

REMINISCENCES OF SENATOR
WILLIAM M. STEWART
OF NEVADA

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Senator William M. Stewart

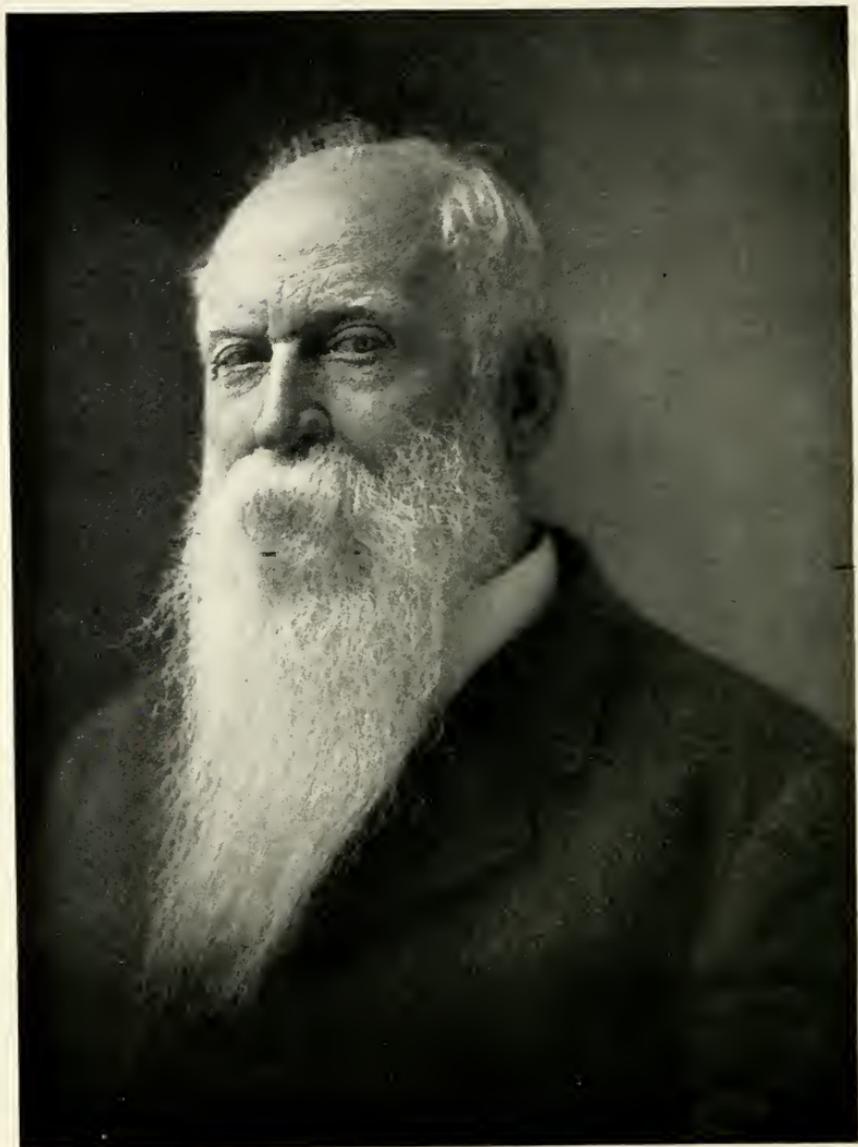
OF NEVADA



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James Stewart

REMINISCENCES OF
Senator William M. Stewart
OF NEVADA

Edited by
GEORGE ROTHWELL BROWN



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WILLIAM M. STEWART

DEDICATION

This book is dedicated to my mother, Mrs. Miranda Stewart, whose early training was the only preparation I had for the battle of life. Her discipline was strict, but not unkind. She was patient and gave good reasons for what she required of her children; was firm and commanded their respect and obedience. Her conduct through life was guided by her best judgment. If I had always kept in view the rules of conduct which she prescribed I would have made few mistakes. Her teachings, so far as I have been guided by them, have been of great service to me during the whole course of my life.

Whatever of good I may have accomplished was inspired by my dear mother at an early period of my existence.

WILLIAM M. STEWART.

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INTRODUCTION

When one has reached the age of eighty-three years, and is rounding out with honor and dignity a career extending over three generations, marked not only by the picturesque adventures of youth, but by the signal services of a statesman to his country in maturity, it becomes at once his privilege and his duty to tell the story of his life. It is a rare combination—a story worth telling and the courage to tell it without prejudice. With the exception of General Grant, I do not believe a man has appeared in public life during the past half century, so well equipped to leave to posterity a record of great value as is William M. Stewart, of whose long span the twenty-nine years spent in the Senate of the United States, while perhaps the most important, were by no means the most interesting.

Here is a man, who, on the score of seniority, has the right to be heard. Were he an unschooled farmer he would have by virtue of his gray hair, a story of pregnant interest, rich with the experience and philosophy of life. But since he is one of the most brilliant and accomplished men of his time, and one whose influence has helped to shape the destinies of the Republic, his prerogative must be unquestioned. Endowed with a perfect physique, enduring health, and tremendous bodily strength, he has been able to defy the enemy which has overcome, one by one, all the associates of his generation, while preserving in full the power and force of his great intellectuality.

William M. Stewart took his seat in the United States Senate February 1, 1865, when Nevada, the State of his adoption, and which he made his own so completely that for years he held it in the hollow of his

hand, was admitted into the Union. He was then about forty years of age. At that time he must have been a Hercules. At eighty-three he is as straight as a juniper, as hard as a blacksmith, as keen of eye as an eagle, and he has not lost one inch in height since that day, forty-three years ago, he stood before Hannibal Hamlin to take the oath of office, a commanding picture of magnificent manhood.

Born in a log cabin in a wilderness, of old Colonial stock, at the age of ten he began the battle of life, and did a man's work, and, inured by privations and hardships, he laid the foundation of that superb animalism which, in later years, when a miner with pick and shovel in the gold diggings of California, was to make him a master of men in an environment in which the weakling went down, the average had no chance, and only the fittest could survive.

Personal bravery played a leading part in his success. The same audacity and courage with which he met the tribulations of the poor farm boy, conquered unruly bullies as a country schoolmaster, plodded his weary way toward education, and, penniless, and broken with fever, began the search for gold in an alien land, stood by him throughout life. On one occasion his entire fortune of half a million dollars was swept away in a flood. There could be nothing more typically American than the fortitude with which he faced this catastrophe. Before the débris of his mining plant had vanished in the boiling river, he had started, on foot, on a journey of three hundred miles across the Sierra Nevada range, while there raged one of the most appalling storms in the history of California. His course was beset by all the dangers of landslides and swollen streams. He reached San Francisco, where, his only security his good name and a flooded mine, he borrowed the money to start life anew. Then he retraced that perilous trail, returned to his camp, met all his obligations, and paid

his men, before his enemies, who would have been glad to ruin him, had themselves recovered from the effects of the great disaster.

Senator Stewart has always been a man of restless energy. He inherited a splendid mind, and, even as a boy, he had a thirst for knowledge, a thirst which has never been slaked. At eighty-three he is the same serious student as at thirteen, when he left his father's roof to seek employment as a woodchopper, that he might earn the money to go to school. At twenty-two he was in Yale, and when, for the time being, he abandoned books to go to California in '49, encountering hardships no college boy of to-day would undergo, he took his place as leader among his associates, not only because of the sinew of his mighty right arm, but because of his native shrewdness, intelligence, and education.

In the mad scramble for wealth in the treasure vaults of El Dorado, young Stewart was in the fore, and obtained his share. To-day he might be a money-hoarding, cold-blooded pirate of high finance, for in him the money-making instinct is highly developed. But the man is at heart a romantic adventurer; he plays the game of speculation for the game itself, and not for the spoils; his pleasure is not gold, but the getting of it. Probably no man in the United States has won and lost more fortunes than William M. Stewart. Had he been less of a Robinson Crusoe, to-day he might be a Justice of the Supreme Court of the United States, with a longer term of service to his credit than any man has had. In 1871 President Grant tendered him an appointment to that Bench, which he declined. He preferred the greater action and hazard which went with the toga of a Senator and the overalls of a miner. But had he accepted, his reputation as a lawyer could not have been increased, although he would have been an honor to that great tribunal. When he came to Washington he had to his fame not only success in the most notable

litigations in the West, but the distinction of being the author of the mining laws of the land, laws which he framed so ably that they stand, even now, a monument to legal genius of which any man well might boast.

The years spent in the Golden West were golden years, indeed. Many years after his arrival in the promised land—years during which he carried his life in his hands with reckless abandon; years during which he fought Indians, battled with bandits, organized and enforced rude frontier justice, playing a man's part in a man's life—many years after he had planted his pick in Grizzly Ditch, Mark Twain and Bret Harte, called "pioneers," appeared upon the scene, and wrote the stories this blue-eyed, iron-fisted, fearless giant helped enact.

I seem to see him now, with a derringer in each hand, cowing the bully of the camp, a man who had sixteen notches in the handle of his "gun," and was generally reputed to be a stranger to fear. Many other men, since then, including one who had been a President of the United States, have quailed under the lightning flash from Stewart's eye. It is a mild blue eye when he is at peace with the world, an eye that makes children smile, and lift up their arms to him; but when his shaggy brows are in a frown,—well the slayer of those sixteen men laughed away the pistols with a jest, and said: "I like your kind; have a drink!"

Nevada joined the Sisterhood long before her rightful turn because Northern leaders saw that her votes would be required in the adoption of Constitutional amendments to be proposed when the War of Secession was at an end. William M. Stewart, politician as well as statesman, had been in the thick of Territorial disputes, and, when another Star was called to the Blue, he came to Washington, her first Senator, to pin it there.

It is possible that he did not find Washington, in 1865, materially different from California in 1850. As

the bitter struggle for riches in the golden gullies had smelted out only men of might, and strength, and determination, so had the crisis in the Nation's affairs brought to the surface in the Capital the ablest minds of the time. Young Stewart, having taken his seat, found himself removed from an atmosphere of primitive contention, to a condition akin to it, a condition growing out of the war. In a short time, so well did he conduct himself, and with so fine a skill and comprehension did he enter into the spirit of his surroundings, he found himself in a conspicuous position, similar to that he had always occupied, whether on the farm, in the schoolroom, in the mining camp, or in the court-house.

Some of the greatest men the Republic has produced were his playfellows in the Senate, playfellows in a great game with Destiny, and when he coped with them, he found himself the peer of all, the superior of many. Vice-President Hamlin, Buckalew, Cowan, Foot, Reverdy Johnson, John P. Hale, John Sherman, Thomas A. Hendricks, Benjamin F. Wade, William Pitt Fessenden, these were the men grouped about him in that historic forum—the War Senate.

Throughout the closing days of the War, and during the frightful period of Reconstruction, Senator Stewart was the consistent friend of the South, although himself a strong Union man. Perhaps his most signal contribution in that period was the Fifteenth Amendment to the Constitution, of which he is the author. Hardly less notable, later on, was his defeat of the Force Bill.

Now that he has come to write of his colleagues, all of whom have long since passed away, who will begrudge him consent to paint them as they were, not as new generations have been taught to regard them? If Andrew Johnson was a drunkard, and broke his pledged word at a critical time, is it not just the world should see him in his moral nakedness? If Charles

Sumner was a vain, petulant, over-grown boy, an inconsequential busy-body clothed in pompous impotency, disgraced by his fellow Republicans for his discourtesy, even treachery, to the President of the United States, why should not his true character be laid bare, and the truth about him told, in the interest of history?

Senator Stewart has no apologies to make. He has told the truth as he has seen it, and he has told it not for the love of hitting every head in sight, but because it is his privilege to tell the truth, the honored privilege of honored age. A blow with a cudgel, here and there, where a good lick is richly deserved, but for the greater part of the journey—for the greater part of the book, from cover to cover,—smiles and good nature. Smiles and good nature.—The story of a successful life, a life of wide and enduring influence.

GEORGE ROTHWELL BROWN.

Washington, D. C., March 27, 1908.

CHAPTER I

Birth—My mother—Early memories—Hunting with Rover—A fortune in coon-skins.

I was born August 9, 1825, in a log-house at Galen, Wayne County, New York, about four miles to the east of the town of Lyons.

My father's family were of Scotch origin, and were among the early settlers of Massachusetts. My grandfather was a soldier in the Revolution, and shortly after peace was declared he moved to Vermont and settled upon a tract of land where he with his family resided many years. My father, Frederick Augustus Stewart, served in a Vermont regiment during the war of 1812. Soon after that war my grandfather was killed by a cyclone while attempting to close a barn door. After his death the family made an exchange of their land in Vermont for a tract in the township of Galen, Wayne County, New York, to which they removed.

The land in New York was divided among the family, my father's portion being something over one hundred and fifty acres. Soon after my father settled there he married Miranda Morris. Her father, for whom I was named, was William Morris. His wife, my grandmother, was Miranda Dodd, a Knickerbocker of New York.

My mother had great strength of character, and her life was pure and honest. She loved truth and justice and never told a falsehood. She spoke ill of no one; her neighbors had perfect confidence in her and frequently referred to her as an arbitrator in their family disputes. She reared a family of seven children, four girls and three boys, all of whom are dead except myself. Although in humble circumstances and amid pioneer

surroundings, she made a home for her family which was always well provided for and comfortable.

I refrained from taking advantage of opportunities that existed to inform myself in regard to my ancestors, on account of the disgust I felt for persons of no consequence who were constantly boasting of their pedigrees.

My parents lived on the Galen farm until I was six years old, when it was ascertained that my grandfather's land in Vermont, which had been exchanged for the New York land, had a fatal defect in the title; and as the title to the land in Galen depended upon the title to the Vermont land, my father lost his farm.

The year previous to this loss my grandfather, William Morris, moved from his home in Wayne County to Mesopotamia Township, Trumbull County, Ohio, where my father followed in August, 1832. Although I was only seven years old at the time I distinctly recollect many things that occurred before we moved to Ohio, one of which was during Jackson's second campaign in 1832.

Political excitement was very intense. We had a neighbor whose name was Pope, a very earnest Jackson man, who used to visit our house and amuse himself with my brother John, then three years old, and myself. He would make John stand upon a table and declare that he was a Jackson man first, last, and all the time. I also remember going to Lyons on the Fourth of July during Jackson's campaign, seeing the procession, and hearing the orators make speeches, although I cannot now remember the names of any of the speakers. I recently visited Lyons, my birthplace, in New York, and also Mesopotamia Township, Ohio. I recognized the familiar landmarks in these places, but was able to find very few of the people who were there during my childhood.

Our family settled on the banks of Grand River, in the "backwoods." The fall after we arrived there, an

Englishman who moved into the neighborhood gave me a puppy which I named Rover, and which turned out to be a great treasure.

The country around Grand River was remarkably prolific in wild game, particularly coons. When the puppy was a year old—and a good, sturdy, sensible puppy he was—he enjoyed the reputation of being the best coon dog in the neighborhood. In fact, he was the only coon dog which amounted to anything for miles around. I was a youngster, and the larger boys of my acquaintance looked down upon me, and did not seem to desire my company—until Rover evinced great skill in hunting coons. I think that about that time I became the most popular boy in Trumbull County.

Every day the coon hunters, who had formerly scorned me, fairly showered me with attentions. They begged my mother to let me go coon hunting with them, promising that they would take good care of me. She finally consented, and I would go off with the boys, swelling with pride. Of course Rover went along. In fact, he would not leave me to go with anyone else. Pretty soon I began thinking about this. By and by the secret of my popularity dawned upon me. I think it injured my pride at first, but as I was really fond of coon hunting, and did not want to deprive Rover of any pleasure, I thought I would put my pride in my pocket. As balm for my injured feelings I made a contract with the boys that I would have one-third of the coons caught.

It was a mean advantage to take of them, and I have regretted it since. After all, Rover enjoyed the sport for sport's sake, while I reduced the proposition to sordid commercialism.

The first fall we caught six coons, two of that number being my share. The skins were worth fifty cents apiece, and the oil was worth nearly as much more. I realized from my two coons \$1.80, which was the first money I

ever earned, and being only nine years old it made me quite a capitalist in those days.

I expended \$1.20 for shoes for myself and eldest sister. The shoes were rough and strong, and were made by a traveling shoemaker. The remaining sixty cents I saved for General Training day, which was a great event at that time. The militia trained at Mesopotamia Center the following spring, where I enjoyed myself almost without limit.

An elderly woman had a stand where she sold gingerbread and root beer. The loaves were immense, being from five to six inches thick, and about a foot across. A big section cost ten cents. I bought a chunk of the gingerbread and a large pitcher of root beer and invited my friends to a sumptuous lunch, which we devoured without much ceremony. This took one-third of my capital and left me only forty cents, which I gave to my mother, telling her I would not need any more money until "cooning time" came again in the fall.

The result of the "cooning" the next fall was very satisfactory. We killed fifteen. Although we slept out many nights, and wandered up and down through the brush and swamps of Grand River for fifteen or twenty miles, we did not mind the fatigue because the sport was fine.

Rover was an adept in the art of catching coons. He caught eight or ten that fall in cornfields where they were doing much damage to the crops, and he ran the others up trees which the boys chopped down. Rover invariably got his coon when the tree fell. If the tree was a large one Rover and I would lie down to keep each other warm while the boys felled it. When the tree began cracking Rover would spring up and place himself where the top would fall, and never failed to nab the victim.

My share of the coon skins and the oil for the second year's hunting amounted to \$4.35. Three dollars of

this was expended by me in buying shoes for myself and my brothers and sisters when the cobbler came to our house in the fall. I bought school-books for which I paid fifty cents, retaining eighty-five cents to spend at the General Training the next spring, where I repeated my dissipation of the previous year, spending twenty cents. I was very fond of General Training, because the boys and men indulged in all kinds of sports, such as running, jumping, wrestling and boxing, in which I took a very active part at an early age.

During the summer I helped my father on the farm at all sorts of work. That winter I went to common school three months, and returned to work again in the spring. Often I would work all day and hunt coons all night.

CHAPTER II

I am cheated by a sanctimonious deacon—Joshua Giddings inspires me with the ambition to be an orator—I leave home and begin the battle of life—School—I do a man's work, and save money.

There was a huckleberry swamp in the township of Bloomfield about five miles east of where we lived on Grand River, where I went two or three times during each summer with my mother and some of the neighbors and their children to gather huckleberries. We loaded a wagon each time with the berries, which were very abundant, so had to walk home. On one of these occasions the larger boys who were with us persuaded my mother to allow me to remain with them and attend a political meeting which was to be held at Bloomfield Center in the evening.

Several of the local candidates reveled in oratory, and Joshua Giddings was there and made a speech against the Democratic party. Giddings's speech inspired me with ambition to be a great man and to talk as he did. I never have forgotten the impressions I received at that meeting.

About that time I was taught a very valuable lesson by a man named Deacon Laird, a ranting member of the Methodist church, who was a neighbor of ours. My mother and Deacon Laird belonged to the same church and the families were quite friendly.

Early in June, when corn became large enough to hoe, my father was called away to Cleveland, which was then a small village. Before he left he plowed a patch of corn and told me to hoe it while he was gone. As he expected to be away three or four days I had ample time to perform the task he left me. When I was on my way to the cornfield, the morning after my

father left, Deacon Laird's son John, about two years older than I, told me that his father wanted to hire me a day or two to help him hoe their corn. I told him I could do the work my father left me in about a day or a day and a half, and if he would hire me for two days I would take the chances of getting my work done before my father came back. He took me to his father, who was just going into the field with his old mare to plow. It was then about half past seven. Deacon Laird said he would hire me for two days and pay me twenty-five cents a day if I would work well. I thought it a good opportunity, because I had only twenty cents left of my coon money. We did not get fairly to work until about eight o'clock, but worked on until nearly dark.

The next day I was on hand at half past six in the morning and went to work immediately. We took a short recess in the middle of the day for dinner, and John and I worked like beavers to keep up with the deacon plowing the corn.

A little after four o'clock word came to the field that the mother of the hired girl was very ill and that the girl must go home immediately; so the deacon let her take the old mare to ride, and stopped work, while John and I finished the hoeing in about half an hour. I then went with John to the yard gate and told him to go to his father and get the money to pay me. I supposed I was entitled to fifty cents for the two days' work. John came out in a few minutes and handed me a ten-cent piece so badly worn that I could not tell what its nationality was; but John said his father told him it was a York shilling, which was twelve and a half cents. I was very much in doubt about the money, and went a mile and a half to Mesopotamia Center to see Mr. Winter, a storekeeper, to ask him about it. He told me it was a very badly worn ten-cent piece and that I had better get rid of it as soon as I could.

The next morning I went to Deacon Laird to collect the balance of the money which was due me.

"You have worked only one day," he said, "only half a day each day you were here. I have paid you a shilling."

"No, it was only a ten-cent piece," I replied.

"I am never mistaken in money," he insisted.

I told him Mr. Winter said it was only a ten-cent piece.

"I have paid you twelve and a half cents, and I owe you twelve and a half cents more, which I will pay you some time when I have the money," he retorted.

"You say you will pay me only twelve and a half cents more, and you say that was a shilling you gave me," I answered, backing off a little, looking at him all the time and picking up some stones. When I said the last word I let drive at him and cursed him for everything I could think of. He came after me, but I got over the fence quicker than he could and got out of his way, and went to my father's cornfield and finished the work he left me to do.

I was greatly troubled for fear Deacon Laird would misrepresent the affair to my mother. I finally concluded I would make a clean breast of it and tell her all about it. She did not know that I had worked for Deacon Laird at all, and was very much affected by my story. She never chastised me when she was angry, but would always put it off and do it very deliberately later on. When I told her how I had cursed the Deacon she shed tears and said:

"My son, I am deeply hurt, and very sorry that you have used profane language. You don't know how it pains me."

I expected she would call me up the next day and punish me, but she never said a word about it. I noticed a coolness between her and Deacon Laird afterward, but she never mentioned the subject to me again.

This little experience with Deacon Laird has been of great value to me through life. It has made me suspicious of people who are too loud in their profession of religion. I have always been afraid that they were using the garb of sanctity to cloak their rascality, and, to my advantage, I have refrained from trusting them.

My coon hunting during the following year was not as profitable as the year before, my share amounting to only about \$2.50, of which I spent \$2 for shoes for myself and my brothers and sisters. I was not able to procure many new shoes, but the cobbler mended up the old ones and made us very comfortable that winter.

About a week before General Training the following spring, I was at Mr. Winter's store at Mesopotamia Center, and he invited me to take twelve o'clock dinner with him on General Training day. I gladly accepted the invitation, which relieved me from the expense of buying gingerbread and root beer.

The only recreation I had that summer from work on the farm was fishing and swimming in Grand River. The lock tender of the Erie Canal taught me to swim about as soon as I could walk; at all events, I do not remember when I could not swim. In the winter I again attended the district school on Grand River. Among the pupils was a black-eyed little girl, Mary Easton, about my own age, of whom I was very fond. The schoolhouse was warmed by an old-fashioned fireplace with a back-log, andirons, and a big pile of wood. The boys usually made the fire in the morning, and one morning while several of the larger boys were having difficulty in putting the back-log in place, in the presence of the other scholars, among whom was the black-eyed little girl, I seized the opportunity to show off.

I picked up one end of the back-log, the other slipped, and the log dropped on my toe, smashing it so it was

marked for life. I did not tell anybody I was hurt, but worked away at the log until I got it in place. I then went home with my shoe almost full of blood; but after the toe was dressed I returned to school for the remainder of the day without letting the scholars know I had been hurt.

The following spring I met with a great calamity. Rover died. I have always thought some boys whom I would not take "cooning" with me poisoned him out of revenge. I buried him by the side of a big rock, and on a recent visit to my old home I found the rock and was able to identify the burial-place of my faithful dog.

The next summer and fall were spent working on my father's farm as usual, and in the winter I again attended the district school. I had then grown to be almost the size of a man, being in my fourteenth year. In the spring there was not much to do on the farm, as the corn planting did not take place until about the middle of May.

A neighbor named Nathan Brazee wanted to hire me for a short time. So one morning after breakfast, while my father was still in the house, and mother was attending to her household affairs, I asked father if he had any objections to my working for Mr. Brazee until time to plant corn. He treated my request rather lightly, and laughingly remarked:

"Why, certainly, you can go and stay as long as you have a mind, and you need not come back any more unless you wish to."

Mother overheard the remark, and said to him:

"Augustus, you had better not make a bargain with William, for if you do he will keep it."

He laughed again, and said:

"All right, it's a bargain. He can keep it."

I thanked him for his consent, and left the house that morning, went to the house of Mr. Brazee, and made

a contract to work for him for six months at eight dollars a month. I did all kinds of work, and fully supplied the place of a man until haying was over.

Mr. Brazee then called my attention to a five-acre lot of timbered land which he wanted cleared. The mode of clearing at that time was felling the trees, trimming and piling the brush, and cutting the bodies of the trees into logging lengths; that is, such lengths as could be rolled into log heaps and burned. I asked him how long a time he would allow me to clear the five acres, and he said, "The balance of your six months." I agreed to that and did the work in a little over six weeks, but my right hand bears the marks of that work to this day.

My six months' pay was due before Mr. Brazee was able to meet his obligation. Adjoining the five acres I had cut he had a ten-acre tract which formed an ell to his farm. I knew a man who wanted the ten acres, and I asked Mr. Brazee what he would take for the land. He said I might have it for what he owed me. I closed the bargain at once, went to the man whom I knew wanted the land, and sold it to him for a yoke of steers and fifty sheep. I soon found a cash customer for my steers and sheep and sold them for sixty dollars.

I took this money and started to the academy at West Farmington, which was at that time quite a flourishing institution in the township adjoining Mesopotamia Township on the south. I rented a room for a dollar a month, bought a bed and bedding of very primitive quality for four dollars, and a second-hand cook-stove for a dollar and a quarter. I cooked my own food, which did not cost me more than three dollars a month.

I was a very poor scholar for my age. My clothing was cheap but comfortable. My large size, and the hard work I had performed, gave me rather an uncouth and awkward appearance, and as I went into the schoolroom and took my seat I observed a sup-

pressed titter among the girls, which I realized I had occasioned.

Although I was backward in everything else, I had a natural aptitude for mathematics. Adam's arithmetic was used in the school, and before I had been there a month, and although I was sometimes compelled to refer to the multiplication table to refresh my memory, I could do all the hard problems in the "back of the book"; and before the term was out I could answer any question or do any problem in the book. The girls, as usual, dreaded arithmetic, and when the teacher would call me out for recitation and open the book at the hardest place he could find, I would answer all questions and do anything that was to be done on the blackboard without hesitation. The girls did not titter any more, and I was gratified to find myself a decided favorite before the term expired.

During my vacation I worked for Deacon Goff, who lived about a mile south of the academy. Deacon Goff was a very good man, charitable, and benevolent. He never used his religion as an advertising medium. I carried off brick in his brick yard for three months at twelve dollars a month.

In the fall I went back to the academy, and I had saved up enough money to enable me to have my eldest sister attend school with me for two terms. I could do this because I paid my own board and lodging by working mornings and evenings for Mr. Leonard Lewis, who had a farm about a mile west of the academy. I milked cows, cut wood, and fed stock.

CHAPTER III

Herding cattle—First visit to a great city—I win fame as a harvester and lay my rivals out—Student and school teacher—An unruly pupil floored—I enter Yale—College pranks.

The following summer, when I was sixteen years old, I hired out to assist a drover by the name of Loveland, whose business was to buy cattle in the West in the winter and drive them in the spring and early summer to Chester and other counties of Pennsylvania near Philadelphia. The cattle were kept in pasture until the early fall and then made ready for the eastern market. There were no railroads of any considerable extent in those days, but there was a magnificent macadamized road between Pittsburg and Harrisburg, the capital of the State. Mr. Loveland's drove that year numbered about twelve hundred steers. The drove moved slowly, because we had to find pasture for them along the way as it would not pay to buy feed. Before we were over the mountains Mr. Loveland acquired the habit of giving all his orders through me, and told me when I had no special orders to use my own judgment in directing the men.

When we arrived in Chester County he asked me if I could take care of the cattle and find them pasture for six weeks or two months. He said if I could do so he would let all the other men go, and when I needed help I could hire boys in the neighborhood and pay them, and also keep accounts and pay the pasture bills. I was glad to have such an arrangement, because the men who came over with the drove had become a little jealous of me, and I was afraid I would have trouble if he left them with me.

I had a most delightful time that summer. I lived at

various farm-houses, and became acquainted with all the girls and boys, who thought nothing of walking eight or ten miles from one farm-house to another. Cherries were ripe, and all sorts of berries; peaches and plums came later. I did not have to hire any help, for when I wanted to change the cattle from one pasture to another the boys of the neighborhood all wanted to help drive them and thought it was great sport.

Beyond question the good old German Quaker women of Pennsylvania at that time were endowed with as much human kindness and motherly love as any who have ever appeared on earth, before or since. They gave me better things to eat at the farm-houses where I stopped than can be found at the most fashionable homes of modern aristocracy. The day we forded the Susquehanna River with our drove of cattle was characterized by the hardest work of the whole journey. We had no time to eat breakfast in the morning and did not get our cattle into pasture until four o'clock. I then went to a confectionery stand on a broad porch near the end of the bridge across the river. There I saw a very tempting-looking pie, and asked an old lady keeping the stand the price of a piece. The pie was cut in quarters, the pieces were very large, the price was ten cents. I laid ten cents on the counter, and as she placed the pie before me she gave me a kindly look, which seemed to me like a benediction, and said, "You have been working very hard driving them cattle and you want something more substantial before you eat that pie." She then brought out a large bowl of milk and a loaf of home-made bread and a big cut of home-made cheese, and said, "I advise you to eat that first and the pie afterward."

I never relished a meal more in my life, and the pie was something new, being made of tomato preserves. I never have eaten anything in the shape of a pie that equaled it. While I was eating the good things she

gave me she kindly talked to me about the country, and gave me a good deal of local information in a very short time.

When I offered to pay her for what she had given me in addition to the pie, she said:

"No, young man; when I saw thee hungry, it more than paid me to give thee food."

In the fall Mr. Loveland sold out his drove, and wrote to me to meet him in about five days at Harrisburg, where we would settle our accounts and go home.

As I had never seen a large city, Pittsburg then being only a small village, I had a great anxiety to visit Philadelphia, which was about thirty miles distant. I ate an early breakfast at the farm-house where I was stopping, put some crackers in my pocket, and started on foot for the big city. About twelve o'clock I stopped at a wayside pump and dined on crackers and water. I reached Philadelphia some time before sundown. Chestnut Street to me was a wonder, and I was not too tired to go the whole length of the business part of it before I took lodging for the night.

There was a receiving-ship in the harbor where they were enlisting and training boys for the Navy. I contrived to get aboard, thinking perhaps it would be a good thing for me to go to sea; but when I saw how the officer of the deck treated the enlisted men, I came to the conclusion that I would not trade my freedom for one day for all the navies in the world. I hurried back to the city and spent the day in sight-seeing. It seemed strange, after I became familiar with cities, how wonderful commonplace things appeared to me on my first visit to Philadelphia. I walked back to Harrisburg and arrived there by the time appointed by Mr. Loveland. It did not take long to settle the accounts; in fact, they were already settled by the bank which kept account of my orders. We returned to Ohio together in a buggy.

I went back to the Farmington Academy during the fall term, and at the Christmas holidays I engaged to teach a school for three months at Hampton, Lake County, Ohio. My school closed before the close of the spring term at Farmington, and I went back there and reviewed my studies for a month.

In the mean time, a high school where students were preparing for college was established at Lyons, New York, so I determined to leave the academy and go there.

After visiting my home and making some presents to my mother, brothers, and sisters, I had barely enough left to pay my passage on the lake steamer and canal boat to Lyons. I walked to Ashtabula, a distance of about twenty-five or thirty miles, and took a steamer for Buffalo. The boat stopped at Erie, Pennsylvania.

I arrived at Lyons on a canal boat about four o'clock in the afternoon with fifty cents in my pocket. It was haying and harvesting time and I apprehended no difficulty in getting immediate employment. I followed the road going south from Lyons about half or three-quarters of a mile, to a large farm-house with many out-buildings, and turned into the gate. There was a porch nearly all the way around the house, which was built something after the Pennsylvania style. In the shade of the porch fronting the gate an old lady and gentleman were sitting in quiet conversation. I asked the old gentleman if he wanted any more help. He said:

"Yes, I want three or four more hands, but you look too delicate for my work; I don't think I want you." I turned to go away, and his wife said to him:

"Mr. Dunn, why don't you give that young man a chance? He is large and strong; it is his light complexion that makes him look delicate. Please give him a chance."

The old man called out to me in a gruff voice:

"Come back here, young man. What can you do?"

"Any work you have on the farm," I replied.

"Can you mow?"

"Yes."

"Can you cradle?"

"Yes."

"Can you rake and bind?"

"Yes."

He pointed to a field near the barn, containing four acres of timothy and clover, and told me that the field was ripe enough to cut and that I might try my hand there.

He took down a scythe that was lying on a shed near by and told me to turn the grindstone and he would grind the scythe for me. I told him if I were going to mow I should prefer to grind my own scythe. "Can you grind a scythe?" he said. I told him I could. The old lady spoke up again, saying:

"Mr. Dunn, you turn the grindstone and let the young man grind his own scythe," and he did so.

The next day I commenced mowing, but my hands were tender, as I had not worked recently, and they soon blistered and bled. I kept on, however, and before night I had cut two acres of that heavy grass, which was half the field. The men, as they came in from the wheatfield where eight or ten of them had been at work, took a look at what I had done, and spoke to Mr. Dunn about it as they passed into the farm-house. I did not hear what they said or his reply, but the old lady came to my relief again and said loud enough for me to hear, "I told Mr. Dunn that young man could work."

I finished mowing the next day, and the following morning Mr. Dunn told me I might go into the wheatfield and rake and bind, and that if I could keep up with the cradle it would be a dollar a day, but if I failed to do that it would be only seventy-five cents. I kept up with the cradle four days and the wheat harvest was

done. By that time Mr. Dunn and his wife had become my particular friends. They had a daughter, Sallie, about eighteen years old, and the old gentleman gave me an introduction to her, which was regarded at that time as a special honor.

There were two large fields, one on either side of the road, each containing about one hundred acres. Much of that ground is now occupied by the New York Central Railroad. Mr. Dunn said to me, "I want you to help mow those fields, and as I have observed that you are particular about your scythe, we will go over to the village where you can pick one out and I will buy it for you." We carried out the suggestion, but the scythe had to be ground the next morning before it was fit for use. He told me to grind it and he would turn the grindstone, and while I was doing so, he said, "I don't want the men crowded, but I want them to be kept at work, and I want you to see to it that they don't fool away their time."

This conversation was unfortunately overheard by some of the men before they went out. As soon as my scythe was ground I followed them, but they all stopped down at a big gate opening into the field on the right-hand side of the road, and sneeringly said to me, "Boss, you go ahead and we will follow."

It was about half a mile across the field, and the person going ahead was required to lead the way and turn a double swath back, which is a great deal harder work than mowing after a swath has been cut.

Mr. Dunn had a nephew, whose name also was Dunn, a strong, vigorous man about thirty years old, and he had been in the habit of acting as foreman. He was very angry at my being selected to lead the men. He came immediately after me, and eight other men followed him. He mowed so close to me that it made it very hard work all the way round while I was turning the double swath. It was then my turn to go behind

all the others, and Dunn's to go ahead. I did not care much for the others, but Dunn's meanness, as I regarded it, annoyed me, and I decided then and there that he or I would have the worst of it before night.

I crowded up on the men before me, and either mowed around them or made them get out of the way and fall behind me until I got up to Dunn, then I followed him without giving him a breathing-spell. When we got around near the gate where we started we were too far ahead of the other mowers to change with them, so I went ahead and he followed me, and we continued that process until night.

The race attracted the attention of the people at the house, as they could see us from the porch. When we quit work that night Mr. Dunn called me aside and said he had no intention of killing me when he told me to keep the men at work, and that it was not necessary to mow any more until we had hauled in the hay already cut. I asked him if it would not be just as well to let his nephew and me mow until the grass was all cut, and let the others take it in.

"No," he said, "I am afraid you will kill yourself. He is older and ought to be tougher than you."

I insisted on mowing with young Dunn the next day. We slept in a large room in the second story on mattresses which were spread on the floor. Whiskey was used pretty freely on Mr. Dunn's farm, and there was always a jug in the field with the water bucket for those who chose to drink it. I did not drink whiskey at that time, but I told Mr. Dunn to put a bottle of it under my head and I would use it to wet the blanket under which I slept, which would prevent my being sore the next morning. When I awoke about dawn I felt as limber as usual. I watched the movements of Mr. Dunn's nephew and observed that he was a little stiff.

The fact that the race was going on became known, and Miss Dunn invited several of her friends to join

her and see the sport that day. We mowed on as we had done the day before, each working his best until four o'clock, at which time the young lady and one of the serving-women were in the habit of taking a lunch to the field for the men at work. On this occasion six or seven young ladies came with Miss Dunn when the lunch was brought out. I ate sparingly, but my appetite was fairly good. Dunn ate a few mouthfuls and we started back to our mowing. When he had mowed about a rod he lay down on the ground and vomited, and was too sick to get up. The girls told me to quit, but I told them I would not, but to send a team and take Dunn home, and I worked on until quitting time, but not over vigorously. When harvesting was over Mr. Dunn brought out a roll of bills, and handed them to me, saying, "I think that will pay you off."

On counting the money I found he had allowed me a dollar and a half a day for the whole time.

When the Lyons Union School commenced its fall term I became a student in that institution. The school had four grades, first, second, third, and fourth. Professor Brittan was the president, and he, with an assistant, taught the languages. Professor Elliott was teacher of higher mathematics. I devoted myself during the first term to the languages, and reviewed with Professor Elliott some of the higher mathematics which I had previously studied.

At the end of the fall term, which lasted three months, I taught a district school in the town of Phelps, which was about fifteen miles south of Lyons. I had a good school, and made many pleasant acquaintances which I have continued to the present day.

When I returned to the Union School at Lyons the following spring term I was offered and accepted the place of teacher of the third grade. Professor Brittan very kindly heard my lessons in the languages out of school hours.

There was a family of Easlicks living in Lyons, consisting of father, mother, and three or four boys. They were all bad boys at school. George W., the oldest, was about a year older than I and regarded as the bully of the town. He had had trouble with my predecessor, William S. Hall, and the trustees expelled him from the school. After I was appointed his father came to me and begged very earnestly to have his boy taken back into the school. Mr. Hall and the other teachers about the institution advised me to keep him out. I saw the trustees and they said I had better not take him back; but I told his father that I would receive him in the school, and the next day George came swaggering in and began to play tricks on the smaller boys. Several of them complained to me, and I told George he ought to behave himself and let the little boys alone. He said nothing, but gave me an insolent grin.

The next day he lifted a small boy, who was sitting in front of him, by his hair and made the little fellow cry out pitifully. I walked toward him in an easy manner and told him I would have to punish him. He appeared to regard that as the best joke he had ever heard, and came swaggering toward me to show me that he was ready for a fight. I grabbed and tripped him and he fell full length on his face. I jumped on his back, caught him by the hair, jammed his nose against the floor and hit him as hard as I could under the butt of the ear, which made him senseless for a few minutes. I waited for him to recover, but kept my position for fear he might revive and get the better of me. When he was able to speak he said, "Let us reason."

"Reason be damned!" I replied. "I propose to kill you if you don't behave yourself." He readily promised to behave in future, and he never gave me another moment's trouble, although he continued to attend during the remainder of the term.

George had a younger brother about fourteen years

old who was in the same grade at the same time, and as he was a pretty good fighter I did not know but he would interfere, but he only looked on. The younger brother became an athlete in after years, and made quite a fortune by performing in Barnum's shows and other public places.

At the end of the term Professor Elliott resigned, and I was appointed temporarily to take his place at a better salary than I was receiving as teacher of the third grade.

Some of the scholars were well advanced in mathematics. Perkins's Algebra was the work in use on that subject. Mr. Perkins was a great scholar who resided at Albany, N. Y. We got along very nicely. The scholars all took deep interest, and I was able to explain everything until we came to a proposition in the latter part of the book which involved the principle of dividing nothing by nothing.

Dividing nothing by nothing produces an indeterminate quantity. You can make the strictly mathematical formula $2 = 4$ or any other absurd and unexpected results follow from combinations involving that principle. I discovered that the author was wrong, and so informed the class. The executive committee of the trustees were also informed, and they took it for granted that it was my fault; that I did not understand the question. They called a meeting of the executive board and notified me to be present the following Saturday evening.

I wrote immediately to Professor Perkins, pointing out his error. I was confident he would correct it, because he was a good mathematician and had not observed the combination which his demonstration involved. The board was very suspicious. I told them that I was right and undertook to explain it to them. Of course they were not sufficiently versed in mathematics to understand the explanation. The youngest

member of the board, James C. Smith, afterward Judge Smith, asked me how much time I wanted to communicate with Professor Perkins. I told him I had already written Professor Perkins and that I thought I would get a letter within a week or ten days. He asked me if a month would be satisfactory. "Entirely," I replied, adding that I would go on with the class and take up other branches which they desired to pursue.

Until I heard from Professor Perkins I felt that I was under a cloud; but I waited patiently, expecting to be relieved. In about two weeks I received a letter from the Professor, containing about four pages of a new edition of the book that he was about to issue, which corrected his mistake and acknowledged that I was right. I visited the president of the board and asked him to call a meeting, saying that I was ready to report. They called a meeting. I laid the matter before them and they seemed delighted. My reputation rose from below zero far above my deserts as a mathematician. The whole school, in fact the whole community, thought I knew everything about mathematics.

I continued to teach until the fall of 1848, when I thought I was prepared to enter Yale. I had been able to save but little money, but Mr. James C. Smith, who had taken my part as one of the executive committee, loaned me some money which made it possible for me to enter the college. He added to it from time to time while I was at Yale until it reached nearly two hundred dollars. Nothing has given me more pleasure than the privilege later of paying it back with more interest than he was willing to take.

When I was examined for admission to Yale the same proficiency in mathematics which had done me so much service at Lyons helped me. Professor Olmstead, who was professor of chemistry, was examining the class for admission in arithmetic. Professor

Stanley, who was professor of mathematics, was also present assisting in the examination. There were several other professors examining in the languages, for they were very strict in those days. Professor Olmstead gave me a slate and pencil. He wrote two ciphers, one above the other, and asked me to divide one cipher by the other.

I deliberately went to work and used every formula at my command, showing that the result was an indeterminate quantity. I not only used the algebraic formula by which you could prove 2 to equal 4 and the like, but I understood how to use a similar formula involving the same principle in differential calculus. I filled the slate with a great variety of solutions, all showing that nothing divided by nothing was an indeterminate quantity.

When Professor Olmstead came to me I handed him my slate and told him that nothing divided by nothing resulted in an indeterminate quantity, as I had proved in various ways. "Why, nothing divided by nothing, isn't that once?" he said. "No," I replied.

He took the slate and went to Professor Stanley, and the latter asked which student had done the problem. Professor Olmstead pointed to me. "Ask him no more questions; admit him," said Professor Stanley. So the examination in the languages was merely formal, and I went through easily, which was a great relief to me.

I passed the first year in Yale without making a mistake in mathematics, although I do not believe I spent two hours during the year studying my lessons. I did that at Farmington and Lyons, where I examined all the geometries, algebras, books on trigonometry, surveying, plain and differential calculus and conic sections that I could find—a much more thorough course than was pursued in any of the colleges. I was so much absorbed in mathematics at times that I often worked

all night, and when called for breakfast was unconscious that I had been engaged any considerable length of time.

The languages gave me more labor at Yale, but mathematics came very near being the ruin of me. There were problems for which additional marks were given out by Tutor Grant, our division tutor. He gave them out and I would do them for the boys who were dull in mathematics. He was very suspicious of me, and tried very hard to get even by finding questions that I could not answer. He thought he had me one day. In Playfair's Euclid, which was used at the college, there is a demonstration, and then a note below at the bottom of the page in fine print, stating that the q point can be demonstrated in a similar way without giving the demonstration. Most of the young men failed on the q point. It was in the lesson given out, but it had not attracted my attention and I had not looked at it, and was uncertain whether I could demonstrate it or not.

As I was going into the class-room I told Tutor Grant that I had not looked at the q point and I would rather not be called on for it if he would excuse me; that I had not asked any favors before and I did not want to miss answering any questions put to me.

He simply gave me a sardonic grin, as tantalizing as he could make it. He pulled out papers by lot and called the class up to demonstrate on the blackboard, so that nobody knew, and he did not know, what problem any student would get.

When he came to the q point he drew five different papers until he came to my name. He then called out, "Stewart!" I had told the class that I had not examined it.

I went to the blackboard, asked the tutor to read the proposition over again, and he read it in a vindictive, harsh and loud, but clear voice. When he finished I had thought it all out. When I had written it he

said, "Sufficient," in a snappish tone, and the class all cheered me, which was a great indecorum and came very near breaking up the meeting.

My anger was aroused by his treatment. The students published a paper called *The Tomahawk*. We could not publish it at the college. It was a secret society paper and was printed in a cellar in New York, and we distributed it from there. It poked fun and ridicule at everybody. We had observed when we went to Tutor Grant's room, where we had to go to ask favors of any kind or to be excused, that he was receiving letters from two different ladies, and that he put them in separate pigeonholes. We concluded that he must have some love secrets.

There was a little fellow, Talcott, who was a good scholar in the languages and quite a poet, being able to write doggerel with great facility. He and I obtained excuses from attending chapel on the same Sunday. It was summer-time and the windows in the professors' dormitory were open. Tutor Grant was a bachelor.

I secured a painter's ladder and Talcott climbed into Tutor Grant's room, took some letters from the two pigeonholes, and worked them into verses. It seems the two girls were jealous of each other; and Talcott, in the doggerel, made them reply to what Grant wrote, he pretending to each that she was the only one.

We had that printed in the paper, and Talcott stuck four or five copies in Tutor Grant's hat, and when he was at dinner scattered them around the whole college. We had to do it clandestinely, but it raised an uproar. Grant wanted the faculty to get together and punish the guilty parties. I was frightened then.

One of the students had a room just under the room where the faculty met. We got a bit and bored a hole into the floor, and stuck a tube into it and brought it down into the room beneath, so that we could hear what the faculty said. They ran him a good deal about the

joke the boys had on him, but he was fearfully mad and wanted them to trace it out and expel the guilty parties. He said he knew I was at the bottom of it, and that nobody else could invent such a trick as that. The faculty wanted proof, as they would not expel me on hearsay. They wound up by resolving not to do anything unless they had evidence.

Professor Stanley was my friend. He sent for me the next night and said to me, "You must stop this. I know he is not a very agreeable man, and deserved it, but you must stop it."

Another time mathematics came very near ruining me. At the end of the second term prize problems were given out for the freshmen and junior classes to solve. I solved every one.

I had a friend in the sophomore class whom I liked very much, and I gave him the solution of a very hard problem and he secured a prize. Professor Stanley thought I had done it, and sent for me and asked me to solve that problem for him. I tried very hard to find a way to do it different from the way I did it for my friend. He told me I need not go any further, that there was only one way to do it.

"Now," said he, "this is the second time I have caught you, and if you try to do anything of the kind again you will be found out and I will not protect you."

CHAPTER IV

Gold fever—I determine to go to California—Storm off Hatteras—Arrival in Panama—A priest and a cock fight—Gambling in San Francisco—In desperate straits—Ill with fever, I struggle to the gold diggings—Money in sick miners—My first claim.

After commencement in 1849 I went to Lyons, which I regarded as my home, and spent the vacation in such work as I could find. While there glowing accounts were constantly received through the newspapers of the gold mines discovered in California, and many young men were leaving for the Pacific.

Judge Sherwood was anxious that I should go to the gold fields and try my luck at mining. He said he would lend me sufficient money to pay my transportation by way of the Isthmus, as it was then too late to cross the plains that season. I went to New York to obtain passage, but found everything taken for about three months ahead, and the best I could do was to secure transportation on the steamer *Philadelphia*, a shaky old craft that was to sail about Christmas.

I went back to Yale for the fall term, and left at the holiday vacation, starting early in January on the voyage to Panama, and a very rough voyage we had from New York to Cuba, too.

