

# THE MONTROSE DEMOCRAT.

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## A HISTORY of the Great Struggle between Liberty and Despotism for the last Hundred Years.

A party in the Northern states of America calling themselves Republicans, have formed a political alliance with the African race of the South, recently the slaves and servants of the white race. Every negro in the ten conquered States of the Union has been armed with a ballot who has arrived at the age of 21 years. Every black man in the Northern states would have been endowed with the same high privilege, if the leaders of that party could have forced it upon them in the same manner as at the South—which was at the point of the sword. The whole negro race in America have been courted and solicited by this party to become their allies. And for what purpose? The avowed object of these negro votes is to crush out Democracy from the nation.

Fifty years ago this same party formed an alliance with all the Indians in America, and this alliance was for the same object—the overthrow of Democracy, and the establishment of British monarchy.—The author of the Life of Gen. Harrison says:

"In the year 1806 Tecumseh had matured a plan which the great Pontiac had attempted in vain; to unite all the Western tribes in a league against the whites, under the expectation that the combined Indian force would be sufficient to destroy all the western settlements, and drive the whites out of the great valley of the Mississippi. He possessed an intuitive hatred toward the white man, against whom he had sworn eternal vengeance. His brother was a celebrated prophet among the tribes, and prophesied a speedy downfall of the whites, the restoration of the Indians to all their hunting grounds, and the resumption of the customs of their ancestors.

"Up to the year 1811, Tecumseh and his brother were engaged in constant intrigues against the United States. A thousand young warriors had rallied around him, rallying forth in greater or smaller parties to commit the most atrocious deeds of depredation and murder along the whole western frontier. In the following year the British government formed an alliance with him and his tribes—promoted him to the rank of Brigadier General, and gave him command of all the Indians who co-operated with the British armies in the campaigns of 1812-13."

What a beautiful illustration is here given of the sublime doctrine now taught by the Republican party of the "brotherhood of mankind!" The "white aristocrats of Great Britain," "at one bound," elevated the savage Indian race upon a platform of equality with themselves, and Brigadier General Tecumseh was ordered to maintain this equality with the tomahawk and scalping knife. These instruments took the place of the ballot, how in the hands of the negroes, to maintain their equality with the white people of the South.

But how was it with the white race in America, descended from the same race in Great Britain? Mr Craik, an English author, says, "If there was a brotherhood between us, it had become a brotherhood of Cain!" Yes! These white brothers in England could hire their red brothers in America to murder and exterminate all their white brothers who refused to submit to their tyranny and oppression. They had a great affection for their dear Indian and negro brothers, but a desperate hatred toward their white ones.

Color was a mark of distinction with those British aristocrats, as it is now with the same party in America. Would you not rather associate with a negro than a Democrat? Ask the Republicans. And why? Because the negroes will help them build up a monarchy and an aristocracy, both of which Democrats abhor.—Many of the leaders of the Republican party promised the negroes of the South the lands of the white people there, if they would vote for them, and sustain their great party of "moral ideas." This was the same promise the British government made to their Indian allies. In one of "Brigadier Gen. Tecumseh's" speeches, he says to Gen. Proctor:

"Listen! When war was declared, our father, the king of England, stood up and gave us the tomahawk, and told us they were now ready to strike the Americans; that he wanted our assistance; and that he certainly would get us our lands back which the Americans had taken us. The war before this, our British father gave the hatchet to his red children, when our

old chiefs were alive; they are all now dead. In that war our father was thrown on his back by the Americans, and our father took them by the hand without our knowledge, and we are afraid he will do so again at this time.

"Our ships are gone away, and we are very much astonished to see our father trying up everything and preparing to run away the other, without letting his red children know what his intentions are.—You always told us that you would never draw your foot off the British ground; but now, father, we see you drawing back, and we are sorry. We must compare our father's conduct to an animal that carries its tail upon its back, but when affrighted it drops it between its legs and runs off."

"In the war before this," Gen. Washington and his brave armies "threw our British father on his back," and in the war where Brigadier General Tecumseh led the red children of the British father, the Democrats, who are now put under the negroes, astonished poor Tecumseh by compelling his father to "tie up every thing and run away" off American soil, and they are now receiving their punishment therefor by having the black race arrayed in deadly hatred against them, with the ballots in their hands of which the Republicans have robbed them, in order to trample them in the dust.

It remains to be seen whether the party that conquered Indians, negroes and white tyrants in two bloody wars, will tamely submit to be ruled now by negroes, who have been not only their own slaves, but the slaves of the party who have placed them above their own white brothers, while proclaiming "all men are created equal."

