of a mass-meeting of the people of Augusta County, I have been induced to declare myself a candidate for Congress. The position was one which I neither sought nor desired. Whoever may be elected will find it no bed of roses,—but having been tendered to me under circumstances so flattering, I did not feel at liberty to shrink from its trials and responsibilities.

Having served the county in various public offices, from time to time during the last twenty-eight years, I have a right to presume that my political antecedents are not entirely unknown to the people.

I was educated in the belief that the best interests of our country were inseparably associated with our national Union, and taught to cherish it as the Palladium of our liberties. As a member of the Twenty-Seventh Congress, and at later periods as one of the constitutional advisers of Mr. Fillmore, a senator of Virginia, and a member of the Convention of 1861, my best energies were dedicated to the preservation of the Union.

I was inflexibly opposed to the secession of Virginia, and voted persistently against the ordinance which proposed to sever our connection with the United States. I believed, and in oral and printed addresses to the Convention and the people I declared my belief that secession was unwise, inexpedient, unconstitutional and impracticable. I endeavored to prove to the people that it was fraught with evils which the mind could not contemplate without horror. Amidst all the tumult of excitement, when it required no small degree of courage to stand up against the popular clamor, and when day after day members were asking leave to change their votes so as to conform to public sentiment, I remained unmoved. I refused to change my vote against the ordinance of secession, because my opinion of its mischievous character remained and still remains unchanged.

The ordinance passed the Convention on the 17th of April, 1861. It was submitted to the popular vote for ratification or rejection on the fourth Thursday in May fol-

lowing. In the meantime the war had commenced. Hostile armies were within the borders of Virginia, and the vote was a mere matter of form. I voted at that election for ratifying the ordinance, not because I approved it, but because I believed that the war having begun, unless we all went together, we should have an internecine war added to the civil war which had already been inaugurated.

At the adjourned session of the Convention, some months after the ordinance had been ratified by the almost unanimous voice of my constituents, I signed the ordinance, not because I approved it (for I still refused to change my vote on the journal) but because I believed it to be my representative duty to authenticate their act with the usual forms.

When Virginia united her fortunes with those of the Southern Confederacy, I felt it to be my duty to acquiesce in her decision and to submit to the authority of the new government. But I felt it equally due to myself to retire from public life, and to remain in retirement, although an honorable and lucrative position was tendered to me by Mr. Davis in March, 1864.

During the war, I abstained from all participation in public affairs, except on two or three occasions when I was called to address public meetings to urge contributions for the relief of the suffering soldiers and the prisoners going to as well as returning from the North.

My age relieved me from the obligation to render military service, and all the assistance I gave to the Confederate cause was by feeding the hungry and clothing the naked and nursing the sick Confederate soldiers, and making myself and urging others to make liberal donations for their relief.

But I would be wanting in candor if I failed to say that I did this voluntarily, and that after my son and nephews, and brothers-in-law, and other relatives had been drawn into the contest, by the inexorable conscription, all my sympathies were with my own people. Though I believed Virginia to be wrong I could not do otherwise than rejoice when she rejoiced and mourn when she mourned. I was proud of

Lee and Jackson and Johnston and my kinsman Stuart, and the host of other gallant Virginians who won immortal honor in an ill-advised and unnecessary contest.

After the surrender of Lee, I prepared and signed a call for a mass-meeting of the people of Augusta, to consider the propriety of accepting the result of the war as a final settlement of the matters in issue, and of declaring our readiness to return to the Union and to conform our constitution and laws to the new condition of public affairs.

I was called to preside at the meeting and made an address to it which was extensively published in Northern and Southern papers. It was the first reconstruction meeting that was held in the Southern States, and I have reason to believe that its proceedings did much to mould the public sentiment of the State in favor of the restoration of peace and tranquillity to the country.

From that time to the present I have been an anxious spectator of the march of events, and I am gratified to be able to say, that under the wise and conciliatory policy of President Johnson, there is every reason to hope that a brighter day is about to dawn on our State. Slavery has been extirpated, and much inconvenience has arisen from the sudden overthrow of the labor system of the South. But the wonderful energy of our people will soon enable them to accommodate themselves to the change, and I believe there are few now who would care to encounter the hazards of a restoration of slavery, if it were left to their choice.

When, in obedience to the call of my fellow-citizens, I declared myself a candidate for Congress, it was with the view of rendering such aid as I could to the President in carrying out his conservative policy. Should I be elected, such will be my purpose.

But I am met at the threshold with the objection that I am ineligible, and that if chosen by the lawful voters of the district, I will not be allowed to take my seat. On turning to the Constitution of the United States to test the question of my eligibility, I find the qualifications of a member of the

House of Representatives prescribed in detail in that sacred instrument.

Art. 1, Sec. 2, provides that "No person shall be a representative who shall not have attained the age of twenty-five, and been seven years a citizen of the United States, and who shall not when elected be an inhabitant of the State in which he shall be chosen."

This is the only clause which relates to the eligibility of members.

Art. 6 provides that "the senators and representatives before mentioned and the members of the state legislatures and all executive and judicial officers of the United States, and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States."

All the above qualifications I possess according to the letter and spirit of the Constitution. My age is more than twice twenty-five. I am a native of, and have always to the present hour, resided not only in the State but the district in which I am a candidate.

But it is said that Congress in 1862 has prescribed a new and additional qualification for membership, in the form of the following oath, which I will be required to subscribe before I can take my seat:

"I (A. B.) do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power or constitution within the United States hostile or inimical thereto; and I do further swear (or affirm) that, to the best of my knowledge and ability, I will

support and defend the Constitution of the United States against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God."

I propose briefly to examine this new congressional test with a view to ascertain whether it is in conformity with the Constitution, and whether Congress can consistently with that instrument require it to be taken.

In the fifty-second number of the *Federalist*, which is conceded on all hands to be the highest and most authentic exposition of the Constitution, because it was written almost co-temporaneously with it and by the men who are justly regarded as the fathers of the Constitution, Mr. Madison in expounding the true meaning of Art. 1, Sec. 2, above quoted, says:

"A representative of the United States must be of the age of twenty-five years, must have been seven years a citizen of the United States, must at the time of his election be an inhabitant of the State he is to represent, and during the time of his service must be in no office under the United States; under these reasonable limitations, the door of this part of the Federal Government is open to merit of every description, whether native or adoptive, whether young or old, and without regard to poverty or wealth, or any particular profession of religious faith."

The object of a written constitution is to confer on the several departments of government the powers appropriate to each, and to impose such limitations and restrictions as shall restrain usurpation and abuse. It fixes their boundaries with all practicable precision, and hedges them round with every necessary defence. Congress is itself the creature of the Constitution and possesses only such powers as are granted by the Constitution. The Constitution is the most solemn and authentic expression of the will of the nation.

It can be altered only in the mode prescribed by the Constitution itself. Congress can neither add to nor take from any of its provisions, for the Constitution is as much a law unto Congress, as the acts of Congress are a law unto the people. The Constitution is a rule of action prescribed by the sovereign power, the people, to their agents, the representatives in Congress. Whatever the Constitution has done Congress cannot undo, nor can Congress do what the Constitution has left undone, except in pursuance of some delegated power.

Certainly there can be no subject which more appropriately falls within the domain of the organic law than this regulation of the tests of eligibility of members of the most potent and important department of the Federal Government. To leave a subject of so much interest and magnitude, and liable to so much abuse, unsettled and dependent on the caprice, or passion, or party prejudices of the day, would argue a want of foresight by no means creditable to the wisdom of the fathers of the republic. Even in our State Constitutions we find the subjects of suffrage and eligibility to office always engaging the most earnest attention of their framers. How much more important is it that these matters should be fixed on a firm basis in a great Federal Republic which reaches from ocean to ocean, and from the lakes of the North to the Gulf, and embraces such a variety of sometimes apparently conflicting interests.

The wisdom of our fathers foresaw this necessity, and they have prescribed with clearness all the tests of eligibility. I say all, on the authority of Mr. Madison, who says, "under these reasonable limitations the door of this part of the Federal Government is open to merit of every description." Mr. Madison wielded no careless pen. He was engaged in the discussion of a great subject of constitutional law. He was expounding the fundamental law of the Republic for the then present and future generations. No other meaning can fairly be attached to his words than that the enumerated limitations were the only limitations to be imposed on eligibility, and that outside of those limitations the door of the

House of Representatives was open to merit of every description.

The question then arises, can Congress add to the limitations prescribed by the Constitution? Can it enlarge or diminish the qualifications of age or residence? Can it abolish them altogether? If it has a right to modify them at all, it would seem, by the same process of reasoning, that it would have the power to strike them out entirely. I presume, however, no such power will be claimed by the wildest zealot. Now, if it cannot strike them out, can it nullify these provisions by adding others which practically unsettle the very foundations of the government?

The true principle seems to be this: The Constitution prescribes the qualifications, and the two Houses apply the tests, thus provided, to their respective members. You will look in vain among the grants of power to Congress for any clause which confers on Congress the right to prescribe new tests of eligibility or qualifications to the members of either House.

But it has been contended that under Sec. 5 of Art. 1 this power exists. That Section reads thus: "Each House shall be the judge of the elections, qualifications and returns of its own members."

Let us consider this clause carefully. In the first place it confers no power whatever on Congress which is a body composed of two Houses. The expression "Each House" clearly indicates that in the performance of the functions devolved on the Houses respectively, they act separately. Each acts for itself. Each is the sole judge of the election and qualification of its members. The House has nothing to do with the election, etc., of senators and the Senate has nothing to do with the election, etc., of members.

But again the constitution says: "Each House shall be the judge of the election, etc." Does this clause grant legislative power to Congress? Does it authorize Congress to pass a law on the subject? Clearly not. The function which it is required to perform is simply judicial. Each House is to judge, in other words, it is to ascertain judicially, by the

examination of evidence, whether each member possesses the constitutional requisites of eligibility, and to decide according to the evidence. In support of this view of the subject, I refer to the opinion of that distinguished jurist and constitutional lawyer, Chancellor Kent. In his Commentaries, Vol. 1, page 234, he says:

“Each House is made the sole judge of the election return and qualifications of its members * * * as each House acts in these cases in a judicial character, its decisions, like the decisions of any other court of justice, ought to be regulated by known principles of law, and strictly adhered to for the sake of uniformity and certainty.”

I think I am warranted, therefore, in saying that this clause of the Constitution confers no power on Congress to prescribe a test oath, like that required by the act of 1862.

The only remaining clause which bears on the subject is the one already quoted, which provides that members of Congress, and all executive officers, State and Federal, shall take an oath to support the Constitution of the United States. It would require a keener vision than I possess, to discover in this provision any legitimate authority to require any other test. It can only be deduced, by a very strained process of reasoning, from the clause forbidding the application of any religious test. This system of reasoning involves a complete inversion of the true rule of construction applicable to the Constitution, and assumes that Congress possesses all powers which are not prohibited specially, instead of only those which are granted.

Upon a fair view, then, of all the clauses of the Constitution having any reference, direct or indirect, to the point under discussion, I am at a loss to perceive any authority delegated to Congress to pass any such law.

If we then turn from the language of the Constitution, and consider the subject in the light of expediency and common sense, I think we will find the objections to the exercise of such a power equally strong. If Congress has the power to provide one kind of test oath, why may it not provide any

other it may from party feeling or prejudices deem expedient? If the power exists, where are the limitations to it? The only limitation which seems to be recognized, is in regard to a religious test. If this be true, then Congress may pass a law providing for a property qualification, or any political test it may think proper. If this be conceded, then what is to hinder a dominant faction from perpetuating its power, by providing a test oath which will render all persons ineligible to Congress who have opposed their peculiar policy? The precedent would be fraught with danger, and would convert our government of limited powers, hedged in by constitutional restrictions, into an absolute despotism, regulated and controlled only by the will of a dominant majority. As the South is destined, in all future time, to be in a hopeless minority, it should be the last to surrender the safeguards of its rights provided by the Constitution. We should make the issue at the outset. We should deny the right of Congress to pass any such law. If our representatives should be excluded, we should appeal to the people, trusting that their patriotism would frown down all such efforts at injustice, and speedily re-establish the Government on its true constitutional basis.

In regard to the true construction of the oath itself, much diversity of opinion seems to exist. My competitor, Mr. Lewis, says he can take the oath, while I cannot. This is the strong objection which he, and his supporters, make to my election. They say, why elect me, when it is obvious that I will not be allowed to take my seat?

Mr. Lewis is an honorable and high-toned gentleman, and I have no doubt he thinks he can with propriety take the oath. I think he is in error on that point, and I believe that my chance of being received into Congress is better than his. He seems to think that all that is necessary to secure his admission is that he shall take the oath. In this I think he is mistaken. If the radicals have the power, they will exclude obnoxious members without regard to the oath. They will go behind the oath, and enquire into all the antecedents of every claimant of a seat. If they do this, how will Mr.

Lewis stand? It is a matter of public notoriety that he sought, obtained, and executed large contracts with the Confederate Government to make iron to be used for military purposes. Surely it was quite as strong an evidence of hostility to the United States on his part to furnish its enemy iron to make cannon, and shot and shell to kill Federal soldiers, as it was on mine to give and in public speeches to urge others to give food and clothing to famishing and naked soldiers, and the prisoners of both combatants.

Mr. Lewis and I differ as to the true construction of the oath. He and I occupied the same position of opposition to the war. I fed and clothed Confederate soldiers, and made speeches urging others to do the same. He fed and clothed soldiers, and manufactured large quantities of iron for the Confederacy, under special contracts with it. He seems to think that his opposition to the war reaches through and gives color to all his acts during the war; that as he was involuntarily involved in the war, that that want of volition will apply to all his acts. In my judgment, the oath requires that the test of volition shall be applied to each separate act. If he voluntarily bought iron works and entered into, and executed contracts for making iron, he has incurred the penalty intended to be denounced by the act of 1862. If I am in error, and Mr. Lewis's construction of the oath be correct, then I can take it as readily as he.

In conclusion, I will add that I have received from several Northern States assurances that my election will be hailed with satisfaction by the conservative men of the North. My earnest and persistent opposition to secession is well known throughout the Northern States, and I have good reason to believe that I would be admitted to my seat.

The question seems to me to narrow itself down to this. Whose views are you to consult in selecting your representative? Are you to seek to conciliate the radicals or the conservatives? If I am elected, I shall co-operate with the conservatives. The radicals having taken open ground against the policy of President Johnson; I will seek to strengthen his hands, and support him against his enemies.

Common prudence, as well as common gratitude, dictates this course.

Virginia must now take her stand. If we surrender the great principle now in issue, where is concession to stop? Each concession will furnish the groundwork for further demands, and we may find in the end that we have conceded until we have forfeited our own self-respect and the respect of our adversaries. Better that Virginia be unrepresented than misrepresented.

ALEX H. H. STUART.

The result of the election was the choice of Mr. Stuart by an overwhelming majority, but he and his colleagues were all refused admission to their seats.

CHAPTER XXX

VIRGINIA MADE MILITARY DISTRICT NO. 1—THE CONSTITUTIONAL CONVENTION OF 1867-1868— PERSONNEL OF ITS MEMBERS



THE members of the General Assembly elected in October, 1865 assembled in Richmond on December 4th. Both houses were organized, and Colonel John B. Baldwin of Augusta County was chosen Speaker of the House of Delegates. He was an eminent lawyer and an able debater; and had been a colonel in the Confederate Army and a member of the Confederate Congress. The members of the Legislature were all representative, conservative citizens, and of the ninety-seven members of the House of Delegates all but one had been old-line Whigs.¹

Much constructive legislation was enacted to meet the changed condition of affairs wrought by the war, and the acts of the session fill four hundred and fifty-eight pages. The influence of Colonel Baldwin over the body was so commanding that it was customary to refer to it as the "Baldwin Legislature." The next session assembled in December, 1866, and at its expiration by limitation in April, 1867, an extra session was immediately held in the same month. The printed acts of these two sessions contain nine hundred and sixty-eight pages.

The "restored government" of Virginia had been recognized by Congress and the President of the United States ever since its formation in Wheeling, in 1861, as the legal government of the State of Virginia. It had given the consent of Virginia to the formation of the new State of West Virginia out of a part of her territory, and after the fall of

¹History of Virginia (Morton), p. 81.

the Confederate Government, President Johnson had recognized Pierpont as Governor of Virginia. The Alexandria Legislature, which with Governor Pierpont constituted the "restored government" of the State, met in Richmond on June 19th, 1865, and, among other things, ordered an election to be held in October, to choose members of the Legislature to succeed those whose terms were soon to expire. The election was held, and the Legislature assembled and performed its duties in a regular and orderly manner, as did also its successor at the session of 1866-1867.

Thus it would seem that Virginia, as represented by the "restored government," had never been in rebellion and had never ceased to be a member of the Union.

Nevertheless on March 2nd, 1867, Congress passed an act for the more efficient government of the "Rebel States." Pierpont and his "restored government" were treated very much as "rebels," and Virginia was degraded from her position as a sovereign State to a military district. A major-general was placed in command of the district with headquarters in Richmond, and was clothed with supervisory powers over the State Government. In fact, Governor Pierpont had been subject to the orders of generals from April 3rd, 1865, until the expiration of his term of office on April 6th, 1868, when General Schofield, then commanding the district, appointed Henry H. Wells, Governor. But the Act of Congress of March 2nd, 1867, declared that the civil government was provisional only, and was in all respects subject "to the paramount authority of the United States, at any time to abolish, modify, continue or suspend the same."¹

On March 23rd, 1867, an act was passed by Congress providing for an election to determine whether or not a constitutional convention should be held, and at the same time to choose the members to sit in it. If a majority of the votes cast was in favor of holding a convention, then the commanding general was to notify the persons elected and fix

¹Munford, Code of Va. 1873, p. 24.

the time and place for the convention to meet. The constitution was to be submitted to the voters for ratification. If ratified, a certified copy was to be transmitted by the president of the convention to the President of the United States, who was to transmit the same to Congress, and when the proposed Constitution had been approved by Congress, the State was to be entitled to representation in Congress.

This act, known as the Reconstruction Act, conferred upon the negroes the right to vote for members of the convention, and required that there should be a registration of the voters prior to the election. Accordingly, General Schofield, who was then in command of the military district, issued an order on April 2nd, 1867, suspending all elections by the people, until the registration was completed. It thus resulted that no sessions of the Legislature were held from the expiration of the session of 1866-'67, until 1870. The registration began on June 22nd, and was completed on July 20th. The number of voters registered was 225,933, of whom 120,101 were white and 105,832 were colored. The colored voters were in a majority in one-half of the counties, and in close political alliance with these ignorant negroes were a large number of ignorant Northern men who had drifted to the State with the Federal Army as petty officers, chaplains, commissaries, clerks and sutlers.¹

The election was held in October, and the Convention assembled in the hall of the House of Delegates in Richmond on December 3, 1867. The personnel of the members was a fair type of the voters, and it is safe to say that no such motley and ignorant body of men ever before assembled in a legislative body. The *Richmond Dispatch* of April 20, 1868, gave an account of the members as follows:

"The Convention consisted of one hundred and five members, of whom some thirty-five were Conservatives, some sixty-five were Radicals and the remainder doubtful. The Radicals were composed of twenty-five negroes, fourteen

¹Annals of Augusta County, Waddell, page 320. History of Virginia, Morton, p. 97.

native-born white Virginians, thirteen New Yorkers, one Pennsylvanian, one member from Ohio, one from Maine, one from Vermont, one from Connecticut, one from South Carolina, one from Maryland, one from the District of Columbia, two from England, one from Ireland, one from Scotland, one from Nova Scotia, and one from Canada. Of the fourteen white Virginians belonging to this body, some had voted for secession, others had been in the Confederate service, others were old men whose sons had been in the Confederate Army; hardly one had a Union record. A large proportion of the Northerners and foreigners had drifted here in some non-combatant capacity."

Joseph A. Waddell of Augusta, was a Conservative member of the Convention. He was a man of liberal education and one of the most highly-respected citizens of the community; educated as a lawyer, he settled in Staunton but soon gave up the practice of law and was for many years the owner and editor of the *Staunton Spectator* and was the author of the "Annals of Augusta County." On January 29th, 1868, he wrote for the *Staunton Spectator* a pen-and-ink sketch of the Convention, "drawn from life on the spot," as follows:

"Since the date of my last letter, the farce of 'High Life Below Stairs' has been performed daily in the Capitol before an admiring crowd of idle blacks who fill the galleries of the hall. At twelve o'clock precisely, the president, having already since sunrise undergone the labors of Hercules in his court-room, takes the chair and in the blandest tones calls the Convention to order. The burly and apparently good-natured secretary is safely ensconced behind his desk. The chaplain, who is exceedingly meek and slick in appearance, goes through his part of the performance, occasionally remembering in his petitions the Ex-Confederates. The assistant-secretary next proceeds to read the journal of the previous day, getting over printed matter quite readily, but stumbling sadly over manuscript. All this being done, a hundred resolutions, more or less, are forthwith precipitated upon the chair. A score of members, white and black

shout, 'Mr. President!' all at once, and at the top of their voices; a dozen more, led on by the white member from Norfolk, rise to points of order. The sergeant-at-arms raps vigorously with his mallet and calls, 'Order, gentlemen!' 'order, gentlemen!', looking very fierce, and making more disorder than everybody else. By this time the president is grievously perplexed. He tries to decide the various points of order. Sometimes the chair is in doubt, and asks to be advised. At another time he announces his decision, or at least the chair is inclined to think so. Forthwith one dozen copies of Jefferson's Manual are drawn upon him. The chair begins to hesitate,—he—believes the gentleman is right, takes back his decision, retracts incontinently,—and looks as humble as Uriah Heep. Thus the business begins and proceeds day after day.

"At this moment the subject of taxation is under consideration, and gives rise to much debate. This subject, as you are aware, has occupied the attention of the ablest political economists and statesmen for many centuries, and I congratulate the world that its true principles are about to be settled at last by a competent tribunal. Dr. Bayne (whether M. D., D. D. or LL. D., this deponent sayeth not) has recently enlightened us upon the subject. The question presented no difficulties to his clear and vigorous intellect. He spoke for a good hour, shedding a flood of light upon a great variety of subjects. He told us about the bears and 'panthers' in the Dismal Swamp near Norfolk, where the doctor lives, and declared his determination to have free schools established there.

"Another topic upon which the doctor enlightened us during his speech on taxation was the mode of constructing pig-pens and chicken-coops in Massachusetts. He had rusticated for a time in the Bay State. Taking up a printed document which was lying before him, he bent it into the shape of a model, the original of which was no doubt brought over by the Pilgrim Fathers in the Mayflower, along with all other useful institutions. I am satisfied that our new constitution should provide for the introduction

of the Massachusetts pig-pen and chicken-coop into this State without delay. Dr. Bayne informed us that in the Bay State one little boy fed all the pigs, while here it took four men and five women, and old master to boot.

“And now Mr. Frank Moss, of Buckingham County, White Radical, gets the floor on the same subject:

“‘Will the gentlemen allow me a minute?’ asks Mr. Moss. ‘No: I ain’t gwine to ’low you nary minit.’ The very black gentleman proceeds to say that he has sot here and hern em talk about taxation, etc. He goes for laying the burden on land. So do all the colored members, and some of the whites, expecting by this means to force the owners to sell or give away a part of their lands. If I understood Dr. Bayne, however, taxing the lands heavily will cause pigs to grow much faster and larger.

“Another member,—and a white man this time,—advocates a capitation tax, but is entirely opposed to a poll tax! A mischievous Conservative politely asks the speaker to explain the difference, and we are told that a capitation tax is on the head and a poll tax is for roads,—that’s the way I understand it, sor! These are our constitution-makers! A conservative looker-on is filled with indignation, disgust and amusement all at one moment. I have seen several gentlemen from the North who have visited the Convention, and they seemed aghast at the spectacle.”

The Convention completed its work and adjourned on April 25th, 1868. The constitution, as framed, provided that no man who could not take the Congressional test oath should be allowed to vote at any election, or be allowed to serve on any jury, or be eligible for any public office. This oath would have disfranchised the majority of the white men in the State, and made them ineligible to hold any public office or to serve on juries. It was fortunate, however, that the act of Congress, which authorized the Convention to be held, provided that the constitution which might be framed should be transmitted to Congress for its approval before it was submitted to the popular vote for ratification or rejection.

When a copy of the constitution was received in Washington, a bill was introduced in the House of Representatives approving it, and it was sent to the Senate for its concurrence without one word of opposition from any quarter. It is fair to state that Virginia had no representation in Congress, and there was, therefore, no one officially authorized to voice her objections to its iniquitous provisions. Fortunately, before the Senate took up the bill Congress adjourned from December 21st, 1868, to January 4th, 1869. The sentiment of a great majority of the leading conservative men of the State, as well as the public press was opposed to the adoption of the constitution. If this course had been pursued and been successful, it would have left Virginia under military rule, as she then was; and, on the other hand, if the constitution had been adopted, the State would have been governed by scalawags, carpetbaggers and ignorant negroes, and the conservative, educated white men, who owned practically all of the property in the State, would have been disfranchised and excluded from all participation in public affairs. The time had arrived for some constructive action; for action without delay, as Congress would soon reassemble and the bill would pass in the Senate.

Mr. Stuart keenly realized the grave situation, and he instantly set on foot a movement which restored Virginia to the Union and placed her government in control of her best citizens. No more beneficial service was ever rendered the State by any one in all her history, and if Mr. Stuart had never accomplished anything else for Virginia, and he did much more, his name would be worthy of being enshrined among her most illustrious statesmen. He inaugurated and carried into successful execution the movement which saved the State from the test oath and disfranchisement clauses of the Underwood Constitution.

About this time Mr. Stuart received an invitation to attend a banquet given by leading members of the Conservative Democratic party in Washington City, on January 8th, 1868, to celebrate the anniversary of the Battle of New Orleans. How keenly he felt his own political isolation, and

the indignity which had been inflicted upon his State, and the people of Virginia, is shown by his letter declining the invitation, in which he wrote:

Staunton, Va., January 2, 1868.

Gentlemen:

I pray you to accept my thanks for your kind invitation to attend a banquet to be given at the Metropolitan Hotel in the City of Washington, on the 8th instant, under the auspices of leading members of the Conservative Democratic party.

Under ordinary circumstances it would be peculiarly gratifying to me to participate in the festivities of that occasion, and to enjoy "the feast of reason and flow of soul" which, I doubt not, will give zest to your entertainment. But situated as I am, disfranchised as a citizen, denied the political privileges which are accorded to my negro servant; repelled from the hall of the House of Representatives, to which I was elected almost by acclamation; my native State, the proud old mother of Washington and Henry and Jefferson, unrecognized save as Military District No. 1, I must confess I would feel somewhat out of place at your board.

In former days, when I visited Washington as representative of the people, or as the associate of Webster, Crittenden and Corwin, in the executive councils of the nation, I felt that in the eye of the law at least, I was the peer of the loftiest in the land. I was privileged to think freely and to speak freely on all matters of public concern. Were I to join your circle now, I should feel painfully conscious of the difference between your position and mine. No military order can consign you to a dungeon beyond the reach of *habeas corpus*, and persuasive bayonets admonish you to speak with "bated breath." With me the case might be different. But be that as it may, while Virginia mourns I cannot rejoice. While the cypress encircles her brow, I cannot twine the myrtle around my own.

But may I not hope that the present condition of things

is temporary? If I do not misinterpret the signs of the times, the day is near at hand when, by the mandate of a magnanimous people, the shackles will be stricken from the limbs of Virginia and her Southern Sisters, and there shall be given unto them "beauty for ashes, the oil of joy for mourning and the garment of praise for the spirit of heaviness." When that glorious day shall have arrived, I shall be happy to meet you and your fellow-patriots around the festive board, and on behalf of Virginia to offer a willing and hearty tribute of gratitude to the noble Conservative Democrats who set her free.

Respectfully, your ob't Serv't,
Alexander H. H. Stuart.

CHAPTER XXXI

GENERAL ROBERT E. LEE AND MR. STUART AT THE WHITE SULPHUR SPRINGS IN 1868—LETTER TO GENERAL ROSECRANS



IN NOVEMBER, 1868, the election took place for President and Vice-President of the United States. General U. S. Grant and Schuyler Colfax were nominated by the Republican party on May 19th, and on July 4th Governor Horatio Seymour and General Francis P. Blair were chosen as the nominees of the Democratic party. Great interest was felt in the result of the election, and the Democrats were hopeful of electing their candidates, as Governor Seymour was an exceedingly able man and possessed great popularity, especially in the State of New York. General W. S. Rosecrans was one of the active managers of his campaign, and the loyalty of the South to the Federal Government and its attitude toward the negroes were issues in the election.

General Robert E. Lee was spending the month of August at the White Sulphur Springs, and Mr. Stuart and General John Echols, who was then living in Lexington, Virginia, were also visitors there. General Lee while there received a letter from General Rosecrans requesting him to write a letter for publication stating the attitude of the Southern people toward the Federal Government and the enfranchisement of the negroes. It is a well-known fact that General Lee had persistently refused, after the war, to take any active part in politics. He had been a soldier all his life, and as he expressed it, not "a public man." He had no desire, or purpose to engage in political controversies, yet he was willing to aid in putting the truth about these subjects, before the people of the North and the West, and

to assure them that the South had accepted the changes wrought by the war and intended in good faith to abide by the result.

General Echols sought out Mr. Stuart and told him General Lee had asked him to turn over to him the letter of General Rosecrans with the request that he would prepare such an answer, as in his judgment was proper, as he (General Lee) was not a public man and had confidence in Mr. Stuart's judgment and experience in public affairs. Mr. Stuart at once prepared the following letter:

* * * * *

“Whatever opinions may have prevailed in the past with regard to African slavery or the right of a State to secede from the Union, we believe we express the almost unanimous judgment of the Southern people when we declare that they consider these questions were decided by the war, and that it is their intention in good faith to abide by that decision. At the close of the war, the Southern people laid down their arms and sought to resume their former relations to the government of the United States. Through their State Conventions, they abolished slavery and annulled their ordinances of secession; and they returned to their peaceful pursuits with a sincere purpose to fulfil all their duties under the Constitution of the United States which they had sworn to support. If their action in these particulars had been met in a spirit of frankness and cordiality, we believe that, ere this, old irritations would have passed away, and the wounds inflicted by the war would have been, in a great measure, healed. As far as we are advised, the people of the South entertain no unfriendly feeling towards the government of the United States, but they complain that their rights under the Constitution are withheld from them in the administration thereof. The idea that the Southern people are hostile to the negroes and would oppress them, if it were in their power to do so, is entirely unfounded. They have grown up in our midst, and we have been accustomed from childhood to look upon them with kindness. The change in the relations of the two races has wrought no

change in our feelings towards them. They still constitute an important part of our laboring population. Without their labor, the lands of the South would be comparatively unproductive; without the employment which Southern agriculture affords, they would be destitute of the means of subsistence and become paupers, dependent upon public bounty. Self-interest, if there were no higher motive, would therefore prompt the whites of the South to extend to the negro care and protection.

“The important fact that the two races are, under existing circumstances, necessary to each other is gradually becoming apparent to both, and we believe that but for influences exerted to stir up the passions of the negroes, the relations of the two races would soon adjust themselves on a basis of mutual kindness and advantage.

“It is true that the people of the South, in common with a large majority of the people of the North and West, are, for obvious reasons, inflexibly opposed to any system of laws which would place the political power of the country in the hands of the negro race. But this opposition springs from no feeling of enmity, but from a deep-seated conviction that, at present, the negroes have neither the intelligence nor the other qualifications which are necessary to make them safe depositories of political power. They would inevitably become the victims of demagogues, who, for selfish purposes, would mislead them to the serious injury of the public.

“The great want of the South is peace. The people earnestly desire tranquillity and restoration of the Union. They deprecate disorder and excitement as the most serious obstacles to their prosperity. They ask a restoration of their rights under the Constitution. They desire relief from oppressive misrule. Above all, they would appeal to their countrymen for the re-establishment, in the Southern States of that which has been justly regarded as the birth-right of every American, the right of self-government. Establish these on a firm basis, and we can safely promise, on behalf of the Southern people, that they will faithfully obey the Constitution and laws of the United States, treat the negro

population with kindness and humanity, and fulfil every duty incumbent on peaceful citizens, loyal to the Constitution of their country."

Mr. Stuart took the letter to General Lee, and, after expressing his high appreciation of the honor he had done him by requesting him to prepare it, told General Lee he had written such a reply to General Rosecrans' letter as he thought appropriate, but that he hoped he would make such changes in it as he deemed proper, or discard it altogether if it did not meet with his approval. Mr. Stuart had, in the original draft, used the words "malign influence." General Lee read the paper carefully and then said: "Mr. Stuart, there is one word I would like to strike out, if you have no objection. You have used the word 'malign.' I think that is rather a harsh word," and smiling, he added: "I never did like adjectives."

The offending adjective was promptly stricken out and that was the only change made in the original draft.

General Lee and thirty-one other representative men from nine of the Southern States signed the letter and it was sent to General Rosecrans on August 26th, 1868. The letter was extensively published in the North and West, as well as in the South, and made a most favorable impression upon the public mind in favor of the Democratic candidate. Indeed, the effect was of such marked character that on September 6th, General Rosecrans wrote General Lee twice on the same day, enclosing a proposed program, which after conference with Mr. Samuel J. Tilden and Mr. John D. Van Buren, who was Governor Seymour's confidential friend, they thought it would be wise to pursue. He urged General Lee to have public meetings held in the Southern States to ratify, successively, "The White Sulphur Letter," at sufficient intervals to allow the public press to publish the proceedings of those meetings to the country.

As Mr. Stuart had prepared "The White Sulphur Letter" at General Lee's request, it was not unnatural that these

last letters of General Rosecrans should be turned over to him. Accordingly, Mr. Stuart received the following letter from General John Echols:

Lexington, Va., Sept. 16, 1868.

Hon. A. H. H. Stuart,
Staunton.

Dear Sir:

General Lee requests me to forward to you the enclosed papers, which will explain themselves. He will notify General Rosecrans that he has given to them this direction. He also requests me to say that in signing the "White Sulphur Springs" letter, he went as far as he thought it was proper and judicious that he should go, and that he did not desire to be connected any further, in any way, with the political questions or canvass of the day. He deems it right, however, as you are a public man, in whose ability and prudence he has confidence, to commit these papers to you, in order that you may take such action thereon, at your own instance, and upon your own responsibility, as may seem to you likely to promote public good, without connecting his name in any way with your action. You will understand and appreciate the General's wishes and motives.

I am very truly,

Jno. Echols.

Mr. Stuart took no action upon these last letters of General Rosecrans.

Grant and Colfax were elected President and Vice-President. But, when it is recalled that this was the first Presidential election after the close of the war; that Grant was the popular hero of that war, and that the Republican party during the canvass waved the "bloody shirt," and aroused a great deal of bitter feeling against the South, the large vote cast for Seymour and Blair is astounding. Grant received the electoral votes of twenty-five States, Seymour

of eight, but the popular vote was 2,985,031 for the former and 2,648,830 for the latter.

Florida cast no electoral vote, and Mississippi, Texas and Virginia were not allowed to do so. Stephens in his "History of the United States," page 486, says:

"Had they and the disfranchised in the other States been allowed to vote, the popular majority would unquestionably have been largely in favor of Seymour and Blair, notwithstanding the new colored element that had been clothed with the right of suffrage. As it was, the Radical majority was only 336,301."

CHAPTER XXXII

THE COMMITTEE OF NINE



R. STUART now directed his whole attention to finding some means to prevent the Underwood Constitution, as it was called, with its test oath and disfranchising clauses, from being fastened upon the people. The outlook was gloomy. In little more than two weeks Congress would reassemble, and the Senate would approve the Constitution, as the House had already done, unless some effectual objections were raised to its most obnoxious features. The greatest obstacle to prompt action was the difficulty of reaching the people of the State and arousing them to a full realization of the impending danger. There was no efficient, organized political party to act for the conservative portion of the people. It is true there had been held in Richmond on December 11th, 1867, a State Convention, consisting of eight hundred members of the leaders of the old Whig and Democratic parties, to organize a Conservative party to oppose the Radical Republican party. Mr. Stuart was the chairman of this meeting.¹ An Executive Committee was appointed to direct the affairs of the party. If, however, the party machinery was fully organized at that time, it was impotent and helpless. This is shown by the fact that Mr. Stuart wrote to a friend in Richmond urging him to call on the organized political committees in that city and get them to formulate a protest against the approval of the Constitution by the Senate. He received a reply that the committees thought they had no authority over the subject, and, therefore, declined to take any action in the matter!²

It thus became apparent that if the people of Virginia

¹History of Virginia, (Morton), p. 115.

²Stuart, Restoration of Virginia, p. 18.

were to get any relief from the Underwood Constitution, they would have to take the matter in their own hands and act for themselves. Who was to take the lead and prove equal to the crisis? Not a voice had been raised to sound the alarm and point out a course which might solve the difficulty. It was at this critical juncture of affairs that Mr. Stuart appeared upon the political stage and inaugurated what became known as "The Committee of Nine."

After the close of the Presidential election in 1868, which resulted in the election of General Grant over Mr. Seymour, Mr. Stuart realized that universal suffrage was a foregone conclusion in the Northern States and that they had the political power to put it into effect. The negroes in Virginia under the reconstruction acts had been clothed with the right of suffrage in the election of members of the convention which framed the constitution. The people had thus already had a practical experience of what it meant. Mr. Stuart was well aware that any proposed compromise of the Underwood Constitution upon the basis of universal suffrage and universal amnesty would bring down upon his head a storm of denunciation, but he did not hesitate.

His first move was on December 19th, 1868, when he wrote a letter to the Richmond *Dispatch*, signed "Senex," in which he reviewed the political situation in Virginia, and called attention to the disastrous results that would befall the white people of the State if the Constitution were adopted with the test oath and disfranchising clauses. He recalled the fact that the people had made many sacrifices, and declared that they would be called upon to sacrifice many more cherished opinions in order to avert the dreadful calamities that threatened them. However, said he, the question to decide was not what they desired, what they were willing to take, but what they would be allowed to retain. He frankly admitted that the mode of carrying out the compromise suggested by him was by no means free from doubt. The time was short; Congress would soon reassemble. He urged that the Executive Committee, appointed by the Con-

servative Convention held in Richmond on December 11th, 1867, should "take the Constitution of 1850, and the proposed Constitution of 1861, and from the two select the better provisions, omitting the word "white" and all other provisions that would be in conflict with "universal suffrage and universal amnesty," and thus frame a complete Constitution. "Let us, then," he wrote, "avail ourselves of this idea. Let the Central Conservative Committee call together, say, two gentlemen of approved wisdom and integrity from each congressional district, to meet that committee in Richmond, about the first of February, to agree upon a constitution for Virginia, to be submitted to Congress as a substitute for that recommended by the late Convention. Let this constitution embody the universal suffrage and universal amnesty proposition in its broadest terms, and negro eligibility to boot!"¹

This article was written without conference with any one and was not completed until a late hour at night on December 18th, 1868. The mail left Staunton at an early hour next morning and Mr. Stuart, being anxious to have the letter published as promptly as possible, took it to the railroad station to mail it on the train. Fortunately, he found General John Echols there on his way to Richmond. He explained to him the object of his early visit, gave him the article and told him he wished to have it published at the earliest day possible. He requested General Echols to read it, and expressed the hope that it would meet with his approval and that he would use his influence to secure its prompt publication. He also said to General Echols that if any objection was made because he had not signed his name to the article, thereby assuming responsibility for its authorship, Echols was authorized to inform the editor of the *Dispatch* that he might refer to him as the author.

General Echols took the letter to the editor of the *Dispatch* and requested him to publish it. After reading it, the editor objected to publishing it on the ground that

¹Stuart, Restoration of Va., P. 23.

public opinion was not prepared to entertain the propositions contained in it, and also asked why Mr. Stuart had not signed his name to it. General Echols replied that Mr. Stuart had authorized him to say that he could be referred to as the author. The objections of the editor still seemed not to be removed and no definite promise was given to publish it. General Echols then visited the office of the Richmond *Whig*, where objections were made to its publication similar to those raised by the *Dispatch*. He next submitted the letter to the *Examiner*, and the editor promptly declined to publish it under any circumstances. On his return to the hotel in the late afternoon, General Echols sought out Colonel W. T. Sutherlin, and informed him of the result of his visits to the three newspapers. The latter volunteered to accompany General Echols to the home of Mr. Alexander Mosely, editor of the *Whig*, and try to induce him to reconsider the matter and publish the letter. They visited Mr. Mosely, and after a full and free discussion of the paper, Mr. Mosely finally agreed that he would publish it in the *Whig* on the following conditions: Mr. Stuart should be referred to as the author; the editor should not be held committed to the proposition contained in the paper and the *Dispatch* should agree to publish it simultaneously on the same conditions. This the *Dispatch* consented to do, and the publication was made in both papers on December 25th, 1868.

The difficulty in getting the letter published indicates how unprepared the public mind was to accept Mr. Stuart's proposition of "universal suffrage and universal amnesty." A storm of opposition and ridicule was raised against the proposition, and many of the most prominent men in the State denounced it in the bitterest terms. Undaunted, Mr. Stuart met the issue. He was convinced that the welfare and prosperity of Virginia depended upon carrying into effect his plan of compromise, and to this end he directed his whole thought.

While disturbed by the delay in the publication of his letter, nevertheless he lost no time but conferred with lead-

ing citizens of Staunton, informed them of the contents of his letter and urged them to unite with him in organizing opposition to the passage by the Senate of the House Bill approving the Underwood Constitution. The most prominent of those consulted were Thomas J. Michie, Judge Hugh W. Sheffey, Nicholas K. Trout and Major H. M. Bell. Colonel Baldwin was absent from home at the time of this conference and, therefore, could not be consulted.

A few days later, on December 25th, these gentlemen with General Echols and Colonel Baldwin met at Mr. Stuart's office to consider the best means of promoting the object they had in view. The whole subject was fully discussed, and all agreed that it was necessary to secure the co-operation of as many leading and influential men of the State as possible. They, therefore, decided to issue, at once, invitations to prominent men in all parts of the State to meet in Richmond on December 31st, 1868, to confer and decide what measures should be adopted to save the State from the dangers of the Underwood Constitution. The invitation was prepared and all present signed it, except Judge Sheffey, who was judge of the Circuit Court, and it was deemed best that he should not sign. As soon as the invitations were printed, they were mailed to such men in various parts of the State as it was thought would co-operate in the movement. On December 30th, 1868, Mr. Stuart, Mr. Michie, General Echols, Major H. M. Bell and Mr. N. K. Trout left for Richmond to attend the meeting which was to take place the next day.

The meeting was well attended, and assembled at noon on December 31st at the Exchange Hotel. It was organized by electing Mr. Stuart chairman and C. C. McRay secretary. The chairman explained the object for which the meeting had been called. After a good deal of discussion, it was determined that a committee of eight (of which Mr. Stuart was made chairman by the meeting) should be appointed to report suitable business for the consideration of the meeting. The chairman was authorized to appoint the other members of the committee, and thereupon

named Messrs. George W. Bolling, of Petersburg, Thomas S. Flournoy, of Halifax, John L. Marye, Jr., of Fredericksburg, D. C. DeJarnette, of Caroline, Frank G. Ruffin, of Chesterfield, B. H. Magruder, of Albemarle, and James Johnston, of Bedford. The meeting then adjourned to the next day to receive the report of the committee. Pursuant to the adjournment, the meeting reassembled the next day and the committee submitted its report in which they declared:

“While the convictions of the undersigned and, as they believe, of the people of Virginia generally remain unchanged, that the freedmen of the Southern States, in their present uneducated condition, are not prepared for the intelligent exercise of the elective franchise and the performance of other duties connected with public affairs, and are, therefore, at this time, unsafe depositaries of political power; yet, in view of the verdict of public opinion in favor of their being allowed to exercise the right of suffrage as expressed in the recent elections, the undersigned are prepared, and they believe the majority of the people of Virginia are prepared, to surrender their opposition to its incorporation into their fundamental law, as an offering on the altar of peace, and in the hope that union and harmony may be restored on the basis of universal suffrage and universal amnesty.

“To give effect to this purpose, and to spare no effort to effect a speedy and permanent restoration of union and harmonious relations between the portions of our country which have for some years past been alienated, the undersigned will appoint a Committee of Nine from different parts of the State, and reflecting, as far as may be practicable, the public sentiment of the State, whose duty it shall be at an early day to proceed to Washington and be authorized to make known the views and purposes hereby declared to the Congress of the United States, and to take such other measures as they may think proper to aid in obtaining from that body such legislation concerning the organic law of Virginia as Congress, in its wisdom, may deem expedient

and best under all the circumstances. The delegation so to be constituted may fill vacancies, and are authorized to enlarge their number in their discretion."

After elaborate discussion of the report, it was adopted, and the meeting requested Mr. Stuart to serve as chairman of the committee of nine persons to visit Washington for the purpose indicated in the report, and authorized the chair to appoint a committee of three to recommend the names of eight other gentlemen, who with Mr. Stuart, should constitute the Committee of Nine. The chair named Messrs. John Echols, F. G. Ruffin and James D. Johnston, who made their report recommending Messrs. John L. Marye, Jr., James F. Johnston, W. T. Sutherlin, Wyndham Robertson, W. L. Owen, John B. Baldwin, James Neeson and J. F. Slaughter, and they were unanimously elected.

As soon as the meeting adjourned, Mr. Stuart issued a summons to his associates on the Committee of Nine to assemble in Washington on January 8th, 1869. In the meantime, he was active in advancing the movement in many ways. He wrote to Horace Greeley, editor of the *New York Tribune*, with whom he had had a personal acquaintance many years before the war, informing him of the proceedings of the Richmond meeting and of the appointment of the Committee of Nine to visit Washington and endeavor to secure a compromise of the Underwood Constitution on the basis of universal suffrage and universal amnesty, and asked him, if possible, to meet the Committee in Washington and give them his assistance in accomplishing their object. Greeley promptly replied by a letter addressed to Mr. Stuart at Washington in which he stated that he could not come there, but that he would try to make himself felt in New York, meaning through the columns of the *Tribune*, and enclosed an editorial on the subject which had just appeared in that paper. Mr. Greeley begged Mr. Stuart to confer directly with General Grant, and advised him especially to call on Senator Sumner. Greeley made good his promise, and his paper contained many leading editorials which produced a favorable effect upon mem-

bers of Congress. Acting upon the suggestion of a letter received from John L. Marye, Jr., Mr. Stuart secured the active co-operation of George W. Bolling, of Petersburg, and through him of Gilbert C. Walker, of Norfolk. They both attended the meetings of the committee in Washington and rendered valuable service.

The first meeting of the committee was held in Washington on January 8th, 1869. Every member was present; the proceedings were informal and no record of them was kept. It was decided that the committee should meet daily, or oftener, for conference and interchange of ideas and information, and that they should invite the co-operation of Bolling, Gilbert C. Walker and his brother, Jonas Walker, and of all citizens of Virginia who might be in Washington, in promoting the work of the committee. It was agreed that the committee would, in a body, call on President Andrew Johnson to pay their respects, but as the close of his term of office was near at hand and his relations with Congress were of such an unfriendly character, it would be useless to ask assistance of him. The committee also decided that they would seek an interview with General Grant, the President-elect, explain to him fully the grievances of which they complained, and invoke his aid, and that the members of the committee, individually, and all who proposed to co-operate with them, should proceed, without delay, to seek conferences with the leading members of the two houses of Congress, and seek their aid.¹

Soon after the committee met in Washington two delegations from Richmond appeared there. One consisted of Franklin Stearns and others, men of intelligence and education, whose purpose was not to make captious opposition to the relief proposed by the committee, but to look after the interests of the Conservative Republicans. The other delegation was headed by Governor H. H. Wells, and was composed of white and colored men who were in favor of the constitution without any change.

¹Stuart, Restoration of Va., pp. 34-35.

The committee, according to the plan agreed upon, appeared before the Reconstruction Committee of the House of Representatives, and the Judiciary Committee of the Senate, and explained the object of their mission. Mr. Stearns and Governor Wells with their respective adherents were also present at the hearings. The first meeting was before the Committee of the House. The hearing was opened by the chairman of the Committee of Nine, who gave a brief account of the origin of the movement and the objects of their mission. The discussion on behalf of the committee was conducted mainly by Colonel Baldwin. He was followed by Governor Wells, who said he did not believe that loyal men would be safe from wrong and outrage if the white people of Virginia were all enfranchised. He believed the only way to protect them would be to adopt the Underwood Constitution as it was. He was satisfied that the adoption of the plan of the Committee of Nine would destroy the Republican party. He was sure the people, whatever they might say then, would in a few years take away the rights of the negro unless the Republican party became strong enough to protect them, and the only way to secure strength to that party was to give it power to direct the restoration of the State. None but the Republican party could secure justice to all classes and rebuild the State. There could be no justice, no education, no prosperity, save through the Republican party. He declared that the new movement did not have the support of Virginians; that he did not believe ten thousand white people in Virginia would support it; that if it was carried it would have to be carried by Republican votes, but the Republican party would not vote for it. They were opposed to reconstructing Virginia in that way. They would be willing to see the whites enfranchised after a few years when it could be done safely, but not then.¹

Colonel Baldwin spoke eloquently in reply and expressed his firm conviction that the people of the State would support the plan which he advocated in good faith.

¹Stuart, *Restoration of Virginia*, p. 36.

By request, Mr. Franklin Stearns addressed the Reconstruction Committee. He said since the defeat of the Democratic party in the Presidential election of November, 1868, the people of Virginia were ready to comply with the reconstruction laws, and more than half of the property holders were ready to restore the State on the basis proposed by the Committee of Nine. If the State were restored under the pending constitution, with disfranchisement and county organization clauses stricken out, the State would immediately have its prosperity revived and would grow rapidly in wealth and population. So restored, justice would be impartially administered, and all classes would be completely protected.¹

Mr. Stearns condemned the Underwood Constitution, and declared that it would be defeated by an honest vote of the people, but that its defeat would leave the State without a civil government and subject to all the whims and caprices of military rule. Hence as the representative of the Conservative Republican party of Virginia, he favored the program of the Committee of Nine, which did offer the people some prospect of a stable government.²

Similar hearings were had before the Judiciary Committee of the Senate, which was composed of men of unusual ability. Before the hearings were concluded, the Senate Committee requested the Committee of Nine to prepare for its use a statement in writing setting forth the grievances of which they complained, and a draft of the amendments which they desired to have incorporated into the constitution. This paper was prepared by Colonel Baldwin, approved by the committee, every member of which signed it, and was sent to the Senate Committee on January 18th, 1869.³

The committee, through General Schofield, then arranged an interview with General Grant. General Grant received them courteously, and the chairman explained to

¹Id page 36.

²Id p. 38.

³Stuart, Restoration of Virginia, pps. 38-42.

him the objectionable features of the Underwood Constitution and the compromise plan of the committee. General Grant gave close attention to all that was said and asked many questions, from time to time, which showed that he appreciated the injustice which would be inflicted upon the people of Virginia if the constitution were approved by Congress without amendment. He did not hesitate to express his disapproval of the test-oath and disfranchisement clauses, but referred to the fact that he was then only a military officer, and there was nothing he could do. The distinct impression, however, was made upon the committee that if the Senate did not act upon the pending bill before his inauguration, he would then take some action in the matter.

By some misunderstanding as to the hour appointed for the interview with General Grant, two or three members of the committee failed to attend, and it was rumored that they did not attend because they did not wish to meet General Grant. This, of course, was false, but the circulation of the rumor was well calculated to prejudice the cause. A request for another interview with General Grant was made, and was promptly granted. Every member of the committee attended, and those who had not been present at the first meeting explained the cause of their absence and expressed their regrets. General Grant stated that since the previous interview he had been thinking of the matters discussed then, and had made some examination of the objectionable provisions of the constitution. He declared that bad as the provisions in regard to test-oaths and disfranchisements unquestionably were, it seemed to him that the county organization feature was, if possible, worse.¹

This interview was even more satisfactory to the committee than the first one, and they took their leave of General Grant feeling satisfied that he was entirely in sympathy with their mission.

After ten days in Washington spent in the effort to induce

¹Stuart, Restoration of Va., pps. 45-46.

Congress to allow the people to vote separately upon the objectionable features of the constitution, the committee considered that they had fulfilled their mission and returned home.

“They had aroused the attention, not merely of Virginia and the Southern States, but of the whole North to the enormities of the Underwood Constitution. They had secured, as advocates of justice to Virginia, the *New York Tribune*, *New York Times*, *Boston Advertiser*, *Chicago Tribune*, and other leading organs of public opinion in the North and Northwest. They had arrested the passage of the House Bill in the Senate. They had received satisfactory assurance from General Grant that, as soon as practicable after his inauguration as President, he would bring the subject to the attention of Congress, and endeavor to obtain for Virginia substantial relief. * * *

“No fair-minded man will venture to deny that if *some responsible party* had not interposed objections to the bill, it would have been taken up and passed by the Senate as it had been by the House, without debate. The single question then submitted to the people of Virginia would have been the ‘ratification’ or ‘rejection’ of the Underwood Constitution which, in popular parlance, would have been a choice between ‘the devil and the deep sea.’ If the constitution were ratified, according to the estimate made by the ‘Committee of Nine’ in their paper submitted to the Judiciary Committee of the Senate, ninety-five per cent of the adult white population of Virginia would have been not only rendered *ineligible to any office*, but *deprived of the right of suffrage*, and *rendered incompetent to serve on a jury, civil or criminal.*”¹

The constitution provided that an election should be held on June 2nd, 1868, to decide whether the constitution should be ratified or rejected; and at the same time members of the General Assembly and all State officers were to be

¹Restoration of Virginia, Stuart, P. 48.

chosen. General Schofield, on April 24th, 1868, issued an order suspending the election indefinitely, stating that Congress had made no appropriation to defray the expenses of the election, and that he had no authority to carry out the ordinance of the Convention. Moreover he thought the constitution and the test-oath and disfranchisement clauses would be disastrous to the people. He, therefore, refused to draw on the State Treasury, as he had a right to do. He also advised Congress to permit a separate vote on those clauses of the constitution as urged by the Committee of Nine.²

A Republican Convention had met in Petersburg on March 9th, 1869, and nominated H. H. Wells for Governor, J. D. Harris for Lieutenant-Governor, and T. M. Bowden for Attorney-General. Before these nominations were made the conservative members, realizing that the convention was dominated by negroes and unprincipled adventurers, withdrew, and in a few days nominated a Conservative Republican ticket composed of Gilbert C. Walker for Governor, John F. Lewis for Lieutenant-Governor, and James F. Taylor for Attorney-General.