A storm raged off Hatteras for about forty-eight hours, which came very near destroying our ship. The old hulk had been fitted up with shelves called berths, and we were packed in after the fashion of so many herrings.

There was not sufficient room for coal below and it was packed around on the middle deck, leaving barely space to walk. When the steamer commenced pitching in the waves, the coal, which was in sacks, slid forward

and endangered the safety of the vessel. The captain called on the passengers, about fourteen hundred in number, to help carry the coal back to trim the ship. Only three of us were able to engage in the work, John James, "Doc" Bronson, and myself. The rest of the passengers were too sick to stand, and devoted themselves to prayer and lamentations.

The vessel had two engines driving paddle-wheels. During the night of the first day of the storm one of the engines broke and three of the sailors lost their lives in attempting to repair it. From that time the ship had to be worked with one engine.

During the early part of the second night the waves were tremendous, every ninth wave greater than the intervening. Finally one of the big waves swept over the ship and carried every mast by the board. The captain called upon his crew to cut the ropes and let the dangling spars go overboard. None of his crew dared such an undertaking.

Just at that moment, William Dall, a young, compact, energetic sailor who was going to the Pacific to act as mate on a steamship, and who afterward was captain, and later superintendent of one of the principal mines on the Comstock, volunteered to cut the ropes. He bound a rope around his waist, sprang to the stump of the mast and tied himself to that, and swung out in the air, cut the ropes and cleared the ship before the next great wave reached her. After that the wind gradually subsided, although the waves still ran mountain high.

By twelve o'clock that night the coal which had been between the decks was so far used up as to give no further trouble. I asked the captain if he had anything more for me to do, and he said no, that I had better take a rest.

I started down to the cabin, heard the pounding of an anchor chain, and met two sailors going to fasten it.

One of them was a very large man and the other a very small one. The little man said to his companion, "I wish it was morning." The other replied in a gruff tone, "What bell is it?" The little sailor told him it was the third. The big one replied, "That is three hours before daylight. It will take you just two hours to get to hell and you will have a chance to roast there an hour before daylight."

I went down to the cabin, a long, narrow room between the bunks and shelves where we were packed, and was crawling into my berth, which was near the entrance, when a very corpulent man, whose name was Patterson, who had been a justice of the peace in Vermont, caught hold of the stanchion at the opening to steady himself and said to me, "What do you think the chances are?" I told him I thought they were about even, they might be a little against us. He raised his hands to pray, and as he did so a tub of butter floated behind him, and as the ship rolled he took a seat in the butter. I think I would have laughed if the ship had been sinking.

The next day we got into still water among the islands of the West Indies, and every ship we passed hailed us for a wreck. But the weather was then delightful, and the passengers all crawled out on deck and looked happy. I have no doubt they felt happy, for I am certain I did.

About noon my attention was called to a number of gentlemen engaged in playing poker. My prayerful friend Patterson was one of the party, and I called the attention of the passengers to the marks on his trousers occasioned by his attempts to pray the night before. The boys made life uncomfortable for him during the rest of the journey.

We arrived about sundown at the mouth of the Chagres River, where there were several hundred boats of all shapes and sizes, in which the natives rowed,

or rather poled, the passengers up the river to a place called Gorgona, from where they either walked or were carried with the baggage on the backs of natives and mules.

I heard the officers of the boat discussing the chances of securing passage to San Francisco. They said there were ten tickets reserved for the agents of the Adams Express Company and their friends, and that they must hurry to Panama in time to secure them. I determined to be there as soon as they were.

The boat I selected for the trip up the river carried three passengers besides myself, and was propelled by four natives with long poles. We encouraged them as best we could, and our boat landed immediately behind the Adams Express boat. I did not take time to engage mule transportation, but relied on my own feet, kept up with the Express Company, and by insisting got one of the tickets.

It was several days before our boat sailed, and I occupied the time looking over Panama and the surroundings, and found many old buildings and remnants of the ancient Spanish town when the city was the central depot for the western coast of America and the islands of the Philippines in Asia.

I arrived Saturday, and about ten o'clock Sunday morning a long procession of men and women passed through the main street to a large stone cathedral where religious services were held. The priest who officiated was a very devout and solemn-looking person.

As I left the cathedral I met some Americans who had been on the Isthmus for several weeks waiting for transportation, and they told me there would be another performance of a different kind in the afternoon.

About one o'clock they led the way to a secluded grove where the men were coming from all directions to a central point, in which there was a round pit about thirty feet across and two feet deep.

To my astonishment I saw the same priest who had officiated at the religious service in the morning, approaching with two servants, each carrying a basket filled with fighting-cocks. He jumped into the ring with a fighting-cock to meet a man from the other side, who also had the same kind of fowl, and the trouble began.

The priest stayed in the pit nearly all the time, his servants handing him a new fighting-cock as fast as his fighter was killed. Thirty or forty chickens were killed in the hour and a half or two hours that the sport lasted. At the end of that time the only living chickens belonged to the priest, and he had two left. His servants put one in each basket with the sacks of silver which their master had won, and the priest marched away in triumph, the proudest-looking man I ever saw.

When the time arrived for the ship to sail upon which I had secured passage I went aboard of the little propeller *Carolina*, and was surprised to see so many passengers crowded into so small a vessel. There was hardly standing-room, much less sleeping-room. The craft would have been overcrowded with three hundred; and more than thirteen hundred came aboard.

I had provided myself with a quantity of tobacco, which I had learned was a good medium for making friends with the sailors. I took a fancy to the second mate and furnished him with tobacco for the trip, and he returned my courtesy by swinging a hammock in the rigging for me to sleep in, which added greatly to my comfort.

The vessel went very slow, and it required more than a month to go from Panama to San Francisco. Our food was very bad; corned beef and hard tack, with coffee, being the only diet. After the first two weeks the water got low, and then we were put on short allowance. Before we had been out a week the third mate rebelled, and a half day was spent in overpowering him

and putting him in irons. More than half the passengers sympathized with the mate, and if I remember rightly some profane language was used.

The next day after the trouble with the mate, excitement was created by one Micky Free, who was an Irish-American about six feet three, and as agile as a cat, with the strength of at least two ordinary men. He was from Ohio and had the reputation of being a little queer. The meat being unsatisfactory, he made speeches with regard to it which occasioned much amusement. He finally commenced auctioning it off to the highest bidder in such a ridiculous manner that the passengers became boisterous with laughter, in defiance of all discipline.

The captain wanted the sailors to arrest him and put him in irons, whereupon he ran up the ropes like a wild animal, and when the sailors attempted to follow him he told them if they had no mercy on him to take care of themselves, as the first man that touched him would be sure to fall down on the deck. No one touched him, because in the first place they could not catch him, and in the second place, they dared not capture him if they could.

He stayed up there tantalizing the officers with his witty remarks for about half a day, and then they told him to come down and have a talk. He replied that they could not catch him that way; but he finally pointed to me and said to them:

“That light-haired young man down there is my agent, and any arrangement that you make with him I will carry out.”

I negotiated with the captain, and an agreement was reached that he should come down and be unmolested, and that he should not auction off any more meat.

Notwithstanding all the discomforts, we had on the whole rather a jolly trip, something out of the ordinary course of events taking place every day.

When we reached San Francisco the harbor was full of ships lying at anchor. The bay at that time extended up to Montgomery Street, with a peninsula jutting down to where Market Street now is.

We landed in boats where the Montgomery Block was afterward erected. The day I arrived I went to the corner of Market and Kearney Streets, where the principal gambling-establishment of California was located. It was in a roughly constructed building about thirty feet wide by one hundred feet long. As I entered the door a smart-looking little chap met me and pointed to a roulette table near by, and told me if I would say nothing about it, he would give me a secret. I told him I would say nothing, and he told me if I would bet at that roulette game and double the bet every time I would win all the money in the bank.

I took out a quarter of a dollar and marked a cross on it with my knife, and bet it. There was a gentleman betting who had won several hundred dollars, and I bet as he bet and won every time. I continued betting all the money I won, saving only a quarter, until I had won twenty-five dollars, when the dealer swept that money in and also the pile the other gentleman had won. I then proposed to the dealer that he take the quarter I had and give me back the quarter I had marked, because the marked quarter was the lucky quarter. He supposed I wanted the marked quarter to bet with again and he made the exchange.

I put it in my pocket and bade him good-morning. I have never bet a cent from that time to this. I went through the gambling-house. There was an enormous amount of money, something like four or five hundred thousand dollars, on the tables, mostly in sacks of gold dust. Miners were betting against gamblers, male and female, dressed in the most gaudy styles; and while I watched for perhaps fifteen or twenty minutes I saw quite a number of miners lose every dollar they had.

I worked a short time on the wharf unloading vessels at a dollar an hour, and I then went up the river to Sacramento on a steamboat. From there I started up the American River with a view of finding a place to mine, but the river was too high for mining on the bars. So I returned to Sacramento and met a gentleman who wanted some wild grass cut for hay. I worked for him a couple of days, when I was taken sick with Panama fever. A young druggist whose name was Crane, whom I had known in Lyons, advised me to go to a hospital which he had established in Sacramento in connection with his drug store.

The hospital was a sorry-looking building. The water under it was about eighteen inches or two feet deep, and it could be reached only by a platform of boards.

An untidy-looking Mexican who spoke some English had charge of the establishment, and I inquired of him how many persons had died there. He undertook to count them up, but I stopped him and told him that was enough. At the landing there was a small river boat, called the *Governor Dana*. I got the Mexican to take my luggage to the boat, where I followed him and lay down on a bench on the deck.

My friend Crane came to me with considerable agitation, and wanted me to go back to the hospital, saying I would not live to get to Marysville, the destination of the boat; but I declined. His hospital couldn't have my patronage. It was not good enough for me to die in. When the boat landed at Marysville I could scarcely stagger up the bank, which was very high at that time; but since then the river channel has been filled up with debris from the mines, leaving little or no bank. I spent the evening and night under a cottonwood tree where the boat hands placed my luggage.

In the morning two men with a team consisting of twelve oxen were loading supplies for a mining camp

known as Deer Creek, afterward Nevada City, about forty miles up in the mountains. I asked them to take me on their wagon. They objected at first, and said I was too sick to go, and that it would take several days with their ox team. I plead very hard, and they finally consented to take me. They loaded me on their wagon, put some loose hay under me and made me as comfortable as they could. It was a dreary ride, lasting three and a half days. I was racked with pain, and part of the time I was delirious.

When we arrived at Deer Creek the teamsters camped about a quarter of a mile out of town in a grove of fine timber near a mountain spring called Roger Williams Spring. They fixed me a bed of leaves above the spring, and split a stick and put a dipper in it, which enabled me to reach the water from my bed.

Miners who came up to the spring frequently discussed my case, the general conclusion being that I would not be able to "make a live of it." I drank enormous quantities of water every day, and finally on the morning of the eighth day I found myself in a violent perspiration. The fever was gone, and I was well, but very weak. Later, when I was informed of the fate of the others who had been taken with the same fever, I congratulated myself that I had no money to employ a doctor or buy medicine, as I was the only one who recovered.

I had just ten dollars left. I went out immediately to secure a pick, shovel, and pan, with which I was told I could dig and wash out three or four dollars a day. I crawled over to the town, bought a little food, and located an old pan for which I paid a dollar. I did not have money enough to buy a new pick or shovel, as the shovels cost sixteen dollars and the picks ten dollars. I found an old stub of a shovel pretty nearly worn out, which I bought for seventy-five cents. I was told that a doctor on a knoll a little distance from the

town had a pick which I might buy. I called on him and found him sitting on a stump whittling a stick and whistling.

"You appear to be very comfortable," I said.

"Yes, I'm making about a pound of gold a day on an average," he replied.

I told him I had heard he had an old pick that he would sell. He looked around indifferently, pointed to an old pick worn off on both ends within three or four inches of the eye, and said I might have that for a dollar and a half. I bought it because it was the best I could do.

While I was standing there conversing with the doctor I heard groans in his tent-house, which was built up about seven or eight feet high of sticks and mud covered with canvas, with a door and no windows. I asked him who was in there, and he continued to whistle, but finally replied, "Some patients of mine; they are very sick and I have to keep the air away from them." I stepped to the tent, jerked open the door, and looked in, and there were four or five persons nearly dead of the fever, deprived of air and water.

The sight was so horrible that I left the doctor at once and went down into the village and told the people what I had seen. A party of young men started immediately for the doctor's camp; but as he saw them approaching he made his escape, or they would certainly have lynched him after they ascertained the facts. He had already buried four men a few feet from his tent-house.

His scheme undoubtedly was to get sick miners into his power, rob them, and cause their death. About five years afterward I met the doctor in San Francisco, and he saw me quite as soon as I saw him. He was a ghastly looking wretch, and ran from the sidewalk between two buildings into the dark. He was evidently suffering for his crimes.

I worked around in the ravines which had been worked over, but found some rich places and was able to make from two to six dollars a day for about ten days, when my strength returned and I determined to go to mining in earnest. So I bought a pick and shovel and went up on a hill called the Coyote Diggings to find a claim that I could locate.

The diggings consisted of a body of gravel extending across a low range of hills about three or four miles, and cut by ravines emptying into Deer Creek. These hills had different names; the one I selected was known as Buckeye Hill.

On the hill I met a man by the name of Savage who had been a fellow-passenger from Panama on the propeller *Carolina*. He seemed very glad to see me, and showed me where he had intended to locate a claim, but said that he had changed his mind and was going on the other hill across the ravine to locate. I then told him I would locate the claim that he suggested, and he remained there until I had driven a stake at each corner, which was claimed by miners' rule, thirty feet square.

He then went over on the other hill and made a location at the place he had described. I commenced to sink a shaft on my claim, and I told a young doctor, named Merrick, that he might go in with me if he desired, but he did not give me an answer that evening.

CHAPTER V

The lead struck—I defend my rights—The first woman in camp—
“Oh, Joe!”—Three thousand dollars for the timid female—Brisk
matrimonial market—Ten divorces in one afternoon—Starting
a frontier aristocracy.

When I went back to work in the morning there was considerable excitement on the hill. The lead had been struck near my claim, and in line with it, so it was evident that the claim was a good one.

About eight o'clock Mr. Savage, who was a large man of powerful build, came to where I was at work, and in a rough and excited manner wanted to know what I was doing there. I told him I was sinking a shaft on the claim I had located the day before. He told me to leave the ground. I said to him, “You told me to locate here, and it's mine.” I proposed to him to leave it to arbitration, which was the usual method of settling claims at that time. The plan of arbitration was for each claimant to select a party and the two chosen to select a third to hear and decide the case at once.

“You will never arbitrate with me; you get out of here,” he replied.

He grabbed me by my woolen shirt, but as he jerked me up I put my feet against the side of the shaft, which was about two feet deep, and grabbed him around the waist and gave a tremendous spring. His back was toward a small ravine, about fifteen feet down, with quartz boulders in the bottom. He went to the bottom of the ravine and I on top.

The fall made him unconscious for a short time, and I wound his woolen shirt about his neck and twisted it with my hands so that I could keep him unconscious or let him up at will. I then loosened my hold and he

came to and attempted to fight. I choked him and took up a rock and told him he must tell the truth before those who were present or I would knock his brains out. I then let him have breath enough to speak, and stated to the by-standers what had occurred. Some of them were present the day before when I made the location, and verified what I said. I gave Savage ample opportunity to indorse the truth of my statement and he did so with a hearty good will. I let him go and went back to work. By that time I had plenty of friends, and Dr. Merrick said he would accept my offer to go in with me and work the claim.

Merrick and myself sunk the shaft which I had begun to a depth of 100 feet, when we struck a body of gravel under a strong formation of pipe clay about four feet thick, which averaged in washing out over fifty cents to the pan.

Charley Fairfax, who would have been Lord Fairfax if his family had remained in England, had a mule and cart and hauled our gravel to Deer Creek, where we washed it out in a sluice box, called a "long tom." Although he had been hauling our gravel several weeks, I did not become acquainted with him until one day when the men who were hauling gravel got their carts tangled up. Charley was a boyish-looking youth, and they appeared to combine against him.

He showed remarkable spirit, and was willing to fight the whole party. I took a liking to him, and he and I managed to get the carts out of the way and give him a chance at the creek. This circumstance led to a friendship which lasted through life, and was the real cause of an interesting transaction which will be related later on.

My partner, Dr. Merrick, was a remarkable character. He was a graduate of Harvard College, and also of a medical college in Boston. After he graduated he went to Chicago and entered upon the practice

of medicine. There he fell in love with a beautiful woman, but her father interfered and prevented the marriage, and he left Chicago and went to California.

He was gifted, brave, and handsome; but he had a habit of drinking too much at times, and of gambling on all possible occasions. There was a gambling-saloon in Nevada City which he frequented, and as I became very much attached to him I often went there and took him home.

One evening as I was hunting for him I heard angry language in the saloon, and the dealer threatening to shoot him. I knew that my friend was in great danger, as the man who made the threats had already killed several men. I rushed in at the open door, and saw the dealer on the opposite side of the table with a six-shooter in his hand, and Merrick sitting on a stool on the side near me. I crawled on my hands and knees as rapidly as possible to where he was sitting, and as the dealer was about to fire I caught the stool and jerked it from under my friend, letting him down on the floor. The pistol ball went harmlessly over his head. I then took Merrick by the legs and dragged him out of the saloon. The by-standers were so thick that his antagonist could not get an opportunity to shoot him, and as it was dark on the street I got him away. The next day Merrick and myself were eating our mid-day meal fifteen or twenty feet from the bushes under which we slept, and where we had left our fire-arms. The infuriated dealer of the night before came upon us when we were both unarmed, and with drawn pistol declared that he had come to kill Merrick.

Merrick instantly sprang to his feet, threw open his flannel shirt and shouted, "Shoot, you damned cowardly assassin!" His antagonist dropped his pistol by his side, saying, "I'll be damned if I'll shoot so brave a man. Go to Hell!" And he turned on his heel and went back to town.

We obtained from the workings of our claim that summer about seven thousand dollars apiece, and I proposed to Merrick to buy up a number of claims in the ravine in front of us to work whenever water could be procured for that purpose.

He declined to do so, and the next spring water was brought down and more than one million dollars was taken out of that ground which we could have bought for about eleven thousand dollars.

Merrick left in the fall of 1850 and took a steamer bound for Panama, remaining for a short time in the beautiful harbor of Acapulco. He went ashore to assist in the burial of a doctor there who had died on his way from the East. He learned from the papers of the dead man where he was from, and sent home to his widow a full account of what had occurred, and a good deal more money than the effects of the dead doctor, which he kept, were worth.

An American who resided in Mexico gave me a very interesting account of Dr. Merrick's career after he secured the medical outfit, and it was in harmony with his character.

He took the diploma of the doctor, adopted his name, and commenced the practice of medicine in Mexico. He had no difficulty in making himself acquainted, for he spoke the Spanish language as fluently as the natives. He married a rich girl and gambled away her money. Later he rose to be the chief surgeon of the Mexican Army, and was so skilful in his profession that the people thought he had some miraculous power.

Dr. Merrick was taken violently ill and was conscious that he would not recover, so he made a will which was believed to contain his medicinal secrets, sealed it in an envelope, and ordered the envelope to be sold at auction to the highest bidder and the money obtained given to his widow. After his death this was

done and twenty thousand dollars was realized at the auction. When the envelope was opened and the will read, it was as follows: "If you want to preserve good health, keep your head cool and your feet warm."

Many interesting events occurred that summer while Merrick and I were working our claims, one of which afforded us much amusement.

I awoke one morning and saw a covered wagon, with two oxen which had been unyoked and were grazing on a grass plot near a spring in the ravine below me. I soon discovered that a line had been drawn from the wagon to a clump of rocks, upon which were hung several articles of feminine attire to dry.

Women were so scarce in California at that time that this was sufficient to arouse the whole camp. The "boys," as we were called, were scattered along the Coyote diggings for a distance of about four miles, and when anything unusual happened the words "Oh Joe!" would be passed along the whole line.

When I saw the feminine raiment I raised the usual alarm, "Oh Joe!" and this called the attention of the miners on Buckeye Hill, where I was, to the clothes-line which had attracted my notice. They gathered around on the hill, nearly surrounding the covered wagon and its contents.

The rush of the boys in the immediate vicinity to see the wonderful sight attracted those farther away, and in less than ten minutes two or three thousand young men were anxiously watching the wagon, clothes-line, and fascinating lingerie.

In alarm the man that belonged to the woman inside stuck his head out of a small tent beside the wagon. I assured him that no harm was intended, but that we were very anxious to see the lady who was the owner of the clothes.

This aroused her curiosity sufficiently to induce her

to pull the curtain of the tent aside so that her face could be discovered, but not fully seen.

I then proposed that we make a donation to the first lady that had honored our camp with a visit. I took from my camp a buck-skin bag, used for the purpose of carrying gold, and invited the boys to contribute. They came forward with great eagerness, and poured out of their sacks gold dust amounting to between two and three thousand dollars. I then proposed to appoint a committee to wait on the lady and present it. The motion was unanimously carried, and one of the gentlemen appointed on the committee suggested myself as chairman.

I took the sack of gold and went within about thirty feet of the tent, and made as good a speech as I could to induce the lady to come out, assuring her that all the men about her were gentlemen, that they had seen no ladies for so many months, and that the presence of one reminded them of their mothers and sweethearts at home. I told her the bag of gold was hers on condition that she would come out and claim it.

Her husband urged her to be brave, but when she finally ventured about half way, the cheers were so vociferous that she was scared and ran back.

She repeated this performance several times, and I kept moving slowly back far enough to get her away from the little tent so the boys could have a good view of her. I suppose half an hour was occupied with her running back and forth while the boys looked on in admiration, when I finally gave her the bag with all the good wishes of the camp. She grabbed it and ran into the tent like a rabbit.

The next morning the wagon, oxen, man, and owner of the inspiring apparel were gone, and we never heard of them in after life. It was no doubt well that they hastened their departure, for in those days it was a very usual occurrence for the young wife coming to that

country to be persuaded to forsake her husband on their arrival in the new camp.

The immigrants of 1850 included thousands of newly married young people whose wedding journey included all the hardships and privations of crossing the plains. These hardships made the men look rather rough and scrubby, and they were all miserably poor.

The women were young, and after they had an opportunity to wash their faces, looked more attractive—particularly to the miners who had been deprived of female society for many months and had accumulated some money.

Such young men usually indulged in store clothes and spruced up. The contrast between them and the immigrant who had just crossed the plains was very marked. These young men were very anxious for ladies' society, and at once paid court to the young married women, and in a very large number of cases they were able to persuade the ladies that they were not fully appreciated at the time of their marriage, and that they had made a mistake in marrying beneath them.

Usually the husband, naturally enough, became jealous and tried to prevent the sociability which sprang up between his wife and the spruce young miner. Then there would be angry words between the husband and his wife's admirer, which frequently resulted in blows, and if the husband got the worst of it his wife would have no further use for him. The miner would propose marriage if a divorce could be obtained. Extreme cruelty was given as the reason for the separation. The intended bridegroom was always a ready witness to swear to a case of "extreme cruelty."

In the fall of 1851 I went to Nevada City to buy supplies for the men engaged in constructing the Grizzly Ditch. I bought several mule-loads, and was having them packed very early one morning, but before I could get away I was summoned as a juror in Judge Bar-

ber's court. This was before I made myself exempt from jury duty by becoming a member of the bar. I saw the Judge, and tried very hard to beg off; but he told me there were ten divorce cases on hand and he wanted to dispose of them that day, and could not excuse me. He said he thought I could get away in time to return to my camp that night. So I had to submit, although I did not like it. I then prepared the jury-room for use by conveying to it a demijohn of whiskey, a bucket of water, and twelve tin dippers.

The charge in each case was extreme cruelty, and the principal witness for each plaintiff—in all cases the wife—was her new friend who was engaged to marry her as soon as she could get the old love off.

We heard the first case, and retired to the jury-room, where the jurors proposed to elect me foreman. We were all young men except one man by the name of Morgan who was over eighty years old. He had been brought over the plains from Missouri by his relatives. I told my fellow-jurors that I was willing to act as foreman provided they would agree to be guided in each case by the judgment of Mr. Morgan, as we were all too young to pass upon the question of divorce.

They agreed to this. As foreman of the jury I inquired of Mr. Morgan what the verdict should be. He said, "I believes if they can't agrees to go together, lets them go apart," and I wrote the verdict as follows: "We, the jury, find the defendant guilty of extreme cruelty."

We returned the verdict into court, heard the next case, and followed the same program in the jury-room, continuing so to do until we had disposed of the ten cases. There were ten weddings that afternoon and evening.

I then thought, and still think, that we did the best thing that could have been done. These women had separated from their husbands, and if they had not

been allowed to marry the men who had parted them they would perhaps have done worse. Some of them made good citizens and raised families, and when they grew rich became very aristocratic.

CHAPTER VI

Scourge in the Diggings—Prospecting in the Sierra Nevadas—Grizzly Ditch—Lost in a blizzard—Ham-bone soup for starving men—An arrow through my hat—Indians—We wipe out Chief “Big Jim’s” band—A ghastly discovery—Surveying without instruments.

In the fall of 1850 a terrible scourge visited the diggings. Cholera raged in Sacramento with a few cases in San Francisco. In the mountains it was not cholera, but black erysipelas, which soon spread to all the principal mining regions. Several men died in the Coyote diggings; not one was saved who was stricken with the disease. There was no doctor in the town who understood any kind of erysipelas, although two or three druggists had established themselves there.

A young man named Graham, from Harvard University, was a near neighbor of mine and we had been intimate friends for some time. Two or three of our immediate neighbors died, and there was nobody to bury them but Graham and myself. We made coffins of empty goods boxes, dug the graves, and buried the bodies.

The next morning Graham told me he had the erysipelas. A nail in one of the goods boxes had scratched his finger, and in handling the corpse he had been inoculated with the disease. His finger was swelling rapidly.

He wrote several letters to his family and informed them I would attend to his affairs. The next morning at sunrise he was dead, and I alone buried the body of my friend. He had a bag of gold dust, and some keep-sakes which he had brought from home, all of which I took to the Adams Express office and sent to his relatives as directed.

About the first of November, 1850, I left Nevada City with a mule to prospect for mines. I followed the north fork of the American River to the head, and found nothing worth working because I was above the mineralized belt of country from which gold was obtained. I passed over the Sierra Nevada Mountains and down the eastern slope to Lake Tahoe, a magnificent body of mountain water, at that time, so far as I know, without a name.

I followed around the margin of the lake with some difficulty until I reached the Truckee River which was its outlet, then went down the river prospecting for gold without success until I reached the valley where Reno is now located. I then turned back and followed Donner's trail, which was then known as the Truckee route.

When I came to where the Donner party perished I found the log cabins which they had constructed a year and a half previous still in a state of remarkable preservation, although they had been built on the snow fifteen or twenty feet above the ground, as shown by the stumps of trees which they cut off. The cabins had settled, as the snow melted, to firm ground. I passed over the Truckee route and went down the ridge between Bear River and South Yuba. When I got within about twenty miles of Nevada City I turned down to a mining camp on the river called Washington, which was at the junction of the South Yuba and Poor Man's Creek. I followed Poor Man's Creek ten or twelve miles, and there I met a little bald-headed man by the name of Allen, a nephew of Ethan Allen of Revolutionary fame.

I had parted with my mule at Washington and was on foot when I met Allen, so we went up the creek together to its source and discovered placer diggings of considerable extent and richness which I named "Eureka." I then went to Nevada City, and selecting a

party of three besides myself we started out with our provisions and supplies on our backs for the new diggings.

Snow began to fall, and before we reached the mines was about two feet deep, which made the trip very difficult and laborious as we were loaded with about a hundred pounds apiece. I was compelled to lead the way and break the trail.

Finally reaching our destination, we constructed a cabin of logs and went to work in the diggings. It was difficult to get water to wash the gravel on account of the deep snow over the little stream; but we worked on for about two months and a half, when the snow became very deep and it was still storming. Our matches were wet, and we lost our fire and were compelled to subsist on raw pork and raw flour with a few acid pickles that came very near destroying our teeth.

One of the party, Tinney, proposed to go with me to obtain relief, the other two remaining in camp. The first afternoon we reached the ridge between Poor Man's Creek and Middle Yuba, where we cut off some branches for a bed and retired for the night. In the morning the new snow over us was from eighteen inches to two feet deep, and when we arose we saw an uncanny path circling around where we slept, about sixty or seventy feet across.

We thought it best to leave that locality and started down the ridge. We had not gone fifty yards when we saw a California lion, the author of the encircling path, in full pursuit of a deer. The deer dashed down the mountain with tremendous jumps; the lion after it. The race continued down the mountain for a mile or two, the deer thwarting the lion by side jumps until they passed out of sight, and we did not learn the result of the chase. We then proceeded down the ridge between the south and middle Yubas, with the intention of crossing the South Yuba at the Illinois Bar, opposite, and about ten miles from Nevada City.

The trail from the ridge was covered deep with snow and we reached the river just after dark, about half a mile below the bar. Tinney was so much exhausted when we reached the river that he lay down and said he must have rest. I knew if he were allowed to lie there he would inevitably go to sleep, and that that would be sure death, so I told him I would not leave him in that condition, but would kill him to get him out of his misery. This roused him, and he followed me until we could see the light of the camp on the bar. I then left him and went to the camp, where I found two men, and they went out and brought him in.

We laid him down before the fire, and rubbed and warmed him until he recovered. I then told them that we were very hungry and asked them if they had anything to eat. They said they were entirely out of provisions and that two of their party had left early that morning to go to Nevada City to get some supplies. I saw a large ham bone lying in the corner which had been scraped pretty bare. I took a kettle, filled it with water and put it on the fire. They wanted to know what I was going to do, and I told them I was going to make some soup.

While the water was boiling I broke the ham bone with an ax and put it into the pot and let it cook fifteen or twenty minutes. All of them were surprised to find how good the soup was. We drank all of it and lay down before the fire and slept well until morning.

Tinney and I started at daylight and reached Nevada City about ten o'clock. I had lived on salt pork and flour so long that I was in the incipient stages of scurvy, so I went at once to the grocery store of Gallop & Bashford, friends of mine from Wayne County, N. Y. There was a large basket of magnificent onions on the end of the counter, and I ate onion after onion, to the astonishment of the people who had gathered around. When I could eat no more I crossed the street

to Turner's Hotel and asked for a room. I immediately went to bed and slept until the next morning, and then went back to the grocery store and ate more onions. I ate nothing but onions that day, and the next day I was quite well and had an appetite for ordinary food. I never could tell how good those onions tasted.

There were no hogs in Nevada City, so I got a man to go with me to San José. We bought two hundred hogs, which we put on the boat and brought to Sacramento. We hired some Mexicans to help us, and made three thousand dollars selling the animals.

I then formed a company to dig a ditch, known as the Grizzly Ditch, between the south and middle Yuba to bring water into the Cherokee Corral, where there were some good diggings, but no water. I went up to Bloody Run and Grizzly Canyon on the north side of a very high mountain to look over the ditch route.

There was a trail from the ridge to Kanaka Creek where there was some rich mining. The trail crossed Bloody Run a short distance above a cascade. I heard the cascade below the trail and had a desire to see it, so I undertook to ride through the brush around a small hill to get a view from below.

I was riding a very good mule, bred from a fine mare and raised in Kentucky for the Santa Fé trade. She was one of the best riding-mules in the world, and had been brought up to Sacramento with the idea that she could be sold for at least \$2,500, but when attempt was made to sell her and a Mexican bit was put in her mouth and a Mexican saddle on her back, she fought so fiercely that nothing could be done with her.

The owner said he would take any bid, and I offered him three hundred dollars, but on condition he get everything off her. He took off the rig and I gave him the three hundred dollars.

I waited a little while, took a plain American saddle

and common bit and laid them down, took some sugar and gave it to her, and then put the saddle on her and rode her about the town. She was marvelous. I could ride her any distance in a day.

My desire for a better view of the cascade came very near proving disastrous, for when I got fairly in the brush, six Indians came up on the ridge, gave a whoop, and fired their arrows at me, which made my mule jump forward. I thought I could get around on the other side of the hill and regain the trail before the Indians could head me off, but in this I was disappointed.

Another party of Indians were in the brush on the other side of the hill. They gave a war-whoop and my mule turned, and I let her go as she pleased through the brush. The Indians fired their arrows at me, one of them striking the top of my hat and taking it off.

The mule made good time through the brush, and ran right into an Indian camp, where there were several hundred Indians, braves, squaws, and papooses. The mule ran so fast and her appearance was so unexpected that they did not have time to molest me, so I got through the camp and rode up to the trail again.

My hat was gone, my clothes were torn, and I was rather a dilapidated specimen of humanity. I rode down the ridge about six miles and finally came to the camp of Tom Burns, an Irishman, who was establishing a wayside whiskey shop. I told him my story, but found him very suspicious. He thought from my appearance that I must be crazy. I succeeded in convincing him that I was sane, borrowed his rifle, because I did not want to rely on my pistol alone, and an old black hat nearly destitute of rim and open at the top. On riding back to the Indian camp I found the body of a Frenchman whom the Indians had murdered the day before, and I thought we had better clean those red-skins out.

After riding around on all the prominent points above the camp to examine the situation and get the lay of the land for future operations, I went over to Nevada City and collected twenty young men of my acquaintance. They were well armed with pistols, rifles, and shotguns, and accompanied me back to the camp of Tom Burns, where we spent the night. In the morning we rode up the ridge and looked the ground over again. It was a little past the full of the moon, so the after part of the night was almost as light as day.

The following night we rode up the mountain opposite the camp of the Indians, hitched our animals, and crawled around the camp, remaining quiet until daylight, when I gave the signal for operations by firing a gun.

The Indians sprang to their feet at the alarm, but we won the battle before they knew where the enemy was located. Big Jim, their chief, was not injured and we took him prisoner. He was well known to all of our party, spoke English perfectly well, and was supposed to be a good, friendly Indian. He had visited the mining camps, conversed with the miners, told them stories about the country, and was a most interesting person.

We made a treaty with him that the Indians should leave that part of the country and never return. After the treaty was concluded and we supposed the difficulty was all over, we observed Big Jim with a party of his followers fortifying themselves behind rocks and brush. We moved on their works before they were perfected, but they fired several shots and slightly wounded one of our men. We hanged Big Jim for his treachery. The Indians then left and did not return.

One day a short time later, while I was surveying the upper part of Grizzly Ditch, near where the trail crossed Bloody Run, I found eight skeletons in the brush, of persons who had been murdered by the

Indians on the trail between the summit of the mountains and Kanaka Creek. I do not know who the victims of this massacre were.

I had no instruments to survey the ditch between Bloody Run and Grizzly Canyon, the plan being to turn Bloody Run into Grizzly Canyon, so I made a triangle of two strips of board, with a cross piece about two feet from the ground. I drove a nail in the cross piece, cut off the ends in the legs of the triangle so that the line of the plumb bob would be opposite the nail on the cross piece when one leg of the triangle was half an inch higher than the other, and with this I surveyed the ditch around a rough mountain, a distance of ten miles. The water ran through it without a break when first turned in, and when I visited that locality a few years ago I found the ditch still in use for mining purposes.

After the water passed through Cherokee Corral we turned it into Shady Creek and attempted to take the same amount of water out again and convey it to another mining camp. A ditch had been taken out below, and the ditch owners brought suit.

We contended that we had a right to use the natural water channel and take out as much water as we put in, but the court denied us that right. Afterward, in connection with Judge Sanderson and others, I brought the question before the Supreme Court of California, and obtained the decision that a natural water course could be used; that is to say, water could be turned into the channel, and lower down the same quantity could be turned out; and such is the law of California to-day.

We constructed a sawmill on Cherokee Creek in connection with the Grizzly Ditch, and it was quite profitable.

CHAPTER VII

I begin the practice of law—Appointed District Attorney—A fight in the court-room—I polish my legal knowledge in jail—The heathen Chinese—I meet an obstacle in a murder case.

In the spring of 1852, having closed my business in connection with the Grizzly Ditch and the sawmill, I entered the office of J. R. McConnell at Nevada City to study law. I had read some law at odd times in the office of Mr. Sherwood before I left Lyons, N. Y.

When Mr. McConnell resigned the district attorneyship in November of that year, I was admitted to the bar and appointed to fill the vacancy on the same day. Upon entering that office I found a large amount of business to attend to. The grand jury met the following week and investigated many matters, finding some eight or ten indictments for various offenses, including murder, arson, embezzlement, etc. I managed to draw the indictments and make them all stand, but in doing so I followed very closely Chitty's form of pleading.

When the various criminal cases on the calendar, including those recently indicted, came up for hearing, nearly all of the members of the bar were pitted against me.

The most formidable adversary I had was James Churchman, of Illinois, who had practiced at the bar with Abraham Lincoln, General Baker, and others, in the early days of that State. Unfortunately for me, my predecessor and Mr. Churchman were rivals and enemies. Both were able, rather vindictive, and very sarcastic. As I had been in Mr. McConnell's office and had taken his place as District Attorney, Mr. Churchman transferred his antagonism from Mr. McConnell to me. Realizing this, I tried the less

important cases first. Never having practiced law, I was unfamiliar with the technicalities, although I was able to study the general principles of every case.

Mr. Churchman took advantage of this and made it very hard for me. On several occasions he got me in a corner, and I resorted to the only means available to extricate myself. I retorted to his sarcasm in very harsh language. In fact, I was as insulting as I possibly could be in a court of justice, whereupon he became enraged—as I desired—and called me a liar, which gave me an opportunity to have a personal encounter with him.

The court, in dealing with the matter, ordered my imprisonment until the next day and imposed a small fine, which I paid. I went to prison, a retreat I desired under the circumstances. The sheriff, William H. Endicott, was a friend of mine, ready to do anything he could to assist me.

The jail consisted of a long log building with a number of cells, but in the front, which faced my office, there were two rooms, the first being the sheriff's office and the second his sleeping apartment. Instead of putting me in a cell he placed me in his bedroom, brought over my books, and gave me an opportunity to study the questions which had involved me in the difficulty. He provided me with good meals and made me very comfortable until the next morning, when I went into court well prepared to meet my adversary and succeed with my case.

It required three performances of this kind to make me sufficiently familiar with the practice of law to take care of myself. Churchman constantly grew more cautious in giving me an opportunity to exhibit my physical strength and thus enable me to extricate myself from legal difficulties.

During my first term as District Attorney a man named John Hall was convicted of murder in the first degree for killing a Chinaman. The only witnesses to

the crime were six Chinamen, who testified to his guilt before the grand jury, and he was indicted on their testimony. There was at that time great prejudice against Chinese testimony. The State imposed a foreign miner's tax and collected it from Chinamen only. It was collected by roughs in a most brutal way, and the Chinamen, looking upon it as robbery, did all they could to conceal their money.

Chinamen had been allowed, however, to make their statements in mining cases and other litigation. I observed that they all told the same story. I applied to the board of supervisors for an allowance of \$5,000 in that trial. I told them I did not know what oath would bind the Chinese, and I did not want a man convicted on false testimony. I wanted to get a separate room for each of the witnesses and to have them held, unable to communicate with each other until after the trial. I also wanted to procure a competent interpreter. The supervisors made the appropriation.

I went to San Francisco and saw Rev. Doctor Speer, a Chinese missionary who had spent some twenty years in China. After some persuasion I employed him to go to Nevada City as interpreter. Before the trial I tried very hard to get him to tell me what form of oath was binding upon a Chinaman, but he was quite reserved about the matter, although a very conscientious man. I told him that I had heard it stated that cutting off a chicken's head or burning paper, or something of that kind, would "swear" a Chinaman. "Well," said he, "burning paper is just as good as anything."

At the trial every Chinaman told the same story, although the interpreter tried to vary it a little. I asked him if they all told the same story, and he said they did, which was a mystery to me. I had not the slightest doubt that Hall killed the Chinaman, because he was seen coming from their camp where the dead body was found.

Hall was convicted, and his friends employed Mr. McConnell to take an appeal to the Supreme Court of the State. No exceptions had been taken during the trial, and by the statute nothing could be considered by the Supreme Court unless exceptions had been taken in the court below. I supposed of course that the court would have to dismiss the case. Mr. McConnell made a short speech in the opening, saying that Chinese testimony was inadmissible; that the matter came under the statute which provided that the testimony of an Indian should not be taken against a white man. He said Chinese were the same as Indians and that the statute applied.

I replied to him that no exception had been taken, and that even if an Indian had testified the statute would not apply. Of course, I contended that they were not Indians, but belonged to the Chinese race. In his conclusion Mr. McConnell made a very elaborate argument, attempting to prove that the Chinese and Indians were of the same race, and to my surprise the court held that the statute prohibiting Indians from testifying applied to Chinamen,* they being of the same race, and reversed the judgment below. Justice Murray, in deciding the case, delivered a lengthy opinion sustaining the position assumed by Mr. McConnell. I had no other evidence and entered a *nolle pros* in the case.

While attending the Supreme Court, which was held at San José, I stopped in San Francisco, and Rev. Doctor Speer called on me and said there were two Chinamen of the higher class or nobility in town, being entertained by the Six Chinese Companies, who united to do them honor, and they were anxious for me to meet them at dinner. I accepted the invitation; but before doing so, and during the conversation with Doc-

* People vs. Hall, 4th California, page 399.

tor Speer, I asked him to explain more fully to me why he had been so reticent in regard to the oath that would bind a Chinaman. This was before the decision had been rendered in the case by the Supreme Court.

He said he did not want to state it publicly, as it would be prejudicial to the Chinese in this country; but that in China, where he had been a privileged character, traveling all over the country and visiting the jails and courts of justice, when a crime was committed the principal men of the community were at once arrested and torture applied to make them tell the truth in regard to the matter; and to avoid the torture they invariably agreed upon a story they would all tell.

At the dinner only four persons were seated, the two distinguished Chinese visitors, Doctor Speer, and myself. The heads of the Six Companies, dressed in silks, waited on the table. The two visiting Chinamen were very accomplished men. They were graduates of numerous European universities, spoke several languages, had examined our institutions, and appeared quite familiar with our form of government. In the course of the conversation I remarked to them that I was sorry to see the prejudice that existed between the races, and that I hoped on better acquaintance there would be more friendly relations. The leading man of the two, who did most of the talking, said:

“You are mistaken. There never can be friendly social intercourse between the Chinese and the American people. There may be among the higher classes who understand the situation, but not among the common people.”

I asked why, and if it were on account of color.

He replied in the negative, and said it was on account of religion. The Chinese, he added, were very strongly wedded to their religion and to their gods, and had no faith in our religion or our God. He said the principal argument they used was that our American God was

killed by a man, and therefore could not amount to much. He said we could not overcome this prejudice with the masses very soon, and perhaps never. "Although," he added, "we who have been educated understand your religion and respect it."

CHAPTER VIII

Fight over a mining claim—An outcast from camp—I prevent a mob from lynching an innocent man—Nominated for District Attorney—Elected—Hot politics and a bloody battle—Heroes with the girls.

The miners made their own laws and enforced them. Their rules and regulations provided for the location of claims, the size of them, and the amount of work necessary to hold possession. Each mining camp or district made its own independent laws; but the laws of the various districts were similar, so that a miner going from one district to another would readily understand them.

On one occasion, in 1850, I was chosen as umpire to decide the case of a man who had intruded upon another's claim with a small tent. The testimony showed that the original owner had complied with the regulations and was entitled to the claim, and that the man who put up the tent was an intruder. I so decided, and with my pick on my shoulder walked back to the claim with the party whom we held to be the rightful owner, to put him in possession.

The man who lost the case ran to his tent, and as we came up to the claim he rushed to the opening with a pistol, and fired it. I foresaw his purpose, and threw my pick and hit his hand so that the bullet went past me without doing any harm. Then the boys were intent upon hanging him for it. I interfered in his behalf, but had a very difficult time to save him.

Finally they agreed to let him go, on condition that he would leave in ten minutes and never come back to camp. He was very much relieved, and said that five minutes were more than he needed to get started.

One day in the spring of 1852 I was prospecting

in the vicinity of a mining town called Rough and Ready about ten miles from Nevada City. I rode a mule, and had a pair of navy revolvers in holsters as was customary in those days. I did not expect to use them, but it was always considered convenient to have them.

As I rode up to a watering-trough in the town to water my mule, a small man, equipped as I was with pistols, rode up to water his mule. As our steeds were drinking I observed a company of men, fifty or more, leading a fine-looking man, six feet tall and stripped of all clothing except his pantaloons, evidently for the purpose of whipping him, as one of the party carried a huge horsewhip. The little stranger turned to me and said:

"That is wrong. Dare you stop it?"

"With you, I dare," I replied, and drew out my pistol, while he did the same. I cried out at the top of my voice:

"Stop; you have got the wrong man!"

As I called out they were about to pass under a building that had no roof, but with some boards on the upper floor, and a ladder leading up to it. I called to them to put the prisoner up that ladder and appoint a committee. Mobs will usually act when the word of command is given. They put him up and named me as first man on the committee. I climbed up to the man on the boards and asked him who he was. He said his name was Owens.

"Where did you come from?"

"From Sonoma Valley."

"What did you come here for?"

"To go into the sawmill business."

"Who is connected with you in Sonoma Valley?"

"A man by the name of Taylor."

"What are you accused of?"

"Of stealing three hundred dollars in Mexican doubloons."

"Did you steal them?"

"No."

"Where did you get them?"

"I got them at Burgoyne's Bank in San Francisco, where my partner and myself did business."

"Why are you accused of stealing them?"

"I slept last night in the corral up there, and as I was getting up this morning the sack containing the money rolled out from under my head, where I had kept it during the night. The man who accuses me claims it is his money, and that I stole it."

"Where is the money?"

"The men who arrested me have it."

"Have you any letters or papers?"

"Yes, in my coat pocket."

I searched the victim's coat, and the letters explained the whole thing straight. Just at that moment I saw a man on a mule galloping down the street as fast as he could. I cried:

"There's your man! Get him!"

The mob started after him, but he jumped over a steep bank into the Yuba River, which was a raging torrent, and was drowned.

I continued the practice of law in mining and all sorts of cases, and at once gained a good business. The rules and regulations of miners I understood as well as anybody in the country, and better than any lawyers who had not had actual experience in mining and making rules and regulations for the miners, which gave me great advantage before juries. The next summer I ran for District Attorney on the Democratic ticket. Mr. McConnell ran for Attorney-General.

Two days before the County Convention met to nominate local candidates and delegates to the State Convention, Mr. McConnell said to me that he had been offered a fee of three hundred dollars if he would go over to Cherokee Corral, about twelve or fifteen

miles from Nevada City, to defend a party of men who had whipped some negroes.

He said they had been arrested by E. Estes Hill, a peculiar character, who was constable for the township of Nevada, and would be tried before Jerry Woods, the justice of the peace of the township at Cherokee Corral. He wanted me to accompany him and show him the way as he had never been over there. Also, he could not very well go unless I would go over and prosecute the parties as District Attorney. He said his clients would be better satisfied to pay him a fee if somebody was there to prosecute them.

We rode over the morning before the convention met, and found that Estes Hill had eight or ten men in charge. Mr. McConnell moved to discharge the prisoners on the ground that Hill was not an officer of the township where the arrest was made. He made a very vigorous and convincing argument, and then stepped outside.

In his absence Jerry Wood, who had been in my employ on the Grizzly Ditch, and thought I knew all about law, asked me what I was going to do about it. I told him if he let the prisoners go he would be personally responsible.

Mr. McConnell asked me if I intended to argue the case. I told him no, I would submit it without argument. He then renewed his argument, and spoke with great earnestness. When he concluded Jerry looked him full in the face and said:

"Mr. McConnell, I can't let the prisoners go. I would be personally responsible."

Before I left I called Jerry aside and told him that after we were gone he could let the prisoners go on their promise that they would come back when wanted. We returned to Nevada City a little after sundown. There were many delegates in town awaiting the convention the next day. Harry Harrington had a very long

saloon where the Democrats usually made their headquarters during convention time. We went into the saloon, and some enthusiastic delegate insisted upon treating everybody. A crowd of a hundred or more lined up along the bar, and while the bartenders were shoving out the drinks I told the Jerry Wood incident as a joke on McConnell. He flew into a violent rage, and sprang for me to wreak his revenge. I gave the wink to some delegates near by, and we took McConnell in custody and locked him up for the night, for fear he would ruin his political chances if he insisted upon whipping me.