The number will show how hard Democrats had to fight against Indians, British and Federalists in 1812, to preserve the liberties bequeathed to America by Washington.

### General Hancock.

An interesting interview between General Hancock and the Chief of Police of New Orleans is described in the Picayune of that city. The latter official, it appears, had certain prisoners in his custody, and had determined to disobey a writ of habeas corpus issued from a civil court. The account in the Picayune thus refers to the interview:

General Hancock stated to Major Williamson Chief of Police, that he had learned that a writ of habeas corpus had been issued, and that owing to some illegality it was probable that it would not be obeyed. That writ, Mr. Chief of Police, (remarked General H) must be obeyed. I will hold you responsible in this matter. Those prisoners must be produced. I believe you will produce them, but I will myself take the necessary precaution that they be produced. I have issued an order that the writ of habeas corpus is to be observed, and it shall be. I am here to protect the dignity of the government, and the rights of the people as to life, liberty, and property, must be preserved. So long as I am in power here, the law shall be respected.

I know nothing, Mr. Chief of Police, about this case, do not know what these men are charged with, but it is sufficient for me to know, and you to know that a writ of habeas corpus has been issued, and that writ shall be respected. I will sink the boat in the middle of the river with cannon that takes these men on board, and intercept any train of cars that carries them. If the law is not observed, who and what is safe? I may be taken away, you may be, any of us may be. Justice must be upheld. I hold you, therefore, Mr. Chief of Police, responsible for the delivery of these men before Judge Theard, in obedience to that writ.

### A Warning.

An affair occurred in a neighboring town a few nights ago which should serve as a warning to all housekeepers.

Four persons were nearly suffocated to death by filling a stove with coal before retiring for the night, and leaving the damper closed. The family slept up stairs and some of them were awakened about four o'clock in the morning by violent headaches and smothering sensations.—Two young ladies who slept together in one room became entirely insensible. Fortunately the father and mother entered the room before it was too late, and managed to get the window open, but the rush of fresh air reacted upon them and they fell prostrate to the floor. Luckily one of the young ladies revived sufficiently to call in the assistance of a neighbor, and a physician was summoned who administered restoratives. The parties finally recovered, after suffering intensely from the gas they inhaled.

Housekeepers should be careful to leave their stoves in proper condition at night, and especially when used in sleeping rooms.—[Ex.]

—Some three years ago a man was arrested in New York and incarcerated in a foul and loathsome cell of a dungeon by military edict, his only crime being that he had spoken "disrespectfully of Mrs. Lincoln"—but she was the wife of the government then. The Radical papers are now saying worse things about her than were ever dreamed of by any Democrat.—[Es.]

## IMPEACHMENT.

Speech of Hon. G. W. Woodward, of Pennsylvania, in the House of Representatives, December 13th 1867, in the Committee of the Whole on the state of the Union, on the law of impeachment.

Mr. WOODWARD. Mr. Chairman, I do not wish it to be supposed that my remarks will be in reply to my friend on the right [Mr. Van Trump] as to the general views which he has taken of this question. I consider them both wholesome and timely; and I have nothing to say in reply to them. What I wish to say has reference to the legal question to which he has alluded; and in respect to that I believe he has presented the argument as well as it can be presented.

It seems to me that in the circumstances in which we stand we are in great danger of making a bad precedent. A preposterous proposition to impeach the President of the United States is brought forward, and in the zeal of gentlemen to condemn it and get rid of it, I think there is danger of our marring the face of the law. I entirely concur with those gentlemen who voted against that proposition; but I do not concur with very many members of the political party with which I act in regard to the law of impeachment.

I find this impeaching power in the Constitution to be a popular power—a power designed for the protection of the rights of the people against their rulers, and one that should be liberally construed and in proper cases freely used. The Constitution was made by the people and for the people, and not for the rulers. Now, sir, it is provided in the Constitution that all civil officers may be impeached for "treason, bribery, or other high crimes and misdemeanors." As I understand the argument of the gentleman from Ohio, [Mr. Van Trump,] he would cut out from that provision the words "and other high crimes and misdemeanors," and maintain that the President or any other civil officer of the Government is impeachable only for the crimes of treason and bribery. I think we have not the right to thus emasculate the fundamental law. We are to take it as it is written, and we are to hold the President of the United States and all other civil officers impeachable for "treason, bribery, or other high crimes and misdemeanors."