May 4th, 1868, the white conservatives had held a convention in Richmond and nominated a State ticket with Colonel R. E. Withers for Governor, John L. Marye, Jr., for Lieutenant-Governor, and James A. Walker for Attorney-General. These candidates were nominated and began to canvass the State in opposition to the ratification of the Underwood Constitution before the movement of the Committee of Nine was inaugurated. It is true that General Schofield, most fortunately for Virginia, had suspended all elections, but these candidates still retained their positions as nominees, whenever the election should be ordered.

General Grant was inaugurated on March 4th, 1869, and on April 7th he sent a message to Congress in reference to

²History of Virginia, Morton, page 136.

the restoration of the States which had been engaged in the Rebellion "to their proper relations to the government and the country at as early a period as the people of those States shall be found willing to become peaceful and orderly communities, and to adopt and maintain such constitutions and laws as will effectually secure the civil and political rights of all persons within their borders."

He referred to the constitution which had been framed by the Convention held in Richmond on December 3rd, 1867, and called "the attention of Congress to the propriety of providing, by law, for the holding of an election in that State, at some time during the months of May or June next, under the direction of the military commander of the district, at which the question of the adoption of that constitution shall be submitted to the citizens of the State; and, if this should seem desirable, I would recommend that a separate vote be taken on such parts as may be thought expedient, and that, at the same time and under the same authority, there shall be an election for the officers provided under such constitution, and that the constitution, or such parts thereof as shall have been adopted by the people, be submitted to Congress on the first Monday in December next for its consideration, so that if the same is then approved the necessary steps will have been taken for the restoration of the State of Virginia to its proper relations to the Union."

On April 10th, 1869, Congress passed a bill authorizing the President to submit the constitution to the voters for ratification or rejection; and he was authorized to submit to a separate vote such provisions of the constitution as he might deem best, such vote to be taken either upon each of said provisions alone, or in connection with other provisions as he might direct. Members of the General Assembly, the officers of the State, and members of Congress were to be elected at the same time. If the constitution were ratified, the Legislature of the State, elected as provided for, should assemble in the capitol of the State on the fourth Tuesday after the official promulgation of such ratification by the military officer commanding in the State.

But before the State of Virginia should be admitted to representation in Congress, the Legislature was required to ratify the Fifteenth Amendment, proposed by Congress, to the Constitution of the United States; and, finally, all these proceedings were to be approved by Congress.

Thus the Fifteenth Amendment was required to be ratified, and, in fact, was ratified by the State of Virginia before, to use the words of the Republicans of that day, she was "restored to her proper relations to the Union."

On May 14th, 1869, President Grant issued his proclamation designating July 6th, 1869, as the time for submitting the constitution to the voters of the State for ratification or rejection, and he ordered a separate vote to be taken at the same time upon the test-oath and disfranchisement clauses, but did not include the one on county organizations, regarding which he had expressed his emphatic condemnation to the Committee of Nine in their interview with him.

It had become generally known what General Grant's views were in regard to the clause on county organizations, and, when he failed to include it in his proclamation as one of the clauses upon which a separate vote was ordered, there was surprise and indignation. The act of Congress authorized him to "submit to a separate vote such provisions of said constitution as he may deem best," and he had expressed to the Committee of Nine his opinion that the county organization feature was, if possible, worse than the two clauses upon which he authorized a separate vote.

Many were disposed to impute bad faith to General Grant, but Mr. Stuart did not concur in this view. He felt that there must be some strong reason which induced General Grant not to include this clause among those upon which separate votes were to be taken. Mr. Stuart afterward learned from an unquestionable source that, when the question came before the Cabinet to decide what clauses should be voted on separately, there was general concurrence as to the test-oath and disfranchisement clauses, but a diversity of opinion as to the county organization clause. General Grant

was earnestly in favor of a separate vote upon this clause, but a majority of the Cabinet believed the true reason why the people of Virginia were opposed to it was because they did not wish to establish a system of free schools with which that clause was closely connected. General Grant did not believe this to be true, yet for the sake of harmony he yielded to the wishes of a majority of the Cabinet. Mr. Stuart, as a member of the Board of Trustees of the Peabody Education Fund, was associated with Hamilton Fish, Secretary of State in the Cabinet of General Grant, and it is highly probable that it was from him that he learned the attitude of General Grant toward the county organization clause when it was under consideration by the Cabinet.

The President's proclamation, therefore, became the subject of adverse criticism in the papers and among the people. There was distinct disappointment that the people were not allowed a separate vote upon the county organization clause, and there was grave doubt among the most intelligent citizens as to what course to pursue, that is, whether to reject the constitution in its entirety or to vote for it with the two objectionable clauses referred to in the President's proclamation eliminated.

As proof of the state of the public mind on this subject, the following case is a striking illustration. About this time Mr. Stuart was in Charlottesville on business, and as he was at the railroad station awaiting the train for his home, he met Professor John B. Minor of the University of Virginia. The subject of the President's proclamation naturally became the topic of conversation and Professor Minor said he was inclined to the opinion that it would be best for the people of Virginia to vote down the constitution. Mr. Stuart differed with him and they discussed the subject until Professor Minor was about to leave the train at the University. As he took leave of Mr. Stuart, Professor Minor remarked that he had been much impressed with his views and requested Mr. Stuart to write him a fuller expression to them.

After reaching home, Mr. Stuart wrote Professor Minor, giving his views as to the proper course for the people to take in regard to the Underwood Constitution. The letter was not written for publication, but in a few days Professor Minor wrote that the letter had aided him and some of the other professors at the University in coming to a satisfactory conclusion as to how they should vote, and as he thought it might be of similar service to others he had taken the liberty of sending the letter to the *Richmond Enquirer* for publication. The *Enquirer* promptly published the letter and it was widely copied by other papers throughout the State.¹

There were three tickets in the field for Governor, Lieutenant-Governor and Attorney-General; namely, Withers, Marye, and Walker, Conservatives; Wells, Harris (negro), and Bowden, Radical Republicans; and Gilbert C. Walker, Lewis, and Taylor, Conservative Republicans. It seemed certain that the Conservatives could not elect their ticket; the negroes almost unanimously and the scalawags and carpet-baggers would all support Wells, and a large majority of the Conservative Republicans who would vote for Walker would be drawn from the class of voters who would otherwise support the Withers ticket. There was serious danger that the Wells ticket would be elected and the constitution ratified without change.

Under these circumstances the Executive Committee of the Conservative Convention which nominated the Withers ticket called a convention to meet in Richmond on April 28th, 1869, to decide upon the wisest course to pursue. When the convention assembled, Messrs. Withers, Marye and Walker resigned as nominees of the Conservative party, and left the convention free to act as if no nominations had ever been made. The convention accepted the resignations of those gentlemen as candidates for the offices for which they had been named, and declared that it was inexpedient to make any nominations to fill the vacancies;

¹Stuart, *Restoration of Va.*, pps. 58-61.

and, while expressing hostility to the leading and general features of the constitution, and recognizing the necessity of organization for the purpose of defeating such provisions as might be submitted separately, the convention declined to make any recommendation to the Conservative voters of the State as to how they should vote upon the constitution, expurgated of those provisions, or upon the candidates who might be before the people. This action was taken two weeks before it was known what provisions of the constitution would be submitted for separate votes, as the proclamation of President Grant on the subject was not issued until May 14th, 1869.

Only two tickets for State officers were now in the field. Walker and his associates, who were in favor of the constitution without the test-oath and disfranchisement clauses; and Wells, who advocated the ratification of the constitution just as it came from the convention. An active campaign was made by Walker and much enthusiasm was aroused. He was supported by a large majority of the leading conservative men of the State, and his election seemed assured.

In the midst of the campaign, about June 20th, Mr. Stuart received a telegram from Raleigh T. Daniel, a member of the Executive Committee of the Conservative Convention which had met in Richmond, requesting him to come to Richmond on business of an urgent character. He went there the next day and met the committee, who informed him that they had learned from a reliable source that General Canby, then in command of the district, had expressed the opinion that under the terms of the reconstruction act it would become his duty to prevent any member of the Legislature from taking his seat, unless he could take the oath prescribed by the act of Congress of July 2nd, 1862, known as the "iron-clad" oath, and that he proposed to issue an order to that effect. Mr. Stuart remained in conference with the committee two days, and succeeded in securing a copy of a telegram sent by General Grant to General

Meade, commander of the troops in Georgia, dated March 2nd, 1868, in regard to a similar question which had arisen there, in which General Grant stated that officers elected under the new constitution of Georgia were not required to take the iron-clad oath. Mr. Stuart returned home, assuring the committee that he would endeavor to devise some means to prevent the order of General Canby from being issued.

The knowledge that such an order would be issued was well calculated to discourage the activity of the conservative voters, and thereby defeat the election of the Walker ticket; to defeat the ratification of the constitution with the objectionable clause eliminated; and the order would certainly disqualify a large number of those who had been nominated for the Legislature from taking their seats, if elected. The situation was a most critical one, as the election was to be held on July the 6th, within less than two weeks.

On June 25th, 1869, the day after his return from Richmond, Mr. Stuart wrote a letter to General Grant calling his attention to the rumor which was current in regard to General Canby's interpretation of the reconstruction act, and his purpose to require the test-oath of all members of the Legislature elected under the new constitution on July 6th. He insisted that General Canby had placed an erroneous construction on the act and gave his reasons therefor at length. He laid special stress upon the telegram of General Grant to General Meade in reference to the oath to be required of officers elected in Georgia under their new constitution.¹

In a few days, the President directed General Canby not to issue the order. New life was infused into the campaign and on July 6th victory was won. The constitution was ratified without the test-oath and disfranchisement clauses; Gilbert C. Walker was elected Governor; the majority of the members-elect of the Legislature represented

¹Restoration of Virginia, Stuart, page 64.

the conservative and best element of the people; Virginia was virtually restored to the Union; her citizens were re-invested with their rights, and Wells and his carpet-baggers and scalawags sank into oblivion.

The thoughtful people of the State realized that Mr. Stuart had saved them from the iniquities of the Underwood Constitution, and their estimate of his service in this matter was well expressed by Professor John B. Minor in a letter dated February 13, 1891, to Major Thomas C. Elder of Staunton, in which he wrote:

“His conduct as one of the famous ‘Committee of Nine’ will rank him as a true statesman, keen to discern the action which the crisis required, and brave to follow it out through all obstacles, and despite the adverse sentiments of many of his countrymen. In contemplating conduct so wise, and so fearless, one is strongly reminded of Horace’s heroic ode,

‘Justum ac tenaceum propositi virum, etc.’”

At the request of the Virginia Historical Society, Mr. Stuart wrote a full account of the Committee of Nine under the title of the “Restoration of Virginia to the Union,” which was published by that Society.¹

¹See Appendix II.

CHAPTER XXXIII

ADDRESS BEFORE THE LITERARY SOCIETIES OF THE
UNIVERSITY OF VIRGINIA, JUNE 29TH, 1866



IN JUNE 29th, 1866, Mr. Stuart delivered an address before the Literary Societies of the University of Virginia. This was the first "Commencement" that had been held there since 1860. He began the address with these words:

"We have assembled today under circumstances of peculiar interest and solemnity. Six years have elapsed since a similar exhibition was held in this hall. During that period, a cruel war has desolated our country, and brought anguish and mourning into every household. Thousands of those nearest and dearest to us have fallen on the battlefield, or languished and died in camps and hospitals. Hostilities having ceased; we have now met to commemorate the close of the first session of the University since the restoration of peace. Under these circumstances, the first thought of every mind is of the gallant men who suffered and died in the discharge of what they believed to be their duty; and the first impulse of every heart is to offer a grateful tribute to their memory. But, for reasons which will be appreciated by this intelligent audience, I forbear from giving utterance at this time to many thoughts which it would be pleasing to me to express, and to you to hear. When the excitement and irritation engendered by the recent conflict shall have passed away, it will be no less our duty than our privilege to do full justice to the motives and conduct of those who died in defence of their families and firesides."

Then referring to the peculiar situation of the Southern

States as a result of the war, by which they had been driven far from the true course marked out for them by the Constitution, he declared: "We should take new observations to ascertain how far we have drifted, and to determine by what means we can regain our true position, and recover our constitutional rights."

He then announced that the subject which he would present for their consideration was: "The Recent Revolution; Its Causes and Consequences, and the Duties and Responsibilities Which It has Imposed on the People, and Especially the Young Men of the South."

He referred to the common mistake on the part of many persons, North and South, who had not given the subject thoughtful consideration, to assume that the institution of slavery was the cause of the late war. In his judgment, this was a grave error and one which demanded refutation. He said:

"In my opinion it would be quite as correct to affirm that the tax on tea was the cause of the war of 1776 as that slavery was the cause of the war of 1861. Both sprang from far wider and deeper causes. Both were the growth of many years, and the results of combinations of many causes, and the tax on tea in the one case, and the apprehended interference with slavery in the other, were merely the occasions for the development of the logical consequences of those causes. Both wars originated in the contests for political power. Both were conflicts arising from antagonistic ideas, and discordant systems of political philosophy and economy, and both were destined to occur in some form or other, irrespective of the tea tax or slavery. If these pretexts or occasions for development had not presented themselves, others, equally adapted to the purpose, would have been readily found."

He then gave what, in his judgment, were the true causes of the war. It had its origin, not in slavery but in discordant opinions and adverse interests. He thought, however, that those causes were insufficient to justify the war.

"I have always believed that the supposed antagonisms of interest were rather imaginary than real," he said. "I have never been a believer in the doctrine of an 'irrepressible conflict' between the interests or the labor systems of the two sections. I have always thought that under the guidance of enlightened statesmanship and catholic patriotism all pending difficulties could have been, and ought to have been, adjusted without an appeal to arms. On more than one public occasion I have expressed the opinion that the diversities of soil, climate, production and occupation, instead of being elements of discord and strife, should, by a wise and generous policy, have been wrought into bonds of union and strength."

While he realized that it was useless to repine over misfortunes which were irreparable, he recurred to them "not to open old wounds, or to cast vain reproaches, but to draw from them lessons of wisdom, forbearance and moderation for our guidance in the future." The war, among other things, had settled the question that no State had the right to secede from the Union; that all debts, Confederate, State or Municipal, contracted in aid of the war were absolutely null and void; that slavery was finally and forever abolished within the jurisdiction of the United States; and that freedmen were to be invested with and protected by law in the enjoyment of every necessary civil right. Each of these propositions was briefly discussed. He said that the destruction of the labor system of the South was destined to produce important changes in social, political and industrial relations. Referring to the mode of life to which the people of Virginia had been accustomed, and which they could not see pass away without regret, he declared:

"Virginia society has been fashioned on the English model. A fondness for country life has been its distinguishing characteristic. Professional men, merchants and mechanics looked forward with hope to the day when they could leave their offices, stores, and shops and become landed

proprietors. This was the object for which all labored, and when success crowned the efforts of thrift and industry, the fortunate possessors of wealth bought estates, and surrounding themselves with their families and friends and servants, lived in patriarchal simplicity, in the exercise of a generous hospitality and the enjoyment of all the pleasures of rural life. All this must now pass away. Large estates will be sub-divided and sold. The race of liberal, refined and cultivated country gentlemen, the class which was the pride of Virginia, is destined to become extinct, and Virginia hospitality will no longer be a proverb. A hardy race of yeomanry, who will till the soil with their own strong arms, will supplant the large landed proprietors. Lands will be improved in productiveness and value. The material wealth of the country will be augmented. Thrift and rigid economy will be substituted for the lavish expenditures and wasteful profusion of the ancient proprietors. Baronial mansions will go to decay, or furnish the material for dwellings better adapted to divided estates. Refinement, cultivation and elegant tastes will be constrained, as in the North, to seek refuge in cities and towns. In a word, old things will pass away, and all things become new.

“To those who estimate the social condition by a financial standard, this may be a subject of pleasing contemplation.

“For myself, I do not hesitate to avow that I do not belong to this class. To me the open door, the blazing hearth, and the warm heart of the old Virginia gentleman possesses a charm for which no increase in material wealth can supply an equivalent.

“You, young gentlemen, have an important mission to perform. In a few years the responsibility of giving tone to public opinion, and direction to the public councils of the South, will to a large extent rest with you. A wide field of usefulness lies before you. It will be for you to repair the ravages of war; to open up new sources of national wealth; to stimulate industry in all its departments; to explore our mines; to give active employment to our water power; to build factories; to substitute machinery for human labor;

to extend our systems of canals and railways; in a word, to give full development to all the natural resources which have been so bounteously lavished on our country.

“It will be for you also to care for the unfortunate and dependent race that has been cast loose among us. Let us all remember that no blame attaches to the negroes. They were our nurses in childhood, the companions of our sports in boyhood, and our humble and faithful servants through life. Without any agency on their part, the ties that bound them to us have been rudely broken. Let us extend to them a helping hand in the hour of their destitution. We can give them employment and guide their feeble steps in the paths of virtue and knowledge. Thousands who, in the first intoxication of freedom, wandered from their homes have returned to seek shelter and protection from their former masters. They should be received kindly, and encouraged in well doing; and we should spare no pains to improve their condition and qualify them, as far as may be practicable, for usefulness in our community.

“These are duties which address themselves alike to the head of the statesman, the heart of the patriot, and the conscience of the Christian * * * *.

“Public opinion is but the result of the individual sentiments of the members of the community. The more intelligence, therefore, that is infused into the aggregate mass of opinion, the higher will be its standard.

“Heretofore the educated classes have not fulfilled their duty to the country. They have too often sought to ascertain how the current flowed, and been content to drift on its bosom. This is a grave error. It is the duty of the educated classes to form, and not to follow public opinion. They should be its masters, not its slaves. They should assail with an unsparing hand popular delusions and errors, and seek to direct the sentiment of the people into right channels. The vice of modern times is moral cowardice. Men who were created to guide the opinion of the country, too often have not the courage to breast the popular current, and to accept the temporary defeat and disappointment

which may flow from an unsuccessful effort to do so. They too often prefer to secure station and favor by pandering to the prejudices of the multitude, and many of the evils which have befallen the country have resulted from this cause.

“Let me, gentlemen, admonish you of the danger of pursuing this course. True, you may secure office and the outward semblance of honor by it, but they are dearly bought at a sacrifice of your self-respect—of your sense of duty to your country.

“There can be no nobler spectacle presented than that of an honorable man, standing as it were alone, breasting the storm of popular passion and prejudice. It requires more true courage to do so than to charge a battery; and, in the end, higher honor and more enduring esteem will be the reward of this noble self-sacrifice. Let your rule through life be to do what you believe to be right, without regard to the clamor of the public; and after the passions of the hour have passed away, you will enjoy the richest of all rewards, the confidence of your countrymen and the consciousness of duty faithfully performed.”

CHAPTER XXXIV

TRUSTEE OF THE PEABODY EDUCATION FUND



R. GEORGE PEABODY, a native of Massachusetts, but for many years a resident of London, on February 7th, 1867, dedicated a large portion of his private fortune, between \$2,000,000 and \$3,000,000, to a foundation known as the Peabody Education Fund to be held by trustees, named by himself, and their successors, and the income thereof to be applied, in their discretion, for the promotion and encouragement of intellectual, moral and industrial education among the young of the more destitute portions of the Southern and Southwestern States of the Union. His purpose was that the benefits intended should be distributed among the entire population without other distinction than their needs and the opportunities of usefulness to them. Among the original trustees named by Mr. Peabody were Robert C. Winthrop, of Massachusetts; Hamilton Fish, of New York; General U. S. Grant; Admiral D. G. Farragut; William M. Evarts, of New York; William A. Graham, of North Carolina; George W. Riggs, of Washington; Rt. Rev. Chas. F. McQuaine, of Ohio; William C. Rives, of Virginia; John H. Clifford, of Massachusetts; and William Aiken, of South Carolina.

On February 23rd, 1871, Mr. Stuart was elected a member of the Board to fill a vacancy caused by the death of Admiral Farragut. Mr. Stuart had always been an earnest advocate of popular education. He found, therefore, the work of the Board congenial, and his association with its members most agreeable. During the eighteen years that he served on the Board he missed only two meetings, and he was a member of many of the most important committees.

When the Board met in New York on October 6th, 1875,

the President announced the death of Governor William A. Graham of North Carolina, one of the original trustees, and Mr. Stuart paid the following tribute to his memory:

“Mr. President: Although I am laboring under a temporary disability, which renders it impossible for me to speak without physical pain, I cannot deny myself the melancholy pleasure of saying a few words in support of the resolutions which have just been reported by the committee.

“It was my good fortune more than thirty years ago to make the acquaintance of Governor Graham. He was, at that time, a member of the Senate of the United States, and I had been recently elected to the House of Representatives.

“It was a period of high political excitement; and a general coincidence of opinion on questions of the day brought Governor Graham and myself into personal association. It was during that period that the foundation of a lifelong friendship was laid.

“Some years later, we were associated as members of the Cabinet of Mr. Fillmore. During the two years and a half that we served together in that capacity, our acquaintance ripened into intimate friendship.

“When Governor Graham was nominated for the Vice-Presidency, with that delicacy which marked his conduct in every relation of life, he retired from the Cabinet, and, with the exception of one or two casual meetings, our personal intercourse was suspended until three years ago, when we were again brought together as members of this Board.

“I need hardly say to this audience that Governor Graham was a gentleman of high moral and intellectual endowments. He was a man of pure and spotless integrity. And, while he entertained decided opinions, he was never aggressive or intolerant in their assertion. To great dignity of character, he united an amenity and charm of manner which secured for him the respect and affection of all who knew him.

“He possessed a sound and vigorous intellect which enabled him to grapple with the most difficult questions; and

he was singularly free from all those influences of passion and excitement which too often disturb the judgment. His views of every subject were clear, calm and well considered.

“While he may not have been as largely endowed as some other men with that brilliancy which is called genius, he possessed what was far better, that happy balance of the intellectual faculties which is the parent of wisdom. But it is not of the intellectual endowments of Governor Graham that I desire to speak on this occasion. Admirable as were the qualities of his mind, I prefer to dwell on the higher attributes of his moral and social character, which won for him the willing tribute of our hearts.

“Although Governor Graham had, for more than forty years, occupied a prominent position in public life, and had filled many important public offices, during times of high party excitement, no man ever ventured to question the integrity of his motives or conduct; and, up to the hour of his death, he enjoyed the unlimited confidence of all who had the happiness to know him.

“Mr. President, while the public lament, in the death of Governor Graham, the loss of an eminent statesman; while this Board are deeply sensible of the misfortune which has befallen them, in his untimely withdrawal from our body, you and I, Sir, have an additional cause of sorrow,—we mourn the loss of a valued personal friend.

“I do not know how I could more appropriately express my estimate of the high moral and intellectual worth of Governor Graham than by adopting the language of the late venerable John Quincy Adams, on a similar melancholy occasion.

“It was my fortune to announce to Mr. Adams the death of his friend and former Cabinet Minister, Ex-Governor James Barbour of Virginia. And, although Mr. Adams was reputed to be a man of cold and impassive nature, he received the news with deep sensibility. For several moments he bowed his head on the table near which he was sitting and seemed absorbed in profound meditation. Gradually recovering his self-possession, he resumed his erect position,

and with a voice tremulous with emotion said, 'Mr. Stuart, I have been connected with this government almost from its foundation to the present hour. I have known all the distinguished men who have participated in its administration; and, I can safely say, I have rarely known a wiser man, and never a better man, than James Barbour.'

"Mr. President, I can lay no claim to so large an acquaintance with the public men of our country as Mr. Adams. But it has been my fortune to be connected with public affairs during some of the most eventful periods of our history, periods when some of the most distinguished men of two generations graced our national councils; and I feel that I can, without qualification, adopt the language of Mr. Adams and say that I have rarely met a wiser man, and never a better man, than William D. Graham."

Mr. Stuart induced the trustees of the Peabody Education Fund to hold their annual meeting in 1876 at the White Sulphur Springs. When the Trustees met there in August of that year, Governor John H. Clifford, of Massachusetts, one of the original trustees named by Mr. Peabody, had died since the last annual meeting. In speaking upon the resolutions reported on his death, Mr. Stuart said:

"Mr. President: I cannot allow the present occasion to pass without saying a word in favor of the resolutions which have been reported.

"It is true that I did not enjoy the pleasure which you have had of a long and intimate acquaintance with our deceased friend. Although I had for many years been familiar with his reputation as a public man, I did not have the good fortune to meet him personally until the summer of 1872, when our Board convened in the city of Boston. I cannot pretend, therefore, to portray those nicer shades of his intellectual and moral nature, which would not be thoroughly understood and appreciated, except after long and familiar intercourse with him. I can speak only of the more prominent and salient points of his character, which addressed themselves to the observation of a comparative stranger.

"It requires no effort of memory, on our part, to recall his manly figure and noble face. They are indelibly imprinted on our minds and hearts. Nature had so moulded his form and features as to give the world assurance of his admirable character. There was a quiet dignity and grace in every movement, and his countenance beamed with intelligence and benignity.

"It has so chanced that I have been brought into association with most of the distinguished men of our country for many years past; and I take pleasure in saying that not one of them impressed me more favorably than Governor Clifford. On my return to Virginia, I said to my friends that I felt fully compensated for all the fatigue of my journey by the opportunity which it afforded of making his acquaintance. Further association confirmed all my favorable impressions. To a mind of great power, he united a heart which throbbed with generous impulses, and a happy facility of expression which gave a peculiar charm to his conversation. There was a frankness in his bearing and a genial urbanity about him which at once commanded confidence and inspired good-will. Every one who approached him felt attracted by a species of personal magnetism which was irresistible.

"When last autumn, in New York, I was urging that the present session of our Board should be held here, in the mountains of Virginia, one of the great pleasures which I anticipated was the opportunity which it would present of introducing Governor Clifford to my Virginia friends. I felt sure that they would share my favorable regard for him, and thus a new link of fraternity would be added to the chain of memories which unite Massachusetts and Virginia. But it has pleased an all-wise Providence to ordain that it should be otherwise; and all that I can now do is, on behalf of the people of Virginia and of the South, to tender to Massachusetts the assurance of their profound sympathy in the loss which she has sustained in the untimely death of her distinguished son."

At the meeting of the Board in October, 1879, the subject of securing aid from the Federal Government for the education of the colored people of the Southern States was considered, and a committee consisting of Mr. Stuart, Chief Justice Waite and Mr. Evarts was appointed to consider the subject and report to a future meeting of the Board. Mr. Stuart, as chairman, prepared an exhaustive report, which was also signed by Chief Justice Waite and Mr. Evarts. A special meeting of the Board was held in Washington City in February, 1880, to receive and act upon the report. It was unanimously adopted by the trustees and transmitted to Congress with an expression of their earnest hope that it might receive early and favorable attention. On March 8th, 1880, the Senate ordered the report to lie on the table and be printed. It was printed as a Senate document, covering seventeen pages, but no further action was ever taken in regard to it.¹ No Southern Senator advocated action upon it, doubtless because it was apprehended that the passage of a bill appropriating money for that object would lead to political control of the Republican party over the negroes; and no Northern Senator felt called upon to advocate a measure which was for the benefit of the Southern States, and toward which the Southern members seemed to be indifferent. When the Board met in October, 1887, Mr. Winthrop referred to this report in the following words:

“The admirable and unanswerable report of our worthy associate, Mr. Stuart of Virginia, which will be remembered to his honor long after he and we all shall have passed away, and which was presented to Congress with the unanimous sanction of our Board nearly eight years ago, has thus far secured no national aid for this special need of the South.”

General Grant, one of the original trustees, died on January 23rd, 1885, and Mr. Winthrop, President of the Board, wrote Mr. Stuart in the following September re-

¹For report see Appendix III.

questing him to prepare a tribute to General Grant to be submitted to the Board at its meeting in October, though Mr. Stuart was a Southern man, and there were on the Board Chief Justice Waite, Hamilton Fish, who had been Secretary of State in President Grant's Cabinet, William M. Evarts and other prominent men from the North. Mr. Stuart prepared the following tribute which was adopted at the meeting of trustees on October 7th, 1885:

"Death has again broken the ranks of our Board. General Ulysses S. Grant, the laurel-crowned warrior, the statesman who was twice elevated by the suffrage of the American people to the Presidency of the United States, the large-hearted patriot, whose affections and aspirations during life were dedicated to his country's welfare and honor, the soldier who fought through long years of war that peace and all its attendant blessings might be secured to his countrymen, has been summoned from our side.

"He went to his grave honored and lamented by men of all sections, and parties, and races. Men who had been arrayed against him on the battlefield twenty years ago were no less sincere in their grief for his death than those who had stood by his side in the deadly encounters of war. All appreciated his patriotic purposes—all admired his heroic courage and steadfastness—all honored his truthfulness and fidelity to every obligation. Bold, fearless, and aggressive in war, he was humane and magnanimous in the hour of victory. When, mainly through his efforts, civil war had ceased, he was among the first to seek to calm the angry passions to which it had given birth, and to invoke the blessings of peace and the restoration of union, in fact as well as in name.

"All remember how his patriotic appeal to his countrymen at the commencement of his first Presidential term, 'Let us have Peace,' thrilled the heart of every true American from the Lakes to the Gulf, and from the Atlantic to the Pacific. From that hour to the close of his earthly career there is good reason to believe that the first wish of his heart was

to witness the fulfilment of that prayer. When he stood, as it were, on the verge of the grave—when his mortal frame was wasted by disease, and his tongue had lost the power of giving utterance to the thoughts which filled his great soul—he made the hand which had so successfully wielded the sword in defence of the Union its substitute, to record his gratitude to God for having permitted him to live long enough to witness the restoration of union and fraternity between his lately discordant countrymen.

“These noble sentiments sank deeply into the American mind, and awakened an echo in every patriotic heart. When he was stricken with the disease, which finally proved fatal, the hearts of the people of all sections overflowed with sympathy, and when the end came a wail of grief was heard throughout our whole country, which found expression in popular meetings, through the public press, and in every other mode of testifying respect and affection known to civilized society, and his obsequies were celebrated with a solemn pomp and ceremony unparalleled in our country since the death of Washington.

“General Grant was one of the sixteen original trustees named by Mr. Peabody himself to administer his beneficent trust in behalf of the illiterate children of the Southern States. He was in full sympathy with the purpose of the founder of the trust, and earnestly and cordially co-operated with his associates in their efforts to fulfil it.

“At the date of his appointment, he was, with probably one exception, the youngest member of the Board, and his robust frame and apparently vigorous health gave promise of long life. But as it has pleased Him, in whose hands are the issues of life and death, to order otherwise, all that remains for us is, with bowed heads and reverent hearts, to submit to His decree.

“Having assembled now at our annual meeting for the first time since this great affliction fell upon us, we, the surviving members of the Board of Trustees of the Peabody Education Fund, gladly embrace the opportunity to place on our official records this testimonial of our profound esteem for

the character of our deceased associate, of our sincere grief at his loss, and of our sympathy with his widow and family in their bereavement.

“Of the achievements of General Grant, as a soldier and a statesman, we have purposely forborne to speak more fully. They are of too recent date, and in some respects too closely connected with the political and party contests of the day to admit of impartial judgment by contemporaries. We, therefore, remit these subjects to the domain of history, to which they properly belong.

“But there are aspects of his character and attributes of his nature which elevate him far above the plane of the mere politician. Upon these all can dwell with pleasure. His heroic courage, his unselfish devotion to his country, his fidelity to his friends, and his magnanimity to those who had been his enemies; his prompt obedience to every call of duty, and his broad and catholic patriotism, which embraced in its scope his whole country, and ignored all sectional divisions, must command the approval of all good men. Like Washington, he believed ‘the union of the States’ to be ‘the palladium of our political safety and prosperity,’ and no one was more prompt than he ‘to frown upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.’

“Whatever differences of opinion may exist as to the wisdom of special acts, which he felt called on to perform during his long and brilliant career, few will be found disposed to question the purity of his motives, and a still smaller number to deny his title to be regarded as one of the most illustrious men of the nineteenth century.

“In private life he was faithful in the discharge of every duty. A devoted husband, an affectionate and indulgent father, a law-abiding citizen, a kind neighbor, a courteous and affable gentleman, he enjoyed the confidence and esteem of all who knew him, and few had warmer and more steadfast and devoted friends.

“As a member of this Board, he was prompt in his at-

tendance on its sessions, and an active and zealous supporter of every measure proposed by it for the promotion of the sacred trusts committed to its charge; and the surviving members will never cease to deplore the loss of his companionship, and the withdrawal of the moral weight and influence which his great name gave to the deliberations and action of the Board."

Judge Thomas C. Manning, of Louisiana, who was a member of the Board, died in New York City, following an illness of a few days only, after attending the meeting of the Board there early in October, 1887. This occurrence made a deep impression on Mr. Stuart and is referred to in the following letter tendering his resignation as a member of the Board:

Staunton, Va., Sept. 25, 1889.

Hon. Robert C. Winthrop:

My dear Friend: I have felt a strong desire to attend the annual meeting of the Trustees of the Peabody Fund to be held next week, and hoped to be able to do so; but the condition of my health is such as to compel me to forego that pleasure. I am now half way advanced in the eighty-third year of my age, and my strength has been so much impaired as to render it at least doubtful whether I would be able to stand the excitement and fatigue of so long a journey. I have, therefore, concluded that it is most prudent for me not to incur the hazard of meeting the fate of our late friend, Judge Manning.

It would have been a great satisfaction to me to meet once more yourself and other friends with whom I have been associated for the last eighteen years in the execution of our great trust. But as that has become impossible, I must ask the favor of you to explain to the Board the cause of my involuntary absence. And as these causes are not likely to be diminished by the lapse of years, I must ask the further favor of you to present to the Board my resignation of my position as a member of the Board of Trustees of the Pea-

body Education Fund, and my earnest request that the Board will proceed to select a younger and more efficient man as my successor.

In thus terminating my official connection with the administration of the Peabody Trust Fund, I cannot forbear from congratulating the Board on the great success which has thus far attended its labors, and my earnest hope is that in the future the same fidelity, efficiency and integrity which have been so signally displayed in the past may continue to guide its administration.

With kind wishes for the health and happiness of yourself, and each and every member of the Board, and its honored and efficient General Agent, I am,

Very truly and cordially yours, etc.,

ALEX. H. H. STUART.

President Winthrop, in announcing the resignation of Mr. Stuart as a member of the Board at the annual meeting in New York on October 3rd, 1889, said:

“I am sorry to add that we are called on to part with another of our Board, who has been still longer associated with us. The resignation of the Honorable Alexander H. H. Stuart of Virginia, owing to ill health and infirmities of advanced age, is announced in a letter from him very recently received. Mr. Stuart was elected a trustee, at our meeting in Philadelphia, in February, 1871, to fill the vacancy created by the death of Admiral Farragut. He has thus been one of our number for nearly nineteen years. Residing at Staunton, Va., where our first General Agent, the late Barnas Sears, established his home, soon after his appointment in 1867, Mr. Stuart was brought into the most intimate relations with Mr. Sears, and was greatly relied on by him for advice and counsel. He has been from first to last one of our most efficient members, as our records will abundantly testify. Nothing could have been more impressive and affectionate than his tribute to Governor Graham, of North Carolina—with whom he was associated in the

Cabinet of President Fillmore—to Governor Clifford, of Massachusetts, to Dr. Sears, and more recently to General Grant. But his most important contribution to our proceedings was his elaborate and admirable report on 'Education for the Colored Population of the United States' in 1880, which bore the signatures also of Chief Justice Waite and Mr. Evarts, and received the sanction of the whole Board. That report fills nearly thirty pages of our second volume, and bears testimony alike to his careful historical research and his patriotic regard for the welfare of all classes and races of the people. I may not forget his devoted co-operation with me in carrying on the work of the Board for seven months, when our General Agency was left vacant by the death of Dr. Sears, for which we received a joint Resolution of thanks from the trustees in 1880. Mr. Stuart has been a member of our Executive Committee since 1873, and its chairman since the death of Governor Aiken, of South Carolina. All the while, as I need not say, he has endeared himself to each one of us by his amiable and congenial companionship. We shall accept his resignation, as we must do, with strong personal reluctance and regret."

A short time after the Board adjourned, Mr. Stuart received the following letter from Mr. Winthrop:

Uplands,
Brookline, Mass.
14 Oct. 1889.

Hon. A. H. H. Stuart.

My dear Friend:

Your touching letter of the 25th ulto. reached me here just as I was preparing to set off for New York. I communicated it to the Board, and it will be printed in our annual pamphlet. I have hoped that the pamphlet would be ready from day to day, and that I could send you a copy with this letter. But our Treasurer is so busy with the Triennial Convention of the Church that he has not found time to revise his figures for the press and send the copy

to Dr. Green. I think you will be pleased with what I said about you and your resignation in my introductory address. We were all sincerely sorry to part with you, but I think you have done right, and I shall be sure to follow your good example whenever I find myself, or am found by others, unable to attend the meeting of the trustees. We had an unexpectedly full attendance on the 3rd inst. Everyone was present at the morning meeting except you, Gen'l. Jackson and Mr. Evarts. Jackson has resigned, and we have chosen Judge Somerville, of Alabama, in his place. Your place was assigned, as I know you would be glad to have it, to Wm. Wirt Henry.

Poor Evarts went to Europe in August with a sad affliction of the eyes, almost depriving him of sight. He is to return next month, but I fear he will return without a radical cure. He is too young to be spared from professional and public service, and I am grieved at the thought of it.

Cleveland was with us for the first time and seemed greatly interested in our work. Good Hamilton Fish, too, was with us at the business meeting.

You have done excellent work on our Board, and I thank you for it. Let me hear from you occasionally still, and accept my best wishes for your health and happiness.

Your affectionate old friend,

Robt. C. Winthrop.

CHAPTER XXXV

RECTOR OF THE UNIVERSITY OF VIRGINIA



IN 1876, Governor Kemper appointed Mr. Stuart a member of the Board of Visitors of the University of Virginia and he was chosen Rector. Governor Holliday reappointed him in 1880, but in the midst of his second term of service he was removed by W. E. Cameron, the readjuster Governor, who removed the members of all the boards of the State institutions and filled their places with men of his own party. General Fitzhugh Lee succeeded Cameron as Governor, defeating John S. Wise, the readjuster candidate. Soon after General Lee entered upon the discharge of the duties of his office, Mr. Stuart received a telegram from the Governor in which he stated that he desired to appoint him a member of the Board of Visitors and asked if he would accept the appointment. Mr. Stuart at once replied declining the appointment. He promptly received a second telegram from the Governor requesting him to accept the appointment, at least temporarily, as the Governor was not prepared to name anyone else in his place and was anxious to send the names to the Senate for confirmation. Under these circumstances, Mr. Stuart yielded to the wishes of the Governor, and accepted the appointment.

Mr. Stuart entered upon his duties as Rector of the Board of Visitors in 1876. In 1875, Lewis Brooks, of Rochester, New York, gave the University \$68,000 with which to build and equip a museum of natural history and geology. In addition the Board of Trustees of the Miller Agricultural School loaned \$10,000 to purchase cases and to cover the cost of mounting the specimens designed for the museum. William B. Rogers, of Boston, formerly a

Professor in the University, and also State Geologist, gave \$1,000 for the same purpose, and the alumni of the University subscribed a similar amount. Mr. Brooks died before the building was completed, but his brothers, the Rev. Samuel Brooks and Garcy Brooks, of New York, completed his work by the gift of \$4,000.00 to provide a botanical collection. The aggregate cost of the building and its contents was \$85,000. There has been much just criticism of the style of architecture and of the location of the building, but all these matters had been settled and the work begun before Mr. Stuart became a member of the Board. He was always an ardent admirer of the classic style of architecture adopted by Jefferson for the University.

When Mr. Stuart was a member of President Fillmore's Cabinet in 1851 he became acquainted with W. W. Corcoran of Washington, who afterward acquired great wealth and was one of the noblest philanthropists of his day. This acquaintance ripened into a close personal friendship which was only terminated by the death of Mr. Corcoran.

For several generations the Greenbrier White Sulphur Springs was the mecca of the South and one of the most unique and charming places in the country. Mr. Corcoran and Mr. Stuart were regular visitors there prior to the War between the States. In the summer of 1876, they met there again, and the University was the topic of frequent conversations between them. During one of these discussions Mr. Corcoran inquired of Mr. Stuart what the University most needed at that time. He replied that his connection with the University, as a member of the Board of Visitors, was of such recent date that he could not then answer his question, but he added that he would confer with some of the professors and let him know the result of his investigation. Shortly after returning home, Mr. Stuart wrote Mr. Corcoran and suggested that an addition to the library, especially of books published since 1860, as the war had interfered with all additions of books covering that period, would be most acceptable. Mr. Corcoran replied, in a confidential letter, saving he intended to give the

University \$5,000.00 in five annual payments beginning January 1st, 1877, for the enlargement of the library.

Mr. Corcoran became more and more interested in the University, and on November 8th, 1876, wrote the following letter to Mr. Stuart:

Washington, Nov. 8, 1876.

My dear Sir:

It is my intention to do something more for the University of Virginia, and if you can make it convenient to make me a visit of a day or two any time during this month, I will be glad to confer with you on the subject.

I congratulate you on the glorious result of yesterday's election. It ought to be called "Emancipation Day," as it virtually emancipates the South from the tyranny and oppression under which it has groaned for so many years—and emancipates also the poor deluded negro from the ignorance as to his best friends, in which he has long been kept by designing demagogues.

With kind regards to your family,

I remain Very Truly Yrs.

W. W. CORCORAN.

The Hon.

A. H. H. Stuart,
Rector &c, &c.

University of Virginia.

I will be obliged if you will say nothing in regard to my intended donation.

W. W. C.

In accordance with this request, Mr. Stuart visited Mr. Corcoran at his home in Washington, and they discussed fully the affairs of the University. Finally, Mr. Corcoran informed Mr. Stuart that he intended to make the University a gift of \$50,000.

After consultation with the Board of Visitors and the professors, it was decided that the gift should be dedicated

to the schools of Moral Philosophy, and History and Literature, afterward named in honor of Mr. Corcoran.

On August 13th, 1878, Mr. Corcoran was again at the White Sulphur Springs, and wrote Mr. Stuart that he proposed to give the University an additional donation of \$50,000 with which to endow a chair of Natural History. In writing of the University he expressed his "gratitude for the profound scholarship it had given the country."

Each recurring summer, as these friends met at "The White," they discussed the affairs of the University, of which Mr. Corcoran had become a warm friend and patron. He told Mr. Stuart that he intended to make further provision for the University in his will, and that he was the only person to whom he had spoken on the subject, except Miss Sarah Randolph of Albemarle, a devoted friend of Mr. Corcoran and a great-granddaughter of the founder of the University.

The members of the Board of Visitors of the University of Virginia are appointed by the Governor of the State for a term of four years, one-half of the membership expiring every two years. When the Board met on July 3rd, 1879, Mr. Stuart was unable to attend on account of sickness, and the following resolution was unanimously adopted and sent to him:

"Resolved, That the members of the Board of Visitors, now in attendance, have felt with deep regret the absence of their Rector, the Hon. A. H. H. Stuart, and they beg leave to tender to him their profound sympathy in his protracted ill-health, and their sincere desire for his speedy recovery.

"And this being the last regular meeting which will occur during the term of service of the present Board, they deem it proper to record their sense of the ability and fidelity which have characterized all his official actions, and the distinguished courtesy he has displayed in his intercourse with his fellow-members."

While Mr. Stuart was Rector, Leander J. McCormick,

of Chicago, a native of Rockbridge County, Virginia, gave a \$50,000.00 refracting telescope to the University and \$18,000.00 to build an observatory. William H. Vanderbilt of New York gave \$25,000.00 and the alumni gave \$50,000.00 to endow the chair of astronomy.

Mr. Corcoran celebrated the 87th anniversary of his birth on December 27th, 1885, and Mr. Stuart received the following reply to a letter of congratulation:

Washington 29th Dec. 1885.

My dear Mr. Stuart:

Among the great number of congratulations received on the 87th anniversary of my birth, I received none with more pleasure than yours of that day.

I highly appreciated your flattering sentiments, and admire the chaste and admirable terms in which you have done me the honor to express them; and while I am overwhelmed with the numerous evidences of the kindly regard of my fellow-citizens, let me wish for you, my dear friend, all the health, happiness and prolonged life that you may desire.

I remain, my dear Mr. Stuart,

Very Sincerely Yours,

W. W. CORCORAN.

Alex H. H. Stuart, Esq.,
Staunton, Va.

CHAPTER XXXVI

THE PUBLIC DEBT OF VIRGINIA



AS A RESULT of the war the State of Virginia was left financially prostrate. For four years a large part of her territory had been overrun by Federal forces, who stripped the State of every species of personal property, destroyed fences and houses, and in the Valley burnt hundreds of barns with their contents. Virginia had been the chief battleground of the war, and all that was left was the land. As was well said by Judge Staples:¹

“For four years Virginia bore upon her bosom the burden of a civil conflict as great as any recorded in history. She came out of the struggle presenting a lamentable spectacle of a prostrate and bleeding State, without currency, without any organized system of labor, one-half of her territory almost a waste, and vast numbers of her citizens reduced to hopeless insolvency and ruin. For years after the rage of battle had ceased she was left in subjection to military power, under the rule of aliens and strangers, unacquainted with her laws, her traditions and her sufferings—and yet her statutes exhibit the gratifying spectacle of an honest endeavor on the part of her representatives, while still under the shadow of this great disaster, to make some provision for the payment of her creditors.”

Moreover, the State had been dismembered in flagrant violation of the Constitutions of Virginia and of the United States by the erection out of a part of her territory of the new State of West Virginia, whereby Virginia was deprived of one-third of her population and one-third of her territory, embracing the richest part of her coal lands.

¹Antoni vs. Wright, 63 Va. 870.

The constitution of West Virginia recognized the obligation of the new State to pay a just proportion of the public debt of Virginia as it existed prior to January 1st, 1861. This subject engaged the attention of the Legislature of Virginia at its first session after the war. On February 28th, 1866, an act was passed declaring that the people of Virginia deeply lamented the dismemberment of the "Old State," and desired to establish and perpetuate the reunion of the State of Virginia and West Virginia, and appealed to West Virginia to co-operate with Virginia in the adoption of suitable measures for the restoration of the ancient Commonwealth of Virginia with all her people and within her former boundaries.

The act further provided that the General Assembly should appoint three commissioners who should proceed to the seat of government of West Virginia for the purpose of communicating to the Governor and General Assembly of that State copies of the resolution and of the report of the committee accompanying it, with authority to act on the subject of the restoration of the State of Virginia to her ancient jurisdiction and boundaries. The result of such negotiation, if favorable to restoration on any terms, was to be subject to the approval or disapproval of the legislatures or conventions of the respective States, as might be thereafter mutually agreed upon.¹ The commissioners were also empowered to treat with the authorities of West Virginia upon the subject of a proper adjustment of the public debt of Virginia, contracted prior to 1861, and a fair division of the public property. They were authorized to treat upon either or both of these subjects, as circumstances might demand, but were expressly instructed to forbear any action on the subject of adjusting the debt of the State, or a division of the public property, if, in their judgment, the restoration of the State of Virginia to her ancient boundaries was possible.

By a joint resolution of the General Assembly it was

¹Acts 1865-66. p. 453.

agreed that one of the commissioners should be a resident of the South Side of James River, one of the portion of the State east of the Blue Ridge, and one of that part west of the Blue Ridge. Thereupon, William Martin, John Janney, and Alexander H. H. Stuart were elected commissioners from those respective parts of the State.

The commissioners could never get the authorities of West Virginia to co-operate with them. They persistently refused to take any notice of the repeated efforts on the part of Virginia to induce West Virginia to recognize her just share of the debt, and to take proper measures to provide for its payment. Nor did West Virginia ever do so, until, after stubborn litigation, extending over twenty-five years, she was brought to bay and required to pay \$4,215,622.28 principal and \$8,176,307.22 accumulated interest, with interest on the total amount at five per cent from July 1st, 1915, by a decree of the Supreme Court of the United States rendered on June 14th, 1915, in a suit instituted in that court by the State of Virginia against West Virginia.

Without waiting, however, for the action of the commissioners, the Legislature of Virginia, on March 2nd, 1866, passed an act providing for the funding of the interest on the debt. It was impossible for the State, with her small revenue, to pay the interest in cash and support the government, even in the most economical manner; and yet the State desired to do all she could for her creditors under existing circumstances.

It is not a matter of surprise, when one recalls the financial condition of the people of Virginia, the great loss of property caused by the war, and the heavy burden of taxes, State and Federal, which the people were bearing, that rumors began to circulate that the State debt, as well as all private debts, would be repudiated by the General Assembly. The possibility of such a thing occurring in Virginia was at first spoken of in whispers, but rumors became so insistent that on December 20th, 1866, the Legislature adopted a joint resolution reciting that the public credit of the State, as well

as the credit of its citizens, had been injured, and was then being injured, by the apprehension in the minds of some persons that the General Assembly would repudiate the debt of the State and authorize the repudiation of the debts of its citizens; declaring that it was important to remove this apprehension from the minds of all persons, and that, if such disposition existed on the part of the General Assembly, both the State and Federal Governments positively forbade the passage of any such law, and that the General Assembly would pass no such act of repudiation, which would be no less destructive of future prosperity than of credit, integrity and honor.¹

The Legislature was anxious to provide for the payment of the interest on the public debt, as far as the resources of the State would warrant, and on March 21st, 1867, passed an act directing the payment of two per centum.

It will be recalled that on March 2nd, 1867, by act of Congress, Virginia was degraded from the position of a sovereign State of the Union to a military district; placed under military rule; and that all elections were suspended and no sessions of the Legislature were held from March, 1867, until the Underwood Constitution was framed, ratified and approved by Congress. During this *interregnum* nothing could be done in regard to the public debt.

When the new constitution was submitted to the people for ratification or rejection, members of the General Assembly were also chosen.

This Legislature, as required by the act of Congress, met in Richmond in October, 1869, for *the sole purpose* of ratifying the Fourteenth and Fifteenth Amendments to the Constitution of the United States as a *prerequisite* to the State being admitted to representation in Congress. The amendments were ratified under these extraordinary conditions, and without any other action the Legislature adjourned until Congress should approve the constitution recently ratified by the popular vote, and allow the State rep-

¹Acts 1866-67, p. 499.

resentation in Congress. Thus the remarkable spectacle was presented, by radical Republican hocus-pocus, of Virginia as a State of the Union for the purpose of ratifying those amendments to the Constitution of the United States, while for all other purposes the State was not a member of the Union until Congress approved the new constitution and admitted Virginia to representation in Congress!

The Legislature reassembled in Richmond early in 1870, and the government of the State was at last in the hands of her own people. It is true that among the members there were quite a number of negroes, and a few "carpetbaggers and scalawags," but the white conservatives controlled the body by a safe majority.

This Legislature was charged with most important problems. No session had been held since 1867. New laws had to be passed to meet the changed condition of public affairs wrought by the war and the new constitution. All the judges in the State, and many other officers provided for by the constitution had to be elected. In the midst of these engrossing duties the adjustment of the public debt between Virginia and West Virginia received the earnest attention of the Legislature at an early day. On February 18th, 1870, an act was passed authorizing the Governor to appoint three commissioners to treat with the authorities of West Virginia upon the subject. West Virginia, as she had formerly done, refused to take any action in regard to the matter.

It was now apparent to every one that West Virginia never intended to pay any part of the debt unless she was compelled to do so. The public debt of Virginia in 1861 amounted to more than \$45,000,000. The Legislature was anxious to come to an adjustment with the creditors as to the part of the debt the State of Virginia should pay. It was finally agreed that the State would assume the payment of two-thirds of the debt, about \$30,000,000, leaving the other third, about \$15,000,000, as the part that West Virginia should pay.

An act was passed by the General Assembly and approved by the Governor on March 30th, 1871, providing for the

funding and payment of the public debt upon this basis. Virginia was to issue new bonds to her creditors for two-thirds of the entire debt, principal and interest, to run for thirty-four years, bearing six per cent interest, payable semi-annually, the bonds to be coupon or registered at the option of the creditors. To secure the prompt payment of the interest, the coupons were made receivable at and after maturity "for all taxes, debts, dues and demands due the State." For the remaining one-third of the debt, which was treated as the just part due by West Virginia, certificates were to be issued to the creditors who accepted the terms of this settlement, providing that payment of the certificates would be made in accordance with such settlement as should thereafter be had between the States of Virginia and West Virginia.

On March 18th, 1871, the bill was taken up and passed by the Senate, ayes 25, noes 10, and on March 28th it passed the House, ayes 78, noes 42.

There was strong opposition to the bill among the conservative members. It was argued that the people of the State could not pay the interest on such a large debt, as the revenue of the State only amounted to \$2,781,851.96. It was estimated that if two-thirds of the debt assumed by Virginia were funded, the interest coupons would amount to \$2,000,000 annually. These coupons were denounced as "cut worms" of the Treasury. Moreover, in view of the general financial losses sustained by the whole people of the State in consequence of the war, it was urged that the creditors should share a part of those losses, and finally it was contended that under the proposed settlement Virginia would still be bound for the third of the debt which had been set aside as West Virginia's share, since there was no express release of the State on the part of the creditors. Indignation was expressed at the manner in which the bill was passed, and the next day, March 29th, 1871, the Richmond *Dispatch* said:

"Hon. John W. Daniel rose and moved to reconsider the vote, and in an indignant manner protested against the

way in which the friends of the bill had rushed it through. He characterized the action taken as infamous."