The next day the convention nominated me for District Attorney by acclamation, named delegates to the State Convention, and passed a strong resolution in favor of the nomination of McConnell for Attorney-General.

I moved that a committee be appointed to wait upon Mr. McConnell, present the resolution, and inform him of the harmonious action of the convention. Before letting him out we unlocked his door and passed in the resolution, and inquired of him how he felt. He said he did not feel as much like fighting as he had felt the night before, and if we would let him out he would say no more about it.

The campaign which resulted in the election of Mr. McConnell for Attorney-General and myself for District Attorney of Nevada County was very exciting, as all political campaigns were in those days. The voters were nearly all young men full of life and vigor, with plenty of money from the mines, and they threw fireworks into politics.

The leading politicians of the State, both Whigs and Democrats, visited the principal settlements in the counties and held rousing meetings. One lively incident occurred at Sweetland's Hotel, a place subsequently known as San Juan. An extensively advertised ball was

given at the hotel, and the young people for twenty or thirty miles around attended. Many of the local candidates were there. I arrived about sundown, and a few minutes afterward a party of candidates from Yuba County appeared.

Among them were Charley Fairfax, my old friend who hauled gravel from our mine in 1850 on Coyote Hill, who was running for clerk of the Supreme Court of the State; McDuffey from South Carolina, who afterward lost his life in the Confederate Army, a candidate for State Senator of Yuba County, and Mike Gray, who was then sheriff of Yuba County, and running for reëlection.

They told me that they had had a difficulty on the river bar below with a large party of mining men, who were following them for revenge.

We had entered a small saloon, and in less than five minutes between fifteen and twenty angry men were heard inquiring for the gentlemen from Yuba.

I attempted to close the door, but six or eight men forced it. The sudden meeting made a fight inevitable. I took sides with my Yuba friends, principally on account of my affection for young Fairfax. It was a fierce battle for a short time, but Mike Gray won the day for us. He did not shoot, but using a heavy Colt's revolver as a club, he knocked the enemy down right and left. McDuffey was also a very efficient fighter with his revolver as a club.

Little Charley Fairfax was so small that he was actually thrown on the backs of the belligerents, and tossed about like a feather. The miners fired several shots, but the skirmish was too lively for them to take aim, and the bullets went through the thin board walls without having hit any one.

The fight lasted only a few minutes. I was unable to judge of time under the circumstances, because I was kept too busy for much reflection. So many of the

enemy were felled by the clubs that an armistice soon took place by the tacit consent of all parties. Several of the attackers were so badly cut about the head that the services of a doctor were demanded.

I gave a Mexican boy a note to a doctor ten or twelve miles away, put him on my mule, and told him to go quickly, I would risk the mule. There was a storehouse near the hotel, and we took such bedding as we could get from the hotel and moved the wounded to the storehouse, which became an improvised hospital.

McDuffey, Fairfax, and myself then repaired to the ball-room, Mike Gray agreeing to manage the nursing of the wounded.

We found the ladies entirely ready to dance with us. They had heard of the fight, and appeared to regard us as the heroes of the occasion. The other parties did not put in their appearance, but when morning came and the dance was over the Yuba boys and I made the acquaintance of the belligerents of the night before.

McDuffey made one of the handsomest apologies I ever heard for what had occurred down on the bar, and the whole matter was settled and we became the best of friends through life.

Fairfax was indeed a loyal little gentleman. He was elected clerk of the Supreme Court, and while holding that office got into some difficulty with a lawyer named Lee, as I now recollect. Lee ran a sword-cane through the body of Fairfax, and before the sword had been withdrawn, Fairfax with a cocked pistol in his hand cried, "You assassin! I will spare your life for your wife and family." Although Fairfax recovered, it was said that he never got over the wound, and that it shortened his days.

The difficulty at Sweetlands was not unpopular with the voters, for I received nearly all the votes in the township where the ball was held.

CHAPTER IX

Dueling in 1852—Southerners and "mackerel catchers"—The sleepy miner and the fire-eater who would not fight—I start a newspaper in opposition to Aaron A. Sargent.

When I began the study of law with Mr. McConnell I had some money which I had saved so that I could be useful to my friends. Mr. McConnell was a Kentuckian by birth and the Southern boys were in the habit of making his office their headquarters. I at once fell heir to the Democratic politics of the county. Nevada was a rich mining county with a population of twenty or thirty thousand, and of course the political situation was a little breezy.

Aaron A. Sargent, afterward Senator, was a printer boy from Boston. The locality from which he came emphasized him as a Yankee. Although I was from the North, the Southern boys refused to recognize me as such, and against my protest continually claimed me as one of their kind. Besides, Sargent was a Whig and I was a Democrat, made so contrary to the traditions of my family, who were Federalists, by the admiration I felt when a child for the heroic stories told of General Jackson; in other words, I was a Jackson man, and hence a Democrat.

After I had been appointed District Attorney it was thought expedient for the Democrats to have a newspaper. Sargent was the editor of the *Nevada Journal*, which was a Whig paper, and a very lively one at that, because Sargent was not only talented but absolutely fearless. He would say what he thought of anything and anybody.

I bought a press which had been brought to town to start the Democratic paper, and placed it in charge of

Robert Davidge, commonly called "Bob" Davidge. At that time dueling was very common throughout California, generally between the Northern and Southern men. The Northern men were unaccustomed to the practice of dueling, and they had been taught at home that it was all wrong; consequently they were not experts at the business. They were as ignorant of the code as an Episcopalian minister of the High Church of England is of three-card monte, the strap game, bull-fighting, and the like. But, nevertheless, they engaged in duels, and the fairness would of course depend upon the impartiality of the seconds and managers of the affair. I did not want to meet a premature death or have my life jockeyed away under rules with which I was not familiar.

Although the Southern boys were my friends, I was very much opposed to the machinery of dueling. I finally told them that I was against it and would not fight a duel under any circumstances. They were very much astonished at that, because I was a remarkably good shot and they thought I was capable of doing well in a duel.

They asked me what I would do if challenged. I told them that I had come to the conclusion that I would begin early if a fight was on hand, and that I would shoot the man who brought the challenge, so that if anybody sent a challenge I would advise the second to come prepared, and if he was not very quick he had better make his will, for I would be ready to shoot. They finally concluded that I did mean it and I never was challenged.

Bob Davidge was from Kentucky. He was young, bright, and handsome, and discussed dueling in a most graphic manner. I told him when we started in with the paper to abuse nobody, to get into no controversy with the *Nevada Journal*. I said that I regarded Sargent as about the most dangerous man in town to fool

with, and although the Southern boys were inclined to call him a "mackerel catcher," a term applied to New Englanders generally, that he had better be careful how he treated him.

Bob went along with his paper very smoothly for a month or so, but in the winter material for newspaper sensations became a little scarce and he began abusing Sargent.

Sargent retorted sharply, but gentlemanly. Davidge took the genteel treatment for cowardice, and increased his abusive epithets. Finally Sargent wrote about him the most terrifically abusive article I ever read. It was personal, and of such a character that, if true, it would have excluded Davidge from decent society, particularly the society of ladies.

The flood had carried away the bridge over Deer Creek, which crossed Main Street about one hundred and fifty yards below my office, and a big pine tree had been felled across the creek and poles put up on either side of it for a foot passage. The post-office was on the other side of the creek and Bob Davidge slept in the post-office. I read the article in the morning, and as I stepped into the street I looked down and saw Sargent and Davidge pass each other on the foot-log. They could not pass without touching, and had to squeeze by each other; but Davidge made no effort to attack Sargent, which I thought was a mark of great forbearance.

Few men could have met a man who had written such an article and not have resented the insult, particularly if the passageway where they met was so narrow as to compel them to crowd each other in passing.

Davidge came up to my office and I asked him if he had read the article. He said he had. I turned on my heel and left him. About half an hour afterward he came to my office with a gentleman from Kentucky by the name of Cy Brown, a gallant fellow, not quarrel-

some, but fearless. Brown said that he had come with Davidge to talk with me; that I had been very kind to Davidge and that he understood that I was very much opposed to dueling. They had come to ask me to waive my objections now, as Davidge had been so grossly insulted that he could not live in the country under such charges.

I called Brown into another room and told him of the meeting I had seen between Sargent and Davidge on the foot-log, and also told him that in case of a challenge he would have the fighting to do as Davidge would fail. I said:

“All I want to ask of you is that you won't take it up if Bob fails; that you will simply take the challenge and make the arrangements with Sargent, and have it distinctly understood that you are not to fight.”

Brown saw the propriety of my advice and said he would keep it. We went back into the office, and Brown told Davidge that I had changed my mind on dueling and advised him to challenge Sargent. He sent the challenge to Sargent and Sargent refused to accept it, published it, and then printed another and a meaner article than before on Davidge. He stated that he lived at Coyoteville, about a mile from town, and that he would pass on his way from there to town across a narrow ridge at 7.30 in the morning every day for thirty days, and if anybody interfered with him whom he couldn't put out of his way it would be his misfortune. We tried for the thirty days to make Davidge go to the ridge and get in his way, but he would not do it, and left town and did not come back any more.

Another incident occurred the following year at the fall election. I was still practicing law at Nevada City, and the Southern boys still made my office their headquarters.

There was a young man among them to whom I was

very much attached. His name was William Windom Mason, a nephew of John Y. Mason of Virginia. He was a tall, splendid-looking fellow, but with very little practical ability. He lived by acting as deputy sheriff, collecting foreign miners' licenses from Chinese and the like, but he was always a good fellow. He ran for some small office, constable I think, and was beaten badly. He attributed his defeat to a man by the name of Gardner, from Rhode Island. Gardner was a man of pretty good sense and had commenced the practice of law. He did not appear to have much animation, was entirely inoffensive, but he had on this particular occasion taken a strong affirmative stand against Mason's election, and it had been very effective.

When the votes were counted Mason came into my office and told me he was going to cowhide Gardner.

"Never strike a sleepy-looking fellow like that," I said. "If you do you will get into trouble. He has not done anything to you, and the people will not justify you, and you will get the worst of it. You had better know whom you are fighting. I would not tackle him myself until I knew something about him. Nobody knows what to expect from him."

Contrary to my advice, he met Gardner in a saloon, and with a pistol in one hand and a whip in the other, began using the lash over his head. Gardner took the whipping, saying, "I am unarmed and observe you are armed; but I will see you again, mind that."

The next morning a report came that Gardner, with pistol in hand, was about the city stating that he was looking for one William Windom Mason; that his object in looking for him was to settle a little difficulty that commenced the evening before. Mason took his pistol and went out of my office into the street. I supposed he was going to meet Gardner and have a fight. Instead of that he ran between two buildings about two feet apart on the opposite side of the street, and as

Gardner came along he fired and then dodged between the buildings again.

Gardner stood his ground, and fired at Mason. At first every time he shot he hit the edge of the building, but finally hit Mason in the leg and the latter fell down. The boys, without regard to locality, whether North or South, Whig or Democrat, proposed to chastise Mason. Two or three of us got him into a room, and had the doctor state to the angry mob that he was badly wounded, and that it would not do to punish a wounded man. I paid his expenses until he got well, and he then left the town and became a vagabond.

These two quarrels made the Northern and Southern boys friends, and blotted out completely sectional lines so far as Nevada was concerned.

These are not cited as fair specimens of the Southern boys, for they were generally brave to a fault; but they simply had a wrong idea of "mackerel catchers."

CHAPTER X

Zeke Dougherty's court—Profanity from the bench and frontier justice—I get the drop on a desperado witness—Johnny Little's court in Cy Brown's saloon, where I win a lawsuit with a demijohn of whiskey.

My life in Nevada City during the time I practiced law and acted as District Attorney was full of lively and exciting incidents.

During the fall of 1852, while McConnell was District Attorney, an amusing affair took place with regard to Brother Bland, a Methodist preacher from Virginia. Brother Bland was a good man, mild, accommodating, kind to the poor, and really lived an exemplary and praiseworthy life. He had a good wife, who was also devoted to charitable works. They stood very high in the community. There were quite a number of young married men in the vicinity, some of whom neglected their young wives by staying out nights, playing poker, and drinking.

This was a grievous sorrow to Brother Bland, and he talked against it, and finally preached against it in a deprecating way. He suggested four or five names, and stated how much good these men might do if they would accompany their wives to the church and be as good men as their wives were women.

One of the young fellows, Henry Miller, was a Kentuckian who thought he could not stand anything of the kind. He met Brother Bland on the same ridge that Sargent was in the habit of walking over and said to him:

"Now, I've got you. I'm going to settle with you for what you said about me."

Brother Bland told him he did not intend anything personal, but was very sorry that he had neglected his

wife, which was a bad thing, especially in a new country.

"I will give you to understand," said Miller, "it is none of your damn business, and I am going to thrash you right now."

Brother Bland said he did not want to be thrashed, but Miller finally hit him. Bland then took the young fellow by the nape of the neck, threw him over an old log, and gave him one of the best spankings a man ever had. Miller was so enraged that he had the preacher arrested for assault and battery.

We had an old justice of the peace, a peculiar character, by name Zeke Dougherty. He was an Irishman between seventy and eighty years old. He looked more like a skeleton than a human being, and had a squealing voice which would mount to the sky in a high key when he spoke in earnest; but he had a sense of justice as strong as any man I ever knew.

They took the case before old Zeke, and it being a criminal one, the justice of the peace had a right to call on the District Attorney to prosecute it. Uncle Zeke called on McConnell to prosecute the case. The popularity of the minister had attracted the good people, men and women, from every part of the country, and the court-room was crowded. McConnell delayed coming, as he did not want anything to do with it, but finally came in loaded with apt Biblical quotations. His speech was unique, humorous, and amusing, and it was more against Miller than it was against Bland. In fact, he excused Bland for the battles he was making for his religion and the Lord generally.

When he finished the judge was very much excited, and when in that condition profane language was as natural to him as taking a drink of whiskey.

"Mr. Prisoner," he said, "it becomes my pleasant duty to decide this case. I have listened to the evidence attentively, and I'll be damned if I can see anything

in it but a fair fight. You did right and are discharged."

Niles Searles, afterward Judge Searles, was a man of eminent ability, and later became Chief Justice of the Supreme Court of the State of California. He was the Democratic candidate for District Attorney, and C. Wilson Hill was the Whig candidate for that office. We boys, Democrats and Whigs, liked them both. We did not like their political controversy, as we knew it would be pretty close. We met one evening to see how we could get along with it, and decide who should have it without having a bitter contest. So it was suggested that they should try a case before old Zeke Dougherty and test their aptitude for criminal business.

Some boys from Rhode Island, nice boys hitherto, had stolen some horses and were caught with them and other plunder. It was proposed that theirs should be the case. I, knowing that they had stolen the horses, suggested that we let Searles prosecute and Hill defend. I wanted Searles elected on account of his politics.

Court opened in the morning and Searles introduced the witnesses. The guilt of the accused boys was proved. It was very near twelve o'clock when Hill called for a list of ten or twelve witnesses whom he proposed to introduce. Old Zeke asked:

"And what are you going to prove by them witnesses?"

"If your Honor please, these gentlemen are from Providence, Rhode Island, and they all knew the accused at home and can testify to their good character."

"Good character be damned!" roared Zeke. "Ain't they been proved to be damned thieves? Sheriff, take the prisoners to jail. The court is adjourned."

Hill had to give up the fight, and Searles was elected District Attorney.

There was a character in our vicinity called "Yankee" Sullivan, who was arrested for some misdemeanor and

brought before old Zeke. Zeke saw that he was going to bully everybody around the court-room and sent for me, then District Attorney, and said:

"I want you to prosecute this man. He is insolent, and I believe all the bailiffs are afraid of him."

I knew there was only one way to go at him, and that was with a pistol. I had my pistol in my pocket. The old judge turned and grinned at me.

"Mr. Sullivan," said I, "I am going to cross-examine you in the ordinary way." He started to put his hand down. "Look out, I've got the drop on you; don't put your hand down there! If you do my pistol will go off. Don't look so surly, for I'm afraid my pistol will go off anyhow." I told him he would have to behave himself at all events. He then submitted to examination.

The judge fined him and sent him to jail for thirty days. After he was sentenced by Zeke I said to him:

"To see that you get there comfortably, I will go with the sheriff down to the jail."

"You are damned obliging!" he returned.

I went down to the jail and we put him in. I sent him some whiskey and something to eat, and when he came out he wanted to be my friend. Said he, "You are the only gentleman I have met in the damned place!"

The Legislature of California of 1851 gave justices of the peace unlimited jurisdiction in mining cases, although their jurisdiction by the Constitution was confined to three hundred dollars. Mining cases tried before them often involved many thousands of dollars.

Grass Valley, a town four miles from Nevada City, was a good mining camp. There was a ravine terminating in a depression, or flat, extending from the creek below up to the town. A combination was formed which located the entire ravine. The locators included nearly all the men in the town eligible for jury duty.

I had a lawyer friend there by the name of A. B.

Dibble, a bright man who afterward became a notable character in the politics of California. By the statute, on the filing of an affidavit, a change of venue could be obtained from one justice of the peace to another.

William Watt, afterward a leading citizen of California, was a Scotchman who had quite recently come to the country. He also located a claim, and Dibble, on behalf of one of the combination locators, brought suit against him in a justice's court. Watt came up to Nevada City and told me the situation. He said he had no money, but that he believed the claim was valuable and wanted to know if I would take the case. He said if he ever made money he would pay me a reasonable fee.

He was a handsome, honest-looking man, and I took a liking to him. I told him I would do it, but he said that Dibble and the combination had it all their own way in Grass Valley, and whatever the case was I would be beaten. I told him I understood that, and we would take a change of venue. We got a change of venue to Rough and Ready, where Johnny Little was justice of the peace.

He was a little old man with a head as smooth and as round as a cocoanut. I went down to Rough and Ready and saw my friend Cy Brown, who had a saloon more than a hundred feet long. The counter where elevating spirits were dispensed was eighty feet long, and at the back end was a small room where the boys drank whiskey and played seven-up. The justice of the peace usually held his court in this retiring-room of the saloon.

I told Cy Brown that our case was a difficult one on account of the situation at Grass Valley. I said I wanted to play even with that gang; that the question of justice did not enter into cases at Grass Valley, and all we wanted was rough justice anyhow.

When the opposing counsel came over and saw where

court was to be held they were as anxious as I was to have Cy Brown for their friend. So we arranged to have him a common friend. Cy was an excellent hand to keep order, because he had a way of persuading people to mind their own business.

I suggested that inasmuch as water was scarce about the saloon and the parties might desire something to drink occasionally, we enter into a stipulation that all—jurymen, witnesses, lawyers and friends—should have all the whiskey they desired to drink, that Brown would keep a strict account of it, and it should be charged as costs in the case, to be paid by the losing party.

Johnny Little, with his tin dipper handy, opened court. Dibble opened his case with fabricated evidence of a prior location to the claim of Watt. We had in defense a witness, a Scotchman, who knew facts perfectly conclusive, and we thought we would keep him in the dark and would clinch the matter by his testimony in rebuttal, which would be the last to be heard on our side. To my surprise it leaked out that he was an important witness, and Dibble and his friends induced him to imbibe so freely that he was unable to testify. I had with me a Kentucky gentleman by the name of Joe Conn who was good and honest. Although some forty years of age, he had very little knowledge of the way things ought to be done. When we discovered the condition of our witness it was then supper-time, between four and five o'clock, and I moved to adjourn the case until the next day.

Dibble had contrived to have somebody tell the judge that I would make that motion and that it was not in good faith, but was made simply because I had no case, so the judge overruled the motion. Things at that point of the game looked rather squally; but as they adjourned for supper I told my friend Joe Conn that we had to do some business or we were gone up, that we must get in some counter-work.

I called his attention to a big Kentuckian, a friend of his, who was very much on the fight, and also to a big New Yorker, a friend of mine, who was also quite belligerent when he had whiskey in him. Both of these gentlemen were on the jury. I told Joe we must drink with them and incite them so they would get together and try to fight. I said I would post Cy Brown and he would prevent casualties, but we would have some sort of a row for a while. We exercised ourselves for about half or three quarters of an hour getting into trouble, making friends and taking frequent drinks. The jury likewise had to drink many times to get things healed up. But through the influence of Cy Brown we obtained a settlement in each controversy without a fight.

After dinner, which very few of the jurors took time to eat—they were so busy with the demijohn—court convened, at seven o'clock. The condition of the jury was then apparent, and the other side wanted an adjournment. I announced to the court that the case was submitted and the evidence all in. The other side then wanted an adjournment before argument.

I denounced the proceeding as a trick, and told the judge that they knew very well that after the evidence was in, if they got an adjournment it would destroy the verdict. This was very ridiculous, but the judge did not know whether it was right or wrong, and finally, as he had denied me an adjournment, he thought, to make it even, he would deny them one.

It became necessary before we concluded the arguments to have further exercises of a pugnacious nature, and more drinks, and I said what I could to insult Dibble. I finally called him a liar in very polite language, and he called me another. I got wild with rage and was going to jump on him, but Cy Brown happened in at that time, having been previously posted, and took hold of me and wouldn't let me hit him.

Then we had to have a committee appointed to settle

the trouble before the case could proceed, and at each turn in the negotiations we had to take a drink, judge, jury and all, very freely and kindly. We kept up this performance until about half past ten o'clock. I told my good friend Joe not to limit his speech, and he spoke until some time after twelve o'clock, and of course he had to take a drink with the jury. Then I made a speech of two or three hours' duration, and every time I got tired we would have refreshments.

Dibble then tried to talk to the jury, but they became impatient and told him to "dry up," and were very boisterous, and had to take another drink. Finally, about four o'clock in the morning, the case was submitted to the jury. At my suggestion they were left with a bucket of water, a lot of tumblers, and a demijohn of whiskey and were shut up. I laid down on a bench, and the others also retired wherever they could find a place to roost, and slept until some time after daylight. We were all in a condition where sleep was the most natural thing that could happen to a man.

Jerome Keyser was one of the jurors, and had a bank right opposite Brown's saloon. When I awoke I saw Keyser in his bank, and he was as mad as any man could be. He had not drunk a drop during all the proceedings.

Of course the jury had separated, and no verdict could be rendered; it was a mistrial. There was a provision in the law that the party moving for a new trial should pay the costs. We made up the bill of costs, which was \$1380. Of that \$1140 was for the good things we had had over the bar. The other side were unable to pay the costs, so no new trial was had, and we entered judgment for costs, and issued execution in favor of Watt, who had the claim sold and bought it in. He made some money out of it and became my friend for life.

CHAPTER XI

Reign of terror in San Francisco—Judge Botts changes his politics
—The most eloquent man in America, and how a citizen of California was elected to the United States Senate from Oregon
—My marriage—I clear a murderer and get the jury in trouble.

While acting as Attorney-General in 1854 I removed to San Francisco and formed a law partnership with Hon. Henry S. Foote, ex-United States Senator from, and ex-Governor of, Mississippi. Hon. Louis Aldrich, who had been a judge of the District Court, and Benjamin Watkins Lee of Virginia, were also in the firm, which lasted about a year, doing a good business.

In the mean time, Governor Foote's family came out, and in the spring of 1855 I married his third daughter, Miss Anne E. Foote, a brilliant and accomplished woman, with remarkable conversational powers. She was a great student, and during our married life acquired most of the modern languages. We had three daughters, two of whom still survive. My wife's sudden death in an automobile accident in Alameda, California, in 1902, after forty-seven years of married life, was one of the tragedies of my life.

Soon after my marriage I left San Francisco and returned to Nevada City. Mr. McConnell's term as Attorney-General having expired, we formed a partnership and practiced law, enjoying, for a short time, very extensive practice. I built a house a little outside of the town, and the day after I moved the town burnt down. The house is still standing. In the mean time, I had been in the habit of practicing law in Downieville, and I thought it best to "go it alone"; so Mr. McConnell and myself dissolved partnership.

In 1856 things had gone from bad to worse in San Francisco, until the people arose and appointed a vigil-

ance committee in self-defense. The rough element of San Francisco had had their own way for several years, which was very annoying to respectable people.

While I was practicing law in San Francisco in 1854 I had an office in Montgomery block, adjoining the office of Judge Botts of Virginia, a brother of Governor John Minor Botts. Judge Botts went to the polls one election day to exercise the right of franchise. The precinct in which he voted was about the toughest in town. When the Judge attempted to deposit the ballot the by-standers took him off his feet, elevated him, and passed him from one to the other without letting him touch the ground for more than a block. During the performance they made his clothes look as though they had been picked from a rag bag. He came into my room in a most excited condition, frothing at the mouth, with his eyes flashing vengeance against the world.

"I've changed my politics!" he cried.

"What has happened, Judge?"

"What has happened?" he roared. "I've changed my politics!"

"What politics have you adopted?"

"I am in favor of an absolute monarchy, limited only by the right of assassination."

"Well," said I, "do you think that better than our form of government?"

"There is a possibility of vengeance in that kind of a government for wrongs and insults inflicted," he answered. "By the eternal, there is none here! I have been bamboozled and hurled about for the last half hour, and God knows how I can ever get even with those wretches!"

Col. Edward Dickinson Baker, who had been a Representative in Congress from Illinois, who was a veteran of the Mexican war, and who was subsequently Senator from Oregon, and probably the most eloquent

orator who has ever appeared in the United States, had been engaged in the defense of some celebrated criminals in San Francisco. James A. McDougall, who was afterward United States Senator from California, also had been engaged in defending some very bad men, although nobody accused either of them of anything dishonorable or unfair in their practice.

There was a man by the name of Corey whom both, at various times, had defended. Corey was accused of killing a United States marshal by the name of Richardson. Richardson and Corey were out in the dark together and Corey shot him. Richardson was the most violent man I ever knew. While practicing in San Francisco, Watkins Lee, a young gentleman by the name of Glassell, and two or three others were generally associated. Richardson frequently invited us to dinner, much more often than we desired to attend, for he would get mad and shoot without warning, like a clap of thunder from a clear sky. He killed a man at a stage station between Sacramento and Marysville without any apparent provocation, and got off by strategy.

There is not much doubt but that Corey shot Richardson in self-defense. Those who knew Richardson thought that, but the killing of a United States marshal, coupled with some other offenses which Corey had committed, marked him as one of the victims of the vigilance committee. Neither Baker nor McDougall could say anything in his behalf. They had to leave him to his fate, and he was afterward hanged by the committee.

To be rid of the excitement, both Baker and McDougall went to Nevada City and lived with me in the new house which I occupied, and which had not been burned at the time the town was destroyed.

I had an important case for a man by the name of Conger. It involved the right to turn the Middle

Yuba River out of its bed and convey it a long distance for mining purposes. The case was to be tried in Downieville, Sierra County, where the property was situated. I wanted each of my guests to obtain a good fee.

I had my client, Conger, employ McDougall as my associate, because he was the best lawyer of the two; but I was anxious that Baker should have a show also, and I urged a friend to suggest his name to Doctor Weaver on the other side. The Doctor employed him.

We went up to Downieville to try the case. I presented the case to the jury, examined the witnesses, and made the opening argument. Baker followed me, and I believe he gave me the most eloquent and scorching tongue-lashing that a white man ever received. This occasioned great amusement and considerable satisfaction among those who had suffered at my hands in mining litigation in that community. They thought I had had it my own way long enough, and they were glad to see me get the worst of it.

I relied on McDougall to close the case, because I had promised him that post of honor; otherwise, I would have made an effort to make some kind of a reply to Baker. The next morning McDougall came in, walking very straight, looking very serious, and proceeded at once to argue the case to the jury. He had not spoken two sentences before it was apparent that he was too drunk for utterance. He made a dead failure. On inquiry I found that those who had been rejoicing over my discomfiture the day before had treated him very liberally during the night by furnishing him such beverages as make men first hilarious and then stupid.

The jury in five minutes brought in a verdict against me, whereupon every man in the county who had litigation opposed to my clients employed General Baker. He received in two days retainers amounting to over

twenty thousand dollars in cash. Then came the tug of war between him and me, he on one side and I on the other, for the space of nearly two months. It so happened that he was unfamiliar with the local conditions, the rules and regulations of miners, and, above all, the likes and dislikes of the mining community.

I told the jury in each case that Baker could out-talk any man on earth. I told them how he had lashed me, and explained why he was employed. I said I was mighty glad he got the money, but they must not be fooled by him, and I beat him in every case.

He said he had tried a good many jury cases, and that I was the only man he ever saw who had a confidential understanding with the jury right in the presence of the court. Baker appealed the cases, but while he was beyond all bounds the most eloquent man I have ever heard, the details of the practice were unfamiliar and I succeeded in getting the Supreme Court to dismiss all of his appeals. Although he received more than fifteen thousand dollars to appeal the cases, he never got a record that the court would entertain.

Baker came to the conclusion that he would like to go to the United States Senate. A Senatorial election was about to take place in Oregon. He went up there, got the Legislature to invite him to address them, made a few speeches, captured the Legislature, and was elected to the United States Senate, all within a very short time, probably not more than a month. He went to the Senate, taking his seat December 5, 1860, and made a remarkable speech in reply to General Breckinridge*, and shortly afterward, October 21, 1861, was killed in battle at Balls Bluff, Va., at the head of a California brigade.

In the fall of 1856 I took up my residence at Downieville, Sierra County, California, where I had

*Congressional Globe, Appendix, 1st Sess., 37th Cong., 1861, pp. 423-424.

been practicing law most of the time for more than a year. I built another house at that place some distance from the crowded portion of the city, and a few days after I had moved in *that* town was burned, and, as before, my home was saved.

I formed a partnership with Peter Van Clief, who was a man of superior ability, clear-headed, and a very able lawyer. Almost his only fault was modesty and a disinclination to push himself forward. We practiced law together about a year, when he was appointed Judge of the District Court.

Downieville was located on the North Yuba River, where the mountains on either side are about 4000 feet higher than the river. In winter it is almost shut out from the world by very deep snows. Downieville was the county-seat, but there was a lull of business two or three months of each winter. This furnished me a very much needed opportunity to study law, and I devoted myself night and day to reading Coke on Littleton. I read it through twice, made elaborate notes, and improved myself very much in my capacity to investigate cases.

After Judge Van Clief was appointed to the bench I formed a partnership with Harry I. Thornton, who was District Attorney. Mr. Thornton was one of the Virginia family of Thorntons, although born in Alabama, to which State his father had removed, becoming a leading lawyer, and being appointed by President Fillmore as one of the Land Commissioners of California.

Harry Thornton was a brilliant young man. He was elected to the California State Senate in 1860, resigning at the close of the first session, about the time the war began. He enlisted in the Confederate Army, made a splendid record, returned to the Pacific Coast, practiced law, made money and friends, and was universally beloved.

When Mr. Thornton and I agreed to form a partnership it was understood that Alexander W. Baldwin, a son of Joe Baldwin, then Judge of the Supreme Court of California, and famous as the author of "Flush Times," was to be appointed District Attorney in the place of Thornton.

While these changes were taking place, and before Thornton had left his office and joined me, a very sensational homicide occurred at a place called Eureka, high on the mountains about four miles from Downieville. Two years previous a tall, consumptive-looking Irishman from the north of Ireland, whose name was White, had testified in a murder case against an overgrown Irish boy by the name of Mike Murray. Mike Murray was about eighteen or nineteen years old, weak in intellect, but physically a giant, weighing nearly three hundred pounds. Robert Taylor, an eloquent, cultured, and emotional man, defended Murray, who had been convicted of murder in the first degree, principally on the testimony of White.

Everybody in the community thought that Mike Murray had been the instrument of some saloon keepers who wanted a man killed, and that Murray did not know what he was doing at the time. Feeling was very strong in his favor, but the diabolical description of the deed by White secured his conviction. I was so impressed with the belief that Murray was a tool of others that I took a petition, numerously signed, to Governor Weller, asking his pardon; but he was hanged.

There were two young men in the mining camp who were highly respected—Ellis, a Scotchman, and O'Brien, an Irishman. They had a dispute about the ownership of a mining claim which, after about six months, became very acute.

One day in December, 1859, they met at the claim, where the snow was about two feet deep. Others present were the man White, who had testified in the

Mike Murray case, and a man by the name of Lazenby, from New England, who was a barber by trade, and stuttered so badly that, when he was excited, it was impossible for him to utter a word that anybody could understand.

Ellis and O'Brien quarreled, and Ellis drew a large bowie knife, stabbed O'Brien in the breast, and literally cut him open.

The person who notified the sheriff brought a message to me from Ellis asking me to defend him. I sent back word that I would do so. I immediately sent the county surveyor, Isaac E. James, with an assistant, to make a map of the ground with all its surroundings where the homicide occurred. Ellis was brought down and lodged in the jail, but before he arrived I had learned the details of the affair and commenced my plan for the defense.

Ellis was anxious for an interview with me, which I declined, simply sending him word that I had charge of his case and did not want to be interrupted by him. He complained very bitterly of my conduct and wanted to employ some other attorney, but no one would consent to serve while I declared that I was his counsel and would take care of the case.

In the mean time, Mr. Thornton, who had drawn the indictment and presented it to the grand jury, had resigned, and young Baldwin had been appointed District Attorney. Thornton appealed to me to give up the case and let some other attorney take it. He said that conviction was sure, and that it was not worth while to occupy time with it. I told him I would not give it up.

Before the trial I examined the testimony of White, which had been taken down in shorthand, against Mike Murray. It so happened that the sheriff was an Irishman by the name of Pat White, and the deputy sheriff was also an Irishman by the name of Dick Brown.

There was a large settlement of Irish about four miles down the river at Owsley's Bar, noted for their clannishness and prejudice against everybody in general and Scotchmen in particular.

The case was called for trial. Robert Taylor, who had defended Mike Murray, had been elected judge, and presided. The list of jurymen was read, and I observed that Pat White had summoned about an equal number from Owsley's Bar and Downieville. The men of Downieville wore clean clothes and "biled shirts" and looked very respectable. I was afraid of them. I did not think they were suitable for the business on hand.

Under the law the State had five peremptory challenges and the defense twenty. As the jurymen were called I refrained from examining them on their *voire dire* as to whether they had "made up their minds," etc., but used my peremptory challenges against the "biled shirt" fraternity, accepting always without question the denizens of Owsley's Bar.

My client was terribly distressed, and protested until the sheriff had to hold him in his seat. The judge knew me pretty well and did not like to interfere with me, taking it for granted that I knew my own business.

The panel was finally completed and sworn in. On looking it over I was satisfied that it was the jury I wanted. Although every man was against a Scotchman on general principles, they hated the people of the North of Ireland of the Protestant stripe with a bitterness that was vindictive; and particularly that North of Ireland gentleman who had sworn away the life of Mike Murray.

The case lasted three days. It was prosecuted by young Baldwin, the District Attorney, who was bright, ambitious, and enthusiastic. He was over-eager for conviction, it being his first murder case. He was assisted by Judge William Campbell, who had been for

a few months a county judge. Judge Campbell was also young and vigorous, but not fully armed with discretion.

These gentlemen had at their back a host of witnesses from Eureka, leaving the town nearly a solitude. Their witnesses testified to all the circumstances leading up to the homicide, the dispute about the mining claim in all its phases, and the threats of Ellis against O'Brien.

I said nothing and cross-examined none of the witnesses, although my client was writhing in agony. The bystanders, although they believed him guilty, were angry with me. I am satisfied that Judge Taylor shared the same feeling, and I was constantly in fear of a reprimand from him.

Finally, the star witness, White, was put upon the stand. A more diabolical story than he told in describing the homicide has never been heard in any court-room where the English language or any other language is spoken. When the witness was turned over to me, as all the others had been, instead of turning my head and remaining silent as before, I said:

"Have you ever had any occupation except that of swearing away the lives of men? If so, state it."

Whereupon, as I had anticipated, the prosecution jumped to their feet at once and demanded of the court protection for the witness. Said I:

"This court will not protect the man that swore away the life of Mike Murray."

There was profound silence. Judge Campbell rushed into the clerk's office, which was the adjoining room, and brought out the volume of testimony in the Mike Murray case and laid it on a table. As he did so, the volume fell open, and I brought down my fist on it so hard that the table collapsed, saying, "Put away that bloody record!"

These proceedings appeared to attract the attention of the jury somewhat. By that time I observed tears

coming into Judge Taylor's eyes. He was thinking about Mike Murray. I rose rather speedily, and begged the pardon of the court. I made my apology so humble that it was actually accepted, and nothing further was said. I then changed my tone and asked the witness, White, to describe the place where the killing occurred. He gave a description in a very cool and collected manner; but, as I anticipated, it was entirely incorrect, because no man under these circumstances could possibly remember the details of the locality. That closed the case for the prosecution.

I then called Ike James, the surveyor, with his map, and exhibited it to the jury, showing everything surrounding the place—the stumps, the snow, the tracks, etc.—which of course was entirely different from the description given by White.

I then called up Lazenby, the stuttering barber, and found him in a very excited state of mind. I said:

“Did you see O'Brien raise that shovel to strike before Ellis used the knife?”

He tried to answer and stuttered away. I pretended to assume that he had answered my question in the affirmative, and turned him over to the other side. Their efforts to get him to say anything intelligible were unavailing. He stammered and stuttered, so I rested my case.

Then Judge Campbell made the opening speech to the jury for the prosecution. It was a terrible arraignment of Ellis and a eulogy of the star witness White. When he got through I did not rise to reply, but remained in my seat. The Judge asked me if I did not intend to address the jury, and I then arose and said:

“May it please your Honor,”—not looking at the jury at all,—“this jury is just as good a judge as I am whether this man White has an unlimited right to swear away lives. They have heard the testimony, and if

they think White ought to swear away another life, let them so decide." I then sat down.

Young Baldwin, just as I expected, made an eloquent speech, devoting a large portion of it to praise of White, which kept White before the jury the whole of his argument.

The jury went out, and in about three minutes came back with a verdict of "not guilty."

I was standing, and the prisoner was seated in the chair that he had occupied during the trial. He got hold of me then and asked me if he was a free man. I said in a whisper:

"You are free now, but if you are in this town at the end of twenty minutes, you will be hung. If you can get up that mountain before the jurymen get out and mingle among their friends and find out what they have done, you are all right."

He left the court-room on the run and hustled up the mountain.

When the jury had taken a drink with the outsiders and talked the matter over, the crowd started after Ellis dispose of him, but they could not catch him.

I never saw Ellis after that; but in 1869, nine years afterward, I addressed a political meeting during Grant's first campaign in White Pine County, Nevada. As I left the hall and was walking up the street—there were no lights and it was quite dark—I passed where two buildings were about two feet apart. A hand out of the darkness grasped me, and a low voice said:

"I am Ellis. Take this; say nothing."

I took the package and put it into my pocket, and when I reached my room and examined it I found \$700 in greenbacks. I suppose Ellis had changed his name. He had sufficient reason for doing so, because he would have been liable to assassination at any time during the lives of the friends of O'Brien.

After the acquittal of Ellis I made a solemn resolve that I would never again be engaged to defend a man in a criminal case for money; that if ever I went into a criminal court it would be only for a friend, and I have kept my resolution, although I had been quite successful in defending several criminals previous to that time.

CHAPTER XII

I become interested in politics—Governor Bigler insulted—Appointed Attorney-General—Terry and Broderick duel—A tragedy in a hair trigger—Crabbs's expedition to Mexico.

From the time I entered McConnell's office in the spring of 1852 until I left California in the spring of 1860 I was deeply interested in the politics of that State. My participation in the local affairs of Nevada County brought me into contact with the politicians of the State who desired to control the delegations from that county, both in State conventions and in the Legislature. I usually went to the State Convention and participated in the nomination of State and Federal officers.

Among the men who controlled the destinies of California in early days there were many remarkable characters, one of whom was William M. Gwin. I canvassed Nevada County and several of the northern counties with him in the fall campaign of 1853 while I was a candidate for District Attorney. He was a genial companion, conversed freely on national politics, and gave me much information in regard to the leading men of the nation. He was the recognized leader of the Southern Democracy.

David C. Broderick was from New York, and was the idol of the Tammany forces who immigrated with him, and whose stronghold was the city of San Francisco.

John Bigler was Governor and a candidate for reëlection; he was regarded as a Broderick man. Gwin was popular in Nevada City, which created a coolness for the Governor. During the campaign Governor Bigler came to Nevada City and addressed his constituents, but he was not enthusiastically received. The

Whigs took advantage of the situation and interrupted the Governor by asking questions and making a noise during his address.

When he concluded, the Whigs called on a radical, John A. Collins, to reply. Collins was nominally a Whig, but if he were now living he would be called a Socialist. He had great capacity for violent and abusive speech, and he took occasion to attack the Governor in the most vivid language.

Sheriff Endicott, a Democrat from Kentucky and a sympathizer with Senator Gwin, came to me and said that we could not afford to allow the Governor of the State to be treated in that manner in our town, and that when Collins got through I must take the stand and serve Collins as he had treated the Governor. He added that the Whigs were much excited and would undoubtedly attempt violence if I said all the mean things I could think of to Collins and his friends, but that the Democratic boys were gathering at his suggestion, and if a row took place we would not have the worst of it.

Accordingly, I took the stand and denounced Collins and the Whigs for their treatment of the Governor of the State. The Governor came out on the balcony of the hotel near by and I apologized to him for the insults of Collins and his associates.

During my speech nothing very serious occurred, more than a few "knock downs" and a pistol shot or two. One of the Whigs sustained a flesh wound. This incident made Governor Bigler a friend for life, and afterward, when the Legislature gave Attorney-General McConnell leave of absence for six months, the Governor appointed me to fill the vacancy.

During the winter of 1852 and '53, while I was District Attorney of Nevada County, I visited Sacramento when the Legislature was in session. Broderick and Gwin were rival candidates for the United States Senate. A difficulty occurred the day I arrived in the Sen-

ate Chamber between Henry A. Crabb, who afterward lost his life leading a filibustering expedition to Sonora, Mexico, and one of Broderick's friends. Crabb was intensely anti-Broderick, and a man of great courage and physical power. He or his followers had Broderick's friend arrested and haled before a justice of peace for assault and battery.

Broderick sent for me and asked me as a special favor to appear in defense of his friend. I did so, and objected to the jurisdiction of the justice of the peace, on the ground that the difficulty occurred in the Senate Chamber, and that the Senator was not subject to arrest under the circumstances. The justice being inclined to get rid of the matter as easily as possible discharged the defendant.

When I returned to the hotel where Broderick and his friend were stopping, I learned for the first time that the reason I was sent for to defend his friend was that the lawyers who were of Broderick's party, and there were quite a number of them, feared the arrest was for the purpose of doing violence to Broderick's friends, and that I might have had a rough time of it. But not anticipating any difficulty, and not knowing that anybody else supposed there would be trouble, I had no concern and the matter passed off without even angry words.

Broderick invited me into his room, and we had a conversation which lasted nearly two hours. I was perfectly charmed with him, for he was certainly the most remarkable man I had ever met. He told me of his history and his aspirations. He was the son of an Irish mechanic who, when he emigrated from his native land, settled in Washington, D. C., and was employed for many years in the construction of the National Capitol. Broderick, when very young, went to New York City, where he labored for a living. He soon joined a fire company and became a leader in

Tammany. When gold was discovered in California, he with many of his New York associates went to San Francisco. They were the controlling force of that city, and Broderick was elected to the Senate of the first Legislature which met in the State.

The opportunities for acquiring wealth were abundant in San Francisco at that time; real estate could be had by those who would take it. Broderick became rich, but used most of his fortune in politics. The struggle between the Gwin and Broderick forces for political supremacy in the State was bitter and vindictive.

At that time it was thought necessary for each House of the Legislature to pass a resolution to go into joint convention to elect a United States Senator. It so happened that neither faction could get a majority of both Houses. When Gwin would have a majority of the Legislature on a joint ballot, the Broderick men would not go into joint convention; and when Broderick would have a majority, the Gwin men would balk. The result was that the State was not represented in the United States Senate for several terms.

This evil was not remedied until 1866, after I was elected to the United States Senate and became a member of the Committee on Judiciary, when the law was then passed which authorized a joint convention whether the two Houses agreed to it or not.

During the summer, while I was acting as Attorney-General of California, I had a room near the room of Mr. Broderick, and as we were both early risers, nearly every morning about daylight we started on a long walk before breakfast. On leaving our rooms we passed a shooting-gallery, kept by a Mr. Taylor, who was known as "Natchez." We frequently went in there to practice, because at that hour of the day we could do so in private. Mr. Broderick was the best shot I ever saw if allowed to use his own pistol. There was some defect in his forefinger which prevented his feeling the trigger

of the pistol until he pressed it hard. A hair-trigger pistol would invariably go off before he was conscious of having touched it. Taylor labored very hard to teach him to use a hair-trigger pistol. He would frequently stand us side by side with our backs to the target and give the word for us to fire. I could always beat Broderick in such exercises; but when he had his own pistol and I had mine, he was the better shot. He would place his elbow against his side, raise his hand with the pistol in it mechanically, and almost without an exception hit the bull's eye. Taylor told me many times to use my influence to prevent Broderick from fighting a duel, as he was no match for a man who could use a hair-trigger. He said the fact that Broderick's life had once been saved by accident would make him accept a challenge, and if he did so he was almost sure to be killed.

I knew of his duel with Judge Smith, the son of "Extra Billy" Smith of Virginia, when he received the bullet of his opponent in his watch, which was directly over his heart. This led him to think he had a charmed life.

He was elected to the United States Senate in 1857, and was radically opposed to the extension of slavery. His strong character and indomitable will marked him a leader at once. He canvassed California in opposition to the party who favored the Lacompton Constitution and the extension of slavery into Kansas and Nebraska, and he developed a capacity for earnest oratory in that canvass which nobody supposed he possessed. After the canvass was over he was dining at a restaurant in San Francisco and E. W. Perley, a pugnacious little Canadian, was sitting at the table near him. Perley was not happy unless he could start a personal difficulty. He commenced a conversation with Mr. Broderick in regard to Judge David S. Terry, a Kentuckian, who had been on the Supreme Court bench of California, and was one of the most prominent men in the State.

There was no particular animosity between Terry and Broderick; they simply belonged to different political wings of the same party. But Perley irritated Broderick and induced him to make some very harsh remarks with regard to Terry. Perley reported his version of the conversation to Terry, who accordingly challenged Broderick, September 13, 1859. They fought with hair-trigger pistols in a secluded place near San Francisco. Broderick's pistol went off prematurely, and the bullet struck the ground before it reached Terry. Terry's shot was fatal and Broderick died three days later.

The spirit of adventure was strong in California in those days. Men were money mad, and some of them, finding the search for the precious metals too slow, organized filibustering expeditions into Mexico. Stories were told of mythical mines there so rich that the Apache Indians moulded bullets for their guns from gold nuggets. The restless gambling instinct made men reckless, thirsting for excitement.

Crabb, then a member of the State Senate, was a Mississippian, an impetuous, hot-headed Southerner, and an able lawyer. He was proclaimed general by a band of adventurous followers, and in 1857 set out with an advance body of one hundred men, by way of Yuma, on a raid into Mexico. The main body of filibusterers was to follow by sea to Libertad, and the two parties were to meet in Sonora.

The combined forces comprised about four hundred men. Crabb had an arrangement with an aspirant for Governor of the State of Sonora to assist him in his election, in consideration of which Sonora was to rebel against Mexico and become an independent State, to be subsequently annexed to the United States.

Crabb's party arrived safely at Sonora, but the reinforcements he had expected failed to arrive. The California authorities had refused to permit them to

leave San Francisco. The Mexican Governor betrayed Crabb, and when he advanced to Caborca to meet the other Americans, the Mexicans surrounded him in overwhelming force and he had to surrender. Fifty-nine prisoners were shot, and a rear-guard escaped only after being badly cut to pieces. A relief party from Tucson turned back, unable to save their fellow countrymen.

CHAPTER XIII

Discovery of the Comstock—Rush to the new diggings—Outrages by the Indians—Piute war—An ambush in a canyon—A volunteer army and a treaty of peace—California admitted to the Union—Origin of mining laws.