—taking the meaning of those words not merely in their common law sense, nor in the sense of the parliamentary law, but in the sense of the Constitution of the United States. The whole question is, what do those words mean in our Constitution? Mr. Van Trump. With the gentleman's permission I would remark that what I meant to say was that, in the absence of any legislative enactment specifying what particular acts come under the general terms "high crimes and misdemeanors," an officer cannot be impeached for such acts.

Mr. Woodward. I entirely concur with the gentleman that the courts of the United States have no common law criminal jurisdiction; that the only crimes punished by Federal law are those which the Federal law has defined to be crimes; but I do not agree that the words "crimes and misdemeanors" as used in this constitutional provision are to be limited to such statutory offenses.

Mr. Van Trump. The gentleman will permit me to inquire how he would go about framing an indictment upon the general terms "high crimes and misdemeanors."

Mr. Woodward. I would observe, sir, that this provision is not a provision for indictments, but a provision for impeachment. That is the answer to the gentleman. There is no indictment to be framed for "high crimes and misdemeanors." The question is, for what offenses may a civil officer be impeached?

Now, let us try to get at the meaning of this word "misdemeanor," because after all the discussion must come down to that. I submit that the constitution of Pennsylvania, framed in 1790, soon after the adoption of the Constitution of the United States, defined that word, "misdemeanor" as employed in the provision for impeachment. The constitution of Pennsylvania defines it to mean a "misdemeanor in office." It says:

"The Governor and all civil officers under this Commonwealth shall be liable to impeachment for any misdemeanor in office."

I submit, sir, that that is an interpretation of the word "misdemeanor" as used in the Federal Constitution, and that we should understand by that word a misdemeanor in office, a violation of any of the tacit or express conditions upon which the office is held, whether or not that violation be indictable under the criminal law of England or the criminal law of the United States. It may be such an offense or it may be something which is not indictable under either of those codes.

I am very happy to find, Mr. Chairman, that this opinion has the most respectable authority. I have before me Curtis's history of the Constitution, from which I will read a short extract in regard to this impeaching power:

"Among the separate functions assigned by the Constitution to the Houses of Congress are those of presenting and trying impeachment. An impeachment, in the report of the committee of detail, was treated as an ordinary judicial proceeding, and was placed within the jurisdiction of the Supreme Court. That this was not in all respects a suitable provision will appear from the following considerations: Although an impeachment may involve an inquiry whether a crime against any positive law has been committed, yet it is not necessarily a trial for crime; nor is there any necessity in the case of crimes committed by public officers for the institution of any special proceeding for the infliction of the punishment prescribed by the laws, since they, like all other persons, are amenable to the ordinary jurisdiction of the courts of justice in respect of offenses against positive law. The purposes of an impeachment lie wholly beyond the penalties of a statute or the customary law. The object of the proceeding is to ascertain whether cause exists for removing a public officer from office. Such a cause may be found in the fact that either in the discharge of his office or aside from its functions he has violated a law or committed what is technically denominated a crime. But a cause for removal from office may exist where no offense against positive law has been committed, as where an individual has from immorality or imbecility or maladministration become unfit to exercise the office."

Now, I suppose that to be a fair construction of the Constitution and law in regard to impeachment; and I cannot help thinking that if the lawyers of this House would apply their minds to a true analysis of this subject they would come to this conclusion. For an office bears in the law a very striking analogy to a franchise. They are both ranked by all the elementary writers as incorporeal hereditaments. They both proceed from the grant of the sovereign power. They both exist in the hands of the subject or citizen for the limited purposes for which they are granted. They are both governed by very much the same principles of law. And in regard to franchises (which are generally held in this country by corporations, but which may be held by individuals) the law is well settled that they are always held upon the tacit condition that there be no misuse or abuse; and for misuse or abuse they are forfeitable.

It is well settled that it is a tacit condition of a grant to a corporation that the grantees shall act up to the end or design for which they were incorporated; and hence through neglect or abuse of its franchises, a corporation may forfeit its charter as for conditions broken or a breach of trust. It must be willful abuse or improper neglect, something more than accidental negligence, excess of power, or mistake in the mode of exercising an acknowledged power. It is said a single act of abuse or willful nonfeasance may be insisted on as a ground of total forfeiture; but a specific act of nonfeasance not committed willfully or negligently, nor producing mischievous consequences to any one, and not contrary to any particular requisition, slight deviations from the provisions of a "charter would not necessarily be either an abuse or misuse."

Such is the law of franchises. Now, offices which are similar in their elementary nature to franchises are held, I submit, by a similar tenure; and inhering necessarily in that tenure is the tacit condition that there shall be no "maladministration," as Mr. Curtis calls it—no misuse or abuse, as we would say in the case of a franchise.