Colonel Frank G. Ruffin in an article in the same paper analyzed the vote cast in the House as follows:

"Ayes, White Conservatives 35, White Republicans 19, Colored Republicans 24. And thus the Funding Bill became a law through a coalition of the Funders with 19 white and 24 colored Republicans. In the House, the 42 negative votes were all white conservatives—35 conservatives (a minority) uniting with 43 Republicans defeat the majority of their own party in the popular branch of the General Assembly!"

Every colored Republican and every white Republican member, with one exception, voted for the bill and it was freely charged that it had been passed by fraud and corruption, but no breath of suspicion ever rested upon any of the conservative members who voted for the bill, among whom were many of the purest and best men in Virginia. For instance, in the Senate were Daniel A. Grimsley of Culpeper, afterwards judge of the circuit court; William A. Anderson of Rockbridge; A. R. Courtney of Richmond; Colonel Walter H. Taylor of Norfolk; Colonel Edmund Pendleton of Botetourt; and John E. Penn of Montgomery; and in the House were J. D. Jones and S. V. Southall of Albemarle; H. M. Bell, A. B. Cochran and Marshall Hanger of Augusta; Colonel John H. Guy of Richmond; and S. S. Turner of Warren.

In this condition of public sentiment in regard to the recent settlement of the public debt, a new Legislature was elected, and one of the chief issues in the canvass was the repeal of the Funding Bill. Many of the ablest members of the last Legislature who had voted for the bill went down in defeat, and a majority of the members-elect were in favor of repealing the bill.

The General Assembly met in December, 1871, and on March 7th, 1872, passed an act declaring it unlawful for of-

fficers charged with the collection of taxes or other demands of the State to receive in payment thereof anything else than gold or silver coin, United States Treasury notes or notes of the national banks of the United States, and repealing all acts inconsistent therewith. This act was popularly known as the "Peeler Bill" because it "peeled off" the tax receivable feature of the coupons. Many members of the Legislature who had voted one year before for the Funding Bill now faced around and voted for the "Peeler Bill." Governor Walker promptly vetoed the bill, but it was passed over his head.

Those bondholders who had already exchanged their old bonds for the new ones with tax receivable coupons attached at once contended that the "Peeler Bill" impaired the obligation of their contract, and was, therefore, unconstitutional, null and void.

The officers charged with the collection of taxes, and all other demands due the State, refused to receive payment in coupons, and suits were at once instituted to test the constitutionality of the act. The question came before the Supreme Court of Appeals for decision.¹ The opinion of the court was delivered by Judge Wood Bouldin. The court held that the act of March 30th, 1871, making the coupons receivable for taxes, debts and demands due the State, constituted a contract on the part of the State with such creditors as had already funded their bonds, and could not be repealed by the General Assembly. The court further held that the act of March 7th, 1872, was repugnant both to the Constitutions of the State of Virginia and of the United States because it impaired the obligation of the contract of the State with the holders of bonds issued under the Funding Bill of March 30th, 1871, and that it was on that account and to that extent void. The effect of this decision was to uphold the legality of all bonds which had been exchanged prior to the passage of the "Peeler Bill" of March 7th, 1872, but it stopped all further exchange of the old bonds for new ones with tax receivable coupons; those

¹Antoni vs. Wright, 63 Va. 870.

exchanged subsequent to the passage of the last-named bill were known as "Peeler Bonds," and, of course, did not have tax receivable coupons attached to them.

This was the situation when Mr. Stuart was elected a member of the House of Delegates in November, 1873. When the General Assembly met in December following, he was made chairman of the Committee on Finance in the House, and he wielded his influence in defending the honor of the State and in seeking new subjects of taxation in order that the State might be able to meet the interest on its debt.

CHAPTER XXXVII

FAREWELL ADDRESS TO HIS CONSTITUENTS,
JUNE 19TH, 1877



WHEN the General Assembly adjourned in the spring of 1877, Mr. Stuart's fourth consecutive term of service in that body ended. He was in his seventy-first year, and his health was infirm. He therefore determined to retire finally from public life.

He had intended to deliver a public address to his constituents and give an account of his stewardship, but he had been prevented from doing so by ill health, and he therefore decided to publish his address in the *Staunton Spectator*, on June 19th, 1877. In it he gave a most interesting account of the condition of the country when he was first elected a member of the Legislature in 1836. In that day there were no railroads and few passable wagon roads. The only mode of transporting the products of the farm to market was the slow and expensive road wagon, and the only public vehicles for carrying passengers were the stage coaches. Mr. Stuart showed the amount of money the State had expended upon internal improvements and upon charitable and educational institutions prior to 1861. He traced the origin of the public debt, contracted mainly for these objects; outlined what had been attempted toward the adjustment of the debt between Virginia and West Virginia; and finally showed what part of the debt Virginia had assumed as her just proportion, and what the Legislature during his service therein had done to increase the revenue of the State in order to meet the expenses of the government and the interest on the debt. The address closed with the declaration that the debt was a just one, and with an eloquent appeal to his constituents, the last he was ever to make to

them, not to pause in the discharge of an honest duty and suffer the taint of repudiation to rest upon the proud escutcheon of the State. The address was as follows:

“To the People of Augusta County:

“Fellow-Citizens,—It was my wish at the close of the last session of the General Assembly, to make a public address to you at the courthouse, on some suitable occasion, for the three-fold purpose of returning to you, in person, my sincere thanks for the many evidences of confidence and kindness which I have received at your hands; of explaining what I had aimed to do, as one of your delegates, for the last four years in the General Assembly; and of announcing to you my determination to decline being a candidate for re-election. But, as the condition of my health disabled me from speaking at the April or May terms of our court, and my engagements, as Rector of the University of Virginia, will now require me to be absent at the June court, I have concluded to make my address to you through the press.

“Forty-one years ago I was first called, by your fathers, under very flattering circumstances, to represent the County of Augusta in the House of Delegates. I was then an active young man, and was chosen because of my known devotion to the cause of internal improvement. It is difficult for men of the present generation to realize the condition of things which existed in our country forty years ago. Then the only mode of transporting our agricultural products to market was by cumbrous and expensive roadwagons, and the only public vehicles for the conveyance of passengers, from place to place, were the old-fashioned stages.

“The flour, whiskey, bacon and other products of the county were hauled either directly to Richmond or to Scottsville, whence they were sent by the James River Canal to Richmond. The average load was from twelve to fifteen barrels of flour, and from a ton and a half to two tons of merchandise. A trip to Richmond and back occupied about two weeks, and to Scottsville, from five to eight days. The cost of hauling flour to market varied with the condition of

the roads from a dollar to a dollar and a half, and other things in proportion. The cost of getting the products of our farms to market was generally from twenty to thirty-three per cent of what they would bring in market. The hauling was not only slow and expensive, but it was attended with personal exposure to the wagoner and great injury to the horse and wagon. In winter and early spring the roads were almost, and sometimes altogether, impassable. It often happened, therefore, that when the farmers and their teams were at leisure, they could not be employed in hauling their produce to market, and when the roads became passable the time for preparing for spring crops was at hand.

“The consequence of this condition of things was that all products of the farm brought very low prices. I have known flour to sell in Staunton as low as \$2.50 per barrel, and it rarely brought more than \$4.00 or \$5.00. Butter, poultry, eggs, etc., brought little more than one-half the present prices. If a rise in prices took place in Richmond or Baltimore, we could not avail ourselves of it because we could not deliver our commodities promptly in market.

“The return trade, in groceries and dry goods, was burthened with similar difficulties. Our merchants went to market for goods twice a year, generally about the first of April and September, and their goods were delivered at heavy cost for freight and insurance, in from three to five weeks after they were purchased; the farmers who bought them were obliged to pay all these high charges, in the form of increased prices.

“To give you some idea of the facilities of traveling which existed in those days, I will refer to my own experience in getting from Staunton to Richmond in December, 1836. I left my house in Staunton in the stage, at two o'clock in the morning, and after a laborious day's travel, walking up the mountain at Rockfish Gap, and, after we got into the red lands of Albemarle, occasionally assisting in prizing the coach out of the mud with fence rails, we arrived at Charlottesville after night. The second day, we left Charlottesville at two o'clock in the morning and, after

a laborious journey of fifteen hours, arrived at Wilmington in Fluvanna. The third day we left Wilmington at twelve o'clock at night, and arrived at Richmond an hour or two after dark. According to my best recollection, the stage fare was eleven or twelve dollars, and the cost of eight meals and two night's lodgings, at fifty cents each, was five dollars, making the aggregate cost of the trip sixteen or seventeen dollars.

"Other parts of the State labored under still greater difficulties. Until 1839 there was no passable wagon road from Staunton to what is now Highland or Pendleton Counties. The tow, linen, maple sugar, bees-wax, deer-skins and dried fruit, which were then the principal marketable commodities of that country, were brought to Staunton on pack horses.

"In many of the tobacco counties, the condition of things was no better. Men are now living who remember when the tobacco of many sections was packed in tight hogsheads, into the ends of which spikes were driven, to which shafts were attached, and they were thus drawn or rather rolled by mules to market.

"It is not, therefore, a matter of surprise, that the people should become impatient of the intolerable evils and inconveniences under which they labored, and seek relief from them by improved and cheaper means of transportation and travel by turnpikes, canals, and railroads.

"I was personally cognizant of these grievances, and I was commissioned as one of the representatives of Augusta to urge the Legislature to provide for the construction of the desired improvements. It was known that we had no money in the Treasury to pay the cost of constructing them, nor were the people in a condition to bear very heavy taxation. But they believed that the construction of these works would increase the value of their lands, and of the products of their farms, and thereby enable them to pay the taxes necessary to meet the interest on the money borrowed to construct them.

"In the session of 1836-'7, Gen. Kenton Harper was my

colleague. We labored earnestly, but unsuccessfully, to get relief for our people. In the sessions of 1837-'8 and 1838-'9 (Gen. Harper having declined a re-election), Mr. Wm. Kinney was my colleague. At an early day in the session of 1838, I moved a reference of the general subject of improvement to a committee, and I was selected by that committee to prepare a report on the subject. I, accordingly, did prepare a report, which will be found among the documents of 1838. In that report, I indicated almost all the great lines of improvement which have since been constructed. A long and able debate ensued on the adoption of that report, but the general scheme was defeated by a small majority. Not disheartened by defeat, Mr. Kinney and I brought forward and succeeded in carrying as separate and independent measures, the Valley Macadam Road, from Winchester to Abingdon, and the Staunton and Parkersburg Road, through the mountains, from Staunton to the Ohio River. The State paid the entire cost (\$250,000) of the latter road and agreed to subscribe three-fifths of the stock of the Valley Turnpike.

"We also succeeded in having the Deaf and Dumb Institution established at Staunton, and in obtaining liberal appropriations for the enlargement of the buildings and grounds of the Lunatic Asylum and adding to the comfort of its inmates. The aggregate cost of these works has probably exceeded a million of dollars. This money was borrowed by the Board of Public Works, on a pledge of the faith of the State, that she would pay the interest semi-annually and ultimately redeem the principal.

"At this early day, railroads had recently been introduced, and our people did not know much about them. The first railroad in America was a short road built in Massachusetts about 1827. The idea then prevailed that it was impossible to overcome high grades with a railway; and if a man, at that time, had spoken of tunnelling the Blue Ridge, he would have been regarded as a madman.

"By degrees, however, the sentiment in favor of railroads

strengthened, and the knowledge of their capacities for the transportation of freight and passengers increased.

“Within the next twenty years, the internal improvement feeling in Virginia, and especially in Augusta County, became so strong that no man could have been elected to the Legislature who was suspected of indifference to the cause. Nothing short of open and avowed advocacy of the system would satisfy the public mind.

“The following table taken from the report of the Auditor of Public Accounts, made in 1860, will show the amount expended prior to 1861, for various classes of improvements:

For Railroads	\$18,584,928.28
Canals and Navigation Companies	12,234,116.30
Plank Road Companies	399,755.41
Turnpike Companies	2,371,009.10
Bridge Companies	104,471.66
State Roads	1,825,828.83
“Aggregate	\$35,520,109.59

“It will thus be seen that over thirty-five million and a half dollars, of what now constitutes the public debt of Virginia, was incurred in constructing internal improvements in the State of Virginia. These improvements are still in existence and are every day ministering to our comfort and profit. Every time we ride on a railroad or a turnpike, we enjoy the benefits of this expenditure, and every barrel of flour, or whiskey,—every pound of bacon, or butter, or lard, and every head of cattle, hogs, sheep, lambs, and calves that we send to market by the cars, furnishes substantial evidence of the wisdom of the outlay of this money, in the form of a reduction of from fifty to seventy per cent in the cost of transportation, and reminds us of the fact that before we had railroads, neither calves, lambs, hay, nor many other articles, which are now sources of profit, could be shipped at all.

“If any man has any lingering doubt as to the wisdom of

making this large expenditure for railways, etc., let him bring the matter to practical test by asking himself the question: "Would I be willing to see all these improvements blotted out and our people put back to the conditions they were in forty years ago, if thereby we could be relieved of the public debt?" I venture to affirm there is not a sensible man in Virginia who would give an affirmative answer to this question.

"Let us pause for a moment to consider what the improvements have done for Virginia, notwithstanding the ravages of a four-years civil war, and the depression in business caused by eight years of Federal misrule.

"They have raised Richmond, from a small town of but little over thirty thousand population, to a prosperous city of over seventy-two thousand souls, whose wealth enables it to pay one-ninth part of all the taxes paid into the State Treasury.

"They have converted Norfolk, from a sleepy and declining borough by the sea, to an active, enterprising city, which is now the second cotton port in the United States and destined, at no distant day, to be an emporium of general commerce with the Western States, and with the outside world.

"They have infused new life into Petersburg, Lynchburg, and Winchester and Harrisonburg; and dear old Fredericksburg, the Rip Van Winkle of Virginia cities, under the magic influence of railways, is awakening from her slumbers, preparing for a new career.

"But, as you, fellow-citizens, are more interested in Staunton, your county town, than in any other city, I beg your attention to a few facts connected with her history.

"In 1836, when I first went to the Legislature, the population of Staunton was very little over two thousand. Such a thing as a grocery store was not to be found in her limits. She had little or no trade. She furnished no market for the products of agriculture beyond what was necessary for the consumption of her limited population. Two wagon loads of flour would have glutted the market, and often, in

looking up and down her principal streets, not a vehicle of any description could be seen!

“How different is the condition of things now! Everything is live, activity and bustle! Our population has increased to near 8,000, and is steadily increasing. Dry goods, and grocery, and produce stores in abundance are to be found in all parts of the city, and it is often difficult to thread your way through the streets from the crowd of vehicles which obstruct them. A ready market is raised up, as it were, at the very doors of our farmers, for everything they can raise on their farms; and accommodating merchants and mechanics are ready to supply, on moderate terms, all the wants of the people from the country.

“Two noble public charitable institutions which cause an annual expenditure of over \$100,000 in our county adorn the suburbs of our city, and four first-class female schools, which draw to us every year three or four hundred young ladies from abroad, crown our principal hills.

“What is the source of all this prosperity? I hesitate not to say that it is, in a large measure, due to our railroads and turnpikes. The ready means of access which we now have, to all parts of the country, not only give facilities to trade and manufactures, but they make Staunton an eligible place for residence and a centre of female education. Does any one suppose that Staunton would have been chosen as the best site for the Lunatic Asylum, the Deaf and Dumb Institution, and the Court of Appeals, or that the large female schools which contribute so largely to its prosperity would continue to prosper, if it were remote from lines of railway? Strike our railways out of existence, and how long would our schools survive their destruction? Our public institutions might remain, but they certainly would never be enlarged.

“This historical review naturally brings me to the consideration of various questions connected with the public debt, and as that is a subject which concerns us all and on which, I am sorry to find, that much ignorance prevails, even among men of general intelligence, I propose, even at the

hazard of prolixity, to present to you, in a plain, common sense, business way, the more important facts bearing on it.

“At the first session of the Legislature, after the close of the war, measures were taken to ascertain the amount of the public debt which had been incurred prior to 1861, with a view to the adjustment of the relative liabilities of Virginia and West Virginia. In response to a call made by the House of Delegates, the Auditor reported that the entire debt of the old State of Virginia on 1st of January, 1867, was

Principal	\$36,928,894.50
Interest	6,237,391.93
	\$43,166,286.43
Aggregate of indebtedness.....	\$43,166,286.43

“This debt was contracted before the division of the State of Virginia had been made, and, as has since been adjudged by our Supreme Court of Appeals, in the case of Higginbothom’s Ex’or vs. Commonwealth, 25th Gratt. 627, both Virginia and West Virginia were bound for the whole of it. The division of the State into two States could in no wise affect the rights of the creditors, though it might affect their remedies. It was like the dissolution of a partnership. Both partners remained as firmly bound for the debts of the partnership, after the dissolution, as they had been before.

“Having ascertained the amount of the debt, and being unable to pay the interest, the Legislature provided, as every railroad company and every individual debtor in the State provided, that new bonds should be given for the arrearages of interest, which they were unable to pay.

“Being unwilling that the State of Virginia should continue jointly bound with West Virginia for the whole debt, the Legislature provided for the appointment of three commissioners, to ascertain and settle with West Virginia what proportion of the debt should be assumed by West Virginia and what proportion by Virginia. Three commissioners, viz.: Mr. John Janney, of Loudoun; Mr. William Martin, of Henry; and myself were elected by the Legislature to

make this settlement. The State of West Virginia, however, declined to appoint commissioners to meet and confer with us, and thus the plan of settlement failed. A subsequent effort to effect a settlement by other commissioners was made, but it also failed.

"In 1871, the Legislature, being still unwilling that Virginia should remain bound for the whole debt of the old State, determined, if possible, to sever the liabilities of the two States. This, of course, could not be done except with the consent of the holders of the bonds of the old State. It was, therefore, determined to make an effort to secure their consent, by offering to them terms which it was hoped would prove acceptable. This led to the passage of what is commonly known as the Funding Bill.

"I do not feel called on to express any opinion in regard to the merits or demerits of that bill, because I was not a member of the Legislature which passed it. But I will say that I have generally found that those who were most clamorous in denouncing it were most ignorant of its objects, its principles, and its provisions. No one contends that the bill was perfect. It doubtless was defective in some particulars. And it is altogether probable that if our Legislators had forgotten that they represented proud-spirited Virginians, and had humbled themselves before her creditors and with bowed heads and bated breath appealed to their charity, more favorable terms might have been obtained.

"The theory of that bill was this: At the time of its passage, the debt, by the accumulation of interest, amounted, in round numbers, to forty-five millions of dollars. For the whole of this amount, as I have already stated and as our Court of Appeals has decided, the State of Virginia was bound, jointly and severally, with the State of West Virginia. A large part of this debt was then due, and the bonds for the residue were rapidly approaching maturity. This condition of things presented a knotty problem for solution. Virginia might have assumed the whole debt and brought suit against West Virginia in the Supreme Court of the

United States (which is, by the Constitution, clothed with jurisdiction in suits brought by one State against another) to recover her fair proportion of the debt. But this was a tedious, expensive, and disagreeable proceeding. Hence the Legislature declined to adopt it and, in lieu of it, determined to submit a proposition to the creditors, which, it was hoped, would lead to a more prompt and satisfactory adjustment.

“The whole debt, as I have already stated, was forty-five millions of dollars. In the formation of the State of West Virginia, the old State of Virginia was deprived of about one-third of her territory, one-third of her population, and one-third of her taxable values. Assuming either or all of these elements combined, as the basis of apportionment, it was considered by the Legislature that the fair share of the old debt which West Virginia should assume was one-third; and that Virginia should become responsible for the remaining two-thirds. In other words, it was thought just that West Virginia should assume fifteen millions of the debt and Virginia the remaining thirty millions.

“Following out his idea, the Legislature passed a solemn act by which it proposed to the creditors to surrender their old bonds, which bound both States, and accept new bonds of the State of Virginia, payable in 34 years for two-thirds of the original debt; and a certificate for the other third, for the payment of which the creditors were to look to West Virginia. It was also stipulated in the proposition that if West Virginia should, at any time, pay anything to Virginia, on account of her share of the joint debt, Virginia would faithfully account for and pay it over to the creditors.

“To make this proposition more acceptable to the creditors, the Legislature pledged the faith of the State for the punctual payment of the interest on the new bonds semi-annually, and by way of collateral security agreed that the matured coupons for interest on these bonds, should be receivable in payment of all taxes and dues to the Commonwealth.

“Some ignorant people maintain that this proposition was tainted with repudiation; and others affirm that the State of

Virginia, notwithstanding the acceptance of the proposition and the surrender of the old bonds, is still liable for the share of the debt due from West Virginia. Both of these assumptions are idle delusions—Virginia did not seek to repudiate or get rid of any part of the debt for which she was equitably responsible. She simply submitted a proposition to her creditors, which they were at perfect liberty to accept or decline, as they might think best. If they declined, there was an end of the matter. If they accepted, it became a compact between them, a new bargain which annulled the old obligations and substituted new ones for it.

“The joint obligation of the two States arose out of the old bonds issued before the war; and when the holders of these bonds voluntarily surrendered them and took new obligations, in lieu of them, by which Virginia bound herself to pay two-thirds of the original debt and give a certificate, which was a mere evidence of the amount due from West Virginia, the old bonds were annulled and thereafter had no validity.

“The case may be illustrated by a familiar example: Suppose A and B are partners in business; A owning two-thirds and B one-third. The firm owes a debt of three thousand dollars to C, which is evidenced by a note of the partnership. A dissolution takes place, and A takes two-thirds of the assets and B the remaining third; A, however, retaining the partnership books. It is obvious that, notwithstanding the dissolution, both partners are responsible to C for the whole debt. But, suppose A, being anxious to get rid of his responsibility for the share of the debt due from B, should go to C and, after representing to him the fact that B was in possession of one-third of the partnership assets, and was, therefore, the party who was in equity bound to pay one-third of the debt, should propose to C that he should surrender the old note and take, in lieu of it, a new note from A for his two-thirds of the debt and A’s certificate that B’s third was still due and unsatisfied, and C should accept the proposition, would any sensible man suppose that the original note which had been surrendered and cancelled was

still in force and that an action could be brought on it? Or would any person suppose that C could still proceed against A for B's share, notwithstanding the surrender of the old agreement between A and C?

"I think, therefore, that I may dismiss these idle assertions as calculated to deceive none but the most ignorant.

"I now return to the narrative of events connected with the Funding Bill.

"After the law embodying the propositions above recited had been promulgated, it became a grave question with the bond holders whether they would accept or reject the terms offered. On this matter there was much diversity of opinion. Some promptly accepted and surrendered their old bonds, and received new bonds and certificates. Others hesitated, while guardians, executors, and trustees, who held bonds in fiduciary capacities, were unwilling to take the responsibility of funding until they could get the authority of the courts to do so.

"The general result, however, was that \$20,237,015.00 of the old debt was funded, with tax-receivable coupons.

"The Auditor of Public Accounts, in his report of 1876, page 4, states the debt as follows:

Consol debt with tax-receivable coupons . . .	\$18,239,600.00
Registered bonds and certificates of fractions, which may be converted into such bonds	1,997,415.80
	<hr/>
	\$20,237,015.80
Amount funded and refunded in bonds not consol bonds with coupons	9,252,310.58
Held by Literary Fund	1,428,245.25
Held by Sinking Fund	4,986,771.90
	<hr/>
Total debt	\$35,904,343.53
But deducting what is due Literary and Sinking Fund	\$ 6,415,017.05
There remains due from Commonwealth . .	29,489,326.38

“Those who accepted the provisions of the Funding Bill, and converted their bonds into “consols with tax-receivable coupons,” were mainly those who were most vigilant, who lived in the United States and were, therefore, the first to get information as to the terms of the law, while those who did not accept were foreigners, who lived in remote countries, or fiduciaries, representing widows and orphans, who had to await the decrees of courts before making the change in the form of their investments.

“Within a year after the passage of the Funding Bill, a little over twenty millions of the debt of Virginia was converted into bonds, the coupons on which were receivable in payment of taxes and other dues to the Commonwealth. Before the other creditors could avail themselves of the provisions of the law, and convert their bonds into ‘consol bonds,’ the Legislature re-assembled and, in hot haste, passed a bill, which purported to repeal, and was intended to repeal, the entire Funding Bill. But the creditors who had accepted the provisions of the law, and complied with its terms, by surrendering their old bonds and receiving new ones for two-thirds of the original amount, contended that the tender of terms by the State, and the acceptance of and compliance with those terms by the creditors, constituted a contract between the parties, and that under the provisions of the Constitution of the United States it was not competent for a subsequent Legislature ‘to impair the obligation of the contract.’

“Judicial proceedings were instituted to decide the question, and the Supreme Court of Virginia adjudged that in all cases in which the propositions contained in the Funding Bill had been accepted by the creditors, there was a valid legal contract between the parties which a subsequent Legislature could not annul and, therefore, that these bonds which had been issued under the Funding Bill, with tax receivable coupons attached, were valid and legal obligations. But the court further and very properly decided that in cases where the offer contained in the Funding Bill had not been accepted by the creditors, there was no subsisting contract.

It was a mere offer, which was revocable at any time before acceptance, and, therefore, that while it was not competent for the Legislature to impair the obligation of a contract that had already been entered into, it was entirely legitimate for it to decline to enter into any more contracts of a similar character.

“The effect of the legislation on the subject has been to create a very singular and, in my judgment, inequitable discrimination between the creditors. All the obligations of the State were for money borrowed for public objects and should stand on equal ground in law. But here we have twenty millions of debt, the holders of which can lawfully collect their interest by presenting the coupons in payment of taxes and other dues to the State, while the holders of the remaining ten millions of debt cannot collect a dollar! Is this just and right? Nay, is it consistent with those principles of integrity and fair dealing which should govern the policy of a great State?

“I have seen this injustice commented on, in some quarters, as if the creditors were responsible for it. But such is not the fact. It was occasioned by the vacillating course of the Legislature, and on it rests the responsibility. It is much to be regretted that any such invidious discrimination should exist, and last winter, when the association of bankers were seeking to effect a fair adjustment of the liabilities of the Southern States, the President of the Commission wrote me that this discrimination between the different classes of creditors was an insurmountable obstacle in the path of adjustment. The question now presents itself, whether fair dealing does not require that all the creditors of the State shall be placed on the same footing?

“Having thus reviewed the origin and history of our debt—when, how and for what purposes it was created; the vast advantages which it has secured to the people of the State, advantages which they are now enjoying and which are increasing every year; and having explained the history of the legislation which has been had in relation to it prior to 1873, I will now proceed to state what I, as one of your

representatives, have sought to do in regard to it during the last four sessions of the General Assembly.

“In the fall of 1873, without any solicitation on my part, I was nominated and elected to the House of Delegates. In conversation with gentlemen from various parts of the county, I learned that I had been elected with special reference to the financial difficulties of the State. When the House met, I was designated as chairman of the Committee of Finance. This devolved on me the duty of looking closely into the liabilities and resources of the State. The result of the investigation was by no means encouraging. It showed that the annual expenditure, including current expenses of the government, the cost of public schools, and the interest on the funded portion of the public debt at six per cent, and the unfunded portion at four per cent, exceeded the resources of the State by about one million dollars. The committee immediately addressed itself to the duty of diminishing this deficit, by reducing the expenditures and increasing the revenues.

“It was known to the committee that, in consequence of the languishing condition of the agricultural interest, lands and personal property could not bear increased taxation. No attempt, therefore, was made to lay additional taxes on those subjects. But it was found that, under the then existing laws, one-half of the merchants were paying no tax on their business and dealers in whiskey and tobacco were paying license-taxes entirely disproportioned to their large profits. Railroads, express and transportation companies, circuses, and theatrical exhibitions were also paying inadequate taxes. A bill was therefore introduced laying equitable taxes on these and other subjects, which, after a protracted debate, was finally passed. This bill, with the amendments subsequently made to it, has increased the revenue of the State to the extent of three or four hundred thousand dollars, and according to the Auditor’s report of 1876 had then reduced the deficit from one million to six hundred and ten thousand dollars. At the last session of the General Assembly, the pay of members of the two

Houses was reduced from \$720 each to \$540 per annum, and the mileage was cut down one-half. This effected a reduction in the annual cost of the legislature of \$36,000. The House of Delegates also passed a bill providing for a reduction of thirty-five in the number of members and Senators. This, however, failed in the Senate. But the constitution imperatively requires that such a bill shall be passed at the next session, and also that the sessions thereafter shall be biennial instead of annual. When this is done, the saving, as compared with the present cost of the Legislature, will be about \$100,000 per annum. This will reduce the annual deficit to about \$500,000. To diminish it still further, a law was passed providing for a fair assessment for taxation of the property of railroad companies, which will add largely to the revenue. Heretofore, railroad companies have been allowed to place their own estimate on the value of their property, and none of them were assessed at more than \$3,750 per mile. The present law provides that the Board of Public Works shall make the assessment, and the presumption is that the valuation will be increased at least three or fourfold.

“A law was also passed which levies a tax on the consumption of ardent spirits, which it is believed will add several hundred thousand dollars to the revenue now derived from that source. This law imposes no additional tax on the dealers in liquor, but simply requires that every dealer shall collect on each drink of liquor that he may sell, to be drunk where sold, and on each half pint which he may sell, to be carried away, two and a half cents, which he is to account for and pay into the Treasury. This tax is entirely voluntary. No man need pay unless he chooses to do so. If he prefers to drink, he elects to pay the tax.

“Other measures were adopted for the purpose of adding to the revenue, which I need not notice in detail.

“If the practical operation of these laws fulfils the expectation of their most judicious friends, the deficit in the Treasury will be reduced to a mere trifle, which will soon be

met by the steady increase in the value of taxable personal property.

“And here I desire especially to call the attention of the people to one very important fact which seems to have been generally overlooked. It is this: The deficit in the Treasury is by no means due entirely to the public debt. If the expenditures of the government had remained as they were at the time the Funding Bill was passed, the present revenues of the State would have been nearly, if not entirely, sufficient to pay the current expenses, and the interest on the entire debt of thirty millions. This can readily be proven. The annual cost of the government is, in round numbers, one million of dollars. The interest on thirty millions of dollars, at six per cent, is one million eight hundred thousand dollars. The aggregate of the two is \$2,800,000. The present revenue is stated by the Auditor in his report of 1876, page 4, to be \$2,799,000. The deficiency, then, would be only \$100,000, which would be met by the saving effected by biennial sessions alone, leaving out of view the additional revenue to be derived from the tax on the sale of whiskey and on railroads, etc.

“How then does this deficiency arise? The Auditor’s report supplies the answer to this question. On page 3, he informs us that in the year 1876 there was paid out of the Treasury for the support of the free schools \$508,024.44.

“It will be seen that the Legislature, which pledged the revenues of the Commonwealth to pay the interest on the public debt, after making that pledge, diverted \$508,024.44 of those revenues, and applied it to another and very different object!

“Nay, more, the Legislature provided for heavy county taxation—amounting last year to \$512,000,—to be applied to the cost of public schools. It will thus be seen that the entire tax, State and County, levied last year to pay the cost of public schools, was one million and twenty thousand dollars!

“The men who are courting public favor, by clamoring against the payment of the public debt, say nothing of this

enormous expenditure, because they believe free schools to be popular.

"I have no fault to find with this expenditure. I believe that it is the duty of the State to educate the people. We have made them all voters and participators in the administration of the government, and it is our duty to give them such an amount of education as will enable them to discharge their public duties intelligently.

"But I do maintain that the Legislature had no moral right to divert the funds which had been pledged to the creditors of the State, and apply them to an entirely different purpose. Good faith required that the pledge should be respected, and when they undertook to introduce the free school system, our legislators should have fairly and honestly met the responsibility, by explaining to the people the requirements of the Constitution that free schools should be established, and asking them to bear the tax necessary to sustain them. If they had done so, the people would have readily responded to the appeal, because they were intelligent enough to know that they would get a fair equivalent for every dollar of tax in the free education of their children. It will thus be seen that a very large advance had been made toward the establishment of the State credit. In confirmation of this statement, I need only refer to the fact that 'consol bonds,' which were selling in 1873 as low as \$49, have now risen to \$73, and this had been accomplished without oppressing anybody.

"Yet, strange to say, just now, when we are beginning, as it were, to see daylight, on the eve of an election, some people, who, when the clouds were darkest, remained entirely passive, have suddenly awakened to the conviction that we are on the eve of bankruptcy and ruin. They do not tell the people that more than a million of dollars, which they are obliged to pay, goes to defray the cost of educating their children, and thereby relieves them from paying tuition fees to the schoolmaster; but, on the contrary, seek to make the impression on the popular mind that all the burthen of taxation is due to the public debt!

"The facts in relation to the public debt are published annually in the official reports of the First and Second Auditors, and are, therefore, accessible to all who choose to look into them. Yet, in the face of the facts, we find the most exaggerated statements given to the public, in speeches and through the press. I was surprised to see, in some of our own papers, articles written by gentlemen of considerable general intelligence, and who, I am sure, would not willingly seek to mislead the public, that are so palpably extravagant as to be absolutely ludicrous. For example, in a public meeting held in our county, and in articles published in our papers under the proper names of the authors, it was boldly asserted that in order to raise money enough to pay the current expenses of the government, the cost of the free schools, and the interest on the public debt, it would be necessary to lay a tax of five per cent on the value of lands and personal property, which would amount to confiscation!

"If such was the fact, it would certainly be confiscation. But what is the truth in regard to this matter? It appears from table XV of the report of the Auditor in 1876, page 4, that the assessed value of the real estate in the Commonwealth is \$242,756,548, and of the personal property \$74,954,304. Adding these sums together, we ascertain that the aggregate value of the taxable real and personal estate of the Commonwealth is, omitting fractions, \$317,710,000. A tax of five per cent on this amount would yield a revenue, in round numbers, of \$15,885,000! A tax of five per cent would, therefore, independently of all other sources of revenue, pay off the whole State debt, principal and interest, in two years! Would it not be well for gentlemen who volunteer to instruct the people on great questions of finance to be a little more cautious in regard to facts?

"Instead of a tax of five per cent being necessary to meet the engagements of the State, I hazard the assertion that a tax of two-thirds of one per cent, in aid of the other sources of revenue, would be sufficient. The whole tax on land is now, at one-half of one per cent, \$1,213,782, and on personal property, \$374,771. The aggregate of the two is

\$1,588,553. If the tax were increased from 50 cents on the \$100 to 66 $\frac{2}{3}$ cents, the addition to the revenue would be \$529,514, which, as I have already shown, after biennial sessions of the Legislature, with a diminished number of members and reduced pay are introduced, will meet the entire deficit. Nay, I go further and affirm that, if the Constitution be so amended as to secure a capitation tax of two dollars instead of one dollar, to be applied to the support of free schools, and the Legislature will then pass Governor Letcher's dog law, all our financial difficulties will be solved without any increase of the tax on real or personal property.

"I perceive, from the newspapers, that there is a good deal of talk, especially among those who are regarded as prospective candidates for the Legislature, of an 'equitable adjustment' of the public debt. I do not know exactly what is meant by this language. I am happy to see that those who use it emphatically deny that it means repudiation. I do not question their sincerity; but I must be pardoned for saying that, in my judgment, there is a very narrow line of distinction between repudiation of a debt and a determination not to pay it! It sounds to me very much like my friend Major Sutherlin's distinction between a horse-race and a trial of speed between two blooded horses!

"How is this adjustment to be effected? Is the State to be the only party to it? Are the creditors not to be consulted? If so, I venture to inform gentlemen that the courts will present an insuperable barrier to such an adjustment. They will remind gentlemen, as they did in the case of the Funding Bill, that there is a clause in the Constitution of the United States which provides that 'no State can impair the obligations of a contract.' But, it may be said that they will reform the Court of Appeals, by appointing judges of their way of thinking, when the present judges die or resign, or when their present terms expire. Waiving any discussion of the iniquity of a proceeding which necessarily involves the idea that the Legislature will substantially exercise the judicial function of deciding on the constitu-

tionality of a law, and then appoint to the highest judicial station mere puppets to register the behests of the Legislature, I must be permitted to remind all who cherish such a notion that there yet remains the Supreme Court of the United States, whose duty it is to uphold and maintain the integrity of the Constitution of the United States, and which will unquestionably decide the question of the inviolability of a contract precisely as our Court of Appeals have done. It will hardly be contended that the Legislature of Virginia can reform the Supreme Court of the United States!

“But, it may be said, the purpose of those who meditate an ‘equitable adjustment’ is to make a new contract with the creditors. This is certainly legitimate, but is it feasible? The consol bonds now hold obligations which are recognized as valid, and the interest on which is collectible by a self-executing process. It can hardly be expected that the holders of these bonds, which are perfectly secure, will agree to accept, in lieu of them, others of inferior value, either in amount or security for payment. What is to be done with these creditors? They are beyond the reach of legislative power. The only chance of doing anything is with the holders of the Peeler or non-funded bonds; and all that can be done with them is to add another wrong to the injustice which has already been done to this class of our creditors. A calm consideration of the matter must, I think, satisfy every intelligent man that the project of an ‘equitable adjustment,’ either with or without the consent of the creditors, is altogether illusory. The advocates of ‘adjustment’ should recollect that Virginia has already made one adjustment with her creditors, and, within twelve months after it was made, sought to repudiate it. Should she now propose another, might she not be subjected to the humiliation of being taunted with that violation of good faith? Might not the inquiry be made, what security can you offer for the fulfilment of your proposed new bargain? What assurance can you give that the next General Assembly will not treat it as your predecessors sought to treat the Funding Bill? It would be difficult to find a satisfactory answer to inquiries like these.

“Fellow-citizens: Permit me to remind you that your debt is a just one. You borrowed the money to improve your material interests. You expended it in valuable internal improvements; in the erection of your noble charitable institutions, and of your renowned University and Military Institute. You are still in the enjoyment of all the advantages resulting from these large expenditures. Will you now repudiate, or refuse to pay the price of these works, which have done so much to promote your prosperity? When you thought the honor of Virginia was at stake, at the beginning of the war, you gave your sons and brothers, who were as dear to you as life itself, to the cause; and you poured out your treasures like water to vindicate her unsullied name! Will you now pause in the discharge of an honest duty, and, for the sake of a few paltry dollars, suffer the taint of repudiation to rest on her proud escutcheon? I have proved to you, by figures taken from authentic sources, that the fulfilment of your whole duty to yourselves, to your creditors, and to Virginia, will involve but a trifling sacrifice.

“Let me commend to you the example of our neighboring county, Rockbridge, the eldest daughter of old Augusta. Born amidst the throes and convulsions of the Revolution, her sterling population still retain the high principles of the era of her nativity. When I have contemplated this noble county, burthened, not only with the share of State and county taxation, which she has to bear in common with other counties, but weighed down by a county debt of \$565,000 incurred by a subscription to a railroad of which she was wrongfully deprived, still standing up manfully to the fulfilment of her obligations, making no complaint of poverty, humbling herself by no appeals for charity, uttering no whisper of repudiation, I must confess I am filled with admiration of her gallant conduct. I feel like paraphrasing the language of the dying General Bee at Manassas, in regard to Jackson's Brigade, and exclaiming: ‘Look at glorious old Rockbridge! See how she stands, firm in her integrity as the arch of the eternal Bridge from which she

derives her name!' There is a peculiar propriety that the soil of such a county should be the depository of all that is mortal of Lee and Jackson, the bright exemplars of everything that was lofty in human nature.

"In now severing, forever, the relations of representative and constituent, which have so long existed between us, permit me to tender you my heartfelt thanks for the many evidences of kindness and confidence which, during so many years, I have received at your hands. As long as life lasts, my most fervent prayers will be offered for your prosperity and happiness, and that the proud reputation which our county has enjoyed for a hundred years may be transmitted, unspotted, to future generations.

Respectfully yours, etc.,

Alex H. H. Stuart."

This address was received with favor by the press of the State,—some papers copied it in full, others published parts of it. Mr. Stuart also received many letters from influential men in different parts of the State expressing their appreciation of his address, and their regret that he felt compelled to retire from further service to the State. Among the letters received, the following extract is made from one dated June 26th, 1877, from the Hon. William Wirt Henry of Richmond:

"The copy of your farewell address to your constituents has been received and read with a pleasure only interrupted by the knowledge that it is a *farewell* address. Its sentiments, so forcibly urged, and with such dignity, are mine. * *

"And now, my dear Sir, how can I express the sorrow I feel that one so long and honorably identified with all that is admirable in the history of his State during his day and generation, is bidding a final adieu to his country's service?

"I was taught to honor and admire you before I ever saw you, and I have always esteemed it a great privilege to have known you personally, and to have heartily agreed with you on all important public measures. I feel that your retirement is a removal of one of our well-tried props, at a

time when the State needs the support of all her honest sons. That a kind Providence may long spare your life, and permit you still to exert your wonted usefulness, in the sphere in which you shall still move, is not only my sincere wish and prayer, but is the desire of thousands of your admiring and grateful countrymen."

CHAPTER XXXVIII

DEATH OF ARCHIBALD GERARD STUART AND OF HIS MOTHER



IN MR. STUART'S retirement and old age, one object engaged his deepest interest,—the education of his youngest child and only surviving son,—Archibald Gerard Stuart. When fifteen years of age, he was sent to Hampden-Sidney College, where he remained two sessions and made satisfactory progress in his studies. He was especially interested in the debating society and soon showed such talent that he was appointed debater at one of the college celebrations. He returned for the third session, and became a candidate for final orator, but contracted malaria and withdrew from college; and after recuperating a few weeks at home, he matriculated at the University of Virginia, of which his father was then the Rector. Though not eighteen years of age, he won the debater's medal in the Jefferson Literary Society during his first session. At the close of the session, owing to impaired health, he decided to read law in his father's office rather than to risk the close confinement of classrooms at the University. In less than a year, however, his health became so seriously impaired that he was advised to seek a change of climate in the West. At the age of twenty, he started to Colorado in search of health.

After five months, he returned home greatly improved and eager to take up his work. Two years later, in 1881, he was forced to return to the West, where he remained some months before returning home for the second time.

For four years his life had been a succession of keen disappointments, and in the summer of 1883 he abandoned his profession and again sought to recuperate his health

in the West. He had no definite plans for the future, but was induced by a friend to visit St. Paul, Minnesota. There his health began to improve, and he sought employment. He made friends easily, and soon he and his friend became partners in an established real estate business. Active employment, coupled with the invigorating climate, produced marked improvement in his strength and spirits, and for a time it seemed that his health was being rapidly restored. In the summer of 1884, however, he was again forced to return home. Weeks and months passed without improvement, and on February 13th, 1885, he quietly passed away in his father's home.

Mr. Stuart had kept a diary all his life, embracing many personal and family matters. It was continued regularly up to February 5th, 1891, eight days before his death, and scarcely a day passed without some entry. After his son died, Mr. Stuart made only one entry in his diary for ten days. That entry was as follows:

"About 20 minutes after 6 o'clock A. M. of this, the 13th day of February, 1885, my last surviving son, Archibald Gerard Stuart, died * * *. With him have perished my fondest hopes and most cherished aspirations."

Mrs. Stuart repeatedly expressed the wish to have some memorial of her youngest son prepared and printed for distribution among his friends, as well as her own. So persistent was this desire on her part that finally her daughter, Mrs. Margaret Briscoe Stuart Robertson, who was only three years older than her brother, prepared the following sketch:

"Archibald Gerard Stuart was the youngest son and child of Alex. H. H. Stuart and Frances C. Baldwin, daughter of the late Judge Briscoe G. Baldwin, of the Supreme Court of Appeals of Virginia. Descended on the maternal side from such men as Chancellor Brown and Judge Baldwin; called for his grandfather, Judge Archibald Stuart, and his only surviving uncle, Gerard B. Stuart; bearing a name

which, for one hundred and fifty years, had been in the county a synonym for intellect and honor, he was born to a rich inheritance of talents, fame, and favor.

"Two gifted brothers, aged twenty-three and twenty-one years, God had taken, just as they were entering manhood; and now, after an interval of twenty years, buried hopes revived in the hearts of the parents, and in the son of their old age the father saw a staff for his declining years—Joseph was not, and Simeon was not, but in the little Benjamin of his race his joy should be full. Born of a gray-haired mother, over whom storms of sorrow had swept, he was emphatically a mother-boy, for years the baby plaything of a family of grown children.

"At an early age he seemed conscious of the great hopes centered in him, as the last of a line of great and useful men, and the last of the good old name.

"As a child, he was remarkable for the beauty of his countenance, gentleness, and shyness of disposition, and an absorbing devotion to his mother. From his earliest youth he was quiet in his habits, and though not a scholar, in the truest sense of the word, he was an insatiate reader on all subjects, preferring books and the society of his mother to most out-of-door amusements. Many will remember the childish cry that went up at the death of his grown brother: 'You have got me, Mother, You have got me left!' And later on, in other times of affliction, how the boy, with clasping arms, sought to support and comfort her.

"At the age of fifteen he was sent to Hampden-Sidney College, then under the direction of his brother-in-law, Reverend J. M. P. Atkinson. There he remained for two sessions, and made good progress in all his studies. It was there that he threw off his great natural timidity, making the determination, at all costs, to become a speaker; and such was his progress and improvement that he was almost immediately appointed debater at one of the college celebrations, and soon showed unusual talent in declamation and in the delivery of his speeches.

"He was entered for a third session at Hampden-Sidney,

and became a prominent candidate for final orator and the debater's medal, but having contracted chills he was withdrawn, and a few weeks later entered as a student at the University of Virginia, of which his father was then Rector. There all the pride and ambition of his nature was called out by intercourse and competition with clever men, mostly his seniors and with a far larger knowledge of the world. Though not yet eighteen, he determined not to be lost in the crowd, nor to be unworthy of his father's name and his kinship with John B. Baldwin and John W. Daniel, whom the old University still cherished as her children.

"Rather grave by nature, he was intimate with few, familiar with none. He was of tall stature, with remarkably handsome and clear-cut features, and always courteous in manner, fluent and easy in conversation, he was popular with all. Though free in proclaiming his opinions, he was ever reticent in the expression of his feelings and inner experience; he had a dry sense of humor, and at times a keenness of sarcasm, which left some under the false impression that he had a proud, cold nature.

"Those who loved him best also best knew the beauties and foibles of his nature; and that he was a person of prejudice and of strong feeling for an adversary as well as for a friend, none will deny.

"At the University success again rewarded his efforts, and at the age of eighteen, and during his first session there he was carried on the shoulders of his fellow-students around the Lawn and proclaimed successful competitor for their highest honor,—the debater's medal which had been awarded by the Faculty.

Richmond *Dispatch*, June 27, 1877.

"Mr. Southall, the President of the Society, then made the presentation speech of the society medal to the best debater of this session. His remarks were short and to the point, and in presenting the medal to Mr. Stuart, he felt

satisfied that the Jefferson Society would never regret the selection of medalist that session.

“Mr. A. G. Stuart of Staunton, Va., is the son of Hon. Alex. H. H. Stuart. He is a mere youth in appearance, easy, graceful, and has a fine, rich voice, which will yet be heard beyond the walls of the public hall of the University. Mr. Stuart returned thanks for the medal and reminded the Society of some of its members who were great—in literature, Moseley and Poe; in politics, Bailey and Toombs; in religion, Broaddus and Dudley. He then referred to the way in which the people of the South are living on the reputation of the dead, while the people of the North are advancing. He appealed to his fellow-students to make names for themselves and closed his little speech by saying: ‘And now surrounded by philosophers and scholars, by statesmen and orators, by the beauty and chivalry of the South, I must not detain you longer; for inexperience should not advise experience, nor should youth speak where wisdom holds her peace.

“‘Sitting near where stood the youthful orator was his venerable father, Hon. A. H. H. Stuart.’ Though bowed with age and toil, I thought I could see his eye glisten with the fire of youth as he listened to his boy, who will possibly take the place of his father in the love and affection of the people of Virginia.’

“With such a beginning, is it any wonder that hopes should have run high, and the eyes of many been turned upon him in bright expectancy for the future?

“Born, raised and educated among lawyers, with a fine library and a large patronage awaiting him, his mind turned naturally to the profession of the law, and he began the study of it in his father’s office. Before the year was out, while the fast-coming evening of life promised fair to the aged parents, and his bright morning had but just begun, disease laid sudden hold upon him and for a time his life was in jeopardy. Regaining his strength somewhat, after trying for some months the effects of medicine, change of scene and short trips, it was at last decided he must seek

health in the far West. So at twenty years of age, the delicate, fastidious youth started alone to Colorado, on that melancholy search for health.

"After five months of hardship and discomfort, he returned improved in strength and hope, and delighting in the comforts of home and the refinements of the East, eagerly took up the old profession and returned again to the bar. Forsaking field sports, for which he had no taste, he and the other young men organized a debating society, participated in by old and young, and attended by the elite of the town. All remember the interest, talent, and originality displayed by young Stuart in these debates.

"Two years later, (in '81) his health again failing, he returned to the West, uncongenial though it was to all his tastes, with the promise of a place on the United States Geological Survey, and it was during this visit that he sent the entertaining letters to the Staunton papers, so largely read, commented upon, and republished at the time they appeared. While in the West his talent and fluency as a writer was recognized, and positions, both honorable and lucrative, were offered him by leading journalists, which, however, his health prevented his accepting.

"The two letters inserted give an insight into a mind at once practical, observant, and imaginative.

" 'A Virginian gives his Experience in Colorado.

" 'Colorado Springs, Col., May 27, 1879.

" 'Editor Dispatch: I desire through your columns to address a few words to the young men of Virginia who contemplate settling in the far West. I came from the 'Old Dominion' fully enthused with the glowing accounts so constantly circulated of the vast resources and immense capabilities of this western world. I came prepared to judge with an impartial eye of the truth of these reports, and with a thought of making this my home. After diligent inquiry in regard to the productive capacity of this State, and careful comparison of its resources with those I know Virginia to

possess, I have arrived at a definite conclusion—a conclusion which I wish to communicate to those who have the western fever. To be sure my experience is only in connection with this State; but as this is now the objective point of the greatest tide of immigration, it is certainly just to take it as a sample of the whole West. Whether we draw the contrast between Colorado and Virginia from an agricultural, a social, a political, or a moral standpoint, Virginia has the advantage.

“The elevation of Colorado is such that few grains, fruits or vegetables attain perfection. Oats and barley constitute the main dependence of the farmer; and vegetables require constant irrigation to produce what we would consider an indifferent crop. In a few years it will be utterly impossible for the State to supply sufficient food for the support of her own population. Already in the larger markets foreign articles compete successfully with home production. The whole social order is vacillating, and will remain unsettled for many years to come.

“Here money ‘makes the man; the want of it, the fellow.’ The moral and educational status of an individual is entirely subordinate to his pecuniary standing. Owing to the fact that mining induces an insane desire for speculative excitement, gamblers have swarmed here from all parts of the country.

“Most prices are exorbitant, and strangers are considered fair game for gentleman-swindlers. The political complexion of the State may change at any moment, owing to the vast influx of citizens from other parts.

“A young man coming from the East with a moderate capital will find it greatly diminished by the mere shrinkage of money value. He will find that the expense of living is nearly doubled, and that competition in every vocation has assumed proportions never dreamed of in easy-going old Virginia. He will be horrified to learn that railroad travel is ten cents per mile, and never scaled for long distance; that only bloated bondholders can afford to ride in stage-coaches; that the freight charges are more than treble those

of the East; and finally, that the taxes are about equivalent to those which our readjuster friends maintained were sapping the life-blood of old Virginia. If a professional man, he will desire to leave the country when informed that second-story offices in desirable locations rent for from seventy-five to one hundred and fifty dollars per month. I do not desire to do this State or people an injustice, nor would I willingly exaggerate a single item in this account. The climate here for persons suffering from asthma or any pulmonary complaint is most beneficial; the water excellent; and the roads unusually fine; but yet, when I see the youth and sinew of Virginia deserting her borders for a land immeasurably inferior; when I know that hundreds of them are year by year leaving relatives and friends, going into foreign States and there exhibiting capacity and industry, which, if exerted in Virginia, would have yielded far greater results; I feel that it is only through misinformation that they leave their homes; and, therefore, I have endeavored to prepare them for what they will inevitably encounter when they forsake their Mother State.

A. G. S.'

“ ‘A Night on Pike’s Peak—The Difficulty of Getting There—A Sun-Rise from the Height.

“ ‘Special Correspondence of the *Virginian*.

“ ‘If your readers are not too much engrossed by the exciting political campaign now agitating Virginia, they may be interested by a brief account of a night spent by your correspondent upon the summit of the most remarkable peak in the Rocky Mountains.

“ ‘Hearing incidentally that an old college friend, who is now an officer of the United States Signal Service, had been detailed to the station located on Pike’s Peak, I thought it an excellent idea to renew our acquaintance under romantic circumstances, and with that end in view proceeded to Manitou to make the necessary preparations for ascending the mountain.

