

# THE MONTROSE DEMOCRAT.

A. J. GERRITSON, Proprietor.

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## IMPEACHMENT.

### THE PRESIDENT'S ANSWER.

WASHINGTON, March 23.  
The following is the answer of the President to the articles of impeachment as read before the High Court to day:

To the Senate of the United States sitting as a court of impeachment for the trial of Andrew Johnson, President of the United States.

The answer of the said Andrew Johnson, President of the United States, to the articles of impeachment exhibited against him by the house of Representatives of the United States.

Answer to article I. For answer to the first article he says that Edwin M. Stanton was appointed Secretary for the Department of War on the 15th day of January, 1862, by Abraham Lincoln, then President of the United States, during the first term of his Presidency, and was commissioned according to the Constitution and laws of the United States to hold said office during the pleasure of the President; that the office of Secretary for the Department of War was created by an act of the First Congress in its first session, passed on the 7th day of August A. D. 1789, and in and by that act it was provided and enacted that the said Secretary for the Department of War shall perform and execute such duties as shall from time to time be enjoined on and intrusted to him by the President of the United States, agreeably to the Constitution, relative to the subjects within the scope of the said department; and furthermore, that the said Secretary shall conduct the business of the said department in such a manner as the President of the United States shall from time to time order and instruct; and this respondent, further answering, says that, by force of the act aforesaid and by reason of his appointment, the said Stanton became the principal officer in one of the Executive Departments of the government within the true intent and meaning of the second section of the Constitution of the United States, and in accordance with the settled and uniform practice of each and every President of the United States, the said Stanton then became, and so long as he should continue to hold the said office of Secretary for the Department of War, must continue to be one of the advisers of the President of the United States, as well as the person intrusted to act for and represent the President in matters enjoined upon him or intrusted to him by the President touching the department aforesaid, and for whose conduct in such capacity subordinate to the President, the President is, by the Constitution and laws of the United States, made responsible; and this respondent further answering, says:—He succeeded to the office of President of the United States upon and by reason of the death of Abraham Lincoln, then President of the United States, on the 15th day of April, 1865, and the said Stanton was then holding the said office of Secretary for the Department of War, under and by reason of the appointment and commission aforesaid, and not having been removed from the said office by this respondent, the said Stanton continued to hold the same under the appointment and commission aforesaid, at the pleasure of the President, until the time hereinafter particularly mentioned, and at no time received any appointment or commission, save as above detailed.

And this respondent further answering, says that on and prior to the fifth day of August, A. D. 1867, this respondent, the President of the United States, responsible for the conduct of the Secretary for the Department of War, and having the constitutional right to resort to and rely upon the person holding that office for advice concerning the great and difficult public duties enjoined on the President by the Constitution and laws of the United States, became satisfied that he could not allow the said Stanton to continue to hold the office of Secretary for the Department of War without hazard of the public interest; that the relations between the said Stanton and the President no longer permitted the President to resort to him for advice, or to be, in the judgment of the President, safely responsible for his conduct of the affairs of the department of war, as by law required, in accordance with the orders and instructions of the President.

And thereupon, by force of the Constitution and laws of the United States, which devolve on the President the power and the duty to control the conduct of the business of that executive department of the government, and by reason of the constitutional duty of the President to see that the laws be faithfully executed, this respondent did necessarily consider and did determine, that the said Stanton ought no longer to hold the said office of Secretary for the Department of War, and this respondent, by virtue of the power and authority vested in him as President of the United States by the Constitution and laws of the United States to give effect to such his decision and determination, did, on the 5th day of August, A. D. 1867, address to the said Stanton a note, of which the following is a true copy:—

“Sir:—Public considerations of a high character constrain me to say that your resignation as Secretary of War will be accepted.”

To which note the said Stanton made the following reply:—

WAR DEPARTMENT,  
Washington, Aug. 5, 1867.

“Sir:—Your note of this day has been received, stating that public considerations of a high character constrain you to say that my resignation as Secretary of War will be accepted. In reply, I have the honor to say that public considerations of a high character, which alone have induced me to continue at the head of this department, constrain me not to resign the office of Secretary of War before the next meeting of Congress.

Very respectfully yours,  
(Signed,) EDWIN M. STANTON.

