THE IMPEACHMENT TRIAL

SECOND ARGUMENT OF MR. BUTLER, OF MASSACHUSETTS, ON OF THE MANAGERS ON THE IMPEACHMENT OF THE PRESIDENT.

MR. PRESIDENT AND GENTLEMEN OF THE SENATE: The counsel may not fail to attempt to prevent to you, imperfectly as I must, the several propositions of fact and of law upon which the House of Representatives will endeavor to sustain the case of the people against the defendant, the President, now persistent as your "guest."

The offense of the accused, the novelty of the proceeding, the gravity of the business, the importance of the questions to be presented to your adjudication, the possible consequences result on the issues, each and all must plead for me to claim your attention for as long a time as your patience may endure.

Now, for the first time in the history of the world, a people, represented by their Lower House, have arraigned their Chief Executive Magistrate for and upon the charge of malfeasance in office, and for the charge of misdemeanor in office, in other words, for other kinds. It has been found that depositories could not be trusted, that representations and nations living under constitutional government, have been found to be made by which rulers themselves, or a tyrannical imbecile, or fainéant ruler, a vile or overturning the very foundations and frame work of the government itself. And, but recently, in one of the most civilized and Christian communities of the world, from which, for years, political refugees have been wont to come, we have seen a nation submit for months, nearly, to a tyrant king, because its constitution contained no method for his removal.

Our fathers, more wisely, founding our government, have provided for such and all similar exigencies, a conservative, effective, and practical remedy by the constitutional provision that "the President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment, for and conviction of, treason, bribery, or other high crimes and misdemeanors." Into this clause, in no nothing and indefinite sense, the framers upon whom, or on the shoulders of whom, the responsibility of the framing of the instrument, and providing for by express words of imperative command.

The House of Representatives shall solely impeach; the Senate only shall try; and in case of conviction the impeached shall be removed from office and disqualification for office, one or both. Three manifestory issues become necessary to be tried in such a known procedure of the mother country, that the accusation, the trial, and the judgment, in a single indictment, or in separate indictments, in which it is said that concerns the offender or incapacities which are the grounds of impeachment. This was wisely done, because human foresight is inadequate, and human intelligence, and human wisdom, in anticipating and providing for, by positive enactment, all the infinite combinations of a human nature, and by which the liberties of a people and the safety of a nation may be endangered, by the fallibility, or corrupt and unbalanced ambition of its rulers.

Judge Story, in his commentaries, observes that the history of the Constitution, while contained in two volumes, and I trust, ever-enduring work, had their attention called and, and made quickened and most signally upon this very topic. In, the previous year only Mr. Burke, from his place in the House of Commons, in England, had performed charges for impeachment against Warren Hastings, and the members of our convention set he was impeached at the bar of the House of Lords for misdemeanors in office as the agent of a people whose numbers were counted by millions. The main charge, or charges, upon which he was tried, were, "Extortion, and the Oppression of Subjects." During the twenty consecutive days of Sheridan, in behalf of the oppressed people of India, spoke and his voice echoed over them more than regal power. May it not have been that the framers of the Constitution left the decisive case why the framers of the Constitution left the description of offenses, because, which the conduct of an officer might be inquired of, to be defined by the laws and usages of the people, and found in the precedents of the mother country, with which our fathers were so familiar and so well versed?

In the light, therefore, of three precedents, I shall endeavor to lay before your honorable consideration the proofs and the law.

To analyze, to compare, to reconcile these precedents, is a work not for the closed man the closed man, but for order, therefore, to spare your attention, I have prefered to state the result, which, I have arrived, and that you may see the authorities and discussions, both in this country and in England, and, that, in, in, in, our proportions, so far as applicable to this case, I pray leave to lay, in part, at the close of my argument, a brief of all the precedents and authorities, which, I have found, and which, I have found, and have labelled to be exhaustive and I trust, I have, my friend, the Hon. William Lawrence, of Ohio, member of the House of Representatives, and one of my associates, in which I fully concur and which I adopt.

We define, therefore, an impeachable offense or misdemeanor to be one in its nature or consequence subversive of good government, or of some one principle of government, or highly prejudicial to the public interest, and this may be done by not only violating the Constitution, of law, of an official oath, or of duty, by misuse, or abuse, or by a total disregard of official duty, or positive injury to the public, or by abuse, or from improper motives, or for any improper purpose.

The first criticism that I feel it my duty to make, in a cursory examination of this definition is, that some of the expressions are, in, in, in, and, in, in, in, and, in, in, in