“With little difficulty, I succeeded in securing a guide who undertook to procure suitable steeds for the tedious journey. It was agreed that we should make an early start, and with many pleasant anticipations, I repaired to the hotel for the night. Early in the morning I descended to the stable, where I found the guide superintending the saddling of two queer little animals called burros. They were a dark blue color, and about four feet in height, with ears from eight to fourteen inches in length. They appeared to be a cross between diminutive donkeys and mammoth jack rabbits, and exhibited countenances which were doleful in the extreme. They seemed utterly indifferent to mundane affairs, and showed every inclination to lay down the weary burden of an unsatisfactory life. The face of an overworked cartmule is brim-full of life and intelligence, when compared with the care-worn physiognomy of the miserable little beast assigned to me. As I proceeded to mount, he cast a glance of meek reproach over his small humped shoulder, as though to dissuade me from an act of wanton cruelty. With an effort, I resisted his dumb entreaties, and slightly elevating one foot, moved into the saddle. The guide inquired if I was ready, and knowing nothing to the contrary, I boldly informed him that I was. Subsequent events, however, inclined me to the opinion that the assertion was premature. The burro had, after mature reflection, arrived at the conclusion that there was a cruel and unwarranted conspiracy on foot to detract from his personal dignity by underrating his strength of character. He placed his front feet deep in the gravel, extended his ears, and, gazing sadly upon the ground, presented the appearance of mild resignation to a harsh and undeserved fate. I love animals and wouldn't maltreat anything that could hurt me. So hastily dismounting from the irritated animal and gently rubbing his nose for a few moments, I kindly inquired if he would go. He was deaf to my solicitations, and treated my honeyed encomiums upon his many excellent qualities with complacent indifference. The guide sneeringly disapproved of my tactics, and swore with Western fluency that he would

move him. He urged me to remount. With trembling knees, and the impression that I was an intrepid hero, I complied. Two stable boys and a playful by-stander then armed themselves with a whip, a brush, and a hoe-handle. The assault was fearful, but produced no effect. Other methods were immediately pursued; they twisted his tail, poured whiskey in his mouth, blew in his eyes, put sand in his ears; all with no appreciable result. The day was advancing and a large crowd of interested spectators had congregated to offer advice and see the fun. I came to the conclusion that I didn't want that burro, so I ordered another. While the fresh animal was being saddled, I will swear that I detected an amused twinkle of the stolid little brute that had conquered us all. The second burro was of a more amiable disposition, and we had no difficulty in starting.

“Our route lay along the bed of a rushing mountain torrent, and as the trail was narrow and excessively rough, we were compelled to go single file. The distance we must necessarily traverse was thirteen miles. Along the whole course, the mountains were rugged and wild, and the scenery at certain turns in the road was oppressive in its sublimity.

“Hour after hour we toiled up the precipitous ascent, crossing and re-crossing the stream, which, lashed to fury, poured wildly over the stones. As we rose higher and higher, the atmosphere became more rarified, and the burro I bestrode began to exhibit unmistakable signs of exhaustion. The slightest exertion seemed to cause it intense pain, and it moaned piteously at every step.

“During its frequent pauses, I succeeded in affording it some relief by placing my toes upon the rocks on either side, while it endeavored to gain breath for renewed effort. We soon passed the “Timber Line,” which is marked with great distinctness along the side of the monster mountain. Below, is luxuriant verdure; above, barren sterility. Still upward for three thousand feet we toiled over and under immense masses of red granite, which, in hideous nakedness, frowned upon us. At length, to my infinite relief, we reached the summit, and there, in utter barrenness of desolation, stood

the uncouth dwelling of the signal officers. It is a low stone building with walls four feet in diameter, and in architectural hideousness according well with its surroundings.

“I was greeted kindly by the two representatives of the service, but regretted to learn that my friend had left the station during the previous month. For a money consideration I persuaded his successors to allow me to remain during the night. In great physical discomfort from the intense pain in my head caused by the unusual elevation, I endeavored to make my way over the rough surface of what the proprietors of the house facetiously styled the lawn. I found, however, that the slightest exertion was agony, and contented myself by observing the huge drifts of snow which filled every crevice in the rocks, the original of which was, perhaps, deposited there a thousand years ago. It was impossible to see the view, owing to the angry clouds which hung over the mountain and threatened every moment to envelop the house in their ominous folds. With some misgivings I entered the house for the night. Men are not cleanly animals, and this place on old Pike's Peak surpasses in filthiness the most disgusting conception of my imagination. I sat up through the long hours of darkness, and I suffered indescribable anguish from the pain in my head. At early dawn, I made a cup of coffee, which relieved me greatly, and went out. The day was beautifully clear, and the crimson banners of the sun were unfolding in the East. Never, while I live, will I forget the sunrise which gladdened my sight while standing on that mountain top, fourteen thousand, three hundred feet above the level of the sea. There are feelings too delicate for the touch of a word, and some sensations are not transferable to paper. I feel as though it were almost sacrilege to attempt to describe the most glorious exhibition of the Almighty's power I have ever witnessed. A long, brilliant line of fire appeared on the horizon, and instantaneously the mountain upon which I stood was bathed in a flood of golden light. The red granite of the lower ranges reflected it in crimson waves of marvelous beauty. Lower peaks caught it up. It was

poured torrent-like into the canyons, and threw into splendid and startling contrast the sombre crevasses of the rocks, with the vivid coloring of the overhanging cliffs. It illuminated with a supernatural radiance the luxuriant green of the ancient hemlocks in the lower valley, and then swept over the foothills into the plain, which, stretching out for hundreds of miles, appeared as though it were a placid, illimitable sea of light. Half dazed, I turned to the west, and there, far as the eye could reach, range after range of lofty mountains rose in quick succession. Only a few of the towering peaks had yet caught the messengers of the morning, and, with their snow-capped summits, appeared to be robed in mantles of immaculate white. The lower ranges were sombre and forbidding; cold and immovable as fate. I was irresistibly reminded of the original command, "Let there be Light." I thought of the birth of time, of the ages gone and to come, of infinity. And before the majesty of created nature, I felt the old question rise to my lips, the memorable cry which ages ago filled the soul and was wrung from the heart of an awe-inspired man, "What is man that Thou art mindful of him!"

* * * * *

A. G. S.'

"Failing to get the United States appointment, discouraged and disappointed, his nature revolting against the coarseness of the far West, and longing for the independence of self-supporting occupation, he again turned his face homeward, preferring 'to die in Virginia rather than to live in Colorado.'

"And now, for four years, his life had been but a succession of disappointments, failing health precluding him from his profession, political ambition, and from most social pleasures. With an ardent admiration for physique and muscular prowess, he shrank from ill health as from deformity, and underwent exposure, fatigue and suffering in silent, proud uncompliment, rather than be considered an in-

valid, or a subject for any man's pity and commiseration. Though almost despairing himself, to none but his own family and most intimate friends did he ever admit the progress of disease; but, with his natural fastidious reserve of character, folded his sorrows within his own breast as too deep for pity, too sensitive for the touch of a word.

"With the desperate resolve of another fight for life, in the summer of '83, after prolonged suffering, he again abandoned his law office, where success had crowned even his spasmodic efforts, and turned his face Westward.

"Wandering on with no definite plan or hope for the future, he was induced by a friend to visit St. Paul, Minnesota, and, after a few weeks' sojourn, determined to make it his permanent home. There, as everywhere else, he soon made hosts of friends, and won his way into the confidence and hearts of the people to such an extent that in a few weeks he became a partner in an established and reliable real estate business, and a welcome guest in the society of the city.

"Buoyed up by hope, invigorated mentally and bodily by success and the sweets of long-sought independence, happiness and health revived, the oft-dashed hopes of youth were for a few months realized. Successful in business beyond his most sanguine expectations; freed from suffering, both bodily and mental, by active employment and an invigorating climate; popular in society and influential in business; gayety and light-heartedness, which had long been absent, returned, and all who knew him marked the change and development in his character. Repeated disappointments had softened and modified an ambition perhaps too over-weaning, while physical and mental suffering opened his heart in melting charity to the sufferings of the poor, the afflicted, and the oppressed.

"In all these months of absence, whether in sickness or health, prosperity or distress, his heart turned ever to his home, and sought expression in daily letters to his mother, seeking to divert her mind from his health by amusing and trivial details of his daily life. Though so far distant, no home anniversaries were overlooked, and many were the

surprises for her comfort, planned far away and carried out at home secretly through his instructions.

"In the summer of '84, he wrote that he was coming home to rest awhile and build up for the busy season, but gave no hint of failing health or flagging spirit. When he arrived, his gay exterior and hopeful reassurances that the fatigue of the journey accounted for his feeble appearance could not blind his friends to the fact that he was ill.

"Time only confirmed the worst fears; weeks went by with no improvement, till hope died in his own brave heart. Giving up, one by one, every cherished plan for the future; relinquishing, one by one, cherished business schemes in the West; forced to give up all that youth holds best and brightest; what wonder that a cry went up from his young heart at last that life was sweet and earth was beautiful to lose!

"Ambition crushed and hope departed, he clung with tenderness to those at home, and found his greatest comfort in their ministrations. Thus shutting out the world, he passed the last months of his life in great seclusion, with only those he loved best near his bedside, suffering, as ever, in silence. Though clinging to life and longing to make his useful and beautiful, he said he did not fear death, nor desire to live an object of compassion to the world, and that he would face the inevitable, committing himself to the mercy of the loving God who made him.

"So passed away a noble, pure young life, full of imperfections and unfulfilled ambitions, yet full of brilliant promise for the future. Such loved ones are fondly cherished and poor human nature, ever yearning for sympathy, cries out in lamentations and would have others know all that she has lost."

"'Death of Archibald G. Stuart.¹

"'Friday morning, the 13th instant, at 6 1/2 o'clock,

¹Staunton *Spectator*, February 18, 1885.

Archibald Stuart, at the residence of his father, in this city, breathed his last in the twenty-eighth year of his age.

“In gifts he was highly endowed. Talented, chivalric, amiable and generous, he combined in his character all the qualities which serve to make a useful, cultured, and refined gentleman. To a clear, penetrating, and logical mind, he added the graces of elocution and oratory. Always kind and gentle in his intercourse, he impressed all with his natural goodness of heart. His early collegiate course was pursued at Hampden-Sidney College, and he finished his classical studies at the University of Virginia. Preferring to enter the legal profession, but impressed with the growing inroads disease was making on his constitution, he chose the quiet which his father's office and library afforded for reading and study in preference to the lecture-room and routine of the University School. And thus, under the instruction of one so distinguished in that profession and in the national councils, and in daily association with another younger and talented member of the Staunton bar, his kinsman, Captain T. D. Ranson, he was soon thoroughly prepared for a bright and useful career, had not death come so early to claim genius and blooming promise as its own.

“Many afflicted as the deceased was seek relief in our Northwestern States. Mr. Stuart spent some time in Colorado with benefit, and about two years ago, located in St. Paul, Minnesota, and engaged in the real estate business, rather than to encounter, in his impaired health, the engrossing cares of his profession. Industrious and anxious for full scope for his mental as well as fine business qualifications, his efforts soon won for him general favor, and a growing patronage was realized. Popularity, confidence, and strong friendships were soon gained by this young Virginian in his new home.

“The blade was too keen for the scabbard, and again his face was turned towards his loved home, and there the last fleeting days of life's journey were spent.

“This is not the place nor the time to speak of sorrowing hearts. One and only one reference to the son will be made, which speaks volumes in behalf of his training and filial

devotion. It is said that when absent his daily duties were not ended till his heartfelt and devotional letter to his mother was written. A daily letter to his fond mother! What a testimonial of his character and his worth!

“Another reference is required of the journalist in chronicling the death of the third and last son of the Hon. Alex. H. H. Stuart. It is a duty we cannot omit, because in the affliction of that eminent citizen many hearts all over Virginia and throughout our broad land deeply sympathize with him in his great sorrow. His friends and neighbors mourn the loss of his son, so cherished and so beloved, and know how sorely grief-stricken is the father's heart. This community will feel deeply for the parents, whilst they will ever cherish with fond remembrance the memory of their noble son.’”

“Archibald G. Stuart,¹ only son of Hon. A. H. H. Stuart, died at the residence of his father in this city on Friday morning last, aged 27 years, having been born on the 20th of January, 1858. No death that has occurred in Staunton for years has created a more widespread sympathy for those whose loss is irreparable. Young, highly educated, talented, warm-hearted and true, he has been called hence just as there opened before him a career which gave every promise of usefulness and distinction. He was educated at the University of Virginia, carrying away the highest honors of his class, and receiving the debater's medal. After leaving college, he commenced the practice of law in Staunton, and soon took a prominent stand at the bar. The insidious disease which finally terminated his life—consumption—had even then begun its ravages. On account of his health, he left Virginia and established himself at St. Paul, Minnesota, where he soon formed an advantageous partnership in the practice of law and conduct of the real estate business. During his few months of residence in the West, his native gifts and fine business capacity won to him staunch friends, and enabled him to enter upon a career of rare promise.

¹*Valley Virginian*, February 10, 1885.

But neither talents, nor energy, nor worthy ambition, nor acquirements could stay the fatal arrow in its flight. Gradually the system began to yield to the effects of the disease, forcing an abandonment of business and return to Virginia. For several months prior to his death, Mr. Stuart had been confined to his room, and the final summons was not, therefore, unexpected. But its shock was none the less severe. It bore away the last of three worthy sons, and shattered the idol of the household. Few have lived who better deserved the love and affection lavished upon him than Arch Stuart. A thorough gentleman in every respect, a character chivalrous, without fear and without reproach; talents that marked for him a high place in any sphere toward which his ambition might lead; and withal a warm, generous heart, and sterling qualities that measured up to the full statue of manhood.' ”

Mrs. Stuart never recovered from the sorrow occasioned by the death of her last son and youngest child. Her health gradually failed, and she passed away on November 17th, 1885. Thus Mr. Stuart, when in the seventy-ninth year of his age was left, after a happy married life extending over fifty-two years, “solitary and desolate, to mourn the loss of the most affectionate wife who ever blessed the long life of a devoted husband.”

CHAPTER XXXIX

IN RETIREMENT—DEATH



R. STUART passed the remainder of his life in retirement, though for several years he retained his law office, which he visited regularly and where he transacted his private business and met his friends. His own home was kept open as it always had been. His daughters who lived away from Staunton made frequent visits with their children, and his youngest daughter, who lived in a cottage in the same yard with him, was practically a member of his family. His general health was good and his eyesight excellent. He had a valuable library, which was an unfailing source of pleasure. For many years before his death he was a regular subscriber to the *New York World*, the *Baltimore Sun*, the *Washington Star*, the *Richmond Dispatch* and the local papers. He also read the leading magazines and popular novels of the day, and almost the last entry in his diary is payment for Harper, Scribner, Century and Flower de Hundred. He had always been a fine whist player, and his friends, knowing his fondness for the game, gave him much pleasure in this way.

He realized, however, that according to the laws of nature he must very soon join those who had preceded him to the grave. To this end no man ever put his house in more complete order for the final summons. He resigned from all honorary positions he held, and re-wrote his will with his own hand, to conform to the changed conditions in his family. As far as possible he closed up all unsettled business matters, and, as he expressed it, administered his own estate.

While Mr. Stuart was interested in public matters and the people about him, and thus lived much in the present,

yet he unquestionably felt the loneliness of age. On June 17th, 1890, he wrote Rowland D. Buford, who for thirty years had been clerk of the Circuit Court of Bedford County:

Rowland D. Buford, Esq.:

My dear Sir:

I was gratified to receive a few days ago the friendly messages of remembrance and the acceptable present of a nice box of cigars, which you were kind enough to send me, through Dr. Carter Berkeley. I am now in my 84th year and in feeble health, and very much cut off from intercourse with the world. Most of my contemporaries have passed away, and the circle of the associates of my early and active life has been sadly narrowed by death. There is not a lawyer now living in Rockbridge, Augusta or Rockingham who was at the bar when I commenced the practice of law. You are the last link that connects me with the days when I attended the Rockbridge courts, and I was inexpressibly gratified to learn that you retained so kind a recollection of me, and the associations of "Auld Lang Syne," which are so cherished in my memory. I am now a stranger in the place of my nativity and my active career. Strange faces greet me at every turn. I do not recognize one in ten of our people I meet on the streets as I ride through the town. It is natural, therefore, that the sight of an old friend, or a message from one who has been associated with my earlier and happier life should excite a warmer glow in my breast. I thank you for your welcome present of cigars, which I have no doubt I shall enjoy, as they will recall you and your remembrance of me every time I smoke one. Cordially reciprocating every kind feeling you have been kind enough to express in regard to me, I am very truly,

Your friend,

Alex H. H. Stuart.

After Mr. Stuart's death, Mr. Buford sent a copy of this

letter to the Staunton *Vindicator* and wrote that paper the following account of his early recollections of Mr. Stuart:

Bedford City (formerly Liberty), Va.
Feb'y 16th, 1891.

Editor Staunton *Vindicator*:

Dear Sir:

I deeply regret my inability to be present today in your city to pay the last sad tribute of respect to the memory of the late Hon. A. H. H. Stuart.

In 1845 I was sent to the county of Rockbridge, and entered the Clerk's Office there in my eighteenth year, as assistant to the late Colonel S. McD. Reid, who was for many years clerk of Circuit and County Courts, where I continued until 1854. It was my good fortune the whole of my sojourn there to be thrown into close business relations with such lawyers as the late D. E. Moore, J. D. Davidson, John Letcher, S. McD. Moore, Charles P. Dorman and others of the Rockbridge bar; Hon. A. H. H. Stuart, Thos. J. Michie, J. B. Baldwin, H. W. Sheffey, David Fultz and others of the Augusta bar; Wm. H. Terrill of Bath and the Andersons and others of Botetourt. All were men of a high order of talent,—some were giants in their profession,—all the pink of honor, and stately and courteous in demeanor. Like autumn leaves all have passed away. I recall them all in my memory with great pleasure.

There was, however, one amongst them, who, by his unsolicited and unselfish kindness, placed upon me a debt of gratitude I could not repay. I refer to Mr. Stuart. I was in a great degree a stranger amongst strangers. When I went to Rockbridge I knew no one there nor in Augusta, tho' I was a great-great-maternal grandson of the late Captain John Mathews, who emigrated from the northern part of Ireland and settled on James River in Augusta (now Rockbridge) in 1737, two of whose sons, Sampson and George, afterwards resided in or near Staunton, and I knew of no descendants in Rockbridge. For some reason, I know not what, Mr. Stuart became possessed of a kindly

feeling for me. At one time he voluntarily offered to secure for me a situation in one of the banks in Staunton if I would consent to accept it. On another, after he had been installed Secretary of the Interior at the National Capital, and was, in company with President Fillmore and the late W. W. Corcoran, on a visit to the parade grounds of the Virginia Military Institute at Lexington, he called me to him and offered me a clerkship in his department at a salary of twelve hundred dollars per year. Both propositions I gratefully declined and subsequently regretted.

I deem it due to the memory of Mr. Stuart thus to refer to his magnanimous conduct, for he could not reasonably have hoped for reward. He, no doubt, regarded me as a youth battling with the affairs of business life, and to some extent friendless, and my close attention to my business, and the manner of its accomplishment, prompted him, I think, to determine to try to help me. He almost invariably attended the Circuit Court of Rockbridge and occasionally the County Court, and it was thus I made his acquaintance, and won his esteem. His memory I shall ever cherish with feelings of gratitude. Of his ability as a lawyer and as a statesman abler pens than mine will write. I knew him in the heyday of his glory, and when he was at his best. He was always so pleasant and affable that it was a pleasure to transact business with him. Since 1854, I have rarely had the pleasure of meeting with him.

In June of last year, meeting here with a mutual friend from Staunton, I handed him on his leaving for his home a box of cigars and asked him to hand it to Mr. Stuart for me, and to say that it was sent as a token of kind recollections of former days. That little act of kindness drew from him a letter to me, a copy of which I attach hereto. Public men do acts of kindness that the world at large knows nothing of, they are too often blamed unjustly for failing to do such things. This letter is written in kind remembrance of a great and a good man.

Very respectfully,

Rowland D. Buford.



*Home of Judge Archibald Stuart
and of Alexander Hugh Holmes Stuart
Built in 1791*

Mr. Stuart had been under a promise for some time to Dr. R. A. Brock to write a sketch of his father for the Virginia Historical Society, "in emendation and enlargement of that by Dr. Hugh Blair Grigsby." The preparation of this article had been delayed from time to time until Dr. Brock, being anxious that it should appear in the same volume with the one by Dr. Grigsby, wrote Mr. Stuart and begged him to let him have the paper at an early day. Under these circumstances Mr. Stuart began the article and was at work on it when he was seized with his last illness. A few days after Mr. Stuart's death Dr. Brock wrote stating what had occurred between himself and Mr. Stuart in regard to the sketch, and expressed the hope that Mr. Stuart had prepared the paper in whole or in part; and, if such were the case, he requested that it be furnished him at once as he was going to press with the volume. An examination of Mr. Stuart's writing table disclosed the sketch which he had been working on until February 9th, four days before his death, and which abruptly ended in an unfinished sentence. The article was copied exactly as it was left and sent to Dr. Brock, who published it in Volume X, Virginia Historical Collections, pages 383-392.

Mr. Stuart's death was caused by a cold which developed into influenza. He was confined to his bed only four days, and was in full possession of all his faculties to the last, when without pain, he quietly fell asleep and passed away on February 13th, 1891, in the house in which he was born, and which had been built by his father, Judge Archibald Stuart.

CHAPTER XL

TRIBUTES TO HIS MEMORY



AS SOON as the news of Mr. Stuart's death became known, many editorials appeared in the newspapers giving an account of his public services and the high esteem in which he was held.

The Hon. John W. Noble, Secretary of the Department of the Interior, issued the following order:

“Washington, D. C., Feb. 14, 1891.

“It is my painful duty to announce the death of Alexander Hugh Holmes Stuart, of Staunton, Va., on the 13th inst., in his eighty-fourth year. Having served with distinction as a representative in the Virginia House of Delegates and afterwards as a member of Congress, he, by appointment of President Fillmore, became Secretary of the Interior September 12, 1850, and served until March 3, 1853. By his eminent ability and industry he greatly advanced the organization and efficiency of this Department. He had the support of President Grant in his earnest advocacy, after the war against the Union, of the restoration of his State to its legitimate relations to the National Government. His subsequent years were devoted to the cause of education, as Rector of the University of Virginia, a member of the Board of Trustees of the George Peabody Educational Fund, and President of the Virginia Historical Society.

“In respect for his memory the Department will be draped in mourning for thirty days and will be closed at noon on the day of his funeral, Monday next. Until after the funeral, the flag will be placed at half-mast.

John W. Noble, Secretary.”

The Staunton Bar adopted the following memorial tribute prepared by Major Thomas C. Elder:

* * * * *

“Mr. Stuart was descended from an honored and distinguished ancestry, both on his paternal and maternal side. His father, whilst a boy, fought for freedom in the War of the Revolution, and afterward became prominent among the leading Virginians of his day, ending his career by a long and distinguished term of service as one of the Circuit Judges of the State. His grandfather, Alexander Stuart, was an officer in the Revolutionary War, and both he and his son, Archibald, the father of the eminent deceased, met the enemies of American liberty at Guilford Courthouse.

“Our distinguished friend was highly favored by nature. He was cast in her best mould. Of a well-proportioned form, handsome of feature, and of commanding presence, he was a noble specimen of physical manhood. His intellectual endowments were of a very high order; and his moral qualities were a fit counterpart of these endowments.

“These natural advantages were developed and embellished at the historic College of William and Mary, and afterwards at our State University, founded by the great Jefferson, the confidential friend and associate of Judge Archibald Stuart.

“Mr. Stuart commenced his career in Staunton, where he lived all the days of his life, save only when temporarily absent in the public service. It was to have been expected that a young man of such parts, with such an ancestry, coupled with all the associations and inspiring influences which such an ancestry implies, and with the educational advantages and associations he enjoyed at William and Mary and at the University, would make rapid progress in life. And he was successful and attracted attention from the start.

“Above all things, Mr. Stuart was a patriot, an ardent lover of his State and Country. He was a patriot by inheritance, and his patriotism was intensified by his surroundings, and by the spirit of the age in which he set out upon

his career. Consequently, politics, which, in the better sense of the term, are so nearly allied to patriotism, had great attractions for him. But for politics as a trade or business, and for those who engaged in them for private gain or merely selfish purposes, he had the utmost contempt.

“Indeed, he was keenly alive to every enterprise and movement, whether political, educational, social, or moral; and whether local, state or national, which had for its object the promotion of the public welfare.

“This is not the time, nor is this the occasion, to trace his political career, whether as a legislator in the councils of Virginia or of the nation, or as a Cabinet officer in the Executive Department of the Federal Government, or his course in the numerous other eminent public positions not of a political character, which he filled. However great the temptation to award him the highest meed of praise for the invaluable services he rendered his State and people as a member of the Committee of Nine, and in other capacities during the period of the Reconstruction, it cannot be done now. Suffice it to say that in every office and place he filled, and in every undertaking of a public character assumed by him, or imposed upon him by others, his first thought was for the public good, the last for himself.

“Nor can we now speak of his domestic and private life, characterized as it was by the tenderest and most devoted affection towards those of his own household and kindred, and by consideration, courtesy and charity towards all with whom he was brought in contact by social or business relations.

“It is of Mr. Stuart as a lawyer we would speak today, and even of him in his professional character, in which he was in nearer touch with us than in any other, our words must be briefer than we could wish, and far briefer than his merits would justify.

“Mr. Stuart retired from the bar a number of years ago. Advanced age and the weight of physical infirmities would not permit him to endure the severe labor of that higher class of professional work in which alone he would have been willing to engage.

“But for nearly or quite fifty years he was an active member of this bar, and his name is indissolubly linked with its history. The bar of Staunton has in the past enjoyed a high reputation in the State. Chapman Johnson, John H. Peyton, the Baldwins, father and son, the Sheffeyes, uncle and nephews, Michie, Fultz, Stuart, and others, gave to it their best labors, and imparted to it the lustre of their talents and learning. They have left us a heritage to which we cannot hope to add, and which it will be difficult, if not impossible, for us to preserve.

“Mr. Stuart’s learning as a lawyer was broad and comprehensive. He relied more upon general principles than upon adjudicated cases. For the minor technicalities of the law his mind had but little affinity, and he made no affectation of special learning as to them. Such was the scope and character of his mind that he sought, when these technicalities were in his way, to avoid their effects by an overwhelming presentation of his case on its merits, rather than by an array of counter-technicalities.

“A sound and discriminating judgment, united with a natural aptitude for business affairs, an equable temperament, and a keen sagacity, made him a safe adviser and a prudent counsellor.

“As an advocate he was unsurpassed, if equalled, by any of his contemporaries. His voice was strong, clear, and flexible; his manner was gracious and courtly; his vocabulary extensive and at ready command; his fancy lively; his taste almost perfect.

“When in the prime of manhood, it was difficult for a jury to resist his eloquence.

“It has been said that it is as difficult to define a true orator as a true poet. What constitutes the true orator can hardly be defined. No one can perhaps ascribe to its right source the indescribable spell which a great orator casts on his audience.

“Mr. Stuart was a great orator, and possessed of all the gifts which oratory implies. We can say no more.

“But Mr. Stuart’s business in the courts was by no means

confined to common law cases. He had a large chancery practice as well; and in this his great gifts as a writer served him in good stead. All of us know that to attain success in chancery practice it is necessary to write with readiness and exactness. Mr. Stuart's gifts and graces as a writer were scarcely inferior to his gifts and graces as an orator. His style was easy, graceful, fluent, forceful. His pleadings and briefs in chancery causes were admirable specimens of forensic writing.

"In his intercourse with his brethren of the bar he was ever civil, courteous, and magnanimous. He was singularly free from indirect and unworthy practices. Other traits of his professional character require notice; but time does not permit us to dwell longer on the engaging theme.

"After a long, useful, and honored life he has gone from us forever. His presence whilst he lingered in our midst was a benediction. We felt that he connected us with the honored past of our bar. His pure and spotless life, no less than his lofty and brilliant achievements, was a suggestion and inspiration to the younger members of our ranks that they, too, might make for themselves 'lives sublime.'

"As the time had come in the course of nature when he must needs take his departure, perhaps we ought not to repine. He had lived to a great age. His life's work was done. No one knew this better than himself. He knew his time had come, and he was willing to go.

"He had gotten out of this earthly life nearly all that there is in it for any man; and he had given to his day and generation the best that he had to give, and, indeed, all that it is in the power of any man to give.

"It is fitting that he should have 'fallen on sleep' when he did and as he did. * * * .

'After life's fitful fever he sleeps well.'

* * * * *

The Faculty of the University of Virginia on the day of Mr. Stuart's death adopted the following preamble and resolution:

"The Faculty of the University of Virginia has heard with

deeply felt regret of the death of Hon. Alexander H. H. Stuart of Staunton, closing a long and honorable life, largely spent in the service of his native State, to the best interests of which he ever manifested honest and earnest devotion.

"Mr. Stuart was one of the earliest students of the University, one of its most distinguished alumni, and for two terms, extending over several years, a member of the Board of Visitors, and as its Rector the official head of this institution of learning.

"The Faculty desires to render well-deserved honor to his memory, by placing on record its sense of the warm affection which Mr. Stuart always bore to the University, the fidelity with which he served it, and the dignity with which he presided at its council board as its chief executive officer.

"The State University claims a place among the sincere mourners beside the grave of one who dies honored and regretted by Virginians.

"*Resolved*, therefore, (1) That the Faculty desires to be represented at the funeral of Mr. Stuart by a committee of its members, one of whom shall be the chairman of the Faculty. (2) That a copy of these proceedings be communicated to the family of Mr. Stuart and also published in the newspapers of Richmond and Staunton, Va."

The Virginia Historical Society adopted the following tribute:

"The Virginia Historical Society mourns the loss of its honored president, the Hon. Alexander Hugh Holmes Stuart, who departed this life at his home in Staunton on Friday, 13th of February last, in the eighty-fourth year of his age—as of honors as of years. Mr. Stuart was born 2d April, 1807, in the town in which he died. His father, Judge Archibald Stuart, was one of the ablest men of his day. He greatly distinguished himself as a field officer in the Revolution, as a lawyer, as a member of the Virginia Legislature and of the Convention of 1788, and finally as a member of the General Court.

"His son was given every advantage of education the

State could afford. After a course at William and Mary College he entered the law school at the University of Virginia, in which he graduated in 1828. He at once rose to distinction in his profession and became one of the leaders of a very able bar, which numbered among its members a Johnson, a Michie, a Baldwin, a Kinney, a Peyton and a Sheffey. But Mr. Stuart was not alone a good lawyer. He soon entered political life and exhibited those gifts which mark the statesman. He was among the first to join the party which acknowledged Henry Clay as its leader and became so potent in American politics. He served in the Legislature of his State and in Congress with great distinction, and was selected by President Fillmore for the position of Secretary of the Interior in 1850. The department had been but lately created, and it devolved on Mr. Stuart to organize it.

“This he did with an ability which has given it permanent direction. Associated in this Cabinet with some of the greatest men of the day, Mr. Stuart did not suffer in comparison, but when at the end of his term he returned to his home, he was regarded as the foremost man in his State. He served in the State Senate during the period immediately preceding the late war, and in the Convention of 1861. He was one of the last to yield to the secession movement, yet one of the truest to his State when the step had been taken. At the close of the disastrous struggle he was foremost in restoring peaceful relations with the Federal Government, and was the leader in the famous movement known as the ‘Committee of Nine,’ of which he has left an admirable history. By its success he prevented the disfranchisement of the whites of the State, and saved it from the horrors of ‘carpet-bag’ rule.

“As a statesman Mr. Stuart was eminently conservative and broad in his views, and he possessed in a remarkable degree the power of controlling men. He was of commanding stature, polished manners, and extraordinary conversational powers, and equally potent with pen and tongue.

“In later life he served with distinction as Rector of the

University of Virginia and as a member of the Peabody Board. For this last-named body he prepared the very able petition to Congress which was the beginning of the movement for Federal aid to public education.

"In all the affairs of our society Mr. Stuart took a deep interest and rendered most valuable assistance. While his State and Country deplore his loss as that of an eminent citizen, we feel an additional grief in that the cords which bound him to us as our presiding officer and friend are parted.

"*Resolved*, That in common with his countrymen, we deeply deplore the loss of the Hon. Alexander Hugh Holmes Stuart, our distinguished president, who during a life longer than is usually allotted to man filled so many offices with honor to himself and advantage to his country, and who after a life of great distinction and usefulness descended to his grave honored and admired by a grateful country.

"*Resolved*, That these proceedings be published in the *Richmond Dispatch*, and *Times*, and a copy be sent to the family of Mr. Stuart."

The following editorial notices are taken from the public press:

Richmond Dispatch, February 14, 1891.

"This great Virginian is dead. For more than half a century he was a towering figure in many of the public assemblages of this State, and in the company of the greatest his mind no less than his stature made him noticeable.

"In the legislative halls at Richmond and Washington, in the Cabinet of Mr. Fillmore, in numerous other weighty trusts, and, most memorably of all, as the chairman of the Committee of Nine, which piloted Virginia back into the Union, he rendered lasting public service.

"His bearing was stately, his courtesy hearty and high-bred, and his consideration for young men whom he met in social, political, or business life was something very sweet to see.

“Trained to the law, he took high rank in his profession, and though often called upon to leave it to do duty for the public, he always returned to it as the work of his life. He stood high as a lawyer, and the bar may ever point to him as one who happily illustrated the loftiest teachings of that noble profession.

“To the performance of every duty to which the favor of his people called him he gave ability, industry, earnestness, and unquestionable integrity.

“His fame as a public speaker was widespread, and before age crept upon him few could command better than he the attention of an audience, whether the subject to be discussed was legal, political, historical or educational. His experience in public affairs and extensive acquaintance with noted men, added to the other resources of a highly cultured mind, gave him vast wealth of information. Usually he spoke with remarkable calmness, but there were moments, when the theme and the occasion fitted, when his eloquence was fiery.

“He was ever respectful, and even deferential to those who opposed him in debate, but when feebler weapons failed,—when he was resenting an unjustifiable aspersion upon his cause or upon himself,—he could make his irony pierce the stoutest armor, and compel his antagonist to regret that he had crossed the line of decorous debate.

“Truly, Mr. Stuart was an able and good man. He was proud of his State and of her past, and did much to rescue her records from destruction,—and he was education’s steadfast friend.”

Lynchburg Virginian.

“The death of this venerable and distinguished Virginian, which occurred at Staunton on Friday evening at the ripe old age of eighty-four, removes one of the few remaining links which connect the present with the earlier and, as many think, the better days of the Republic. He was a contemporary of Henry Clay, and an ardent and enthusiastic follower and supporter of that great Whig statesman, and from the time he entered public life early in the thirties

until after the reconstruction of the Southern States, was a prominent figure in the political affairs of the State and Nation, winning wide esteem and popularity by his ability, his integrity, his devotion to principle and his legislative and administrative capacity. He retained this well-earned esteem throughout his long, useful and honorable career and to the day of his death was held in the most affectionate regard by his fellow-citizens of Virginia of all classes. Peace to his honored ashes!"

Norfolk Virginian.

"General Sherman's death yesterday is to be added to the roll-call of death during the past week. He was headed only a few hours by Admiral Porter and Hon. Alexander H. H. Stuart, and we hazard nothing in saying that it has been long years since the country has been called to mourn the loss of such a galaxy of distinguished men in one short week. The naval and military heroes were not more eminent in their fields of service than was the grand old Virginian in civil strife. As these events unite the North and South in a sorrow which shames sectional animosity, so let us hope that these common losses may tend to unite the sections in mutual respect and national fellowship."

Valley Virginian, February 19, 1891.

"* * * This simple recital of the various positions to which Mr. Stuart had been called, and the duties of which he faithfully and ably discharged, gives but an imperfect idea of his useful public services. His mind was in active employment during his public services on lines leading to the advancement of his native County and State. When occasion called for it he formulated his views in public addresses, and was a liberal and instructive contributor to the press of the Commonwealth in the discussion of all the important questions relating to the welfare of Virginia. He was as felicitous and forceful as a writer as he was as a speaker, and swayed the minds of the people by his arguments and appeals in one form as effectively as in the other.

It was due largely to his efforts that the extension of what is now the Chesapeake and Ohio railroad was diverted from Brown's Gap and Harrisonburg to Rockfish Gap and Staunton. In 1844, a public meeting was held in Harrisonburg, at which John Hampton Pleasants was one of the speakers, and the late Major George Chrisman the engineering spirit, and at which it was formally announced that the route of the extension was to be in that direction. Whilst this assurance was being given, Mr. Stuart, the late Wm. Kinney, and others were industriously engaged in pressing the advantages of the line by Staunton, and finally succeeded. He was active and influential in locating the two State institutions at Staunton, and to his efforts, aided by others, do we owe the presence of these two great charities in our midst.

"The resources of Virginia and their development were familiar and favorite themes of thought with Mr. Stuart. He recognized the great natural wealth which the State contained, and favored that national policy whose practical operation would result in its utilization. He discussed through the press and on the hustings the tariff question from the protection standpoint, being a steadfast and earnest believer in Henry Clay's great American system.

"On one occasion, after the discovery of gold in California, and about the time a government was being framed for that territory, we remember to have heard the late Col. John B. Baldwin predict that it would not be five years before a movement would be made for a Pacific Republic. Mr. Stuart combatted this view, and said rather that he expected to see in the near future a continental line of railroad, connecting the Chesapeake Bay with the Pacific Ocean, and the teas and silks of China transported across the bosom of Virginia on iron rails. This was long before Col. Thos. H. Benton projected his scheme for the construction of a railroad from the Missouri to the Pacific. It was in such predictions that Mr. Stuart gave exhibition of his vast grasp of public interests, and penetrated the future to evolve from it some practical enterprise commensurate with the growth and destiny of the nation. Indeed, Mr. Stuart was a states-

man, as well as an orator, in the broadest sense of the term. His liberal views of public improvements,—his sound position on State and National obligations, and his sagacious conception of administrative policies, both State and National, impressed the public mind and placed him among the great men of the country. This was exemplified more perspicuously and forcefully in the reconstruction of Virginia after the war than in any other effort of his life. To him we owe, in a great measure, the rescue of Virginia from the ordeal through which several of the Southern States had to pass, and he saved the Commonwealth from the humiliation which they had to endure.

“Mr. Stuart measured up to the stature of a great man as a politician, as a legislator, as a cabinet officer, and as a lawyer, and by right his name is entitled to a place in the pantheon of American statesmen.”

Staunton *Vindicator*, February 20, 1891.

“With Alexander H. H. Stuart, who died last Friday, there passed away almost the last in this great country of the type of public men who made it great. Men are not measured well by those close to them. To Mr. Stuart’s political *entourage* around his home he was a good man to “represent” them; to the country at large, he was a great man whose intellect made its impress on his times and on the Nation. He was not a typical American statesman, but the ideal one,—the ideal in his intellect, his virtues, his broad scope of political vision. There was not much of warm coloring in any of these,—he was not a people’s man in the popular sense. He neither touched elbows nor touched hands with the people. He knew his own value as a leader as accurately as any man we ever knew in political life, and while all he was, and all he had gained by experience or study, was at the service of the people, he did not ask them to take it. For he was a lofty man both in mental and physical stature, and stooped to nothing. Had he been different, he would have been in the United States Senate from Virginia twenty years ago, and would have proved

one of the grandest figures that Virginia ever sent there, splendid as had been her galaxy of Senators in her early days. This reserve cost him much, but it cost his State and Country more. If Fate ever moulded a man especially for the Senate in its highest days, it had so moulded Stuart. It is said of him that with more boldness he could have accomplished more. A life so crowded with usefulness and honors as his can hardly be referred to as one that could have accomplished more, but the phrase is that of the politician, and doubtless means he could have accomplished more for himself. Mr. Stuart did not lack boldness. No bolder political enterprise, none more in the shape of a forlorn hope, was ever devised or carried out than his conception and conduct of the Committee of Nine. He confronted and bore the ridicule of the thoughtless, the suspicion of the ignorant, and the enmity of the reactionary element of his own people with a courage, a patience, and an utter self-abnegation that has hardly a parallel. Beneficent as were its results to the people of his State, it was unpopular from the beginning, and the last thing a man with the least trace of demagoguery in him would have undertaken. It was a work done solely for the people of Virginia. There was little for him in its success, if it succeeded, for he was then past three-score years, and there was all the glory of his past to lose if it failed. The term timid cannot be applied to him or to any of the men who were engaged with him in that scheme of deliverance for Virginia. Looked at from all sides, it was the greatest work of Mr. Stuart's life, both from a State and National point of view, and it should be recorded in larger letters on his monument than any other public act of his life.

“The closing days of Mr. Stuart's life were a fit ending of it. After age had rendered him infirm, he did not withdraw from the walks of men, but in the hours he spent daily at his office he was open to communication to all; ever ready with advice to those who asked it on public or private matters; a patient listener to petty grievances, and a wise counsellor.

“In the memorial tribute of the Staunton bar prepared by Major T. C. Elder, his intimate friend, is a most excellent personal picture of Mr. Stuart. And in the memorial contributed to this weeks’ *Spectator* by Colonel John C. Shields, for sixty years a close political follower of the statesman, to which for many years past had been added a warm personal friendship, is an admirable sketch of his political life. Both can be read with profit and pleasure.”

Of the many letters received after Mr. Stuart’s death, only two will be given here. These will show how highly he was regarded as a lawyer and a statesman by his contemporaries whose judgment is entitled to weight.

General John Echols, in a letter dated February 22nd, 1891, wrote Major Elder:

“I thank you very much for your note of the 20th inst. and for copy of the paper containing your memorial minute of our old friend Mr. Stuart, prepared for the meeting of the Staunton Bar on the occasion of his death. The letter and paper reached me this morning as I was traveling over the line of the road with which I am connected, in the lower part of Kentucky. I have read the memorial with great pleasure and satisfaction. It is a chaste and touching tribute to the memory of our distinguished old friend. I had been but a short time before the receipt of the paper, indulging myself in recollections of my earlier days, when I was greatly honored by being allowed to associate with the great men who then adorned the Staunton Bar, and I had been repeating to a distinguished lawyer of Kentucky a portion of a speech which I heard Mr. Stuart deliver in a celebrated case at the Rockbridge Bar, 45 years ago. He was beyond all question, at that time, one of the most eloquent and accomplished advocates whom I have ever heard, and of whom I have any account, among the lawyers of Virginia. His death seems like the removal of some great land-mark; and the Staunton of today is not, and can never be, the Staunton of the time which knew Mr. Michie, Col. Baldwin, Mr. Stuart, Judge Fultz and Judge Sheffey, who composed

a brilliant galaxy of learning and talent and of high moral bearing."

Professor John B. Minor wrote Major Elder on February 23rd, 1891:

"Supposing that I am indebted to you for the *Staunton Spectator* of 18th, containing the notice of Mr. Stuart's death, and also the tribute of the Staunton Bar Association to his great merits, I beg to tender my warm thanks therefor. I shall preserve it as a memorial of one of the truly great men of the Commonwealth.

"His conduct as one of the famous 'Committee of Nine' will rank him as a true statesman, keen to discern the action which the crisis required, and brave to follow it out through all obstacles, and despite the adverse sentiments of many of his countrymen. In contemplating conduct so wise, and so fearless, one is strongly reminded of Horace's heroic ode:

'Justum ac tenacum propositi virum, etc.'

"Our country would at this moment wear a more encouraging aspect if more of our public men were capable of exhibiting a like example."

No one can read the story of Mr. Stuart's life without being deeply impressed with the fact that he was a man, to use his own words, "of broad catholic patriotism." It breathes through every public address he ever delivered, from the time when, in the early prime of manhood, he discussed the Tariff Bill in Congress in 1841, to his speech in the Virginia Convention of 1861, when he pleaded against the Ordinance of Secession until one more effort could be made to preserve the Union of the Fathers. There was nothing small or sectional about him. His patriotism was as broad as our country itself.

He had done the State "some service and they knew it." The question arises: Why was he never honored with a seat in the United States Senate? The answer is that prior to the War of 1861 he was a Whig, and the State of Virginia was controlled by the Democrats. The door of political

preferment was closed and hermetically sealed against a Whig, unless he went over bag and baggage to the Democratic party, as is demonstrated by the twelfth Madison Letter.

This Mr. Stuart could not do. He had waged unrelenting war all his life against that party in advocacy of a Bank, a Tariff, Internal Improvements, and against Sectionalism.

In a letter, dated March 5th, 1859, addressed to the chairman of a public meeting to be held in Richmond, Virginia, on March 7th, 1859, to ratify the nominations of the Whig and American candidates for the offices of Governor, Lieutenant-Governor and Attorney-General he said of the Democratic party:

“With regard to the Democratic candidates I should have but little to say. I have known Mr. Letcher from his boyhood, and I should take pleasure in bearing testimony to his high character for integrity, and all the qualities which adorn the character of a private gentleman. As such I should delight to honor him. But standing as he does, the representative man of a political party which has, in my judgment, done so much to injure the best interests of the country, and unless checked in its mad and mischievous career is destined to bring upon us still more serious calamities, by paralyzing the business of the people, alienating one section of the country from the other, endangering the stability of our institutions, and degrading our national reputation in the eyes of the civilized world, I feel bound by every consideration of public duty, to oppose his election by all fair and honorable means.”

After the close of the War of 1861, when Mr. Stuart had steered the State safely through the rough seas of Reconstruction; had saved her from the clauses of the Underwood Constitution which would have disfranchised a large majority of the white people and disqualified them from holding office and serving as jurors; when he had done so much to save the white people from the rule of black republicans, scalawags and carpet-baggers, and led the State

back to her place in the Union; even then there were in the Legislature many old Democrats who remembered *that he had been a Whig*.

In contemplating the services which Mr. Stuart rendered the people of Virginia, the words are applicable to him which George Eliot, in *Romola*, puts in the mouth of Bardo when he cries out:

“Nevertheless my name will be remembered, and men will honour me: not with the breath of flattery, purchased by mean bribes, but because I have laboured, and because my labours will remain.”

APPENDIX I

Report of the Joint Committee of the General Assembly of Virginia on the Harper's Ferry Outrages.¹

[January 26, 1860]

The Joint Committee of the two Houses of the General Assembly of Virginia, to whom was referred so much of the Governor's Message as relates to the recent outrages committed at Harpers Ferry and its vicinity, have had the same under consideration, and submit the following report:

In the night of the 16th of October last, a band of armed conspirators from the Northern States, in fulfilment of a design which had been long entertained and deliberately matured, made an incursion into the State of Virginia, at Harper's Ferry, for the purpose of inciting our slaves to insurrection, of placing arms in their hands, of aiding them in plundering the property of their masters, of murdering them and their families, and of overthrowing the government of the Commonwealth.

The number of persons directly concerned in this nefarious conspiracy cannot be accurately ascertained, because many of them escaped, and fled to the Northern States and the British Provinces. Their plan seems to have been conceived two years ago, and John Brown, the leader of the party, and his more active confederates, have been cautiously engaged for that length of time, in procuring information by means of secret emissaries, collecting money, recruiting men, and obtaining supplies of arms and ammunition, to be used in the accomplishment of their fiendish purposes.

To give greater dignity and importance to their movements, the conspirators met together at Chatham, in Canada West, in May, 1858, and formed what purported to be a constitution for a provisional government, which was to be substituted for the fundamental law of Virginia when it should have been subverted. Under this instrument it appears that W. C. Munroe, a free negro, was elected President, A. M. Chapman Vice-President, John Brown Commander-in-Chief, Richard Realf Secretary of State, J. H. Kagi Secretary of War, George B. Gill Secretary of the Treasury, Owen Brown Treasurer, and M. K. Delany Corresponding Secretary. Subordinate military officers were appointed under the authority of this alleged constitution, all of whom were required to take oaths to support it.

Having thus perfected their arrangements, Brown and his associates established a secret military rendezvous in Washington county, in the State of Maryland, a short distance from Harper's Ferry. To this point they caused to be conveyed 200 Sharpe's rifles, which had been furnished to Brown by the Emigrant Aid Society of Massachusetts, to accomplish his bloody purposes in Kansas; about the same number of revolver pistols,

¹See Ante, pps. 167-178.

with large quantities of ammunition and clothing, and 1,500 pikes, which had been manufactured to his order by Charles Blair of Collinsville, Connecticut. These pikes are very formidable weapons, and peculiarly adapted for the use of the slave population, who are unskilled in the management of fire-arms. The heads are about fifteen inches in length, with sharp edges, and the handles are longer than the ordinary musket, with a view to give those who employ them an advantage in a hand to hand contest with troops armed with the musket and bayonet.

Early in October, John E. Cook, one of the conspirators, was dispatched, under false pretences, into the interior of the county of Jefferson, to ascertain the number of able bodied slaves in particular neighborhoods, and to learn their disposition towards their masters, and Brown acknowledged that he himself had also visited different parts of the State for similar purposes.

The town of Harper's Ferry, situated on the south bank of the Potomac, in the county of Jefferson, is the seat of an extensive armory of the United States, and for many years past has been without the protection of a military guard.

When everything seemed ripe for the execution of their scheme, between ten and eleven o'clock of Sunday night, the 16th of October, a band of the conspirators, in number about twenty-three, advanced stealthily on the town, and finding that the inhabitants had generally retired to sleep, took possession of the armory, containing about 50,000 stand of arms of different kinds.

Parties were then sent into the neighborhood, who broke into the dwellings of unsuspecting citizens, seized them in their beds, and carried them and their slaves as captives to Harper's Ferry, where they were held in close custody.

At daylight it was discovered that the armory was in the possession of a body of armed men, whose number and purposes being alike unknown, a panic very naturally spread over the town and vicinage. The extreme audacity of the act tended to increase the apprehension which filled the public mind, for no one supposed that so small a number as were actually present would have ventured on such a demonstration, unless they were assured of assistance from some quarter. The peculiar character of the population of the town added to the feeling of distrust. In other towns, having a fixed population bound to each other by ties of kindred, social sympathy and common interest, every one feels that he may safely rely on his neighbor for assistance in the defence of his family and fireside; but in a community like that of Harper's Ferry, where so many are mere temporary sojourners, the sense of security which springs from mutual trust and confidence is greatly diminished.

Early in the morning some skirmishing began between the citizens and the bandits, and several were killed and wounded on both sides. Pressed at all points, the conspirators were soon driven to seek refuge in the armory and engine-house. The armory, from its structure and the number of its windows, was much more exposed to attack than the engine-house, and those who sought shelter in it were promptly dislodged, and in the attempt to escape across the river, were either killed, or wounded and captured. Those in the engine-house were surrounded and held in close siege.

In a few hours, troops from the neighborhood assembled in sufficient numbers to storm the engine-house, but as many citizens of the county were held prisoners in it, the citizen-soldiers hesitated to commence an assault which might endanger the lives of their friends.

Thus matters stood until night, when a body of marines from Washington arrived, under the command of Col. Robert E. Lee. It was deemed advisable by that gallant and considerate officer, to defer the attack until daylight. Accordingly, at an early hour of the morning of the 18th, a party of marines detailed for that service, under the immediate command of Lieut. Green, stormed the engine house and released the captives. All the conspirators were either killed or taken prisoners. The prisoners, among whom was the notorious John Brown, were handed over to the civil authorities for trial and punishment.

Of the marines engaged in the assault, one was killed and another wounded.

During the skirmishing of the preceding day, four of the citizens of Virginia were killed and ten were wounded. Among the former were several gentlemen of eminent moral and social worth.

The names of the prisoners were Brown, Stevens, Coppoc, Copeland and Green, of whom the two last named were negroes. All of them except Stevens, whose trial was postponed, have been tried, convicted and executed.

During the first night of the attack, and before the citizens of the town were apprised of the danger, a band of the conspirators, among whom were Cook and Hazlitt, were sent to the rendezvous in Maryland, with wagons and teams, and several slaves whom they had pressed into service, to bring off the rifles, pistols and pikes which had been collected at that point. But when they received information of the condition of their confederates at Harper's Ferry, they abandoned their purpose and fled to the mountains, and made their escape. The slaves availed themselves of the first opportunity to return to their masters, and a body of troops sent for that purpose, visited the rendezvous and brought off the wagons and arms.

Cook and Hazlitt were subsequently apprehended in Pennsylvania, and promptly surrendered upon a requisition of the Governor of Virginia. The conduct of the Governor and civil authorities of Pennsylvania, throughout the whole affair, was in all respects worthy of commendation, as having been dictated by an earnest desire to uphold the Constitution and the laws.

Cook has been tried, convicted and executed, and Hazlitt remains in confinement with Stevens, awaiting his trial.

Thus, so far as the immediate actors are concerned, this atrocious and bloody invasion of Virginia has terminated. Five of them have paid the extreme penalty of the law, and the two remaining in custody will probably in a short time suffer an ignominious death on the gallows.

But, in the opinion of your Committee, this is but a single and comparatively unimportant chapter in the history of this outrage. They would cheerfully have undertaken the task of investigating the subject, in all its relations and ramifications, if they had possessed the power to compel the attendance of witnesses who reside beyond the limits of the Commonwealth; but having no such power, they are constrained to leave that

branch of the investigation in the hands of the Committee of the Senate of the United States. Your Committee have no hesitation, however, in expressing the opinion, from the evidence before them, that many others beside the parties directly engaged in the raid at Harper's Ferry, are deeply implicated, as aiders and abettors, and accessories before the fact, with full knowledge of the guilty purposes of their confederates. Some of these, like Gerritt Smith of New York, Dr. S. G. Howe of Boston, — Sanborn, and Thaddeus Hyatt of New York, and probably others, are represented to have held respectable positions in society; but whatever may have been their social standing heretofore, they must henceforth, in the esteem of all good men, be branded as the guilty confederates of thieves, murderers and traitors.

The evidence before your Committee is sufficient to show the existence, in a number of Northern States, of a wide-spread conspiracy, not merely against Virginia, but against the peace and security of all the Southern States. But the careful erasure of names and dates from many of the papers found in Brown's possession, renders it difficult to procure legal evidence of the guilt of the parties implicated. The conviction of the existence of such a conspiracy is deepened by the sympathy with the culprits, which has been manifested by large numbers of persons in the Northern States, and by the disposition which your Committee are satisfied did exist, to rescue them from the custody of the law.

Near 500 letters, addressed to Governor Wise, after the arrest of Brown and his confederates, have been inspected by your Committee. Many of these were anonymous, and evidently written in bad faith, but the greater number were genuine letters, apparently from respectable sources. In some instances, the authors professed to state, from their own knowledge, and in others, from information which they credited, that there were organizations on foot, in various States and neighborhoods, to effect the rescue of Brown and his associates; and they therefore urged the Governor to concentrate a sufficient military force about Charlestown (the county seat of Jefferson), to frustrate all such purposes. Several ministers of the gospel, and other citizens, who valued the peace and harmony of the country, appealed to Governor Wise, as a measure of humanity, and to save the effusion of blood, to assemble such a body of troops around the prison, as would intimidate the sympathizers from attempting a rescue. They justly foresaw, that even an abortive attempt, attended with loss of life, would, in all probability, be followed by disastrous consequences to the peace of the country.