Now, impeachment under our constitution is the means by which the people enforce this remedy against a defaulting officer, just as a *seire facias* or *quo warranto* is the remedy for enforcing their rights against a defaulting corporation. If a corporation or an individual holding a franchise from the Legislature may forfeit that franchise for misuse or abuse, so, I hold, may any individual holding an office forfeit it for misuse or abuse or misdemeanor, which the constitution of Pennsylvania says means misdemeanor in office—doing that which should not be done, or leaving undone that which should be done. This, it seems to me, is the true exposition of the meaning of the word "misdemeanor" as employed by our constitution.

It will be objected to this view—it has been already objected to on this floor—that that does not sufficiently confine the power of impeachment, and that in times of high party excitement, as an honorable gentleman says, Congress would be engaged in nothing but impeachments.

Mr. Dawes. I would ask the gentleman if he holds that the word "high" in the Constitution is applicable to misdemeanors as well as crimes?

Mr. Woodward. I think it is. I think it applies to both crimes and misdemeanors and is employed to designate crimes or misdemeanors in office. The word "high" is used because the offence is one committed in office.

Mr. Dawes. Then does it not follow that every misdemeanor committed in office is a high misdemeanor? Does the gentleman mean to say that every misdemeanor in office is a "high misdemeanor?"

Mr. Woodward. I mean to say that every misdemeanor in office is a high misdemeanor defined and limited as we define

and limit the laws of corporation in regard to franchises.

Mr. Broomal. Will the gentleman allow me?

Mr. Woodward. My time is limited. I hold the floor by the courtesy of the gentleman from Ohio, [Mr. Lawrence.]

Mr. Broomal. I was going to move that the gentleman's time be extended.

Mr. Dawes. I hope there will be no objection to the gentlemen occupying as much time as he wants.

The Chairman. If there is no objection the time of the gentleman from Pennsylvania will be extended.

No objection was made.

Mr. Van Trump. As I differ from the honorable gentleman, for whose opinion I have the highest regard, I wish to inquire whether, if the word "high" applies to misdemeanors as well as to crimes, it is not left to the court to measure and decide how high the misdemeanor should be.

Mr. Woodward. We talk about the "high sheriff," and I believe the common law uses that term in regard to the first sheriff while there are a series of under sheriffs. Perhaps the word "high" here does not mean much more than in that case. I think that as a matter of construction the word "high" would undoubtedly apply to misdemeanors as well as crimes, and I have no objection to calling any misdemeanor by a man in office high in the meaning of the Constitution. It is a high crime and misdemeanor to violate the condition upon which any man holds a public office. That is my proposition. Of course, sir, it must be a willful violation, knowingly done, and it must be to the prejudice of somebody, either the public or an individual; but where a public officer, of whatever grade, does willfully pervert his office to the prejudice of the public or of an individual, I hold that he has committed a high misdemeanor.

Mr. Dawes. Will the gentleman allow me to put an inquiry?

Mr. Woodward. Yes, sir.

Mr. Dawes. I would ask the gentleman how he reconciles that last position with the citation from Curtis which he has read, to the effect that a man may be impeached for imbecility in office? If it must be a willful departure from the duties of the office how can it be possible that a man may be impeached for imbecility in office?

Mr. Woodward. Well sir, Mr. Curtis was speaking there of the condition upon which offices are held. He enumerates perhaps more fully and accurately than I have done the modes in which offices shall be forfeited, and he mentions imbecility. I certainly do not mean to argue that imbecility is either a high crime or a misdemeanor, though Mr. Curtis treats it as within the impeaching power. I am limiting my observations to the very words of the Constitution.

And now, sir, I proceed to notice the only objection to this interpretation of the Constitution which has impressed me—the danger of the abuse of impeachments in times of high party excitement. Gentlemen fear we would be occupied with impeachments most of our time, and that through prejudice and passion there would be danger of great wrong to faithful officials. Sir, I do not share those fears. I think we can safely trust our political institutions, and that we have no occasion to cramp and confine them lest they hurt somebody.

I think what we have seen in this house and in this country in the last week shows that we have no occasion to emasculate the Constitution in order to protect a worthy officer from partisan feeling. Notwithstanding the great prejudice against the President of the United States, a large majority of this House, upon the best exposition and showing the Committee on the Judiciary could make, resolved not to go into the matter of impeachment. And had he been brought before the Senate, composed of a majority of the same political complexion of this House, no man doubts that upon that showing he would not have been convicted. Most assuredly no impeaching body would have convicted any officer upon a mass of evidence so irrelevant and inconclusive as that. The circumstances of this very case show that there is no such danger as gentlemen suppose.