This respondent, as President of the United States, was thereon of opinion that, having regard to the necessary official relations and duties of the Secretary for the Department of War to the President of the United States, according to the Constitution and laws of the United States, and having regard to the responsibility of the President for the said Secretary; and having regard to the paramount executive authority of the office which the respondent holds under the Constitution and laws of the United States, it was impossible, consistently with the public interests, to allow the said Stanton to continue to hold the said office of Secretary for the Department of War; and it then became the official duty of the respondent, as President of the United States, to consider and decide what act or acts should and might lawfully be done by him, as President of the United States, to cause the said Stanton to surrender the said office.

This respondent was informed, and verily believes, that it was practically settled by the first Congress of the United States, and had been so considered and uniformly and in great numbers of instances, acted on by each Congress and President of the United States in succession, from President Washington to and including President Lincoln, and from the first Congress to the thirty ninth Congress; that the Constitution of the United States conferred on the President, as part of the executive power, and as one of the necessary means and instruments of performing the executive duty expressly imposed on him by the Constitution of taking care that the laws be faithfully executed, the power at any and all times of removing from office all executive officers for cause to be judged of by the President alone.

This respondent had, in pursuance of the Constitution, required the opinion of each principal officer of the executive departments upon this question of constitutional executive power and duty, and had been advised by each of them, including the said Stanton, Secretary for the Department of War, that under the Constitution of the United States this power was lodged by the Constitution in the President of the United States, and that consequently it could be lawfully exercised by him, and that Congress could not deprive him thereof; and this respondent, in his capacity of President of the United States, and because in that capacity, he was both enabled, and bound to use his best judgment upon this question, did, in good faith and with an honest desire to arrive at the truth, come to the conclusion and opinion, and did make the same known to the honorable the Senate of the United States, by a message dated on the second day of March, 1867, a true copy whereof is hereto annexed and marked A, that the power last mentioned was conferred, and the duty of exercising it, in fit cases, was imposed on the President, by the Constitution of the United States, and that the President could not be deprived of this power or relieved of this duty; nor could the same be vested by law in the President and the Senate jointly, either in part or whole, and this base ever since remained, and was the opinion of this respondent at the time when he was forced, as aforesaid, to consider and decide what act or acts should and might lawfully be done by this respondent, as President of the United States, to cause the said Stanton to surrender the said office.

This respondent was also then aware that by the first section of an act regulating the tenure of certain civil offices, passed March 2, 1867, by a constitutional majority of both Houses of Congress, it was enacted as follows:—

“That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, shall become duly qualified to act therein, and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided.”

“Provided, That the Secretary of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter; subject to removal by and with the advice and consent of the Senate.”

This respondent, was also aware that this act was understood and intended to be an expression of the opinion of the Congress by which that act was passed; that the power to remove executive officers, for cause might, by law, be taken from the President, and vested in him and the Senate jointly; and although, this respondent had arrived at and still retained the opinion above expressed, and verily believes, as he still believes, that the said first section of the last mentioned act was and is wholly inoperative and void, by reason of its conflict with the Constitution of the United States; yet, inasmuch as the same had been enacted by the constitutional majority in each of the two houses of that Congress, this respondent considered it to be proper to be examined and decided whether the particular case of the said Stanton, on which it was this respondent's duty to act, was within or without the terms of that first section of the act, or if within it, whether the President had not the power, according to the terms of the act, to remove the said Stanton from the office of Secretary for the Department of War, and having, in his capacity of President of the United States, so examined and considered, did form the opinion that the case of the said Stanton and his tenure of office were not affected by the first section of the last named act. And this respondent further answering, says, that although a case thus existed which, in his judgment, as President of the United States, called for the exercise of the executive power to remove the said Stanton from the office of Secretary for the Department of War; and although this respondent was of opinion, as is above shown, that under the Constitution of the United States the power to remove the said Stanton from the said office was vested in the President of the United States; and although this respondent was also of the opinion, as is above shown, that the case of the said Stanton was not affected by the first section of the last named act; and although each of the said opinions had been formed by this respondent upon an actual case, requiring him, in his capacity of President of the United States, to come to some judgment and determination thereon, yet the respondent, as President of the United States, desired and determined to avoid if possible any question of the construction and effect of the said first section of the last named act, and also the broader question of the executive power conferred on the President of the United States by the Constitution of the United States to remove one of the principal officers of one of the executive departments for cause seeming to him sufficient; and this respondent also desired and determined that, if from causes over which he could exert no control, it should become necessary to raise and have in some way determined either or both of the said last named questions, it was in accordance with the Constitution of the United States, and was required of the President thereby, that questions of so much gravity and importance, upon which the Legislature and executive Departments of the government had disagreed, which involved powers considered by all branches of the government during its entire history down to the year 1867, to have been confided by the Constitution of the United States to the President, and to be necessary for the complete and proper execution of his constitutional duties, should be in some proper way submitted to that judicial department of the government intrusted by the Constitution with the power, and subjected by it to the duty, not only of determining finally the Constitution and effect of all acts of Congress, by comparing them with the Constitution, of the United States, and pronouncing them inoperative when found in conflict with that fundamental law which the people have enacted for the government of all their servants, and to these ends:

First, That through the action of the Senate of the United States, the absolute duty of the President to substitute some fit person in the place of Mr. Stanton as one of his advisers, who is as a principal of a subordinate officer, whose official conduct he was responsible for, and had a lawful right to control, might, if possible, be accomplished without the necessity of raising any one of the questions aforesaid, and second, if these duties could not so be performed, then that these questions, or such of them as might necessarily arise, should be judicially determined in manner aforesaid, and for no other end or purpose.

This respondent, as President of the United States, on the 12th day of August, 1867, seven days after the reception of the letter of the said Stanton of the 5th of August, herein before stated, did issue to the said Stanton the order following, viz:—

EXECUTIVE MANSION,  
Washington, Aug. 12, 1867.

“Sir:—By virtue of the power and authority vested in me as President by the Constitution and laws of the United States, you are hereby suspended from office as Secretary of War, and will cease to exercise any and all functions pertaining to the same. You will at once transfer to Gen. Ulysses S. Grant, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public

property now in your custody and charge.

Hon. E. M. Stanton,  
Secretary of War.

To which said order the said Stanton made the following reply:

WAR DEPARTMENT,  
Washington City, Aug. 12, 1867.

“Sir:—Your note of this date has been received, informing me that, by virtue of the powers vested in you as President by the Constitution and laws of the United States, I am suspended from office as Secretary of War, and will cease to exercise any and all functions pertaining to the same, and also directing me as one to transfer to General Ulysses S. Grant, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers and other public property now in my custody and charge. Under a sense of public duty I am compelled to deny your right, under the Constitution and laws of the United States, without the advice and consent of the Senate, and without legal cause, to suspend me from office as Secretary of War for the exercise of any or all functions pertaining to the same, and without such advice and consent to compel me to transfer to any person the records, books, papers and public property in my custody as Secretary; but inasmuch as the General commanding the armies of the United States has been appointed *ad interim* and has notified me that he has accepted the appointment, I have no alternative but to submit, under protest to superior force.

“To the President.”

And this respondent further answering says that it is provided in and by the second section of an act to regulate the tenure of certain civil offices, that the President may suspend an officer from the performance of the duties of the office held by him, for certain causes therein designated, until the next meeting of the Senate; and until the case shall be acted on by the Senate; that this respondent, as President of the United States, was advised, and he verily believed and still believes, that the executive power of removal from office confided to him by the Constitution as aforesaid, includes the power of suspension from office at the pleasure of the President; and this respondent, by the order aforesaid did suspend the said Stanton from office, not until the next meeting of the Senate or until the Senate should have acted upon the case, but by force of the power and authority vested in him by the Constitution and laws of the United States, indefinitely, and at the pleasure of the President; and the order, in form aforesaid, was made known to the Senate of the United States on the 12th day of December, A. D. 1867, as will be more fully hereinafter stated.