Pending the trials, and after the conviction of the prisoners, a great many letters were received by the Governor, from citizens of Northern States, urging him to pardon the offenders, or to commute their punishment. Some of them were written in a spirit of menace, threatening his life, and that of members of his family, if he should fail to comply with their demands. Others gave notice of the purpose of resolute bands of desperadoes to fire the principal towns and cities of Virginia, and thus obtain revenge by destroying the property and lives of our citizens. Others appealed to his clemency, to his magnanimity, and to his hopes of future political promotion, as presenting motives for his intervention in behalf of the convicted felons. Another class (and among these were letters from men of national reputation), besought him to pardon them

on the ground of public policy. The writers professed to be thoroughly informed as to the condition of public sentiment in the North, and represented it as so favorable to the pardon or commutation of punishment of the prisoners, as to render it highly expedient, if not necessary, to interpose the executive prerogative of mercy, to conciliate this morbid popular opinion in the North.

The testimony before the Committee amply vindicates the conduct of the Executive in assembling a strong military force at the scene of excitement; and the promptness and energy with which he discharged his duty merit, and doubtless will receive the commendation of the Legislature and the people of the State.

Your Committee do not deem it necessary to prosecute their investigations as to the facts of this iniquitous outrage on the peace and sovereignty of our State further at this time. They have full confidence in the zeal and ability of the Committee of the Senate of the United States, and doubt not that they will employ their more ample powers for the examination of every fact connected with the transaction. Should their investigation lead to new disclosures, it will be competent for the Legislature, hereafter, to adopt such measures as may be deemed advisable. In the judgment of the Committee, enough is exhibited by the testimony before them to justify the legislative action which they propose.

This invasion of a sovereign State by citizens of other States, confederated with subjects of a foreign government, presents matter for grave consideration. It is an event without a parallel in the history of our country. And when we remember that the incursion was marked by distinct geographical features; that it was made by citizens of Northern States on a Southern State; that all the countenance and encouragement which it received, and all the material aid which was extended to it, were by citizens of the Northern States; and that its avowed object was to make war upon and overthrow an institution intimately interwoven with all the interests of the Southern States, and constituting an essential element of their social and political systems—an institution which has existed in Virginia for more than two centuries, and which is recognized and guaranteed by the mutual covenants between the North and the South, embodied in the Constitution of the United States—every thoughtful mind must be filled with deep concern and anxiety for the future peace and security of the country.

The subject of slavery has, from time to time, constituted a disturbing element in our political system, from the foundation of our confederated republic. At the date of the declaration of our national independence, slavery existed in every colony of the confederation. It had been introduced by the mother country, against the wishes and remonstrances of the colonies. It is true that in the more Northern members of the confederation, the number of slaves was small, but the institution was recognized and protected by the laws of all the colonies. If, then, there be anything in the institution of slavery at war with the laws of God or the rights of humanity (which we deny), the sin attaches to Great Britain as its founder, and to all the original thirteen States of the confederacy, as having given to it their sanction and support.

Shortly after the declaration of independence, the Northern States adopted prospective measures to relieve themselves of the African popu-

lation. But it is a great mistake to suppose that their policy, in this particular, was prompted by any spirit of philanthropy or tender regard of the welfare of the negro race. On the contrary, it was dictated by an enlightened self-interest, yielding obedience to overruling laws of social economy. Experience had shown that the African race were not adapted to high Northern latitudes, and that slave labor could not compete successfully with free white labor in those pursuits to which the industry of the North was directed. This discovery having been made, the people of the North, at an early day, began to dispose of their slaves, by sale to citizens of the Southern States, whose soil, climate and productions were better adapted to their habits and capacities; and the legislation of the Northern States, following the course of public opinion, was directed not to emancipation, but to the removal of the slave population beyond their limits. To effect this object, they adopted a system of laws which provided, prospectively, that all children born of female slaves, within their jurisdiction, after certain specified dates, should be held free when they attained a given age. No law can be found on the statute book of any Northern State, which conferred the boon of freedom on a single slave in being. All who were slaves remained slaves. Freedom was secured only to the children of slaves, born after the days designated in the laws; and it was secured to them only in the contingency that the owner of the female slave should retain her within the jurisdiction of the State until after the child was born. To secure freedom to the afterborn child, therefore, it was necessary that the consent of the master, indicated by his permitting the mother to remain in the State, should be superadded to the provisions of the law. Without such consent the law would have been inoperative, because the mother, before the birth of the child, might, at the will of the master, be removed beyond the jurisdiction of the law. There was no legal prohibition of such removal—for such a prohibition would have been at war with the policy of the law, which was obviously removal and not emancipation. The effect of this legislation was, as might have readily been foreseen, to induce the owners of female slaves to sell them to the planters of the South before the time arrived when the forfeiture of the offspring would accrue. By these laws a wholesale slave trade was inaugurated, under which a large proportion of the slaves of the Northern States were sold to persons residing south of Pennsylvania; and it is an unquestionable fact, that a large number of the slaves of the Southern States are the descendants of those sold by Northern men to citizens of the South, with covenants of general warranty of title to them and their increase.

As early as 1778, Virginia, foreseeing the influx of slaves from the North, under the operation of natural causes and of anticipated legislation, sought to guard herself against its effects by stringent prohibitory enactments. With this view, in that year, she passed a law forbidding the importation of slaves into Virginia by land or sea, under penalty of £1,000 for each slave so imported, and the forfeiture of the right to the slave. The only exceptions made by the law, were in favor of *bona fide* immigrants bringing their slaves with them, and persons acquiring title to slaves in other States by descent, devise or marriage. See 9 Hen. Stat. 471-2. This law remained in force until the revival of 1819, when it was dropped from the Code as unnecessary.

In the more northern States, slavery ceased to exist shortly after the Revolution. As early as 1774, it was provided by law in Rhode Island that all the offspring of female slaves born after 1784 should be free. Under the influence of natural causes, it also became practically extinct, about the date of the Revolution, in Vermont, New Hampshire and Massachusetts. A few slaves, however, lingered in those States until after the adoption of their respective Constitutions, when, under the operation of their declarations of rights, those who thought proper to assert a claim to freedom obtained it. The judicial decision of the supreme court of Massachusetts, by which slavery in that State became extinct, was pronounced in the case of *Littleton v. Tuttle*, in 1796. Chief Justice Parsons, in delivering the opinion of the court in *Winchedon v. Hatfield*, 4 Mass. R. 127, says, "Slavery was introduced into this country soon after its first settlement, and was tolerated until the ratification of the present Constitution (2d March, 1780). The slave was the property of his master, subject to his orders, to reasonable correction for misbehavior, was transferrable like a chattel by gift or sale, and was assets in the hands of his executor or administrator. If the master was guilty of a cruel or unreasonable castigation of his slave, he was liable to be punished for a breach of the peace, and I believe the slave was allowed to demand sureties of the peace from a violent and barbarous master; which generally caused a sale to another master. And the issue of the female slave, according to the maxim of the civil law, was the property of her master. Under these regulations the treatment of slaves was in general mild and humane, and they suffered hardships not greater than hired servants."

Notwithstanding the Massachusetts declaration of rights in 1780, slavery seems to have continued for some years in that State. The following brief report of the case of *Littleton v. Tuttle* is appended to Judge Parsons' opinion in the case of *Winchedon v. Hatfield*:

"This was an action of assumpsit for money expended by the plaintiffs for the support and maintenance of Jacob, alias Cato, a negro and a pauper. Upon the general issue pleaded, the following facts were proved to the jury: Cato's father, named Scipio, was reputed a negro slave when Cato was born, and, according to the then general usage and opinion, was the property of Nathan Chase, an inhabitant of Littleton. Cato's mother, named Violet, was a negro in the same reputed condition, and the property of Joseph Harwood. Scipio and Violet were lawfully married and had issue, Cato, who was born in Littleton, January 18th, 1773, and was there, in the general opinion, a slave, the property of the said Harwood, as the owner of his mother. Harwood, on the 17th February, 1779, sold him to the defendant, (*Tuttle*), who retained him in his service until he was 21 years old. He being then a cripple and unable to labor, the defendant delivered him to the overseers of the poor of Littleton, and left him with them, refusing to make any provision for him; whereupon, the overseers expended the money in his maintenance for which this action was brought.

"The court stopped the defendant's counsel from replying, and the chief justice charged the jury, as the unanimous opinion of the court, that Cato, being born in this country, was born free, and that the defendant was not chargeable for his support after he was 21 years of age."

It thus appears that slavery ceased to exist in Massachusetts, not by

legislative action, but by the operation of a judicial decision rendered in 1796, by which a construction was placed on certain provisions of her declaration of rights, which is very different from the interpretation which similar provisions have received in other parts of the confederacy. The clause referred to is in these words: "All men are born free and equal, and have certain natural, essential and inalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; and that of acquiring, possessing and protecting property; in fine, that of seeking and obtaining their safety and happiness." It is obvious, also, that this provision of the declaration of rights could not have been regarded as necessarily conferring the right to freedom on the slave population; for if such had been the opinion generally entertained, it would not have remained inoperative for sixteen years.

Pennsylvania passed her first act for the removal of slavery 1st March, 1780—New Jersey in 1784—Connecticut in 1784, and New York in 1788; but these laws were very gradual in their operation, for the census tables disclose the fact that in 1790 there were 158 slaves in New Hampshire, and 17 in Vermont, and much larger numbers in the other States. As late as 1830 there were slaves in every New England State except Vermont.

It thus appears that each State has claimed and exercised the right to regulate its own domestic institutions, according to its own pleasure, without let or hindrance from the other States.

At the time the Federal Constitution was adopted, the whole number of slaves, in all the States north of Delaware, was 40,370, of whom three-fourths were found in New York and New Jersey, and it was well known to every one, that in a few years the institution would cease to exist in all the Northern States.

At this date, the African slave trade existed in full vigor, and the importation of slaves into some of the States was tolerated, whilst in others it was strictly prohibited under heavy penalties.

When, in pursuance of the invitation given by Virginia to her sister States, to send delegates to a convention, to form a more perfect Union, that body assembled, these diversities in the institutions and interests of the Northern and Southern States, which it was foreseen would tend progressively to increase, naturally attracted attention, and were the subject of grave and anxious deliberation.

The first form in which the slavery question presented itself to the framers of the Constitution, was in regard to the relation of the slave population to taxation and representation. This question was adjusted without much debate, to the satisfaction of all parties, in conformity with the rule previously established in the Continental Congress, by a compromise which stipulated that three-fifths of the slave population should be counted in establishing the ratio of representation, and in the imposition of direct taxes. The vote by States on this proposition stood: Ayes—Massachusetts, Connecticut, New York, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina and Georgia—9. Nays—New Jersey and Delaware—2. Elliott's Debate, Vol. 1, p. 203.

The next aspect in which the subject arose was in regard to the suppression of the African slave trade; and here again the subject of difference was settled in a wise spirit of conciliation and mutual concession.

The proposition originally reported to the Convention was in these words: "The migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1800, but a tax or duty may be imposed on such migration or importation at a rate not exceeding the average of the duties levied on imports." Elliott's Debates, Vol. 1, p. 292. On the 25th of August, 1787, it was moved to amend the report, by striking out the words "the year eighteen hundred" and inserting the words "the year eighteen hundred and eight," which passed in the affirmative: Yeas—New Hampshire, Massachusetts, Connecticut, Maryland, North Carolina, South Carolina and Georgia—7; Nays—New Jersey, Pennsylvania, Delaware and Virginia—4. Rhode Island and New York did not vote on the question. Thus it appears that New Hampshire, Massachusetts and Connecticut voted to prolong the period during which the slave trade should be allowed.

On the question to agree to the first part of the report as amended, viz.: "The migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1808," it passed in the affirmative: Yeas—New Hampshire, Massachusetts, Connecticut, Maryland, North Carolina, South Carolina and Georgia—7; Nays—New Jersey, Pennsylvania, Delaware and Virginia—4. Elliott's Debates, Vol. 1, p. 295-6.

The course of Virginia on this subject, it is well known, was dictated by no friendly feeling to the African slave trade. She had prohibited it by her own laws as early as 1778, and George Mason, one of her delegates to the Federal Convention, refused to give his sanction to the Constitution, among other reasons, because it failed to place an immediate interdict on the African trade.

The third and last form in which the subject of slavery was considered by the convention, was in reference to the surrender of fugitive slaves. The provision on this subject came up for consideration on the 29th of August, 1787. It was in these words: "If any person be bound to service or labor in any of the United States, and shall escape into another State, he or she shall not be discharged from such service or labor, in consequence of any regulation subsisting in the State to which they shall escape, but shall be delivered up to the person justly claiming their service or labor."

The propriety and justice of this provision were so obvious, that it was adopted by the unanimous vote of the Convention. Elliott's Debates, Vol. 1, p. 303.

Your Committee have thus reviewed the history of all the provisions of the Constitution of the United States, which have a direct bearing on the subject of slavery, and it will be seen that on every point they are of the most distinct and imperative character. They are in the nature of formal covenants, These covenants constituted the consideration for which the Southern States agreed to make concessions on their part, intended for the public good. Without these covenants on the part of the Northern States, the Constitution could not have been formed or adopted. A wise and patriotic conciliation pervaded the councils of the Convention, which secured harmony in all their deliberations, and a unanimous vote in favor of the Constitution.

When their work was accomplished, by order of the Convention it was submitted to the Continental Congress, accompanied by a letter from George Washington, which is so replete with just and patriotic sentiments, and so instructive as to the motives by which the Convention was guided, that your Committee cannot forbear to make some extracts from it. Their letter, addressed to his Excellency, the President of Congress, was approved September 17, 1787, by unanimous order of the Convention.

"It is obviously impracticable," writes this wisest and most patriotic of statesmen, "in the Federal Government of these States, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstances as on the object to be obtained. It is at all times difficult to draw, with precision, the line between those rights which must be surrendered and those which may be reserved; and on the present occasion, this difficulty was increased by a difference among the several States as to their situation, extent, habits and particular interests.

"In all our deliberations on this subject, we kept steadily in our view that which appears to us the greatest interest of every true American—the consolidation of our Union—in which is involved our property, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the Convention to be less rigid on points of inferior magnitude than might have been otherwise expected; and thus the Constitution which we now present is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable.

"That it will meet the full and entire approbation of every State, is not, perhaps, to be expected; but each will doubtless consider that, had her interest been alone consulted, the consequences might have been particularly disagreeable or injurious to others; that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish."

It is doubtless true, that the Constitution was not, in all its details, acceptable to a single State represented in the Convention. But it embodied the results of their joint counsels, governed by a spirit of concord and amity, in obedience to which each State agreed to make some concessions for the common good.

The first census was taken in the year 1790, and from that time to the present the constitutional covenant in regard to the computation of three-fifths of the slave population, in ascertaining the ratio of representation, has been faithfully and honestly observed.

In 1807, a law was passed by Congress, in conformity with the provisions of the Constitution, prohibiting the slave trade after the 1st of January, 1808. No attempt was made to pass such a law before the day indicated by the Constitution, and therefore that covenant was also performed with scrupulous fidelity.

In 1793, Congress, in obedience to the mandate of the Constitution, enacted a law providing for the rendition of fugitives from labor. This

act was defective in many of its provisions, but in consequence of the spirit of fraternity and justice which pervaded the minds of the people of all portions of the Union, in the earlier and better days of the republic, no practical inconvenience resulted from the imperfections in the law. As a striking illustration of the just sentiments which prevailed shortly after the government of the United States went into practical operation, your Committee take pleasure in referring to the patriotic action of the State of Vermont. In 1786, that State had passed a penal law to prevent the sale and transportation of negroes and mulattoes out of the State. See Haswell ed. 117. But immediately upon her admission into the Union she repealed it, because it was supposed to be in conflict with the section of the Constitution of the United States in regard to the surrender of fugitives from labor.

In 1802, the subject of the duty of the States under the Federal Constitution was referred to in the Supreme Court of Vermont, and the judges availed themselves of the occasion to give expression to sentiments which deserve to be deeply impressed on the hearts of the people of all sections. Judge Tyler remarked, "With respect to what has been observed on the Constitution and laws of the Union, I will observe that whoever views attentively the Constitution of the United States, while he admires the wisdom which framed it, will perceive that in order to unite the interests of a numerous people, inhabiting a broad extent of territory, and possessing, from education and habits, different modes of thinking on important subjects, it was necessary to make numerous provisions in favor of local prejudices, and so to construct the Constitution, and so to enact the laws made under it, that the rights or supposed rights of all should be secured throughout the whole national domain. In compliance with the spirit of this Constitution, upon our admission into the Federal Union, the statute laws of this State were revised, and a penal act, which was supposed to militate against the third member of the second section of the fourth article of the Constitution of the United States, was repealed; and if cases shall happen in which our local sentiments and feelings may be violated, yet I trust that the good people of Vermont will, on all such occasions, submit with cheerfulness to the national Constitution and laws, which if we may wish in some particular more congenial to our modes of thinking, yet we must be sensible are productive of numerous and rich blessings to us as individuals, and to the State as an integral part of the Union."

Chief Justice Jonathan Robinson spoke as follows: "I concur fully in opinion with the assistant judge. I shall always respect the Constitution and laws of the Union; and though it may sometimes be a reluctant, yet I shall always render a prompt obedience to them, fully sensible that while I reverence a Constitution and laws which favor the opinions and prejudices of the citizens of other sections of the Union, the same Constitution and laws contain also provisions which are favorable to our peculiar opinions and prejudices, and which may possibly be equally irreconcilable with the sentiments of the inhabitants of other States, as the very idea of slavery is to us." See 2 Tyler's Rep. 199, 200.

As long as the States continued to be governed in their relations to the Federal Government and to each other by the wise and patriotic spirit which dictated these opinions, none but the most amicable feelings could

exist between them. Up to this period, therefore, no disposition was manifested in any quarter to repudiate the guarantees of the Constitution.

The acquisition of Louisiana and Florida, embracing a large extent of territory adapted to slave labor, gave rise to some uneasiness in the northern mind in regard to the future ascendancy of the slave States in the national councils. This uneasiness continued to increase until 1820, when it developed itself practically by an attempt to impose restrictions on the State of Missouri, as conditions precedent to her admission into the Union. It is but just, however, to state, that the struggle on this question was marked not so much by hostility to slavery as by jealousy of the growing political power of the Southern States. The contest in regard to the terms on which Missouri should be admitted created deep feeling throughout the Union. It was the first occasion on which parties were arrayed according to geographical divisions, and it was at once perceived that a contest of that character was fraught with danger to the harmony and permanency of the Union. Fortunately, the restrictions on the State of Missouri were defeated. A line of partition was subsequently drawn through the unoccupied territory of the United States, along the parallel of $36^{\circ} 30'$ to our western frontier, with an enactment that slavery was to be prohibited in all the territory north of that line, and permitted, if desired by the people, in all south of it. By this arrangement the two systems of civilization and labor were left to progress westward, side by side.

Under this compromise it was supposed that all causes of controversy, arising out of the irritating subject of slavery, would be banished from the halls of federal legislation. But in a few years an inconsiderable band of fanatics, instigated by a mischievous spirit, besieged the two Houses of Congress with petitions to abolish slavery in the District of Columbia, and to prohibit the slave trade between the States. The effect of these petitions was to create much irritation and ill feeling between different parts of the Union.

Such was the aspect of the slavery question in 1843-4, when Texas, which had recently established her independence after a gallant struggle with Mexico, sought admission into our Union. There was great diversity of opinion among the people of the United States, both in the Northern and Southern States, as to the policy of receiving her into our confederacy. Animated discussions ensued in all parts of the country on this great question; and finally, so absorbing was the interest which was felt in it, that the question of admission or non-admission became an important element in the presidential election of 1844. James K. Polk was the representative of those favorable to admission, and Henry Clay of those opposed to it. On this great issue the parties went before the country, and the verdict of public opinion was in favor of the admission of Texas as a slave State, and with a stipulation in the form of an irrevocable compact, that at a future day four more slave States might be carved out of her vast territory, as the convenience of her advancing population might require. The northern or non-slaveholding States which voted for Mr. Polk were Maine, New Hampshire, New York, Pennsylvania, Indiana, Illinois and Michigan, giving 103 electoral votes. The slave States voting with them were Virginia, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Missouri and Arkansas—67 electoral votes.

This vast addition to the slave territory of the United States was therefore approved by the concurrent votes of the slaveholding and non-slaveholding States; and whatever responsibility belongs to the act, in a moral, social or political aspect, necessarily attaches itself to them in common.

The admission of Texas was soon followed by the war with Mexico, which, after a series of brilliant victories, resulted in the subjugation of her capital, and the ratification of the treaty of Gaudeloupe Hidalgo, by which she ceded to the United States Upper California, New Mexico, and other territory west of our ancient frontier. The *status* of these territories, in regard to slavery, was unsettled, and immediately after the ratification of the treaty of peace, an animated struggle on this question arose in the two branches of Congress.

The South promptly proposed a compromise, by which the line of partition along the parallel of $36^{\circ} 30'$ should be extended to the Pacific ocean, and the covenants of the Missouri Compromise should be extended to all the newly acquired territory. This proposition was rejected by the North, and an angry contest ensued, which seriously endangered the peace and tranquility of the Union. Peaceful counsels, however, prevailed. The most eminent men, of both political parties, and of all parts of the confederacy, labored together to effect an adjustment; and finally, in September, 1850, under the auspices of Clay, and Cass, and Webster, and Dickenson, and Douglas, and Foote, and other distinguished men, a series of measures was matured, sanctioned by both branches of Congress, and approved by the President.

Under this system of compromise, California, in conformity with her wishes, expressed through her State Convention, which, though irregularly convened, was supposed to represent the sentiments of her people, was to be admitted as a free State, and the *status* of the residue of the territory ceded by Mexico was to be determined by the people of the territories when they sought admission into the Union. The system of adjustment also embraced two other important features, one of which was adopted in deference to the wishes of the North, and the other for the benefit of the South. The first was the abolition of the slave trade in the District of Columbia, and the second was the passage of a more efficient law for the rendition of fugitives from labor, to supply the defects of the act of 1793.

This series of measures, though passed in the form of separate bills, constituted substantially one system of pacification. The passage of one act was the consideration for the passage of the others. Neither could have passed without the assurance of the passage of the others. The provisions embraced by them were in the nature of mutually dependent covenants, and if it be possible to increase the sanctity and validity of a law by superadding the obligations of a compact and of plighted faith, no example can be found on our statute books better calculated to illustrate the principle than the fugitive slave law of 1850. All the covenants entered into by the South were of a nature which required that they should be performed without delay, while the compensating agreements of the North were to be executed in future.

The South acquiesced in the admission of California as a free State—permitted Texas to be dismembered of a portion of her territory, in which,

by her compact with her sister States, slavery was to exist—and allowed the slave trade to be prohibited in the District of Columbia. The price which the North agreed to pay for these concessions was nominal, being the recognition of the right of New Mexico and the other newly acquired territory to introduce or exclude slavery, as they might think proper, and the passage of a law which would faithfully fulfil all the constitutional requirements in regard to the surrender of fugitive slaves.

Under this compromise the South has performed everything that was incumbent on her. California has been admitted as a free State—Texas has been dismembered—and the slave trade in the District of Columbia has been abolished.

The South now asks the fulfilment of the compensating covenants on the part of the North. It is true that the fugitive slave law has passed through all the forms of legislation, and now has a place among the acts of Congress. But it is a fact, notorious to the world, that the law is a dead letter—that while it keeps the promise to the ear, it hath broken it to the hope. From the time of its passage to the present hour, the people, the legislative assemblies and the judicial tribunals of the Northern States, have manifested the most determined purpose to set it at naught. Although it has been adjudged by the highest court of the United States to be in conformity with the Constitution, and therefore to be a part of the supreme law of the land, the legislatures of almost all the Northern States have passed acts to nullify or evade its practical execution. Many of their courts have interposed every obstacle in their power to its enforcement, and mobs have risen in most of the Northern cities to resist the law, and to rescue the fugitives from labor by force of arms, and several Southern citizens have been murdered whilst engaged in attempts to arrest their slaves.

From the compendium of the census of 1850, it appears that the number of slaves who escaped from their masters in the year 1849-50 was 1,011, whose aggregate value was near one million of dollars.

This condition of things furnishes a striking evidence of the growth of a spirit unfriendly to the guarantees of the Constitution, and at war with all the obligations of national faith, which is in painful contrast with the patriotic conduct of Vermont in the better days of the republic, which has already been adverted to.

The compromise measures of 1850 were by no means acceptable, in all their features, either to the North or the South. But patriotic men of both sections were willing to sacrifice their opinions and wishes for the public good; and in 1852 both the great political parties which then divided the country, and contended for the power to guide its policy, through their respective national conventions, declared their purpose to abide by the compromises of 1850, and to discountenance the further agitation of the slavery question in or out of Congress. President Pierce having been elected on this platform, availed himself of the earliest appropriate occasion, in his first annual message to Congress in December, 1853, to announce his purpose to conform to the pledges given in his behalf by those who elected him.

In 1854, a bill was introduced into Congress, under the auspices of a distinguished senator from Illinois, for the organization of territorial governments in Kansas and Nebraska. As originally reported, the bill

was silent in regard to slavery. Subsequently, the bill was modified so as to embrace a clause which declared the law of 1820, commonly known as the Missouri Compromise Act, inoperative and void, and in this form it became a law. The avowed object of the mover and friends of the bill was to remove the slavery agitation from the halls of Congress, and to localize it, by confining it to the territories as they should respectively be in a condition to establish their own municipal institutions. The bill declared on its face that its true intent and meaning was "not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

The passage of this law furnished the pretext for the revival, with increased bitterness, of all the sectional feuds which had been temporarily allayed by the measures of 1850. Throughout the Northern States, old party lines were almost obliterated, and a new Northern political organization sprang into existence, under the designation of the Republican party. This organization was distinctly sectional in its character, and it soon acquired the ascendancy in almost every Northern State. The ostensible object of this party was to organize public opinion in opposition to the repeal of the Missouri Compromise, and to the extension of slavery into new territories. But it soon became evident, from the sectional character of the party, the doctrines which it inculcated, and the policy which it pursued, that its real purpose was to make war upon the institution of slavery itself. Your Committee have no doubt that the ulterior designs of the leaders of the party were carefully concealed from the great body of those who enlisted under its banner, and who would have then recoiled from the idea of invading the acknowledged rights of the Southern States, and trampling under foot the solemn compacts of the Constitution. The object was to obtain the co-operation of the Northern people, by the specious pretenses of opposition to the repeal of the Missouri Compromise and to the extension of slavery, and then, by the force of party affinities and discipline, to lead or drive them into open warfare on the institution itself.

The first evidence of the true design of the Republican party, is to be found in their failure to seek the assistance and co-operation of those citizens of the Southern States who were equally opposed with themselves to the repeal of the Missouri Compromise, and the whole policy of the government in regard to Kansas and Nebraska. If their purposes had been such as they represented them to be at the outset, they would naturally have sought the alliance of all who concurred with them in sentiment, without reference to geographical divisions. This they declined to do, and for the first time in the history of our country, the spectacle was exhibited of a party organized on a strictly sectional basis. The dangers likely to result from the formation of such parties were foreseen by the Father of his Country, and constituted the subject of one of his most solemn admonitions to his countrymen in his Farewell Address. These are his impressive words:

"In contemplating the causes which may disturb our Union, it occurs as a matter of serious concern, that any ground should have been furnished for characterizing parties by geographical discriminations, *Northern*

and *Southern, Atlantic and Western*, whence designing men may endeavor to incite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence with particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart-burnings which spring from these misrepresentations. They tend to render alien to each other those who ought to be bound together by fraternal affection."

The purposes of the party were still farther disclosed, when they assembled in their national convention, to give formal and authentic expression to their political creed, and to select their candidate for the presidency. In one of the resolutions adopted by that body, they avow the opinion that slavery stands on the same level with polygamy, and denounce both as "twin relics of barbarism." By this declaration they seek to place all the Southern States outside of the pale of civilization, and to cover with obloquy and reproach the memory of Washington, Jefferson, Henry, Madison, Marshall, Clay, Calhoun, Lowndes, and the whole host of Southern patriots, whose illustrious names constitute the brightest jewels in the treasury of our national fame.

When it was supposed that public opinion was sufficiently prepared for the announcement, we find the doctrine openly proclaimed in various parts of the North, by the representative men of the Republican party, that there exists an irrepressible conflict between the social systems of the North and the South, which must progress until one or the other is exterminated.

Such is the organization, and such are the cardinal doctrines of the Republican party, as derived from the legitimate exponents of their faith and policy.

If we turn to the legislative action of the Northern States, in which that party has obtained the ascendancy, we find that it is in strict conformity with their mischievous dogmas. Their statute books are filled with enactments conceived in a spirit of hostility to the institutions of the South, at war with the true intent and meaning of the Federal Compact, and adopted for the avowed purpose of rendering nugatory some of the express covenants of the Constitution of the United States.

It would extend this report to an unreasonable length, if your Committee should attempt to review this unfriendly legislation in detail. They will therefore content themselves with a brief reference to some of the most prominent features of these laws, copies of which will be found in the appendix.

Maine.—By the laws of this State it is provided, that if a fugitive slave shall be arrested, he shall be defended by the Attorney for the Commonwealth, and all expenses of such defence paid out of the public treasury. The use of all State and county jails, and of all buildings belonging to the State, are forbidden the reception or securing fugitive slaves, and all officers are forbidden, under heavy penalties, from arresting or aiding in the arrest of such fugitives. If a slaveholder, or other person, shall unlawfully seize or confine a fugitive slave, he shall be liable to be imprisoned for not more than five years, or fined not exceeding \$1,000. If a slaveholder take a slave into the State, the slave is thereby made

free; and if the master undertake to exercise any control over him, he is subjected to imprisonment for not less than one year, or fined not exceeding \$1,000.

The Dred Scott decision of the Supreme Court has been declared unconstitutional, and many offensive and inflammatory resolutions have been passed by the Legislature.

New Hampshire.—Your Committee have not had access to a complete series of the laws of this State. But a general index, which has been consulted, shows that a law exists by which all slaves entering the State, either with or without the consent of their masters, are declared free; and any attempt to capture or hold them is declared to be a felony.

Vermont.—This State seems to have entirely forgotten the conservative and law-abiding sentiment which governed its action in the earlier period of her history.

Her law now forbids all citizens and officers of the State from executing or assisting to execute the fugitive slave law, or to arrest a fugitive slave, under penalty of imprisonment for not less than one year, or a fine not exceeding \$1,000. It also forbids the use of all public jails and buildings, for the purpose of securing such slaves. The Attorneys for the State are directed, at public expense, to defend, and procure to be discharged, every person arrested as a fugitive slave. The *habeas corpus* act also provides that fugitive slaves shall be tried by jury, and interposes other obstacles to the execution of the fugitive slave law.

The law further provides, that all persons unlawfully capturing, seizing or confining a person as a fugitive slave, shall be confined in the State prison not more than ten years, and fined not exceeding \$1,000. Every person held as a slave, who shall be brought into the State, is declared free, and all persons who shall hold, or attempt to hold as a slave, any person so brought into the State in any form, or for any time, however short, shall be confined in the State prison not less than one nor more than fifteen years, and fined not exceeding \$2,000. The Legislature has also passed sundry offensive resolutions.

Massachusetts.—The laws of this State forbid, under heavy penalties, her citizens, and State and County officers, from executing the fugitive slave law, or from arresting a fugitive slave, or from aiding in either; and denies the use of her jails and public buildings for such purposes.

The Governor is required to appoint commissioners in every county to aid fugitive slaves in recovering their freedom, when proceeded against as fugitive slaves, and all costs attending such proceedings are directed to be paid by the State.

Any person who shall remove, or attempt to remove, or come into the State with the intention to remove or assist in removing any person who is not a fugitive slave, within the meaning of the Constitution, is liable to punishment by fine not less than \$1,000 nor more than \$5,000, and imprisonment not less than one nor more than five years.

Their *habeas corpus* act gives trial by jury to fugitive slaves, and interposes other unlawful impediments to the execution of the fugitive slave law. Her Legislature has also passed violent and offensive resolutions.

Connecticut.—This State, which as late as 1840 tolerated slavery within her own borders, as appears by the census of that year, prohibits, under

severe penalties, all her officers from aiding in executing the fugitive slave law, and vacates all official acts which may be done by them in attempting to execute that law.

By the act of 1854, sec. 1, it is provided, that "every person who shall falsely and maliciously declare, represent or pretend that any person entitled to freedom is a slave, or owes service or labor to any person or persons, with intent to procure or to aid or assist in procuring the forcible removal of such free person from this State as a slave, shall pay a fine of \$5,000, and shall be imprisoned five years in the State prison.

"Sec. 2. In all cases arising under this act, the truth of any declaration, representation or pretence that any person being or having been in this State, is or was a slave, or owes or did owe service, or labor to any other person or persons, shall not be deemed proved, except by the testimony of at least two credible witnesses testifying to facts directly tending to the truth of such declaration, pretence or representation, or by legal evidence equivalent thereto."

Sec. 3 subjects to a fine of \$5000 and imprisonment in the State prison for five years, all who shall seize any person entitled to freedom, with intent to have such person held in slavery.

Sec. 4 prohibits the admission of depositions in all cases under this act, and provides that if any witness testifies falsely *in behalf of the party accused* and prosecuted under this act, he shall be fined \$5,000 and imprisoned five years in the State prison. This law is, in the opinion of your Committee, but little short of an invitation to perjury, by imposing no penalties on false swearing *against* the party accused.

The resolutions of the Legislature are offensive and disorganizing.

Rhode Island.—The statutes of Rhode Island provide that any one who transports, or causes to be transported by land or water, any person lawfully inhabiting therein, to any place without the limits of the State, except by due course of law, shall be imprisoned not less than one nor more than ten years. They also prohibit all officers from aiding in executing the fugitive slave law, or arresting a fugitive slave, and deny the use of her jails and public buildings for securing any such fugitive.

New York.—This State has enacted that every person who shall, without lawful authority, remove or attempt to remove from this State any fugitive slave, shall forfeit, to the party aggrieved, \$500, and be imprisoned not exceeding ten years in the State prison; and all accessories after the fact are also liable to imprisonment.

The *habeas corpus* act provides that fugitive slaves shall be entitled to trial by jury, and makes it the duty of all Commonwealth's Attorneys to defend fugitive slaves at the expense of the State.

New York has a fugitive law of her own, which is of no practical use, and has forbidden her judicial officers from proceeding under any other law.

Prior to 1841, persons not inhabitants of the State were allowed to take their slaves with them, and keep them in the State for a limited time; but the law has been repealed.

New Jersey.—Her law provides that if any person shall forcibly take away from this State any man, woman or child, bond or free, into another

State, he shall be fined not exceeding \$1,000, or by imprisonment at hard labor not exceeding five years, or both.

The *habeas corpus* act gives a trial by jury to fugitive slaves, and all judicial officers are prohibited from acting under any other than the law of New Jersey.

Pennsylvania.—Prior to 1847, non-resident owners of slaves were allowed to retain them in Pennsylvania not exceeding six months. In 1847, this privilege was revoked. Slaves are also allowed to testify in all cases in the courts of Pennsylvania. It is further provided by law, that any person "who violently and tumultuously seizes upon any negro or mulatto, and carries such negro away to any place, either with or without the intention of taking such negro before a district or circuit judge, shall be fined not exceeding \$1,000, and imprisoned in the county jail not exceeding three months. The law also punishes, with heavy fine and imprisonment in the penitentiary, any person who may forcibly carry away, or attempt to carry away, any free negro or mulatto from the State. The sale of fugitive slaves is prohibited under heavy penalties, and a trial by jury is secured to fugitive slaves, in violation of the laws of the United States.

Illinois.—Illinois has prohibited, under pain of imprisonment of not less than one nor more than seven years, any person from stealing or arresting any slave, with the design of taking such slave out of the State, without first having established his claim thereto, according to the laws of the United States. These penalties will be incurred by the master who pursues his slave across the border, and apprehends him without waiting for the action of commissioner or court.

Indiana.—Some of the laws of this State are favorable to the recovery of fugitives from labor. But the law as to kidnapping is similar to that of Illinois, as above noted, except that the penalties are greater. The fine is not less than \$100 nor more than \$5,000, and the term of imprisonment not less than two nor more than fourteen years.

Ohio.—In 1858, the most effective parts of the laws of this State were repealed. It is understood, however, that measures are in contemplation, if they have not been already initiated, to re-enact them.

Michigan.—The laws of this State are peculiarly obnoxious to criticism. They not only deny the use of the jails and public buildings to secure fugitive slaves, and require the Attorneys for the Commonwealth to defend them at the expense of the State, but the law of Connecticut in relation to the punishment of persons falsely alleging others to be slaves, is adopted, with the addition that any person who carries a slave into this State, claiming him as such, shall be punished by imprisonment in the State prison for a period not exceeding ten years, or by a fine not exceeding \$1,000.

The *habeas corpus* act provides for trial by jury of claims to fugitive slaves.

Resolutions have also been adopted by the Legislature, urging the repeal of the fugitive slave law, and the prohibition of slavery in the District of Columbia and the Territories.

Wisconsin.—Following the example of her sister States of the North,

in parts of their hostile legislation, this State has, in some particulars, gone beyond all the rest. She has directed her district attorneys, in all cases of fugitive slaves, to appear for and defend them at the expense of the State. She has required the issue of the writ of *habeas corpus*, on the mere statement of the district attorney that a person in custody is detained as a fugitive slave, and directs all her judicial and executive officers who have reason to believe that a person is about to be arrested or claimed on such ground, to give notice to the district attorney of the county where the person resides. If a judge, in vacation, fails to discharge the arrested fugitive slave on *habeas corpus*, an appeal is allowed to the next circuit court. Trial by jury is to be granted at the election of either party, and all costs of trial, which would otherwise fall on the fugitive, are assumed by the State. A law has also been enacted, similar to that of Connecticut, for the punishment of one who shall falsely and maliciously declare a person to be a fugitive slave, with intent to aid in procuring the forcible removal of such person from the State as a slave. A section is added to the provisions of this Connecticut law, for the punishment, by imprisonment in the State prison, of any person who shall obstruct the execution of a warrant issued under it, or aid in the escape of the person accused. Another section forbids the enforcement of a judgment recovered for violation of the "fugitive slave act," by the sale of any real or personal property in the State, and makes its provisions applicable to judgments theretofore rendered.

The law relative to kidnapping punishes the forcible seizure, without lawful authority, of any person of color, with intent to cause him to be sent out of the State or sold as a slave, or in any manner to transfer his service or labor, or the actual selling or transferring the service of such person, by imprisonment in the State prison from one to two years, or by fine from \$500 to \$1,000. The consent of the person seized, sold or transferred, not to be a defense, unless it appear to the jury that it was not obtained by fraud, nor extorted by duress or by threats.

Iowa.—The law of this State is similar to that of Indiana, except that there seems to be no direct provision favoring the recovery of fugitive slaves. Like that of Indiana and Illinois, the law as to kidnapping may be so construed as greatly to obstruct the arrest of such fugitives. The maximum of punishment is, however, something less, being five years in the State prison, and a fine of \$1,000.

Offensive resolutions have also been adopted by its Legislature.

Minnesota.—What is to be objected to the legislation of this State is, that there is no sufficient recognition of the right of the master to recover his fugitive slave; and consequently, even if such was not the *design* of the omissions, the way is left open for the perversion of the law relative to the writ of *habeas corpus*, to the injury of slave owners.

Such are some of the evidences derived from official sources, of the rapid growth of unkind feelings among the people of the North to their brethren of the South. But there are others, which are too significant to be entirely overlooked.

The recent debates in the Congress of the United States have disclosed the remarkable fact, that sixty-eight Republican members of Congress have united in a written endorsement and recommendation to public favor,

of an atrocious libel on Southern institutions, prepared by a man who was openly denounced, on the floor of the Senate of the United States, by a Senator from his own State, as unworthy of trust and confidence. This infamous publication, thus commended to public approval by the regularly accredited representatives of near six millions of Northern people, abounds in the most insidious appeals to the non-slaveholders of the Southern States, and seeks to inflame the minds of the slaves of the South, and to incite them to rise in rebellion against the authority of their masters; to murder them and their families, and to ravage the country with fire and sword. Yet, with a full knowledge of all these facts, one of the endorsers of this libel on fifteen States of the confederacy, has been nominated and persistently pressed by the members of the Republican party, for election to the Speakership of the House of Representatives of the United States; and not one of the members of that party has been restrained, by reason of that endorsement, from giving him a cordial support.

Thus, under a Constitution formed to "establish justice, ensure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity," we behold a large number of the representatives of the people, who had sworn to support that Constitution, lending all their influence, personal and official, to defeat the great objects for which it was formed, to array section against section, and to fill the country with all the horrors of servile insurrection and internecine strife.

Your Committee might also refer to the offensive tone of a portion of the Northern press and pulpit, and to the libelous resolutions of numerous popular assemblies in the Northern States, as evidences of the decline of that spirit of fraternity and unity which animated our fathers in the days of our revolutionary struggle. These are the ordinary channels through which public opinion makes itself heard and felt. But it would probably be uncharitable to the Northern people to hold them responsible for all the ravings of fanatical agitators; and we therefore prefer to rely on those authentic manifestations of unfriendly feeling proceeding from the official representatives of the people, and for which the constituent body is justly responsible.

Your Committee cheerfully acquit a large number of the Northern people of any positive and active participation in these aggressions on Southern rights and interests. The recent demonstrations of popular feeling made in some of the Northern cities, are accepted in the spirit in which they were offered. But abstract resolutions in favor of the guarantees of the Constitution are of no avail, unless they are followed by corresponding action. As long as the conservative people of the North remain passive, and permit agitators and fanatics and enemies of the South to fill positions of public trust, and to speak and to act on behalf of their respective States, they cannot escape the responsibility which attaches to their declarations and acts. Those who have it in their power to prevent the perpetration of a wrong, and fail to exercise that power, must to a great extent be responsible for the wrong itself.

Thus the conservative men of the North are responsible for the organization and action of the Republican party. It was their duty to have prevented it, and they had the power to fulfil that duty. They preferred,

however, to remain inactive, and thus permitted the Republican party to obtain the ascendancy in the state and national councils. They could not have been ignorant of the fact that such an organization must necessarily prove dangerous to the Union. They must have foreseen that a party organized on the basis of hostility to slavery extension, would very soon become a party opposed to slavery itself. The whole argument against the *extension* of slavery is soon, by a very slight deflection, made to bear against the *existence* of slavery, and thus the anti-extension idea is merged in that of abolition. Accordingly we find, notwithstanding the denial by the Republican party of any purpose to interfere with slavery where it exists, that the tendency of its policy is to its extermination everywhere.

The logical consequences of their teachings have been exhibited in the recent raid at Harper's Ferry; and so long as that party maintains its present sectional organization, and inculcates its present doctrines, the South can expect nothing less than a succession of such traitorous attempts to subvert its institutions and to incite its slaves to rapine and murder. The crimes of John Brown were neither more nor less than practical illustrations of the doctrines of the leaders of the Republican party. The very existence of such a party is an offence to the whole South.

Whether the recent outrages perpetrated upon the soil and citizens of Virginia, will have the effect of awakening the conservative sentiment of the North into efficient action, remains to be seen. Your Committee cannot relinquish the hope that such will be its effect, and that thus good may come out of evil. Your Committee have no appeals or remonstrances to address to their fellow-citizens of the North. They doubtless comprehend their obligations under the Constitution to the people of the South. If they shall in future show a readiness to fulfil those obligations, Virginia and the other Southern States are prepared to bury the past in oblivion, and to respond with cordiality to every manifestation of a returning spirit of fraternity. As Virginia was among the foremost in the struggle for national independence, and contributed as much as any other State to the formation of the constitutional Union, she would be among the last to abandon it, provided its obligations be faithfully observed. Her sons having been educated to cherish "a cordial, habitual and immovable attachment to our national Union—accustomed to think and speak of it as the palladium of their political safety and prosperity, watching for its preservation with jealous anxiety, discountenancing whatever may suggest even a suspicion that it may in any event be abandoned, and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts."

But the Union which they have been taught to love and revere is the Union contemplated by the Constitution—a Union of communities having equal rights—a Union regulated and governed by the principles of the Constitution—a Union of sovereign States, entitled to regulate their domestic affairs in their own way, and bound to fulfil their obligations to each other with scrupulous fidelity. When it shall cease to be such a Union, it will have forfeited all claims to their respect and affection. Virginia feels that she has discharged her whole duty to her sister States, and she asks nothing from them that is not guaranteed to her by the

plain terms of the Federal Compact. She has not sought officiously to intermeddle with the domestic concerns of other States, and she demands that they shall refrain from all interference with hers.

But it is clear, from the review of the condition of the public sentiment of the Northern States for the last five years, as indicated by their legislation and in other authentic forms, that many of their people have ceased to respect the rights of the Southern States, to recognize the obligations of the Federal Compact, or to cherish for us those friendly sentiments which gave birth to the Constitution of the United States. A proper sense of self-respect and the instinct of self-preservation, therefore, require that we should adopt such measures as may be necessary to secure ourselves against future aggression, and to meet every emergency which may hereafter arise. We desire nothing but friendly relations with our Sister States of the North. We ask of them nothing to which they have not solemnly bound themselves by the compact of the Constitution. But we understand our rights, and we are resolutely determined to maintain them. We disclaim all aggressive purposes. But when we are threatened with the knife of the assassin and torch of the incendiary, we cannot fold our arms in blind security. We have no desire to rupture the political, commercial or social ties which bind us to the North, so long as our rights are respected; but admonished by the past, it is our duty to prepare for the future by placing ourselves in an attitude of defense, and by adopting such measures as may be necessary for our security and welfare.

Your Committee therefore recommends to the General Assembly, the following resolutions for adoption:

1. *Resolved*, That the appropriate standing committees of the two Houses of the General Assembly be instructed to prepare and report such bills as in their judgment may be necessary to organize, arm and equip the militia of the State for active and efficient service.

2. *Resolved*, That the Committee on Finance be instructed to prepare and report such bills as in their judgment may be most effectual (without violating the provisions of the Constitution of the United States) in encouraging the domestic manufactures of our own State, promoting direct trade with foreign countries, and establishing, as far as may be practicable, our commercial independence.

3. *Resolved*, That we earnestly invite the co-operation of our Sister States of the South in carrying out the policy indicated in the foregoing resolutions.

4. *Resolved*, That the Committees for Courts of Justice be instructed to report such bills as may be necessary to secure the more prompt and effectual punishment of all foreign emissaries and others, who may be found guilty of conspiring against the peace of our community, or seeking to incite our slaves to insurrection.

5. *Resolved*, That the course of the late Governor, in regard to the Harper's Ferry affair, is amply vindicated by the evidence before the Committee, and entitles him to the emphatic commendation of the country.

APPENDIX II

A Narrative of the Leading Incidents of the Organization of the First Popular Movement in Virginia in 1865 to Re-establish Peaceful Relations Between the Northern and Southern States, and of the Subsequent Efforts of the "Committee of Nine," in 1869, to Secure the Restoration of Virginia to the Union.

Chapter I

Several years ago the Virginia Historical Society adopted a resolution, of which the following is a copy:

Resolved, That the Hon. A. H. H. Stuart be requested to prepare for this Society a history of the events of 1869, which led to a restoration of this State to its place in the Union, in which he himself bore so distinguished a part.

An official copy of this resolution was sent to me, to which I replied, expressing my willingness to comply with the request of the Society at as early a day as might be practicable, and at once I proceeded to collect such papers as I thought would be necessary to enable me to do so. But, unfortunately, sickness and other causes compelled me to postpone the fulfillment of my promise to a future day. Time having brought improved health and spirits, I now venture to enter on the performance of the task so long delayed.

In the outset, I wish it to be distinctly understood that I do not propose to write a full history of all that occurred in connection with the "events of 1869" referred to in the resolution of the Society. I have not the material necessary for such a history. Doubtless many things were said and done by others looking to the same end, of which I had no knowledge. All that I propose to do in this paper is to give a narrative of the leading facts and incidents relating to the subject, so far as I was personally connected with or had cognizance of them, accompanied by such papers as may be necessary to verify and explain them.

As I shall speak mainly of matters in which I was an actor or witness, it will readily be conceded that my statement should be made in the first person singular.

But I should feel that my work had been very imperfectly done if I failed, before entering on my narrative of the "events" especially referred to in the resolution of the Society, to refer to others of an antecedent date, which were not less important than the "events of 1869," and which, in fact, opened the way for them. A knowledge of these facts is necessary to enable the reader to understand the condition of public affairs in 1868-'9. They supply an important link in the history of Virginia, from the downfall of the Confederacy to the restoration of the State to the Union. I deem

it proper to refer to these events, not only on account of their intrinsic interest as matters of history, but because no permanent record has been made of them, and they are liable to be forgotten, with the men who participated in them.

It will be remembered that it was the practice of General David Hunter, in his raid through Virginia, to destroy all the newspaper offices by breaking up their presses and scattering their type in the streets. The publication of newspapers was in this way effectually suppressed; and in Staunton, the place of my residence, the only means of printing anything was by an old hand-press, which had escaped the notice of the destroyer, and such type as had been rescued from the gutter into which it had been thrown. Thus no record of passing events was preserved in files of newspapers, issued from day to day, and the only authentic report of the proceedings of one of the most important popular meetings ever held in Augusta county is to be found in a few copies of an unsightly hand-bill, which was printed on the day after it was held, with the press and type above referred to.

As this meeting set on foot the first organized popular movement for "peace," I cannot doubt that I will render an acceptable service to the public by putting the record of its proceedings in a more enduring form, and placing it under the guardianship of the Virginia Historical Society.

The meeting to which I refer, was a large assemblage of the best people of Augusta county, held at their courthouse in Staunton on 8th of May, 1865, in pursuance of a notice which had been circulated as widely as possible during the preceding week.

The circumstances under which the meeting was held were these: While intelligent and thoughtful men, who were correctly informed as to the exhausted condition of the Confederate treasury, of the absence of supplies of food, clothing, arms, and ammunition necessary to maintain an army in the field, and, above all, of the disparity of numbers and equipment of the troops which were arrayed under the banners of Grant and Lee respectively at the opening of the campaign of 1865, had been forced to the conclusion that the days of the Confederacy were numbered, such was not the belief among the masses of the people in the country. They had been misled to some extent by the defiant attitude assumed by the Confederate Government, and in larger measure by their unbounded confidence in the abilities of their great leaders, Lee and Johnston, and their associates, which caused them still to cling to the hope of final success.

When, therefore, it became known to the people of Virginia, in April, 1865, that President Davis and his Cabinet and other executive officers of the Confederate Government, and Governor William Smith and the other State officers of Virginia, had been compelled to withdraw from Richmond, and that General Lee had been obliged to evacuate the city and retreat southward with the remnant of his starving army—followed as this news was, in a few days, by intelligence of the surrender of General Lee's army at Appomattox, and the capitulation of General Johnston and his army—the tidings fell on the popular ear like a "fireball in the night," filling the public mind with consternation and dismay.

Men of forecast saw at once that the Confederate cause was lost, and that a continuance of the struggle was hopeless and could result only in a

wanton waste of blood and treasure, and an aggravation of the calamities which were inevitable. They saw, further, that we had been reduced to the sad condition of a people without any government, State or Federal. The Confederate Government had practically ceased to exist. The State Government had been overthrown. The officers of both were refugees, and there was no reasonable prospect of the re-establishment of either. Every social bond had been ruptured. Society had been resolved into its original elements. All laws had become inoperative for want of officers to enforce them. All the safeguards of life, liberty, and property had been uprooted. Scenes of lawless violence and rapine were rife in the country. There were no officials who would be recognized as having authority to represent the people or to give expression to their opinions and wishes.

In a word, a condition of things had arisen in which, if the people wished their voice to be heard, they must speak for themselves.

Such was the state of affairs which existed about the first of May, 1865, when half a dozen or more intelligent gentlemen of Staunton met together, informally, to consider and decide what should be done to meet the emergency which confronted them. After full and free discussion of the subject in all its aspects, they concluded that the wisest course would be to convoke a mass-meeting of the people of Augusta county, to assemble at their courthouse on Monday, 8th of May, 1865, to decide for themselves.

Notices were accordingly issued, inviting the people to assemble at the time and place above mentioned to give formal expression to their sentiments on the grave questions to be submitted for their consideration. These notices were widely circulated by means of special messengers sent to all parts of the county during the week preceding the day appointed for the meeting; and on Sunday, the day before it was to be held, it naturally became the topic of conversation among the people at their homes, on the highways, and at their respective places of public worship. In this way the purpose to hold the meeting and its objects became known to almost every man in the county, and to many in adjacent counties.

Among those who thus became acquainted with the purpose of the people of Augusta to hold the meeting on the 8th of May, and the subjects to be considered by it, was Governor William Smith. After he had been obliged to leave Richmond, before its formal evacuation, he had sought refuge in a secluded part of Rockbridge county. On learning the facts above stated, and doubtless influenced by a patriotic sense of official duty, he rode to Staunton, a distance of twenty-five miles or more, where he arrived about noon on Sunday, 7th May. Soon after his arrival, he sent invitations to a number of gentlemen who had been most active in getting up the "mass-meeting," requesting them to call on him at his hotel at 3 o'clock P. M. for conference.