In the fall of 1859 the Comstock lode was discovered in a mountain range about thirty miles east of the Sierra Nevada Mountains, in Utah; and some ore was taken from it to Grass Valley, Nevada County, California, where it was assayed and found to be rich in gold and enormously rich in silver. This created the usual excitement. With many others, I made a visit to the new diggings and was strongly impressed with the magnitude of the discovery. It was then late in the fall and the winter was stormy. I resolved to move to the Comstock in the spring, and I returned to my home in Downieville for the winter. I went back to the Comstock in March while the snow was very deep on the mountains.

When I arrived there I met an old acquaintance, Henry Meredith, from Virginia, whom I knew to be a good lawyer, having practiced with him before, and we formed a partnership and commenced building an office of stone.

The day after the partnership was formed I went down to Carson, then a village, now the capital of the State, to look over the general situation, and I learned there that Major Ormsby had gone with a party of men to Williams's Ranch on account of the depredations committed there by Indians; two ranchmen by the name of Williams having been killed. On my arrival at Virginia City a company was forming to join the Major. My partner, Henry Meredith, was there, mounted on a horse, and appeared to be the leader of the expedition.

A large portion of the party who were preparing to go with him were known on the frontier as fighters and toughs. I begged him not to go with such a disorganized company, told him they had no discipline, would not obey orders, and that fighting with the Indians would be disastrous. He promised me that he would go no farther than Williams's Ranch.

Instead, he joined about one hundred men who got together at Williams's Ranch, and marched across the desert from the Carson River to the Truckee River, following the trail of the Indians. They struck the Truckee just below where the railroad at one time crossed it at Wadsworth, and followed down the stream. When they went into the canyon below Wadsworth, the Indians, having laid in ambush, attacked them and killed about eighty of them. Not more than fifteen or twenty escaped. Meredith and many other splendid men were among the slain.

After Meredith left, and before I had heard of the battle, I went over to Downieville, intending to get back in a very few days. I rode my mule through Truckee Valley, following the trail on which we came over, and was about a day and a half making the trip to Downieville. About five miles before I reached that town I met a party of friends on their way to hunt me and rescue me if possible from the savages. I then learned of the massacre. There was great rejoicing when I arrived safely at Downieville.

The next day I returned to Virginia City, but avoided exposure in the Truckee Valley by circuiting the hills. A volunteer army was then being raised to which I contributed a thousand dollars, and other settlers and miners also aided liberally. At the same time Jack Hayes was on his way from California by the Placerville route with a few volunteers, and Captain Stewart of the Regular Army was en route with about a hundred Federal soldiers. It was almost

impossible to get freight from California, so the people of Nevada Territory supplied the soldiers the best they could. The Government of the United States has paid the people for part of the supplies they furnished. Some of the largest contributors, including myself, presented no claim. The claims in Congress were known as the Piute Claims, and later I secured their payment.

I did not go out with the soldiers, because it was thought more important for me and two or three others to collect and forward supplies to the army.

The little army finally overtook the Indians in the mountains near the Truckee River, but the latter, realizing that the whites had a superior force, did not give regular battle, but skirmished about in the hills, killing a few of our men. A treaty of peace was speedily made which ended the war forever, for the white population grew so rapidly the Indians saw it would be hopeless to continue opposition.

One young man by the name of Storey, who was acting as captain, was killed, and Storey County was named after him; and Ormsby County was named after Major Ormsby, who fell in the Indian war.

The rules and regulations governing mining were inherited from California. California never had a territorial government; the military arm of the United States maintained order until the people established a State government. Spanish land grants covered a large portion of the fertile valleys of the State, and these were in litigation for many years. The mineral lands were excluded from survey. They included the area between the foot-hills of the Sierra Nevadas on the west and the plains of Kansas, Nebraska, and the Dakotas on the east.

California was admitted near the end of the long session of Congress in 1850. Gwin and John C. Fremont were the first Senators. Fremont introduced a

bill providing for a tax or royalty on working the mines sufficient to pay the administrative expenses.

Senator Benton opposed any legislation with regard to the mines until sufficient time had elapsed to disclose the real situation. In other words, he maintained that it was best to leave the miners to their own devices. Senator Seward and some others took the same view of the situation. The result was non-action by the General Government.

The first immigrants to California were from the more substantial families of every State. They generally ranged in age from eighteen to twenty-five years; a man of thirty was regarded as quite old. These young men formed rules and regulations on the bars and diggings where they mined; and miners' meetings determined the boundaries of the district and made rules fixing the size of the claims, amount of work necessary to hold them, and such other regulations as the circumstances required.

Although these miners' meetings acted independently of each other in the mineral belt of California extending about 500 miles north and south, varying in width from twenty to fifty miles, the regulations in the various localities were so similar in character as to form a system of general laws.

Stephen J. Field, afterward Associate Justice of the Supreme Court of the United States for nearly a third of a century, was a member of the first Legislature, and offered an amendment to the Practice Act which was adopted, providing that in actions respecting mining claims the rules and regulations established and in force on the bars or diggings might be offered in evidence, and when not in conflict with the laws of the United States, or the State of California, should govern the decision of the action.

As gold and silver mining spread throughout the vast interior mountain region between the valleys of the

Pacific on the west and the Missouri on the east, the miners continued to make their own regulations, and the courts of all the States and Territories where mines existed on the public domain enforced the laws which the miners made.

The first mining was along the bars of the streams, which were divided into small claims. The rivers were also divided into sections, and the waters diverted through flumes constructed by the miners by the use of whip-saws. Thus, great rivers were turned out of their beds and carried for miles while the energetic youths mined beneath them. Later on it was ascertained that the hills contained gravel beds and that a great ore channel extended for more than two hundred miles across the ridges at an elevation of from 3,000 to 4,000 feet above the level of the sea. In this great ore channel trees and flood wood were found petrified, and other evidence existed that there had once been a mighty river running from the north to the south before the great canyons from the mountains to the valleys were created.

As these new situations were discovered, the miners made laws applicable to each case presented for their consideration. I had the honor to attend the first miners' meeting called to consider the vein, or lode, claims.

About Nevada City, California, there were quite a number of small quartz veins sufficiently rich at the surface to enable the miners to make wages by beating up the rock with mortar and pestle. The meeting appointed a committee, of which I was chairman, to draft resolutions describing quartz claims. I reported from the committee resolutions providing that a vein or lode claim should consist of 200 feet in length along the vein or lode, with all its dips, spurs and angles.

This description of a vein or lode was adopted throughout the State of California, and all the mining States and Territories, as rapidly as vein or lode claims were discovered.

From 1852 to 1860, except a short period while I performed the duties of Attorney-General, I took a very active part in the practice of mining law, which was the principal and most lucrative practice in the State of California.

CHAPTER XIV

Comstock lode fortified—Trouble brewing—I get the drop on a “bad man”—A desperado who killed sixteen men in one winter—A brave Dutchman—The terror of the camp—Rival judges and mixed justice.

When I arrived at Virginia City in March, 1860, I found a large number of people living there in tents, behind rocks, in holes in the ground, and in every possible way they could devise to protect themselves from the prevailing inclement winds.

Judge Terry reached Virginia City two days before I did with a party of Southern gentlemen from Calaveras County, California. He selected three prominent points on the Comstock lode and caused forts to be erected. He declared even at that early day that there would be a separation of the Union, that Nevada would be a part of the Southern Confederacy, and that whoever was in possession of the mines would be allowed to hold them.

What is now Nevada was then a part of Utah. The people of California knew little of Utah laws, distrusted everything connected with Utah, and consequently organized corporations in California to work the mines. Nearly all of the corporations owning claims on the Comstock vein employed me as their counsel, and were very urgent in their desire to drive Terry's men from their forts.

In a few days I was satisfied that it would be a very foolish thing to interfere with Terry as matters then stood. The foot-wall of the Comstock was very distinct; it required very little development to determine what or where it was. It was located on Mount Davidson, a huge granite mountain, and pitched to the east at an angle of about 40 degrees, and the lines of

croppings consisting of what was then known as the Comstock were prominent and very rich.

The Ophir, Gould and Curry, and Gold Hill were the most conspicuous of these valuable blow-outs or croppings. About 500 feet west of these croppings, known as the Comstock, there was a barren vein lying on the foot-wall. It was known as the old Virginia lead. The Comstock and all the vein locations were described as 300 feet along the vein with all its dips, spurs, and angles. This vein was very different from the models the miners of Nevada had before them when that mode of describing a vein mine was adopted.

There were a large number of Comstock claims along the line. Their names were the Sierra Nevada, the Ophir, the Mexican, the Middle Lead, the Gould and Curry, the Savage, the Chollar, Gold Hill (subdivided into several claims), the Yellow Jacket, Crown Point, Belcher and Overman, extending a distance of nearly two miles. The number of feet claimed by these companies was nearly twice as much as existed on the Comstock. In other words, claims on the Comstock lode lapped over each other throughout the entire length of the vein, and it had not been determined what direction they extended underground.

I went to San Francisco and told the companies that I wanted to see them altogether and explain the situation. I informed them there was no known hanging wall, that the foot-wall was at the Virginia croppings, that the foot-wall pitched east about 40 degrees, that the Comstock locations were all in conflict with each other; and that it was not worth while to meddle with Terry until they had their own dispute settled.

They said they were all friends and had no dispute. I said, "As soon as you commence mining you will find you are all enemies and will become involved in litigation with each other."

Finally, each company appointed an agent with full power to settle its end lines, and we proceeded to Virginia City with a corps of engineers and definitely settled all disputes between the companies themselves and established end lines between which they might follow the veins.

When this was accomplished they suggested that it was time to put Terry off. I told them not yet, that they must leave him alone until they bought the Virginia lead and divided that among the claims according to their various holdings so they would extend to the foot-walls. They did that reluctantly.

My clients then wanted to litigate, and about that time Judge Cradlebaugh, who was one of Utah's judges, assigned to the western district of that territory, appeared. Just at that time President Buchanan removed him and appointed Judge Flenniken in his place. Flenniken did not arrive until late in the fall of 1860, Cradlebaugh claiming to be judge because he maintained that the President had no right to remove a Territorial judge. Some doubt had been thrown over this question by the language of the Utah Act, and on account of the opinion rendered by Justice John McLean of the Supreme Court of the United States.

During the lull in litigation with regard to the trial of cases before Judge Cradlebaugh some miners asked me to assist them in friendly arbitration in a dispute which arose among them about claims near the Devil's Gate in the road down the canyon.

We went on the ground and then retired to the Devil's Gate Toll House, which was a stone building about 10 by 15 feet. It was divided into two rooms. There was a door into the principal room from the street where toll was collected, and a bar extended the length of the room. Next to the bar was a small door into a room five or six feet wide and ten feet long. We went in there to avoid an unpleasant wind prevailing

that day, chose three arbitrators, and called in a Utah justice of the peace to swear the witnesses.

I was sitting with my back against the wall near the door which opened into the barroom. I had on a very thin overcoat with large side pockets in which I had two Texas derringers which carried ounce balls. They were the only safe warlike implements at close range except a knife. Pistols carrying a small ball might kill an antagonist, but before his death he could continue to use a knife or a gun, unless he was accidentally shot through the heart; but a derringer ball hitting a man anywhere would knock him down and stupefy him so that he could not instantly continue the fight.

I heard the clattering of Mexican spurs that made considerable noise at the door of the barroom. A voice said, "How are you, Brown?" I instantly made up my mind that it was Sam Brown, a notorious character who had killed sixteen men during the preceding winter. The Utah officers dared not attempt to arrest him, and he had everything his own way. I knew very well if we met in that small room some of us would be killed, so I cocked my two pistols, pointed them at the door, and when he came in held them aimed at his breast.

Without noticing me he swaggered in, raised his hand, and said, "Swear me." I called out to the justice, "Swear the witness!" which he timidly did. I then inquired what he had to say and what he knew about the case. He claimed some interest in the ground. After he had testified he went out. The referees went into the other room and I followed behind the balance of those present.

As I confronted Brown, who stood facing the door with his elbow on the bar, I continued to hold my pistols in front of him, supposing he would attack me when I came out. Although he barred the way, using profane language, he said he liked my kind, and asked me if I would take a drink with him. We touched glasses and

parted friends. The next day he called on me at Carson and wanted to employ me in a lawsuit he expected to have at Aurora where rich mines had been discovered, and which is now in Esmeralda County. He said he believed that he and I could get justice in a mining camp. I told him he was right, I thought we could. He said he would be back in a few days and would give me a good retainer.

He left about ten o'clock and went up the valley, which was then the road to California, to a station known as Van Sickles. He called there for his dinner; the waiter did not serve it to suit him and Brown knocked him down with his pistol.

Van Sickles was a Dutchman, a very mild-mannered man, but he told Brown that he ought not to do that. Then Brown drew his pistol and went after him. Van Sickles ran behind a pile of rocks and got away. Brown went out, got on his horse and started on his journey up the valley toward Aurora. Van Sickles loaded a shotgun with balls and started after him on a fast pony, remaining far enough behind so that Brown could not see who it was. The road forked near the station where Brown would evidently stop for the night, and when Van Sickles saw him take one, he took the other and got into the barn which had an open door where travelers could ride in, and stood at the side of the door. Brown had not observed him, and when he rode in Van Sickles jammed the muzzle of his gun against his breast and said, "Now I kills you! and fired both barrels. The desperado fell dead.

There was great rejoicing in the whole country over the act of Van Sickles, and as a reward he was elected Sheriff of Douglas County as soon as the county was organized.

As for myself, I do not relate this story with a view of boasting of my courage, for I must admit that I was very badly scared when Brown made his appearance,

and only behaved as I did because I was in a corner and could not help it.

In June, 1860, Terry and myself met in Carson and agreed that we would recognize the authority of Judge Cradlebaugh and try cases before him. Genoa was then the county-seat of Carson County, which comprised what is now nearly all of Nevada.

I had previously rented a log-cabin in Genoa, which is still standing as a relic. It was the first building of any kind in what is now the State of Nevada. I fixed up the old log-house as my office, removed my library there, and when Cradlebaugh opened court Terry and myself appeared on opposite sides of all the cases, and we had a very lively term of court. Each had about a hundred armed men to help him behave.

We tried several cases, only one of which involved the question as to what constituted the Comstock lode. I refrained from trying any cases against those claiming the Comstock with the rival location.

There was a claim located west of the workings separate lodes where I could not find ore connecting on the Ophir called the "Middle Lead." I caused a tunnel to be run from the Ophir workings through and into the workings of the so-called Middle Lead and found ore all the way, a distance of about thirty feet. My witnesses had sworn that the Ophir and the Middle Lead were one body of ore.

Terry introduced a large number of witnesses in reply, who swore positively that there was twenty feet of granite between the two claims.

Not anticipating any such positive false swearing and having introduced witnesses on the same subject, I was not, as a matter of technical law, allowed to rebut the testimony on the opposite side, but on the adjournment of the court I sent a surveyor by the name of Hatch a distance of thirty miles, providing a relay of horses at Carson, and again at Virginia City to return, and

had him take with him ten men with forty small sacks, instructing them to take from the so-called vein which the witnesses had sworn was solid granite, a specimen of ore from each six inches. The party returned with the ore before court opened the next morning.

I told Hatch that when the jury was called I would occupy the attention of the court for a moment. I told him to take the sacks containing the ore, which were marked where they came from, and place them before the jury while I was attracting the attention of Judge Terry and the court.

When Judge Terry observed it he wanted to object because it was not rebuttal; but when he saw the jury examining the ore, he gave in, saying the trick was so smart he would let it go. But, even with that positive evidence, Terry succeeded in hanging the jury, having some of his Calaveras followers included in the panel.

Later R. P. Flenniken arrived, and Terry told me that he would discontinue our arrangement to try cases before Judge Cradlebaugh; that he was confident that Flenniken was the legal judge, and that he should try cases in his court with a marshal and clerk; a man by the name of Grice being his marshal.

Cradlebaugh continued to hold court, and tried the criminal cases. For the purpose of testing the question of Cradlebaugh's right to continue in office, I caused to be appealed to the Supreme Court of Utah, sitting at Salt Lake, a criminal case in which the question raised involved the validity of Cradlebaugh's authority.

Very little civil business was done for several months; but finally, in February, 1861, Judge Terry's clients went upon a claim called the St. Louis, between what is known as the Devil's Gate and Silver City, on the main road to Virginia City. There was a considerable quantity of rich ore on the surface of the St. Louis. Terry's clients and associates had procured about eighty old muskets which had been brought over the mountains

from California during a recent Indian war. They erected a fort and manned it with about seventy-five men.

I brought suit and obtained an injunction in Cradlebaugh's court, which was served upon the occupants of the fort. They disobeyed the injunction and continued to work the mine. The situation was embarrassing; all the arms available for a battle were in the hands of the enemy. It was absolutely certain that if a warrant was placed in the hands of John Blackburn, the marshal of Cradlebaugh's court, he would be resisted by the armed forces in the fort. I knew that Blackburn, being a desperate man, would make every effort to serve the warrant, and that the inevitable consequence would be the shedding of blood to no purpose.

Two young men were associated with me in the case—Moses Kirkpatrick, afterward a leading lawyer of Butte, Montana; and William F. Anderson, who became a popular lawyer in Idaho. I proposed to them that we visit Flenniken and arrange a compromise if possible. Accordingly, we called on Flenniken at his chambers and told him that we were anxious to avoid bloodshed; that Judge Cradlebaugh's order had been disobeyed by the men in a fort on the St. Louis mine near Silver City; that if it was agreeable to him we would commence a suit in his court, and if our showing was sufficient to satisfy him that an injunction ought to be issued, we would serve his injunction and make a joint effort with his marshal and the marshal of Judge Cradlebaugh to enforce the orders of the two courts. Flenniken said that would be entirely agreeable to him.

We further said to him that the controversy between the two judges was very injurious to the business of the Territory and ought to be terminated, and that Judge Cradlebaugh had agreed to resign if the Supreme Court of the Territory of Utah decided against him, or if Lincoln's Administration, when it should be inau-

gured, refused to pay him his salary and paid it to Judge Flenniken. Flenniken said that would be entirely satisfactory to him, and he would then and there make the same agreement Judge Cradlebaugh had.

We went to my office, prepared the papers, and the next morning called on Flenniken again and asked him to issue an injunction. He not only refused to do that, but denied ever having had any conversation with us on the subject; and, in fact, he went so far as to deny that we had ever visited him at all.

While we were studying what to do next, early in the evening the Pony Express came in from Utah bringing the decision of the Supreme Court of that Territory in favor of the right of Judge Cradlebaugh to hold court; whereupon Judge Flenniken got out upon the street and publicly declared that he was no longer judge, that Cradlebaugh was judge, and that it was the duty of all good citizens to obey his orders. I met him in the presence of several gentlemen and questioned him personally to know if he would sustain Judge Cradlebaugh. He assured me that he would.

I then got an order for arrest for contempt for the occupants of the fort and placed it in the hands of the marshal, Blackburn, and retired for the night. The next morning, before the sun was up, Kirkpatrick and Anderson called at my house and told me that Judge Flenniken was on the street claiming to be judge and denying the right of Judge Cradlebaugh. I belted on my pistols and started down town, seeking Judge Flenniken. I met him on the square, now occupied by the State House, in front of Pete Hopkins's saloon.

"Good morning," he said.

"Good morning."

"What's the news?"

"Bad news, indeed," I said. "They are slandering you. They say that you are claiming to be judge and defying the authority of Judge Cradlebaugh."

I told him I anticipated that something might go wrong and had taken the precaution to be deputized by Marshal Blackburn to summon a posse to assist in executing the orders of Judge Cradlebaugh, and that I summoned him to carry a musket and give the lie to the slander that he was usurping the functions of Judge Cradlebaugh.

He stepped back, and I grabbed him by the collar and jerked him on to his knees, and drawing my pistol told him he would carry a musket in front of me, and there was no evading it. He raised his hands imploringly, saying:

“Is there no way to avert it?”

“Yes, if you will do as I say,” I replied.

He consented by not resisting, and I took him by the coat collar into Flyshacker’s store, which was conducted by F. A. Tritle, subsequently Governor of Arizona. There was a telegraph station in the middle of the floor, surrounded by a railing. Pete Lovell was the telegraph operator, and was at his post. I told Tritle to write as I dictated. I dictated four or five dispatches for Flenniken to sign, which declared in emphatic terms that he was not judge, that Cradlebaugh was, and his orders must be obeyed. I sent one to Flenniken’s marshal of the court, one to his clerk, one to Cradlebaugh’s marshal, and several others to prominent men at Silver City.

I then had Lovell come outside the railing and stand where he could hear the messages in reply, but not where he could touch the wires. News came of consultation of all parties concerned. Finally Lovell said the forces under the marshal of Flenniken’s court had surrendered and agreed to accompany Marshal Blackburn to Carson, a distance of about ten miles. I waited about an hour, when it was announced that Marshal Blackburn and his prisoners were within four miles of Carson, and then had Judge Cradlebaugh open

court. As the prisoners were led in I moved their discharge on the ground that they had been misled by a usurper by the name of Flenniken, who falsely pretended to be the judge; that they were good citizens, but they had defied the authority of the court under a mistake, and that I hoped they would be allowed to depart without punishment. Accordingly, Judge Cradlebaugh, acting on my motion, discharged the prisoners.

Joe Vaughn was a partner of Judge Terry, and was managing the business while Judge Terry was in San Francisco. He came to me and requested the privilege of seeing the original dispatches signed by Flenniken. I took him to the telegraph office. He read them and was satisfied that they were genuine.

The next day Judge Terry arrived. Everybody supposed that he would be very indignant and that something sensational might occur. On the contrary, the Judge came to my office, saluted me good-naturedly as usual, and said that I had taught him and his party a very valuable lesson, never to go to war unless you have your general in your own camp. "You had both generals in your camp and you won the victory," he said.

Judge Terry left that evening, and proceeded immediately to the Confederate Army, in which he fought bravely until the end of the war.

CHAPTER XV

Making Nevada a Territory—I help to locate the Capital—The great flood of 1861—I lose my fortune in a night—Frightful journey on foot to San Francisco in blizzard—Borrow \$30,000 and get a new start—Half a million in fees in one case.

In March, 1861, Congress passed an Act making western Utah a Territory, and naming it the Territory of Nevada. James W. Nye was appointed Governor, George Turner, Chief Justice; Horatio M. Jones and Gordon N. Mott, Associate Justices.

The Governor, as directed by the Territorial Act, divided the Territory into districts for election purposes, and called the election for members of the Territorial Legislature. The Legislature sat in the fall of 1861 and passed a complete code of laws, civil and criminal, dividing the Territory into counties and judicial districts.

At the time the Legislature was about to convene there was a sharp contest between Carson and Virginia City for the location of the capital. My family resided at Carson, but I practiced more often at Virginia City. Previous to the bringing in of water from the Sierra Nevada Mountains, Virginia City was very unhealthy on account of the bad water; consequently I made Carson my place of residence. There was a lively contest in Carson for the member of the council, corresponding to the State Senator in organized States.

A committee inquired of me the morning before the election where I thought the capital ought to be, and I told them by all means at Carson, where the climate was excellent, the water good, which would make it a permanent town; whereas Virginia City was a mining town and not a suitable place for the capital. They did not disclose the purpose of asking me this question. I

remained in Virginia City until after the election, and when the votes were counted I had more than two-thirds of them. There was nothing for me to do but to serve.

Knowing that I had been elected for the purpose of locating the capital at Carson, I remained at home during the time the members of the Legislature were coming in from different parts of the Territory. I inquired of each how he wanted his county bounded and where he wanted the county-seat. Each one told me, and I framed a bill dividing the Territory into counties and making Carson the capital.

Virginia City lacked a few votes of half the Legislature. A large delegation came down, confident that they would locate the capital at Virginia City. All the counties were arranged to suit the members outside of Virginia City, and it was understood that any change in the programme would be disastrous to them in arranging their county boundaries. The Virginia delegation debated the question in a very enthusiastic manner, but we on the outside kept quiet until the vote was reached, when our programme was carried by three votes, the number that we anticipated.

I am sorry that I was forced to make so grave a mistake in arranging the programme, but I was compelled to take the course I did in order to make Carson the capital. The four counties of Ormsby, Storey, Lyons, and Douglas are so near together that a horse and buggy can be driven to each of the four county-seats in half a day, and the expense of carrying on so many county governments is a great burden upon the people and upon the State. It is hoped that the time may come when the people themselves will arrange the counties and the county boundaries in spite of the official cliques that live about the court-houses.

During the organization of the new Territory, which occupied about six months, there was a lull in litigation, but mining was actively pursued. I was quite successful

during that time in my mining operations. With two associates, Morgan and Henning, I acquired a valuable mine on Gold Hill, built a quartz mill on Carson River, constructed a road to it, bought eight teams of six mules each to haul ore, purchased and had delivered at the mill over a hundred tons of hay, a hundred tons of barley, and was in the act of taking out money very rapidly.

I also, with my law partner Kirkpatrick, built another quartz mill in the canyon of Gold Hill. If the winter had been as usual I would have had the foundation of a fortune of a million; in fact, in November, 1861, I had an offer for my interest in the two properties of \$500,000. But about the middle of December there came the most terrific snowstorm ever known in Nevada. When the snow was five or six feet deep in Virginia City, where it seldom falls a foot deep, and when the valley about Carson was also covered several feet with snow, a warm rain set in, and the flood was terrible. It filled the mine with water and carried away both mills; while the hay, the grain, and the ore at the mill were all swept away; nothing was left on the bar where the mill was built, which before the flood was covered with a heavy growth of cottonwoods from one to three feet in diameter, and it became a mass of boulders and nothing else. I lost \$500,000 in a night.

The destruction of the mills and the ore left us without money to pay our men or to buy food for our animals.

I went to the boarding-house keepers, arranged for the board of the men until my return, and also provided for feeding the mules with barley costing twenty-five cents a pound. I had a friend in San Francisco by the name of Chris Reis who had plenty of money. I resolved to see him as quickly as possible and raise enough on the mine to pay all the debts that we had incurred.

I started from Gold Hill, in Storey County, Nevada, for San Francisco, California, on foot over Salisbury's grade, a distance of about 300 miles. When I arrived at Yanks, an important station about a mile and a half south of Lake Tahoe, I found two or three hundred men there waiting for the storm to subside so they could cross the mountains. I remained at Yanks that night. The morning after my arrival the snow on the grade upon the mountain was very deep, covering the telegraph poles; but being familiar with the location I had no difficulty in reaching the summit of the mountain. When I arrived there the wet, heavy snow was falling very rapidly. There I met one of the Salisbury brothers, who had come from California. He told me that I must turn back, that I never could cross the mountain.

I insisted that I must go on, and when he failed to persuade me to return he started to leave me, and when about 150 yards from where our conversation took place a snowslide came and buried him so deep that his remains were not found until the following June.

Knowing that in a snowstorm no man can steer a straight course, but that men so situated invariably walk in a circle until they perish, I took the precaution to steer my route truly by sighting from tree to tree. I traveled by this method four miles in about five hours, when the topography of the country enabled me to proceed more rapidly.

I arrived about dark at a station on the road known as Strawberry Ranch, and there spent the night. It was raining and snowing and every ravine was a raging torrent. The mountains were softened, and landslides were frequent and terrible. The next morning I proceeded, and after I had traveled about fifteen miles I heard an unusual roar, although the landslides on both sides of the river kept up a continual noise worse than thunder.

Looking up to the right I observed the tops of the trees moving. I ran back about two hundred yards to avoid a section of the country that was sliding down. About eighty acres of land slid down the mountain into the South Fork of the American River, which was about a thousand feet below the road, and dammed it for a considerable time. I waited until the moving of the crumbling mass ceased, and then ran across it, and found when I struck solid land that the house of the station was still standing, but the barns and horses and outbuildings had been carried down by the slide. The people were very much frightened, but inasmuch as it was all quiet then, they gave me a cup of coffee and some bread and I proceeded on my way.

I ran and walked, and walked and ran, and arrived that night at Placerville, a distance of forty-eight miles from Strawberry Ranch. I stayed all night at Placerville. The next morning I tried to hire a horse but could not, and so bought one and rode it to Fulsom, a distance of about thirty-five or forty miles, and found that the flood was all over the valley and had carried away the railroad which ran from Sacramento to Fulsom. I waded my horse for about fifteen miles to a knoll some four miles from Sacramento, where there was nearly half an acre of ground that was not covered by water.

There were two boats there, and I traded my horse to one of the boatmen, in order to reach Sacramento. The water was generally up to the second story of the buildings. I rowed to the house of Frank Hereford, which was on rather an elevated place, and there the water was only about one foot deep on the first floor. We spent the night on the second floor. The next morning I got the boatman to row me out in search of a steamer for San Francisco. Every available steamer had been sent out over the valley to pick up the people to take them to places of safety.

After a long time I hailed a steamer bound for San Francisco, where I arrived that evening, and found my friend Chris Reis, executed to him a mortgage on the mine, got \$32,000 in paper money and certificates of deposit, and started back.

The return trip was not very difficult as the storm had substantially subsided, but no mail had passed over during my absence and I found the same party at Yanks that I had left there about a week before.

I proceeded at once to Gold Hill and Virginia City, paid off the men, paid their board bills and paid for keeping the mules; but I had hard work selling the mules at any price, and practically gave them away.

But the best of it all was, nobody knew I was broke, and I was able to buy interests in mines that I knew to be good. With my law business, which was very lucrative, I recuperated my fortunes without ever exposing my loss. In about ten days we sold the mine for \$60,000 to the Graves brothers, who took from it several millions.

The first district court after the organization of the Territory was opened by Judge Gordon N. Mott in February, 1862. The calendar was loaded with all sorts of suits, most of them involving the question whether the porphyry belt containing the mines was one or more veins or lodes.

The mass of porphyry in which all the veins or lodes were found lay against Mount Davidson, and the foot-wall of this mass pitched to the east at an angle of about 40 degrees, while no regular hanging-wall was anywhere found. In fact, the distance to a different character of rock bounding the porphyry belt on the east was nearly a mile from the Virginia croppings where the foot-wall was found.

Some of the advocates of the many-lead theory got into a conflict with each other, and had quite a lively litigation, in which I did not participate. It was only

when an attack was made on the Comstock locations that I took a part. The most prominent of these side-shows was the contest between the Burning Moscow and the Madison companies. The claims for which they were contending were situated west of the Ophir. The stock in these two companies rose very high, and each in turn went up and down according to the public estimation of its respective chances of success.

I will not burden the reader with the details of the famous litigation on the Comstock, the estimated expense of which rose to the enormous sum of \$10,000,000*.

While the contest between the Burning Moscow and the Madison companies was raging and nearly every company on the Comstock was fighting claimants of so-called parallel ledges to the Comstock, to avoid vast expenditures I suggested to the trustees of the Chollar and other companies a plan of settlement. I told them to sell their stock in their Comstock locations and buy the Grass Valley claim, which was about 2000 feet long, and others located in that range, and then settle the Comstock litigation by drawing a perpendicular plane between the Grass Valley on the east and the Comstock locations on the west. Such a settlement would have excluded from the Comstock the great bodies of ore which were afterward found, and confined the Comstock locations to the first bodies of ore found near the surface.

At that time it was impossible to satisfy my clients that the ground covered by the eastern locations was of any value, as they believed that all the value would be above the line suggested. If my advice had been taken, and the Comstock claims sold out for what they would bring, the owners of the Comstock would have

*Volume IV of Clarence King's U. S. Geological Survey, under the authority of Congress, contains a very good history of the Comstock mine and the litigation to settle titles.

secured a great victory and made money in the operation; but the Chollar and other companies refused to adopt my advice and the litigation proceeded. With regard to this, Mr. Lord*, after describing this effort for a settlement, comments as follows:

Unfortunately, the trustees of the Chollar Company could not be persuaded to adopt Mr. Stewart's views, and he was reluctantly obliged to abandon his project and continue the fight. If he was not successful as a peacemaker he had no reason to complain of his fortune as a contestant. The leading lawyers of the Pacific seaboard were employed in the various suits, and the California courts were for the first time deserted, so to speak, for the more profitable field of practice in the new Territory. The fees paid by the wealthier companies to their attorneys would have dazzled Hortensius and Scaevola, and were far in excess of those earned by the most competent counsel in the Atlantic States. Benjamin R. Curtis, who resigned his seat on the United States Supreme Court bench to become the acknowledged leader of the Massachusetts bar, received an average return of \$40,000 annually for his legal services during the seventeen years—1857-1874,—while the professional income of Mr. Stewart during the years of fiercest litigation at Washoe was \$200,000 annually. The Belcher Mining Company repaid his services with 100 feet of their claim, which he sold for \$100,000, and the Yellow Jacket gave him \$30,000 as a single fee. The rewards were princely, but the labor was more exacting than the task of the slave. The vigor and earnestness with which he carried on the legal war are undisputed. Once enlisted as counsel in a case, he made the cause of the clients his own. He saw no foundation of justice in any claim of an opponent and left no stone unturned to achieve success. His own determination to win at any cost, and the belief that he would match his adversary with any weapons which the latter might employ exposed his course to sharp, if not merited, criticism; but he defied his critics to prove their assertions in the courts. It must be admitted that in offering this challenge he ran little risk, for the direct complication of so shrewd a lawyer in unwarrantable practices could scarcely be proven. It is equally certain that the Washoe bar, at that time, was not a nursery for tender consciences, and if he fought fire with fire he had not a few imitators and assistants.

All might have been content to equal him in industry and devotion to the cause of his clients. In preparation for his cases he worked

*Elliott Lord's "History of the Comstock."

day and night, seemingly incapable of fatigue. His mastery of the details of a case was so complete and his memory so accurate that during the progress of a suit he took no notes, but he was able to refer in citation to testimony of the most complex and contradictory character with extraordinary correctness. During the course of one trial, if several suits in which he was engaged were to be brought up in succession, it was his practice to prepare for them so fully, with the assistance of his associate counsel, that he rarely had occasion to request a postponement, but was ready to proceed to trial at a moment's notice.

In addressing a jury he endeavored to make his statement of the case as clear, straightforward, and simple as possible, avoiding carefully any semblance of legal quibble or trick. He placed himself on their level of comprehension, spoke to them as man to man, appealed to their crude sense of justice and fairness, and strove to convey the idea that his clients were entitled to a verdict in equity even more than by law. His opponents protested that "he was endowed by nature with a faculty of imposing the sublimest absurdities upon juries as pure and spotless truth," but the success of his method was grudgingly admired. Though abstaining from legal finesse, he did not hesitate to resort to any device of rhetoric which could serve his end. The broadest sarcasm and ridicule were effective with a jury in a mining camp whom subtle wit, however brilliant, would have failed to impress.

So in the notable case of the Yellow Jacket Mining Company, the determining cause of the verdict, as Mr. Stewart believes, was not the plea which he was able to make upon the merits of the case, but the discomfiture of a rival attorney, Mr. Frank Hereford, by a ridiculous comparison. Mr. Hereford, who represented the Union Company, had only recently arrived in the Territory, and it occurred to Stewart to annoy him, if possible, and make the jury laugh by alluding to his natural inexperience in conducting jury trials in Nevada. He compared Hereford accordingly with absurd gravity and minuteness of detail to a young broncho horse, untrained and fresh from the plains, brought up into the thin, cold air of the mountain city, and his arguments were likened to the first efforts of the pony who pants and gasps in the new atmosphere. When the newcomer became acclimated and had recovered his wind, so to speak, he might be of some service, but till then Stewart hinted provokingly that he was unfit for rivalry with a trained old war-horse like himself. The badinage was not charged with a delicate wit, but it was effective in accomplishing the two-fold aim of provoking his rival and setting the rough jurymen in a roar of laughter. Hereford's attempted retorts were skilfully parried and

his able presentation of the cause of his clients obtained little consideration.

In the trial of another suit of the first importance, a different temper was manifested. The indignation of the jury and spectators was artfully excited by the bitter denunciation of the treachery of the leading witness until their passion was uncontrollable. In no other trial on the Comstock was such a flame of excitement kindled as in this suit of Sierra Nevada Mining Company vs. American Mining Company.

The tract claimed under the location made by the Sierra Nevada Company had been seized upon by opposing claimants until the ground was honey-combed with prospect holes. Mr. Stewart was attorney for the Sierra Nevada Company in 1852-63, as well as one of its trustees, and advised that suits should be brought against all locators on the disputed ground in order to quiet title, knowing that many of the cases would never be contested or brought to trial, and that judgment by default would accordingly be obtained. His advice was taken, and a complaint was made by George D. Whitney, president of the Sierra Nevada Mining Company, setting forth the facts in the case at length and attesting them by his affidavit upon oath, as well as by the affidavits of others. The result was as the attorney had anticipated. Judgment was confessed by some of the claimants, but others, among whom was the American Mining Company, contested the Sierra Nevada title and forced the company to institute suits for ejectment.

As the time set for the trial of the suit against the American Company approached (February 26, 1863) Mr. Stewart found to his surprise that no steps had been taken by the president of the Sierra Nevada Company to provide for the necessary initial expenses. Mr. Whitney had so far shown himself energetic and honorable in the conduct of the suits to quiet title, and his present course appeared inexplicable. Stewart wrote to the San Francisco office of the company but received no satisfactory answer. Finally only three days were left before the day of trial, and the attorney, suspecting treachery, determined to act on his own responsibility and promptly. He wrote to the trustees informing them of the singular course of the president, and urging that one, at least, should set out for Virginia City immediately to confirm his action; but knowing that no one could arrive in time to be of any service in the preparation for the trial, he set to work without further delay. His first act was to obtain the "sinews of war," as he said, from a reluctant money-lender. With \$20,000 thus procured he employed surveyors to make an accurate map of the Sierra Nevada claim, and sent messengers on swift horses to Carson, Genoa, and all the valley towns for miles around to collect witnesses.

Before the three days had expired he had prepared thoroughly the case for his clients, mustered a formidable array of witnesses, and was able to establish a plausible case on affirmative evidence without giving a clue to the course which he proposed to take in rebuttal. Mr. Charles H. S. Williams, who was accounted the ablest lawyer on the Coast in the trial of *nisi prius* suits, had been engaged to conduct the case for the American Company. This was the first time that he had ever been pitted against Mr. Stewart, and the latter was disposed to make the contest a sharp one, as Mr. Williams had alluded somewhat bitterly to him in the course of a previous trial, *The Burning Moscow vs. The Madison Company*.

On the night before the trial, February 25, 1863, Mr. Whitney arrived on the stage from California, and he had hardly entered the city before Mr. Stewart telegraphed to the other trustees that they were betrayed and that the trial could not be postponed. He did not know Whitney's intentions, but suspected the truth, as was afterward ascertained, that the inducement held out to him was a large amount of stock in the American Company, which Whitney took after disposing of the greater part of his interest in the Sierra Nevada.

The trial began the next day in a crowded court-room. Mr. Stewart made out a *prima facie* case, as he anticipated, and contented himself at first with a concise statement of the facts, hinting at the singular action of Mr. Whitney, but purposely moderate in tone. Mr. Williams incautiously replied, committing himself more fully than he would have spoken on second thought in defense of Whitney, whom he proposed to call as a witness. This was Stewart's object, and when it fell to his turn to cross-examine Whitney, March 3, 1863, he contrived to obtain much more minute and positive affirmations than had been elicited in the direct examination. Then he turned sharply on the witness and produced the complaint to which he had sworn six months before. He went over this sentence by sentence, showing a direct conflict of testimony on the important points. "Did you swear so and so," he would ask, "six months ago?" Whitney moved uneasily on the stand, hesitated, stammered, made evasive answers, and soon became utterly confused. Stewart pressed him more hotly than ever and drove him fairly to the wall. The crowd in the court-room, catching the purport of these ringing questions and seeing the apparent faithlessness, became passionately excited, half through personal interest and half through a contagious sympathy. The trembling witness appealed to the judge, Hon. Gordon N. Mott, but the judge decided that the questions were pertinent and must be answered. Surrounded by a densely packed ring of threatening faces and

assailed implacably by his inquisitor, Whitney suffered a keen torture for several hours on the stand. At last he was permitted to retire, but the effect which the shrewd lawyer had aimed to produce was attained.

In summing up the case for the Sierra Nevada Company he had the opportunity for which he had been waiting, for the crowd in the court-room was already strongly moved by the developments in the case and was prepared for the passionate invective and appeal which he knew how to make. He painted the act of Whitney in the darkest colors as the trick of a renegade, false to his duty, false to his friends, false to his honor. The witness had sworn to a tissue of lies which had been laid bare in all their blackness, and left the stand branded for life as a perjurer who had betrayed his trust. Scarcely less bitter was the attack upon the defending counsel. He styled the introduction of Whitney as a witness an unpardonable crime which was a burning disgrace to the conductors of the defense. It involved Williams as a guilty associate in a shameful conspiracy and would remain an enduring stain upon the profession to which he belonged. The jury caught the passionate glow and heat of the speaker and bent forward eagerly to listen. The spectators muttered sympathy and crowded closely about the bar. When Stewart spoke his last fierce sentence an ominous murmur ran through the court-room. The attempted defense of Mr. Williams was ineffective. The jury was deaf with passion, and left their seats inflexibly prejudiced against the witness Whitney and the case of the American Company. They did not waste time in reconciling possible differences. One man alone was inclined to protest against the action of the majority. They told him they would hang him if he persisted, and having a well-grounded faith in this assurance he yielded instantly, and a verdict was rendered at once for the plaintiff, the Sierra Nevada Company, March 5, 1863.*

In four years I received \$500,000 fees in the Comstock litigation.

*In 1875, when Virginia City was burned down, all of Senator Stewart's records of the Comstock litigation and all newspaper files, were destroyed. Hence he was compelled to write from memory, and to quote Mr. Lord's history.

CHAPTER XVI

Chollar and Potosi controversy—Exposure of bribed jurors—I turn the tables on my enemies—Three judges resign in one day—\$14,000 in greenbacks for information—The jockey skips.

One of the leading controversies with regard to the Comstock lode arose between the Chollar and the Potosi. The Chollar was the old location and the Potosi the parallel location on the east. The Potosi entered upon the Chollar mine; the Chollar brought suit and recovered judgment.

After judgment was obtained by the Chollar, the Potosi sunk down on the dip of the vein and claimed the ore as a separate lead. The Chollar again brought suit, and undoubtedly would have recovered if there had not been a change of judges. I quote again from Mr. Elliott Lord's "History of the Comstock":

Potosi stock, which had rallied somewhat, suffered another sharp decline, but the managers of the company were by no means disposed to give up the contest. A shaft was sunk accordingly, outside the eastern boundary surface line of the Chollar Company, and a deposit of rich ore was soon reached. The contention was instantly renewed, and cross suits were instituted by both companies. The managers of the Potosi Company believed that Judge Gordon N. Mott was biased in favor of the claims of the Chollar Company, and as the Chief Justice, George Turner, was accounted a Chollar partisan, they resolved to change the constitution of the bench by inducing Judge Mott to resign and obtaining the appointment of James W. North, a lawyer who was known to have a different opinion as to the rightfulness of their claims. How this plan was carried out was bluntly stated by the *Virginia City Territorial Enterprise*, July 26, 1864, fully endorsed by the *Gold Hill News* of the same date, and subsequently confirmed by the decision of referees in a libel suit instituted December 6, 1864: "We assert that Judge North's place on the bench was bought for him. The price paid was \$25,000. The payee was Gordon N. Mott. The person paying it was John Atchison, in behalf of the Potosi Company. We believe that there was some flimsy pretext of railroad

business which glossed over the payment of the money to Mott, but it will not be pretended that the object of paying Mott was any other than to get North on the bench."

Whether the appointment of North was bought with an understanding that he belonged to the litigators who bought him, or whether he had a peculiar mind is immaterial. Every decision he rendered in every case over which he presided, except one, exhibited evidence of a strong bias against the owners of the Comstock claim in the litigation with regard to the Potosi; while the court substantially held that a judgment in favor of the Chollar stopped the Chollar from what was recovered by that same judgment. This may look paradoxical, but it was North's idea of justice.

Judge Locke, who was put on the bench soon after North, was probably the most ignorant man who ever acted in any judicial capacity in any part of the world. While the case was being argued in the Supreme Court as to whether the Chollar was entitled to what it had won by the judgment of the court, Locke met an old friend from Missouri who was driving an ox team, and undertook to explain to him before some bystanders the question that was before the Supreme Court. His explanation was as follows:

"You see the Potosi fellows say the Chollar fellows ought to be stopped and that they have no right to sue. Now, don't *you* think if anybody wants to sue, they have got a right to sue?"

And the teamster said he did. But notwithstanding the sound advice given him by the teamster, Locke decided both ways several times on that important question.

I do not wish to revive old scandals, besides, if I did it would take several volumes to tell all I know of the three judges who resigned in one day at my suggestion, the details of which I will briefly state.

There was an extension north from the Potosi, called

the North Potosi. It was a long claim lying parallel to the Hale and Norcross, the Savage, the Gould and Curry, and extending to some point below the Consolidated Virginia.

A suit had been brought by the Savage Company against the North Potosi, and was one of the long-pending suits which had not been brought to trial. Immediately after the appointment of North, William R. Garrison and other speculative capitalists in San Francisco bought up the North Potosi and boomed the stock from \$2 or \$3 to \$100 a share. It was impossible for the Savage Company to get a continuance, and the trial was had before Judge North as soon as possible after his appointment. I had for an assistant in that case R. P. Crittenden, an eminent lawyer from Kentucky, who afterward met with a violent death at the hands of the notorious Laura Fair.

There was great difficulty in obtaining a jury to try the case, because every man with sufficient intelligence to sit upon the jury had committed himself on one side or other of the controversy. To my great astonishment, men came forward who had been active in litigation involving the question under consideration, and declared they had no opinion, bias or prejudice. Eight of the jurors whom I was compelled to accept I knew very well were violent partisans of the opposite side. Four, whom I knew to be men of character and sterling worth, confessed that they entertained an opinion that there were several parallel ledges in the Comstock formation, but they said in answer to my questions that they had no bias or prejudice that would prevent them from deciding according to law and the evidence. I realized that both the law and the evidence were on my side, because the Savage and the North Potosi were clearly connected in the same body of ore.

I introduced witnesses to prove the title to the Savage, and that the Potosi was working in the body

of ore which everybody conceded belonged to the Savage.

The case of the plaintiffs was not a long or a difficult one, but a most disgraceful incident occurred when the defendant's counsel called their first witness. His name was Richard Brown, a person I knew very well, who had been deputy sheriff in Sierra County at the time of the trial of Ellis. The day before the trial Brown came to my office in company with Joe Stow, a sharp, slippery manipulator. Stow stated that if Brown could be induced to stay he would give very valuable testimony in favor of the Savage, and that if I would give him \$500 he would stay, because he would lose that much by neglecting business which he had in a distant town. Knowing that he could give no testimony of any value to either side, I told him he had better go and attend to his business.

He then went to Bob Morrow, who was at that time superintending the Savage mine, and told him he would give very damaging testimony against the Savage, but that if he would give him \$500 he would go away and not give the testimony. Bob Morrow very inconsiderately, and without consulting me, gave him the money.

When called as a witness, Brown came forward very pompously and said that before he testified he desired to deposit in court \$500, which the superintendent of the Savage had given him if he would leave and not give his testimony. I appreciated, from my knowledge of the parties and the circumstances, that it was a trick and that he had been paid for performing it, but my associate, Mr. Crittenden, very nearly fainted.

I was sitting near enough to him to grasp his arm, and if I didn't make it black and blue I know I gave him great pain, for he evinced considerable agony. I whispered to him to say nothing until court adjourned for dinner. During the noon recess I told him I

believed Dick Brown got \$1,500 for playing that trick; but that did not restore his nerve.

I saw from the conduct of the eight jurors and the pleasure they expressed at Brown's trick that they were in the game also. I was confident that they were bribed. The jury, after it was panelled, was kept separate in a room in charge of a little deputy who was a noted race jockey.

His name at that time was Billy Brown. I determined to ascertain from Billy Brown how the jury had been bribed. It would naturally be performed through him, as he was the very kind of a man they would use. I knew, however, that Billy would not dare tell me unless his safety was secured. He knew that if he let out the secret he would not live to old age.

There was a celebrated old race-horse in the town, and as soon as court had adjourned I sent a man to buy the horse for \$500, saddled and bridled it, and had it tied under my office window.

I then hunted up Brown, and took him *volens volens* to my room, locked the door, and told him I wanted a private conversation with him.