And this respondent further answering says in and by the act of February 12, 1795, it was among other things provided and enacted that in case of vacancy in the office of Secretary for the Department of War, it shall be lawful for the President, in case that he shall think it necessary to authorize any person to perform the duties of that office, until a successor be appointed, or such vacancy filled, but not exceeding the term of six months; and this respondent being advised and believing that such law was in full force, and not repealed, by an order dated August 12, 1867, did authorize and empower Ulysses S. Grant, General of the armies of the U. States, to act as Secretary of War *ad interim*, in the form of which similar authority had theretofore been given, not until the next meeting of the Senate, and until the Senate should act on the case, but at the pleasure of the President, subject only to the limitation of six months in the said last mentioned act contained, and a copy of the last named order was made known to the Senate of the United States on the 12th day of December, 1867, as will be hereinafter more fully stated, and in pursuance of the design and intention aforesaid, if it should become necessary, to submit the said question to a judicial determination, this respondent, at or near the date of the last mentioned order, did make known such his purpose to obtain a judicial decision of the said questions, or such of them as might be necessary; and this respondent further answering, says that in further pursuance of his intention and design, if possible, to perform what he judged to be his imperative duty to prevent the said Stanton from longer holding the office of Secretary for the Department of War, and at the same time avoiding, if possible, any question respecting the extent of the power of removal from executive office confided to the President by the Constitution of the United States, and any question respecting the construction and effect of the first section of the said “act regulating the tenures of certain civil offices,” while he should not by any act of his abandon and relinquish either a power which he believed the Constitution had conferred on the President of the U. States to enable him to perform the duties of his office, or a power designedly left to him by the first section of the act of Congress last aforesaid, this respondent did on the 12th day of December, 1867, transmit to the Senate of the United States a message, a copy whereof is hereto annexed and marked B, wherein he made known the orders aforesaid, and the reasons which had induced the same, so far as this respondent then considered it material and necessary that the same should

be set forth, and reiterated his views concerning the constitutional power of removal vested in the President, and also expressed his views concerning the construction of the said first section of the last mentioned act as respected the power of the President to remove the said Stanton from the said office of Secretary for the Department of War, well, hoping that this respondent could thus perform what he then believed and still believes to be the imperative duty in reference to the said Stanton, without derogating from the powers which this respondent believed were confided to the President by the Constitution and laws, and without the necessity of raising judicially any questions respecting the same. And this respondent, further answering, says that this hope not having been realized, the President was compelled either to allow the said Stanton to resume the said office and remain therein, contrary to the settled convictions of the President formed as aforesaid, respecting the power confided to him and the duties required of him by the Constitution of the United States, and contrary to the opinion formed as aforesaid, that the first section of the last mentioned act did not affect the case of the said Stanton, and contrary to the fixed belief of the President, that he could no longer advise with or trust, or be responsible for the said Stanton in the said office of Secretary for the Department of War, or else he was compelled to take such steps as might, in the judgment of the President be lawful and necessary to raise for a judicial decision the questions affecting the lawful right of the said Stanton to resume the said office, or the power of the said Stanton to persist in refusing to quit the said office, if he should persist in actually refusing to quit the same; to this end and to this only, this respondent did, on the 21st day of February 1868, issue the order for the removal of the said Stanton, in the said first article mentioned and set forth, and the order authorizing the said Lorenzo Thomas to act as Secretary of War *ad interim* in the said second article set forth; and this respondent proceeded to answer specifically each substantial allegation in said first article says:

He denies that the said Stanton on the 21st day of February, 1868, was lawfully in possession of the said office of Secretary for the Department of War. He denies that the said Stanton on the day last mentioned was lawfully entitled to hold the said office against the will of the President of the United States. He denies that the said order for the removal of the said Stanton was unlawfully issued. He denies that the said order was issued with intent to violate the act entitled “An act to regulate the tenure of certain civil offices.” He denies that the said order was a violation of the last mentioned act. He denies that the said order was a violation of the Constitution of the United States, or of any law thereof, or of his oath of office. He denies that the said order was issued with an intent to violate the Constitution of the United States, or any law thereof, or of this respondent's oath of office; and he respectfully but earnestly insists that not only was it issued by him in the performance of what he believed to be an imperative official duty, but in the performance of what this honorable court will consider was in point of fact an imperative official duty; and he denies that any and all substantive matters in the said first article contained, in manner and form as the same are therein stated and set forth, do by law constitute a high misdemeanor in office within the true intent and meaning of the Constitution of the United States.

ANSWER TO ARTICLE 2.

For answer to the second article this respondent says, that he admits he did issue and deliver to the said Lorenzo Thomas the said writing set forth in said second article, bearing date at Washington, D. C., February 21, 1868, addressed to Brevet Major General Lorenzo Thomas, adjutant general U. S. Army, Washington; and he further admits that the same was so issued without the advice or consent of the Senate of the United States, then in session, but he denies that he thereby violated the Constitution of the United States or any law thereof, or that he did thereby intend to violate the Constitution of the United States or the provisions of any act of Congress; and this respondent refers to his answer to said first article for a full statement of the purposes and intentions with which said order was issued, and adopts the same as a part of his answer to this article; and further denies that there was then and there no vacancy in the said office of Secretary for the Department of War, that he did then and there commit or was guilty of a high misdemeanor in office, and this respondent maintains and will insist:

First, that at the date and delivery of said writing, there was a vacancy existing in the office of Secretary for the Department of War.

