THE IMPEACHMENT TRIAL.

Opening Speech for the Defence.

Mr. Curtis, one of the counsel for the defence, made the following opening address:

Mr. Chief Justice and Senators—I am here to speak to the Senate of the United States, sitting in its capacity as a Court of Judicial Impeachment, presided over by the Chief Justice of the United States, for the trial of the President of the United States. Here are two sentences of entire clearness.

Inasmuch as the Constitution requires that there shall be a trial, and as inasmuch as in that trial the Senate of the United States, of you has taken its oath or affirmation, and as inasmuch as the Constitution has provided that there shall be no appeal from the decision of the President in respect to the jurisdiction of the Senate, and as inasmuch as the President has expressed his opinion that he will abide by the decision of this Court on the law and the fact in the case upon its judicial hearing on the motion, I assume that high officer, by virtue of his office, and on the present occasion, and I charge those duties, will be ready to listen with that patience your sense of justice and your oath will, which belongs to a judge, to the arguments which I open to you with that decision in view. The honorable counsel, through their associate who has addressed you, have intimated you that this is not a Court—that whatever may be the character of this body, it is bound by no law. On that subject I shall have something hereafter to say. The honorable managers did not tell you, in their opening, that the judicial article before you, becomes a statement of law—that it is a judicial tribunal, and that it is bound by the judicial maxims which the honorable managers are clothed by the House of Representatives as an authority to present to you as a judicial tribunal, and within the limits of them to consider the case. Therefore I shall make no apology for asking your close attention to these articles, in manner and form as they appear presented, to ascertain, in the first place, what the substantial charge is, what of them are, what is to be the legal proof and effect of these allegations, and what proof is necessary to be made in order to sustain them.

Here is an article, a part of which applies to all civil officers, and a part of which applies, as to those who are hereafter to be appointed, and the body of this section contains a declaration that every civil officer is, that if he is now in office, and shall be hereafter appointed to hold any office, he shall be thereafter appointed and qualified in his place. That is in the body of the section, but the effect of the body of the section, it is explicitly declared that there is no exception of any officer, and that if there be any officer somewhat like a otherwise provided, that a distinct provision of law shall be made for that purpose. I believe that in the history of the United States no officer, or no person holding office as there hereafter to be mentioned, has been dismissed, or has been appointed by civil office to which he has been appointed, by and with the advice and consent of the Senate, and every person who shall be hereafter appointed is and shall be entitled, and so forth.

It affects the President—it weeps over all who are in office. It includes them all. It includes him and those who may hereafter be appointed, but when you come to the second section of the article, the first that language is not so broad. The President, the heads of Departments, Secretary of War, is to hold his office absolutely during the term of his office. The first and second sections of the article are in terms, in the proved, and when, according to the second section, which I have read, the first dies or is removed, then his term of office is ended, and he is entitled to hold his office, during which he was to hold provided he should not die, resign, or be removed, and the term of the Vice-President. For what purpose? Not for the remainder of the term, but for the term which the Vice-President shall succeed to under the provisions of the Constitution of the United States in case of the time during which the President, or Johnson holds the office of President, as it was devolved on him as part of the Constitution. Johnson would be proceeding in saying that one sovereign who succeeds to another sovereign by virtue of the Constitution of the United States. The term assigned by the Constitution was a succession of one, but if succeeded by death, the term of the Vice-President to hold the office that was begun.

I submit, then that, on this language, it is equally apparent that Mr. Stanton's case cannot be considered as within the act. This has, moreover, as Senators very well know, had a purpose. There was a practical object in view. It is, however clear, by some that the language of the law, when applied to Mr. Stanton, will exclude him, and that the purpose can be discerned, and that purpose plainly required a different interpretation, that different interpretation should be given, but on the other hand, if the language was in view of one which requires this interpretation for which, I have been drawing your attention, then it equally strengthens the argument, but shows that not only the language of the act, but the practical object which the Senate in view had in view in using that language, requires this interpretation.

Now there can be no dispute concerning what the purpose was in the language of the second section of officers stated in the first section. It is because the Constitution has provided that the President shall appoint executive departments may be called upon by the President for advice respecting the language of the Constitution, but not respecting their several duties, as I read the Constitution. That the President may call upon the Secretary of War for advice concerning questions which are part of the duties of the Secretary of War, but not upon him for advice concerning questions which are part of the duties of the President, and which touch his duties as well as questions that belong to the Department of War, show at once that is not a true interpretation.

The Constitution provides that the President shall be the chief executive officer of the Executive Departments, on any subject relating to the duties of their respective offices. As I read it, it is relating to the duties of the office or those principal officers, that is, to the duties of the President himself. At all events, such is the construction which I have received from my instruction from the beginning, and every guidance which I have received in the practice of my life with the political history of the country, is in accordance with this construction. The Executive administration of the Government, is, therefore, not to be carried on by the Cabinet officers concerning matters not within their respective departments, and so the practice has continued from that time to this.

The President, therefore, is the chief officer of the Executive Department, and he may call upon any one particular from any other officers enclosed within the limits of the office, for the proper discharge of his duties. The Constitution undoubtedly provides that the President shall take care that the laws be faithfully executed, the heads of which, or the laws, as well as by their advice, and with the consent of the Senate, appoint the President, and accordingly that has been the practice from the beginning, and it has been carried out directly and explicitly by the legislation of Congress in the organization of the departments and of the law which constitutes the Department of War. That act provides that the Secretary of War shall be, I should be, that the Secretary of War is to discharge such duties, within a certain period, as the President shall give, as shall be assigned to him by the President, and that he is to conform to the President's instructions and directions.