"If you tell me what pay each juror has received, the conversation which has passed, and the kind of money paid, I will give you as much money as you paid the jury," I said.

"Don't ask me such a question. I would be killed if I told," he replied.

"Look down there; do you see what horse that is? If you were on that horse, do you think anybody could catch you?"

"Not on your life!" said the jockey.

I had provided myself with \$14,000 in greenbacks on which there was a slight discount, but this was before greenbacks were very low. I took the money from my pocket. His eyes glistened, and with a foxy grin he told me how he had bribed eight members of

the jury, paying them \$13,000; the kind of money he had paid to each, and how much, and where the transactions took place; and he also repeated quite accurately what each juror had said. Four of the twelve he had not dared approach.

When he had finished his story, which occupied fully an hour, I handed him the \$14,000. Brown grabbed the money, ran down the stairs, and without waiting to go to his home to change his clothes, jumped on the race-horse and galloped away. Maybe he played jockey again, but if he ever did he must have changed his name. Anyhow, I never heard of Billy Brown after that.

The testimony for the defense was not lengthy and was concluded the next day. The day following the argument commenced. Crittenden opened with a very lame statement.

Three able lawyers made strong speeches for the Potosi. They were Jim Hardy, one of the leading attorneys in mining cases on the Pacific coast; Frank Hereford, who was afterward United States Senator from West Virginia, and Todd Robinson, their star attorney, who concluded.

He had a habit of winding up an argument by fainting away and falling on the floor before a jury. He could play that trick so well that anybody would swear it was the real thing.

As he reached his climax he swayed about, grabbed at the air, and fell flat on his back. The effect was electrical. The great mass of the people filling the court-room were interested in the many-ledge theory, and were crazy with joy at the apparent complete triumph of their case.

I waited a moment for the restoration of order, and then proceeded. It so happened that the four jurors who had not been corrupted were at my left, near the end of the bench, toward the judge. The other eight

were sitting together at the other end of the jury-box. I walked up to the most remote juror, looked at him a minute,—I presume with an earnest expression, for I *was* in earnest,—and told him in distinct language how a juror might be bribed. I illustrated it by repeating the conversation that had taken place between him and Billy Brown, telling him the place, the amount, and kind of money, and all the details of his corruption.

Frank Hereford, who had apparently fainted away, sprang to his feet and protested against my manner of addressing the jury.

I turned to the judge and demanded that he should look at that juror and tell me if my argument was not in order. By that time everybody was looking at the juror, who fell back in his seat, pale and trembling. The judge, taken by surprise, said in a low tone, "Go on."

I then addressed the next juror, and the next, until I completed the panel of the eight, giving every detail of the bribery. Before I concluded the eight were so agitated and prostrated that everybody knew they had been bribed. I then took a map and proceeded to discuss the merits of the case with the other four jurors. I said:

"Gentlemen of the jury, you truthfully said on your oath before you were sworn in as jurors, that you could render a verdict according to the law and evidence, and here is the evidence. Both companies are working in the same vein; the Savage is the prior location, and whether there are many or few ledges, the Potosi is certainly on the ledge of the Savage. But this jury will never discuss this matter in the jury-box; you four will never discuss it with the eight; you see the reason why."

The jury went out, and within an hour they were called in. They informed the court they never would agree, and never would discuss the subject together,

and they were discharged. Three of the jurors, one after another, rushed to my office and begged me not to prosecute them. I simply told them to go home and attend to their business.

The Potosi stock fell to some five or six dollars a share the next day, and I telegraphed to my clients to secure a majority of the stock, which they did. That was the last great struggle between the Comstock and the parallel ledges. There were, however, various settlements, but nothing affecting the main question. The Comstock people having control of the North Potosi, that company consented that the controversy between it and the Gould and Curry, which lay north of the Savage, should be submitted to John Nugent as referee. He heard at length the testimony as to whether or not the porphyry belt contained more than one lode, and he made a report, demonstrating by conclusive proof and argument the one-ledge theory. His report is given at length in the book of Mr. Gordon of Clarence King's Geological Survey party.

Judge North partially regained my confidence by his fairness in the trial of the Savage against the North Potosi. It is true he had very little opportunity to be unfair, for if he had stopped me in my argument to the jury, with the one jurymen already fainting, the effect on him would have been disastrous.

I could not afford to wink at any act of bribery or corruption perpetrated by any of my clients on the Comstock. If the community had really become suspicious of my honesty, my lease on life would have been short, and my clients would have been overwhelmed, because nine-tenths of the community were interested in parallel vein locations. Judge North, aside from the question of his appointment to office, was, to say the least, a very indiscreet man. He built a quartz mill with money borrowed from litigants. He crushed ore for the Comstock companies, particularly the Gould and

Curry, and was continually demanding better ore out of which he could make more money.

To save myself and my clients from reproach, I denounced North publicly as a dishonest judge, and my charges were reiterated in the public press. I also denounced the Chief Justice, George Turner, as corrupt. As for Judge Locke, he was too ignorant for denunciation. Partisans of the judges defended them in the public press, but in turn they were overwhelmed with counter-charges.

Finally a notice was published that the Supreme Court would meet on a certain Monday, and that it would strike my name from the bar. It so happened that Abe Meyer, who was a money-lender and a remarkably bright business man, frequented my office, and in emergencies, such as the Sierra Nevada against the American, he furnished me money to prepare for the trial. It was paid by the company with a good commission. It was very convenient to have an emergency man in those times.

About two months before this notice appeared, some parties entered upon the Hale and Norcross, of which Meyer was president, without any show of title, and began removing ore. I brought suit for an injunction, which was readily granted by Chief Justice Turner. The suit was so simple, and the injunction so absolutely proper, that no one would have supposed it necessary to bribe the judge, but I was sufficiently familiar with the greed of Judge Turner to entertain a different opinion.

When I received the notice that I would be disbarred I told Meyer I wanted an affidavit with the exhibits showing that he paid Turner for the Hale and Norcross injunction. He hesitated, and I told him that it was necessary for me to have them. He said, "I sees if I gets 'em," and went out. He came back in about three minutes with a receipt signed by Turner for

\$2,000 and a check drawn in favor of Judge Turner for \$3,000 and endorsed by him, making a total of \$5,000 paid for the injunction.

I drew an affidavit and attached the receipt and check as exhibits. When the court met at Carson, I appeared at the bar with Meyer standing beside me, and I occasionally pulled out the affidavit and some other documents I had and looked them over, and looked up at the court.

As soon as the judges were seated on the bench, Judge North announced his resignation. Judge Turner then announced that court would take a recess until seven o'clock that evening. He sent word to me that if I would let up on him he would resign. I sent back word that he must put his resignation in a letter addressed to the President, and also in a telegraphic dispatch; that he must put both in an unsealed envelope and deliver them to me before he went on the bench, or I would swear out a warrant before the justice of the peace and have him arrested for bribery. He sent the resignations as demanded. I mailed one and telegraphed the other.

At seven o'clock Judge Turner came into court and made a self-glorifying speech, in which he reviewed his course, and spoke of his kindly relations with all the bar, and his pleasant judicial duties. He said that inasmuch as the resignation of Judge North had destroyed the usefulness of the court for business, he would resign, and the bystanders gave him room to go out.

I thought it was about time for me to express my appreciation of the situation, so I invited the bar, over one hundred being present, to an evening's entertainment. It was then nearly eight o'clock. Pete Hopkins's saloon was under the room where the court was held, and there was a very large back room in which various entertainments took place, such as dances and other festivities not quite so reputable. We gathered

in there and elected H. O. Beatty president of the meeting, as he was the oldest man in the party.

After the champagne and other good things were brought in, and the party were drinking, smoking, and telling stories, I stated to the president that it was in order to call Judge Locke and allow him to resign. I knew very well that Judge Locke would avoid appearance if possible, so I moved that two young lawyers, physically strong and endowed with a reasonable amount of courage, be appointed as a committee to fetch him to the meeting. "If he is locked in his room," said I, "locks can be broken."

They found him in his room, dressed him hurriedly, and seated him on a bench by my side. Judge Beatty in fatherly language told him that the object of the meeting was to give him an opportunity to resign; that the other two judges had resigned and that we wanted a new bench.

Locke turned to me for advice, and asked what I thought he ought to do.

"Do?" said I. "Resign, and do it quick!" I called to one of the gentlemen who was serving the good things to appease the appetite, to bring pen and ink. "Now," I added, "write your resignation."

It was read aloud, to be sure that it was all right, signed and mailed; after which the whole meeting became hilarious, and Judge Locke imbibed so freely that he became more stupid than usual.

The condition of the judiciary was a very potent argument in favor of State government. The Administration at Washington undertook to appoint more Territorial judges, and President Lincoln nominated John F. Swift for Chief Justice. I called a meeting of the bar and passed resolutions to the effect that we wanted no more courts until Nevada became a State. We were tired of Territorial judges.

Swift, under the circumstances, declined to accept

the position, but said he would get even by writing a book exhibiting the condition and character of the Nevada bar. He wrote the book, which was humorous and reasonably good-natured, and styled it "Robert Greathouse." The soubriquet which he gave me was rather high-sounding, being Mr. Napoleon B. Spelter. He made me one of the heroes of his novel, although I am unable to appreciate his flattery. Afterward I became well acquainted with him as a public man and a gentleman. He was for a long time Minister to Japan.

CHAPTER XVII

Condemned to death by a mob of miners at Virginia City—I master the situation and prove the strength of my friends—Nevada becomes a State—Elected to the United States Senate December 15, 1864—I draw the long term.

In the spring of 1864 the question of reducing the wages of miners from \$4 to \$3.50 a day was discussed among the mine holders. Charley Bonner, who was then superintendent of the Gould and Curry, expressed the opinion that wages were too high. The miners took the alarm, organized, and in a body 800 strong closed down every mine on the Comstock. In the evening they met at Gold Hill and discussed the situation, and many violent speeches were made, threatening every suspected individual.

Somebody suggested that I was one of the guilty parties and ought to be hanged. He put the question, and the crowd unanimously voted to string me up. One of my friends who was at the meeting came to my house in Virginia City at three o'clock in the morning, awoke me, and told me what was going on. I went back to bed and slept until my usual time of getting up, about half-past six.

After breakfast friends told me that the miners were marching up from Gold Hill in a body extending more than a mile in length, and that I had better get out of the way. Accordingly I went down to C Street in Virginia City and saw the miners coming about two blocks away. I waited their arrival and then called out:

“Appoint a committee and have this matter investigated!”

They named a committee. We went up on a hotel balcony, where we could be seen, and began to arbi-

trate. In about two or three hours we had prepared a resolution which was satisfactory to the miners. It was agreed that wages should remain at \$4 per day; that those who had been promoters of the scheme to hang me should not be discriminated against, and that friendly relations should be restored. We could not find the superintendents, all of whom had fled, so we took an adjournment until evening. Then we found several of the superintendents, but it was impossible to get them to the meeting. They were afraid of being lynched.

Charley Bonner had taken refuge in the attic of a French restaurant, where there was not over two feet between the ceiling and the roof, with an enormous range, cooking for several hundred people, beneath. He was nearly dead with heat and fear. We dragged him out by the legs and put him in a cooler place, and when the meeting convened again in the evening we told the miners that we could find the superintendents in due time; if not, we would appoint others; that our resolutions should be carried out and that we should stand by them.

The miners dispersed, and the next day the superintendents began to return when they found their necks were safe. My friends congratulated me on the position I took in meeting the mob, but they did not know as well as I did the number of friends I had among them, and that a mob is not dangerous when you give it something to do. It is resistance without action that makes a mob dangerous.

In about six weeks or two months from the time the miners decided to hang me, the Legislature was about to be nominated for the new State government, and the general election for State officers was held on the same day.

There was in Storey County a Union League which was organized at the breaking out of the war, and

had continued its regular meetings up to that time. There were 3,700 members of that League in Virginia City and Gold Hill. Several gentlemen thought they were particularly qualified for United States Senator.

I proposed to them to submit it to the Union League without argument, their preference to be an instruction to the members of the Legislature afterward elected. The proposition was accepted and an agreement was signed and handed over to the League.

In due time the vote was taken, and of the 3,700 I had 3,640. I thought this a pretty good refutation of the criticisms of my opponents in the litigations during the four stormy years preceding. In fact, I regarded it, and still regard it, as my vindication against all charges and insinuations that I adopted or countenanced any improper action in the great Comstock case.

When the Enabling Act was passed by Congress on March 21, 1864, authorizing Nevada to enter the Union, it was understood that the Government at Washington was anxious that Nevada should become a State in order that her Senators and Representatives might assist in the adoption of amendments to the Constitution in aid of the restoration of the Southern States after the Union should be vindicated by the war. Another and very important factor in inducing the people to vote for Statehood was the unsatisfactory judiciary condition under a Territorial form of government.

The Territorial election at which the State Constitution was submitted to the vote of the people occurred September 7, 1864. There was a large majority for the Constitution, and October 31, 1864, President Lincoln issued a proclamation, as provided by the Enabling Act, declaring Nevada a State of the Union.

Nevada having become a State, a general election was held November 8, 1864, at which State and County

officers were elected. The total vote cast at that election was 16,328.

The Legislature met December 15, 1864, at Carson City, the capital, and elected me to the United States Senate on the first ballot, and James W. Nye, my colleague, was elected the following day.

After receiving our credentials, Senator Nye and I proceeded to Washington by the Panama route, and were sworn in February 1, 1865, after which we drew lots to decide who should have the long term. By accident the long term fell to me. It expired March 4, 1869.

CHAPTER XVIII

Lincoln as I knew him—Stanton and the rich Israelite—A White House joke on a couple of Senatorial wits—Lincoln's method of transacting business—No Cabinet officers, only messenger boys—The President's joke on Alexander H. Stephens—Peace Conference at Fortress Monroe—The new Cabinet—Horace Greeley grows wise.

The morning after I took my seat in the Senate I called upon President Lincoln at the White House. He received me in the most friendly manner, taking me by both hands, and saying:

"I am glad to see you here. We need as many loyal States as we can get, and, in addition to that, the gold and silver in the region you represent has made it possible for the Government to maintain sufficient credit to continue this terrible war for the Union. I have observed such manifestations of the patriotism of your people as assure me that the Government can rely on your State for such support as is in your power."

Mr. Lincoln's countenance when in repose was the saddest I ever saw, but when he smiled to encourage a visitor, or desired to show him the impossibility of granting his request, his face would overflow with genial good humor; and he would usually tell an anecdote which would illustrate the situation and invariably induce his visitor to agree with him, whether he granted or refused the request.

Washington, in the winter of 1864-1865, was a sorry-looking city. The streets were cut up by great army wagons until they were nearly impassable. Hundreds of colored men carried boards around on their shoulders, and, for a consideration, assisted pedestrians to cross the "thoroughfares," and aided persons riding in carriages to reach the sidewalks when their vehicles mired down.

A trip from the Capitol to the White House frequently occupied an hour, and sometimes two hours, and one's hack very often would be stalled hub deep in the mud in Pennsylvania Avenue, and one would have to climb out and wade ashore, and continue one's journey on foot, or hail another hack and take another chance. The streets leading to the White House were in a horrible condition, but when one reached there, and had scraped some of the grime off, and cleaned up, the reception he received from President Lincoln was more than compensating.

Every morning at ten o'clock the doors of the White House were opened. Mr. Lincoln had a habit of standing in a doorway between two rooms, where he received. Senators and Representatives, calling upon business, passed him in line, and when they had informed him of their wants they would leave by the door where the President stood, and thus there was no congestion. The dispatch with which Mr. Lincoln transacted business by this plan was marvellous.

Mr. Lincoln seemed to anticipate the business of every caller, and attended instantly to each case presented, so that in the course of one morning he could meet nearly every member of the Senate and House. He would often receive as many as a hundred representative men in two hours.

If an important matter, which required more time, arose, the President would make an appointment for a later meeting. No person of either political party ever visited Abraham Lincoln in vain, and ninety-nine out of every one hundred of his visitors decided their own cases, for or against themselves. The President had a way of letting his callers arrange things, but strange to say, the things were always arranged the way Mr. Lincoln wanted them, and persons who had met him to insist on something would go away without it, and wondering how they could have *wanted* it.

The White House, at that time, was plainly furnished. It was the simple home of a simple man. President Lincoln was the greatest man this hemisphere has produced. Without schooling he wrote the best English; without education in rhetoric or logic he was the most conclusive reasoner; without the slightest pretension to oratory he was the most persuasive speaker of his time. He was the kindest, most benevolent and humane man of his generation. Whoever may be second as a scholar, as a statesman and as a friend of humanity, Lincoln must always be first.

I stood in line one morning with quite a number of Senators behind me. My colleague, Senator Nye, came up to me and handed me a package of papers on the outside of which was indorsed in a bold hand, "The Application of ——— for restoration to his position as sutler."

My business with Mr. Lincoln not being very important, was dispatched at once, and I then held the package in my hand, saying to him that my colleague had requested that I present the papers to him.

He read the indorsement at a glance, and said:

"That is a case of a rich Israelite. He has been removed at the request of Mr. Stanton. Mr. Stanton says he is dishonest and cannot be trusted. If I should interfere in the matter it would cause a heated controversy with Mr. Stanton. You tell Brother Nye what I have said, and if he thinks the matter of sufficient importance to require me to quarrel with Mr. Stanton, to come and see me and give me his reasons."

I took the message to Nye, and he declared in language more emphatic than polite that he should not visit the President for any such purpose. It was apparent that my colleague knew Mr. Lincoln pretty well, and that he did not want to hear an anecdote.

Senator Nesbit of Oregon, and Senator Nye, enjoyed the reputation of being humorous and amusing story-

tellers. Mr. Lincoln, within a week of our arrival, gave a dinner at the White House to the Senators of the West. His invitations were first verbal and then in writing. He told his guests that he had two matchless story-tellers to entertain them.

When we were seated around the table both Senators were so abashed that every shadow of wit departed from them, and it devolved upon Mr. Lincoln to put the party in good humor. He accomplished that to the satisfaction of everybody. He told stories on Nesbit and Nye until the dinner party became hilarious. Their discomfiture was complete, but finally, after they were thoroughly cornered, they rallied and contributed to the good-fellowship of the dinner.

Lincoln's manner of dispatching business of all kinds was remarkable. In February, 1865, I received a telegraphic dispatch from Nevada, informing me that the United States District Attorney and the Register of the Land Office were beginning prosecution against the people for cutting timber on the public lands. No surveys had been made, no lands had been sold, and there was no other place to obtain timber or firewood except by trespassing upon the public domain. This had been a universal practice, from the valleys of California to the eastern slope of the Rocky Mountains, for more than twenty years.

I took the dispatch to Joseph Wilson, the Commissioner of the General Land Office. He immediately turned to the law and the instructions to local officers, and told me that he could do nothing, as they were discharging their duty under the law.

I then called on Mr. Browning, the Secretary of the Interior, and obtained a similar reply.

I then went to Mr. Lincoln and told him. It was not necessary for me to explain, for he knew there was no private land upon which to cut timber, and that the people could not exist without firewood and lumber.

He shoved a tablet across the table and asked me if I knew of two citizens in my State who could discharge the duties of District Attorney and Register of Lands. I told him I did.

"Please write their names on that tablet," he said.

I did so and he indorsed it, directing the Attorney-General and Secretary Browning to make out commissions for the appointment of these gentlemen. He rang the bell, gave the order to a messenger, turned to me, and entered into a pleasant conversation as if nothing had happened.

At the time Mr. Lincoln met Alexander H. Stephens and others at Fortress Monroe for the purpose of discussing the question of peace, shortly after I had taken my seat, the Republican Senate was thrown into considerable excitement.

A caucus was called and speeches were made criticising the President for leaving the White House and assuming such a hazardous undertaking. I was seated near William Pitt Fessenden of Maine, who was an able man and an acknowledged leader in the Senate. I remarked to him privately that I saw no occasion for any uneasiness. I said I believed Mr. Lincoln could take care of himself; besides, he had a large part of his Cabinet with him.

"My young friend," said Fessenden, putting his hand on my shoulder, "I see you have a very high opinion of Mr. Lincoln; but you are mistaken if you suppose he has a Cabinet. Mr. Lincoln has never had a Cabinet. The heads of the Departments who are called Cabinet officers are his clerks and messenger-boys, and whether they know it or not, they always do what he wants them to do. He might just as well be alone at Fortress Monroe as to have any of his Cabinet with him."

This gave me a still clearer idea of Mr. Lincoln's superior power. Mr. Fessenden had served in the

Cabinet for a considerable time as Secretary of the Treasury and knew what he was saying.

Stephens told an amusing story to his neighbors after his return to Georgia from the conference at Fortress Monroe. He was a little man, with no physical strength, and when he went North to Fortress Monroe he suffered intensely from the cold.

He bundled up in several layers of clothing, overcoats, shawls, and a great cap, until he resembled a very large man. Stephens said that President Lincoln looked down at him as he took off his wraps and emerged from his shelter, and said:

“Well, that’s a mighty little ear for so much shucks.”

Stephens said that Mr. Lincoln’s expression was so comical that he enjoyed the joke on himself.

When Mr. Lincoln formed his first Cabinet, on March 4, 1861, selecting Salmon P. Chase of Ohio for Secretary of the Treasury, and William H. Seward of New York for Secretary of State, every man of prominence whom I met predicted trouble in the council-room. Chase and Seward had been candidates for the nomination against Lincoln and were still very ambitious. Everybody supposed they would either dominate him or greatly embarrass his Administration; but after the Cabinet was formed it was soon ascertained that they were as children in his presence.

Simon Cameron of Pennsylvania, a most conspicuous and able leader, was made Secretary of War, but he soon became Minister to Russia, and Edwin M. Stanton, of Pennsylvania, was appointed in his place, January 15, 1862. All of the other members of the Cabinet were strong men and experienced in political affairs.

Seward was scholarly and adroit and was able to frame diplomatic letters to meet the emergencies in which the country was involved, for the consideration of the President, who, with his own hand, interlined and changed them in such manner as to maintain the

dignity of the United States, and avoid foreign wars, and at no time furnish an excuse to the nations of Europe to recognize the Southern Confederacy. The wisdom of the supervision exercised by Mr. Lincoln over the Department of State was so eminently just and proper that Mr. Seward acquiesced without complaint.

Secretary Chase expected to be the successor of Mr. Lincoln at the expiration of his first term, but the popularity of Lincoln grew so rapidly as to eclipse the prospects of Chase, and the ambitious Secretary of the Treasury willingly retired from the contest and accepted the position of Chief Justice of the Supreme Court of the United States, a place for which he was better qualified.

The great man of the Cabinet, however, was Stanton, the most learned, patriotic and earnest worker in the cause of the Union that served in any capacity during the war. One can scarcely realize the trials and anxieties of the Department of War during the most tremendous struggle of ancient or modern times, through which the country passed during four years of civil strife. Stanton remained at his post from the beginning to the end, but when the war had closed so great had been the tension his nerves were unstrung, and death alone could relieve him of his sufferings.

When President Johnson attempted to remove him from the office of Secretary of War, without the consent of the Senate, and contrary to the provisions of the Civil Service Act, passed by Congress over the veto of the President, I was selected to spend several nights in the office with Secretary Stanton. He could not sleep, because his duties had kept him awake so continuously that he had practically lost the power of sleep. He told me of many incidents of the rebellion, things which he could not help, but which cost him pain. I am confident that he never did a harsh or inhumane act which he could avoid. I know his critics

misjudged him for a cruel tyrant because he did his duty, and did not credit him with the kind and generous heart which bled for the sufferings of others while powerless to avert them.

Mr. Lincoln was the only public man who constantly wrote letters to friends and foes and gained strength and popularity by every one. Horace Greeley was very anxious for the issuance of a proclamation abolishing slavery, and on August 19, 1862, wrote Mr. Lincoln an earnest, impatient, and rather arrogant letter demanding the immediate abolition of slavery, to which Mr. Lincoln made the following reply:

Executive Mansion,
Washington, Friday, August 22, 1862.

HON. HORACE GREELEY.

Dear Sir: I have just read yours of the 19th instant, addressed to myself through the *New York Tribune*.

If there be any statements or assumptions of facts which I may know to be erroneous, I do not now and here controvert them.

If there may be any inferences which I may believe to be falsely drawn, I do not now and here argue against them.

If there be perceptible in it an impatient and dictatorial tone, I waive it in deference to an old friend whose heart I have always supposed to be right.

As to the policy I "seem to be pursuing," as you say, I have not meant to leave any one in doubt. I would save the Union. I would save it in the shortest way under the Constitution.

The sooner the National authority can be restored, the nearer the Union will be—the Union as it was.

If there be those who would not save the Union unless they could at the same time save slavery, I do not agree with them.

If there be those who would not save the Union unless they could at the same time destroy slavery, I do not agree with them.

My paramount object is to save the Union and not either to save or destroy slavery.

If I could save the Union without freeing any slave, I would do it—and if I could save it by freeing all the slaves, I would do it—and if I could save it by freeing some and leaving others alone, I would also do that.

What I do about slavery and the colored race, I do because I believe it helps to save the Union, and what I forbear, I forbear because I do not believe it would help to save the Union.

I shall do less whenever I shall believe what I am doing hurts the cause, and shall do more whenever I believe doing more will help the cause.

I shall try to correct errors when shown to be errors, and I shall adopt new views so fast as they will appear to be true views.

I have here stated my purpose according to my view of official duty, and I intend no modification of my oft-expressed personal wish that all men everywhere could be free.

Yours,

A. LINCOLN.

In conversation with Mr. Greeley afterward, he said that Lincoln had knocked him out with one letter and he would be d—— if he would ever write another.

It was currently reported in Washington, and assumed to be a fact, that a delegation of ministers from New England called on the President and requested him to remove General Grant from the army on account of intemperance. This was after Grant had made a name for himself in the West. Mr. Lincoln is reported to have said to the reverend gentlemen that Grant was his best general and that he wished he could make them all as good. He thought it would be a good idea if they could find out what kind of liquor he drank, so he could send them all the same kind. He accompanied his expressions with such inimitable good humor, and praised the good they had done in the cause to such an extent, that they all went away satisfied; and, if not fully convinced, they admitted to themselves that it might be a good thing to distribute *that* kind of whiskey generally among the officers of the Army.

CHAPTER XIX

Zach Chandler's conspiracy to invade Canada—An army of Grant's and Lee's veterans to whip the British—Farragut and the Charleston mines—Sheridan characterizes the French army as a mob—With Lincoln at City Point—A dash on the Rebel lines.

During the latter part of February, 1865, it became evident that the Civil War was drawing to a close, and there was great joy in Washington, and intense relief felt among the officers at the helm of government when the surrender at Appomattox, April 9, 1865, virtually terminated the frightful struggle.

England had wiped our commerce from the seas by building the *Alabama*, the *Florida*, the *Shenandoah*, and other swift privateers for the Confederates, which were let loose upon the shipping of the United States. There is no doubt that this country had ample cause for war with Great Britain, and there was a strong undercurrent of sentiment in favor of it.

Senator Zach Chandler of Michigan was one of the leaders of the Senate, and a man of wealth and patriotism. No Senator contributed more in brains and action to assist the Union cause than he. He wished to see the speedy restoration of the Southern States, and was anxious to smite the British Lion for the destruction of our commerce. He inaugurated a movement which secretly spread with great rapidity, and brought us almost to a rupture with England. At that time our ships of trade had been obliterated from every ocean, and the American flag, which once had been carried by our fast sailing ships to every port, had disappeared. We had no navy, but practically every harbor was protected by the iron-clads, called monitors, which had been invented and built during the war. Our big sea-coast cities were so thoroughly defended, therefore, that

no foreign enemy could have made a successful assault upon us by sea. There were no other iron-clads in the world, we had a monopoly, and not a wooden ship on earth—and all the European navies were wooden—would have had a show against them.

This started Senator Chandler thinking, and he evolved a daring scheme. His bitterness against England seemed to increase after the war had been terminated. One day he drew me aside in the Senate cloak-room, and unfolded his plan.

“I propose that we take an appeal to President Lincoln,” he said, “signed by influential men, to call an extra session of Congress, and send two hundred thousand trained veterans into the British possessions north of us; one hundred thousand picked troops from the Federal Army, and the same number from the flower of Lee’s army. I have thought of this seriously for weeks, and I shall make every effort to bring it about.” He was intensely in earnest, and I knew that he would back his plan up with all the brains and energy at his command.

“We have confronting us,” he continued, “a great problem. Our country is rent in twain. If we could march into Canada an army composed of men who have worn the gray side by side with the men who have worn the blue to fight against a common hereditary enemy it would do much to heal the wounds of the war, hasten reconstruction, and weld the North and South together by a bond of friendship.

“I believe from my knowledge of human nature that those fellows who have been fighting each other for the past four years would sail in and lick any army on the face of the globe, and be glad, and proud, and anxious to do it. I believe that a hundred thousand of Grant’s men and a hundred thousand of Lee’s could whip any army of twice the size on earth. I don’t believe there are any such soldiers as these in the whole world.”

“It would be impossible for England and the Canadians to organize an armed force to meet the splendid army of veterans we could throw across the border. England has a navy, of course, but she can't do us any harm, because *we* haven't any commerce to be injured, and our ports are impregnable. England's wooden vessels would be helpless against our monitors, and our harbors and coast cities would be safe.”

It was Senator Chandler's idea, of course, that the United States should seize Canada from Great Britain in payment for the enormous losses inflicted upon our commerce by British-built vessels sold to the Confederate Government. He talked this matter over with me many times. The prospect of extending our northern boundary to the North Pole pleased him. I fell in with the plan almost from the beginning. Senator Chandler unfolded his plot to many other Senators, and it was discussed seriously. At that time Alaska was about to be annexed, and it was realized that the British possessions in Canada would come in handy.

Finally, so far had the plot progressed that thirty Senators had been pledged to support it, and I attended many informal caucuses at which the next steps to be taken were discussed.

Then, at almost the very instant the scheme was to be sprung upon the country, and pressure brought to bear upon the President to secure his coöperation, Mr. Lincoln was assassinated. This made the carrying out of the plan impossible. From the very first day Johnson took the oath of office as President he was at war with Congress, and the invasion of Canada never materialized. Chandler's faith and enthusiasm in the scheme won some of the best minds in the Senate to his proposition.

It was about this time that I had the good fortune to enjoy the friendship of two of the most remarkable men produced by the Civil War, Admiral Farra-

gut and General Sheridan. Each had a hobby, and was a most interesting companion.

In the spring of 1865 Admiral Farragut and his wife and Mrs. Stewart and I lived at the old Willard Hotel, and at meals sat at the same table. The old sea-fighter was modest in telling of his deeds, and did not regard any of his exploits as being in the least extraordinary. His principal hobby was that it was always wise in battle to take a city at the expense of losing a ship, and he believed that vessels generally could enter harbors and pass forts and mines without great loss.

He frequently told me that a vital mistake had been made when it was decided not to send the Federal Navy into Charleston Harbor for the purpose of taking that city. The fall of Charleston, he believed, would have been of immense advantage to the United States, might have terminated the war speedily, and would have saved lives and property.

I told the Admiral that it was the general opinion among the people of the North that Charleston Harbor was strongly fortified with mines, or dangerous torpedoes, and that it would have been destructive to any fleet to have ventured into it.

"Some of the ships might have been hurt," said Admiral Farragut, "but that's the fortune of war. It was their duty to go in and take the city—to —— with the mines." The Admiral alluded to this subject many times, and it seemed to be a question of much interest with him. Finally, about the first of June, he came into the dining-room one morning and handed a newspaper to me.

"What did I tell you? Read that."

I read the article, which stated that the harbor of Charleston had been dredged, and no torpedoes found which would explode.

General Sheridan's hobby was as to how many men

really fought in battle. When the Franco-Prussian war began, President Grant designated him to visit Germany, accompany the German army, and make observations on the war. I chanced to be in New York the day before Sheridan sailed.

Chester A. Arthur, who was afterward President, was Collector of the Port. In honor of the General and two or three friends he had prepared a breakfast on a revenue cutter, in which Sheridan was to be taken down the bay and transferred to his boat, the *Scotia*, the last side-wheel steamer of the Cunard line, as she discharged her pilot. I was one of the party, and we spent practically the entire day on the cutter, where we enjoyed both breakfast and luncheon, in most congenial conversation. The General said that when the Civil War began a very small proportion of either army fought. I asked him what he meant by that.

"Raw soldiers get excited, shoot too high, shoot too low, don't take aim, and don't do effective service," he replied. "The Southern armies fought better than the Northern armies at the beginning of the war. That is to say, more of the Southern men were accustomed to fire-arms, were better marksmen, took better aim, and did more effective work. Toward the close of the war the Northern troops fought the better. They were better fed, better clothed, and had more confidence of victory than their opponents. But at that time, when the opposing soldiers came together in actual hand-to-hand battle, the fighting on both sides was very satisfactory."

Sheridan was very anxious, as a soldier who had gone through a great war, to witness the battles between the French and the Germans. He said he knew the French had not retained the discipline they had acquired under Napoleon, and that Germany had done everything to train her armies and prepare them for war.

He was desirous, he said, of seeing whether theoretical training, outside of actual fighting, would make

as good soldiers as the constant conflict of armies in the field. He wanted to discover whether men could be trained, in times of peace, to fight as well as men who had gone through a four-year war.

When Sheridan returned to the United States I gave him a dinner in Washington, and when the dinner was over the waiters and newspaper writers were invited to leave. After it was made certain to General Sheridan that nobody outside of the select company would hear what he said, he told us many interesting details of his trip. I asked him if he had satisfied his curiosity as to which was the better method of making soldiers, rigid training or actual war.

"War, by all means," he said. "There was no such fighting between the Germans and French as occurred between the North and the South. The Germans moved in order, and their generals took great pains to place me where I could observe their maneuvers. They didn't fight anything like as well as the soldiers on either side in our war."

He said he did not like to talk about the French, the people who had fought so many desperate battles; but the fact was, he declared, that the French army was a mob and made no real resistance against the conquering Germans.

I suppose that at this late day I am betraying no confidence in alluding to this matter of history.

About ten days before the surrender of Lee at Appomattox, I visited City Point, Virginia, the headquarters of Grant's army. President Lincoln arrived there on the following steamer. There were a rough wharf, a few shacks, some warehouses, and dilapidated-looking buildings, and, stretching away from the river, a green pasture of fifty acres, in which about a thousand horses were grazing.

These animals were the finest bred in the Northern States. They had been contributed by wealthy gentle-

men from the North and East, from their own stables, to furnish fresh mounts for General Sheridan's cavalry. Most of them were thoroughbred runners or standard trotters. They were all young, and, as a herd, looked wild and untamed.

I lounged around the wharf, waiting for something to happen, and pretty soon a three-deck propeller came up the river, and landed there. The boat fairly swarmed with soldiers, a thousand of them. They packed the decks, and lined the rails, and hung on wherever they could get their finger nails in. They were young cavalymen who had served with Sheridan in Virginia, and every man had his saddle and bridle—but not his horse. Their mounts had been killed or lost in battle, or broken down by hard service.

When the steamer began snorting, and puffing, and blowing its whistle, the thousand horses in the fifty-acre field whinnied in unison, and pranced, and danced, and leaped into the air, and switched their tails, and tore around like mad. And the thousand young dismounted cavalymen eyed those horses!

They scarcely waited for the boat to land, they were so eager, but jumped off pell mell, with their accoutrements, and started on a run for the field.

An officer tried to check them, and make them proceed in order, but they swept him aside. Whereupon an older and more experienced officer called out, "Let them go ahead and pick out their horses." I admired that officer. Soldiers will *obey* an officer like that.

The men scrambled into the pasture, and in ten minutes the scene was the most mixed-up I ever beheld, nothing but heads, and manes, and tails, and legs, and heels, horses and humans, in a conglomerate mass of color that was dazzling to the eye, and exhilarating to the emotions.

They were no ordinary horses—they were thoroughbreds, and they resisted the efforts made to capture

them. They kicked, and reared, and plunged, and jumped, and rolled over and put up a stiff fight, and a game one, too. But the men were no ordinary men. *They* were thoroughbreds, too. It was no use—the boys had them all in less than twenty minutes, blanketed and saddled. And then they dug the spurs into them, and pranced those horses out of the field, and in less than half an hour after the landing of the steamer the thousand cavalymen with their fresh mounts between their thighs were proceeding in order to Sheridan's command, twenty miles distant.

I went to Grant's headquarters with several letters of introduction, not knowing whether I would meet the General or not. I had the letters in my hand when I entered his office. He grasped me by one hand, and with his other hand took the letters and threw them into the fire behind him. We had a few minutes of pleasant chat about our former acquaintance in San Francisco, when an orderly came in with a dispatch.

"Come to see me when the war is over," said General Grant.

The next day there was a review of Grant's army about twenty miles below City Point, to which place a temporary military railroad had been constructed. An orderly came the following morning to the tent in which I had slept, and conducted me to the car. In it I met Mr. Lincoln, who was on his way to review the troops. A temporary platform had been erected on the reviewing field, upon which the President and General Grant took their seats. I was invited to sit next the General.

As the different regiments passed President Lincoln made inquiries as to what they were, and what they had done. Finally there passed a regiment at the head of which rode one of the handsomest and most distinguished-looking young men I ever saw. He sat his horse with pride, for he had been recently promoted.

"Who is that officer?" asked President Lincoln, his eyes sparkling with admiration.

"That is Colonel Nelson A. Miles," replied General Grant, "and he has won that position on the battlefield, without outside influence."

In order that President Lincoln and the party of visitors might have a good view of the army, several very fine horses were brought to us to ride. An orderly led a horse for me.

"Are you a good rider?" he asked, surveying my frock coat with some disdain.

"I've been in the habit of riding horses in the West," said I, "and I guess I can stick on any animal anybody else can ride."

"Well, you must look out for *this* horse," admonished the orderly. "He came to us from the Confederate army. One of the boys nabbed him the other day while scouting."

I climbed into the saddle, ten or twelve young officers mounting and riding off with me, while other members of the party, including President Lincoln, followed. We inspected the surrounding country, making a trip of several miles. As we began the return journey my horse raised his ears, twitched his nose, looked longingly in the direction of Richmond, squealed a couple of times, and then started for the Rebel lines as hard as he could go, which was quite embarrassing. I went along with him. I did not recognize any likely place to get off. My coat-tails stood out grandly in the fresh breeze, and my plug hat sailed off like a big black crow as my steed, scenting his old friends from afar, took one of those broken-down Virginia rail fences, and headed for Lee's army.

I gripped the beast between my legs, and held on, and I pulled on the lines with all my strength; but the horse had the bit in his teeth, and if he took *my* feelings into consideration he did not let on about it to me.

While I was wondering what the Johnnies would do to a United States Senator, and congratulating myself that, at least, I wasn't invading the enemy's lines in disguise, and probably wouldn't be shot for a spy, I felt the bit slip back in the horse's mouth. Then, abandoning by former tactics, of pulling on *both* reins, I yanked with all my might and main on *one*, and by and by had the satisfaction of observing that my mount was beginning to travel in a pretty big circle, but, still a circle. I kept him performing in that way until some of the cavalymen, who had been tagging along in the rear, as fast as *they* could go, but nothing like as fast as *I* had been going, rode up and got between me and the Rebel outposts. Finally I stopped my Confederate horse, and that night I returned to camp.

The exercise was quite inspiring, and at that time of life it was not altogether disagreeable. On the way back to City Point that night President Lincoln looked very sad and thoughtful. No one ventured to speak to him. I was in the seat in front of him. I thought he was engrossed in affairs of State. Finally he aroused himself, and, leaning toward me, he said:

"I'm glad that horse did not make it necessary for me to make an application to the General of the Confederate army for an exchange of prisoners for a United States Senator, as we have never captured any Confederate Senators," and never smiled.

But his eye twinkled, and, later, I was told that the President had viewed my Southern retreat with great amusement through a pair of field-glasses. The President entertained the party in the car with anecdotes illustrating the situation of the army at that time. He knew, or thought he knew, that the next battle would be the last.

"And," he said, turning to me with a sad smile on his face, "after that battle, this will be one country."

The next morning my steamer, which carried a mixed

cargo of passengers and freight, returned to Washington. On my way to the boat I passed General Grant's headquarters to bid him good-by.

"These busy times will soon be over," he said, "and in a few days I expect to meet you in Washington." Grant, too, knew that there was to be but one more fight.

CHAPTER XX

Assassination of Lincoln—His last written words a message to me—
Reign of terror—Washington on the verge of a bloody battle
between Federal and Confederate soldiers—How a drunken man
was sworn in as President—Johnson's quarrel with Congress.

The election of Andrew Johnson to the office of Vice-President of the United States was a calamity. It was caused by the desire of Northern Republicans and Union men to have a representative from the South on the ticket in 1864.

Johnson was very bitter in his language against the Southern leaders, and the Northern people supposed he was really patriotic. He came to Washington in January or February, 1865, and for some weeks previous to the inauguration of President Lincoln on the 4th of March, 1865, his general condition was a half-drunken stupor. When he entered the Senate Chamber to take the oath of office as Vice-President, and to call that body to order, he was very drunk. He was assisted to the chair by the Sergeant-at-Arms and two door-keepers, and was unable to stand without assistance. I do not believe he was conscious when he took the oath of office. He appeared as a man who did not realize what he was doing.

Immediately after the oath had been administered, he grasped the desk before him with an unsteady hand, and, swaying about so that he threatened to tumble down at any moment, he began an incoherent tirade.

There was no particular point or sense in what he attempted to say. "The people are everything," he bawled, "the people are everything"; and this seemed to be the sole idea he possessed. He lurched around, and pointed to Mr. Seward, who was seated directly in front of the rostrum.

"You are nothing, you are nothing, Mr. Seward," he said. "I tell you, the people are everything."

This drunken jargon continued for some time. Several Senators endeavored to persuade him to leave the stand. Finally he was removed, not without some force, by the Sergeant-at-Arms to the Vice-President's room, where he was detained until the ceremony was concluded. All persons present were shocked and amazed, and there was a universal appeal to the representatives of the press to refrain from publishing anything about the disagreeable scene. The newspapers of the country which alluded to it at all did so in vague and obscure language.

After the inauguration of President Lincoln, Vice-President Johnson continued to drink at low grogeries and to associate with toughs and rowdies, both black and white. He was not choice in the selection of his company. Almost anybody was good enough for Johnson, apparently.

One evening, not long after Mr. Lincoln's second term began, I was passing through Judiciary Square. A great crowd of street hoodlums and darkies was congregated about the City Hall steps, listening to the Vice-President. He was intoxicated. His face was very red, and he was excited. I listened. He was contending before the rabble that all the Rebels must be hanged. Johnson didn't make any distinction. He put the whole South in one class. He said it was treason to fight against the Government and that he was in favor of hanging every traitor.

It was quite common for Mr. Johnson to make these open-air speeches; and as he delivered them whenever he had been drinking, naturally he became the most persistent orator in the capital.

Shortly after this, on the day before the evening on which Mr. Lincoln was assassinated, I was in New York, where I met my old friend and partner, Judge

Niles Searles, who, although a Democrat, was a Union man and a gentleman of ability and sterling worth. He said he wanted to meet Mr. Lincoln, and I invited him to go to Washington with me that night, and call on the President the next day. We had not met for several years, and instead of going to bed on the train we sat up in the smoking-compartment, and talked nearly all night.

The train arrived in Washington at an early hour, and we went to Willard's Hotel, where we took a nap. But being tired, we overslept ourselves. When breakfast was over it was too late to call on President Lincoln, who received visitors at ten o'clock in the morning and at seven o'clock at night. We waited until evening and called to see him. An usher took our cards. He returned in about five minutes with a card from Mr. Lincoln on which was written :

I am engaged to go to the theater with Mrs. Lincoln. It is the kind of an engagement I never break. Come with your friend to-morrow at ten and I shall be glad to see you.

A. LINCOLN.

Those were the last words Abraham Lincoln ever wrote. I did not preserve the card, not considering it of any importance, for I had received many such from the President at various times. As I walked down stairs with Judge Searles on our way out, I dropped the President's note on the floor. At the front entrance Mr. Lincoln was placing his wife in a carriage. I was intending to pass without interrupting them, but he saw us and extended his hand cordially. I introduced Judge Searles to him. He repeated that he would be glad to see us in the morning, bade us good-night, entered the carriage and drove away. It was the last time I saw him alive.

"I have seen Mr. Lincoln," said Judge Searles, "I have had a good look at him, and heard him speak.

That was all I came to Washington for, and I shall return to New York at once."

We walked together rapidly to the depot of the Baltimore & Ohio Railroad, which was the only railroad entering Washington. I walked back up town alone, and when I reached the corner of Tenth Street and Pennsylvania Avenue I decided to go to Ford's Theater. When I reached the door I found a large crowd on the outside. They told me the theater was jammed so full they couldn't get in. I gave it up, and went to the room of Senator Conness, which was on Thirteenth Street, between E and F Streets.

I had been there but a few minutes, when Senator Sumner of Massachusetts came in. We had been talking fifteen or twenty minutes when a colored man employed by Senator Conness rushed excitedly into the room, shouting that Mr. Seward was assassinated.

Secretary Seward occupied what was afterward known as the Blaine house, on the east side of Lafayette Square, where a theater now stands. Conness, Sumner, and I started there as fast as we could go, and as I was a stronger man than either of them, I took the lead, with Sumner panting along in the rear.

I rushed up Seward's steps, and found the front door partially opened, pushed my way into the hall, and saw Secretary McCullough of the Treasury Department, who told me that Seward was badly hurt, and that the doctor had given orders to admit no one to his room, as he needed all the air it was possible to give him.

Conness, Sumner, and I then started on a run to the White House, diagonally across the street. Two soldiers were on duty, acting as guards, and marching backward and forward. As we arrived one of the White House attachés came running from Ford's Theater with the news that the President had been shot. Senator Conness, with great presence of mind, said:

"This is a conspiracy to murder the entire Cabinet."

Turning to the soldiers, he said, "Go immediately to Secretary Stanton's house, and prevent his assassination, if possible."

The soldiers started off on a double-quick with their loaded muskets on their shoulders. Stanton resided at that time on the north side of Franklin Square. As the soldiers approached his house they saw a man on his steps, who had just rung the bell. Seeing them he took fright and ran away, and was never afterward heard of. When the soldiers ran up the steps Stanton himself had come to the door, in response to the ring. Had the soldiers arrived a few minutes later I have no doubt that Stanton also would have been one of the victims of the plot.

Senator Conness, Senator Sumner, and I went directly from the White House to the theater. We learned that the President had been carried across the street, and went to the house. I saw Surgeon-General Barnes, who told me that Mr. Lincoln was mortally wounded, and that too many persons had already crowded into his room.

"But you can go in if you insist," he said, "as you are a Senator." Under the circumstances I declined. Senator Conness received the same statement and retired. Senator Sumner did not retire, but rushed into the room, notwithstanding the suggestion of General Barnes, and remained until the death of the President.

"I will go in!" he cried. Nothing could keep Charles Sumner out.

From that time until daylight the excitement in Washington was intense. There were in the city about thirty thousand Confederate soldiers, and from sixty to one hundred thousand Federal soldiers. In every group of men, and the streets fairly swarmed, some one would constantly cry out:

"Kill the —— ——— Rebels; kill the traitors!" and then the mob would go tearing off, searching for the

Confederates, until somebody else would climb upon a flight of steps or a tree-box, and scream as loud as he could:

“What would Mr. Lincoln say if he could talk to you?” This argument never failed to quiet the frenzied people. Throughout that vast concourse, the whole population of Washington tramping the streets all night long, the voice of violence would always hush at the mention of Lincoln’s name.

I walked the streets, caring very little where I went, and every minute I expected to see the Federal soldiers fall upon the unarmed paroled Southerners, and slay them. A bloody battle which would have shocked humanity was averted a thousand times that night by a miracle.

Mr. Lincoln died shortly after daylight, and within ten minutes of the time I met Senator Foot, the grand old gray-haired statesman from Vermont, who was chairman of the Republican caucus and master of ceremonies in the Senate. He was hailing a dilapidated wagon, which had seen better days as a carriage, in front of the Willard Hotel. He put his hand on my shoulder as the news of the President’s death reached us, wafted on a thousand excited tongues, and said:

“We must get the Chief Justice at once and swear in the Vice-President. It will not do in times like these to be without a President.”