Second, that notwithstanding the Senate of the United States was then in session, it was lawful and according to long and well established usage, to empower and authorize the said Thomas to act as Secretary of War *ad interim*.

Third, that if the act regulating the tenure of civil offices be held to be valid law, no provisions of the same were violated by the issuing of said order, or by the

designation of said Thomas to act as Secretary of War *ad interim*.

ANSWER TO ARTICLE 3.

And for answer to said third article, this respondent says that he abides by his answer to said first and second articles in so far as the same are responsive to the allegations contained in the said third article; and, without here again repeating the same answer, prays that the same be taken as an answer to this third article, as fully as if here again fully set out at length; and as to the new allegation contained in said third article, that this respondent did appoint the said Thomas to be Secretary for the Department of War *ad interim*, this respondent denies that he gave any other authority to said Thomas, than such as appears in said written authority set out in said article, by which he authorized and empowered said Thomas to act as Secretary for the Department of War *ad interim*; and he denies that the same amounts to an appointment, and insists that it is only a designation of an officer of that department to act temporarily as Secretary for the Department of War *ad interim* until an appointment, or to a temporary authority or designation, this respondent denies that in any sense he did thereby intend to violate the Constitution of the United States, or that he, thereby intended to give the said order the character or effect of an appointment, in the constitutional or legal sense of that term. He further denies that there was no vacancy in said office of Secretary for the Department of War existing at the date of said written authority.

ANSWER TO ARTICLE 4.

For answer to said fourth article, this respondent denies that on the said 21st day of February, 1868, at Washington aforesaid, or at any other time or place, he did unlawfully conspire with the said Lorenzo Thomas, or with any other person or persons, with intent, by intimidation and threats, unlawfully to hinder and prevent the said Stanton from holding the said office of Secretary for the Department of War, in violation of the provisions of the said act of Congress, in said article mentioned, or that he did then and there commit, or was guilty of a high crime in office; on the contrary, thereof, protesting that the said Stanton was not then lawfully the Secretary for the Department of War, this respondent stated his sole purpose in authorizing the said Thomas to act as Secretary for the Department of War *ad interim* was, as is fully stated in his answer to the said first article, to bring the question of the right of the said Stanton to hold said office, notwithstanding his said suspension, and notwithstanding the said order of removal, and notwithstanding the authority of the said Thomas to act as Secretary for the Department of War *ad interim*, to the test of a final decision by the Supreme Court of the United States, in the earliest practical mode by which the question could be brought before that tribunal. This respondent did not conspire or agree with the said Thomas, or with any other person or persons, to use intimidation or threats to hinder or prevent the said Stanton from holding the said office of Secretary for the Department of War; nor did this respondent at any time command or advise the said Thomas, or any other person or persons, to resort to or use either threats or intimidation for that purpose. The only means in the contemplation or purpose of respondent to be used are set forth fully in the said orders of February 21, the first addressed to Mr. Stanton and the second to the said Thomas.

By the first order the respondent notified Mr. Stanton that he was removed from the said office, and that his functions as Secretary for the Department of War were to terminate upon the receipt of that order, and he also notified the said Stanton that the said Thomas had been authorized to act as Secretary for the Department of War *ad interim*, and ordered the said Stanton to transfer to him all the records, books, papers and other public property in his custody and charge, and by the second order notified the said Thomas of the removal from office of the said Stanton, and authorized him to act as Secretary for the Department of War *ad interim*, and directed him to immediately enter upon the discharge of the duties pertaining to that office, and to receive the transfer of all the records, books, papers and other public property from Mr. Stanton then in his custody and charge. Respondent gave no instructions to the said Thomas to use intimidation or threats to enforce obedience to these orders.

He gave him no authority to call in the aid of the military or any other force to enable him to obtain possession of the office, or of the books, papers, records or property thereof; the only agency resorted to, or intended to be resorted to, was by the said executive orders requiring obedience. But the Secretary of the Department of War refused to obey these orders, and still holds undisturbed possession and custody of that department, and of the records, books, papers and other public property therein. Respondent further states that, in execution of the orders so given by this respondent to the said Thomas, the said Thomas proceeded in a peaceful manner to demand of the said Stanton:

(Continued on fourth page.)