Suppose a public officer has been guilty of crimes and misdemeanors, or of a failure to perform properly all the duties of his office. He has been brought before the constitutional judges of his country; he has had a fair trial with all the forms of common law; he has been defended by counsel, and has been fully heard. Now, are we to assume that the constitutional tribunal for the trial of official offenders would be any more corrupt or incompetent or any more likely to be swayed by partisan considerations than the courts of the country would be? It seems to me that it is an impeachment of our institutions to hold any such doctrine. But if we admit that a majority of this House would wantonly impeach an innocent man from partisan considerations, and that two thirds of the Senate would convict an innocent man under the influence of partisan passion, then let me remind gentlemen that there is a corrective that lies entirely beyond the house of representatives and the Senate, and the Supreme

Court of the United States, and all the other tribunals and departments of the Government; and that is the people themselves. If such an outrage as gentlemen fear should occur, there is a power in this country who would impeach the impeachers and reverse their decree.

That has already been done more than once. Mr. Van Buren was rejected by the Senate, when nominated to a foreign mission, from political and partisan considerations, and the people made him President. The Senate of the United States condemned General Jackson; the people came forward and expunged that resolution. The people are always watchful of their public officers, and nothing more surely meets their disapprobation than the prosecution of a faithful officer. If he cannot get justice of the Senate and the House of Representatives, he can surely obtain justice from the people.

Now believing, as I do believe, that this proposition to impeach president Johnson was, as I have already said, utterly preposterous, I nevertheless say that, if the fury of party passion had carried a majority of this House and two thirds of the Senate to the result of convicting President Johnson, you would have seen how the people would have pronounced their verdict upon such action.

Mr. Eldridge. Will the gentleman allow me to ask him a question?

Mr. Woodward. Certainly.

Mr. Eldridge. The gentleman suggests that there is a remedy in the people. I wish to know, if the President had been impeached and removed from office, how the wrong to him could ever have been redeemed?

Mr. Woodward. Beyond all controversy. The people would have reelected President Johnson if he had been impeached.

Mr. Eldridge. But the Constitution prohibits him under such circumstances from ever holding office again.

Mr. Woodward. The people would have reelected him, nevertheless; they would have reversed that decision.

Mr. Eldridge. But how could they reverse that decision?

Mr. Woodward. The title of the man whom they should elect to office may be questioned; he may not be competent to enter upon the duties of his office. But I am speaking of the popular judgment in opposition to a wrong constitutional tribunal of the Government. I say the people would have reversed that judgment; whether they could have conferred the office of President upon him again is a question for the lawyers.

I think we are not to be frightened from a true construction of the Constitution of the United States by an improbable or remote contingency. What have we heard in answer to this? I confess I do not understand any argument drawn from the common law of England or the parliamentary law of impeachment to be applicable to this question under our Constitution. Then what is the result? The result must be that we must construe the Constitution more liberally—liberally enough to secure a faithful administration of the offices which the people have established, not for the officers, but for themselves, and which they have hedged around and guarded by constitutional provisions and guarantees.

Mr. Dawes. If the gentleman is not annoyed by these interruptions, as I am seeking light and listening with profound attention and respect, I desire to ask, in view of his remarks just made, whether there are not many provisions of the constitution of the United States inoperative until there has been legislation in reference to the measure of their operation? And may not the same thing be true of this provision for impeachment, that while the power is lodged in the Constitution, yet it is so lodged that it may be comparatively inoperative without legislation under it; and may it not be so designed by the framers of the Constitution that the full scope and effect of this provision of the Constitution, like that in reference to naturalization and other kindred provisions of the Constitution, are to be defined and measured within the limits of the Constitution by such legislation from time to time as may be deemed wise and necessary?

Mr. Woodward. Undoubtedly the gentleman is right as to many provisions of the Constitution. The Constitution can do no more than outline the powers which the legislative department carry into effect. But I do not think this is one of those. It seems to me this provision, so to speak, executes itself; that it is capable of being executed without legislation. The action on the part of the house of Representatives strictly resembles the action of a grand jury in presenting bills of indictment, and the action of the Senate resembles the action of the judicial body under the criminal code. No general statute having defined impeachable offenses, and from their nature being incapable of antecedent definition, it must be left to some judging power to decide what are high crimes and misdemeanors, and whether, in a given case, they have been proved, and this power, within the Senate. Such I submit is the character of this provision of the Constitution. All that is necessary to be done is for the grand jury to present the indictment, and for the court of last resort to pass upon it.

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