We directed the driver of the hack to take us to the residence of Mr. Chase, who lived in what was then known as the Sprague mansion, at the corner of Sixth and E Streets. Mr. Chase was in his library, pacing back and forth, in deep thought. We explained our business, and he got into the vehicle with us, and went to the old Kirkwood House, on Pennsylvania Avenue.

I sprang out, went to the desk, and asked the clerk what room the Vice-President occupied.

“I will send up your card,” he said.

"No, you won't," I said; "I'll go up myself. We want to see him on important business. Send a boy to show the way."

"It is on the third floor," the clerk then said. "Turn to the right at the head of the stairs."

There were no elevators in the hotels at that time, and we climbed the stairs laboriously. A negro boy showed us the room, and I rapped on the door. There was no answer. I rapped again and again. Finally I kicked the door, and made a very loud noise. Then a voice growled:

"Who's there?"

"Senator Stewart," said I, "and the Chief Justice and Senator Foot are with me. We must see you immediately."

After some little delay Johnson opened the door and we entered. The Vice-President was in his bare feet, and only partially dressed, as though he had hurriedly drawn on a pair of trousers and a shirt. He was occupying two little rooms about ten feet square, and we entered one of them, a sitting-room, while he finished his toilet in the other.

In a few minutes Johnson came in, putting on a very rumpled coat, and presenting the appearance of a drunken man. He was dirty, shabby, and his hair was matted, as though with mud from the gutter, while he blinked at us through squinting eyes, and lurched around unsteadily. He had been on a "bender" for a month. As he came into the room we were all standing. Johnson felt for a chair and sat down. Chief Justice Chase said very solemnly:

"The President has been assassinated. He died this morning. I have come to administer the oath of office to you."

Johnson seemed dazed at first. Then he jumped up, thrust his right arm up as far as he could reach, and said in a thick, gruff, hoarse voice:

“I’m ready.”

The Chief Justice administered the oath. Johnson—President Johnson—went back to his bedroom, and we retired.

There were only three persons present besides Johnson when he was sworn in—Chief Justice Chase, Senator Foot, and myself. All statements to the contrary are absolutely false. Although he took the oath between seven and eight o’clock in the morning, Johnson pretended not to have heard of the assassination. So far as I am aware nobody knows where he spent the night, although his appearance at daylight indicated clearly what he had been doing.

The Kirkwood House was said by the clerks on the morning after the assassination to have been the headquarters of several of the conspirators. The clerks also told me that Johnson was friendly with them, and it seems strange to me that he did not learn of the assassination until informed by the Chief Justice and myself.

After leaving Johnson I went to Stanton’s house. As I arrived his carriage was being driven to his door, and presently he came down the steps. I told him of the condition of Johnson, and said that he must be taken care of—the man who had just taken the oath of office as President of the United States. Stanton and I were driven back to the Kirkwood House, and, accompanied by the coachman, we went directly to Johnson’s room. He was lying down. We aroused him, dressed him as well as we could, led him down stairs, and put him in Stanton’s carriage. We took him to the White House, and Stanton sent for a tailor, a barber, and a doctor. He had a dose administered, and the President was bathed and shaved, his hair was cut, and a new suit of clothes was fitted to him. He did not, however, get into a condition to be visible until late in the afternoon, when a few persons were permitted to see him to satisfy themselves that there was a President in the White House.

Then came a reign of terror. No man dared to talk. Notwithstanding the war was over and peace prevailed throughout the United States, by order of President Johnson a drum-head court martial was ordered to try the conspirators charged with the murder of Mr. Lincoln. Among others, Mrs. Mary E. Surratt was arrested, tried, convicted, and executed in a summary manner. Andrew Johnson appointed the officers who constituted the court, approved their findings, and signed the warrant for her execution. Any candid person who will review the evidence will be forced to the conclusion that she was an innocent woman.

The fact that some of the conspirators occasionally visited her lodging-house gave her an opportunity of knowing something of their movements and their associations, although she was undoubtedly ignorant of the conspiracy. From these circumstances it is possible that she might have known something of Johnson's associations which he did not want made public. Justice and humanity demanded for her a fair, legal, and impartial trial. There was certainly something wrong. The people at large will never be satisfied with the killing of Mrs. Surratt.

The death of Mr. Lincoln shocked the civilized world. People of every land were bowed with sorrow at the great bereavement. The country was without a trusted leader, and the work of reconstructing and harmonizing the several States in the Union, which had been preserved, required the highest wisdom and patriotism.

Congress was not in session. Andrew Johnson neglected to convene Congress in an emergency and to consult the friends of the Union with whom Mr. Lincoln had advised. Before Johnson became President he lost no occasion, in season or out of season, to denounce the Rebels. Between February 1, 1865, and the assassination of Mr. Lincoln he declared on the

steps of every public building in Washington, and to every gathering that would listen to him, that every Rebel ought to be hanged, and that that was the only means of restoring the Union.

He was particularly vindictive against the social and political leaders of the South. He sprang from the lower stratum of society, and by great vigor, industry, and will had occupied many honorable positions. He rose to be Senator of the United States and Vice-President against opposition of powerful leaders.

When those who had governed the South and created the public opinion of that section bowed before him as President of the United States, he forgot that there was a loyal North which had prosecuted the war to a successful termination, and which was entitled to be consulted, and took counsel only with the vanquished.

He usurped the power of Congress and undertook to reorganize the State governments of the South without legislative sanction.

Congress met for the long session on the first Monday of December, 1865. The Republican party had more than two-thirds majority in each House, and measures were immediately devised to restrain what was termed executive usurpations. Some of the Southern States which Andrew Johnson had attempted to rehabilitate passed laws for the practical re-enslavement of the blacks, although the Thirteenth Amendment abolishing slavery had been adopted.

A Freedmen's Bureau had been created during the war to provide for helpless colored people whom the war had set free. It was also deemed necessary to pass a law by Congress to protect the colored people in their civil rights.

Two bills were introduced early in the session and referred to the Committee on Judiciary, of which Lyman Trumbull, of Illinois, was chairman, and of which I was a member.

The Civil Rights bill was largely the work of Senator Trumbull, and is substantially the law now and the statute.

The Freedmen's Bureau bill I did not approve of in the committee, although I consented that it might be reported to the Senate. It conferred too much power upon the commission charged with its execution to be administered with safety. There was unlimited power given the commission to purchase land for educational purposes. In short, it was calculated to create a bureau after the model of the Bureau of Indian Affairs, the dishonest and extravagant workings of which had come under my observation in the West.

The bill, however, passed both Houses, notwithstanding that to me it possessed glaring defects. President Johnson vetoed the bill, and I thought he was right in doing so. I would gladly have supported his veto if it had not been made plain to me that the whole country would suffer by a conflict between the President and Congress.

The President sent for me the evening before the vote was to be taken in the Senate on his message vetoing the Freedmen's Bureau bill. Under the circumstances I desired the presence of a third party to the interview I was about to have with the President.

Representative Horn of Missouri was as anxious as I was to avoid what seemed to be an inevitable conflict between the executive and legislative branches of the Government. I told him that the President had sent for me, and I invited him to accompany me to the Executive Mansion that evening. He accepted the invitation. We found the President in his office at eight o'clock, the appointed hour.

He began the conversation by saying to me that he had been informed that I did not approve of many of the provisions in the Freedmen's Bureau bill which he had vetoed, and asked me if that was so. I told him

that it was. He then asked me if I could not conscientiously sustain his veto. I told him I could if his veto of the Freedmen's Bureau bill was the only question involved. My constituents, I said, believed that the victorious Union party as represented in Congress should have a controlling influence in the rehabilitation of the States; that if I should vote to sustain his veto I never could explain to my people that I did so on account of the provisions of the bill, and that they would believe I had surrendered the cause of the Union to those who had conspired to destroy it. I also told him that Congress had passed another bill, which I helped prepare, and every provision of which I approved, and that bill was known as the Civil Rights bill. I said:

"Mr. President, you have that bill before you. The party that was instrumental in abolishing slavery feels responsible for the protection of the slave, and if that bill should become a law, with your approval, the country would not believe you vetoed the Freedmen's Bureau bill on partisan grounds. On the contrary, they would read your message on the Freedmen's Bureau bill and would not regard it as a partisan veto."

Mr. Horn remarked that the people thought much more of the Civil Rights bill than the Freedmen's Bureau bill. It was easy to amend the Freedmen's Bureau bill to obviate the objections in the President's message, but the veto of the Civil Rights bill would produce an impassable gulf between Congress and the Executive.

"Mr. President," I said, "I have no right to demand of you to tell me whether you will veto or sign the Civil Rights bill; but if you are to veto it, I must vote to pass the Freedmen's Bureau bill over your veto. You may not be aware of it, but I have the deciding vote and can determine the question."

He assured me by all that he held sacred that if his

veto of the Freedmen's Bureau bill was sustained he would sign the Civil Rights bill.

This conversation lasted three hours, and he repeated four or five times his assurance that he would sign the Civil Rights bill. Accompanying us to the door, he shook hands with Mr. Horn and myself as we left. His final words were that we need have no anxiety, that he would sign the Civil Rights bill as he had promised.

The next day about half-past two o'clock the vote was taken on the President's veto of the Freedmen's Bureau bill and the veto was sustained. Within ten minutes of the time of the announcement of the vote sustaining the veto, a message was received from the President announcing his veto of the Civil Rights bill.

I never spoke to Johnson after that deception but once. In 1875 I retired from the Senate, and soon after Johnson was elected Senator from Tennessee. While I was in the Senate I paid several visits to the Deaf and Dumb Asylum, and found there a boy of great brightness. I secured for him a clerkship in the Patent Office. On a visit to Washington later I went to the Patent Office to see the boy. I talked with the Commissioner and learned that he was one of the most efficient clerks in the bureau, and that he deserved promotion. I went to the Secretary of the Interior and asked for his advancement. While I was pleading his cause, Andrew Johnson was sitting behind me. I did not know he was there until he spoke up, saying:

"Being deaf and dumb is no reason for promotion. God Almighty knows how to mark men."

I lost my temper and came very near losing my senses. I sprang at Johnson, intending to make an impression on his flesh, if no impression could be made upon his sense of right and wrong. He jumped behind

the Secretary, and four or five clerks rushed up and got between us. He went out of the room with as little delay as possible.

The world will never know the extent of the misfortune to the people of the United States, particularly to the South, sustained by the substitution of Andrew Johnson for Abraham Lincoln. Lincoln was the wisest, kindest, most impartial, and just man I ever knew; Johnson was the most untruthful, treacherous, and cruel person who ever held place of power in the United States. I voted to impeach him, and I would do it again.

CHAPTER XXI

The War Senate—Pen pictures of the great leaders of the nation—Thad. Stevens and his domestic scandal—Conkling and Blaine, and Congressional jealousies—The corpse was dry—Senator McDougall's tribute to whiskey.

When I entered the United States Senate, Hannibal Hamlin was Vice-President. After I had presented my credentials he greeted me cordially, and explained the method of doing business. He was plain and his mode of life was simple, but he was a man of robust intellect and strong common sense. Lot M. Morrill was then Senator from Maine, a wise and useful man. Pennsylvania was represented by Buckalew and Cowan, who were then the leaders of the Democrats in the Senate. Jacob Collamer and Solomon Foot were the Senators from Vermont. Collamer was a great lawyer, strong and influential in debate. Foot was a man of dignity of character, and presided over the Senate caucus and occupied the chair in the absence of the Vice-President.

Doolittle and Howe were Senators from Wisconsin, and were both able and influential. Howe held the first place in the confidence of his constituents during his whole life, but Doolittle subsequently fell under a cloud by adhering to Andrew Johnson. Reverdy Johnson of Maryland was the most distinguished man in the Senate. He was a Democrat, but a reasonable one. If Andrew Johnson had taken his advice he would have coöperated with Congress and the South would have been relieved from the worst evils of reconstruction.

John P. Hale was a veteran Senator from New Hampshire, abounding in good sense, good nature, and repartee. His debates during the long controversy in the Senate over the slavery question previous to the Civil War had made his name a household word. Ira

Harris and E. D. Morgan represented the great State of New York; they were men of high character and usefulness.

John Sherman and Benjamin F. Wade were the Senators from Ohio. Sherman was shrewd, cunning, and unscrupulous. Wade was brave, blunt, and honest. Lafayette S. Foster and James Dixon were the Senators from Connecticut. Foster was a fine lawyer and a leading Senator, while Dixon was a modest, useful man, and a trusted member of the Democratic party. Lyman Trumbull was from Illinois. He was chairman of the Judiciary Committee, a great lawyer, strong debater, and a prominent member of the Senate. James W. Grimes and James Harlan were the Senators from Iowa. They were both able and influential. James H. Lane and Samuel C. Pomeroy were Senators from Kansas.

One of the most constant and continuous debaters was Garrett Davis of Kentucky. He was a strictly honest man, and a dyed-in-the-wool Democrat. He confidently believed that everything could be accomplished and anything solved through the principles of the Democratic party; exactly what those principles were he was unable to explain to the satisfaction of others during the Civil War.

William Pitt Fessenden of Maine was a marked character. He left the Senate on July 1, 1864, to accept the office of Secretary of the Treasury, made vacant by the appointment of Salmon P. Chase to the office of Chief Justice, and held it until March 4, 1865, when he returned to the Senate. He was in the Senate Chamber when I first entered to take my seat, and I was introduced to him. He was, without question, the ablest debater on the floor. When Congress met in December, 1865, a joint Committee of Fifteen was created, five from the Senate and ten from the House of Representatives. Fessenden and Thaddeus Stevens were the two chairmen.

Thaddeus Stevens was one of the most remarkable men the United States has produced. He was born in Vermont, the 4th of April, 1792, and died in Washington on the 11th of August, 1868. From the time of the outbreak of the war until his death he was the unquestioned leader of the House of Representatives. He carried nearly every measure he advocated, and was rarely, if ever, defeated.

He suffered, however, a remarkable defeat from the action of the Senate soon after actual hostilities began. He was almost the only man in either house of Congress who had a clear idea of the money question. As chairman of the Committee on Ways and Means he framed and passed a bill through the House creating legal-tender money, and also providing for the issuance of long-time bonds, the principal payable in coin, but the interest payable in legal-tender paper money. The Senate committee, through the influence of stock-jobbers of Wall Street, reversed the order of payment and made the interest of the bonds payable in coin and the principal payable in lawful money. This created an immediate demand for coin, to supply which customs dues were made payable in coin. The Finance Committee reported the bill and it was passed by the Senate. When the Conference Committee was appointed the struggle was long and desperate. The stock-jobbers and John Sherman, chairman of the Committee on Finance, would not yield. The soldiers must be paid and supplies must be bought for the war. Thaddeus Stevens was bound to submit.

He reported his defeat to the House in tears, declaring that it would cost the Government of the United States thousands of millions of dollars. His prediction was correct. The week after the bill was passed a gold board was formed in New York, and the soldiers in the field were compelled to take depreciated money; and while they faced the enemy in front, the gold gamblers

of New York kept up a constant firing in the rear.

During the winter of 1865-6 I had a room in a house adjoining the house occupied by Thaddeus Stevens, on New Jersey Avenue, near the Capitol. He was never married, and the reason assigned by his old Pennsylvania friends was his sensitiveness on account of a club foot. He never went in society, but had a mulatto woman for a housekeeper, who lived with him in the house, which created some scandal; but that made no difference to Mr. Stevens, because no one dare criticise him in his presence.

I very frequently would spend an evening in Stevens's house playing cards. He was a very superior euchre player, and intensely fond of the game. Other members of the House, and a Senator or so, would drop in for several hours, when a wide range of subjects would be discussed.

On these occasions the mulatto woman, whom, as I recollect, "Old Thad" called May, and of whom he seemed to be quite fond, would prepare the table for us, fix the lights, bring in a lunch, and do other necessary things. I did not inquire into Stevens's domestic relations very closely, but I believe it was the general opinion that his regard for May was not entirely platonic. The influence of this colored mistress, I believe, was largely the cause of Stevens's bitter animosity to Southern whites.

He was sixty-nine years old when the war began, and at that age possessed all the vigor and courage of youth, coupled with the experience of years. He had a way of silencing an opponent with a single phrase. Henry J. Raymond, the founder of the *New York Times*, a man of great reputation and ambition, was elected to the House of Representatives. Several questions arose which Raymond took occasion to avoid, remaining non-committal. Raymond desired to leave town on one occasion and wanted a pair. He finally

appealed to his friends on the floor to furnish him a pair. "Old Thad" looked around sarcastically and remarked that he did not understand that the gentleman from New York was asking for a pair; he had observed that that gentleman found no difficulty in pairing with himself. The House roared and Raymond was out.

Conkling and Blaine were then members of the House, both ambitious and full of fight; but neither of them ever made a pass at "Old Thad." They were, however, very jealous of each other, and whenever I heard they were going to have a personal controversy I went over to the House to hear them spar. Their debates were historic, and prevented each of them from ever occupying the Presidential chair. Conkling was the more dignified and commanding, but Blaine more aggravating and personal. On one occasion he likened Conkling to a strutting turkey-gobbler. The House slightly hissed; but on the whole that debate was regarded as a draw, and entered, directly or indirectly, into every national election which thereafter occurred during the life of the two combatants. Conkling came to the Senate in 1867, made many strong friends, and some bitter enemies. I had the honor to be one of his particular friends whom he frequently consulted. The great fault of his whole life was his inability to forgive an enemy, or even to pass him by without a kick.

Blaine was more conciliatory and politic, which gave him many advantages over his enemies; but Conkling had a larger State behind him and was able to keep Blaine out of the White House. Conkling, notwithstanding his pugnacious disposition, was a kind and indulgent friend, constantly doing good to those whom he deemed worthy. His power in debate was unequalled in the Senate, and after he left that body he made a fortune in a few years practicing law. His honesty was never questioned.

James A. McDougall, who was Senator from California at the time I entered that body, was a remarkable character. He had practiced law at the bar in Illinois with Mr. Lincoln, and they were warm personal friends. He was a man of great learning, not alone in his profession, being familiar with history and the classics; but unfortunately after he went to the Senate he fell a victim to alcoholic drink and said and did many queer things.

One night he fell into a sewer which was being excavated in front of Seward's house. A policeman saw him fall in and asked him who he was.

"Why, get me out," said McDougall; "I am Seward."

Once he was going to New York. At that time the railroad went around Philadelphia, and carriages could be taken across, giving passengers some additional time. McDougall got out of the car pretty well loaded and saw the other passengers taking carriages. He observed a hearse nearby and crawled inside. Two men were on the box, but did not know that a Senator was a passenger. After driving a few blocks they stopped at a saloon to take a drink. The driver couldn't leave the horses, so the other man went in and brought him out a mug of beer. McDougall heard what was going on, saw the beer, and stuck his head out and said:

"Hey! The corpse is dry."

He finally got in the habit of coming into the Senate very drunk, and Sumner of Massachusetts prepared a resolution to expel him, and showed it to me, knowing I was a friend of McDougall. I begged of Sumner not to introduce it, and went to Mr. Lincoln and asked him to tell Sumner not to introduce the resolution of expulsion, which the President did.

One night in February, 1865, just before the close of the war, there was a bill pending which Ben Wade and others were very anxious to pass. The Democrats

were vigorously opposing it. It was Saturday night. About midnight some one moved to adjourn, whereupon Senator Wade became quite violent and said that the "Better the day, the better the deed." He said his God would approve of passing *that* bill on Sunday. .

McDougall had been lying with his head on his desk, and was supposed to be oblivious to what was going on. Finally I observed he was trying to get up. Vice-President Hamlin was in the chair, and knowing that whenever McDougall got on his feet, drunk or sober, he would say something sensible, kindly waited till he could straighten up. At first his voice was weak, but it grew stronger as he proceeded.

He said that in India the Hindoos had two gods, the God of Evil and the God of Good, and explained at length the bad qualities of the Evil God and then the good qualities of the Good God, and remarked in conclusion that the Good God was *his* God and the Bad God was the God of the Senator from Ohio. He said his God was in favor of adjournment, and he moved that the Senate adjourn. I don't remember whether the Senate indorsed McDougall's God or Wade's God.

In April, 1866, Senator Henry Wilson introduced a resolution to exclude whiskey from the Senate end of the Capitol. About the middle of the month it came up for consideration, and a pretty lively debate ensued. A considerable number of Senators liked their toddy about that time, and I suppose conditions haven't changed much since. Anyhow, whiskey had *some* friends, among them that earnest champion, Senator McDougall.

McDougall was present while the fight was in progress, but apparently displayed no interest in the proceedings. He was dozing over his desk, and it was supposed that he was too happy to know what was transpiring, but by-and-by he sat up and found out what

was going on, dragged himself together and sailed in, and delivered a classical speech on the good qualities and virtues of whiskey, and the superiority of the men who drank it over those who didn't, which, I suppose, is the most finished and *sincere* tribute ever paid to alcohol.

He described the hard-faced, ungenerous, selfish temperance advocate, with a disposition like potter's field, and the jolly, whole-souled, liberal, agreeable companion who liked the inspiration of strong drink, until there wasn't a Senator present who wasn't ashamed of himself for ever *thinking* of turning whiskey out of the Capitol, and who didn't consider himself lucky that he hadn't acted in haste.

"Mr. President," said McDougall, rising gravely and turning a serious face upon the Senate, while everybody sat up and took notice, because McDougall could talk. "Mr. President: It was once said that there are as many minds as men, and there is no end of wrangling. I had occasion, some years since, to discourse with a reverend doctor of divinity from the State which has the honor to be the birthplace, I think, of the present President of this body. While I was discoursing with him a lot of vile rascalions invited me to join them at the bar. I declined, out of respect to the reverend gentleman in whose presence I then was. As soon as the occasion had passed, I remarked to the reverend doctor:

"Do not understand that I declined to go and join those young men at the bar because I have any objection to that thing, for it is my habit to drink always in the front and not behind the door.'

"He looked at me with a certain degree of interrogation. I then asked him:

"Doctor, what was the first miracle worked by our great Master?"

"He hesitated, and I said to him:

“‘Was it not at Cana in Galilee, where he converted the water into wine, at a marriage feast?’ He assented. I asked him then:

“‘After the ark had floated on the tempestuous seas for forty days and nights, and as it descended upon the dry land, what was the first thing done by Father Noah?’ He did not know exactly.

“‘Well,’ said I, ‘did he not plant a vine?’

“‘Yes,’ he remembered it then. I asked him:

“‘Do you remember any great poet that ever illustrated the higher fields of humanity that did not dignify the use of wine, from old Homer down?’ He did not. I asked:

“‘Do you know of any great philosopher that did not use it for the exaltation of his intelligence? Do you think, Doctor, that a man who lived upon pork, and beef, and cornbread, could get up into the superior region—into the ethereal?’ No, he must

“‘Take nectar on high Olympus
And mighty mead in Valhalla.’

“I said to him again: ‘Doctor, you are a scholarly man of course—a doctor of divinity—a graduate of Yale. Do you remember Plato’s Symposium?’ Yes, he remembered that. I referred him to the occasion when Agatho, having won the prize of Tragedy at the Olympic Games at Corinth, on coming back to Athens was fêted by the nobility and aristocracy of that city, for it was a proud triumph to Athens to win the prize of Tragedy. They got together, at the house of Phædrus, and they said, ‘Now, we have been every night for these last six nights drunk; let us be sober to-night, and we will start a theme,’ which they passed around the table as the sun goes round, or as they drink their wine, or as men tell a story.

“They started a theme, and the theme was love—not love in the vulgar sense, but in its high sense—

love of all that is beautiful. After they had gone through, and after Socrates had pronounced his judgment about the true and beautiful, in came Alcibiades with a drunken body of Athenian boys with garlands around their heads to crown Agatho and crown old Socrates, and they said to those assembled: 'This will not do; we have been drinking, and you have not'; and after Alcibiades had made his talk in pursuance of the argument in which he undertook to dignify Socrates, as I remember it, they required (after the party had agreed to drink, it being quite late in the evening, and they had finished their business in the way of discussion) that Socrates should drink two measures for every other man's one, because he was better able to stand it.

"And so, one after another, they were laid down on the lounges in the Athenian style, all except an old physician named Aristodemus, and Plato makes *him* the hardest-headed fellow except Socrates. He and Socrates stuck at it until the gray of the morning, and then Socrates took his bath and went down to the groves and talked academic knowledge.

"After citing this incident, I said to this divine, 'Do you remember that Lord Bacon said that a man should get drunk at least once a month, and that Montaigne, the French philosopher, indorsed the proposition?'

"These exaltants that bring us up above the common measure of the brute,—wine and oil,—elevate us, enable us to seize great facts, inspirations, which, once possessed, are ours forever; and those who never go beyond the mere beastly means of animal support never live in the high planes of life, and cannot achieve them. I believe in women, wine, whiskey, and war."

After being interrupted by Senator Wilson, Mr. McDougall interjected:

"Will the Senator from Massachusetts allow me to make one remark? I forgot to add that the reverend

doctor said to me, 'Well, General, you are right; but I cannot afford to say it.' "

That resolution went over.*

*Cong. Globe, 1st Session, 39th Cong., Part II, pp. 1877, 1878.

CHAPTER XXII

Slavery—Plans of reconstruction—Congress in confusion—The breach with Johnson widens—A consultation with Alexander H. Stephens—Senate debates—Dark days after the war—Governor Andrew of Massachusetts endorses my amendment.

The fact that all civilized people are the descendants of slaves or slave masters convinced me that prejudices growing out of slavery would soon disappear, and that fraternal relations would then be restored among people of a common country.

I was desirous of some plan of reconciliation, because no civilization ever had a commencement without enforced labor, and it was enforced labor which made labor of any kind possible.

Wild men roaming without local habitations must first be tamed before they can be civilized. A powerful savage first subjects his less powerful friends or neighbors to a condition of slavery, and compels them to work and support him by tillage of the soil and other labor. He cannot compel others to cease roaming and to work without his personal supervision. Such personal supervision compels the slave master to remain with his slaves and maintain a local habitation.

Previous to the discovery of America slavery was practiced throughout the world, and the practice was justified by the wise, benevolent, and humane of all ages and all countries.

I listened to debates in my boyhood upon the question of slavery between most devout Christian people, and it was demonstrated to my satisfaction that the Bible itself approved of human bondage. It was not until after the Reformation, some four hundred years ago, that the right of man to own his fellow-man was questioned. In fact, no serious discussion of the right

of slavery took place in any part of the world until after the American Revolution.

It is true that the Puritan Fathers who settled New England might not have been so much addicted to property in man as the Cavaliers who settled in the South; but our Puritan ancestors were leaders in the African slave trade, and the ships of New England imported from Africa into the Southern States a large majority of the ancestors of the vast slave population which existed at the breaking out of the war.

The great parliamentary struggles which agitated England for more than two centuries developed in that country the love of liberty which induced the Mother Country to abolish slavery in all her dominions. The movement spread to the North until the abolition of slavery became both a religious and political sentiment, which I had no doubt would ultimately extend all over the United States.

I did not blame the Southern people for adhering to an institution older than history and sanctioned by the great and good of all preceding generations. They believed that they were right, and fought bravely for their homes and their property.

The war abolished slavery and removed the barrier to Union and coöperation between the North and the South. Abraham Lincoln, the wisest and best man I ever knew, who bore the burden and heat of the war, and on whom the people relied for restoration of the Union, fell at the hand of the assassin.

When Congress met in December, 1865, confusion, suspicion, and distrust prevailed throughout the country. A joint Committee of Fifteen was created, five from the Senate and ten from the House, to consider all questions relating to the rehabilitation of the States. I saw from day to day the breach between Congress and President Johnson widening, and all the animosities of the war revived. I believed then, and still believe,

that if Congress, without regard to the exasperating shortcomings of Andrew Johnson,—and they were many,—had proposed a plan of reconciliation and reconstruction, the South would have accepted it.

After consulting with many patriotic men, both North and South, I introduced in the Senate the following proposed amendment to the Constitution :

SECTION 1. All discriminations among the people because of race, color, or previous condition of servitude, either in civil rights, or the right of suffrage, are prohibited; but the States may exempt persons now voters from restrictions on suffrage hereafter imposed.

SEC. 2. Obligations incurred in aid of insurrection or of war against the Union and claims for compensation for slaves emancipated are void and shall not be assumed or paid by any State or the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That whenever any one of the eleven States whose inhabitants were lately in insurrection, through a legislature elected by a constituency restricted in the right of suffrage only by such laws as existed in such State in 1860, shall have ratified the foregoing amendments to the Constitution of the United States, and shall have modified its constitution and laws in conformity therewith, then, and in that case, such State shall be recognized as having fully and validly resumed its former relations with this Government, and its chosen representatives shall be admitted into the two Houses of the National Legislature, and a general amnesty shall exist in regard to all persons in such State who were in any way connected with armed opposition to the Government of the United States, wholly relieving them from all pains, penalties, or disabilities to which they may have become liable by reason of their connection with said insurrection.

Alexander H. Stephens, the former Vice-President of the Confederacy, was in Washington at that time. I regarded him as the most intellectual man in the South, and wanted to submit my plan to him. He was stopping at the old National Hotel, and I visited him in his room there.

“If that amendment could be adopted,” said he, “it would be the best possible settlement. The States would

be restored at once and they could make such educational and property qualifications as would exclude all who were not qualified to vote, both black and white; but any public statement of mine would injure the chances of any settlement."

Upon the introduction of my resolution I made the following remarks in the Senate:*

MR. PRESIDENT: I ask leave to say a few words in explanation. I want the joint resolution printed and referred to the Committee on Reconstruction, but before that question is put, I ask unanimous consent to say a few words. I have been a careful observer of the current events since Congress assembled, and I have come to the conclusion that a proposition of this kind corresponds with the prevailing sentiment in Congress and also in the country as indicated by the public press. I do not mean to express any opinion as to the propriety or impropriety of negro suffrage, which I have studiously avoided doing on all occasions during this session.

MR. POMEROY. What about the "white man's government?"

MR. STEWART. About the white man's government, I said that the idea should not be scoffed at; that it was a prejudice in the country that no man had a right to disregard; and I still say so. But I was going to explain that after having come to the conclusion that this is the present attitude of Congress, and of the country, and not having heard from the Southern States upon the proposition, I think it but fair and just that the best terms Congress is willing to grant at this session should be submitted to the South, for them to adopt voluntarily or to reject. This proposition avoids all the odious provisions which were attached to the other propositions that have been brought forward, in my estimation which appeared like coercion. It also avoids the long road of a constitutional amendment which must be contested upon Northern battlefields before the South will have an opportunity to be heard upon it.

This, or something of this character, is the only proposition that can be heard in the South upon which they can pass during this session of Congress. I do not pretend to be wedded to the particular provisions, but simply to the general proposition. I want it to conform exactly to the sentiment of Congress. I want the South to have an opportunity to vote upon it without embodying it in any of the provisions which they regard as odious or coercive. After the proposition has been discussed, if they refuse to adopt it, it will

*Cong. Globe, 1st Sess., 30th Cong., Part II, 1865-66, p. 1754.

be time enough to consider other propositions; but, until they do refuse, I think it unjust to take from them the right to decide for themselves.

The New York *Tribune*, and most of the leading Republican journals of the United States, indorsed and advocated the plan. The great war Governor of Massachusetts, John A. Andrew, wrote me the following letter:

Boston, March 20, 1866.

MY DEAR SIR:

I have read with great satisfaction and interest the resolutions proposed by you last week in the Senate concerning the reorganization of the States lately in rebellion.

If it was convenient to do so at this moment, I might perhaps take the liberty of writing you at some length, but it is enough for my present purpose to declare my hearty sympathy with the general design and plan they indicate.

I beg you will allow me to call your attention to a valedictory address delivered in the general Court of Massachusetts on the fourth of January last, in which, with some elaboration, I attempted to discuss the same general subject, and if I correctly understand the resolutions you offered in the Senate, I think that you and myself are in entire agreement.

It seems plain to me that the colored men must be invested with the rights, both political and civil, which pertain to citizenship, according to laws which shall impart political honors according to capacity and desert, and not according to descent or accident of birth, or else they must be exterminated. I think that the former rebels must be reinstated in their political rights or they must be exterminated. I think, also, that the same body of voters in each State who carried it out into rebellion must bring it back again into loyalty. Any other reconstruction is dangerous and delusive.

I pray you to excuse both the brevity of this note and the liberty I take in expressing opinions so explicitly, and believe me, faithfully your friend and servant,

JOHN A. ANDREW.

HON. WILLIAM M. STEWART,
United States Senate, Washington, D. C.

The day after the receipt of this letter, Mr. Greeley, Governor Andrew, and a number of other leading

Republicans came to Washington to urge the adoption of the plan I proposed; but the growing bitterness between Congress and the Executive darkened counsel, and precluded the possibility of favorable consideration of so just and mild a plan.

CHAPTER XXIII

Mark Twain becomes my secretary—Back from the Holy Land, and he looks it—The landlady terrorized—I interfere with a humorist's pleasures, and get a black patch—Revenge! Clemens the hero of a Nevada hold-up.

About the winter of 1867, I think, while my family was in Paris, I lived in a rather tumble-down building which at that time stood on the northwest corner of Fourteenth and F Streets, N. W., opposite the old Ebbitt House, where many of my Congressional cronies had quarters. The house was a weather-beaten old place, a relic of early Washington.

Its proprietress was Miss Virginia Wells, an estimable lady about 70 years of age, prim, straight as a ramrod, and with smooth-plastered white hair. She belonged to one of the first families of Virginia, which were quite numerous in Washington, and was very aristocratic; but having lost everything in the war, she had come to Washington, and managed to make a precarious living as a lodging-house keeper.

I had the second floor of her residence, one of the rooms, facing upon both streets, a spacious apartment about seventy-five feet long, which I had divided by a curtain drawn across it, making a little chamber at the rear, in which I slept. The front part was my sitting-room. I had a desk there, and tables, with writing materials, and my books, and a sideboard upon which I kept at all times plenty of cigars and a supply of whiskey, for I occasionally smoked and took a drink of liquor.

I was seated at my window one morning when a very disreputable-looking person slouched into the room. He was arrayed in a seedy suit, which hung upon his lean frame in bunches with no style worth mentioning.

A sheaf of scraggy black hair leaked out of a battered old slouch hat, like stuffing from an ancient Colonial sofa, and an evil-smelling cigar butt, very much frazzled, protruded from the corner of his mouth. He had a very sinister appearance. He was a man I had known around the Nevada mining camps several years before, and his name was Samuel L. Clemens.

I suppose he was the most lovable scamp and nuisance who ever blighted Nevada. When I first knew him he was a reporter on the *Territorial Enterprise*, which was otherwise a very reputable paper published in Virginia City, and his brother, Orion Clemens, was a respectable young gentleman, and well liked.

Sam Clemens was a busy person. He went around putting things in the paper about people, and stirring up trouble. He did not care whether the things he wrote were true or not, just so he could write something, and naturally he was not popular. I did not associate with him.

This Clemens one day wrote something about a distinguished citizen of Virginia City, a friend of mine, which was entirely characteristic of Clemens, as it had not the slightest foundation in fact. I remonstrated with him.

"You are getting worse every day," I said. "Why can't you be genial, like your brother Orion? You ought to be hung for what you have published this morning."

"I don't mean anything by that," returned Clemens. "I do not *know* this friend of yours. For all I am aware he may be a very desirable and conscientious man. But I must make a living, and so I must write. My employers demand it, and I am helpless."

He said he wrote it "because it was humorous." Maybe it was. I did not undertake to argue with him. I could not see it, and so I let it go at that.

Clemens had a great habit of making fun of the

young fellows and the girls, and wrote ridiculous pieces about parties and other social events, to which he was never invited. After a while he went over to Carson City, and touched up the people over there, and got everybody down on him. I thought he had faded from our midst forever, but the citizens of Carson drove him away. At any rate, he drifted back to Virginia City in a few weeks. He didn't have a friend, but the boys got together and said they would give a party, and invite Clemens to it, and make him feel at home, and respectable and decent, and kindly, and generous, and loving, and considerate of the feelings of others. I could have warned them, but I didn't.

Clemens went to that party and danced with the prettiest girls, and monopolized them, and enjoyed himself, and made a good meal, and then shoved over to the *Enterprise* office and wrote the whole thing up in an outrageous manner. He lambasted that party for all the English language would allow, and if any of the guests was unfortunate enough to be awkward or had big feet, or a wart on the nose, Clemens did not forget it. He fairly strained his memory.

Of course this made the boys angry, and we decided to get even. There was a stage that ran from Carson to Virginia City, and Clemens was a passenger on it one night. The boys laid in wait, and when the stage lumbered by a lonely spot they swooped out, and upset it, and turned it upside down, and dragged Clemens out and threw him in a canyon, and broke up his portmanteau, and threw that in on top of him. He was the scarest man west of the Mississippi; but the next morning, when he crawled back to town, and it was day, and light, and safe, he began to swell a little, and pretty soon he was bragging about his narrow escape. By and by he began to color it up, and add details that he had overlooked at first, until he made out that he had been in one of the most desperate stage

robberies in the history of the West, and it was a pretty poor story that he couldn't lug *that* one into, by the nape of the neck, sort of casually.

After that he drifted away, and I thought he had been hanged, or elected to Congress, or something like that, and I had forgotten him, until he slouched into my room, and then of course I remembered him. I said:

"If you put anything in the paper about me I'll sue you for libel." He waved the suggestion aside with easy familiarity.

"Senator," he said, "I've come to see you on important business. I am just back from the Holy Land."

"That is a mean thing to say of the Holy Land when it isn't here to defend itself," I replied, looking him over. "But maybe you didn't get all the *advantages*. You ought to go back and take a post-graduate course. Did you walk home?"

"I have a proposition," said Clemens, not at all ruffled. "There's millions in it. All I need is a little cash stake. I have been to the Holy Land with a party of innocent and estimable people who are fairly aching to be written up, and I think I could do the job neatly and with dispatch if I were not troubled with other—more—pressing—considerations. I've started the book already, and it is a wonder. I can vouch for it."

"Let me see the manuscript," I said. He pulled a dozen sheets or so from his pocket and handed them to me. I read what he had written, and saw that it was bully, so I continued, "I'll appoint you my clerk at the Senate, and you can live on the salary. There's a little hall bedroom across the way where you can sleep, and you can write your book in here. Help yourself to the whiskey and cigars, and wade in."

He accepted all of my invitations, in the modest and unassuming manner for which he had been noted in

Nevada, and became a member of my family, and my clerk.

It was not long before Clemens took notice of Miss Virginia. Her timid, aristocratic nature shrank from him, and I think she was half afraid of him. He did not overlook any opportunities to make her life miserable, and was always playing some joke on her. He would lurch around the halls, pretending to be intoxicated, and would throw her into a fit about six times a day.

He would burn the light in his bedroom all night, and started her figuring up her expense account with a troubled, anxious face. Pretty soon he took to smoking cigars in bed.

She never slept after this discovery, but every night would lie awake, with her clothes handy on a chair, expecting the house to be burned down any minute, and ready to skip out at the first alarm; and she became so pale, and thin, and wasted, and troubled that it would have melted a pirate's heart to see her. She crept to my room one day, the mere shadow of her former self. She no longer leaned over backward, as she usually did, because of being so straight and dignified, but was badly bent. I was shocked.

"Senator," she said, "if you don't ask that friend of yours to leave I shall have to give up my lodging-house, and God knows what will become of me then. He smokes cigars in bed all night, and has ruined my best sheets, and I expect to be burned out any time. I've been on the alert now for three weeks, but I can't keep it up much longer. I need sleep."

I told her to leave the room, and I called Clemens. He slouched in.

"Clemens," I said, "if you don't stop annoying this little lady I'll give you a sound thrashing—I'll wait till that book's finished. I don't want to interfere with literature—I'll thrash you after it's finished."

He blew some smoke in my face.

"You are mighty unreasonable," he replied. "Why do you want to interfere with my pleasures?"

I thought he would behave himself after that. But one day a week later Miss Virginia staggered into my room again, in a flood of tears. She said:

"Senator, that man will kill me. I can't stand it. If he doesn't go I'll have to ask you to give up your rooms, and the Lord knows whether I'll be able to rent them again."

This filled me with alarm. I was very comfortable where I was. I sent her away kindly, and called Clemens. He slouched in again.

"You have got to stop this foolishness," I said. "If you don't cease annoying this little lady I'll amend my former resolution, and give you that thrashing here and now. Then I'll send you to the hospital, and pay your expenses, and bring you back, and you can finish your book upholstered in bandages." He saw that I meant business.

"All right," he replied, "I'll give up my amusements, but I'll get even with you."

He did. When he wrote "Roughing It" he said I had cheated him out of some mining stock or something like that, and that he had given *me* a sound thrashing; and he printed a picture of me in the book, with a patch over one eye.

Clemens remained with me for some time. He wrote his book in my room, and named it "The Innocents Abroad." I was confident that he would come to no good end, but I have heard of him from time to time since then, and I understand that he has settled down and become respectable.

CHAPTER XXIV

Fourteenth Amendment to the Constitution—Explanation of my vote—Military bill passed the House—Opposition to martial law—President Johnson vetoed.

The antagonism between the Executive and the Legislative Departments of the Government continued to increase until an impassable gulf lay between them. President Johnson repudiated every sentiment of reconciliation, and assumed that he alone was the Government of the United States, and that any participation in that government by the Legislative Department was usurpation.

The Committee of Fifteen in due time reported what is now the Fourteenth Amendment to the Constitution of the United States, as follows:

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a Senator or Representative in

Congress, or elector of the President and Vice-President, or hold 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, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

It was clear to me that the sweeping disfranchisement in Section 3 of the Fourteenth Amendment would greatly delay the reconstruction of the States. It excluded from participation in the rehabilitation of the Confederate States the great mass of the intelligent and well-to-do citizens, because nearly all of them had held some office under the State or National Government. It is true that Congress retained the power in that same section by a two-thirds vote in each House to remove the disabilities imposed. I pointed out in debate from time to time the inadequacy of the proposed amendment to restore the Union, and called attention to the strife and ill feeling that would follow dilatory or harsh measures.

I maintained that it was the duty of Congress to state fully the demands of the Government and leave the South free to accept or reject the conditions proposed. But finally I was forced to the conclusion that the war between President Johnson and Congress was such that nothing could be done that was not sanc-

tioned by the Committee of Fifteen, and I thought best to support the amendment which they had reported. On the 5th of June, 1866, while the Fourteenth Amendment was pending, I arose in the Senate and said:*

MR. PRESIDENT: AS I shall vote for the plan agreed upon among my political friends, it is proper that I should make a brief statement. While it is not the plan that I would have adopted, as is well known, still it is the best that I can get and contains many excellent provisions. It repudiates the rebel debt and affirms the sacred obligation of the Nation to pay the debt contracted in preservation of the Union.

It does not base representation on voters, which I preferred, but it approximates it more nearly than any other plan presented, and recognizes the principle that a white man in the North is entitled to equal representation with a white man in the South. It declares that all men are entitled to life, liberty and property; and imposes upon the Government the duty of disregarding these solemn obligations, but fails to adopt the easy and direct means for the attainment of the results proposed. It refuses the aid of four million people in maintaining the Government of the people. It involves the Freedmen's Bureau bill, Civil Rights bill, test oaths and exclusion from office, all supported by military power. I would not object to these, for I recognize the obligation of full protection for all men, if there were no cheaper, easier, and better plan for the attainment of this worthy object * * * .

Subsequent events have demonstrated that I was right. If the plan that I proposed, and which at the time was approved by many of the wisest and most patriotic of men, had been adopted, the South would have accomplished themselves, of their own volition, substantial results which twenty years of coercive legislation, aided by the military, finally secured. I verily believe if Mr. Lincoln could have lived that some simple plan would have been adopted for securing all the beneficial results which have since been attained, without the heartburnings and animosities engendered by the strife of reconstruction.

*Cong. Globe., 1st Sess., 39th Cong., Part IV, p. 2964.

Nothing was done by the States in preparation for rehabilitation and restoration of the Union under the Fourteenth Amendment. The President contended that he had reorganized the States by virtue of his Executive authority. Congress not having stated or proclaimed practicable conditions upon which the States might return, everything was in uncertainty and confusion.

Upon the convening of the 39th Congress in December, 1865, the Committee of Fifteen devoted themselves to the consideration of the whole subject of reconstruction. On February 15, 1867, Senator Williams of Oregon presented to the Senate a bill which had been agreed upon by the Committee of Fifteen, and passed by the House, placing the Confederate States under military rule, pure and simple. Senator Johnson of Maryland offered an amendment, originally prepared by Mr. Bingham of Ohio, but afterward known as the Blaine amendment. Mr. Williams, for the Committee, said that no amendments to the military bill reported by the Committee would be accepted, although he had given notice the night previous that he would offer the Blaine amendment himself.

I arose at once and entered my protest against placing the South under military rule without some provision in the bill whereby the people of that section could relieve themselves of military government by complying with reasonable conditions. I pointed out at length that if the bill should become a law, the Southern States could do nothing to restore their relations with the Government; that the Government of the United States could do nothing without affirmative legislation repealing the arbitrary provisions of the proposed legislation; that either House of Congress could prevent any modifications of the bill after it became a law; that the President might veto any measure of relief.

I declared most emphatically that, unless some provisions were incorporated in the bill, whereby the Southern people by their own action could relieve themselves of military rule, I would not vote for the bill though every member of both Houses of Congress might do so. I said I would not trust an irrevocable military government for the South which non-action might make perpetual.

I maintained the debate until the Senate adjourned, and during that time a large number of Senators expressed either concurrence or sympathy with my views. The Republicans in the Senate were forced to hold a caucus and modify the bill. The result was the adoption of the principles of the Blaine amendment with slight modifications. The 5th section of the bill, as it finally passed both Houses and became a law, reads as follows:*

SECTION 5. And be it further enacted, That when the people of any one of the said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State, twenty-one years old and upward, of whatever race, color or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors or delegates, and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same, and when said State, by vote of its Legislature elected under said constitution, shall have adopted the amendment of the Constitution of the United States, proposed by the Thirty-ninth Congress, and known as Article Fourteenth, and when said Article shall have become a part of the Constitution of the United States, said State shall be

*14th U. S. Statutes at Large, p. 429.

declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this Act shall be inoperative in said State: Provided, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States shall be eligible to election as a member of the convention to frame a constitution for any of said rebel States, nor shall any such person vote for members of such convention.

The law having passed over the veto of Andrew Johnson, he exercised the full power of the Executive to prevent reconstruction under it.

The leading statesmen of the South were disqualified. At first only a few came forward and were relieved to have the disabilities removed by a two-thirds vote by each House of Congress as provided by the Fourteenth Amendment.

In the mean time, the Northern men, generally of a speculative quality, gathered in the several Southern States, and by coöperation with an ignorant colored population, secured control of the Legislatures in some of the Southern States, and a powerful influence in all of them. Corruption and misgovernment were the inevitable consequence. Finally a caucus of the Republican Senators was called, under which with some subsequent amendments the States were finally restored.

CHAPTER XXV

General Grant elected President—Re-elected to the Senate in 1869—Conference with Grant—I write the Fifteenth Amendment—Its passage by Congress—Grant's Inaugural recommendation on negro suffrage.

In 1868 General Grant was elected President of the United States. His popularity as a soldier and fair-minded man secured for him an overwhelming majority, including three-fourths of all the States. The Chicago Convention which nominated him declared for equal suffrage in the South, without regard to race or color, indorsed the legislation of Congress, and severely condemned the administration of Andrew Johnson.

President Grant's Administration, by the platform on which he was elected, the public press, and the orators of the campaign, was committed to the protection of the emancipated slaves, either by granting to them suffrage, or the exercise by Congress of all measures, however coercive, to secure equality before the law.

The Nevada Legislature which elected me my own successor in 1869 was chosen at the time of the election of President Grant, and I returned to Washington the week before Congress met, about November 25, 1868, after President Grant's election. Many bills were pending providing for colored suffrage and protection for emancipated slaves by various devices; such as amendments to the Constitution securing equal suffrage, amendments to the Freedmen's Bureau bill and the Civil Rights bill.

I read over all the various propositions for suffrage and for direct legislation protecting the negroes, and recognized the fact that the general tone of all the propositions for the protection of the negro was in

harmony with the sentiment of the campaign resulting in General Grant's overwhelming victory.