I was one of those invited, and at the hour appointed, accompanied by fifteen or twenty other gentlemen, went to the hotel, where we were politely received by the Governor. After the ordinary interchange of salutations and introductions, Governor Smith proceeded to open the interview by referring to the rumors he had heard of the proposed meeting and its objects. Without expressing any opinion, either favorable or unfavorable, to the objects which we had in view, he made known, in

decided terms, his opposition to our holding it, on the ground that the proceeding would be irregular, and, to some extent, revolutionary. He referred to the fact that he was the Governor of Virginia, and as such the constitutional representative of the State, and the only person empowered to open negotiations with the Federal authorities to secure peace and the restoration of the State to the Union. He insisted it was not competent for the people of any single county to inaugurate such a movement, thereby ignoring him and his constitutional powers and duties as chief executive officer of the Commonwealth, and therefore urged us to abandon the idea of holding the proposed meeting.

In reply, it was stated that while under a normal condition of public affairs, in which he would be recognized as the lawful Governor of the State of Virginia, his views would be entitled to great weight, yet we thought it was obvious that he who had been a distinguished general in the military service of the Confederate States, and who had been elected Governor of *one of the Confederate States*, under the auspices of the Confederacy, and had taken an oath of allegiance to its government, could not possibly be recognized by the Federal Government as the lawful Governor and constitutional representative of the State of Virginia under the new order of things. Such a recognition would be almost equivalent to a recognition of the Confederate Government itself. All purpose to ignore him or offer him any personal disrespect was earnestly disclaimed; but facts were stubborn things, which could not be ignored. They must be dealt with as they existed. The Confederate Government had collapsed, and there was no reasonable prospect of its ever being re-established. The State Government had been overthrown. We were, therefore, without any government and liable at any time to be overwhelmed by all the horrors of anarchy. We had no representatives who would be recognized as having a right to speak for the people, and hence they must speak for themselves. He was told he was mistaken in supposing that the people of Augusta proposed to act on *behalf of the State*. They claimed no such right. They meant only to give expression to the sentiments and wishes of the county of Augusta, leaving every other county free to take such action as its people might deem proper. The demand for prompt and decided action by the people was urgent. They could not afford to wait for the result of tedious and probably ineffectual diplomatic negotiation, and therefore we must persist in holding the proposed meeting. The conference then closed, without unkind feeling on either side, for each respected the motives of the other, and Governor Smith returned to Rock-bridge.

Before dismissing the subject of this interview, it may be proper to say that the sequel proved the soundness of the reasoning of the advocates of the meeting and the fallacy of that of Governor Smith.

The meeting having been held on the 8th of May, and a committee appointed to go to Richmond to confer with the military authorities, it was received with courtesy and attention by the general in command as representing the people. But when Governor Smith shortly afterwards, in his official character, appointed commissioners to negotiate with the military authorities, as soon as these gentlemen presented their credentials they were arrested and held as prisoners, and a reward of \$25,000 was offered

for the capture of the Governor and the delivery of his person to the officer in command. But, to the honor of our people, it must be added that no one could be tempted, even by such a munificent reward, to play the part of Judas Iscariot.

After the close of the conference with Governor Smith on Sunday afternoon (7th May, 1865), I was notified that it was the wish of the gentlemen who had been most active in getting up the meeting on the 8th that I should preside over its deliberations, and that on taking the chair I should make an address to the people, explaining the objects and purposes of those who called it, with such suggestions as to the policy to be pursued as I might deem appropriate.

After careful consideration, I concluded that in view of the gravity and importance of the questions to be submitted to the meeting, and of the liability of an oral address to be misunderstood and misrepresented, it would be best to commit to writing what I proposed to say. The occasion involved weighty responsibilities. It was proper that the words used should be not only well weighed, but plain and simple, such as could be readily understood by all who might be present. Another fact admonished me of the necessity for caution. A large body of Federal troops occupied the town of Harrisonburg, twenty-five miles distant, and I felt confident that a number of their enterprising "Jesse Scouts" would be present as vigilant spectators and reporters of the proceedings of the meeting. I therefore wrote in advance the address which I proposed to make.

At an early hour on the 8th of May, the people began to assemble in the streets and public grounds near the courthouse to interchange opinions and discuss the great questions which they had been invited to consider and decide. Their solemn countenances and earnest demeanor indicated that they clearly understood and appreciated the gravity of the situation.

Before the hour of 12 M., which had been appointed for the organization of the meeting, a great crowd had assembled in the courthouse, which embodied a large share of the intelligence, patriotism and property of the county. It was in all respects a *representative meeting*, and therefore entitled to give authentic expression to the sentiments and wishes of the people of the county.

Punctually at 12 o'clock the meeting was called to order, and the chairman and secretaries nominated and elected.

Having been chosen as chairman, after a brief explanation of the reasons which had induced me to reduce to writing the address which I was about to make to the meeting, I proceeded to *read it from the manuscript*, which I did slowly and distinctly so that every word could be heard and understood by the large and attentive audience. After it had thus been read, at the request of the secretaries I delivered the manuscript to them to be incorporated into their report of the proceedings. These proceedings were faithfully and accurately recorded by the secretaries, and as there was no newspaper published in Staunton at that time, they were printed on the following day in hand-bills on the little hand-press, to which I have already referred, and many copies were sent to representative men in other counties. A copy of that hand-bill is now

before me, and will be annexed to this narrative. It is in the following words:

MASS-MEETING OF THE PEOPLE OF AUGUSTA!

In pursuance of a public notice, which had been extensively circulated, a large and respectable meeting of the people of Augusta county assembled at the courthouse on Monday, 8th of May, "to take measures looking to a reorganization of the government of Virginia in conformity to the Constitution and laws of the United States."

On motion of Colonel Wm. A. Bell, Hon. ALEX. H. H. STUART was called to the chair and Dr. THOS. W. SHELTON and W. H. H. LYNN were appointed secretaries.

On taking the chair, Mr. Stuart spoke substantially as follows:

Fellow Citizens,—We have met together today to decide what course we ought to pursue under the peculiar circumstances by which we are surrounded.

The war which has raged throughout our land for four years past, and has left so many evidences of its desolating power in every part of it, has at length ceased. The veteran armies of Lee and Johnston have capitulated and a similar fate doubtless awaits, if it has not already befallen, the Confederate forces west of the Mississippi. The President of the Confederate States and his Cabinet have been constrained to abandon the seat of government, without any reasonable prospect of being able to re-establish themselves and resume the exercise of their functions in any of the Southern States.

The Governor of Virginia has also withdrawn himself from the capitol, taking with him most of the principal officers of the State Government.

There has thus been a virtual abdication of the Confederate Government and a suspension of the functions of the authorities of the State.

In this anomalous condition of things, when those officers who were chosen to represent the people and to be the guardians of their rights and interests have lost the power to do so, it becomes the duty of the people to speak for themselves, and to determine what measures may be best for the advancement of their safety and welfare.

All must admit that the war is ended, and that there is no purpose to resume military operations. The recent surrenders of Generals Lee and Johnston embraced much the larger number of the experienced and skillful officers of the Southern army, and the articles of capitulation and arrangements subsequently entered into have placed almost the entire organized military force east of the Mississippi under obligations not to take up arms against the United States until regularly exchanged.

We are thus in the extraordinary condition of a people deprived of the benefit of any regular government, either civil or military. The tendency of such a state of things is to disorder and anarchy. In some instances marauding parties of armed men have plundered our citizens and acts of violence have been committed, which are calculated to create a sense of insecurity amongst our people.

Under these circumstances, we are assembled to consider what course we shall adopt to secure the best protection of person and property and the

largest measure of our rights, both personal and political, which may be practicable.

It has been suggested that our wisest course is to do nothing, but to await the development of events. I do not approve this suggestion. I think we should endeavor as far as we can to give shape and direction to our own destiny. If we fail, we will at least save ourselves the reproach of not having made an effort to do so. Those who advocate a policy merely passive, seem to act on the idea that we have lost all our rights and must accept such form of government as may be imposed on us. This notion arises from the fact that those who entertain it confound the ideas of POWER and RIGHT, which are two very different things. A victorious party may have the power to impose an obnoxious form of government on its defeated adversary, but it by no means follows that it has the right to do so.

In my judgment, it is proper that the people of Virginia should express in public meetings—the only mode left to them of giving authentic expression to their sentiments—their recognition of the fact that the war has ceased, finally ceased; that the attempted revolution has finally failed, and that there is no purpose on their part to renew it.

When it is thus made manifest that the people accept the fate, which in the fortunes of war has befallen them, that the war is over and that they are prepared to recognize the authority of the Constitution of the United States, from that moment our relations to the United States Government are materially modified, and rights which may have remained in abeyance during the continuance of hostilities are immediately revived in full force and vigor.

When the war is at an end, all those powers claimed as war powers and as matters of military necessity must cease with it.

The restoration of peace will bring up for discussion and decision many novel and complicated questions. The experience and the precedents derived from the history of other nations will furnish very insufficient guides in their solution, because the history of the world affords no case that is parallel to ours. In other countries the relation of the citizen or subject to his government is simple and direct. He owes allegiance to but one government—under our complex system every citizen owes allegiance to two governments. Before the war every citizen owed allegiance to his State as well as to the United States. He was bound to defend both. It was thus a double or a divided allegiance with the line of demarcation not very distinctly defined. When, therefore, a conflict occurred it was not always easy to determine the path of duty or safe to pursue it, for what was obedience to the one might be treason against the other.

The war having terminated and the Confederate government having potentially ceased to exist, we are released from all claim of allegiance to it and remitted to our rights as citizens of Virginia. What may be the extent of those rights, or how far any individual may have forfeited his rights, may be a question to be determined hereafter in the mode prescribed by the Constitution of the United States. One thing, however, we may safely assume. A State in its political capacity cannot commit treason. A State as a political community cannot incur forfeitures. Treason can only be committed by individuals, and the penalties can be inflicted on

individuals only. How far a State can throw the ægis of her protection over her citizens who acted under her authority will have to be settled hereafter.

I take it, therefore, that Virginia still has rights under the Constitution of the United States, which have only been suspended during the abortive effort to sever her connection with the United States, and it seems to me to be our duty to try and have those rights recognized and respected.

If it be true, as has been almost universally assumed in the Northern States, that the ordinances of secession were mere nullities and absolutely void, then the Southern States have never severed their connection with the United States—have never been out of the Union, and are therefore entitled, from the moment the war ceases, to resume their position as members of the Union.

I advert to these questions with no view to discuss them, but simply to combat the idea that all our rights have been lost and as a satisfactory reason for meeting promptly the issue which has been forced upon us, and declaring that so far as we are concerned (and we believe we speak the sentiments of Virginia) the war has finally closed; that we have no purpose to renew it; that we are prepared to conform our State government to the changed condition of public affairs; and that we are convinced that by a wise and conciliatory policy on the part of the Federal authorities, peace and tranquility can soon be firmly and permanently re-established.

After the close of Mr. Stuart's remarks, on motion of Hugh W. Sheffey, Esq., the chair was instructed to appoint a committee of thirteen to prepare and report suitable resolutions for the consideration of the meeting.

The chair thereupon named the following gentlemen to constitute the committee:

NAMES OF COMMITTEE.

H. W. Sheffey, T. J. Michie, Jno. B. Baldwin, W. M. Tate, D. S. Bell, J. M. McCue, M. G. Harman, H. G. Guthrie, Chesley Kinney, Bolivar Christian, George Baylor, Absalom Coiner, J. Givens Fulton.

After some time spent in deliberation, the committee reported the following series of resolutions:

RESOLUTIONS.

1. *Resolved*, That we believe we express the thorough conviction of the people of Augusta county, when we declare that opposition to the authority of the United States within this county is at an end and that there is no purpose on the part of any of our people to attempt any renewal of it.

2. *Resolved*, That the people of Augusta county, recognizing the necessity of reorganizing the government of Virginia so as to conform to the Constitution and laws of the United States, are prepared to cooperate in good faith with the people of other portions of the State for that purpose.

3. *Resolved*, That in our opinion the best mode of effecting the object proposed is by a State Convention, chosen by the voters and organized upon the basis of the House of Delegates.

4. *Resolved*, That a committee of five be appointed to go to Richmond and ascertain whether the military authorities of the United States will interpose any obstruction to the election, assembling and action of such a convention for the purpose indicated, and that the chairman of this meeting be the chairman of said committee.

5. *Resolved*, That this committee be also authorized to confer with similar committees to be appointed in other counties, and to adopt in concert such measures as will best promote the objects herein declared.

In pursuance of the request of the committee, Hon. John B. Baldwin proceeded to explain the nature and purport of the resolutions and to urge their adoption in a speech of great power and eloquence, which produced a profound impression on the audience.

After the close of Colonel Baldwin's speech, no other person manifesting any desire to speak, the resolutions were again read to the meeting *seriatim*, and each resolution adopted by a unanimous vote.

After the other resolutions had been adopted, on motion of Bolivar Christian, Esq., the chairman was instructed to appoint at his leisure the members of the committee contemplated by the fourth resolution.

The proceedings of the meeting were marked by great solemnity and dignity, and evidently expressed the deliberate sense of the people of Augusta. The assembly was a full one, and embraced a large share of the intelligence and weight of the county.

ALEX. H. H. STUART, *Chairman*.

THOS. W. SHELTON, }
WM. H. H. LYNN, } *Secretaries*.

I have nothing to add to the record made by the secretaries of the proceedings of this meeting. It is in all respects full and accurate.

It will be observed that the fourth resolution provided for the "appointment of a committee of five, of which the chairman of the meeting shall be chairman, to go to Richmond and ascertain whether the military authorities of the United States will interpose any objection to the election and assembling of a State Convention chosen on the basis of the House of Delegates."

By a subsequent resolution "the chairman was instructed to appoint, at his leisure, the other members of the committee contemplated by the fourth resolution."

Under the power thus conferred on me, I appointed as my associates on the committee, Judge Hugh W. Sheffey, Colonel John B. Baldwin, Colonel Michael G. Harman, and Major William M. Tate.

A few days afterwards the committee went to Richmond and sought an interview with the military authorities. We were courteously received, but were informed that the officer in command had no authority to consider or decide the questions which were the subjects of our mission. We were also informed that Hon. Francis H. Pierpont had been recognized by the United States Government as Governor of Virginia, and that in a few days he would be in Richmond to enter on the discharge of his duties; and it was suggested that we had better await his arrival and make our communication to him. We accordingly remained in Richmond until Governor

Pierpont had been duly installed as Governor under military auspices. We then called on him and exhibited to him a copy of the resolutions which had been adopted by the people of Augusta, and explained fully the objects of our mission. A full and free discussion of all the questions connected with the restoration of Virginia to the Union ensued, the details of which it is not necessary to state. The Governor, throughout the conference, displayed an amicable and patriotic spirit, and closed the interview by giving such assurances of sympathy and friendly co-operation as were satisfactory to the committee, and thus their mission closed.

It is proper to add that, during the sojourn of the committee in Richmond, we were met by delegates from other counties, whose people, having heard of the action taken by the people of Augusta, had hastened to hold similar meetings and select committees to co-operate with us.

We also learned from the newspapers that the people of counties and cities of other Southern States were making movements of a similar character and with the same end in view.

It will thus be seen that *the first organized popular movement for peace and the restoration of Virginia to the Federal Union was made by the people of Augusta* in their great mass-meeting, on the 8th of May, 1865.

Results proved that the meeting was not only a bold but a wise and judicious movement. It dispelled many popular delusions caused by the over-confidence of the Confederate authorities. It uncovered the nakedness of the Confederate cause. It awakened public thought and gave a new direction to public opinion. It illustrated the genius of our institutions by a majestic exhibition of popular sovereignty. When politicians faltered and were at a loss what course to take, the people quietly took the reins of government from their hands and acted for themselves. Under their guidance hostilities ceased and social order was re-established. And thus the extraordinary spectacle was presented to the world of a fierce and bloody war of four years' duration being substantially closed by the direct action of the people themselves, without the intervention of any of the forms of diplomacy. And there is good reason to believe that but for the atrocious murder of President Lincoln, and the exasperated feeling caused by it, the terms of permanent and satisfactory peace could have been adjusted at an early day. That deplorable event, and the subsequent quarrels between Congress and President Johnson, rendered it impossible to make any further movement for restoration during his ill-starred administration.

It may be fairly inferred from the following letter, which was addressed to me by Governor William Smith, dated 27th of February, 1880, that in the light of subsequent events he had seen cause to change his opinion as to the wisdom of the meeting of the people of Augusta on the 8th of May, 1865. He wrote as follows:

WARRENTON, February 27, 1880.

HON. A. H. H. STUART:

My dear Sir,—I have your very satisfactory favor of the 25th instant, but am sorry to have again to trouble you, but I should be very glad to have a copy of the proceedings of your meeting of the 8th of May, 1865, as I may wish to publish it.

When I left Richmond the night of 2d of April, 1865, it was with the

firm resolve to do everything in my power still to change the current of our disasters. With that view, I declined President Davis's invitation to accompany him the night of the evacuation. With that view, I ordered the Capitol officers, the Public Guard, and the State Cadets to report to me in Lynchburg, etc. And when they failed to do so, it was with this view that I followed President Davis to Greensboro, North Carolina, to obtain from him a transfer to me of all his authority, etc., in Virginia. And when, most strangely, after a full explanation of my plans and purposes, he refused my request, it was still with the same view, desperate as was the prospect, that I felt it to be my duty to collect public sentiment in every way I could, traveling many a weary mile, and finally reaching your town on the 7th May, 1865, the time you state, and no doubt correctly, to know if the people were willing, in any form, to prosecute the war or quietly submit. I soon inferred from what passed during the evening I was with you and friends that your great county was hopeless, and that all further struggles were useless, etc. Now, I want your proceedings of the next day, because they were the first embodiment of such sentiments by so important a portion of the people, etc.

I shall be glad to get your educational report.

Yours very truly,

WILLIAM SMITH.

This closes my narrative of the events of 1865. It shows what had been done toward restoration. The war had ceased, and the rights of person and property were comparatively safe. Anarchy had been averted. But much still remained to be done to secure the full measure of the civil and political rights of Virginia as one of the members of the Federal Union. The time for action on this subject, however, had not yet come. Prudence admonished the people to wait patiently, to watch vigilantly the development of events, and to seize promptly and boldly the first opportunity for action that offered a chance of success. All knew that while a great and good work had been done in re-establishing peace and social order, a much more important one—the restoration of Virginia to her rights in the Union—remained to be accomplished at a later day.

The foregoing narrative may properly be regarded as the first chapter in the history of the efforts of Virginia to accomplish her restoration to her position and rights in the Union.

Chapter II

I proceed now to give a narrative of subsequent events, so far as I was an active participator in or a vigilant observer of them. This will be more directly responsive to the resolution of the Virginia Historical Society, and may be called the second chapter.

It would be foreign to the purposes of this paper to refer to all the important events which marked the progress of Virginia from 1865 to 1868. They belong to the general history of the Commonwealth, and are as well known to the public as to myself.

It is sufficient for my purpose to advert to a few of them, which have a direct relation to the subject of this narrative.

In 1865, after Pierpont had been installed as Governor of Virginia, elections of members of the Senate and House of Delegates of Virginia and of members of the House of Representatives of the United States were ordered, with the sanction of President Andrew Johnson. At this Congressional election I was chosen to represent the district in which I resided in the House of Representatives of the United States.

On the day appointed for the commencement of the session of Congress, the Representatives who had been elected by the Southern States, after seeing that their certificates of election were in due form, and properly authenticated and filed in the office of the clerk of the House of Representatives, took their seats in the hall. But on the formal roll-call, preliminary to the administration of the oath of office to members, it was found that the clerk *had failed to enter the name of any Southern member on it*. By what authority this outrage on the constitutional rights of the Southern members was perpetrated I do not know. That it was in violation of the Constitution, is obvious from the fact that the *Constitution itself specifically enumerates and defines* the requisites for eligibility of members, and Congress has no constitutional power to add to or take from, to enlarge or curtail, qualifications thus fixed by the Constitution itself. We were not permitted to be heard in defence of our rights, and by this lawless device we were quietly evicted from our seats. That this act was a gross usurpation of power, not warranted by the Constitution, was at a later day substantially admitted by leading members of Congress, when they acknowledged that they had been *acting outside the limits of the Constitution*.

I refer to this fact as one which tended largely to retard the growth of fraternal feeling between the Northern and Southern people, and to reopen the wounds of the war, which, under the soothing influences of time, had begun to heal.

It is also necessary to state that provision had been made by the military authorities of "District No. 1" (as Virginia was then called) for the election, in October, 1867, of members of a convention to frame a new Constitution for the State. It was provided that this convention should assemble in Richmond on the 3d of December, 1867; but there were such stringent restrictions imposed on eligibility of members that much the larger number of the men of intelligence, education, and experience in public affairs were effectually excluded from participation in its deliberations.

The convention was mainly composed of ignorant and excited negroes, led by greedy adventurers from the North, popularly known as "carpet-baggers," and a few recreant natives, who were designated "scallawags." To this hideous majority were opposed a small minority of the better class of citizens, generally young men, who, not having held any public office before the war, were not disfranchised by the Congressional iron-clad test oath.

These young men fought a good fight in defence of the rights and interests of the people of Virginia, but found themselves powerless to resist the torrent of malignity and radicalism which swept everything before it.

The convention remained in session from 3d December, 1867, to the 24th April, 1868.

The result of the labors of such a body of men could readily be anticipated. It was the formation and recommendation of a Constitution at war with every principle of civil liberty, bristling with test-oaths and disfranchisements and other enormities, and containing provisions artfully and insidiously worded, so as not only to throw the whole political power of the State into the hands of the most ignorant classes of her people, but to render practicable the virtual confiscation, by the agency of corrupt judges and ignorant and prejudiced and interested juries, of the estate of every one who had ever been a slaveholder. Under this Constitution it was provided that no man who could not take the Congressional test oath could be allowed *to vote* at any public election, or *be eligible to any public office*, or be allowed *to serve on any jury!* Fortunately, the act of Congress, which allowed the convention to be held, provided that the Constitution which it might form should be reported to Congress for its approval before it could be submitted to popular vote for ratification or rejection.

The publication of this monstrous document filled the public mind with horror and dismay. The only rational hope of defeating its adoption, lay in an effort to induce Congress to withhold its approval. But, as Virginia was then without representation in Congress, she had no accredited agent whose duty and privilege it would be to expose its enormities and demand its modification or rejection. Although this fact was well known to every man of ordinary intelligence, when the Constitution was transmitted to Congress for approval or disapproval, not a voice was heard from Virginia in the way of protest or objection. Everybody remained quiescent, either in the belief that "what was everybody's business was nobody's business," or in the delusive hope that some Northern member of Congress would volunteer to examine, critically, the voluminous instrument and point out the grounds of objection to it. I remember when, at a later day, I was in Washington, I met Mr. James Brooks, of New York, then a leading Conservative member of the House of Representatives, and inquired of him how it happened that such a monstrous instrument could have received the approval of the House. His reply was, that very few members knew anything about it. It was reported to the House by the appropriate committee as the work of a convention of Virginia, and as no one from Virginia had even suggested an objection to it, it was presumed to be satisfactory to everybody, and passed as a matter of course. He closed by the pertinent inquiry, "If the people of Virginia will not attend to their own interests, how can they expect other people to do so for them?"

I was a vigilant observer of the progress of events at Washington, and had written to a friend in Richmond, urging him to call on one of the organized political committees in that city and get them to *formulate a protest* against the approval of the Constitution by the House of Representatives. His reply was, that he had done so, and that the answer was that the committees thought they had no jurisdiction over the subject, and declined to take any action in the matter.

It thus happened that by default of the people of Virginia, the bill approving the proposed Constitution of Virginia (popularly called the Underwood Constitution) was allowed to pass the House of Representa-

tives, and be sent to the Senate for its concurrence, without a whisper of opposition!

Shortly thereafter, Congress passed a joint resolution for the usual Christmas recess, to commence about the 21st of December, 1868, and to continue to the 4th of January, 1869. This action gave us a respite of about a fortnight, as it was hardly probable the Senate would act on the bill before the commencement of the recess. I have not access to the journals of Congress, and therefore I cannot give with certainty the dates of either of these events.

It was evident that unless some measure was adopted within the ensuing fortnight to arrest the passage of the bill by the Senate, the Underwood Constitution would be permanently fastened on Virginia. I had looked in vain to the Richmond press for some movement to organize opposition to its passage. But apathy seemed to pervade the State, and everybody remained quiescent. Thus the strange spectacle was presented to the country of a high-spirited people, who in 1861 had promptly rushed to arms to encounter all the dangers and horrors of civil war, in defence of their rights against a remote and contingent danger, yet now, when a disaster tenfold greater in degree, actually present and certain, was immediately impending, failed to raise voice or arm to ward off the unspeakable calamity!

I have no doubt that hundreds—nay, thousands—of my fellow-citizens thought and felt as I did as to the necessity of taking action on the subject. But no one seemed to be willing to assume the responsibility of taking the lead.

Under these circumstances, as the necessity for moving in the matter was urgent, and the time within which action likely to lead to a successful result was limited to two weeks, I determined to sound a note of alarm by calling the attention of the people of Virginia to the frightful dangers which threatened them, and urging those who thought as I did to unite in an organized attempt to avert them.

With this object in view, I wrote "a communication," over the signature "Senex," intended for publication in the Richmond *Dispatch*. This paper was written entirely on my own responsibility, and without conference or consultation with any one. My purpose was to try and arouse the people to the necessity of immediate action, and to suggest as the most feasible, if not the *only*, means of obtaining relief from the disfranchisements and test-oaths embodied in the Underwood Constitution, the tender to Congress on behalf of Virginia of a compromise, on the basis of *universal suffrage* as an equivalent for *universal amnesty*.

After the close of the Presidential and Congressional elections of November, 1868, it became manifest to all thoughtful men that *universal suffrage* was a foregone conclusion in the Northern mind. It was as inevitable as any decree of fate. The Northern States had the political as well as the physical power to enforce it. Nor had they left any doubt as to their fixed purpose to exercise that power, for they had incorporated it as a cardinal feature of the future policy of the Republican party.

If, therefore, we could secure as an equivalent for it relief from the disfranchisements and test-oaths, which would make slaves of us for

a generation to come, it would be so much substantial gain for a merely nominal concession.

I knew full well, however, that in the condition of public opinion which then existed in Virginia, in regard to granting the right of suffrage to the ignorant negroes, the simple announcement of the proposed basis of compromise would arouse a storm of fierce indignation throughout the State, and draw down on him who had the hardihood to suggest it a torrent of denunciation and obloquy which few men have been called on to endure.

The sequel proved that I was not mistaken in this respect. The people were not prepared to reason calmly on the subject. The sacrifice they were required to make was hateful to them. For a time, passion and prejudice exercised unlimited sway over the popular mind, and no inconsiderable portion of the public press. Six months elapsed before the sober reason and common sense of the people enabled them to look at the other side of the question, and to comprehend the incalculable advantages which they had secured to themselves by yielding gracefully to what was inevitable.

The article, "Senex," was in the following words:

To the Editors of the Dispatch:

The present unhappy condition of Virginia, and the gloomy prospects which seem to lie before us, naturally fill every thoughtful mind with painful apprehension. Should the Constitution recommended by the recent convention be ratified, or be reported to Congress as ratified by the popular vote, the condition of the Commonwealth will be simply intolerable. Almost every man worthy of public trust will be disfranchised, not only as to office, but in regard to suffrage; and the political power of the State will pass into the hands of strangers and adventurers. The property of the country will be at the mercy of those who pay little or no portion of the taxes, and we shall be plundered at the will of those who come among us to obtain office and gratify their greed for spoils.

It requires much prudence on the part of the people of Virginia, and the sacrifice of many cherished opinions, to avert these direful calamities. The question is now forced upon us to decide, not what we would desire—not what we are willing to take—but what we shall be allowed to retain.

We have already made many and painful sacrifices. We have sanctioned by our votes the constitutional amendment which abolished slavery, and we have shaped our legislation so as to accord with the provisions of that amendment.

These measures were exceedingly distasteful to most of our people, and many thought at the time they would be fatal to the prosperity of the State. But in large portions of the Commonwealth, if not throughout its whole extent, it has been found that the results have not been so disastrous as was anticipated. In some districts, in which there was not an over proportion of blacks, the change has proved beneficial; and the writer of this paper has heard many who had been slaveholders say that they would be unwilling to restore slavery if it were in their power to do so. As immigration flows into the State, this opinion will become

more general, and when our political troubles are finally settled, it will prove to be almost universal.

But the point to which I now wish to draw public attention is, what further sacrifices of opinions and prejudices are necessary to render those which we have already made productive of good fruit, and to secure to ourselves and our families exemption from the evils to which I have adverted? As matters now stand, we have great reason to apprehend that the ballot-boxes will be so manipulated at the coming election as to fasten the proposed Constitution, with all its odious features of disfranchisement and burdensome taxation, upon us. We are naturally led, then, to inquire, how can this bitter cup be turned away from our lips?

There is one point on which Northern sentiment, or, as the politicians and the press of the North are pleased to call it, "the national will," seems to be fixed and irreversible; and that is, that universal suffrage, without distinction of race or color, shall be forced on us. They maintain that negro suffrage is a legitimate, "if not a necessary sequence," of negro emancipation. Judge Chase and the more conservative Republicans hold this opinion, and urge us to adopt it as the means of avoiding greater evils. This proposition is exceedingly unpalatable to the people of the South. We know that the negroes are not qualified to exercise the elective franchise, and that they would be unsafe depositaries of political power. But how are we to help ourselves? We are powerless to resist by arms, and the recent national elections have shown that we are equally powerless at the ballot-box.

There is an old adage that "half a loaf is better than no bread," and I would respectfully ask, is not ours a case for the application of that proposition? Is it not better to surrender *half* than to lose *all*? Is it not better to take universal suffrage, with an exemption from disfranchisement and the other evils to which I have alluded, than to have them all forced upon us? After grievous travail of spirit, I have come to the conclusion that such is the dictate of prudence and common sense.

The Southern mind is naturally sensitive in regard to everything like negro equality. We cannot forget that they were recently our slaves, nor can we dismiss from our minds the conviction that they are naturally inferior to the white race, and the knowledge that they are uneducated and ignorant of the first principles of government. Every step, therefore, in the direction of that equality has been taken reluctantly and with many misgivings. When it was proposed to introduce negroes as witnesses, the public mind of Virginia was not prepared for the proposition. At first, their admissibility was limited by law to cases in which a negro was a party. Afterwards the restriction was removed, and they became lawful, competent witnesses in all cases, and, as far as I have heard, no mischief has resulted. Their testimony is received and weighed like that of other men. But competency does not necessarily imply credibility. Their testimony is believed or disbelieved in proportion to the character of the witness and the intrinsic probability of his evidence.

We now look with extreme aversion on negro suffrage. It is natural we should do so for reasons already stated. But may we not find upon actual experiment, as in the case of negro testimony, that it is not such a bad thing as we have been accustomed to believe?

The inherent inferiority of the race, and their want of education and property, will necessarily place them in a position of subordination to the superior race. This has been found to be the case in Mississippi, Georgia and Louisiana. Knowledge is power. Property is power. Would it not, therefore, be strange if the superior intelligence and accumulated property of the superior race should not exercise a controlling influence over the ignorance and penury of the inferior? It seems to me a contrary apprehension must be ill-founded, because it is opposed to reason and human experience.

Will it not, therefore, be wise for the people of Virginia to make up their minds to come up at once to the proposition of Judge Chase and the New York *Tribune*—"Universal suffrage and universal amnesty"? Better that than "*universal suffrage and universal disfranchisement.*"

Matters may not work altogether smoothly for a time. We may have some trouble in portions of the State, but it will be temporary. The influx of whites from abroad, and the efflux of blacks from the State, will soon establish Caucasian preponderance on a firm basis.

What we want is peace. We want these troublesome questions settled so that the tide of immigration may flow into Virginia. As long as we are in our present abnormal condition immigrants will not come among us, because they do not know what to expect in the future. Let these questions be settled—it matters not how—and population and capital will flow in an unbroken stream into all parts of our State, building up our cities, opening our mines, buying and improving our land, constructing new railways and canals, and giving vigor and activity to our industrial interests.

Thousands are now anxiously awaiting this settlement. Let us throw no farther obstacles in the way. Let us say to the conservative Republicans, we accede to your proposition. Let us respond to General Grant's demand for peace. When peace is restored, and the Southern States are again represented in Congress by men who will truly reflect their sentiments, we can have a word to say in regard to the future policy of the country. It seems to me obvious that by this course we must gain something, and cannot lose anything.

And now for the mode of carrying these ideas into practical effect. This is a subject by no means free from difficulty, and the time for action is short. We cannot get up another convention to form a new Constitution. But a constitution derives its validity, not from the body which frames and proposes it, but from its ratification by the votes of the people. If the Legislature of a State were to instruct the Court of Appeals, instead of a convention, to frame a constitution to be voted on by the people, it would be competent for them to do so; and such a constitution, if ratified by the popular vote, would be just as valid and obligatory as if the same had been framed by a convention assembled in the usual form.

To avoid unnecessary delay, let the Executive Committee, in the interval between the present time and the 1st of February, take the Constitution of 1850 and the proposed Constitution of 1861, and from the two select the better provisions, omitting the word "white" and all other

provisions that would be in conflict with "universal suffrage and universal amnesty," and thus frame a complete constitution.

Let us, then, avail ourselves of this idea. Let the Central Conservative Committee call together, say two gentlemen of approved wisdom and integrity from each congressional district, to meet that Committee in Richmond about the first of February, to agree upon a constitution for Virginia, to be submitted to Congress as a substitute for that recommended by the late convention. Let this constitution embody the universal suffrage and universal amnesty proposition in its broadest terms, and negro eligibility to boot!

On the 1st of February the Executive Committee and their adjunct advisers could come together, and, by limiting discussion to five minutes on each proposition, they could revise the work of the committee and perfect a constitution in three or four days to be presented to Congress as a substitute for the constitution which has already elicited such strong censure from the *New York Times* and other Northern papers.

May I ask, Mr. Editor, that you will give this proposition your calm consideration, and, if you approve, that you will extend to it the support of your vigorous pen and invoke the aid of the press of the State?

It seems to me that this will be the easiest and the shortest way of getting out of our present unhappy difficulties.

SENEX.

This article, "Senex," was written on the evening of 19th December, 1868, and was not finished until 11 o'clock at night. As the mail left Staunton for Richmond at a very early hour next morning, I apprehended some difficulty in having it mailed in time for the first train. Being anxious to have it published as promptly as practicable, so as to afford as much time as possible to the people to consider a question of so much gravity and importance, I enclosed it in an unsealed envelope, directed to "The Editors of the *Dispatch*," and at sunrise next morning carried it to the railroad station, intending to mail it on the train, unless I could find some person going to Richmond, to whom I could safely entrust it for delivery to the *Dispatch*, with an earnest request for its publication.

Fortunately, I found my friend, General John Echols, on the platform, about to take the train for Richmond. I then explained to him the object of my early visit, and delivered to him the envelope, telling him that it contained "a communication" to the *Dispatch* on a subject of a momentous character, which I wished to have published as promptly as possible. I added that I did not know what he might think of it, but that I hoped he would approve it, and at the proper time would unite with me in carrying it into effect. I begged him, when he took his seat on the cars, to read it carefully and give me his aid in securing its prompt publication, which he promised to do. My hope was that it would be published in the *Dispatch* of Tuesday, the 21st of December, 1868, or in any event on Wednesday, 22d. I also said to General Echols that if any inquiry were made why I did not attach *my own name to it, and thereby assume the responsibility of its authorship*, I authorized him to say, on my behalf, that I was restrained from doing so solely by the

consideration that I feared some persons might think me guilty of vanity in assuming that my name would add anything to the intrinsic weight of the sentiments expressed in the communication. But, if the editors desired to indicate who was *the responsible author of it*, they were at liberty to refer to me in any way they might think proper as bearing that relation to it. The General then took his departure on the train, carrying the paper with him.

The communication not having appeared in the *Dispatch* of Tuesday or Wednesday, I naturally inferred that there was an unwillingness on the part of the editors to publish it at all.

General Echols returned to Staunton by the night train of Wednesday, the 23d. When I met him next morning he informed me that he had read my "communication" with much interest, and, cordially approving it, he had taken the liberty of reading it to several friends whom he met on the train, who also approved it. When he arrived at the Exchange Hotel, he was gratified to find that Colonel W. T. Sutherlin, of Danville, was one of the guests. Having confidence in his good sense and sound judgment, he sought an early opportunity to read to him my paper and invite his co-operation in the movement proposed, which Colonel Sutherlin promptly promised to give. The paper was then taken by General Echols to the editors of the *Dispatch*, who, after reading it, made some objection to publishing it in their paper, on the ground that public opinion was not prepared to entertain the propositions contained in it, and asked why I had not signed my name to it. In reply to this inquiry, General Echols stated the reasons which had restrained me from signing it, but informed him that I was willing that the editors *should refer to me as the author of the communication and responsible for its contents*.

To this proposition no definite answer was given, and the objections of the editor did not seem to be removed by it. Being thus discouraged, General Echols took the communication to the office of the *Whig* for publication, but was met with similar objections to those made at the office of the *Dispatch*, and a like answer was given to the enquiry, why I had not signed my name to the paper. The result was a polite refusal to publish it. It was then submitted to the editor of the *Enquirer*, who at once, and emphatically, declined to publish it under any circumstances. On his return to the hotel, General Echols reported the result of his mission to Colonel Sutherlin, who readily volunteered to go with him, after supper, to see Mr. Alexander Mosely, then editor of the *Whig*, at his private residence and try to overcome his objections to publishing the communication. They accordingly went to Mr. Mosely's, and had an interview with him, in which, after some discussion, it was finally agreed that Mr. Mosely would publish it in the *Whig* on three conditions: 1st, that I should be referred to as the author; 2d, that the editor should not be held committed to support the propositions contained in the paper; and 3d, that the *Dispatch* should agree to publish it simultaneously under like conditions.*

*The foregoing statement as to the publication of the article, "Senex," was submitted to General John Echols, who writes, 10th December, 1887, to the author: "I think that you have stated, at least with substantial accuracy, the manner in which the article 'Senex,' came to be published and the connection which I, as your friend and agent, had therewith."

The *Dispatch* having consented to this arrangement, the publication was made in both papers on the 25th of December, 1868, indicating me, unmistakably, as the author.

After my communication had been sent to Richmond, as above stated, and while the publication of it was in suspense, I held conferences with several leading citizens of Staunton, informing them of the contents of the paper I had written, and urging them to unite with me in organizing opposition to the passage by the Senate of the bill which had been sent to it by the House of Representatives.

Among the most prominent were Thomas J. Michie, Esq., Judge H. W. Sheffey, Nicholas K. Trout, Esq., Major H. M. Bell, R. H. Catlet, and others. Colonel John B. Baldwin, who always took an active part in all matters affecting public affairs, was at that time in Washington attending to professional business in the Supreme Court of the United States, and therefore I could not consult with him.

On Friday, the 25th of December, 1868, these gentlemen met by appointment at my office in Staunton, for the purpose of considering the best means of promoting the object we had in view. General Echols and Colonel John B. Baldwin (who had meanwhile returned to Staunton) were also present at that meeting. The whole subject was fully discussed and considered in all its bearings, and all concurred in the necessity of securing the co-operation of gentlemen of intelligence and weight of character in all parts of the State. All felt that the necessity for action was urgent, as the time for taking it (little more than a fortnight) was very limited. We therefore agreed *forthwith* to issue invitations to prominent gentlemen in all parts of the State to meet us in Richmond on 31st of December, 1868, to confer and decide what measures should be adopted to rescue the State from the dangers which threatened her. The form of the invitation was then prepared, and the names of all the gentlemen present were attached to it, with the exception of that of Judge Sheffey, which (though he was in full accord with us and willing to sign it), we thought had better be omitted, as he then occupied the position of judge of our circuit court. The paper was, without delay, sent to the office of the *Spectator* to be printed. In a short time the work was executed, and more than a hundred copies were returned to us. These were promptly placed in envelopes, directed and mailed to leading men, who we thought would probably be disposed to co-operate with us.

On the 30th of December, Mr. T. J. Michie, General Echols, Major H. M. Bell, N. K. Trout, and myself, went to Richmond to attend the meeting. Colonel J. B. Baldwin did not accompany us, partly, as I believed, from the urgency of professional business which had accumulated in his office during his absence at Washington, and partly because of doubts which had arisen in his mind whether public opinion was prepared to entertain so bold a proposition.

We were met in Richmond by a number of the gentlemen who had been invited to join us in conference, and by a number of others to whom formal invitations had not been sent, but who had heard of and sympathized with the objects of the meeting, and by others who were attracted by curiosity to know what we proposed to do. The whole subject, in all its aspects, was the subject of earnest conversation in the

halls and public rooms of the hotel during the evening of our arrival and the forenoon of the following day.

Colonel Carrington, the proprietor of the Exchange Hotel, having kindly tendered us the use of a large room in his hotel, known as the "Concert Hall," for our meetings, we assembled in it at noon on 31st of December, 1868. An organization was effected by calling me to the chair, and the appointment of Mr. C. C. McRae, of Chesterfield, as secretary.

I do not deem it necessary to say anything in regard to the proceedings of the meeting. A full and accurate record was kept of them at the time, by the secretary, and was incorporated in his journal, which he sent to me, and is in my possession, and which is herewith presented as part of this narrative.

The following is a copy of it:

A meeting of citizens from different portions of the State of Virginia, convened at the Exchange Hotel, in the city of Richmond, on the 31st day of December, 1868, for the purpose of consultation in regard to matters explained in the narrative of their proceedings hereinafter supplied, was organized by inviting the Hon. A. H. H. Stuart to the chair, and by the appointment of C. C. McRae as secretary.

Mr. Stuart, on taking the chair, explained the objects for which the meeting was held, and the circumstances under and the manner in which it originated.

After considerable discussion, in which a large number of the meeting participated, and in which much harmony of feeling and views was displayed, it was determined that a committee of eight in number (of which the Hon. A. H. H. Stuart was made chairman by the meeting) should be appointed, charged with the duty of deliberating and reporting in regard to suitable business for the consideration of the meeting.

The chair being requested to appoint the remaining members of the committee, accordingly named Messrs. George W. Bolling, of Petersburg; Thomas S. Flournoy, of Halifax; John L. Marye, Jr., of Fredericksburg; D. C. DeJarnette, of Caroline; Frank G. Ruffin, of Chesterfield; B. H. Magruder, of Albemarle; and James Johnston, of Bedford.

Whereupon, the meeting adjourned to convene on the ensuing evening at the same place.

According to the order of adjournment, the meeting again assembled on January 1st, 1869, when the committee appointed at the former session, through its chairman, submitted a report, the distinct features of which, being separately considered and acted on as a whole, after elaborate discussion was finally approved, with some modifications introduced by the action of the meeting by a vote nearly unanimous, only two gentlemen who participated in the meeting expressing unwillingness to concur in its final action. The names of several other gentlemen, who acted with the meeting, would doubtless have been added had they been present at the time of adjournment.

In the progress of the meeting, the following proceedings occurred: It was resolved that the Hon. Alexander H. H. Stuart be requested to serve as chairman of the committee of nine persons to be appointed to

visit Washington for the purpose indicated in another part of the proceedings, and that the chair be requested to appoint a committee of three, to recommend for the consideration of the meeting the names of eight other gentlemen who, with the chairman, should constitute the delegation referred to.

In accordance with the foregoing resolution, the chair named Messrs. John Echols, F. G. Ruffin and James D. Johnston as the committee; who, after short retirement, reported, recommending as the delegation, in addition to the Hon. A. H. H. Stuart as chairman, Messrs. John L. Marye, Jr., of Fredericksburg; James F. Johnston, of Bedford; W. T. Sutherlin, of Danville; Wyndham Robertson, of Washington County; W. L. Owen, of Halifax; John B. Baldwin, of Augusta; James Neeson, of Richmond; and J. F. Slaughter, of Lynchburg.

The question being put on the recommendation of the committee, the same was unanimously approved.

It was resolved that the press of the city of Richmond be requested to publish these proceedings; and, on motion, the meeting adjourned.

C. C. McRAE, *Secretary*.

The following is the report of the committee referred to, as modified by the meeting, with signatures thereto:

The undersigned, residents of different parts of Virginia, having, upon invitation of some of their own number, assembled in Richmond for the purpose of holding a conference in regard to the present imperilled condition of the Commonwealth, after a full interchange of opinions, have come to the following conclusions, which they respectfully submit to the calm and patriotic judgment of their countrymen:

1. While the convictions of the undersigned, and, as they believe, of the people of Virginia generally remain unchanged, that the freedmen of the Southern States, in their present uneducated condition, are not prepared for the intelligent exercise of the elective franchise and the performance of other duties connected with public affairs, and are, therefore, at this time, unsafe depositaries of political power; yet, in view of the verdict of public opinion in favor of their being allowed to exercise the right of suffrage as expressed in the recent elections, the undersigned are prepared, and they believe the majority of the people of Virginia are prepared, to surrender their opposition to its incorporation into their fundamental law as an offering on the altar of peace, and in the hope that union and harmony may be restored on the basis of universal suffrage and universal amnesty.

2. To give effect to this purpose, and to spare no effort to effect a speedy and permanent restoration of union and harmonious relations between the portions of our country which have for some years past been alienated, the undersigned will appoint a Committee of Nine from different parts of the State, and reflecting, as far as may be practicable, the public sentiment of the State, whose duty it shall be at an early day to proceed to Washington, and be authorized to make known the views and purposes hereby declared to the Congress of the United States, and to take such other measures as they may think proper to aid in obtaining

from that body such legislation concerning the organic law of Virginia as Congress, in its wisdom, may deem expedient and best under all the circumstances. The delegation so to be constituted may fill vacancies, and are authorized to enlarge their number in their discretion.

3. The undersigned recommend to the people of Virginia, by primary meetings, to appoint delegates to a popular convention, to be held in Richmond on Wednesday, the 10th day of February, 1869, to receive the report of the committee appointed by this meeting, and to adopt such other measures as may be deemed most expedient to promote the objects herein indicated.

[Signed]

ALEX. H. H. STUART, Augusta.	J. D. JOHNSTON, Giles.
THOMAS BRANCH, Richmond.	N. K. TROUT, Staunton.
D. C. DEJARNETTE, Caroline.	H. M. BELL, Staunton.
THOMAS S. FLOURNOY, Halifax.	JOHN ECHOLS, Staunton.
WYNDHAM ROBERTSON, Washington.	MATTHEW HARRISON, Loudoun.
W. D. QUESENBERRY, Caroline.	FRANK G. RUFFIN, Chesterfield.
B. H. MAGRUDER, Albemarle.	C. C. McRAE, Chesterfield.
GEORGE W. BOLLING, Petersburg.	R. L. WALKER, Chesterfield.
ASA D. DICKINSON, Prince Edward.	W. T. SUTHERLIN, Danville.
JOHN L. MARYE, Jr., Fredericksburg.	J. L. CARRINGTON, Richmond.
W. C. KNIGHT, Richmond.	W. E. CAMERON, Petersburg.
RO. WHITEHEAD, Nelson.	J. F. JOHNSON, Liberty.
J. F. SLAUGHTER, Lynchburg.	THOMAS J. MICHIE, Staunton.
A. G. PENDLETON, Giles.	JAMES NEESON, Richmond.

A correct copy,

C. C. McRAE, *Secretary*.

After the adjournment of the meeting on the 1st January, 1869, most of the members attended the public reception given by General Stoneman, the federal general then in command in Richmond. He received them courteously, expressed sympathy with the objects of their meeting, and hoped that it might prove successful.

Before leaving Richmond, I issued a summons to my associates on the "Committee of Nine" to assemble in Washington on the evening of the 8th January, 1869.

On the 2d of January, 1869, I returned to my home in Staunton. Within an hour or two after my arrival, Colonel Baldwin sent his servant to me with a request that I would let him know what we had done at the meeting in Richmond. As I was fatigued by my journey and, therefore, indisposed to write an account of our proceedings, I drew from my pocket a rough draft of the report of the committee of eight, of which I was chairman, and which, with a few immaterial alterations, had been adopted by the meeting, and handed it to the servant, with instructions to deliver it to Colonel Baldwin and say to him that it contained the substance of our action, and added that I would be obliged if Colonel Baldwin would return it to me as it was the only copy I had.

In a few hours the servant returned with the paper, and wrapped around it was the following note, written in pencil by the Colonel himself

in his own familiar handwriting, and the original of which is filed with this narrative:

Dear Stuart:

I apprehend, from all I can learn from Bell, Trout and Echols, that you found rather a slim showing of sympathy at Richmond, and I shall not be surprised if you find the movement entirely tabooed before many days.

Our people seem to be in pretty much the same condition they were just before the fall of the Confederacy. Everybody looked for it and believed it was coming, and yet if any one dared to utter his thoughts he was set upon and cuffed without mercy.

Our people now do not seem to be prepared to discuss, or even to consider, any plan of dealing with the awful danger which threatens them, and I very much fear they will be caught as the people of old were by the deluge.

I am afraid of General Stoneman. They say he has no instructions from Washington, and yet he goes on to kick and cuff our people as if he were a very radical, aiming at political objects. Truly we are fallen on evil times, and I fear worse are coming.

Yours truly,

Sat. night.

JOHN B. BALDWIN.

I have thought proper to publish this letter, not only to vindicate the truth of history, but to do justice to the memory of Colonel Baldwin. We were closely connected by the triple bond of blood, marriage and intimate personal friendship. His grandmother and my mother were sisters. His eldest sister was my wife. I had known him from his infancy, and when he commenced the practice of law, I invited him to become my partner in business, a relationship which continued for several years, and was terminated by mutual consent when he had attained eminence at the bar and we thought the interests of both would be promoted by a dissolution. We were in the habit of conferring and interchanging opinions on almost every public question that arose, and were generally in accord. Hence, we rarely failed to act in concert. He was one of the purest and most intellectual and bravest men, both physically and morally, I ever knew. If he had been at home when I wrote the article, "Senex," I have no doubt I would have conferred with him on the subject. But he was, as has already been stated, absent in Washington on professional business, and the date of his return was uncertain. I, therefore, wrote the article, "Senex," in his absence and without his knowledge. When he returned home, I was the first to make known to him what I had done, but as the newspapers containing "Senex" had not then been published, he had had no opportunity of reading it. He concurred, generally, in the opinion that it was absolutely necessary to take some measures to arrest the passage by the Senate of the bill which had been passed by the House of Representatives, and, therefore, readily consented to attend the conference at my office on the morning of the 25th of December, and united in the invitation to other gentlemen to meet in Richmond on the 31st for consultation. But he was in nowise committed to any specific measures of policy.

On mature consideration, but after some hesitation, Colonel Baldwin finally decided to accept the position of member of the Committee of Nine, to which he had been elected by the Richmond meeting. Having thus for the first time identified himself with the movement, he took hold of it with the grasp of a giant. He promptly made himself master of all the facts bearing on the various questions which were likely to come up for discussion before the congressional committees. I venture to say that no member of the Committee was so thoroughly equipped as he for the debates which were anticipated.

He was then in the prime of vigorous manhood, having just completed his forty-eighth year. He possessed a broad, luminous and well-cultivated intellect—powers of perception which, at times, vied in speed and brilliancy of action with flashes of electricity; a sound and clear judgment; masculine common sense, enlivened by ready and sparkling wit; an ample command of language; a wonderful power of elucidation by comparisons, which, though sometimes quaint and homely, were always apt and instructive. He was also thoroughly versed in the principles of constitutional law and popular rights.

Nature had been equally lavish to him in her physical gifts—of a large, well-proportioned and robust frame, and a massive head and spacious brow, on the scale of Daniel Webster's. His features were well-formed and expressive of every emotion. His voice, while not always melodious, was clear, distinct and penetrating, and thus could be heard by an audience of many thousands. His gesture, though not specially graceful and flowing, was, under all circumstances, striking and effective, and his elocution and intonations peculiarly adapted to make the desired impression on the crowds who thronged to hear him.

Knowing as I did that Colonel Baldwin possessed these great powers, I should have regarded myself as singularly neglectful of my duties as chairman of the Committee of Nine if I had failed to make them available in defence of the rights and interests of Virginia.

As chairman of the Committee, it was my official duty to open the conferences with the Senate and House Committees at Washington, by brief statements of the objects of our mission, and explanations of the features of the Underwood Constitution to which we objected, accompanied by some general remarks intended to present the matters in issue, and thus open the way for more full and thorough discussion. Having done this, it was my habit to ask leave to introduce Colonel Baldwin to present our views more at large. In the propriety of this course I am sure I was sustained by the unanimous judgment of the Committee.

In this way a most important and responsible duty was confided to Colonel Baldwin, and I am sure every surviving member of the Committee will bear willing testimony to the zeal, fidelity and ability with which he discharged it. He was also the author of a very strong paper, prepared at the request of the Judiciary Committee of the Senate, setting forth specifically and in detail the modifications of the Underwood Constitution which we wished to have made. This paper (which will be presently given) was signed by every member of the Committee and placed in the hands of the Senate Committee. In this way, Colonel Baldwin unquestionably became the most conspicuous member of the Committee.

Begging pardon for this digression, which seemed to be necessary to correct misstatements which have been widely circulated, I resume the thread of my narrative.

In the interval between the adjournment of the Richmond meeting, on the 1st of January, 1869, and the assemblage of the Committee of Nine in Washington on the 8th of the same month, I took several steps intended to promote the success of our mission. The first of these was to address a letter to Hon. Horace Greeley, editor of the *New York Tribune*, with whom I had, many years before, a pleasant personal acquaintance, informing him of the proceedings of the Richmond meeting, and of the appointment of the Committee of Nine to go to Washington and endeavor to secure a compromise of all our difficulties on the basis of "universal suffrage and universal amnesty," and asking him, if possible, to come to Washington and give us his assistance in accomplishing it. I kept no copy of this letter, but its purport can readily be inferred from Mr. Greeley's reply, which was addressed to me at Washington, D. C.

The following is a copy of it, and the original will be filed with this paper:

NEW YORK TRIBUNE, NEW YORK, January 8, 1869.