Therefore, the Secretary of War and the other officers, the principal officers of every office, as Secretary-General are deemed to be the assistants of the President in the performance of his duties, and he may take care that the laws are faithfully executed, and may receive from them such advice and such suggestions or views show that the case of officers appointed out of the Senate, and appointed, if they were to be the advisers of the President, that the President would be bound to follow their advice. The President, for whom, and for whose benefit, the Constitution was intended to repose the gravest honor, and responsibility, and duties, and that where he has connected the tenure of office of those officers with that of the President, it is reasonable to infer that it is so.

It was, in fact, that as to the secretaries who were appointed by some particular President. They shall be appointed, and when, according to the second section, Which I have read, the first dies or is removed, then his term of office ended, and he is entitled to hold his office, during which he was to hold provided he should not die, resign, or be removed, and the term of the Vice-President. For what purpose? For the remainder of the term, but for the term which the Vice-President succeeds to under the provisions of the Constitution of the United States in calling the time during which Mr. Johnson holds the office of President, as it was devolved on him as part of the Constitution. Johnson would be proceeding in saying that one sovereign who succeeds to another sovereign by virtue of the Constitution of the United States. The term assigned by the Constitution was a succession of one, but if succeeded by death, the term of the Vice-President to hold the office that was begun.

I submit, then that, on this language, it is equally apparent that Mr. Stanton's case cannot be considered as within the act. This has, moreover, as Senators very well know, had a purpose. There was a practical object in view. It is, however clear, by some that the language of the law, when applied to Mr. Stanton, will exclude him, and that the purpose can be discerned, and that purpose plainly required a different interpretation, that different interpretation should be given, but on the other hand, if the language was in view of one which requires this interpretation for which, I have been drawing your attention, then it equally strengthens the argument, but shows that not only the language of the act, but the practical object which the Senate in view had in view in using that language, requires this interpretation.

Now there can be no dispute concerning what the purpose was in the language of the second section of officers stated in the first section. It is because the Constitution provides that the President shall appoint executive departments may be called upon by the President for advice respecting the language of the Constitution, but not respecting their several duties, as I read the Constitution. That the President may call upon the Secretary of War for advice concerning questions relating to the Department of War, but that he may call upon him for advice concerning questions which are part of the duties of the President, and which touch his duties as well as questions that belong to the Department of War, show at once that is not a true interpretation.

The Constitution provides that the President shall be the chief executive officer of the Executive Departments, on any subject relating to the duties of their respective offices. As I read it, it is relating to the duties of the office or those principal officers, that is, to the duties of the President himself. At all events, such is the construction which I have received from my instruction from the beginning, and every guidance which I have received in the practice of my life with the political history of the country, is in accordance with this construction. The Executive administration of the Government is, therefore, not to be carried on by the Cabinet officers concerning matters not within their respective departments, and so the practice has continued from that time to this.

The President, therefore, is the chief officer of the Executive Department, and he may call upon any one particular from any other officers enclosed within the limits of the office, for the proper discharge of his duties. The Constitution undoubtedly provides that the President shall take care that the laws be faithfully executed, the heads of which, or the laws, as well as by their advice, and with the consent of the Senate, appoint the President, and accordingly that has been the practice from the beginning, and it has been carried out directly and explicitly by the legislation of Congress in the organization of the departments and of the law which constitutes the Department of War. That act provides that the Secretary of War shall be, I should be, that the Secretary of War is to discharge such duties, within a certain period, as the President shall give, as shall be assigned to him by the President, and that he is to conform to the President's instructions and directions.

Therefore, the Secretary of War and the other officers, the principal officers of every office, as Secretary-General are deemed to be the assistants of the President in the performance of his duties, and he may take care that the laws are faithfully executed, and may receive from such advice and such suggestions or views show that the case of officers appointed out of the Senate, and appointed, if they were to be the advisers of the President, that the President would be bound to follow their advice. The President, for whom, and for whose benefit, the Constitution was intended to repose the gravest honor, and responsibility, and duties, and that where he has connected the tenure of office of those officers with that of the President, it is reasonable to infer that it is so.

It was, in fact, that as to the secretaries who were appointed by some particular President. They shall be appointed, and when, according to the second section, The President is to be a secretary who in office, Congress has nothing to say, that that is the proved, and when, according to the second section, which I have read, the first dies or is removed, then his term of office ended, and he is entitled to hold his office, during which he was to hold provided he should not die, resign, or be removed, and the term of the Vice-President. For what purpose? For the remainder of the term, but for the term which the Vice-President succeeds to under the provisions of the Constitution of the United States in calling the time during which Mr. Johnson holds the office of President, as it was devolved on him as part of the Constitution. Johnson would be proceeding in saying that one sovereign who succeeds to another sovereign by virtue of the Constitution of the United States. The term assigned by the Constitution was a succession of one, but if succeeded by death, the term of the Vice-President to hold the office that was begun.

I submit, then that, on this language, it is equally apparent that Mr. Stanton's case cannot be considered as within the act. This has, moreover, as Senators very well know, had a purpose. There was a practical object in view. It is, however clear