I called on General Grant the following evening at his residence on I Street.

He invited me into his private room, and I told him in a general way of the various plans that had been referred to the Judiciary Committee by the Senate. I said that I would like very much for the guidance of my own conduct to know what he thought should be done.

We discussed the matter for several hours, with the understanding that Congress and the incoming Administration were thoroughly committed to the people to place them in power to protect emancipated slaves by an amendment to the Constitution extending equal suffrage to all, or coercive measures of legislation. The former would satisfy the country by placing in the hands of the colored man the ballot with which to protect himself. The latter would involve coercive measures of doubtful constitutionality to be enforced by military power.

General Grant inquired of me if I thought the negro could protect himself from oppression by the use of the ballot. I told him the ballot would be his ultimate protection, but that when the whites of the South undertook, in good faith, to carry on their own governments, the ballot of the negro would amount to very little. I thought they would practically be excluded, but that the right to vote secured to the colored man by the Constitution of the United States would save him from peon laws and obtain powerful friends who would prevent his reënslavement.

I called Grant's attention to the fact that the negroes of the Northern, and in some of the Southern, States, would be allowed to exercise the right of suffrage without molestation, and that in the near future they would have the balance of power in many of the States, con-

sequently there would always be a majority of the people of the United States who would take an interest in preserving the rights of the colored man. I also called his attention to my original proposition, which I offered before the adoption of the Fourteenth Amendment for universal suffrage and universal amnesty, providing that the States might exempt voters under the law of 1860 from the restrictions which they might see fit to impose.

If that had been adopted the Union would have been restored, with the Government in the hands of the intelligent white men; ignorant negroes and whites being excluded until they could attain qualifications entitling them to vote.

General Grant was silent for some time, and finally said he believed suffrage the safest remedy.

"What can I do?" he said. "I am not President and will not be until the 4th of March."

"You are much more powerful now than you will be after your inauguration," I replied. "Three-fourths of the States, being the number necessary to adopt the amendment, have already voted for you, and the legislatures of nearly all of them will be in session during the coming winter. The number of persons desiring office may not be a majority of the people, but they are numerous enough to control the State legislatures so far as complying with any reasonable wish of yours is concerned."

"Do you think that is so?" he said.

"Yes, most emphatically," I replied.

"What can I do?" said he. "I cannot make proclamation of my views until after my inauguration."

"Certainly not," I answered; "but when this question is brought before Congress men will flock to you, asking your views. You can reply in one sentence by saying you are for the amendment. I need not suggest to you how to prevent further conversation; you know how to do that."

"I am for the amendment, and will say so on all proper occasions," was his reply.

We then parted. At the first meeting of the Judiciary Committee—composed at that time of Senators Trumbull, chairman; Stewart, Frelinghuysen, Edmunds, Conkling, and Hendricks—I moved that the resolutions relating to an amendment to the Constitution granting equal suffrage without regard to race or color be taken up, and Mr. Conkling smilingly remarked:

"I desire to amend the motion that all resolutions, bills, and other matters relating to colored suffrage be referred to the Senator from Nevada," which proposition received every vote of the committee except my own, I remaining silent.

I took all the papers referred to me, and amended a resolution offered by Senator Henderson of Missouri, known as Resolution No. 8, which read as follows:

No State shall deny or abridge the right of its citizens to vote or hold office on account of race, color, or previous condition.

I changed the phraseology of the resolution so that it would read as follows:

The right of citizens of the United States to vote or hold office shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude.

The committee, without suggesting a change of the language, authorized me to report the amendment, and also authorized me to report adversely on the numerous other propositions referred to me.

On January 15, 1869, I reported the amendment to the Senate and returned all other papers and documents relating to the subject, and asked that they be indefinitely postponed, which motion was granted.

Senator Thayer of Nebraska inquired with regard

to the report. I asked for its reading. The Secretary read the amendment as reported, as follows:*

ARTICLE 15. The right of citizens of the United States to vote and hold office shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude. And Congress shall have power to enforce the provisions of this article by appropriate legislation.

I had much difficulty in getting the resolution taken up for consideration, but finally on January 23, 1869, I succeeded in bringing the amendment before the Senate by a vote of 33 to 9, as follows:

Yeas: Messrs. Abbott, Cameron, Cattell, Chandler, Cole, Conkling, Corbett, Drake, Edmunds, Fessenden, Frelinghuysen, Grimes, Harlan, Harris, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Pool, Ross, Sawyer, Sherman, Spencer, Stewart, Sumner, Thayer, Trumbull, Wade, Williams, and Wilson—33.

Nays: Messrs. Bayard, Davis, Dixon, Doolittle, Fowler, Hendricks, McCreery, Norton, and Vickers—9.

The discussion was very lengthy and elaborate. Many Senators who were anxious to defeat the amendment labored to embarrass its consideration. Charles Sumner of Massachusetts, although violently opposed to the amendment, did not place himself on record in antagonism to the measure, but continually inspired motions for adjournment. Such motions were constantly made by Senators who would not go on record in any manner, showing opposition to the amendment. My method of thwarting these tactics was to put them on the record by calling yeas and nays. This forced them to vote against their own motion to adjourn, lay on the table, etc.

Mr. Sumner would not vote for the amendment and absented himself on its final passage. His opposition

*Cong. Globe, 3rd Sess., 40th Cong., Part I, p. 379.

was not because he was opposed to negro suffrage, but because he believed the power existed in Congress to grant suffrage by direct legislation, and he was really opposed to the amendment because he regarded it as an admission that Congress did not already possess the power.

After days and nights of struggle and debate, the resolution passed by more than a two-thirds majority, as follows:

Yeas: Messrs. Anthony, Cragin, Dixon, Doolittle, Edmunds, Ferry, Fessenden, Harlan, Howard, Howe, Morrill of Maine, Morrill of Vermont, Nye, Osborn, Patterson of New Hampshire, Ramsey, Rice, Stewart, Van Winkle, Wade, Warner, Welch, Willey, Williams, and Wilson—25.

Nays: Messrs. Buckalew, Cole, Davis, Hendricks, McCreery, Morgan, Morton, Norton, and Ross—9.

The House passed a substitute for the resolution in language entirely different. A conference committee was appointed, consisting of William M. Stewart, George F. Edmunds, and Roscoe Conkling, managers on the part of the Senate, and George S. Boutwell, John A. Bingham, and John A. Logan, managers on the part of the House.

Bingham and Logan were willing to take the Senate amendment with an amendment striking out the words "to hold office." I was willing to strike out these words, because I thought the right to vote carried with it the right to hold office. But Mr. Edmunds, one of my colleagues, would not consent to the change. Mr. Conkling agreed with me, making the majority of the committee, so that the amendment as originally prepared by me and reported to the Senate was adopted by the conference committee with those words stricken out. I quote from the Congressional Record the report of the Committee:

Mr. Stewart submitted the following report:

The Committee of Conference on the disagreeing votes of the

two Houses on the joint resolution (S. R. No. 8) proposing an amendment of the Constitution of the United States, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows: That the House recede from their amendments and agrée to the resolution of the Senate with an amendment as follows: in section 1, line two, strike out the words "and hold office"; and the Senate agree to the same.

W. M. STEWART,
ROSCOE CONKLING,

Managers on the part of the Senate.

GEORGE S. BOUTWELL,
JOHN A. BINGHAM,
JOHN A. LOGAN,

Managers on the part of the House.

Then followed a discussion lasting until about three o'clock in the morning of February 27, 1869. The House of Representatives having in the mean time agreed to the report of the committee of conference, the final vote in the Senate, as follows, passed the amendment:

Yeas: Messrs. Anthony, Cattell, Chandler, Cole, Conkling, Conness, Cragin, Drake, Ferry, Fessenden, Frelinghuysen, Harlan, Harris, Howard, Howe, Kellogg, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Patterson of New Hampshire, Ramsey, Rice, Robertson, Sherman, Stewart, Thayer, Tipton, Trumbull, Van Winkle, Wade, Warner, Welch, Willey, Williams, and Wilson—39.

Nays: Messrs. Bayard, Buckalew, Davis, Dixon, Doolittle, Fowler, Hendricks, McCreery, Norton, Patterson of Tennessee, Pool, Vickers, and Whyte—13.

I had previously requested the telegraph office at Carson to keep open that night for an important dispatch. The day fixed for the adjournment of the Legislature of Nevada was such that a letter would not reach the capital in time for action during the session of the Legislature.

To secure the vote of Nevada for the ratification of the amendment, I telegraphed its full text to the Legislature, requiring it to be repeated back to me.

Promptly at nine o'clock I called at General Grant's headquarters in the Winder Building. The General arrived about the same time. I told him of the passage of the Fifteenth Amendment by both Houses of Congress. He said he was glad of it, and asked what he could do to secure its adoption.

"Recommend it in your inaugural address," said I, "and its adoption is certain." He sent for three or four of his generals who were in the building; they came to his room and he told them that the Fifteenth Amendment had been passed and that he would recommend it in his inaugural.

President Grant, in his inaugural address of March 4, 1869, said:

The question of suffrage is one which is likely to agitate the public as long as a portion of the citizens of the nation are excluded from its privilege in any State. It seems to me very desirable that this question should be settled now, and I entertain the hope and express the desire that it may be by the ratification of the fifteenth article of the amendment to the Constitution.

It would have been much wiser to adopt restrictions, excluding the ignorant, vicious, and incompetent of all classes by tests which would limit the voting population to intelligent citizens with some interest in the welfare of the country. But the effect of the amendment has been what I supposed it would be, to secure for the negro in the Northern States his right to vote without interruption.

CHAPTER XXVI

I am denounced by Charles Sumner—An overestimated statesman—My reply to him in the Senate—How Lincoln played on Sumner's vanity—Sumner's denunciation of Grant at a dinner to the British Commission—He is deposed from important Senate chairmanship—A State secret.

Charles Sumner was a spectacular character. The assault that Congressman Brooks of South Carolina made on him in the Senate Chamber shortly before the war created intense indignation throughout the North. The elder Francis P. Blair, who was at the time manipulating anti-slavery politics, took Sumner to his house and caused his injuries to be advertised in a most exaggerated manner. Sumner was an actor, and played the martyr to the admiration of his friends.

When the Senators from the South retired Sumner fell heir to the chairmanship of the Committee on Foreign Relations. His egotism was such as to make it impossible for him to admit that he had an equal in either house of Congress. There was only one man in Washington who understood him and knew how to manage him, and that was President Lincoln, who seemed to know everything.

He kept Sumner in line, and made him useful, by sending for him about twice a week for consultation. After consulting him a while, he would allow him to leave, but before Sumner could get out of the grounds of the White House Lincoln would send a servant after him and call him back to consult him about some *other* important matter, and by his adroit tactics he made Sumner think he was running the Government, commanding all the armies, and regulating all the civil affairs of the United States.

After the passage of the reconstruction measures,

Congress passed laws prescribing the conditions upon which the Southern States might renew their relations with the Union. I reported a bill from the Judiciary Committee providing for the rehabilitation of Virginia upon certain conditions, which became a law. Virginia complied literally with all the provisions of the law, and I reported from the Judiciary Committee another bill to restore Virginia to the Union. Governor-elect Walker of Virginia occupied a seat on the floor of the Senate while the bill was under consideration.

Mr. Sumner denounced him as a traitor. I called the attention of the Senator from Massachusetts to the fact that Governor Walker had been a loyal man throughout the war, and that he had done nothing to provoke unfavorable criticism. I insisted that he had a right to respectful consideration. We had agreed to take a vote at four o'clock in the afternoon. About ten minutes before that hour Mr. Sumner, having the floor, said, "The Senator from Nevada having betrayed the cause, it is natural for him to defend traitors." He continued to talk until the hour of four o'clock.

I asked unanimous consent to reply, which was very properly denied by the Senate, but I gave Mr. Sumner notice that I would make a formal reply when the bill for the admission, or rather rehabilitation, of the State of Mississippi was reached. During the debate on the Virginia bill Mr. Sumner was very boastful. He said he was the author of the provision in the reconstruction measure which conferred suffrage on the negro. He also said that he voted for the Fifteenth Amendment. When the bill for the admission of Mississippi was before the Senate I took occasion to prove that both of these statements were false.

I showed by the record that Mr. Bingham of Ohio was the author of the provision in the reconstruction measure conferring suffrage, and that Mr. Blaine had

offered a substitute for Bingham's resolution in the House of Representatives, which Bingham accepted; it was afterward known as the Blaine amendment. I said that Mr. Sumner had denounced the amendment as an absurdity from beginning to end, and I declared that Mr. Sumner not only failed to vote for the Fifteenth Amendment, but absented himself before the vote was reached.

After I had concluded my remarks Mr. Sumner took the floor and vigorously contended that he was an anti-slavery man, and had been for a long time. To prove that he was, he brought in a pile of pamphlets, four or five inches thick, which he said were evidence of his anti-slavery record. But he did not respond to my argument. He neither affirmed nor denied what I had charged. Said I:

"Mr. President: The Senator from Massachusetts said in the outset that he did not commence controversy with anybody. That shows how perfectly unconscious he must be of his own course in the Senate. 'I never make an attack on a Senator; I never begin any controversy,' he once before said. The records of this Senate will not bear *any* man out in such a statement.

- "But when the Senator from Massachusetts and myself were on the most friendly relations, when nothing had occurred between us to mar those relations, and while I was advocating the admission of Virginia as innocently and as earnestly as possible, not thinking that I was deserting the principles of the Republican party, the Senator from Massachusetts used the following language:

" 'Something has been said by different Senators of plighted faith. Sir, there is a faith that is plighted, and by that I will stand, God willing, to the end. Let the Senator from Nevada desert; let him, joining the Democrats, take the other course; but I stand firm by the plighted faith of this great Republic.' "

"Read on," thundered Sumner, "read the next sentence."

"Oh, I beg your pardon," said I, amid laughter, "I am not your reading-clerk. Who made the first attack? After he had made that attack I referred to the fact that he had opposed the Fifteenth Amendment; and I challenged him then to say whether or not he voted for that amendment to the Constitution. Now he gets up here and reads his biography. Nobody questions his biography. Nobody questions that he issued the pamphlets that he has read. But are *they* in laws? Have *they* been reduced to form? The point is not whether he has said a great many things on behalf of equal rights, but whether he has been practical; whether he has ever been in favor of the bill under consideration to secure equal rights; whether he has not dealt in generalities, and occupied in abstractions the time that ought to have been used in legislation; and whether he has by that acquired a position that authorizes him to read out of the party *me* or any *other* Senator who is trying to do his duty; whether he has a right to issue a bull of excommunication; whether he is the Pope of the Senate to issue his thunderbolts of anathema! It seems that he is the only 'principle' in the Senate. I know complaint is made of our occupying time; but the Senator from Massachusetts is our only principle; and can we not discuss principle? He is the only man that lectures us on principle when we want to legislate; and we may as well occupy the time of the Senate in discussing this principle."

"Will my friend permit me to ask him a question?" interrupted Senator Edmunds.

"No; I will not yield to anybody," said I.

"I was only going to ask him to end the controversy. He says he never *begins* one," said Edmunds.

"Now," said I, "how much has the Senator from Massachusetts proved of the precise issue that I made.

that he was not the author of that provision? How much has he proved to entitle him to this high-sounding pretension? The Senator dwelt especially on the first act of reconstruction, known as 'the act to provide for the more efficient government of the rebel States,' and charges that I did not vote for it. This assault to-day compels me to make a statement now which I never supposed I should be called to make. I make it now with hesitation, but rather to show his course than my own. Sir, I am the author of the provision in that act conferring suffrage."

"The Senator again does not read the whole sentence," was Sumner's only response.

"The Senator has read it," I replied. "It has been read here repeatedly. What is there in it? He did vote for this particular provision, but he did not vote for the bill when it was in; but to-day he says 'unhappily' the Senate would not agree to the Blaine amendment, which the majority of the Republicans of the House had voted in. 'Unhappily!' What did the Senator from Massachusetts do to help to put it in? When that was under discussion I was advocating it; he was opposing it. Speaking of the Blaine amendment before the caucus was held, the Senator said in the Senate:

" 'There is another amendment* that ought to come in in that same connection, though I feel that this whole proposition is so thoroughly vicious in every line and in every word from the first to the last that in order to make it at all so as to receive, it seems to me, a single vote, it ought to be amended from the first word to the last.' "

"Then Mr. Hendricks, as he had an artful way of doing, interposed and complimented the Senator from Massachusetts for the advanced position he occupied. These advanced positions have always annoyed us in

*Cong. Globe, 2nd Sess., 39th Cong., p. 1392.

legislation. Discovering the embarrassment of our party that we were struggling to get out of, Mr. Hendricks gave the Senator a compliment about wanting something else, knowing his weakness to be for 'the other bill,' and that it would always be for 'the other bill,' and Hr. Hendricks said:

"If the Senator will give way I will make a motion that the Senate adjourn; but before I make the motion I wish to suggest that this is no ordinary legislation in which we are concerned. It is, in my judgment, the gravest legislation that has ever occupied Congress. It is claimed by its friends to be the work of reconstruction of our Government; it is believed by its enemies to be the work of destruction. Now, whether the friends of the measure be right in this opinion, or the enemies be right in their very opposite opinion, this is true, that the subject is worthy of consideration. It is now nearly two o'clock at night. The majority have occupied almost as much time as they say they desire, with the exception of the distinguished Senator from Massachusetts, as he intends to tear this amendment shred from shred and make it a logical absurdity!

"That it is,' said Sumner, 'right on its face.'

"This was the Blaine amendment, 'a logical absurdity on its face,' and he was going to tear it shred from shred; there was nothing good in it! I recollect the time that was occupied in getting this into practical shape. Now, I never have questioned that the Senator from Massachusetts has been for long years the strenuous advocate of the abstract principle of equal rights; but I never knew him to be for it when there was any chance to make it a law, and that is the point at issue.

"The point at issue is whether he is the author of this particular provision, whether he helped to make it the law. The point at issue is whether he voted for the Fifteenth Amendment, and helped to put that in the Constitution. These are the practical points now under

consideration. Everybody admits, the world knows, that he has made more speeches advocating the general principle than anybody else; but what good are those speeches, of what practical use are the pamphlets containing them? They are not statutes. I reckon if there had not been more practical brains than *he* has, to put them in shape and get them adopted, the poor black man would still be without the ballot, and perhaps would be forever.

"It is easy to make speeches in and out of Congress. I never attacked the Senator's pile of pamphlets, and I hope I never shall. No man of ordinary courage would attack such a pile *anyhow*. But where is the *statute* that the Senator has incorporated this principle in? Where is his *authority* to say that he has all the judgment there is in the Senate, or all the judgment there is in the *country* upon the points at issue? I deny such judgment to the Senator. He is a theorist, a grand, gorgeous, extensive theorist, but he is not a practical man, and my experience is that he has failed utterly to help us to get practical measures. There is hardly any Senator who has been here for the last five years who has not got more of his work in the statute-book than the Senator from Massachusetts.

"Sir,* I never should have said a word about this if it was not important to me to show that the man who read me out of the party is not recorded to any considerable extent on the measures which have inserted these principles in the statute-book. He is impractical. I want it known, also, that on this occasion he has not the frankness to state on this floor whether or not he voted for the Fifteenth Amendment, so that his statement may go in comparison with mine for what it is worth.

"I want the country to know how much his statement

*Congressional Globe, 1st Sess., 39th Cong., Part II, pp. 1182, 1183.

is worth, how good his recollection is when he says he attacks nobody. I want them to understand it. They *shall* understand it. I shall give them occasion to understand it every time he attacks me in the Senate. Gentlemen may complain of the time occupied, but I will never be the aggressor upon any Senator here. I struggled against him on the reconstruction measures, and the debates show the controversy between him and me on the Blaine amendment from beginning to end, and on the fifteenth constitutional amendment. Those are the two great provisions by which suffrage has been secured to the black man. I say I have a right to be heard, and he has no right to read me out of the party."

General Grant did not know the character of Sumner. He judged of him from the high position he occupied as chairman of the Committee on Foreign Relations. When there was an opportunity to acquire the island of San Domingo he left the White House and called on Mr. Sumner at his residence, a most unusual thing for a President to do. He laid before Mr. Sumner all the facts he had in his possession with regard to the feasibility of annexing San Domingo.

President Grant informed his Cabinet that Mr. Sumner, as chairman of the Committee on Foreign Relations, was heartily in favor of the acquisition of San Domingo, and advised President Grant to make a treaty for that purpose. President Grant and his Secretary of State, Hamilton Fish, made a treaty for the acquisition of San Domingo, and sent it to the Senate for ratification.

Mr. Sumner opposed it most bitterly and denounced it in unmeasured terms. When Senators called his attention to the fact that he advised the President to make it, he denied that he had given any such advice. He was plied with questions from many Senators, calling his attention to the exact language which he used as reported by President Grant. When asked if he did

not say to President Grant that the treaty met his cordial approbation, he dodged, and said that he told the President that anything that he was disposed to do would receive cordial consideration from him, but that *that* was only intended to be respectful to the President. No fair-minded man doubted that President Grant told the truth and that Sumner did not.

Later on, and during Grant's first term, a large and influential body of men came from England, representing both political parties of that country, to settle the Alabama claims. They gave many dinners and were tendered many such honors by the leading statesmen of both political parties in the United States. A dinner was given by one of the Englishmen, whose name I do not now recall, at which Secretary Fish, Senator Sumner, chairman of the Committee on Foreign Relations, and Senator Dickson, of Connecticut, were guests. One of the Englishmen remarked during the dinner that President Grant seemed to be very popular, and that undoubtedly he would be elected President for a second term.

"No, he'll be impeached for high crimes and misdemeanors. I tell you, he will be impeached for high crimes and misdemeanors!" exclaimed Senator Sumner in a loud voice. This stopped all conversation at the dinner for some minutes, until it could be switched to the weather.

Senator Dickson met me as the Senate was about to convene the next morning, and told me the circumstances. I took him immediately to Senator Anthony of Rhode Island, who was chairman of the Senate caucus. I advised him to send for Mr. Fish, which he did.

Mr. Fish went into the Marble Room and the Republican Senators were invited to meet him. He stated what had occurred at the dinner in the same language which Mr. Dickson had used in reporting it

to me. While Mr. Fish was still in the Marble Room, one of the English delegates, passing through the corridor, met a Senator, who inquired of him as to what Mr. Sumner had said at the dinner the night before. The English delegate said that he could not be a witness to such an affair.

After the Senators had been fully informed by Mr. Fish as to what had occurred at the dinner, Anthony moved an adjournment of the Senate, and called a caucus of Republican Senators. All attended except Mr. Sumner. Senator Anthony sent the Sergeant-at-Arms for him.

When Mr. Sumner entered, Senator Anthony stated to him what the Secretary of State and Senator Dickson had informed the Republican Senators. Mr. Sumner said there was not a word of truth in it. He stoutly maintained that President Grant was not alluded to at the dinner, and walked out.

A motion was made to elect Simon Cameron chairman of the Committee on Foreign Relations, and it was unanimously carried without a word of debate. This act of the caucus in deposing Sumner from his important chairmanship was never divulged, because each Senator felt that it was humiliating to the country to make such a transaction public at that time. An agreement to keep it secret was entered into.

The newspapers assumed that President Grant had had Sumner removed from the chairmanship of the Committee on Foreign Relations, or, at all events, that it was done through the influence of the President. The fact was that President Grant never suggested such action and knew nothing about it, until after it was done.

Senator Sumner and Carl Schurz, then Senator from Missouri, continued to make war on President Grant's Administration. They got up a French arms investigation, alleging that President Grant was in complicity

with contractors furnishing arms to France in the Franco-Prussian War. So great was the enmity of Sumner against Grant that he left the Republican party and supported Mr. Greeley, the Democratic nominee, for President. If President Grant had known of the vanity, egotism, and impracticability of Mr. Sumner, he could have made him a servitor as Mr. Lincoln did.

I have written this with regard to Mr. Sumner in vindication of the truth of history, knowing that his admirers are deceived as to his true character.

CHAPTER XXVII

With Grant on the Pacific Coast—White House Confidences—I decline a Supreme Court appointment—The Apaches on the war-path—Confirmation of Tom Murphy—A dramatic scene in the Senate—Conkling threatens to expose Fenton—A mock fight in the Senate to save a friend.

It was my good fortune to make the acquaintance of Ulysses S. Grant when he was a young lieutenant in the Army, stationed on the Pacific Coast. I was with him frequently in San Francisco, and night after night we would wander around the city together, visiting games, and saloons and other sights.

We had many adventures in those early days, and perhaps I would not stretch the truth in saying that we were a trifle wild. Young Grant drank considerably and he had no advantage of me in this respect.

When he arrived in Washington at the close of the war, the victorious commander of the armies of the United States, we renewed our acquaintance, and met often to talk over old times. He gave me some inside information as to his doings in the Army; I told him what was what in the Senate. After his election to the Presidency I saw him even more frequently.

In 1871 he tendered me an appointment to the Supreme Court of the United States, and was anxious that I should accept, but, after considering the matter for a short time, I declined it. I have always been devoted to the law, but life on the bench seemed too inactive, and the more stirring career in the Senate appealed to me far more strongly.

Both of us were great smokers. The habit cost him his life; I abandoned it the night the people elected Grover Cleveland President of the United States. I did not want to increase the revenues during *his* administration by paying duty on cigars.

One night in nearly every week during Grant's first term I visited the White House, when the President and I would retire to a private room to smoke and talk. He was a slow but accurate conversationalist. He never said a foolish thing in my hearing. On these confidential occasions Grant would inquire of me as to the character and actions of various public men. I gave him my opinion freely, as I could afford to do, for he always kept his own counsel. If, in talking of public men, or events, I happened to vary in the slightest degree from former statements on the same subjects, or from former opinions, he would call my attention to the discrepancy, and ask me why I had changed my mind.

His memory was not only remarkable—it was perfect. On one occasion, I remember, while he was President, he visited Oregon, where, years before, he had served as a lieutenant in the Army. Hundreds of persons called upon him, persons he had known in his days just after West Point. He called every one of them by name.

One of the striking accomplishments of James G. Blaine was his capacity for remembering the names of those with whom he had had a slight acquaintance. But he frequently required the assistance of a prompter. Grant did not need any prompting. His memory for names was wonderful. During his entire public career I do not believe he ever forgot the name of any person whom he had ever met. Blaine has been given great credit for his memory. He cultivated it for the political benefit which it gave him. Grant's memory was a natural, untutored gift.

It is said of George Washington that he could not tell a lie. I venture the assertion that Grant never *did* tell a lie. He loved the truth, and always spoke it, if he spoke at all, regardless of the consequences. The name of Grant, his great deeds in the Union cause, his

justice and impartiality as President, will descend through all the ages, and the book he wrote to be left as a heritage to his widow and family, with the death rattle in his throat, will remain a model for all brave commanders who may hereafter tell of their victories.

Shortly after General Grant became President for the first time, in 1869, on my recommendation he appointed A. P. K. Safford, of Nevada, Governor of Arizona, which had recently been formed into a Territory. The Apache Indians, who lived by robbery and plunder, extended their predatory jurisdiction from the Colorado River to the City of Mexico. There was no chance to establish a government of law in Arizona, where the Apaches reigned supreme. The few American citizens there considered themselves fortunate if they could remain safe in Tucson, the capital.

General George Stoneman was in command of the Southern California and Arizona department. He resided at Los Angeles. He was very much adverse to fighting Indians or having anything to do with Arizona. When complaints were made to President Grant of the depredations of Indians in Arizona, Stoneman would invariably reply that there was no trouble in the Territory. He said that contractors made the complaints in order to get money from the Government for the transportation of supplies for troops.

I called on President Grant several times, and told him that the citizens of Arizona were entitled to protection. Each time he replied that General Stoneman had reported there was no disorder. The President said that I must bring proof. I wrote to Governor Safford to make a scrap-book and paste into it the newspaper accounts of the murders in Arizona, and also affidavits as to all outrages committed by the Indians, giving the full circumstances of each case.

Governor Safford sent me the scrap-book, containing accounts of about two hundred such cases. I showed it

to General Grant, who said that he did not like to take action against the report of General Stoneman, and he referred me to the Secretary of War.

William Worth Belknap was then Secretary of War. I went to him, told him the facts, and opened that scrap-book on the desk before him. He hesitated, and began talking about Stoneman.

"I didn't come here to talk about Stoneman," said I. "I came here to talk about protecting American citizens in Arizona." Then I put the scrap-book under my arm, and walked out of his office rather abruptly, and went back to the White House to see the President again. And I was pretty angry, too.

"Well," said President Grant, "what did Belknap say?"

"He says nothing," said I. "He simply talks about Stoneman." At that moment the door opened, and the Secretary of War came into the room, looking very wise.

"What objection have you to Stoneman, Senator?" continued the President.

"I have two objections to him," I answered. "I believe he lies, and I believe he is too old to have charge of that department."

"He is not older than I am," retorted President Grant, with an injured air, so I side-stepped.

"Why," said I, "he hasn't been able to ride a horse for twenty years,—that's why he doesn't want to go into the field against the Indians,—and it will be some-time before *you* are so old that *you* can't ride." The President laughed and said:

"What do you want?"

"I want Colonel Crook, who has been fighting the Bannocks in northern California and Oregon, sent down to Arizona to fight the Apaches.* He has fought

*George Crook—lieutenant-colonel, Twenty-third Infantry, July 28, 1866; brigadier-general, October 29, 1873.

and whipped the Bannocks, and he is the only Indian fighter I know in the Army."

President Grant turned to Belknap. "Mr. Secretary," he said, "make a temporary assignment of Colonel Crook to Arizona."

The following day Belknap issued the order. Stoneman, because of this action, asked to be placed on the retired list, and his request was granted. He later became a candidate for Governor of California on the Democratic ticket, and was compelled to resign his commission in the Army to accept that office.* At the expiration of his term of service as Governor he lost his property, and was in bad health. I secured an amendment to the current army appropriation bill to put him back on the retired list.

Colonel Crook, with a mere handful of Federal soldiers, subjugated the Apaches, who had been dominant in the Southwest for more than a hundred years. He was indefatigable; he created jealousies between various Apache chiefs, and contrived to make different bands of that warlike people fight against each other until their commander, old Cachees,† was forced to lay down his arms. Since then civil government has been maintained in Arizona.

When General Grant became President he was unfamiliar with the political situation in the State of New York. Governor Reuben E. Fenton was elected Senator and took his seat March 4, 1869, the same day that General Grant took the oath of office as President.

President Grant thought that Fenton, having been Governor, represented New York, and acted accordingly. He did not appear to recognize the fact that Conkling, who had served several terms in the House

*Retired August 16, 1871. Reinstated September 15, 1882.

†Cochise. A Chiricahua Apache chief. Surrendered in September, 1871, but escaped in 1872. Died June 8, 1874.

of Representatives, and was then Senator from New York, was a power to consider. He therefore appointed the friends of Governor Fenton and ignored Senator Conkling. During the summer vacation President Grant took up his residence at Long Branch, where he met Tom Murphy, who was very serviceable to him. Being thoroughly acquainted with the country, and quite a horseman, Murphy was able to make himself a friend of the President. After becoming intimate with Murphy, President Grant thought that he was a fit person to be made Collector of the Port of New York.

The President appointed Murphy without consultation with either of the Senators. Fenton had a candidate for that place, and felt much aggrieved to be ignored in a manner which he thought was not only uncivil but unjust. When Congress convened, Conkling, who was my personal friend, told me that if it had been left to him he should not have selected Mr. Murphy. He said there was another person, a political friend, who had performed such services to the party and to the country as entitled him to the place. He knew that his colleague was making a very bitter fight against the confirmation of Murphy, and realized that if he joined with him in opposition, Murphy would undoubtedly be defeated, and a less deserving man probably appointed in his place.

I told him that under the circumstances I knew of no course to be pursued by him but to secure the confirmation of Murphy's appointment. I pointed out to him that, during the struggle on his part to *confirm* Murphy, and the struggle on the part of Senator Fenton to defeat his confirmation, the President would be enlightened as to the political situation in New York, and would thereafter undoubtedly accord to him the influence to which he was entitled as Senator.

Conkling said he would take my advice, but he thought that Fenton would postpone action during the

remainder of that Congress. I told him that that would be impossible if he would follow my advice.

"What is your advice?" asked Conkling.

"The nominees of the President for confirmation by the Senate are taken up in their order," said I, "and no pending nomination can be postponed until it is finally acted upon, if any Senator insists upon its consideration." Conkling then said that he would object to laying the nomination of Murphy aside for the consideration of any other nomination. He did so for about six weeks, until nominations were piled up and delayed to an unusual extent. The Senate then took the matter in hand, and appointed a day for the consideration of the confirmation of Tom Murphy. The Senate went into executive session immediately after the morning business was transacted, and Senator Fenton took the floor.

He read from newspaper clippings, interjecting his own comments until six o'clock in the afternoon. Just before he resumed his seat Mr. Conkling came to me and said:

"It's just as I feared! Fenton will read newspaper clippings until he wears out the patience of the Senate, and they will lay aside the consideration of the nomination."

"No!" said I, "I shall make a proposition as soon as Fenton takes his seat. I shall propose that the Senate take a recess until eight o'clock this evening, that you be given an hour to reply to Senator Fenton, and he be allowed half an hour in final reply, when the vote shall be taken."

At first Conkling said that an hour was not enough. I insisted. He then said, "Go ahead."

When Fenton took his seat I made the proposition, which was agreed to by unanimous consent. I knew we could have a quorum, because everybody had a desire to have some friend confirmed. When the Sen-

ate met in executive session at eight o'clock nearly every Senator was in his seat.

Conkling immediately began an oration, every sentence of which was replete with logic, sarcasm, reason, and invective. Sometimes the Senators would rise to their feet, so great was its effect upon them.

It so happened that in early life Fenton, having undertaken to carry \$12,000 from western New York to Albany, reported the loss of the money. He was arrested, and the money was found secreted in his bed-tick. A large amount of testimony was taken and Fenton was discharged. Whether he was accused justly or unjustly,—most persons thought unjustly,—it blurred his career. Conkling, and others who were opposed to Senator Fenton, had copies of the proceedings before the criminal court at the time the matter was investigated. Toward the conclusion of his wonderful speech Conkling walked down the aisle to a point opposite the seat of Senator Fenton.

"It is true," he said, "that Thomas Murphy is a mechanic, a hatter by trade; that he worked at his trade in Albany supporting an aged father and mother and a crippled brother. And while he was thus engaged there was another who visited Albany and played a very different rôle,"—drawing the court record from his pocket, and extending it toward Senator Fenton,—"the particulars of which I will not relate except at the special request of my colleague."

Fenton's head dropped upon his desk, as if he had been struck down with a club. The scene in the Senate was tragic. Murphy was confirmed, with only two dissenting votes, and Grant and Conkling became sworn friends for life.

The inhabitants of the Capital of the United States will never realize the debt of gratitude they owe to Alexander R. Shepherd. Washington, as planned by L'Enfant, under the direction of President Washing-

ton himself, anticipated in all its arrangements and outlines the grandeur of the great Republic of which it was made the capital. The plan should have been extended throughout the District of Columbia, and the lines of streets and avenues should have been produced beyond the limits of the original city. But the sordid speculators who have constituted the Boards of Commissioners of the District of Columbia laid out the city outside of the original boundary line to suit the avarice of the gamblers in town lots. They have forever marred the beauty of the plan of President Washington and his great engineer.

At the close of the war many of the streets within the original boundary were blocked with unseemly structures. No uniform grade had been established, and there was nothing to enable the inhabitants to erect houses on the lines or grades of the streets. Shepherd, a native of Washington, under a temporary form of government, was made Governor of the District by President Grant, who had a rare faculty of selecting the right kind of men to do what he wanted done.

An effort was made by people of the Mississippi valley, immediately after the close of the war, to remove the capital to a more central location. It was contended that the city of Washington consisted of a straggling hamlet of mud holes and ruins altogether inadequate to be the capital of the nation. Shepherd's great work stopped the agitation. He employed engineers, resurveyed the streets according to the original scheme, and began grading, paving, and installing sewerage on a colossal plan. He did not wait for appropriations from Congress, which probably never could have been secured, but created an enormous debt each year, relying upon Congress to pay the bills. Appropriations were made from time to time to meet his vast expenditures, and all deficits created by

Shepherd, not paid by current appropriations, were made a funded loan. The usual howl of extravagance, corruption, and violation of law was raised against him. When he had done his work, and the slander of his enemies had been exhausted, he retired to the mountains of Sonora, Mexico, and engaged in mining. Late in life he paid a visit to Washington, the scene of his early achievements, where the people received him with open arms, and exhibited many marks of appreciation for the great work he had accomplished.

George C. Gorham was a forty-niner in California. He was law clerk for Stephen J. Field, who was afterward Judge of the Supreme Court of California and a Justice of the Supreme Court of the United States for nearly a third of a century. Gorham, at a very early age, developed a capacity for newspaper literature and became known to everybody on the Pacific coast. He was a leader in politics, formed his own opinions, and advocated them in the press and on the stump with remarkable ability.

In 1867 he was nominated for Governor of California, but was defeated by a few votes by a combination of Mugwumps and Democrats. He came to Washington and in June, 1868, was elected to the office of Secretary of the Senate, which he held for many years, serving until the Forty-sixth Congress. The political relations between him and Senator Cole of California were decidedly unfriendly. Gorham criticised the Senator rather harshly, using language familiar to the West, but not suited to ears fastidious.

Cole complained to a caucus of the Senate and demanded the expulsion of Mr. Gorham. The Senate caucus appointed a sub-committee to investigate the charges. Cole appeared before the committee and stated the charges, and said that Gorham had called him a bad name, which he then and there repeated. My colleague, Senator Nye, was the personification of

good humor, full of wit and repartee, and had great capacity for ready speaking.

Simon Cameron was a great friend of Gorham, and was determined, if possible, to get him out of the scrape, although things looked dark for him. Cameron, Nye, Gorham, and myself met in conference the evening before the caucus was to be held to hear the report of the committee. We decided that we were in a predicament, and that to save Gorham we would have to get up a mock fight in the Senate.

As soon as the caucus began Nye took the floor, and launched into a speech in which he belittled the charges, and showed that the names Gorham had called Cole were not epithets of contempt, but, in accordance with the quaint old customs of the West, were terms of endearment and affection. A continuous roar of laughter greeted Nye, while Cole grew wrathful.

As soon as Nye resumed his seat, I, in accordance with our scheme, eulogized Gorham as a leader of the Republican party in the West, and contrasted his record with that of Cole. As I concluded I pretended to grow very angry, and finally wound up a particularly hot sentence by advancing toward Senator Cole with upraised arm, as though I intended making a personal assault on him.

Cameron thereupon leaped between us, grabbed me by the coat-tails, and pulled me away from Cole, while other Senators, who were not in the plot, and took everything seriously, hurried up to prevent a fight. Cameron, in the midst of the excitement, moved that the caucus adjourn, which was carried with rapidity, and he received the thanks of most of the Senators for preventing a scene. This ended the incident. Senator Cole did not press his charges after that against Gorham.

CHAPTER XXVIII

Retire from the Senate and return to Nevada—Mining in the Panamint—I buy a mine from bandits, and secure their friendship—Silver cannon-balls foil the outlaws—Back to the law—The cow-boy reign in Arizona—Cattle thieves and litigation.

The means of communication between my State and Washington were slow. It generally required about fifty days to write a letter and receive a reply. I was engaged in mining operations, many of which proved disastrous, and I thought it time to retire from politics and return to the practice of law. I declined to become a candidate for reëlection to the Senate, and William Sharon was elected my successor in 1875. I remained out of the Senate two terms.

During the twelve years I was out of the Senate I mined, and practiced law. In 1875 I engaged with several capitalists, including Senator John P. Jones, in a mining enterprise at Panamint, on the west side of Death Valley, which is about seventy miles south of Bullfrog, Nevada.

Our headquarters at Panamint were in a mountain ravine where there were grass and plenty of spring water. A hundred miles of desert shut us off from the outside world. In the mountains was a narrow gorge, twelve miles long, the walls of which were very high, and so nearly perpendicular as to shut out the sunlight for almost the entire day. About noon a few shafts of brilliance would penetrate that vast darkness.

It was an admirable place for outlaws, and it had not been overlooked. A company of gentlemen engaged in the business of stopping stages, and relieving the express box and passengers of gold and other valuable incumbrances, resided in this secluded nook. They were

a picturesque crew, with wide-brimmed hats, trousers tucked into their boots, and wearing as ornaments enough guns to stock a hardware store. They were bad fellows, outcasts of society, who obeyed no laws, not even their own, for they were not organized into a "gang," but practiced their profession in an entirely independent manner. They discovered veins or lodes of the precious metals running across the edges of the ravine which terminated in this resort of the road agents.

We purchased from them most of their mines—which were no good to them, for they were too lazy to work them—at what we regarded as a reasonable price. But before selling out and abandoning their stronghold, where peace officers dared not invade, they desired to compromise with Wells Fargo to avoid prosecution after leaving the Panamint. They agreed to pay a portion of the purchase price to the express company, which had been a great sufferer at their hands, and after some negotiations I succeeded in arranging the matter so that the company absolved them from at least a part of their sins, for a cash consideration.

We then put men to work prospecting the mines, and concentrated our efforts upon two ridges about half a mile apart, where croppings on the surface were most bountiful and rich. These mines were known as the Wyoming and Hemlock. We sank two shafts to the depth of two or three hundred feet, in ore from five to eight feet wide, between well defined walls, and averaging from \$200 to \$300 per ton. We erected a very expensive quartz mill and reduction works, and continued to mine the Wyoming and Hemlock veins, but found, to our astonishment, that in each case the ore was a "pipe," and extended but a few feet from the shaft in either direction.

Out of these pipes, and the ore on the surface, we extracted about a million of money, and if we could

have continued a few months longer we would have received all our investment back without loss. The abrupt termination of the ore involved a large loss to the investors.

While our operations were in progress the outlaws were very cordial, and they seemed to like the locality so well that they could not be persuaded to go away, but hung around and acted affectionate, and sociable and kind. We were on such good terms with them that they did not hesitate to ask me when I expected to begin shipping bullion, and then I realized they had sold their mines, not with the intention of giving up the profits, but merely to save themselves the necessity of labor.

Having nothing to do, they occasionally fell out with newcomers of their own character, and used their weapons with remarkable skill. Those who lost their lives in these encounters were regarded as unlucky—nothing more. The Wells Fargo Company were in the habit of establishing express offices at mining camps which were productive, but when I tried to make arrangements for an express station at *our* mine, they said that they “guessed not.” They said they wouldn’t run any risks at Panamint, not with *that* bunch of highwaymen lying around just waiting to swoop down and gobble up every dollar in sight. We were stumped. We were getting out plenty of ore, but didn’t dare to run it into bullion, because the minute we did the property would change hands.

Finally I hit on a scheme. I had some moulds made in which a ball of solid silver could be run weighing 750 pounds. Then I began smelting the ore, and I ran out enormous cannon-balls of the precious stuff that could have bombarded a battleship. When the road agents saw what I was doing their eyes stuck out of their heads, and they remonstrated with me. They acted as though I had *cheated* them out of property, and said I was the

meanest man that ever showed up in *that* Territory, they'd swear.

"Look a-here, don't you think you are taking a mighty mean advantage of us?" grumbled one of the bandits one day. "Do you think it's right to play that game on *us*—and after we sold you the mine, too. Why, we can't haul away one of those boulders."

"All right," said I, "business is business. If you haven't genius enough to carry this stuff off, why, you'll have to suffer, that's all. You can't expect *me* to be sorry for you, can you?"

Well, those fellows fairly sweated themselves trying to lug one of these silver cannon-balls off, but they couldn't budge it. They rode off on their horses as mad as hornets, and by and by they rode back, and "cussed me out," and said I'd live to feel sorry for being such an ungenerous skunk. And then they'd ride away, ripping out the most terrible oaths, but presently they'd be back again. It seemed as though they couldn't stay away from that pile of fine big cannon-balls.

Half a dozen of them pried, and tugged, and strained, and grunted, trying to hoist one of them on a mule, but that made the mule mad, and by and by he took a hand in the proceedings, and made those outlaws feel pretty sick, and after that they gave it up, and while we were loading five of the silver cannon-balls on an immense freight wagon they sat around disconsolate and solemn, like pall-bearers at a funeral.

We hauled that silver out of there like ordinary freight, without a guard. There wasn't any place where the outlaws could have driven the wagon except to the settlements, or I suppose they would have stolen the whole thing. They could have rolled some of the silver down into a canyon, or something like that, but if they had we could have recovered it, and silver in such large packages couldn't have been circulated freely by outlaws, anyhow.

After leaving the Panamint, until 1886, I was actively engaged in the practice of law in San Francisco, Nevada, Arizona, and other mining States and Territories. For a short time I had a partner, Clarence Greathouse, a young man of attainments and brilliant intellect. He spent the later years of his life in China and Corea in various official positions. William F. Herrin was our law clerk.

I soon dissolved partnership with Mr. Greathouse, and a new law firm was created, consisting of my former partner, Judge Peter Van Clief, and William F. Herrin, under the firm name of Stewart, Van Clief & Herrin. Judge Van Clief retired from the firm, taking a position as one of the court commissioners.

Mr. Herrin and I continued in business together until the summer of 1886. He was remarkable for industry, power of discrimination, and devotion to his profession. The commanding positions which he has since occupied are the reward of real merit. During the time I had an office in San Francisco with him I was largely engaged in mining cases east of the Sierra Nevada Mountains at Brodie, Eureka, and other places. At Eureka I tried the celebrated case of Albion vs. The Richmond, which was contested in all the courts, including the Supreme Court of the United States.

The Albion was finally victorious, but the mine recovered was not valuable. During that celebrated contest I was assisted by the law firm of Baker & Wines. Thomas Wren was the principal counsel on the opposite side. Mr. Wren was a formidable adversary, and fought every inch of the ground with great ability. The victory over him was a costly one, but during my stay in Eureka on that occasion I formed many friendships, which still endure.

The litigation in Arizona was of a most exciting character. It occurred during the celebrated "cow-boy reign."

Many of the "gentlemen" who had lived in security at Panamint in defiance of the law, before they secured full freedom by dividing the purchase money of their claims with Wells Fargo, retired to Arizona after mining operations ceased at Panamint. They were joined in the grazing lands there by gentlemen of similar character from Texas, New Mexico, and other parts of the West.

The "U. P. Toughs," as they were commonly called, who had followed the building of the Union Pacific Railroad to receive from the employees of that route their surplus coin, also immigrated to Arizona.

The discovery of very rich mines at Tombstone naturally attracted the cow-boys to the Territory.

Nearly all of the mines were jumped or in conflict with rival locations. The best-paying mine of the camp was the Contention. It was in litigation with all its neighbors. It was owned by a San Francisco corporation, and Silas White, a most estimable man and miner, was the superintendent. I was employed as counsel.

The cow-boys around Tombstone frequently engaged in bloody conflicts. They were divided into clans. They "collected" stock in Texas, New Mexico, and old Mexico, herded their booty in Arizona, and sold it in California or around the mining camps. These cow-boys, of course, were the renegades. There were lots of other cow-boys who did a legitimate stock business, but they were all fighters.

A pitched battle between the "Clantons" and the "Erps" occurred in Tombstone during the trial of the Contention suit. Six of the "Clantons" were killed. I witnessed this fight—from a safe distance. As a general rule strangers who behaved themselves were not interfered with by the cow-boys. A pompous young fop, whose name I will not mention, was convicted by the cow-boys of "putting on airs." They dragged him outside the town to one of their camps one night

and compelled him to dance until morning; and he did dance, too, because if he hadn't kept his feet off the ground pretty lively one of them might have stopped a bullet.

I was in a little town called Wilcox when the first train over the Southern Pacific went through. It was a great occasion, and all the cow-boys turned out for miles around, and gaped and stared. When the train came to a stop a clerical-looking man, with a tall silk hat, called a "stove-pipe," came out on the platform to observe the scenery.

Six cow-boys got the drop on it in six seconds, and riddled it, and that passenger skipped back without waiting for an introduction, and crawled under a seat.