Dear Sir:

I cannot be in Washington soon, nor is it essential. I shall try to make myself felt there without. I enclose my article on your mission, from last Monday's *Tribune*, though I presume you have already seen it.

I beg you to confer directly with General Grant, and also with Senator Stewart, of Nevada, who is all right. I wish you would call on Senator Sumner, especially. He has faults of manner, not of purpose.

Yours,

HORACE GREELEY.

Hon. A. H. H. Stuart.

I was induced to write to Mr. Greeley because I was satisfied that, although he entertained many opinions in which I could not concur, he was a man of kind heart and honest purposes, as well as a journalist of wonderful ability.

Mr. Greeley's letter, when read to the Committee, gave us great encouragement, and he faithfully fulfilled his promise "to make himself felt" at Washington. His paper (the *Tribune*) contained, from day to day, leading articles in support of the objects of our mission, which had great effect in mollifying the prejudices and moulding the sentiment of members of Congress.

A day or two before leaving home to meet the Committee in Washington, I received the following letter from Hon. John L. Marye, of Fredericksburg, who was a member of the Committee:

FREDERICKSBURG, Wednesday, 6th Jan'y, 1868.

My dear Sir:

For reasons which I feel assured you would deem adequate (when stated to you) I am satisfied that our Committee would be MATERIALLY aided by the presence and co-operation of Mr. George W. Bolling, of Petersburg. I write to suggest that you write to him and request him to be at Washington on Friday evening, and be ready to confer with us.

Mr. Bolling has very favorable access to and footing with General Schofield. The latter would *communicate* freely with *Mr. B.*

It is almost certain that all of our Committee will not be in attendance, and Mr. B. would be desirable as a substitute.

I have had no intercourse with Mr. B. since our conference at Richmond, but am sure he would give us his help.

I am informed through intelligent sources that there is a gentleman at Norfolk, Mr. Gilbert C. Walker, who could help us in *some* of our *needs* there. He is a Northern man, but a resident of Norfolk, largely and influentially concerned in its commercial and financial affairs; a man of *integrity, intelligence, experience* in *public matters*, with *most favorable* personal relations and access to official personages, whose ear we should have. Mr. Walker has been a decided, out-spoken foe to the Underwood Constitution, and would act energetically and cordially in favor of our movement. I do not propose that *he* should be placed *on* the Committee. But I am convinced that it would be well for you, in writing to Mr. Bolling, to ask Mr. B. to write to Mr. Walker *at once*, and request (as coming from Mr. Bolling) that he (Mr. W.) would be in Washington and extend his aid to us. I write it haste.

I am very truly yours,

Hon. A. H. H. Stuart.

JNO. L. MARYE.

On receiving this letter, I promptly wrote to Mr. Bolling, inviting him to meet the Committee at Washington, and as I had no personal acquaintance with Mr. Gilbert C. Walker, I requested Mr. Bolling to give Mr. Walker in my behalf a similar invitation. This I presume he did, as both Mr. Bolling and Mr. Walker came promptly to Washington, and announced their readiness to co-operate with the Committee. It was in this way that Mr. Walker first became known to the people of Virginia and identified with her cause.

The first meeting of the Committee was held at the National Hotel, in Washington City, on the evening of the 8th of January, 1869. On calling the roll, we were gratified to find that every member was present. Our proceedings were informal, and no record of them, in the form of a journal, was kept. All the members understood clearly the objects for which we had met, and the only matter which required consideration and discussion was the best means of accomplishing them. Many suggestions were made, which became the subject of conversation, and were adopted, modified or abandoned, according to the wishes of the majority. There were some propositions, however, which received unanimous approval: 1st. That the Committee should meet daily, or oftener, for conference and interchange of ideas and information; 2d. That we should invite the co-operation of Mr. Bolling, Mr. G. C. Walker, and his brother, Mr. Jonas Walker, and of all citizens of Virginia, who might be in Washington, in promoting the work of the Committee; 3d. That we would, in a body, call on the President (Andrew Johnson) to pay our respects, but that as the close of his term of office was so near at hand, and his relations to Congress of such an unfriendly character, it would be useless to ask assistance from him; 4th. That we would, without delay, seek an inter-

view with General Grant, the President-Elect, explain to him fully the grievances of which we complained, and earnestly invoke his aid in relieving us from them; 5th. That the members of the Committee, individually, and the gentlemen who proposed to co-operate with them, should proceed, without delay, to seek conferences with the leading members of the two Houses of Congress, and explain to them the objects of our mission, and impress upon them the justice of our claims, and seek their aid in obtaining relief from the dangers which threatened us.

This programme was duly carried into effect. The Committee, in a body, called on President Johnson, and were courteously received by him, but no effort was made to induce him to take any official action in regard to the objects of our mission.

It is proper to state, that shortly after the Committee of Nine assembled in Washington, two committees or delegations from Richmond made their appearance in Washington on behalf of the Republican party; one of them consisted, as we learned unofficially, of Mr. Franklin Stearns, L. H. Chandler, William Forbes and Edgar Allen, and probably others. The other, which was led by Governor H. H. Wells, was more numerous, and composed of white and colored men. The former, which consisted of men of intelligence, education and good standing, was regarded as a committee of *Observation*, and was supposed to be present, not with a view of making factious opposition to every measure of relief which might be proposed by the Committee of Nine, but to see that nothing was done prejudicial to the interests of the Conservative Republicans. The Wells Committee, on the other hand, was emphatically a Committee of *Obstruction and Antagonism*. It was in full sympathy with all the test oaths, disfranchisements, and other objectionable features of the Constitution, and opposed to any change in any of its provisions.

CONFERENCE WITH RECONSTRUCTION COMMITTEE OF HOUSE OF REPRESENTATIVES

In accordance with the original programme, as above set forth, the Committee applied for and obtained permission to appear before the Reconstruction Committee of the House of Representatives and the Judiciary Committee of the Senate, to explain to them, respectively, the grievances of which we complained and the nature of the redress which we desired to obtain.

It is not necessary, for the purposes of this narrative, to give in detail all that occurred in the various interviews which were held by the Virginia Committee with the Committees of Congress. It is sufficient to mention some of the leading incidents which tend to show the varied phases of public opinion of that day, and to throw light on the motives and purposes of those who were prominent actors in them.

At the hour appointed for the conference with the Reconstruction Committee of the House of Representatives, all the members of the Committee of Nine were in attendance. We were politely received by Ex-Governor Boutwelle, chairman of the Committee, and after an interchange of salutations and introductions, we were assigned to the seats which had been provided for us. It then became my duty, as chairman of the Committee, to open the interview by a brief explanation of the

origin of our Committee and the objects of our mission. Before I had concluded my remarks, we were interrupted by the arrival of the two Richmond committees, headed, respectively, by Mr. Franklin Stearns and Governor H. H. Wells, who expressed a wish to be present at the interview. This was readily granted with the assent of all parties. As the sessions of the Reconstruction Committee were necessarily short, being limited to the hour, 12 noon, appointed for the meeting of the House of Representatives, and as all parties desired to be heard in support of their respective opinions, the conference was continued by adjournment, from time to time, through several sessions of the Committee, during which full and free debate was allowed.

This discussion was conducted, on behalf of our Committee, mainly by Colonel Baldwin. He had been speaker of the House of Delegates in the session of the General Assembly of Virginia, which had recently been held under the Pierpont administration, and was, therefore, better posted than any other member of the Committee in regard to its proceedings.

After he had presented, with great clearness and force, the views of the Committee, Governor H. H. Wells took the floor as the representative of the opinions of the Radical Committee, of which he was chairman. As reported by Mr. Cowardin, of the *Dispatch*, he spoke substantially as follows: "Governor Wells said he did not believe that loyal men would be safe from wrong and outrage if the white people of Virginia were all enfranchised; he believed that the only mode of protecting them would be to adopt the Constitution made by the Underwood Convention *as it was*; he was satisfied that the adoption of the plan of the Committee of Nine would break down the Republican party and destroy the last hope of 'Loyalists' in Virginia. He was sure the people, whatever they might say now, would, in a few years, take away the rights of the negro unless the Republican party became strong enough to protect them, and the only way to secure strength to that party was to give it power to direct the restoration of the State; none but the Republican party could secure justice to all classes and rebuild the State. There could be no justice, no education, no prosperity, save through the Republican party. That party would invite immigration, insure the safe investment of capital, and put Virginia in the way of rapid improvement. He assured the Committee that there were ten millions of dollars ready, at this time, to be brought into the State under Republican auspices to build railroads, etc., etc. He declared that the new movement had not the support of Virginians; that he did not believe that ten thousand white people in Virginia would support it; that if it is carried it would have to be carried by Republican votes, but the Republican party would not vote for it. They were opposed to reconstructing Virginia in that way. They would be willing to see the whites enfranchised after a few years when it could be done safely, but not now."

It was asked whether, if the plan of the "Nine" succeeded, the loyal men would have anything to compensate them for the concession that would be made. He replied, "None whatever."

The same reporter (Mr. Cowardin) says, "Colonel Baldwin spoke eloquently for an hour in reply, and was listened to with marked attention.

In reply to questions of the Committee, he expressed his confident belief that the people of the State would support and carry out in good faith the plan which he advocated."

By request of the Committee, Mr. Franklin Stearns, of Richmond, a staunch Republican, and chairman of the Conservative Republican Committee, addressed the Reconstruction Committee at some length, and said "that since the defeat of the Democratic party (meaning in the Presidential election of November, 1868,) the people of Virginia were ready to comply with the reconstruction laws, and more than half of the property holders were ready to restore the State on the basis proposed by the Committee of Nine. If the State was restored under the pending Constitution, with disfranchisements and county organizations stricken out, she would immediately have her prosperity revived, and rapidly grow in wealth and population. So restored, justice would be impartially administered, and all classes completely protected.

Mr. Stearns condemned the Underwood Constitution, and said it would be defeated by an *honest vote* of the people, but that its defeat would leave the State without a civil government, and subject to all the whims and caprices of military rule. Hence, as the representative of the Republican party of Virginia, he favored the programme of the Conservative Committee, which did offer the people some prospect of a stable government.

The reporter adds: "Mr. Stearns was listened to attentively, and his statement made a decided impression."

This synopsis of the discussion before the Reconstruction Committee of the House of Representatives will be sufficient to show the nature of the matters in issue, and the spirit in which they were presented by the several speakers.

CONFERENCES WITH JUDICIARY COMMITTEE OF SENATE

The Committee also had interviews with the Judiciary Committee of the Senate of an important and interesting character. But it is unnecessary to state the proceedings in detail. In all material matters they were similar to the proceedings before the Committee of Reconstruction of the House. This Committee was one of extraordinary ability. Among the members were Conkling, of New York; Frelinghuysen, of New Jersey; Doolittle, of Wisconsin; Trumbull, of Illinois; and others of almost equal celebrity. The conference having been opened by the Chairman of the Committee of Nine, by a brief statement of the objects of their mission, and of their objections to the Underwood Constitution, the further discussion of the subject was turned over to Colonel Baldwin, who made a clear and forcible exposition of the enormities contained in the Constitution. The senators listened with great attention, and seemed to be desirous of making themselves acquainted with the subject. They asked many questions, which were promptly answered, giving the information that was sought. The interview was less formal than that with the House Committee, and the discussion of a more colloquial character, intended to promote a full and free interchange of facts and opinions, and the members manifested an earnest desire to acquire all the knowledge which was necessary to make them act intelligently on the subject.

Colonel Baldwin was the principal spokesman on behalf of Virginia, and presented the views of the Committee with so much clearness and force as to leave a profound impression on the minds of the senators. Before separating, the Senate Committee requested the Committee of Nine to prepare for their use, a condensed statement, in writing, of the grievances of which they complained, accompanied by a detailed draft of the amendments which they desired to have incorporated into the Constitution. This was accordingly done a few days afterwards. The paper was prepared by Colonel Baldwin with great care, and after thorough scrutiny by the Committee was, on 18th January, 1869, adopted and signed by every member of it, and sent to the Senate Committee. The full text of this paper was published, and is to be found in the columns of the newspapers of that day. It is as follows:

*To the Judiciary Committee
of the United States Senate:*

On behalf of the delegation of citizens of Virginia, and in accordance with the request of your Committee, we beg leave respectfully to submit, in the form of amendments to House Bill 1485, now under your consideration, such modifications of the Constitution proposed by the late convention as, in our opinion, will, under all the circumstances, lead to its acceptance by the people of Virginia.

It is due to candor to say, in this connection, that those who sent us here expressed, as we believe, the real feelings and purposes of the people of Virginia when they declared, "while the conviction of the undersigned and, as they believe, of the people of Virginia generally remains unchanged, that the freedmen of the Southern States, in their present uneducated condition, are not prepared for the intelligent exercise of the elective franchise and the performance of other duties connected with public affairs, and are; therefore, at this time, unsafe depositories of political power; yet, in view of the verdict of public opinion in favor of their being allowed to exercise the right of suffrage, as expressed in the recent elections, the undersigned are prepared, and they believe the majority of the people of Virginia are prepared, to surrender their opposition to its incorporation into their fundamental law as an offering on the altar of peace, and in the hope that union and harmony may be restored on the basis of universal suffrage and universal amnesty."

Taking it, then, to be established as the policy of this government to require in Virginia a constitutional recognition and enforcement of the civil and political equality of all men before the law, we have, in the amendments proposed, inserted all the provisions looking to that result which Congress has heretofore deemed proper, and we have left undisturbed all the provisions of the proposed Constitution in any manner relating to that subject.

The first modification of the proposed Constitution suggested by us, is to strike from it all those features of disfranchisement and disqualification, and all those elements of bitterness and strife, political, sectional, and sectarian, which, in our judgment, are wholly incompatible with good government and good feeling, and tend to perpetuate alienations and discords, which all good citizens must deprecate. The power of a State to subject any of its citizens to disabilities for offences against the United

States has been seriously questioned. It seems to be conceded that for the purpose of punishment no such power exists, and that disqualifications and disfranchisements are only admissible as measures of precaution and safety.

In this point of view, it is worthy of consideration that since the close of the war the people of Virginia have been living, without disfranchisement or disability of any kind, under a government whose legislative and judicial departments, and whose local organizations have been in the hands of the very classes whom it is sought by the proposed Constitution to exclude from every position of trust in the State. We claim, with confidence, that the result has been that the supremacy of law and order has been as fully maintained, and that the functions of good government have been as well performed in Virginia as in any State in the Union.

It is believed that Article III, section one, paragraph four, would disfranchise not less than ten or fifteen thousand voters in the State, including all those whom the people have been accustomed to trust in public employments.

Article III, section seven, would disqualify for every position of public trust not less than ninety-five of every hundred of the white people of Virginia who would otherwise be eligible, and would, in connection with section three of the same Article, extend the like disability to serve upon juries.

It is believed that there is no advocate of universal negro suffrage who will not agree that in its application to Virginia at this time it is a fearful experiment, requiring for its success all the wisdom and experience that can be brought to its management: and it is respectfully submitted that to exclude from participation in State or local government at this time so large a proportion of those who, by experience in public affairs, are fitted to deal with this great problem, would be unwise and unsafe.

We earnestly declare that, in our belief, it would be wholly inconsistent with domestic tranquility, public order, or the security of the lives, liberty or property of the great body of the white population of Virginia.

The provision of Article XI, relating to church property, is an attempt to reverse the settled policy of Virginia, which restricts the ownership of church property in amount, and confines it strictly to the local religious congregation. The purpose is to enable "ecclesiastical bodies" outside of Virginia, in opposition to the legislation of the State, and against its judicial decisions, to take the churches of Virginia from the local congregations who built them. The provision opens a controversy, full of all the combined bitterness of party and section and sect, over every Presbyterian and Methodist church building in Virginia.

The next modification suggested by us is to strike from the proposed Constitution, and thus to leave to legislative enactment or modification, the whole of the cumbrous machinery for local organization, government and policy, which, in our judgment, is clearly unfitted to the condition of the State, and if fixed to the Constitution will be a cause of embarrassment and difficulty and strife, seriously affecting the public peace and the harmony and good order of society.

The population of Virginia is very sparsely and unequally distributed

over the territory of the State, and the physical and geographical features of the country are such as to render wholly impracticable any arbitrary plan of subdivision for local purposes. The most we have been able to do thus far is to make the counties the units of local government, and to give to the county courts, composed of all the county justices, the control and direction of the local government and police.

In view of the introduction into our system of so large a political element so unequally distributed as to result in the complete predominance of the whole white race in one section of the State, and of the colored race in another section, we are very earnestly of opinion that any system of local government and police engrafted upon the Constitution and placed under the absolute control of limited districts, will naturally incur the distrust and excite the apprehensions of the local minority, and tend to collisions calculated to impair personal security and endanger the public peace.

The difficulties surrounding the subjects of local taxation and education, in regard to which we are satisfied that the proposed system will be found unequal and inefficient in its operation, are in its results intolerably expensive and oppressive.

The solution of these difficulties, which we propose, is to strike the whole of this system from the Constitution and leave it to the Legislature, in which all localities, interests and classes will be fully represented, to regulate the whole subject by laws which will be at all times open to modification and improvement, such as experience may suggest or the public interest may require.

The next modification proposed by us is to strike out the provisions in Article XI relating to homestead and other exemptions. The laws in Virginia now in force provide for homestead and other exemptions, prospective in their operation. The provisions of these laws are believed to be not materially different from those in the proposed Constitution, except in regard to past indebtedness, as to which we regard the proposed provision as clearly in conflict with the Constitution of the United States. The chief importance which we attach to striking out this provision grows out of its injurious effect upon the minds of the people, whose necessities already incline them to look with favor upon any suggestion of relief from pecuniary obligation.

The only remaining suggestion of modification is as to the maximum of taxation for local free school purposes in Article VIII, section 8.

It will be observed that we have made no objection to the school system proposed, except so far as it depends on the local organization, to which we have already referred.

No objection is offered in any quarter to the establishment of a thorough system of free public schools, at least as rapidly as the proposed Constitution requires; and although we have asked to strike out the *mode* of local taxation proposed, we have suggested a modification which avoids any diminution of the *amount* to be raised by taxation for public free school purposes.

In suggesting the modifications referred to, we by no means wish to be understood as conceding that the proposed Constitution is free from what we regard as important defects in other particulars, but we do not understand it to be the purpose of Congress to interfere in such

matters further than may be required by high considerations affecting the integrity of the Constitution and the maintenance of justice and domestic tranquility. We have, therefore, confined our objections to provisions of the proposed Constitution, falling properly, as we believe, within the scope of such an interposition.

The clauses which we ask to have stricken out from the proposed Constitution are of different degrees of importance, but the least important, we think, will be found to involve some grave public mischief or injustice. Those included in our first suggestion could not but plunge our State into civil anarchy and discord, and disturb the general and growing harmony of the two races of our people, if not to array them in deplorable hostility to one another. They would arrest immigration, paralyze all forms of industry, destroy our domestic peace and hope of prosperity, and render us a burden to the Union instead of an important addition to its resources, wealth, credit and power.

In our personal interview with the Committee, we called their attention to provisions of the proposed Constitution, and especially to that relating to usury, as instances of the insertion into a Constitution of matters peculiarly proper to be left to ordinary legislation. The provision in regard to usury is one new in Virginia, and will establish a policy which, whatever may be its merits, must seriously affect all the material interests of our people.

It is respectfully submitted, for the consideration of the Committee, whether a measure of legislation so important, and in regard to which opinion is so much divided, ought to be fixed in the Constitution and so placed beyond legislative control.

As to the mode of granting relief from the mischievous provisions to which we have referred—to-wit: by act of Congress, suggesting modifications as fundamental conditions precedent, we desire to say that it has been suggested as the result of an examination of the precedents found in the past legislation of Congress, and upon consultation with a number of the wisest and most experienced members of both Houses. In the preparation of the amendments proposed to the pending bill, we have endeavored fairly to follow the precedents established in like cases, and we may be permitted to suggest, in conclusion, that we believe it will be found that the modifications proposed by us will, in fact, conform the proposed Constitution to the principles and policy of the Reconstruction Acts.

It is perhaps proper to say that we, and those with whom we act, though concurring, as we believe, with the people of Virginia, do not claim to be authorized to speak for them.

Respectfully, your obedient servants,

ALEXANDER H. H. STUART,
JOHN B. BALDWIN,
WYNDHAM ROBERTSON,
W. S. SUTHERLIN,
JAMES NEESON,
J. F. JOHNSON,
W. L. OWEN,
J. L. MARYE, JR.,
J. F. SLAUGHTER,

WASHINGTON CITY, January 18, 1869.

Committee.

The following are the changes in the proposed Virginia Constitution, which the Committee will ask Congress to enact:

House of Representatives, 1485.—Bill entitled "An act providing for an election in Virginia."

Amendments suggested for the consideration of the Senate Committee of the Judiciary:

First Amendment.—Strike out the whole of the first section after the enacting clause, and insert in lieu thereof three sections, as follows:

That the State of Virginia shall be entitled and admitted to representation in Congress as a State of the Union when the voters of the said State—who at the time of the election hereinafter provided for, shall be registered and qualified as such in compliance with the acts of Congress, known as the Reconstruction Acts—shall have agreed to and ratified the Constitution adopted by the Convention which met in Richmond, Virginia, on the 3d day of December, Anno Domini, 1867, subject to and in accordance with the conditions and modifications hereinafter declared and proposed.

SECTION 2. *And be it further enacted,* That the foregoing section is subject to the following fundamental conditions precedent, and shall not take effect until the same and each of them are fully accepted by the voters of Virginia at the said election:

I. The Constitution of said State shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote in said State who are entitled to vote by the Constitution thereof herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted under laws equally applicable to all the inhabitants of the State: *provided,* that any alteration of said Constitution may be made with regard to time and place of residence of voters.

II. That in the adoption and ratification of said Constitution there shall be omitted therefrom the following parts and provisions thereof, which, in the opinion of the Congress, are unnecessary for the protection of any right, and tend to retard and prevent the restoration of that harmony and good will among the people which are among the chief objects sought to be attained by the Reconstruction Acts aforesaid, viz.:

1. The provision for disfranchisement and disqualification contained in Article III, section one, clause four, and in section seven of the same Article, and that relating to church property in Article XI of said Constitution.

2. The provision for local organization, government and police contained in Article VI, sections thirteen to twenty-one, inclusive, those in Article VII, and in the two last sentences of Article VIII, section eight.

3. The provision relating to homestead and other exemptions in Article XI, sections one to seven, inclusive.

III. That the limitations upon the power of taxation for public free school purposes in Article VIII, section eight, be changed from five mills to ten mills.

SECTION 3. *And be it further enacted,* That the said Constitution, subject to the said fundamental conditions, and with the modifications aforesaid, be submitted for ratification to the voters registered and qualified as aforesaid, according to the provisions of the Reconstruction Acts, on the fourth Thursday of April, 1869. The vote on said Constitution shall be "For the Constitution, subject to the fundamental conditions prescribed by Congress," or "Against the Constitution." The said election shall be held at the same places where the election for delegates to said Convention was held, and under the regulations to be prescribed by the commanding general of the Military District and the returns made to him as directed by law.

Second Amendment.—Strike out in section five, line four, the word "September," and insert "June."

Proposed Title.—"An act to provide for admitting the State of Virginia to representation in Congress."

CONFERENCE WITH GENERAL GRANT

Very soon after their arrival in Washington, the Committee took steps necessary to obtain an interview with General Grant, President-Elect, who was then in the city awaiting his inauguration. With this end in view, the Committee called on General Schofield, then acting Secretary of War, and, after explaining to him the objects of their mission, asked the favor of him to make known to General Grant their desire to call on him to pay their respects and have an opportunity of explaining to him the objects of their visit to Washington. General Schofield, who expressed full sympathy with the objects we had in view, promptly agreed to do so. He accordingly called on General Grant, and made an arrangement with him to receive the Committee on the 14th of January at a specified hour. About half an hour before the time indicated, the majority of the Committee met in their room, with a view of going in a body to General Grant's headquarters. Unfortunately, however, in consequence of some misapprehension about the hour of meeting, two or three of the Committee (of whom Colonel Baldwin was one) failed to attend. After waiting as long as they could, hoping the absent members would appear, the members present proceeded to the office of General Schofield, who kindly agreed to accompany them to headquarters and introduce them to General Grant. The Committee was received with frankness and courtesy by General Grant, who entered into general conversation with its members in a familiar way, which at once put every one at ease.

The Committee, through their chairman, then proceeded to explain to him the objects of their visit to Washington. The objectionable features of the Underwood Constitution were fully explained to him, and also the disastrous consequences which would necessarily follow their adoption. General Grant gave close attention to all that was said, and showed, by the pertinent and searching questions which he asked from time to time, that he thoroughly understood and appreciated the injustice and oppression which would be done to the people of Virginia by adopting the Constitution without amendment.

The conversation then became of a more general character, in the course of which he did not hesitate to express in strong terms his opposition to the test-oaths and disfranchisements embodied in the Consti-

tution. He referred, however, to the fact that, for the present, he was a mere military officer, and, as such, powerless to render any assistance. His language and manner throughout the interview left no doubt on the minds of the Committee that if the Senate should fail to act on the bill then pending until after his inauguration, he would interpose in some way to afford relief. The interview lasted an hour or two, and the results were very gratifying to the Committee.

When the Committee returned to their hotel they found their associates, who had been disappointed in not attending the interview, much mortified at their mistake in regard to the time of holding it, which had prevented their participation in it.

During the next day rumors reached the Committee that mischievous persons had represented to the friends of General Grant that the absence of the members, who had failed to attend the interview, was intentional and a premeditated mark of disrespect to General Grant. This absurd and malicious falsehood naturally created a strong feeling among all the members of the Committee, and they at once determined to give the most emphatic contradiction to it, by seeking a second interview with General Grant, to enable every member of the Committee to be present. A request to that effect was accordingly made, which was promptly granted.

At the time appointed for the second interview every member of the Committee was present, and a number of distinguished gentlemen from Virginia, who had asked leave to accompany the Committee. The whole party then proceeded in a body to General Grant's headquarters. They were cordially received, and the gentlemen of the Committee, who had not been present at the former interview, were afforded an opportunity of explaining the mistake which had caused their absence, and their regret that they had been thereby denied the pleasure of participating in it.

The most interesting incident which I can recall in connection with this interview was the following: Shortly after all the gentlemen present had paid their respects to General Grant and been seated, he turned to the chairman of the Committee, and, addressing him by name, said: "Mr. Stuart, since you were here the other day I have been thinking a good deal of the matters discussed in our interview, and looking somewhat into the provisions of your proposed Constitution; and I must confess that, bad as the provisions in regard to test-oaths and disfranchisements unquestionably are, it seems to me that the county organization feature is, if possible, worse. In the eastern portion of your State the negro population is greatly in excess of the white. Under the county organization features of the new Constitution, as proposed, you must have in that section of the State negro judges, negro juries, negro magistrates, negro supervisors, and negro sheriffs and constables; in other words, a negro government. Under such a condition of things, no decent white man can afford to live in that part of the State, and they will be compelled to move away. In the western part of the State, where the whites predominate, the condition of things will be reversed, and the negroes will have to remove. In this way the two races will be segregated by a geographical line, which is greatly to be deplored; and what is more, the *labor* of the State will be separated from the *capital*, and

the productive power of the State will be greatly impaired, if not destroyed." I believe I report the language of General Grant with almost absolutely literal accuracy. His sentiments, as well as the language in which he expressed them, made a profound impression on my mind at the time, and have remained fresh in my memory, because I have had frequent occasions to recall and repeat them in private conversations, from time to time, since they were first uttered.

A free talk between General Grant and the members of the Committee then followed, in which he clearly indicated his sympathy with our movement, and his desire to see Virginia restored to the Union on fair and honorable terms. The interview was gratifying to every member of the Committee, and they left him, cheered by the confident belief that at an early day after his inauguration, his strong arm would be interposed for the relief of Virginia.

INTERCOURSE OF MEMBERS OF THE COMMITTEE WITH SENATORS AND REPRESENTATIVES

Immediately after the organization of the Committee of Nine in Washington, it was agreed that the members of the Committee, singly or in pairs, should call on as many of the leading members of Congress as they could conveniently visit, either at the Capitol or their lodgings. Many other gentlemen from Virginia, who were in sympathy with the objects of the Committee, were invited to co-operate with us in this important work. Among those who were most efficient in this department of service, were Gilbert C. Walker, and his brother, Mr. Jonas Walker. Being in some way connected by marriage with Senator Stewart, of Nevada, they had ready access to him, and at an early day secured his active assistance in promoting the objects of the Committee. Mr. Gilbert C. Walker, being a man of fine intellect, imposing appearance and manners, and a good talker, was well fitted to make a favorable impression on all classes of men. Having been born and reared in the interior of New York, and being an avowed Republican in politics, he had no difficulty in approaching Northern Republicans and explaining to them the gross injustice and oppression which would be imposed on Virginia by the Underwood Constitution. He devoted his whole time, for a week or ten days, to this good work, and reported the results of his labors, from time to time, to the Committee. They were deeply impressed with the value of his services in mitigating the asperity of party and sectional prejudices, and awakening a more kindly sentiment in the minds of Northern men. It was by work of this kind that Gilbert C. Walker won for himself the favorable regard of all Virginians who were then in Washington, and opened the way to the conspicuous position which he afterwards filled in Virginia.

CLOSING SCENES IN WASHINGTON

After the lapse of ten days or more spent in earnest efforts to rescue Virginia from the ruin which threatened her, the Committee felt that they had fulfilled the duties which had been entrusted to them. They had done all that they could hope to accomplish at that time. They had

aroused the attention, not merely of Virginia and the Southern States, but of the whole North, to the enormities of the "Underwood Constitution." They had secured, as advocates of justice to Virginia, the *New York Tribune*, *New York Times*, *Boston Advertiser*, *Chicago Tribune*, and other leading organs of public opinion in the North and Northwest. They had arrested the passage of the House Bill in the Senate. They had received satisfactory assurances from General Grant that—as soon as practicable after his inauguration as President—he would bring the subject to the attention of Congress, and endeavor to obtain for Virginia substantial relief. In a word, the Committee felt that they had faithfully tilled the political field and sown good seed, which, at the proper time, would germinate and bear an abundant harvest of blessings. If the Committee had been able to accomplish nothing more than the defeat by the Senate of the passage of the House Bill, submitting the Underwood Constitution without amendment for ratification, they would have felt that they had rendered a service of incalculable value to the State.

Let us pause a moment and contemplate the condition of things which existed when what was popularly called the "new movement" was set on foot. The House Bill had been introduced and passed through all its stages by the House of Representatives without objection or debate. This occurred a few days before Christmas recess of 1868, and the Bill was sent to the Senate for concurrence. Parliamentary rules required (unless temporarily suspended) a reference to the Judiciary Committee, and a report from that Committee before the Bill could be put on its passage. The delay thus caused prevented its passage by the Senate before the Christmas vacation.

No fair-minded man will venture to deny that, if *some responsible party* had not interposed objections to the Bill, it would have been taken up and passed by the Senate as it had been by the House, without debate. The single question then submitted to the people of Virginia would have been the "ratification" or "rejection" of the Underwood Constitution which, in popular parlance, would have been a choice between "the devil and the deep sea." If the Constitution were ratified, according to the estimate made by the Committee of Nine in their paper submitted to the Judiciary Committee of the Senate, NINETY-FIVE PER CENT. of the adult white population of Virginia would have been not only rendered *ineligible to any office*, but *deprived of the right of suffrage*, and rendered *incompetent to serve on a jury, civil or criminal!*

Under these circumstances, we would have had Wells for Governor, backed by a constituency consisting mainly of ignorant negroes and depraved whites. The better class of white people would have been powerless. We should have had, in the graphic language of General Grant, "negro judges, negro sheriffs, negro juries, negro magistrates"—in a word, a negro government—which would have compelled every decent white man to move away.

But this is not all. Under such a condition of things, what was to prevent any emancipated slave from bringing suit against his late master to recover compensation for his service while he was held in slavery? Negro or carpet-bag judges would have been prompt to sustain such actions, and ignorant and interested juries eager to award verdicts for

heavy damages. Each negro juryman would have had a personal interest in the question, as a verdict in one case would establish a precedent to enable him to maintain a similar suit against his former master. In this way, under the forms of law, the estate of every man, who had ever been a slave-holder, might have been confiscated.

If, on the other hand, the Constitution were "rejected," the people of Virginia would have been remitted to despotic military sway, with Wells, a mere dependent Governor, prepared to execute the arbitrary behests of the commander, for the time being, of Military District No. 1.

Nor could we have looked to Congress for relief. It would have been truly said we had contumaciously rejected a Constitution, to which we had refused to offer any objections, and which had been approved by the unanimous vote of both Houses of Congress.

There were some facts which had occurred in Richmond within the year 1868, the year preceding the visit of the Committee of Nine to Washington, which, while they did not seem to attract public attention at the time, were full of significance to every thoughtful observer.

Pierpont had been recognized and regularly installed as Governor of Virginia in May, 1865. His administration had been as fair as the people of Virginia had a right to expect under the circumstances. A session of the Legislature was held while he occupied the executive mansion, and the convention called to frame a Constitution met in Richmond on the 3d of December, 1867, and continued in session until about the 24th of April, 1868. The Constitution framed by this body provided for an election to be held on the 2d of June, 1868, to decide whether the Constitution should be "ratified" or "rejected," and at the same time that an election should be held for members of the General Assembly and for all State officers to be elected by the people under the Constitution.

It was further provided "that the returns of the election shall be made in duplicate, one copy to the commanding general and one copy to the president of this convention (Underwood), who shall give certificates of election to the persons elected."

Almost simultaneously with the publication of the Constitution and of the election ordinance under it, a general order was issued from military headquarters *removing Governor Pierpont from office*, and substituting Mr. H. H. Wells in his place. There was no charge of official misconduct by Pierpont, and his removal was, obviously, for political reasons. He was too conservative to suit the purposes of extreme partisans.

The Conservatives of Virginia, supposing that the election would be held on the 2d of June, 1868, proceeded at once to organize for the contest. A convention of the Conservatives was held in Richmond on the 4th of May, 1868, to nominate a State ticket to conduct the canvass in opposition to the ratification of the Underwood Constitution and the election of H. H. Wells as Governor of Virginia. At this convention, Colonel R. E. Withers was nominated for Governor, Hon. John L. Marye for Lieutenant-Governor, and General James A. Walker for Attorney-General. These were gentlemen of unquestionable ability and character, and each well qualified for the high position for which he was nominated. These gentlemen without delay took the field to canvass the State in

opposition to the ratification of the Underwood Constitution. Wherever they appeared they were met by enthusiastic crowds.

At that time (May, 1868,) neither the speakers nor the people of Virginia could be led to believe that the intelligent population of the North could be persuaded to tolerate universal suffrage among the ignorant negroes of the South. Hence, the *disfranchisements* of the whites and *enfranchisements* of the blacks, proposed by the Underwood Constitution, became subjects of the most unqualified denunciations by the Conservative candidates and their advocates. It is plain to see that one of the effects of this exciting popular canvass was to stimulate and strengthen the public sentiment in *opposition to negro suffrage*, and render more difficult the task of reconciling the public mind of Virginia, a year later, to *acquiescence in it* even after the announcement in the platform of the Republican party, in the summer of 1868, of *universal negro suffrage* as one of their cardinal doctrines. The people of Virginia still continued to hope against hope, and it was not until the results of the Presidential and Congressional elections of 1868, which turned on that issue, had been ascertained that their eyes were opened to the appalling and inevitable fact that no reconstruction of civil government in the South was possible which did not embody this hateful feature in it. No people were ever called on to submit to a more painful sacrifice of feeling and conviction. But, like the surrender of General Lee and his gallant associates in arms, it was inevitable. Our great leaders were obliged to submit to overwhelming force on the battlefield. The people of the South, in like manner, were constrained to surrender by an equally disastrous defeat in the field of political contest. The masses were in no condition to reason dispassionately. Indignation beclouded their judgment. This tends to explain why, at the outset, the movement of the Committee of Nine, and the intelligent and patriotic citizens who co-operated with them, encountered such fierce opposition and reproach from a portion of the public press and some of the people.

During the pendency of the elections in the North in 1868, to which reference has been made, the elections in Virginia were postponed indefinitely to await the future action of Congress.

But the State ticket, which had been nominated on the 4th of May, 1868, eight months before, and under circumstances so entirely different, still retained their position as nominees, and, it was generally understood, that when an election should be ordered, H. H. Wells would be placed at the head of the opposing Radical ticket.

This glance at the condition of things that existed in Virginia at the time the Committee of Nine were in session in Washington, is necessary to make the narrative of subsequent events intelligible.

It has already been stated that very soon after the Committee of Nine assembled in Washington, two other committees, headed respectively by Mr. Franklin Stearns and Governor H. H. Wells, both professing to be Republican, appeared at Washington as representatives of the party in Richmond. It soon became manifest that the members of the first of these committees were essentially conservative, and in large measure sympathized with the general objects of the Committee of Nine. This discovery naturally broke down all barriers between these two committees,

and thereafter they became allies, instead of adversaries, in the great work of liberating Virginia. Mr. George Rye also, who originally was a member of the Wells Committee, soon became satisfied that he occupied a false position, and became a zealous co-worker with the Stearns Committee, and rendered valuable assistance.

Community of purpose soon led to free interchange of sentiment and opinions, and while there were no formal interviews between the two committees, as such, the individual members at an early day became acquainted with each other, and discussed, without reserve, the best means of promoting the objects they had in view.

In these conferences the future of Virginia was the subject of much earnest and anxious conversation, not merely with reference to the probable action of the government at Washington, but also as to the best policy to be pursued to insure success in the elections that must soon be ordered. All recognized the fact that Wells had been appointed military governor with a view to give him *prestige* and pave the way for his nomination as Governor at the coming State election. All saw that, coming before the nominating convention under such auspices, and backed by the whole power of the Radical Republicans, Wells must prove a formidable candidate. Finally, all feared that, let the popular vote as between Withers, a red-handed Confederate colonel, and Wells, a loyal Republican, be as it might, Wells would be "counted in."

These matters were informally, but fully and freely discussed by individual members of the Committees at Washington. It was suggested that possibly a condition of things might arise, in which the Conservative Republicans, who were co-operating with Mr. Stearns, might hold the key to the political position. It might be found, on consultation, in the event of the nomination of Wells, that it would be unwise for the Conservative party to enter into the contest under the leadership of Withers, and thereby encounter the double hazard of his defeat by the popular vote, and the still greater one of his being "*counted out*" by the returning officers.

It was known that the Republican convention would be held at an early day, and it was regarded as important that the leading conservative Republicans should be present at that meeting and endeavor to defeat the nomination of Wells, but if that should be found impracticable, that they should withdraw and nominate some *safe conservative man*, who would honestly and fairly administer the duties of the office. In this connection, the names of Franklin Stearns, William I. Owen, and Gilbert C. Walker were favorably mentioned.

The primary object was the defeat of Wells—first, by preventing his nomination in the convention, and if that could not be done, then by breaking the force of it by the nomination of a rival Republican candidate of conservative principles by the seceding members of the convention. By adopting this course, the Conservative party would be left free to decide, *at a later day*, whether it would be best for them to continue the contest, under the lead of Withers, Marye, and Walker, or to withdraw that ticket and give their support to the candidates named by the seceders from the Republican convention, and thereby consolidate all the conservative elements in opposition to Wells. It is proper to add, how-

ever, that while speculative opinions like these were freely expressed, no attempt was made to formulate or agree to any line of policy founded on them. Every one was left free to pursue in the future such course as his judgment might dictate.

After a sojourn of ten days or more in Washington, the members of the Committee of Nine, believing that they had substantially accomplished the objects of their mission, returned to their respective homes, to await the development of the fruits of their labors.

Important events soon followed in rapid succession. General Grant was inaugurated on the 4th of March, 1869. The Republican convention met at Petersburg on the 9th of the same month, and after a turbulent session of two days, nominated H. H. Wells for Governor, J. D. Harris (colored) for Lieutenant-Governor, and T. M. Bowden for Attorney-General.

But before these nominations were made, the Conservative Republican members of the convention, finding themselves overpowered by a riotous mob of ignorant negroes, led by unprincipled adventurers, withdrew from the convention, and in a few days thereafter, aided by more than one hundred respectable gentlemen of both parties from other parts of the State, published an address to the people, nominating, in opposition to Wells, and his associates, a Conservative Republican ticket, composed of Gilbert C. Walker for Governor, John F. Lewis for Lieutenant-Governor, and James C. Taylor for Attorney-General. This address was signed by Franklin Stearns, Horace L. Kent, George Rye, John S. Develin, and about one hundred and fifty other gentlemen, whose names were known to the people of Virginia as men of intelligence and character, and largely interested in the welfare of the Commonwealth.

On the 7th of April, 1869, President Grant, in accordance with the assurances he had given to the Committee of Nine, sent the following, which was his first message, to Congress:

WASHINGTON, D. C., April 7th, 1869.

To the Senate and

House of Representatives:

While I am aware that the time in which Congress proposes now to remain in session is very brief, and that it is its desire, so far as is consistent with the public interests, to avoid entering upon the general business of legislation, there is one subject which concerns so deeply the welfare of the country that I deem it my duty to bring it before you.

I have no doubt that you will concur with me in my opinion, that it is desirable to restore the States, which were engaged in the Rebellion, to their proper relations to the government and the country at as early a period as the people of those States shall be found willing to become peaceful and orderly communities, and to adopt and maintain such constitutions and laws as will effectually secure the civil and political rights of all persons within their borders.

The authority of the United States, which has been vindicated and established by its military power, must undoubtedly be asserted for the absolute protection of all its citizens in the full enjoyment of the freedom and security, which is the object of a republican government. But, when-

ever the people of a rebellious State are ready to enter, in good faith, upon the accomplishment of this object, in entire conformity with the constitutional authority of Congress, it is certainly desirable that all causes of irritation should be removed as promptly as possible, that a more perfect union may be established and the country be restored to peace and prosperity.

The convention of the people of Virginia, which met in Richmond on Tuesday, December 3d, 1867, framed a Constitution for that State, which was adopted (endorsed) by the Convention on the 17th of April, 1868, and I desire respectfully to call the attention of Congress to the propriety of providing, by law, for the holding of an election in that State, at some time during the months of May and June next, under the direction of the military commander of the District, at which the question of the adoption of that Constitution shall be submitted to the citizens of the State; and, if this should seem desirable, I would recommend that a separate vote be taken on such parts as may be thought expedient, and that, at the same time and under the same authority, there shall be an election for the officers provided under such Constitution, and that the Constitution, or such parts thereof as shall have been adopted by the people, be submitted to Congress on the first Monday in December next for its consideration, so that, if the same is then approved, the necessary steps will have been taken for the restoration of the State of Virginia to its proper relations to the Union.

I am led to make this recommendation in the confident hope and belief that the people of that State are now ready to co-operate with the National Government in bringing it again into such relations to the Union as it ought, as soon as possible, to establish and maintain, and to give to all its people those equal rights, under the law, which were asserted in the Declaration of Independence, in the words of one of the most illustrious of its sons.

I desire, also, to ask the consideration of Congress to the question, whether there is not just ground for believing that the Constitution, framed by a convention of the people of Mississippi for that State, and once rejected, might not be again submitted to the people of that State in like manner and without the probability of the same result.

U. S. GRANT.

On the 10th of April, 1869, Congress responded to this message by passing a bill, the following synopsis of which is taken from the Code of Virginia of 1873, page 26:

The Act prescribed that the President of the United States may, at such time as he may deem best, submit the Constitution, which was framed by the convention, to the voters for ratification or rejection; and may also submit to a separate vote such provisions of said Constitution as he may deem best, such vote to be taken, either upon each of the said provisions alone, or in connection with the other portions, as he may direct.

That at the same time the members of the General Assembly and the officers of the State and members of Congress provided for by the Con-

stitution shall be elected, and the commanding general for the District of Virginia shall provide therefor.

That if the Constitution shall be ratified at such election, the Legislature of the State, elected as provided for, shall assemble in the Capitol of said State on the fourth Tuesday after the official promulgation of such ratification by the military officer commanding in the State.

That before the State of Virginia shall be admitted to representation in Congress, the Legislature, which may be hereafter lawfully organized, shall ratify the Fifteenth Amendment proposed by Congress to the Constitution of the United States, and then that all these proceedings shall be approved by Congress.

On the 14th of May, 1869, President Grant issued the following proclamation, under the authority given to him by the Act of Congress approved April 10th, 1869:

"In pursuance of the provisions of the Act of Congress, approved April 10, 1869, I hereby designate the 6th day of July, 1869, as the time for submitting the Constitution, passed by the convention which met in Richmond, Virginia, on Tuesday, the 3d day of December, 1867, to the voters of said State, registered at the date of such submission—viz., July 6th, 1869—for ratification or rejection; and I submit, to a separate vote, the fourth clause of section 1, Article III, of said Constitution, which is in the following words:

"Every person who has been a Senator or Representative in Congress, or elector of President or Vice-President, or who held any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof.

"This clause shall include the following officers: governor, lieutenant-governor, secretary of state, auditor of public accounts, second auditor, register of the land office, state treasurer, attorney-general, sheriffs, sergeants of a city or town, commissioner of the revenue, county surveyors, constables, overseers of the poor, commissioner of the board of public works, judges of the supreme court, judges of the circuit court, judges of the court of hustings, justices of the county courts, mayor, recorder, alderman, councilman of a city or town, coroners, escheators, inspectors of tobacco, flour, etc., clerks of the supreme, district, circuit and county courts, and of the court of hustings, and attorneys for the commonwealth; provided, that the Legislature may, by a vote of three-fifths of both Houses, remove the disabilities incurred by this clause, from any person included therein, by a separate vote in each case.

"And I also submit to a separate vote section 7 of Article III of the said Constitution, which is in the following words:

"In addition to the foregoing oath of office, the governor, lieutenant-governor, members of the General Assembly, secretary of state, auditor

of public accounts, state treasurer, attorney-general, and all persons elected to any convention to frame a constitution for this State, or to amend or revise this Constitution in any manner, and mayor and council of any city or town, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation; provided, the disabilities therein contained may be individually removed by a three-fifths vote of the General Assembly: 'I, _____, do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have never sought nor accepted, nor attempted to exercise, the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God. The above oath shall also be taken by all the city and county officers before entering upon their duties, and by all other State officers not included in the above provision.'

"I direct the vote to be taken upon each of the above-cited provisions alone, and upon the other portions of the said Constitution in the following manner, viz., each voter favoring the ratification of the Constitution, excluding the provisions above quoted, as framed by the convention of December 3d, 1867, shall express his judgment by voting for the Constitution. Each voter favoring the rejection of the Constitution, excluding the provisions above quoted, shall express his judgment by voting against the Constitution. Each voter will be allowed to cast a separate ballot for or against either or both of the provisions above quoted.

"In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

"Done at the City of Washington this 14th day of May, in the year of our Lord 1869, and of the Independence of the United States of America the ninety-third.

U. S. GRANT."

"By the President:

"HAMILTON FISH, *Secretary of State.*

It will be seen that this proclamation restricted the separate votes to be taken to the two clauses which imposed test-oaths and disfranchisements, thus denying the right to a separate vote on the "county-organization," which he had, in the presence of the Committee of Nine, emphatically denounced as the worst feature of the Constitution.

This singular and unexpected omission caused great surprise and a good deal of indignation, at the time, among the people of Virginia. The public press had made known to them the substance of what General Grant had said to the Committee of Nine in regard to this particular feature of the Constitution, and of the mischievous consequences which must inevitably follow its adoption. In the absence of all explanation, some were disposed to impute bad faith to President Grant. I did not concur in this view of the subject. I felt sure there must be some strong reason (which it would not be prudent to disclose at the time) which had constrained General Grant to forbear from including this clause among those upon which separate votes were to be taken.

And here, in justice to General Grant's memory, it is proper that I should say that, at a later day, I learned from an unquestionable source that I was right in my conjecture.

The question, as to what clauses should be voted on separately, was the subject of consideration in the Cabinet. There was little, if any, difference of opinion about the "test-oath" and the "disfranchisement" clauses. But when the "county-organization" clause came up, much diversity of thought developed itself. General Grant was earnestly in favor of submitting it separately, but a majority of the Cabinet had been led to believe that the secret but controlling reason why the people of Virginia wished to strike out that feature, was to rid themselves of the obligation to establish a system of free schools, with which it was so intimately blended. This view of the subject was pressed with so much warmth and earnestness that, although General Grant did not believe it to be true, he found himself obliged, for the sake of harmony in his Cabinet, to yield the point.

The President's proclamation became the subject of excited discussion in the newspapers and on the street corners and at every place where half a dozen people met together. The disappointment was keenly felt, and the enquiry was on the lips of every intelligent man, "What shall we do?" This condition of things existed, not only among the younger and more impetuous classes; it prevailed, to a great extent, among the most judicious and thoughtful men of the State. In a word, the public mind was *unsettled* as to what was the wisest course to pursue.

As an illustration of the condition of things which then existed, I will refer to an incident within my own knowledge.

Business required my presence in Charlottesville, for a few days, about the time of the issue of the President's proclamation. As I walked from the courthouse to the railroad depot, where I was to take the cars on my return to my home in Staunton, I casually fell in company with an old and valued friend, Professor John B. Minor, one of the most honored professors of the University of Virginia, who was also about to take the cars as far as the University of Virginia. The President's proclamation naturally became the subject of discussion. He inclined to the opinion that it would be best for the people of Virginia to vote down the Underwood Constitution, and said that such seemed to be the sentiment of his brother professors. I differed with him, and we discussed the question until we arrived at the University Station, where the train then stopped for a few moments. As he was about leaving

the train, he said to me he had been impressed with some of the views I had presented, and begged me, when I arrived at home, to write him a letter, giving more full expression to them, which I promised to do.

On the following day I wrote a letter to him, giving my opinion in regard to the proper policy to be pursued by the people of Virginia, and some of the most urgent reasons in support of it. This letter was not written with any view to its publication. But, in a day or two afterwards, I received a note from Professor Minor, thanking me for the letter, and stating, that as it had aided him and some of his co-professors in coming to a right conclusion on the subject, he thought it might possibly render a similar service to others, and he had, therefore, taken the liberty, without asking my consent, to send it to the *Richmond Enquirer* for publication. It was, accordingly, published in the *Enquirer*, and thence re-published in many other papers. The following is a copy of it:

LETTER ADDRESSED BY HON. ALEXANDER H. H. STUART TO
PROFESSOR JOHN B. MINOR

STAUNTON, May 24th, 1869.

My dear Sir:

When I casually met you a few days ago, you requested that I would express to you, in writing, my views of the course the people of Virginia should pursue in regard to the questions about to be submitted for their decision under the President's proclamation. I now proceed to do so. There certainly was much disappointment felt when it was ascertained that the President had failed to include the "county organization" clauses of the Constitution among those which were to be submitted to the people to be voted on separately. It was known that the President had expressed strong opposition to these clauses, as tending to segregate the white and colored population by a geographical line, and to impair the productive power of the State, by separating the labor of the country from the capital of the Commonwealth. Hence a confident expectation was entertained that he would afford to the people an opportunity of striking these objectionable features from the proposed Constitution. In the first excitement occasioned by this disappointment, some persons expressed their purpose to try and defeat the whole instrument, by voting, first, to strike out the disfranchising clauses and the test-oath, and then against the instrument thus expurgated. This disposition was not unnatural under the circumstances. Within the four years which have elapsed since the close of the war, the people of Virginia have been subjected to so much disappointment, annoyance, and obloquy, that they have become sensitive and in some degree soured.

But, unfortunately, we are in no condition now to take counsel of our wishes. We are not in that happy state in which we can afford to indulge in the luxury of a little *ill-temper*. We are bound by inexorable necessity to confront the stern realities of our situation, and to make the best we can of them. After giving to the subject the best consideration, I have satisfied myself that it is true policy for the people of Virginia to vote to *strike out* the test-oath and disfranchising clauses, and then to vote

for the adoption of the residue of the Constitution. I admit that it is a painful necessity, yet it is not the less a necessity.

It is true that we will not get *all* that we had expected to get, yet I think it is obvious that by so doing we gain a great deal. The Constitution, even when expurgated, will be a very objectionable instrument, but it is certainly much better than in its original form, and, in my judgment, it is infinitely preferable to *no Constitution at all*. We can at least live under it for a time, with the certain assurance that after awhile we can greatly improve it. It would tax my time and your patience too largely to give all the reasons which have brought my mind to this conclusion. But I will state one or two of the most prominent: It seems to me that in casting their votes under the President's proclamation, the people are called on to decide where the political power of the State is to rest hereafter, and who are to control her destinies in the future. They will have to elect between three competing propositions, neither of which is entirely acceptable, but there is no other open to us. These propositions are: 1st. To take the Underwood Constitution *pure and simple*; 2d. To vote the *whole Constitution down*; 3d. To adopt it, with the disfranchisement and test-oath stricken out. Let us now consider what is the practical bearing and effect of each one of these propositions. Let us see how it will affect the future *status* of the political power of the Commonwealth.

If we allow the Underwood Constitution to be adopted, with all of its disqualifications, it is obvious that we *voluntarily disfranchise ourselves* for a generation to come, and place the political power—the power to control our lives, liberty, and property—in the hands of the carpet-baggers and the worst classes of our own people. I presume there are few intelligent and upright men in the State who will favor this proposition, and I, therefore, pass it by without further commentary. Let us now consider the second. Suppose we vote the whole Constitution down, what follows? Some contend that matters would stand as they are. Assuming such to be the fact, I ask is that not bad enough? We would have Wells for our nominal Governor, and all of our offices filled by aliens and strangers. We would have justice administered under military supervision and by appointees of a military commandant. But what assurance have we that matters would remain as they are? How do we know whether our situation will not be rendered more intolerable than it is now? By voting down the Constitution altogether, we, in effect, recommit the whole political power of the State to a radical Congress. Has the past action of that body been such as to render it desirable that they should again assume unlimited control over our destiny? I must acknowledge I think not. If we virtually decide that we will have nothing to do with shaping our fortunes, we compel Congress to take upon itself that office. The third proposition is, then, the only one that offers any hope of escape from the terrible evils by which we are threatened. If we strike out the restrictive features, and then adopt the residue of the instrument, while we do not gain all we want, we at least place the political power of the State in the hands of the better classes of the people of Virginia. We snatch it from the grasp of the carpet-baggers and their allies, and we withdraw it from the control of a radical Congress. We will entitle ourselves to a restoration to our rights in the Union, and to the withdrawal of military super-

vision and control over us. We can elect officers and enact laws of our own, and within a year or two, after the excitement incident to these political struggles shall have passed away, we can call a new convention and form a new Constitution adapted to our existing condition. By striking out the disfranchisements and test-oaths, almost the whole body of our population will be clothed with the power to vote and be rendered eligible to office. The principle of popular sovereignty will be established on a firm basis, and the voice of our own citizens will be potential in framing our future organic law and shaping our future policy.

I have thus stated I think fairly, the three propositions between which the people of Virginia are compelled to choose. If there be any other open to them I am not aware of it. Ought the people of Virginia to hesitate between them? I think not. I think they ought to expurgate the Constitution and then adopt it. But it is all-important that we should spare no pains to secure a good Legislature and a good Governor. The reasons are too obvious to require enumeration. They will readily suggest themselves to every intelligent mind. If we expect good laws, we must elect a good Legislature. If we desire and wish an honest execution of the laws, we must choose a wise and honest Governor. And while this is at all times necessary, it is especially so now. The new Legislature will have to enact all laws necessary to put the new government into operation. The Constitution is not self-enforcing; it requires legislation to give effect to it. The new Governor will be clothed with the *veto power* to check hasty and improvident legislation. Need I say anything to show to the people the necessity of making a wise selection of those who are to wield powers, fraught with so much of weal or woe to the State?

Very truly yours, etc.,

ALEX. H. H. STUART.

But, resuming the narrative of events in their chronological order, it will be observed that the withdrawal of the Anti-Wells wing of the Republican party from the convention of the party at Petersburg, and their subsequent nomination of a State ticket of Conservative Republicans, put a new face on the condition of public affairs. There were now three distinct State tickets in the field. First, the Withers ticket, which represented the Conservative party, which was opposed to the general policy of the Republican party and to the Underwood Constitution; Second, the Wells ticket, which was in favor of the harshest policy of the Republican party and of the Underwood Constitution just as it came from the hands of the convention, without any amendment; and, Third, the Walker ticket, which, while on national questions it agreed with the conservative branch of the Republican party, was earnestly and inflexibly opposed to the adoption of the Underwood Constitution, unless some of its most objectionable features were stricken out. The contest, therefore, seemed as if it would assume a tripartite character, involving so many and such complicated questions as to render it difficult for the masses of the people to know what to think or how to act.

Under these circumstances, the Executive Committee, which had been appointed by the popular convention of May 4th, 1863 (which had nominated Withers and his associates), deemed it wise to call a new con-

vention, to meet in Richmond on the 28th April, 1869, to consider and decide what course it would be best to pursue, under the new condition of affairs, to enable all opponents of the unmodified Underwood Constitution, without sacrifice of principle, to act in harmony.

The convention accordingly assembled in Richmond on the 28th April, 1869, and immediately after its organization, Messrs. Withers, Marye and Walker, with a view to relieve the convention from any embarrassment arising out of their nominations, made by the convention of 4th of May, 1868, patriotically resigned their respective claims to said nominations. The convention was thus left free to act, as if no such nominations had ever been made, and with an eye single to what was best for the safety and welfare of the State, under existing circumstances.

The whole subject, in all its aspects, was fully and ably discussed by gentlemen whose names and public services gave ample assurance of their patriotic purposes; and, after mature deliberation, the convention finally decided—

1st. That the resignations of Messrs. Withers, Marye and Walker be accepted.

2nd. That it was not expedient to make any *nominations* to fill their places; but, "while expressing its hostility to the leading and general features of the Constitution, and recognizing the necessity of organization for the purpose of defeating such provisions as may be submitted separately," declined to make any recommendation to the Conservative voters of the State as to their suffrages upon the Constitution, expurgated of said provisions, or as to the candidates that may be before the people, feeling well assured that their own good sense and patriotism will lead them to such results as will best subserve the true and substantial interests of the Commonwealth."

These resolutions were adopted on 28th April, 1869, two weeks before it was known what provisions of the Constitution would be submitted for separate votes. The proclamation of President Grant, indicating them, was not issued until 14th May, 1869.

The practical effect of the action of the convention was, to leave but *two State tickets* in the field, and to narrow and simplify the issue to be decided by the people to a choice between Wells & Co. and the original Underwood Constitution, on the one hand, or Walker and his associates and the Constitution, stripped of its most objectionable features, on the other.

This action of the convention was hailed with great enthusiasm by the people of Virginia, as it gave them almost certain assurance of relief from the horrors of the Underwood Constitution and the domination of Wells.

Both parties immediately set to work to organize for the contest, by selecting candidates for the Senate and House of Delegates, and all other offices which were to be filled at the coming election; and notwithstanding the disappointment caused by the failure of President Grant in his proclamation to allow separate votes in regard to other objectionable features of the Constitution, there was little, if any, relaxation in the effort to arouse the people to a proper sense of the dangers which threatened them, and to stimulate them to vigorous efforts to ward them off.

The canvass was prosecuted with great spirit. The candidates entered the field in person, and traversed the State, making speeches to the crowds assembled at the courthouses and other public places. Gilbert C. Walker, being a man of imposing appearance and a good speaker, and being introduced and endorsed by conservative gentlemen, was received with enthusiasm as the champion of the rights of the people. From these exhibitions of public opinion it seemed manifest that the combined Conservative party would certainly achieve a brilliant victory, unless some unexpected obstacle should be interposed by Federal authority to impede its onward progress.

Thus matters stood until about the 20th of June, 1869. On that day I received a telegram from Mr. Raleigh T. Daniel and Messrs. Branch and Fisher, associates on the Executive Committee, urging me to come to Richmond as promptly as possible on business of an urgent character. I replied to this communication that I would go to Richmond the next day, and could be found at the residence of Dr. Hunter McGuire, who then lived diagonally across Broad Street from Ford's Hotel. I accordingly went to Richmond, and within a few minutes after my arrival at Dr. McGuire's, the gentlemen above named called on me and explained the objects of their summons. They said they had learned from an authentic source that General Canby, then in command of the United States troops at Richmond, had expressed the opinion *that under the terms of the Reconstruction Acts it would become his duty to prevent any member-elect of the Legislature from taking his seat unless he would take the oath prescribed by the act of July 2d, 1862, commonly called the "iron-clad oath," and that he proposed to issue a military order to that effect!*

It was obvious that the results of such a measure would be disastrous to the interests of the Conservative party, in destroying confidence and unseating a large number of the members who would probably be elected to the Legislature. It might also tend to arouse a feeling of indignation among the people, that might endanger the success of the Conservative ticket and defeat the expurgation and ratification of the Constitution.

The object of the gentlemen in summoning me to Richmond was to confer with me as to the best means of defeating the plans of General Canby, and to invite me to render such assistance as I could in accomplishing that object.

I remained the following day in Richmond in conference with the Committee, and after obtaining a copy of General Grant's telegram to General Meade, commander of the troops in Georgia, dated 2d March, 1868, I told them I could not see that I could render any service by remaining longer, but would return home and endeavor to devise some means of extricating the State from the dangers which threatened her. Accordingly I came home the following day.

On my return, after careful consideration, I prepared the following letter to General Grant:

STAUNTON, June 25th, 1869.

To His Excellency,
the President of the United States:

SIR,—I respectfully beg leave to bring to your notice a matter which

deeply affects the people of Virginia, and which, in my judgment, calls for executive interposition.

You are doubtless aware of the fact that the 6th day of July has been named as the day for the election of State officers under the new Constitution, which is submitted, at the same time, for ratification or rejection, under the terms of the Reconstruction Acts of Congress, and your orders made in pursuance thereof.

The people of Virginia, recognizing the considerate regard which you have displayed for their interests and feelings, in affording them the opportunity of expurgating the proposed Constitution of two of its most obnoxious features, have determined, in good faith, to accept the residue of the Constitution and, in all respects, to comply with the terms prescribed by the acts of Congress and your proclamation.

With this view, they have proceeded to make nominations of a State ticket and members of the Legislature, taking care, in all cases, to nominate none who were ineligible under the provisions of the Fourteenth Amendment of the Constitution of the United States.

Within a few days past, however, a rumor has become prevalent, which I have reason to believe well founded, that General Canby, the military commander of Virginia, has expressed the opinion that, under the terms of the Reconstruction Acts, it would become his duty to prevent any member-elect of the Legislature from taking his seat, unless he would take the oath prescribed by the act of July 2d, 1862, commonly called the "iron-clad" oath.

While no one questions the good faith and upright purposes of General Canby, I am persuaded that he has placed an erroneous construction on the 9th clause of the act of July 19th, 1867.

In this position I am sustained by very high judicial authority, to whom, within a few days past, the question has been informally submitted, and also, as I believe, by your telegram to General Meade, on 2d March, 1868, in regard to the officers elected, under similar circumstances, in Georgia. That telegram is in the following words: "The officers elected under the new Constitution of Georgia are not officers of the provisional government referred to in the Reconstruction Acts, nor are they officers elected under any so-called State authority, and are not, therefore, required to take the oath prescribed in section 9, act of July 19, 1867. The eligibility to hold office must be determined by the new Constitution and the amendment to the United States Constitution, designated as Article XIV."

The language of the 9th section of the act of July 19th, 1867, is, I believe, substantially as follows: "That all members of said boards of registration and all persons hereafter elected or appointed under any so-called State or municipal authority, or by detail or appointment of the district commander, shall be required to take and to subscribe the oath of office prescribed by law for officers of the United States."

I respectfully submit that this act of Congress refers to the existing government of the State of Virginia, which exists only by sufferance and is properly styled a "so-called government." In the contemplation of Congress, it is a government not lawfully established, and in no sense a government *de jure*. It is simply a temporary, provisional and "so called" government.

But I respectfully submit, with equal confidence, that the new government, now in process of establishment in Virginia under the direct authority of Congress, is in nowise a "so-called" government, but, at each step of its progress, is a lawful, *de jure* government, and that the reservation of power by Congress to examine and approve the Constitution, does not make it either a provisional or "so-called" government.

In support of this position, I respectfully refer to the fact that Congress obviously contemplated action by the Legislature, so elected, on the proposed Fifteenth Amendment of the Constitution. It can hardly be supposed that Congress would authorize the Legislature of a mere "so-called" government to exercise one of the highest functions of a *de jure* government, viz., to vote for or against an amendment of the Constitution of the United States.

I also respectfully refer to the 6th section of the act of Congress under which the election in Virginia is about to be held. That section provides, "That in either of said States, the commanding general, subject to the approval of the President of the United States, may suspend, until the action of the Legislatures elected under their Constitutions, respectively, all laws that he may deem unjust and oppressive to the people."

Here it will be seen that the power to suspend injurious laws is expressly limited "until the action of the Legislatures elected under their Constitutions, respectively."

Why is this dispensing power given at all, and why is it subjected to the limitation imposed? Clearly it is given because the present government is a mere "so-called" government, whose action is subordinate to military authority, while, on the other hand, it is limited, because the Legislature elected under the new Constitution is a Legislature recognized as *de jure* and competent to enact the laws necessary for the welfare of the people. When that Legislature meets, the suspending power of the military commander ceases. The civil power is re-established on a lawful basis, which is recognized by Congress, in advance, as superseding the necessity for military intervention.

I would further respectfully suggest that the interpretation given by General Canby to the acts of Congress is directly at variance with the policy recommended by the executive, sanctioned by Congress, and which is now being carried out under your proclamation, directing separate votes to be taken on the test-oath and disfranchising clauses of the Constitution.

It was obviously the purpose of Congress and the Executive to afford to the people of Virginia an opportunity of excluding those objectionable features from the Constitution. But, assuming General Canby's construction to be correct, of what avail would a unanimous vote to exclude those clauses be, if, in spite of such vote, the very test-oaths and disfranchisements thus stricken from the instrument shall be applied to all officers elected under the expurgated Constitution? The practical result would be that, while these objectionable clauses would be stricken out by the vote of the people on the 6th of July, they would be reinstated by military authority, on the assembling of the Legislature, four weeks after the adoption of the Constitution.

I respectfully submit that no such condition of things could have been contemplated either by Congress or the Executive.

I need hardly add anything in regard to the inexpediency of the course which seems to be contemplated by General Canby. The people of Virginia are sincerely desirous of seeing harmony and good feeling restored. They have surrendered many cherished convictions to secure this result. But now, when we are on the eve of its accomplishment, a new and fearful element of discord and ill-feeling is about being introduced, which, if persisted in, will entail lasting evils on our country.

For these and other reasons, which I will not trouble you by stating in detail, I now most respectfully, on behalf of the people of Virginia, request that you will cause such instructions to be given to General Canby as may lead him to conform his action to your telegram to General Meade, above quoted, and thus avert the mischiefs which would otherwise result to the State of Virginia.

Having for the last six months used every effort in my power to secure the restoration of my native State to her proper relations to the Federal Government, I have felt it to be a solemn duty to make this appeal to you to so exercise the prerogative of your high office as to secure the prompt accomplishment of that most desirable result.

Very respectfully, your obedient servant,

ALEX. H. H. STUART.

After the letter had been written and a fair copy made by a confidential friend, many difficulties presented themselves as to the best means of ensuring its safe delivery to President Grant. I felt that if I entrusted it to the mail, it was very doubtful whether General Grant would ever see or hear of it. While my thoughts were thus occupied, I fortunately saw my old and valued friend, Hon. John F. Lewis, passing my office. I immediately invited him in and explained to him the object of my recent visit to Richmond and the danger by which we were threatened. I also read to him the letter to Grant, which I had prepared, and explained to him the necessity of having it promptly and safely delivered into the President's own hands, and proposed, that as he was a personal and political friend of the President and could readily gain access to him, he should go to Washington and deliver the letter. This he readily agreed to do. I then placed the fair copy of the letter in an unsealed envelope, and after directing it to President Grant, I suggested that it would be well for him, before calling on General Grant, to read the letter to General Rawlins, then acting Secretary of War, and try to secure his co-operation with us.

On the following day, which I think was the 26th of June, 1869, Mr. Lewis went to Washington and was absent for several days. On his return, he informed me that he had had an interview with General Rawlins and read to him my letter to the President, and that General Rawlins had expressed, in emphatic terms, his concurrence in the views expressed in it, and his readiness to do anything in his power to secure the revocation of General Canby's order. Mr. Lewis added that he had then sealed the letter and delivered it, in person, to the President, who, after reading it, said he would give the subject his attention without delay. But he gave no intimation as to what his action would be. Of course, no personal answer to that letter was expected; but the official

response was awaited with intense anxiety, as much of weal or woe to the Commonwealth hung upon it. In a few days, the response came in the most acceptable form in which it could have been presented, viz., a peremptory mandate to General Canby to rescind his general order.

This mandate was promptly obeyed, and thus, by the vigorous and patriotic interposition of General Grant, the last obstacle to the deliverance of Virginia from tyrannical misrule was removed. The spirits of the people were revived; the canvass was prosecuted with renewed vigor and energy. Finally, on the 6th of July, 1869, a glorious victory was won by the Conservatives. The Underwood Constitution was expurgated of its test-oath and disfranchisements and adopted; Gilbert C. Walker and his associates were elected to fill the high offices for which they had respectively been nominated, and a Legislature chosen which reflected the sentiment of the people. Virginia was thus practically restored to her place in the Union, and her citizens reinvested with all the rights of freemen. In a word, the great work for which the Committee of Nine and their associates had labored so faithfully and energetically for six months, in the face of the storm of misrepresentation and obloquy by which they had been assailed, was finished, and the Committee were able to retire from the field of action with the proud consciousness that the results had fully demonstrated the wisdom and patriotism of their conduct.

I cannot close this "Narrative" without bearing my willing and grateful testimony to the patriotic and magnanimous conduct of General Grant toward the people of Virginia in all their troubles. He received their representatives with kindness and affability, and extended to them all the courtesy which was due to them as gentlemen. He listened to all their complaints with patience and close attention, and met every appeal in behalf of justice to Virginia in a spirit of fairness and generosity. I believed in 1869 that he was disposed to make every concession in the interests of peace which he could make consistently with his obligations to the party which had chosen him as its representative. He was the head and front of a great party flushed with victory and still laboring under the excitement of the recent fierce conflicts of the war. As such he was necessarily a party man. But he was more. He was a patriot, and in the eloquent language of the late Hon. William C. Rives, he never ceased "to remember that he had a country to serve as well as a party to obey."

APPENDIX III

Education for the Colored Population of the Southern States.¹

At a special meeting of the Trustees of the Peabody Education Fund, held at Washington, on the 18th and 19th of February, 1880, the following report was unanimously accepted, and the resolution at its close adopted:

The Committee to whom such portion of the Chairman's address and of Dr. Sears's report as relate to the special needs for education in the South were referred in October last have had the same under consideration, and respectfully submit the following

REPORT

The fundamental principle of every republican government is, as tersely expressed in the bill of rights of Virginia, "that all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times, amenable to them." The will of the people, as expressed in the modes prescribed by the organic law, is therefore the only legitimate governing power. The constitution of a state is but the deliberate and solemn embodiment of the will of the people, by which they ordain and establish a form of government under which they are content to live, and by which they distribute among its various departments the powers which they deem necessary for the preservation of social order and the security of life, liberty, and property. The functions of these departments, respectively, and of the magistrates chosen to administer them, are to give effect to the judgment of the people, as ascertained in the modes and by the agencies appointed by the Constitution and by the laws made in pursuance thereof.

The political system of the United States differs from that of most countries in this: that it recognizes two distinct governments, viz., the government organized in each State, and intended to regulate its local and domestic affairs, and the Federal Government, ordained to exercise the powers confided to it in relation to such subjects as affect the welfare of all the States. It was the intention of the founders of our system that each of these governments should exercise the powers conferred on them, respectively, and that neither should encroach on the rightful authority of the other.

This brief statement of the dual and complex character of our institutions must satisfy every reflecting mind that both wisdom and virtue are necessary in their administration. Owing to the infirmity of human nature, there is a constant tendency on the part of magistrates to usurp

¹See Ante, p. 297.

powers not conferred on them, and to encroach on the rights of others. Under our system, grave and intricate questions often arise, which involve not merely the wisdom of measures of public policy, but also the relative jurisdiction or constitutional powers of the two governments.

As the people are the ultimate arbiters of all such disputes, it is obviously necessary that they shall possess that degree of education which will enable them to understand clearly the matters in controversy, and to render an intelligent judgment on them at the polls. It cannot be expected that the stream will be purer than the fountain from which it flows. If, then, the people, who are the source of all power, be ignorant or corrupt, their government must soon become tainted with the same vices.

Our revolutionary fathers seem to have been deeply impressed with this great truth. Their writings abound with expressions of their sense of the importance of a general diffusion of knowledge among the people.

They felt that the only hope of the permanency of free institutions rested on the virtue and intelligence of those clothed with the elective franchise. Their jealous apprehension on this subject is manifest from the fact that after the thirteen Colonies declared themselves free and independent States, and undertook to form constitutions for their future government, they were careful to provide every practicable safeguard against the participation of ignorant voters in the administration of public affairs. Knowing that they were about to enter on an experiment, which had often been made and as often failed, of the capacity of man for self-government, they were careful to restrict the right of suffrage to those classes which were presumed to be most intelligent. And as, at that early day, when common schools were comparatively unknown, education was confined mainly to property holders, in most, if not all the States, the right to vote was restricted, in some cases to freeholders; in others, to the owners of a specified amount of personal property; and in others to those who had been sufficiently educated to be able to read and write. These restrictions were maintained in most of the States for many years, and in one at least for half a century. Gradually, however, as education became more general and the people more intelligent, they were from time to time relaxed, until finally, in most of the States, they have been entirely abolished, and "manhood suffrage," with exceptions for crime or failure to discharge some public duty, is now the rule.

It may not be unprofitable to refer to the recorded opinions of some of the Fathers of the Republic on the importance of a general diffusion of knowledge among the people.

Washington, in his Farewell Address, condenses into two short sentences an admonition which should never be forgotten by the American people. "Promote, then," says he, "as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened."

The writings of John Adams are replete with expressions of his estimate of the value of popular education as the best safeguard of free institutions.

Thomas Jefferson, after his retirement from the Presidency in 1809, dedicated the remainder of his life to the cause of education in his

native State. He digested with great care a general system, which embraced—"1st, elementary schools for all children, rich and poor; 2d, colleges for a middle degree of instruction, calculated for the common purposes of life, and such as would be desirable for all who would be in easy circumstances; and, 3d, an ultimate grade (a university) for teaching the same generally, and in their highest degree."

His system was to some extent carried into effect in Virginia, and, mainly by his exertions and influence, the University of Virginia was established. Such was his estimate of the importance of this institution, that when he prepared the brief epitaph which he wished inscribed on his tomb, as commemorative of the most signal services which he had rendered to his country, he speaks of himself as "Author of the Declaration of Independence, of the Virginia Bill for Religious Freedom, and Father of the University of Virginia." In a letter to Mr. Yancey, dated January 6, 1816, Mr. Jefferson says: "If a nation expects to be ignorant and free in a state of civilization, it expects what never will be. The functionaries of every government have propensities to command at will the liberty and property of their constituents. There is no safe deposit for them but with the people themselves; nor can they be safe with them without information. Where the press is free, and every man able to read, all is safe." In another letter to Governor Nicholas, dated April 2, 1816, speaking of his system of elementary education, he says: "My partiality for that division is not founded in view of education solely, but infinitely more as a means of the better administration of our government and the eternal preservation of its republican principles."

Although it may be stepping aside from the immediate purpose of this report, it may not be uninteresting, as a matter connected with the personal history of that great statesman, to say that he was by no means a mere theorist in regard to popular education. He labored long and assiduously to carry his theories into practical effect. He not only originated and digested the elective system of instruction which still prevails in the University of Virginia, and has been so extensively copied in other institutions, but he planned and personally superintended the erection of all the buildings intended for its use. And when the university was about to open its doors to students, although he had attained the advanced age of eighty-one years, he accepted the office of rector, and continued faithfully to discharge its duties until his death; and during all that time the proceedings of the board of visitors were recorded in his own handwriting.

Mr. Madison, who has been called the Father of our Federal Constitution, and who certainly contributed as much as any other man in framing its provisions, was equally emphatic in the expression of his opinions of the value of popular education. In a letter to William T. Barry, of Kentucky, dated August 4, 1826, he says: "A popular government without popular information, or the means of acquiring it, is but a prologue to a farce or tragedy, or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power which knowledge gives." In another letter, to Littleton D. Teakle, of Maryland, Mr. Madison says, "The best service that can be rendered to a country, next to that of giving it liberty, is in

diffusing the mental improvement essential to the preservation and enjoyment of the blessing."

Quotations of a similar character, from the writings of the statesmen and sages of the earlier days of the republic, might be indefinitely multiplied, but your Committee will content themselves with adding a single extract from the inaugural address of President Monroe, delivered on the 4th of March, 1817:

"Had the people of the United States been educated in different principles, had they been less intelligent, less independent, or less virtuous, can it be believed that we should have maintained the same steady and consistent career, or been blest with the same success? While, then, the constituent body retains its present sound and healthful state, all will be safe. It is only when the people become ignorant and corrupt, when they degenerate into a populace, that they become incapable of exercising sovereignty. Usurpation is an easy attainment, and an usurper soon found. The people themselves become the willing instruments of their own debasement and ruin. Let us look to the great cause, and endeavor to preserve it in full force. Let us, by all wise and constitutional measures, promote intelligence among the people, as the best means of preserving our liberties."

If these solemn admonitions of the importance of elevating the standard of popular intelligence, as indispensable to the safety of our liberties, were deemed necessary at that early day, when our population was small and comparatively homogeneous, and when the elective franchise was confined to the most intelligent classes, it will hardly be contended that they have lost any of their force by the progress of events since they were promulgated. Restrictions which then existed on the right to participate in the administration of the government through the right of suffrage, and which were intended to exclude the ignorant, have been removed. Many thousands of immigrants, of all nations and tongues, who have been reared under monarchical governments, and who were illiterate and unacquainted with the spirit and genius of our institutions, and incapable even of reading the provisions of our Constitution, have been brought to our shores; and within little more than a decade, nearly five millions of people of African descent have been emancipated and elevated to the dignity of citizenship, and placed on the same level with the white race in regard to the elective franchise.

The relation of this latter class, especially, of our fellow-citizens to the Government and people of the United States, opens a wide field of inquiry as to the nature and extent of the obligations and duties which grow out of it.

It would be foreign to the purposes of this report to enter into an extended discussion of the history of the introduction of African slaves into our country, or of the many questions connected with their presence among us. But it can hardly be deemed out of place to state the unquestionable fact that they were introduced into what is now the territory of the United States by authority of the British Government more than one hundred years before the Declaration of Independence, and while we

were British Colonies. Nor was it done with the sanction of the Colonial Legislatures. On the contrary, there is abundant evidence to prove that some, if not all, of the Colonies earnestly remonstrated against it.

The preamble to the first constitution of Virginia, adopted on the 12th of June, 1776, three weeks before the Declaration of Independence, in reciting the causes of complaint against the British Government which had impelled that Commonwealth to arms, assigns as one of the most prominent, "that the King, by the inhuman use of his negative, refused permission to exclude by law the introduction of negro slaves."

It further appears, from the testimony of Mr. Jefferson, that his original draft of the Declaration of Independence contained the following impassioned paragraph: "He (the King) has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people, who never offended him; captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of *Infidel Powers*, is the warfare of the *Christian King* of Great Britain. Determined to keep open a market where men should be bought, he has prostituted his negative for suppressing every legislative attempt to prohibit or restrain this execrable commerce." (Writings of Jefferson, Vol. I, p. 19.) It is true that, from motives of prudence, this harsh denunciation of the British King was stricken out by the Committee, but that circumstance does not in any degree invalidate the truth of the charge.

The fact was recently distinctly admitted by John Bright, the eminent British statesman, in a speech delivered by him at Rochdale, on the 19th December, 1879. In that speech he is reported to have said: "And I may tell you that slavery in the United States was not the offspring of republican institutions. It was there in colonial and monarchical times; it was during the time of George III that, when the colonies of the United States would have abolished the slave-trade, the English Government forbade that abolition, and continued the trade."

Buckle, Vol. I, page 321, says: "George III looked upon slavery as one of those good old customs which the wisdom of his ancestors had consecrated." And in a note he adds: "Such was the King's zeal in favor of the slave-trade that, in 1770, he issued an instruction under his own hand commanding the governor (of Virginia), upon pain of the highest displeasure, to assent to no law by which the importation of slaves should be in any respect prohibited or obstructed." (Bancroft's American Revolution, Vol. III., p. 456.)

Edmund Burke, in his great speech on conciliation with America, delivered in the House of Commons, March 22, 1775, referring to a proposition to enfranchise the slaves in the Colonies, said: "Slaves as those unfortunate black people are, and dull as all men are from slavery, must they not a little suspect the offer of freedom from that very nation which has sold them to their present masters—from that nation, one of whose causes of quarrel with those masters is their refusal to deal any more in that inhuman traffic?"

These facts abundantly prove that whatever responsibility attaches to the introduction and continuance of slavery in the Colonies rests with the government of Great Britain. It is due, however, to the truth of history

to say that, when our fathers undertook to form the Constitution of the United States, they found the institution of slavery so interwoven with our industrial and social systems that they were obliged to leave it as they found it, trusting, doubtless, that a cure for it would be found in the future. Hence, neither the word "slave" nor "slavery" is to be found in the Constitution.

At the close of the Revolutionary War slavery existed in all the Colonies. But, under the influence of wise legislation, it gradually receded from the Northern to the more Southern States, where it lingered until the close of the Civil War, when, happily, by an amendment to the Constitution of the United States, this disturbing element in our political affairs ceased to exist anywhere within the jurisdiction of our government.

Every intelligent man must have foreseen that the grant of civil and political rights to the colored race must, sooner or later, be the logical sequence of emancipation. The only question which admitted of debate was as to the time when those rights should be bestowed. On this question there was much diversity of opinion. Some of the wisest statesmen of the day maintained that, in their uneducated condition, the colored race would be an unsafe depository of political power. They therefore contended for a period of probation, during which this race could be educated up to the level of their political duties.

Other counsels, however, prevailed, and a race numbering five millions of souls was elevated from the degradation of slavery to the high position of citizenship of a great republic, with all its precious rights and weighty responsibilities.

Our worthy General Agent, whose duties during the last twelve years have carried him into all portions of the Southern States, and thrown him into personal communication with all classes of the colored race, and with intelligent and trustworthy persons most familiar with their condition and capacity, states in his last report that "a large portion of them are, confessedly, unqualified for a judicious exercise of this power" (the right of suffrage). No unprejudiced and well-informed man can question the truth of this statement.

We are thus compelled to face the fact that more than half a million of voters, scattered over half the Union, from illiteracy are notoriously incompetent to the intelligent discharge of the public duties intrusted to them. This large class of uneducated voters, it must be remembered, are not merely citizens and voters of the States in which they respectively reside: they are also citizens of the United States. The power which they wield and the influence which they exert is not merely local: it is co-extensive with the Union. Their votes may decide the issues of peace or war; they may control Presidential elections and give shape to the policy of the nation; they are entitled to participate in the election of President and Vice-President, of members of the House of Representatives, and of the State legislatures which choose Senators of the United States; they elect governors and legislators of their respective States, and in many States, judges, clerks, sheriffs, supervisors, magistrates, and almost every officer intrusted with the administration of public affairs; they are themselves eligible to all positions of honor, trust, and emolument, and legally

competent to act as judges or to sit as jurors in cases involving the most sacred rights of life, liberty, and property.

The evils likely to ensue from intrusting political power to ignorant and incompetent hands have been so forcibly and eloquently explained by the late Horace Mann, of Massachusetts, that your Committee cannot forbear from quoting a few sentences from his masterly address on this subject as expressive of their own opinions. He says:

“The illustrious and noble band who framed the Constitution of the Union—Washington, Franklin, Adams, Jefferson, Madison—who adjusted all the principles which it contains by the line and the plummet, and weighed the words which describe them in scales so nice as to tremble beneath the dust of the balance, expended the energies of their mighty minds to perfect an instrument which, before half a century had passed away, was doomed to be administered, controlled, expounded, by men unable to read and write. The power of Congress over all the great social and economical interests of this vast country; the orbits in which the States are to move around the central body in the system; the functions of the Executive, who holds in his hands the Army and the Navy, manages all diplomatic relations with foreign powers, and can involve the country at any time in the horrors of war; and that grand poising power, the Supreme Judiciary, appointed to be the presiding intelligence over the system, to harmonize its motions and to hold its attracting and diverging tendencies in equilibrium—all this splendid structure, the vastest and nicest ever devised by mortals, is under the control of men who are incapable of reading one word of the language which describes its framework and defines its objects and its guards, incapable of reading one word of contemporaneous exposition, of antecedent history, or of subsequent development, and therefore make it include anything or exclude anything, as their blind passions may dictate. Phaeton was less a fool when he mounted the chariot to drive the horses of the Sun than ourselves, if we expect to reach the zenith of prosperity and happiness under such guidance.”

If Horace Mann felt justified in using language like this more than twenty years ago, where would he find words adequate to the expression of his thoughts if he were living in the present day!

Assuming, then, that the solemn warnings of Washington, Adams, Jefferson, Madison, and other Fathers of the Republic, and of Horace Mann, one of the most devoted champions of freedom, at a later era, were not merely idle words, idly spoken, but the deliberate expression of their matured convictions, we are naturally led to inquire: How can we best guard against the evils which they deemed so dangerous?

Your Committee are persuaded that the best security will be found in affording to ignorant voters such a degree of education as will qualify them for the intelligent discharge of their duties as citizens.

Here we may be met with the inquiry, Does your Committee intend to recommend that Congress shall assume control over the whole subject of education in the United States? They answer unhesitatingly in the negative. Popular education is a duty, which, as a general rule, belongs to the government and people of the respective States. It is a matter of

local and domestic policy, which can be more appropriately and effectually managed by the local governments.

But, in the opinion of your Committee, the colored race constitute an exceptional class of our population. Having for generations been held in slavery, they had no opportunity of obtaining education, of acquiring property, or of qualifying themselves for the intelligent discharge of the duties of citizenship. They are not responsible for their ignorance. They have had no teachers to instruct them in even the rudiments of knowledge, and their parents were as ignorant as themselves. It cannot, therefore, be matter of surprise that they should be, as they unquestionably are, generally incompetent to form intelligent opinions on political questions, or to exercise with discretion the elective franchise. Justice would seem to demand that when a duty is required of a class of citizens, the means should be afforded to them to discharge it properly. The general sentiment of mankind has condemned as tyrannical and oppressive the conduct of the Egyptian task-masters, who required the Israelites to make brick and yet refused to furnish the straw that was necessary.

There is another aspect of this subject which addresses itself strongly to the humanity and sympathy, as well as to the sense of justice, of the American people.

While the colored race were held in bondage they were at least protected from want by the superintending care of their masters, whose interests, as well as duty, prompted them to provide for the physical welfare of their slaves. Emancipation has broken this bond, and the illiterate race is now brought into competition with the whites in the struggle for subsistence. Knowledge is said to be power. With equal truth it may be affirmed that ignorance is weakness. Your Committee have already quoted the pregnant remark of Mr. Madison, that "knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with this power which knowledge gives." Can the people of the United States feel that they have done their whole duty to the colored race until they have given them that degree of education which is essential to self-protection?

Passing to the consideration of the subject in its broader and national aspects, can any reflecting man doubt that the infusion of so large an element of ignorance into the constituent body must be a source of weakness to our system of government? Can any one fail to perceive that such a class of voters are constantly liable to become the dupes of artful demagogues, and give their support to measures dangerous alike to liberty and property?

The Chairman of our Board, in his address at the opening of the last meeting, gave us an admonition on this subject which should never be forgotten. It was in these words: "Our free institutions rest upon intelligence and virtue, and can survive almost anything except ignorance, and the vice, corruption, and violence which are so generally the results of ignorance."

Let us next inquire into the magnitude of the danger which threatens us. The colored population of the United States was ascertained by the census of 1870 to be, in round numbers, four and a half millions. At the present date it probably exceeds five millions. If we assume that of these

one-seventh are voters, we have the fact that there are more than seven hundred thousand colored men in the United States, who are clothed with the right of suffrage and yet, in the mass, are incapable of discreetly exercising it.

We are now brought to the consideration of the question, from what source are the means to be supplied which are necessary to correct the evil?

By the operation of causes which have already been adverted to, it so happens that this class of our population, which at the date of our independence and for some years afterwards was diffused over all the Colonies, is now confined mainly to the Southern States. These States have not been insensible of the mischief to be apprehended from the presence of so large a class of ignorant voters, and they have manifested the most praiseworthy disposition to aid, as far as their means would allow, in their education. In most, if not all of them, systems of free schools have been established; but, in their impoverished condition, they are unable adequately to meet the emergency.

Some idea of the extent of the impoverishment of these States may be formed by reference to their assessments of values, as reported in the census returns of 1860 and 1870:

In 1860 the aggregate of values, including slaves, was.....	\$5,426,041,724
In 1870 the aggregate was.....	3,553,757,000
<hr/>	
Showing a decrease during the decade of.....	\$1,872,284,724

The population of these States in 1870 was: *

White	9,275,856
Colored	4,472,684

It will thus be seen that in 1870 nearly one-third of the population of those States consisted of recently liberated slaves, owning but little or no property, and generally with no means of acquiring any except by manual labor in grain or cotton fields. If we add to these the number of whites who were impoverished by the war, it will probably appear that one-half of the entire population is incapable of bearing taxation. Most of the Southern States which have attempted a liberal system of free common-school education have done so at the expense of their creditors, as they were obliged to apply to the support of their schools the money which had been pledged for the payment of their State debts. Relief from this source is therefore impracticable, and the only hope that remains of obtaining it is from an appeal to the liberality and justice of Congress.

Seven hundred thousand illiterate voters constitute an important factor in national politics. The influence which they may exert in shaping the destiny of our country has already been adverted to. But it must also be remembered that, being citizens of the United States, they are entitled to every right which belongs to citizens of each and every State. They may migrate, at pleasure, to any State, and there exercise all the rights, including the right of suffrage, to which the citizens of that State are entitled. An exodus from the Southern to some of the Western States has already commenced, and the day may not be far distant when the colored vote

may be the controlling power in those States. Each State, therefore, has a separate interest in guarding against the evil from this source by giving aid in the education of this class of voters.

But there are other considerations which address themselves with great force, not only to the patriotism but to the self-interest of the people of the North.

The appeal which was made in the late Civil War to the terrible arbitrament of arms has settled, as we hope, *finally*, that the union of these States is to remain forever indissoluble. Our country is, therefore, through all time, to remain one and indivisible. This unity of government seems necessarily to imply unity of interests. All the States being members of one body, whatever affects injuriously any member must be hurtful to all. It would be as unreasonable to expect that an ulcer in one member of the human body would not affect the whole system, as to suppose that the ignorance and vice which may afflict one of the States would not extend their baneful influence to all.

History teaches us that in all communities where freedom of thought and speech is tolerated, earnest and sometimes angry controversies, growing out of real or supposed diversities of interest, are almost certain to arise. Among the most fruitful sources of this kind of discord is the assumed antagonism between capital and labor, between the interests of the rich and the poor. Fallacious as all such ideas may be regarded by educated men, they are, and ever will be, captivating to the uneducated and the destitute. Where large masses of population are uninformed, and in need of the common necessaries of life, nothing is more easy than for artful demagogues to inflame their minds against their more fortunate countrymen, who, by patient industry and thrift, have been able to surround themselves and their families with all the appliances of comfort and luxury.

What right have the people of the United States to claim exemption from dangers of this kind, which have proved so disastrous in other countries? It must be remembered that probably four-fifths of all the bonds of the United States, of the several States, of counties, cities, and towns, and of railroad and canal companies, and even a larger proportion of the stocks of all the banks, railroad and canal companies, factories, insurance companies, and other moneyed corporations, which are held by citizens of the United States, are owned by capitalists of the Northern and Eastern States. The people of the Southern and Western States, and especially the colored people, own very few of them, and have no further concern with them than to bear, directly or indirectly, their share of the taxes levied to pay the interest or dividends on them. What security have the people of the United States that these jarring interests of debtor and creditor, of numbers and property, may not in the future give rise to serious conflicts? Very recently riotous commotions of this kind assumed such formidable proportions as to render it necessary to use military power to suppress them. If to this turbulent element of the North there be added seven hundred thousand untutored and non-property-holding colored voters, whose interest is opposed to these kinds of property because of the taxation which they entail upon them, it requires no spirit of prophecy to foresee that the danger will be greatly increased. Attempts

have already been made, and not without some success, to instill into the minds of the colored voters the idea that they are neither morally nor legally bound to pay any public debt which was contracted before they were emancipated and invested with the rights of citizenship.

Admonitions like these ought to teach the thoughtful men of all parts of our country, those who desire to maintain the peace and order of society, that the time for vigorous action has come. Delays are dangerous. If the corrective be not promptly applied, the evil may become irresistible. That corrective is the diffusion of knowledge among the people; and this can be accomplished only by teaching every voter to read and write, so that he may be able to have access to the best sources of information and form an intelligent opinion on every question which may arise.

The next point which your Committee have felt it to be their duty to consider is: Does Congress possess the constitutional power, not to *control*, but to *contribute* to the education of citizens of the States?

If doubts were entertained as to the existence of such a power in an unqualified form, it might well be contended that the case of the colored population is surrounded by such peculiar circumstances as to take it out of the influence of any general rule. But fortunately, this question, even in its general aspect, is not a new one, presented now for the first time to be decided. It may be regarded as *res adjudicata*. The laws of the United States present innumerable precedents in which Congress has exercised the power to contribute toward the general education of citizens of the new States, and in no instance has its constitutional right to do so been questioned.

As preliminary to the discussion of this branch of the subject, it may be proper to state a few prominent facts in connection with the public domain of the United States, which constitutes the fruitful source from which Congressional aid to education has been supplied.

By the treaty of 1763, between Great Britain and France, it was agreed that the Mississippi River should be regarded as the western boundary of the British American Colonies. At the close of the Revolutionary War all the territory lying between the Atlantic on the east, the Mississippi on the west, the lakes on the north, and the thirty-first parallel of latitude on the south, was either included in the limits of the thirteen Colonies or was claimed by them. In the year 1780, at a very critical period of the Revolutionary struggle, the Continental Congress urged the States to cede their respective claims to the "Northwestern Territory" to the general government, as a measure essential to the credit of the government, and perhaps to the independence of the Colonies.

After much negotiation with the Continental Congress, Virginia agreed on the 20th of May, 1783, to make the cession, with certain reservations and on conditions set forth in the act of her general assembly of that date. Among the conditions which she required to be incorporated into the deed of cession is the following:

"That the lands within the territory so ceded to the United States, and not reserved for or appropriated to any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered as a common fund for the use and benefit of such of the United States as have become or shall become members of the

Confederation, or Federal Alliance, of the said States (Virginia inclusive), according to their usual respective proportions of the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose and for no other use or purpose whatsoever." (Act December 20, 1783.)

All the other States which claimed unsettled territory within the limits above described, from time to time ceded the same to the general government, which thus became possessed of the legal title to the whole. The purchase of Louisiana in 1803, and of Florida in 1819, added vastly to the area of the public domain of the United States, and it was still further extended by acquisitions from Mexico, by treaties with Indian tribes, and by the purchase of Alaska.

In the first act passed by the Continental Congress, on 20th of May, 1775, for the disposition of the lands ceded by Virginia and the other States (and which has constituted the basis of the policy in regard to all the public lands), it was enacted that they should be laid off into townships, that section No. 16 in each township should be reserved for the maintenance of public schools, and that two townships in every State should be set apart for the support of a university.

In 1848 and 1849 a still more liberal policy in regard to the provision for educational purposes in new States was adopted. In the acts passed in those years, respectively, creating the Territories of Oregon and Minnesota, section No. 36, in addition to section No. 16, in each township was set apart for school purposes; and to each new Territory organized and State admitted since 1848 (except West Virginia), the sixteenth and thirty-sixth sections of every township, one-eighteenth of the entire area, have been granted for common schools. Other States have received grants greatly in excess of the 46,080 acres, which is the quantity embraced within two townships. Ohio has received 69,120 acres, Florida and Wisconsin 92,160 acres each, and Minnesota 82,640 acres.

For information in regard to the extent of these grants your Committee are indebted to the first report of Dr. Barnard, late United States Commissioner of Education, published in 1868. From this report it appears further that under the acts of Congress passed in 1785 and 1786, there had been distributed among twenty-six new States and Territories 67,983,914 acres for the support of schools, besides what was given for universities and deaf-mute asylums. Of the pecuniary value of these grants, some estimate may be formed by reference to the report of Dr. Barnard in regard to the lands granted to Minnesota. It appears from that report that from 1862 to 1866, embracing a period of five years, Minnesota had sold 210,769 acres, which yielded \$1,324,779, the average price being \$6.28 per acre. At that date she had, unsold, 2,795,898 acres, which, if sold at the same price, would yield nearly \$18,000,000 more. In other words, the United States have granted to the single State of Minnesota lands, for the purposes of education, which have a money value of nearly \$20,000,000, while not a dollar's worth has been granted to any of the original thirteen States except their proportion of the grant for the endowment of agricultural and mechanical colleges, in which the new States as well as the old participated ratably.

In view of this unbroken line of precedents, commencing nearly a hun-

dred years ago under the Articles of Confederation, before the Constitution of the United States was adopted, and steadfastly continued under the Constitution of the United States to the present day, it would seem to be idle now to raise a question as to the constitutional power of Congress to make such grants.

It may not be amiss to say that in addition to the grant of land made by the United States out of the common fund for the purposes of education, it appears from the report of the Commissioner of the General Land Office that grants amounting in the aggregate to 189,219,886 acres had been granted prior to 1867, mainly for the benefit of the new States, for the construction of canals and railroads. What has been the extent of the grants since that date your Committee have not had the means of ascertaining.

It has already been stated that the cession by Virginia of her North-western Territory to the general government, which was among the earliest in the order of time, was made and accepted on the condition expressed on the face of the deed that this territory so ceded should be held and considered as a common fund for the use and benefit of all the States (Virginia included), and for no other use or purpose whatsoever. Your Committee have not had access to the deeds of cession made by the other States so as to be able to state whether similar conditions and trusts were expressed on the face of those deeds. Be that as it may, your Committee have no hesitation in expressing the opinion, that from the nature and purpose of the grants, and the circumstances under which they were made, similar trusts must necessarily be implied. And, as all the other additions to our public domain were acquired either by purchases which were paid for out of the common treasury of all the States, or by conquest effected by the common arms of all the States, a trust in regard to them necessarily results for the common benefit of all the States.

The whole public domain may, therefore, justly be regarded as a trust subject, of which the government of the United States is trustee and the States the beneficiaries. This, like every other trust, should be administered equitably, and in such a manner as to give effect to the purposes for which it was created. The principles of equity are immutable. They are not affected by the character of the parties in interest. They apply with equal force to natural persons, to corporations, and to governments. Wherever a trustee has, inadvertently and from the exigency of circumstances, departed from the terms and spirit of the trust, and given to one or more beneficiaries a larger share of the trust subject than he or they are entitled to receive, justice demands that he shall so administer the residue as to restore equality among all entitled to participate in the fund. In cases where an individual or a corporation amenable to process of law fails or refuses to administer his trust upon this principle, a court of equity will intervene to compel him to do justice among all the parties in interest. The government of the United States surely cannot ignore these fundamental maxims of equitable jurisprudence or claim exemption from them.

The above statement of facts is intended to show that the government has executed its trust in relation to the public domain only partially. Its policy has been mainly directed by the necessity of encouraging immigra-

tion to new States struggling into existence in the western wilderness, and whose people were unable to make adequate provision for the education of the young. This necessity was greatly enhanced by the fact that many of the settlers in the new States were foreigners, ignorant of our language and of our institutions; and it was, therefore, important to enable even adults to acquire such education as was necessary to fit them for the discharge of the duties of good citizens.

This beneficent purpose has now been accomplished. The acts of Congress have provided an ample educational fund in every new State and Territory, and the reason for departure from the line of the trust no longer exists. The time has arrived when its fiduciary obligations should be strictly complied with, by returning to the principle of equality in the distribution of the fund. The intrinsic equity of such an administration of the trust in the future must commend itself to every fair and unprejudiced mind, independently of all extraneous considerations. But it derives new force from the fact that a large class, without education and without the means of getting it, have, by the act of the government itself, been made voters in six of the "Original Thirteen," and a larger number of the new States. The just claim of this large class of voters can no longer with propriety be resisted or evaded. It appeals, as has been clearly shown, alike to justice and humanity and Christian sentiment, and we may add to the enlightened self-interest, of every part of our common country.

The national domain which still remains unappropriated amounted, in 1867, to 1,414,567,594 acres.

This constitutes an ample fund, not only to educate the colored people of the Southern States, but to equalize the account between the old and new States, and still leave an almost inexhaustible supply for many generations to come. It appears from the last annual report of our able and accurate General Agent that there are at this time "two millions of children in these [the Southern] States without the means of instruction." Of these doubtless more than one-half are colored. Our General Agent presents the necessity of action by Congress on this subject in the following impressive words: "The mere neglect of a great opportunity may entail disaster upon them and their posterity by suffering a horde of young barbarians to grow up to prey upon the peace of society. The peril, if once overlooked in the critical moment, cannot afterwards be remedied by legal enactment and penal measures. If men fail to take the necessary precaution by training the young to be useful citizens, they must expect to reap a corresponding harvest, and to see around them a community distinguished for 'dwarfish virtues and gigantic vices.'"

This is the language of a man who was born, reared, and educated in the East. A native of Massachusetts and for some years Superintendent of Public Schools in that ancient Commonwealth, he has become practically acquainted with the necessity of education. Twelve years ago he was called from the presidency of Brown University in Rhode Island to become the General Agent of the Peabody Board. During that time he has faithfully fulfilled the duties of that position, making annual visits to the Southern States, having free intercourse with the people of all classes and colors, and becoming familiar with their condition and wants. He speaks, therefore, not from rumor but personal observation and knowledge.

The only remaining points which seem to demand a passing notice from your Committee are—1st, the mode of administering the assistance; 2d, the extent to which it should be carried; and 3d, the period for which it should be continued.

1st. The experience of this Board has demonstrated the propriety of using the officers connected with the school system of the respective States as agents in the application of the funds of the Peabody Board to the purposes of the trust. All the Southern States seem now to have awakened to a sense of the importance of a general system of free schools. Most of them have organized efficient systems of instruction so far as their limited means will allow them to go. Faithful and competent officers have, in most instances, been put in charge of them. These agencies are too important to be overlooked. Their employment, as means by which the bounty of Congress can be bestowed, is recommended by considerations of economy; and their use would tend, also, to avoid local jealousies and promote harmony and unity of action. The Bureau of Education, already organized at Washington, could act as the central agency, and have the general direction of the entire system, as the General Agent of the Peabody Board now has in the administration of its funds.

2d. As to the extent of the relief to be afforded: This will, of course, depend on the opinion which Congress may form as to the importance and pressing nature of the subject. Your Committee will only suggest that it should be liberal and proportioned to the great work to be done.

The first effort should be directed to the successful introduction of a system of rudimentary education. Differences of opinion may arise as to what branches of knowledge should be taught in these schools. Thomas Jefferson, who in the latter part of his life bestowed much labor and thought upon the subject of popular education, in describing the proper subjects and limitations of primary education, says:

“These objects would be—

“To give to every citizen the information he needs for the transaction of his own business.

“To enable him to calculate for himself, and to express and preserve his ideas, his contracts, and accounts in writing.

“To improve, by reading, his morals and faculties.

“To understand his duties to his neighbors and country, and to discharge with competence the functions confided to him by either.

“To know his rights; to exercise with order and justice those he retains; to choose with discretion the fiduciary of those he delegates; and to notice their conduct with diligence, with candor, and judgment.

“And, in general, to observe with intelligence and faithfulness all the social relations under which he shall be placed.

“To instruct the mass of our fellow-citizens in these their rights, interests, and duties as men and citizens, being then the objects of education in the primary schools, whether private or public, in them should be taught reading, writing, and numerical arithmetic, (the elements of mensuration (useful in so many callings), and the outlines of geography and history.”

3d. As to the period of time for which this liberal provision for the

primary education of the colored race should be continued: Your Committee hope that if the system which they propose shall be adopted, its benefits will be so apparent that, by general consent, a permanent fund will be set apart, as has been done in the new States, for its continuance through all future time. But the most urgent demand now is for a liberal provision to meet the exigencies of the present time. The colored people of the Southern States are now in great part ignorant and without property. Few of the adults can read or write. They are incapable, therefore, of giving any instruction to their children at home. They are entirely dependent on the assistance of the public schools. Aid should be given, not only to the young, but also to adults where they are willing to receive it. If such a system of instruction be pressed with energy for fourteen or fifteen years, it is hoped that after that time, in consequence of the advance which, it may reasonably be expected, the race will have made in the attainment of knowledge and the acquisition of property, the amount contributed for their benefit may be gradually diminished.

In view of all the facts and reasons above stated, your Committee are of the opinion that the suggestions made in the address of the Chairman and the report of the General Agent were wise and well timed, and ought to receive the sanction and support of the Board.

In conclusion, it may not be improper to offer a few words explanatory of the reasons which seem to render it proper that this Board should bring the matter of education in the Southern States to the notice of Congress.

George Peabody, the enlightened and beneficent founder of the trust which bears his honored name, was a native of Massachusetts, but for many years a resident of London, where he accumulated a large fortune. With characteristic sagacity, he was among the first to foresee the evils which would be entailed on the Southern States by the ravages of the War, and the consequent inability of the people of those States to extend to the rising generation the blessings of education. Discarding every feeling of a sectional character and acting with a magnanimity almost without a parallel in history, he dedicated several millions of dollars of his private fortune to be held by trustees [named by himself] and their successors, and the income thereof used and applied, in their discretion, for the promotion and encouragement of intellectual, moral, and industrial education among the young of the more destitute portions of the Southern and Southwestern States of our Union, his purpose being that the benefits intended should be distributed among the entire population, and without other distinction than their needs and the opportunities of usefulness to them.

For twelve years the members of this Board have endeavored faithfully to discharge the duties of the trust reposed in them. In the performance of this duty their thoughts have been turned to the destitution of the Southern States, to the unlettered condition of a large portion of their population, and to the necessity of extending liberal assistance to the education of the new class of voters who have been introduced into our system. The Board have the satisfaction of knowing that with the limited means at their disposal they have been able to accomplish much good. But these means are entirely disproportionate to the end. Where

millions of citizens are growing up in the grossest ignorance, it is obvious that neither individual charity nor the resources of impoverished States will be sufficient to meet the emergency. Nothing short of the wealth and power of the Federal Government will suffice to overcome the evil.

Your Committee are, therefore, of the opinion that, as the official representatives of George Peabody and of the patriotic purposes which he had in view in the establishment of his trust, it is eminently proper, if not strictly in the line of their duty, that this Board should present to the notice of Congress the facts which have come to their knowledge in the course of their administration of this trust, and ask that Congress shall give such aid as may be deemed proper in furtherance of education in the Southern States.

Your Committee, therefore, recommend the adoption of the following resolution :

Resolved, That it is expedient that this Board should present a memorial to Congress, praying that it may grant such aid as may be required to secure to the colored population of the Southern States the education which is necessary to fit them for the discharge of their duties as citizens of the United States.

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