A general merchandise dealer came down there and started in business. He erected a long tent-house, and filled it with clothing, whiskey and cigars, and put out a gaudy sign. His name was Levy. When the establishment was opened the cow-boys sauntered in, and priced things and tried on all the clothes, and about wrecked the place, and then invited him to treat.

He was a very obstinate man, so the boys made him stand at the back of the tent with a lighted candle in his hand, and then they snuffed it out with their pistols, and it was good shooting, too, because Levy trembled so it was like shooting at a humming-bird. After this he begged off, and opened up his liquor, and the cow-boys gorged themselves and carried away whatever they wanted, and promised to come back and give him their patronage; but when the train came by about ten o'clock the next day, east-bound, Levy got aboard without delay, and gathered up what he could of his stock, and shipped *that* out of the country, *too*, and if he ever came back to Arizona again I never heard of it.

The trial of the Contention suit finally terminated in a judgment favorable to the Contention. It was plain to me that the Contention mine, although a very

rich one, would be exhausted before the title could be settled by litigation. The principal conflicts were with the companies organized in Philadelphia, San Francisco, and other distant cities. I studied the situation carefully, and came to the conclusion that the various corporations would waste their investments in litigation if no settlement could be had. I advised a consolidation.

I consulted Mr. White, the superintendent. He told me my plan was the best of all, but that not one of the companies would entertain such a proposition. I said, "All right, it's settled." I drew up the papers for all the parties to execute, and mailed them to their home offices, and telegraphed them that the disputes were settled and compromised, and that the papers were on the way to them to execute. They wanted to know *who* had compromised, and *who* had settled it. I told them it was enough for them to know that it *was* settled.

They abused me roundly, but every company executed the documents, to the astonishment of Mr. White. They paid me \$25,000 for what they and I knew I had no right to do. The settlement of this litigation so diminished the business of the lawyers that nearly all of them were forced to emigrate. They said many unkind things of me.

CHAPTER XXIX

Trip to Sonora, Mexico, in search of mines—I borrow an "Injun" dog—An old Spaniard's story—Origin of the Apaches and how they got their courage—A brave Chinaman.

While I was in Arizona a report came of the discovery of wonderful mines on a knoll in an old camp about 250 miles south of Tombstone, in Sonora, Mexico. We organized a party to visit that locality on a prospecting tour.

The Apache Indians were troublesome at that time, and it was necessary to go well armed for self-protection. We were told that a man named Clanton, whose ranch was near Charleston, about ten miles from Tombstone, had a dog that was keen on Indians and would invariably give the alarm at night if they appeared. On our way south we passed Charleston, which was situated on the banks of a small stream, and as we crossed the stream I met a station-keeper by the name of Williams whom I had known at Downieville, California. I told him I wanted to get the Clanton dog to accompany us on our trip into Mexico. He pointed to a few huts two or three hundred yards away, and said:

"The dog is up there, at 'Fort Clanton,' and if a man should go there and ask for that dog he would never get away again."

I told him I would get the dog. The whole party expostulated with me and begged me not to go. But Williams praised that dog up so, and made out that he was such a wonder, that I determined to have him. I couldn't be argued out of it. I struck out for the camp and found twenty or thirty cow-boys loitering around the bar in a little shack of a saloon. They were examining their guns, and regarded me with great astonishment when I went in. I stepped up to the bar.

"Have a drink," I said. They "cussed" me, and were the most reluctant set of men I had ever seen around a bar in Arizona. I "cussed" them back, and asked them what the bar-keeper had ever done to them that they wanted to tear the shingles off his roof. Then they took a drink.

"Where's Clanton?" I said. They said rather gruffly that he was in his cabin, near by. So then I got gruff, too.

"You tell Clanton I want to see him, and tell him I want his dog, too."

"You can't have that dawg," growled one of the cow-boys, fooling with his gun. "That's a Injun dawg, and if you ask old man Clanton for it he'll bore you."

I cursed the cow-boy, and finally went out and brought in Clanton. Then I set up another drink, and when Clanton was in a good humor I asked him for the dog.

"Who in the name of God are you?" he roared.

"My name's Stewart," said I.

"My God! you ain't old Bill Stewart, are you?"

"I'm the man."

"If that's so, take the dog, and go to hell with him!" said Clanton.

I walked out of there with the dog at the end of a rope, and the cow-boys thought I was the Devil.

We had in our party several professors and other right good men, but they would not cook. Hank Smith, now an old man in Goldfield, was one of the party, and he and I had to do all the cooking. This we did not like, but we pursued our journey to the camp in Mexico where the great mines were supposed to be located, and after prospecting for several days we came to the conclusion that we did not want any mines in that locality.

While there, at the solicitation of the natives, I visited a Spaniard who was said to be more than one hundred years old. He lived in two rooms in the ruins of what

had been an immense castle. The natives treated him with reverence and provided for him with care. He was a tall, majestic-looking man of commanding appearance, even in his extreme old age, and could speak a little English, although part of our conversation was through an interpreter. He knew the Apaches were raiding his country at the time. I inquired of him the history of the tribe. He told me they were not a tribe, but were composed of many tribes.

He said the Catholic priests who came from Canada followed up the lakes and crossed over to Santa Fe, in New Mexico, and from there to Arizona and Sonora; that for self-protection the priests selected a few young men from each tribe of Indians as they passed through the country, to act as a body-guard. These young men, he said, were granted every privilege, and they took wives from different tribes as they went along. After settling in Mexico in disobedience to the orders of the priests, they went far into the interior of the country, sometimes as far as the City of Mexico, robbed and plundered, and returned.

They captured such pretty girls as they desired wherever they found them, and consequently the Apaches were a mixed race—and a most handsome, daring race. They seldom fought in the open, said the old man, but hid in ambush to rob and plunder. About fifty or sixty years previous, he said, they turned against the priests in Sonora and Arizona and drove them out of the country. He had been friendly with them while residing in his castle and required his people to treat them kindly, consequently they allowed him to remain, and they had never disturbed him. He said his castle or hacienda was ruined by the Mexican revolutions.

After this interview we started back to Tombstone, and when we had traveled about a day and a half reached a Mexican village where we halted for lunch. A large mulatto drove the four-horse wagon in which

we had been in the habit of carrying provisions. We drove around through the camp and bought about four bushels of eggs. We had nothing left but corn meal, bacon and coffee. Hank Smith and I got into the wagon and induced the driver to go on, leaving the rest of the party to take care of themselves, intending to give those who had been riding in the wagon with us a little exercise because they had treated us so shabbily about cooking. We drove to a point about twenty miles distant, where there was plenty of water and dry wood.

We built a splendid fire, heated water, and made corn-cakes of about half eggs and half meal, and baked them in our frying pans. When we saw the van-guard of our companions approaching about a mile away, we fried bacon and eggs and boiled coffee, and by the time the party arrived, and before they had time to give us a good tongue-lashing—if nothing more—they observed the good things, and, sore footed as they were, they ate as mortal man never ate before. We had only about seventy-five miles more to travel before we reached American soil. We boiled the remainder of our eggs hard, loaded them into the wagons with the cornbread, and started on. This was all we had to eat until we reached the end of our journey.

In about a day and a half we came to the camp of a Chinaman who kept a restaurant near the border. Several of his predecessors at this place had attempted to keep a restaurant, but the cow-boys had a habit of eating without paying, and each proprietor had been compelled to give it up as a bad job.

John had two or three hundred dollars that he had earned by cooking at Tombstone. He invested it in liquor and provisions and rented the station. One day a party of six outlaws came along and demanded dinner. John cooked the dinner and waited on the table. When they had finished eating, they demanded more whiskey and cigars.

"You payee me flor what you glot, I givee you more," said John.

They said they paid for nothing, that they had a right to everything he had. John went out in the cook-room and got two pistols, and without any argument he commenced shooting at the outlaws as fast as he could, and killed five, leaving only one, and that one skipped out. After that the Chinaman was allowed to conduct his establishment in peace, and those who ate paid for what they got. John cooked us a good supper, for which we paid promptly. We camped there that night, and the next day we arrived at Tombstone a wiser, if not a better, party of prospectors.

CHAPTER XXX

A celebrated breach of promise suit—The killing of Judge Terry—Again a candidate for the Senate—Reply to attacks by Senator Fair on my character—Reëlected to the Senate in 1887—Career in that body—A total service of twenty-nine years.

During the time I was in partnership with Mr. Her-
rin in San Francisco the celebrated Sharon case attracted
universal attention.

Sarah Althea Hill, a bright and attractive young
woman from Missouri, asserted that she had a written
contract of marriage with Mr. Sharon, who was then
a man over sixty years of age. He claimed to be a
resident of Nevada, which gave the Circuit Court of the
United States jurisdiction, Miss Hill being a resident of
California. Sharon brought suit to set aside the alleged
contract. Immediately thereafter, Miss Hill brought
suit for divorce in the State Court, demanding her rights
as a wife and her share of the common property; as
by the law of California the property acquired during
the marriage belonged to the husband and wife in equal
parts.

A famous lawyer in San Francisco, William L. H.
Barnes, was applied to by Miss Hill to act as her
attorney, as afterward came out in the evidence.
General Barnes, as he was called,—I believe he had
been in the militia,—telephoned to Mr. Sharon pro-
posing to defend him against Miss Hill.

Mr. Sharon employed the General, who managed to
make a very notorious affair out of the controversy. By
the statutes of California either party could subpoena
the other after summons was served and take his depo-
sition. This was sometimes resorted to to commit the
opposite party to a certain line of prosecution or defense.
The statutes also made it optional with either party to

have the divorce proceedings kept secret and tried by the court.

General Barnes was anxious that the proceedings should be public, and Miss Hill and her counsel were equally desirous that the trial of a poor girl against a millionaire should be placed before the people.

Miss Hill employed George W. Tyler and David S. Terry as her counsel. Both of these gentlemen were somewhat aggressive and of undoubted courage. Barnes blustered and spent a great amount of money in all sorts of proceedings, but when Terry and Tyler remonstrated he lowered his flag in the dust in a manner not in harmony with his ferocious bearing in the start.

The proceedings were conducted by Barnes from bad to worse, he submitting to constant rebuffs without an adequate show of courage. The sympathy of the people was with Miss Hill. Judge Sullivan, at the conclusion of the trial, gave judgment in favor of the plaintiff, Miss Hill, and against the defendant, Sharon, for all she demanded in her complaint.

The case which Mr. Sharon had brought in the United States Court was still pending, and as it was commenced first that court had a prior jurisdiction, and the whole matter was still open for trial before Circuit Judge Sawyer.

Mr. Sharon called on me, asking me what could be done. I told him the case could be tried in the Circuit Court as if nothing had been done in the State Court, and that if he could win it in the Circuit Court the judgment of the State Court was of no value.

He employed me to take charge of the case in the Circuit Court, and as it was a case of equity to set aside the alleged contract, testimony was taken before a court commissioner. Sometimes I conducted the proceedings on one side and Judge Terry on the other. Miss Hill was always present. Judge Evans, who had assisted Mr. Barnes, was with me part of the time.

Miss Hill was quite violent at times during the taking of the deposition, and sometimes drew her pistol on me; but Judge Terry quieted her down and the proceedings were conducted in a very thorough manner. I produced much evidence that had not been produced in the State Court, and made what seemed to me a demonstration against the genuineness of the contract.

I did not know at the time I discussed the character of Miss Hill before the court that her counsel, Judge Terry, contemplated marrying the woman; but some two or three weeks after this argument, the case having been decided against Miss Hill, and in favor of Mr. Sharon,—and Judge Terry and Miss Hill having been married in the mean time,—I accidentally met Judge Terry. We bowed to each other, but neither spoke, no explanation being possible.

In subsequent proceedings to carry the judgment of the Circuit Court into execution, Judge Field, of the California Supreme Court, of which Judge Terry had once been a member, presided. An unpleasant scene occurred in the court, ending in Judge Terry and his wife being committed by Judge Field for contempt of court, and they were confined in the Oakland jail for several months. Terry was very bitter.

The following year, Judge Field, on his way over the State on judicial business, was eating breakfast one morning at a little place called Lathrop, one hundred miles from San Francisco. David Nagle, a deputy marshal, was seated at the same table. Judge Terry entered the room, saw Field, walked up to him and slapped his face, and Nagle shot him dead. Nagle went free on the ground that he had a right to protect a Justice who had been assaulted by an angry man.

I closed my office in San Francisco, and further proceedings in the matter were turned over to Mr. Herrin, who managed the case with skill and ability; and I confined my operations to the State of Nevada.

Although our business was prosperous, I decided to dissolve partnership and become a candidate for reëlection to the Senate in the summer of 1886.

While I was in business with Mr. Herrin we had a young clerk, Isaac Frohman, in our employ. We gave him the option to remain with Mr. Herrin, or accompany me to Nevada and Washington in the event I should be elected to the Senate. He decided to go with me. He remained with me until I had served two years in the Senate, when his fidelity to duty, his industry, and ability satisfied me that I ought not to retain him in the position of secretary. I made arrangements for him to enter a law college in Washington, and at the end of two years he was awarded by the faculty the first prize for his essay on law.

He graduated with high honors and went to San Francisco, where he engaged in the practice of his profession, and has achieved the success he richly deserved. He was one of the most faithful and efficient assistants I ever had, and our friendship has never been marred by the slightest misunderstanding.

My principal reason for deciding to become a candidate for the Senate was the act of John Sherman smuggling the silver dollar out of the list of coins in the Mint Act of '73, and I felt it my duty to return to the Senate and do what I could to rectify the crime which was clandestinely committed without my knowledge, or the knowledge of the American people, in the passage of that infamous mint law.

After I had announced myself as a candidate, James G. Fair undertook to stab me in the dark by furnishing the money to circulate villainous attacks upon my private character, for which there was no foundation whatever. I told the friends of Mr. Fair to induce him to leave his home in San Francisco and meet me on the stump in Nevada for the purpose of discussing both our private and political characters. He would not do so, and

several would-be candidates for the Senate visited him in San Francisco. What arguments he used with them, whether moral or financial, I do not know, but they all, with one accord, made war on me. They alleged that I, being in the Senate at the time silver was demonetized, was responsible for that outrage.

I denounced that charge, and promised the people that if elected to the Senate I would prove that the crime of demonetizing silver was unknown in the Senate, and that it was the work of a secret conspiracy; and that I would prove the charge to the satisfaction of John Sherman himself. The records will show how faithfully I kept that promise.

After a most vigorous campaign in the summer and fall of 1886, the Legislature met in January, 1887, and elected me to the Senate as the successor of James G. Fair. I was elected my own successor the two following terms, which I served, making a continuous service of eighteen years, and a total service of twenty-nine years.

So far as Nevada is concerned, I derive much satisfaction in the consciousness that I have served my State on all occasions to the best of my ability; that I have looked after the interests of all the people without regard to personal or political differences; that I have secured much legislation beneficial to the State; that I have prevented the sale of mines at auction and secured the confirmation of miners' rights according to their rules and regulations; that in connection with my colleague, Senator Nye, I secured the establishment of the Mint at Carson.

Later on I prevented the conversion of the Mint into a public building and secured mandatory legislation with an additional appropriation for the construction of the present Government Building at the capital. I secured the passage of the law for the survey of the public lands, none of which had been surveyed, or sold, or brought into the market, at the time the State was admitted.

It would extend this narrative to unreasonable length to recite the particulars of what I did for the benefit of my State during my service in Congress, but I will mention a few other matters which I thought at the time, and still think, were of vital importance to the State.

I secured the use of the ninety-thousand acre grant to Nevada when she became a State, for the establishment of an Agricultural College. A building was first erected at Elko, but there was not sufficient money to establish a college or school, and the people of Reno made a proposition to the State, which was accepted, for the removal of the institution to that city.

By the liberal contributions of the people of the county of Washoe, enough was added to the State and National funds to erect the first college building where it still stands. The income from the land grant was then about \$7,000 a year, which was spent in the salary of the president and a few other matters. Little or no teaching was done, but the saloons and other places of amusement about Reno did not suffer for want of their share of the small appropriation.

After I was elected in the winter of 1887 I labored with the Legislature for over two months to rescue the institution from bad government and place it on the footing of possible success.

Senator Morrill of Vermont devised a scheme during my service to divert a large share of the proceeds of the public lands to the establishment of agricultural colleges throughout the several States, a former scheme of issuing land transcripts to the States having practically failed on account of the Civil War. It was contended that his plan interfered with the ultimate sale of the public lands, and consequently it was defeated session after session.

When Congress met, Hatch of Missouri, a great friend of education, and one of the best men in Con-

gress, had a comprehensive system to aid agricultural colleges from the proceeds of the sale of the public lands. It was antagonized by the Morrill Bill.

I studied the two bills and called on Senator Morrill and pointed out to him that what he desired, and what the member from Missouri desired, were practically the same, and that the only objections to his plan, for which he had labored so long, were some provisions in his bill which the opposition contended would embarrass if not interfere with the disposition of the public lands.

He said he did not intend any such thing, and that he was perfectly willing to support a bill which was free from the objections urged against his. I suggested an amendment which obviated the difficulty and to which all agreed. This opened the way for the passage of a law which gave the University of Nevada fifteen thousand dollars the first year, increasing at the rate of a thousand dollars each year for ten years until it reached the sum of twenty-five thousand dollars a year, which the University still enjoys.

I then, with others, labored for the passage of a law creating an experiment station in each agricultural college, under which the University receives fifteen thousand dollars a year, making the round sum of forty thousand dollars a year in addition to the proceeds of the original 90,000-acre grant.

The State has added largely to these Government donations, and the institution has been in the past most beneficial to the State, and of a right ought to be a continuous blessing. Whether or not it shall be depends upon its management, which, I am sorry to say, is now much criticised. Some incidents occurred during my canvass of the State in the fall of 1886 which illustrate the condition of the country schools of Nevada before the establishment of the State University.

Although Nevada had an ample school fund, resulting from the proceeds of the sale of two million acres

of agricultural land, received in lieu of the 16th and 36th sections granted to the several States, it was difficult to obtain teachers. There was no institution in the State where persons desiring to become teachers could be qualified for that purpose, and consequently nearly all the teachers were imported from California, although the young men and women in Nevada were anxious to be elected teachers in the public schools.

I had a public political meeting at Candelaria, Esmeralda County, Nevada. The room in which the speaking took place was prepared for a dance after the political exercises were over, and the young people insisted that I should take part in their social entertainment.

The leader of the ladies was a beautiful girl, nineteen or twenty years old, whose sprightly and vivacious manner made her a natural favorite among men and women. In the corner stood a modest-looking, prepossessing young woman, and I observed that she turned her head to wipe away the tears from her eyes. I inquired the cause of one of the ladies. She said the young lady who was leading the festivities, and telling everybody what to do, was a candidate for teacher, but that the trustees refused to appoint her and employed the young lady in the corner, who was left out of the entertainment.

I immediately approached the Candelaria girl and told her I wanted an opportunity to speak to her. She readily granted my request, and I informed her what I had been told by my lady friend, and I said to her:

“The young lady standing there is not responsible for your own defeat. I understand that she was educated for a teacher and has no other means of support, and would naturally come to Nevada or go most anywhere else to fill a position of that kind. You are too brave a girl, with too good a heart, to punish her under the circumstances.”

"How can I help it?" she replied.

"Go up and put your arm around her, introduce her to the people here, and make her have a good time," I said. "You will feel better for it, and you know you ought to do it."

"I will do it." And she did it in the most enthusiastic and graceful manner, and then we all had a good time the remainder of the evening.

When I entered the Senate there was an Indian reservation at Pyramid Lake which was then receiving, and has since received, \$13,000 or \$14,000 per year, which I then regarded, and still regard, as a calamity to the Indians.

Although I have had much to do with the Indian Service in Congress, serving as I did as chairman of the Committee on Indian Affairs, I still think, as I then thought, that the reservation system is a mistake. Confining Indians to a reservation and supplying them with the necessities of life simply demoralizes them; but I was anxious to educate the young Indians and prepare them for the duties of citizenship. I took measures to establish an Indian school at Carson, Nevada, and have done all in my power to secure the education of the Indians of Nevada in such matters as will make them self-sustaining.

The beneficial effects of compelling the Indians to take care of themselves are strongly illustrated by the fact that the Indians from the reservation are by no means equal to the Indians who have taken care of themselves by herding stock, cutting wood, or doing washing. Often when visiting the institutions I am able to select Indians not raised on the reservation from those who were by the superiority of the former in every respect.

I am glad to say that the Indian Bureau has reached the conclusion which I entertained when I first entered political life—that the Indians cannot be civilized on

reservations, but that they must be individualized and allowed to do for themselves, or they will perish by idleness, disease, and stagnation.

CHAPTER XXXI

Return to the Senate—The demonetization of silver—Exposure of John Sherman—How he deceived Congress—I offer a bill to restore silver.

When I returned to the Senate March 4, 1887, the silver question was agitating the country. The silver question grew out of ignorance of the money question by the many; and greed and dishonesty of the few. Aristotle twenty-two hundred years ago told the world what money was. He said it was the creation of law, and that whatever the law declared to be money was the best money, upon whatever material the edict of law was stamped. The vicious few who desired to monopolize the material out of which money was made declared that material, not law, was money. The material which passed as money often changed because it was too bulky for use or too small in quantity.

Nearly every kind of property has been used as money, such as shells, cattle, slaves, and the like. Nearly all the metals have been used as money—iron, lead, copper, etc. Silver was used by the ancients long before gold, but for the last two thousand years both gold and silver have been used as money. The quantity of these metals has determined the rise and fall of nations.

When the mines have been productive the world has progressed in the arts of civilization. When the mines have failed, want and decay have followed with as much regularity as night follows day. The most conspicuous civilization of ancient times existed when Rome was at the zenith of her power. At that time she used both gold and silver as money. The coins of the Empire, according to the best evidence that now

remains, amounted to about eighteen hundred millions of our money. The mines of Spain, Italy, and Greece were closed, and for about fourteen hundred years there was practically no mining. Contraction of the money volume made money dearer, because it was scarcer, and nobles and serfs occupied Europe until some time after the discovery of the New World.

More than four hundred years ago gold and silver were discovered in Mexico and South America; then commenced the Reformation. Within thirty years after that great discovery, a Luther appeared. More money had enabled him to visit Rome and expose the wickedness, as he declared, of the Church government. More money from the New World breathed new life, as it were, into the Old for centuries.

At the commencement of the nineteenth century a change took place. The Spanish-American wars greatly diminished the supply of gold and silver from Mexico and South America, and produced universal distress in Europe and America.

War and famine marked the history of Europe from 1800 to 1850. The United States was partially exempt from the contraction which followed the failure of the supply of gold and silver, by liberal land laws which induced European immigrants to come and occupy the great Mississippi Valley, and bring with them their families and what little money they might possess. This influx of population and supply of money relieved the United States from the terrible effect of a money famine which produced universal distress in Europe.

The discovery of gold in California in 1848, and a like discovery in Australia two years later, created great excitement throughout the world. The people of the United States, more than two hundred thousand strong, rushed to the new El Dorado of California; and almost a like number from Great Britain flocked to the mines of Australia. The influx of gold was quick

and enormous. The people generally rejoiced, because it revived business and made good times. But in the midst of the enthusiasm of the masses De Quincy proclaimed to the world in fervid eloquence that the influx of gold was destroying civilization, demoralizing the world, and would result in ultimate ruin.

Chevalier, one of the most prominent financiers of Europe, published a book in which he contended gold must be demonetized; that the continuous use of gold as money would work universal repudiation; that it was dishonest and wicked to pay debts in gold under such a flood as was coming from California and Australia. His voice was potent. Germany and Holland closed their mints to gold and adopted the silver standard. Maclaren of England, representing the bondholders of the British Empire, made the same argument in the early fifties against the use of gold, which has since been used by gold standard contractionists far more than thirty years against the use of silver. In his argument in favor of the bondholders he said:

Our neighbors on the Continent received the announcement of these remarkable discoveries in a different spirit; from the first they have considered them of the greatest importance and have expressed great solicitude for the maintenance of the standard value.

Immediately that the fact of a great increase in the production of gold was established, the government of Holland, "a nation justly renowned," says N. Chevalier, "for its foresight and probity, discarded gold from its currency." "They may," says the same author, "have been rather hasty in passing this law, but in a matter of this nature it is better to be in advance of events than to let them pass us."

France appointed a monetary commission which considered the question of demonetizing gold for several years, and finally reported that it was necessary to demonetize one or the other of the precious metals; that

the supply was violating contracts by depreciating money with which debts were paid.

While the agitation for the demonetization of gold was continuing, the Comstock was discovered. About that time, Louis Napoleon, or his advisers, conceived the idea of unifying the currency weights and measures throughout the civilized world. He accordingly called a conference of the nations to meet in Paris to consider the subject.

The United States appointed Mr. Ruggles of New York as a delegate to that conference. Mr. Ruggles, before his departure for Paris, gave a dinner to discuss the general subject. I was invited to that dinner, and met professors and men from different sections of the United States. The advantages of uniform weights and measures and a uniform currency were favorably discussed. Mr. Ruggles soon after departed for France.

John Sherman of Ohio, chairman of the Committee on Finance, left the United States about the same time for England. He spent several weeks in London in consultation with the bondholding class connected with the Bank of England, and was so completely in accord with that fraternity that they had his portrait painted and placed in the great bank, where I suppose it still remains.

He went to Paris, where he spent several weeks, and wrote a letter to the Emperor in favor of his plan of unifying the currency—provided the single gold standard was adopted.

The conference finally passed a resolution recommending the single gold standard for all nations. It may be asked how the bondholders of Paris and London were induced to change their minds and favor gold instead of silver. The answer is easy.

The Comstock lode had been discovered some years before, but the great bonanza was just uncovered, and Mr. Lindeman, Director of the United States Mint,

reported in London that there were fifteen hundred millions of silver in sight in one mine on the Comstock.

In the mean time, the output of gold had declined, and it was the flood of silver that they feared, because it must be remembered that dealers in bonds and credits have from the beginning of the world desired to make money dear by making it scarcer.

They first feared a flood of gold and wanted to demonetize that metal to make money scarce. Then came the flood of silver, and they feared that more than gold.

John Sherman undertook the duty of carrying into effect in the United States what he and the conference in Paris had recommended. A cunning plan was invented to accomplish that purpose.

John J. Knox, Comptroller of the Currency, a crafty, scheming, money-making individual, to whom I have on many occasions paid my respects, got up a codification of the mint laws. I have no doubt the scheme was conceived for the sole purpose of clandestinely omitting the silver dollar from the list of coins.

John Sherman introduced the bill, and continually talked about the silver dollar, and the inscriptions thereon, etc. But when it became a law it was found there was no silver dollar in the bill, the trade dollar containing 120 grains taking the place of the silver dollar, and thus silver was demonetized.

If anybody doubts he did that, and has patience to examine the debates between him and myself, it will be seen how he falsified his statements. It will be seen that the manipulators would take either gold or silver, or any other material, provided they could make money scarce and dear and property cheap, and thus enslave the masses and enrich the classes.

If the selfish purposes of the fetish worshiper of the material upon which the Government stamps money could be exposed, the people might investigate the

question and compel the Government to stamp money upon material which the unscrupulous could not monopolize.

While civilization has been subject to the fluctuation of the product of the mines for the last two thousand years, by which fluctuation speculators in money have grown rich, and the people have been reduced to poverty, the Shylocks have not always guessed right.

In 1896, when poverty and misery were well-nigh universal in the civilized world, a marvelous output of gold changed conditions.

In the last decade there have been in round numbers three thousand millions of gold added to the circulation of the civilized world, and prosperity exists everywhere, although bondholders have not reaped their usual harvest. The depreciation of gold during the last ten years has fully equaled the interest on debts.

What Chevalier and Maclaren feared fifty years ago for the creditor class of that day has occurred to the bondholders of to-day by the recent output of gold.

John Sherman's conspiracy was more successful. To avoid the depreciation of bonds by an increase of money derived from silver, the conspiracy of 1873, which demonetized silver when the output of both gold and silver furnished a scanty supply of money, secured enormous gains to the rich and robbed the people for more than twenty years by decreasing prices of property and increasing the obligations of debt.

If the present output of gold continues to increase, the power of the creditor class of the world will be exerted to the utmost to demonetize gold (as by repudiation), and they will endeavor to adopt some other material less abundant which will again depreciate the value of property and enhance the value of money and bonds.

On December 15, 1887, I offered a bill to restore silver to its place as a money metal, and made an elaborate speech. My bill was referred to the Commit-

tee on Finance, where it slept, but I continued to bring the question before the Senate on all proper occasions.

John Sherman of Ohio, whenever the subject was alluded to, declared that the unfortunate Mint bill had been passed after full discussion, in the light of day, and that silver was deliberately and intentionally demonetized by Congress.

On the 8th of March, 1888, I proved in the Senate by quotations from Mr. Sherman's speech on the bill to codify the mint laws from which the silver dollar was omitted, and by which silver was demonetized, that Mr. Sherman, then chairman of the Committee on Finance, deceived the Senate. He told them there was a silver dollar provided for in the bill, which was not true. He said:

This bill [the bill which demonetized silver] proposes a silver coinage exactly the same as the French and what are called the associated nations of Europe, who have adopted the international standard of silver coinage; that is, the dollar provided for by this bill is the precise equivalent of the five-franc piece.

There was no such dollar in the bill, Mr. Sherman attempted to explain. I told him, "The question is what you did say, not what you now think you meant to say." I then read to the Senate an amendment offered by him to the bill demonetizing silver when that bill was under consideration, which contained the following language:

That upon the coins of the United States there shall be the following devices and legends: Upon one side there shall be an impression emblematic of liberty, with an inscription of the word "Liberty" and the year of the coinage, and upon the reverse shall be the figure or representation of an eagle, with the inscription "United States of America" and "E Pluribus Unum" and a designation of the value of the coin; but on the gold dollar and three-dollar piece, *the silver dollar*, the half dollar, the quarter-dollar, the dime, five, three and one-cent pieces the figure of the eagle shall be omitted; and on the reverse of *the silver dollar* * * * .

I also called Senator Sherman's attention to other statements which he made to the Senate when the bill by which silver was demonetized was under consideration, all of which were calculated to deceive the Senate, and make it appear that the silver dollar was in the bill.

My discussion with Senator Sherman clearly proves that he deceived the Senate. I also proved from the Record that the House of Representatives was also deceived by Mr. Hooper, chairman of the Committee on Coinage, Weights and Measures. I gave Mr. Sherman ample opportunity to exculpate himself from my charge that the bill demonetizing silver was passed through both Houses of Congress without the knowledge of any member thereof not on the committees having charge of the bill.*

*Cong. Record, 1st Sess., 50th Cong., Vol. 19, Part II, pp. 1850-1-2-3.

CHAPTER XXXII

Nomination of Benjamin Harrison—How John Sherman was beaten for the Presidency—Harrison's pledge for free coinage and how he repudiated it—Debate with Reagan—Lodge's "Force" bill.

In June, 1888, the National Republican Convention was held at Chicago. I had the honor to be a delegate from Nevada to that convention. John Sherman of Ohio was the leading candidate. There were quite a number of other gentlemen in the field, among whom James G. Blaine, Russell A. Alger, and Benjamin Harrison were most prominent.

In combination with the advocates of restoration of silver in the West, Nevada took an active part in the defeat of Mr. Sherman. My exposé of his duplicity in smuggling the silver dollar out of the list of coins in the Mint bill had been extensively circulated, and the friends of bi-metalism concentrated their efforts to defeat John Sherman of Ohio. They were aided in their efforts by General Alger, who secured a large part of the colored delegation from the South which were brought to Washington by Mr. Sherman, who supposed he was entitled to their votes, first, last, and all the time.

In the second volume of Mr. Sherman's biography, page 1029, he deliberately accuses General Alger's friends of procuring votes from the South which belonged to him. He says:

I believe, and had as I thought, conclusive proof that the friends of General Alger substantially purchased the votes of many of the delegates from the Southern States who had been instructed by their conventions to vote for me.

Mr. Sherman also says on the same page of his biography:

I believed then, as I believe now, that one of the delegates from the State of New York practically controlled the whole delegation, and that a corrupt bargain was made on Sunday which transferred the great body of the vote of New York to General Harrison, and thus led to his nomination.

What reason Mr. Sherman had for accusing the New York delegation of corruption in the transfer of their votes to General Harrison, it is difficult to understand. They certainly did not transfer them from Mr. Sherman, for he informs us in the same connection that he did not at any time receive a vote from the State of New York, although eight ballots had been taken previous to the Sunday mentioned by Mr. Sherman.

Mr. Sherman appeared to be ignorant of the determined fight made against his nomination by delegates who resented his duplicity in demonetizing silver.

The friends of General Harrison, or General Harrison himself, it matters not which, were untrue to the silver men and secured their influence by false representations. They told me that Harrison was in favor of remonetization of silver; but that in view of the large number of advocates of the gold standard in the convention, he could not pledge himself to recommend to Congress free-coinage legislation; but that he would not use the influence of the Administration against legislation for the restoration of silver, nor would he veto any bill that Congress might pass to rehabilitate silver.

I wrote a statement embodying what his friends said to me, and told them to take it to General Harrison and obtain his consent or dissent to the proposition. They returned to me with the positive assurance, as they alleged, direct from General Harrison, that he would not use his influence, if elected President, to prevent the passage of a free-coinage bill, and if one were passed by Congress he would gladly sign it.

When it was known that the silver delegates in the

convention would unanimously support General Harrison, the New York delegation and other large delegations were at once transferred to him, and his nomination was secured.

The active coöperation of Grover Cleveland in the manipulation of the currency by the Rothschilds of London and J. Pierpont Morgan of New York was very unpopular with the people. He was accused by both leading Democrats and Republicans of having betrayed his party and of having turned his back upon the Democratic platform of 1884 upon which he was elected. That platform declared:

We believe in honest money, the gold and silver coinage of the Constitution, and a circulating medium convertible into such money without loss.

That declaration secured Mr. Cleveland's election and brought the silver men to his support. The platform and pledges upon which Harrison's campaign was made were in sharp contrast with the positions taken by Cleveland's Administration. Congress remained in session during a large portion of the campaign of that year.

On September 4, my friend, Senator John H. Reagan of Texas, and I had a running debate with regard to the two candidates for the Presidency, Cleveland and Harrison. Reagan had made up his mind to vote for Cleveland, notwithstanding his betrayal of the Democratic party on the money question. I said in the course of the debate:

I am sorry to see that my friend from Texas contemplates with composure the spectacle that is before him with the election of Mr. Cleveland, if that calamity could possibly happen.

Mr. Reagan replied:

I am obliged to the Senator from Nevada for his kindness and sympathy and sorrow for my unfortunate position. I simply ask him to reverse that picture and look through the other end of the

glass. The Republican party, which brought about the condition of things which contracted the currency, which demonetized silver, and which is responsible for it, has no condemnation from him, and he is supporting that party when he knows that the Democrats in both Houses of Congress hold the same views that he does, and yet he fails to act with them, and acts and votes with the party that has produced the very condition of things which he laments and condemns.

MR. STEWART: Will the Senator allow me a word?

MR. REAGAN: Certainly.

MR. STEWART: I know two things which reconcile me to my position. We know that Cleveland will veto any bill giving relief, or looking to the remonetization or recoinage of silver, and we know that Harrison will not.

MR. REAGAN: I do not see how the Senator knows that. I simply want the Senator to reverse the glass and look at himself supporting and vindicating a party that brought these things about, and refusing to act with the great body of the Democratic party in correcting them. I shall express no sorrow for it. He does not want that. If he does not mind, he will express the sorrow for himself after a while.

MR. STEWART: I like my condition. The Republican party has declared in favor of the use of both gold and silver as money—not as a depreciated coinage, but as money.

At that time I believed that Harrison was an honest man and would stand by the pledges his friends made to the silver delegates in the National Convention, and that he certainly would be guided by the platform of his party. I was deceived and disappointed. After his election he demanded legislation repudiating the use of silver for any purpose.

The Republican convention which nominated Benjamin Harrison placed in its platform a pledge in favor of silver much stronger than that which the silver men received from the managers of the Harrison campaign. The plank in the Republican platform upon which he was elected declared, as before stated, that:

The Republican party is in favor of the use of both gold and silver as money, and condemns the policy of the Democratic administration in its efforts to demonetize silver.

This plank I drew myself after an all-night session of the Committee on Resolutions, discussing the question of silver. The Committee on Resolutions and the entire convention were deliberately pledged to the foregoing proposition.

Harrison, after he was elected President, not only disregarded the pledge he had made to the silver delegates in the Chicago Convention which secured his nomination, but utterly repudiated the platform upon which he was elected, and did all in his power to prevent silver legislation.

Congress had more respect for the National platform than the Chief Executive. On July 14, 1890, the House having passed a bill which was substantially a free-coinage bill, it was apparent a majority of the Senate were favorable to the House bill.

A compromise measure was prepared by the Committee on Finance of which John Sherman was chairman. As the organ of the committee he reported the bill, and it was consequently called the Sherman Act, although he was not in favor of it or any other legislation looking to a further use of silver. His excuse for reporting it was that it was necessary to defeat free-coinage legislation. The bill enacted:

That the Secretary of the Treasury is hereby directed to purchase from time to time silver bullion to the aggregate amount of four million five hundred thousand ounces, or so much thereof as may be offered in each month, at the market price thereof, not exceeding one dollar for three hundred and seventy one and twenty-five hundredths grains of pure silver, and to issue in payment for such purchases of silver bullion Treasury notes of the United States to be prepared by the Secretary of the Treasury, in such form and of such denominations, not less than one dollar, nor more than one thousand dollars, as he may prescribe.

This law gave great relief and created comparative good times until the Cleveland raid on the finances of the country.

President Harrison not only operated with the fren-

zied financiers of New York and London in manipulating the money of the western world to rob the masses, but he devoted his Administration to an attempt to confer on the Federal Government control of all elections, local and national.

Henry Cabot Lodge of Massachusetts, then a member of the House, coöperated with the President, and on June 14, 1890, introduced a bill* to amend the Federal election laws of the United States, which was referred to the select committee on elections of President, Vice-President, and Representatives in Congress. This bill was so amended by the committee, and by Mr. Lodge on the floor of the House, that it practically placed all elections under special officers appointed by the President, backed by the military arm of the Government. It seemed to me that its passage would subvert the Government of the United States and substitute military dictation for civil authority in elections in the several States.

The contest in the House was elaborate and protracted, but finally on July 2, 1890, the bill passed the House by a vote of 155 to 149. There was a majority of about six in favor of the bill in the Senate. It was an Administration measure and Republican Senators naturally supported it. It was a long bill, sweeping in its provisions, and sufficiently ambiguous to puzzle ordinary readers. I found by my conversation with Republican Senators that very few of them possessed any real knowledge of the provisions of the bill.

Benton McMillin of the House, afterward Governor of Tennessee, called at my rooms in the Shoreham Hotel shortly after the bill passed the House and found me examining its provisions. After some preliminary conversation he asked me what I thought of the measure, and if I thought it would pass the Senate. I told him I was very much opposed to the bill, but that

*H. R. 10958, 51st Cong., 1st Sess.

there was only one chance of defeating it in the Senate, and that was by delay.

I said to him that there were many important measures pending before the Senate; the tariff bill, and others of almost equal importance. If it could be so arranged as to consider those bills before the election bill, commonly called the "Force bill," so that it would not be considered in the long session, it might be defeated in the short session by debate and parliamentary tactics. I told him to tell his friends to keep quiet and supply what aid they could in placing the consideration of the Force bill after the tariff and other bills were disposed of. He reported to me from time to time such facts as he could learn with regard to the order of business. Finally a caucus of the Republican Senators was called to arrange the order of business. I did all in my power to assist every Senator who had a favorite measure to advance its consideration, and it so happened that the Force bill was placed low on the calendar of measures to be considered, and was not reached during the long session.

Senator Gorman of Maryland, the leader of the Democratic party in the Senate, managed the opposition to the bill with skill and ability from the beginning. We consulted together constantly as to the mode of procedure.

Congress convened on December 1, 1890. The President in his message argued at some length in favor of the Force bill, and urgently recommended its passage. On December 3 the Senate resumed consideration of the Force bill, and Mr. Hoar immediately requested that that portion of the President's message relating to the Federal election law be read, which was accordingly done.

The message was an urgent appeal to Congress to pass the Lodge Force bill and place the control of elections in the Federal Executive. The bill was debated from time to time until the holidays intervened.

CHAPTER XXXIII

Force bill resumed—Side-tracked for silver with aid of new Senators from Idaho—Trip to New York to pair Senator Stanford against Force bill—I outwit Senator Aldrich—Confirmation of L. Q. C. Lamar.

On January 5, when the new Senators from Idaho, McConnell and Shoup, took their seats, I inquired of them if they would vote to take up the Silver bill if I made a motion to that effect. They assured me they would. It so happened that with the Senators then present their votes would make a majority to take up the bill. Senator George of Mississippi had the floor on the election bill and Senator Harris of Tennessee was in the chair. I informed Mr. Gorman of the situation and asked him if he would notify Senator Harris of the motion I was about to make, and ask Senator George to yield for the purpose of the motion. He reported that it was all right, and I moved to take up the Silver bill. No debate could be had on a motion to take up a bill, whatever business might be before the Senate. Senator Harris promptly submitted the question to the Senate. Mr. Hoar demanded the yeas and nays, which were ordered.* The motion was carried, and the Silver bill was taken up, 34 to 29.

The Silver bill, in connection with other necessary bills, occupied the attention of the Senate until January 16, 1891, when the Senate again resumed consideration of the Force bill. I then addressed the Senate as follows:†

Mr. President, I desire to call the attention of the Senate to the constitutional provision under which this legislation is proposed. We have the power conferred by the Constitution to legislate as to

*Cong. Record, 51st Cong., 2nd Sess., Part I, p. 912.

†Cong. Record, 51st Cong., 2nd Sess., Part II, p. 1642.

the time, place, and manner of electing Representatives in Congress. The only provision of the Constitution that gives warrant for such legislation is found in the fourth section of the first article of the Constitution, and reads as follows:

“The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the place of choosing Senators.”

The entire warrant for any legislation on this subject must be found in this provision. I am aware of the principle of construction that when power is given to Congress by the Constitution to do a given thing, that power carries with it by implication the doing of all other things necessary to accomplish that purpose. We have the power to make regulations or to alter the regulations made by the State Legislatures as to the election of Congressmen, and there our power ends. We have no power to deal with the election of State officers; we have no power to deal with the election of electors of President and Vice-President except to fix the time of such election.

Now, if in exercising the power conferred to alter the State regulations as to the election of Members of Congress, we interfere with powers that do not belong to Congress, but are especially reserved by the States, we are passing the bounds of our functions and violating the Constitution.

Is it true that, because Members of Congress are elected at the same time with State officers and with electors of President and Vice-President, therefore the Federal Government may regulate in any manner State elections, may inspect ballots for State officers and supervise and regulate all the proceedings governing local elections? Is the power to fix the times, places, and manner of holding Congressional elections sufficient warrant for all that? Does it give that power? The answer must be in the negative.

What is the condition of the legislation of the several States with regard to the times and places and manner of holding Congressional elections? Are they not held in nearly all the States at the same time as the State elections, and must they not of necessity remain so until after the next general election? If this bill in its present form should become a law, would not the Federal officers whom it creates be present, supervise and regulate all State elections two years hence? The Presidential electors are elected, I believe, in nearly every State in the Union at the same time as Representatives in Congress are elected. Is not the machinery of this bill especially calculated to have present a horde of Federal officers, paid with Federal money, to supervise not only Congress-

sional elections, but elections of electors of President and Vice-President?

It must be remembered that Congress may fix the time of electing electors of President and Vice-President, and if that time be fixed permanently on the same day Congressmen are elected then the supervisors of elections will not only control the election of Congressmen, but will necessarily manage and control the election of electors of the President and Vice-President. And for the present, and until the States shall have fixed some other day for their general elections, the elections to be supervised by Federal officers under the provisions of this bill must include Members of Congress, Presidential electors, and all State officers. Besides, many of the States have fixed the time for elections in their constitutions, which cannot be changed for years. The practical result of this bill will be to place the control of all elections, State and National, in charge of Federal officers.

We are not children. All of us have seen elections enough to know that a horde of officers at the polls with a purpose to control elections, having the right to inspect the ballots, having the right to arrest, having the right to keep order, having the right of supervising everything, will exercise an overwhelming power at a general election and influence the result as to every officer voted for at such election. We all know that an army of officers at the polls, backed by the prestige of the General Government, must dominate local elections and affect the result of the election of State officers of every State in the Union. If this bill, which mixes the election of Members of Congress with all other elections, should pass, a spectacle will be presented of the imperial power of the General Government dominating local elections throughout the United States. The elections must be commingled at the next election in every State, and inasmuch as constitutions must be amended and constitutional laws be changed before the States would be able to separate them, if this bill becomes a law there is little hope that hereafter local elections will be free from Federal control.

The spectacle will be presented by the passage of this bill of a President appointing marshals and judges to assist him in a reëlection to his high office. This army of officers will also be interested in retaining their places under the Executive who appointed them.

Is not the Presidential office strong enough? Has it not the veto power, expanded from a dead letter to a living power that controls at least one-third of the votes of both Houses of Congress? Is it not a living power that dispenses patronage the like of which and the extent of which were never before known on

earth? Is not that patronage constantly increasing? Is there not a clamor to increase it? Is it not proposed in many quarters to give the President control of telegraphs, railroads, and many other things?

The Administration through the Secretary of the Treasury already has control of the finances of the country, and under your legislation he can expand and contract the currency at pleasure. These enormous powers are in the hands of one man, and if you further put in his hands millions of government money and an army of retainers at the polls under the pretext of controlling Congressional elections, you will have great difficulty after a time in continuing your Presidential elections unless you will continue to elect the same man.

The passage of this law will, in the next election at least, and perhaps forever, place over all the local elections this supervising power with high-paid officers. That will be the beginning of the end of free government.

I protest against legislation that will change the spirit and intent of the Constitution. If this bill must be passed, if the power given by the Constitution must be exercised, exercise it by separate Congressional elections at a time when no other election is held and in a manner prescribed by the Constitution. Go no further than the letter and the spirit of that instrument. Whatever may be said of the evils that exist, you have no right to subvert the Constitution and use the authority given to fix the times, places, and manner of electing Congressmen for the purpose of controlling all other elections. If it be said that Congressional elections are held at the same time as local elections, and that they cannot be regulated without also regulating the latter, and that Congress has the power of regulating Congressional elections, and therefore the regulation of local elections is but an incident of the exercise of the power given, I maintain that this is no excuse. Congress has the power to exercise the authority given in the Constitution without interfering with local elections, by fixing a separate day for Congressional elections.

When you so legislate as to exercise the power given by the Constitution to regulate the method of electing Congressmen it is your duty at the same time to see that you do not override other and more important provisions of the Constitution.

This bill, taking hold as it does of the whole State machinery and providing as it does for paid agents to represent partisans on the one side or the other, is dangerous not only to the country, but to the Republican party. It is a sword that will cut both ways. It can be used by Democrats as well as by Republicans, but in each

case it will be used against the liberties of the people. If the Federal authorities can have at all the polls in the United States paid retainers to govern and control the local elections, you have gone very far toward changing the form of this Government from a republic to a monarchy. There is no use in saying that you can manage these elections better than the people. That is always the plea of tyrants. That is the reason given by despots for the exercise of imperial power. Their excuse for governing is that they are wiser than the masses. Local self-government is the foundation of free institutions. It is the only guaranty against despotism. This bill, if enacted into a law, would not only violate the Constitution, but also the fundamental principles of free institutions.

The control of Congressional elections, mixed and commingled with all other elections, means that there will be no more freedom among the people, but that the people shall be dominated by the paid agents of Federal power. I contend that if there is a necessity for any legislation of this kind, the bill should be recommitted and stripped of its unconstitutional provisions. There certainly is no such evil in the United States as will warrant Congress, by this indirect mode, in depriving the people of the right to select their own local officers without the interference of the General Government. Evils always exist in local government, but they regulate themselves. If the General Government should attempt to remedy all the defects in local elections and such an attempt should be successful, free institutions would be at an end. Patronage and the veto power are being enlarged and expanded every day. These powers are now exercised by common consent with a freedom and extravagance that would have astonished the framers of the Constitution.

It must be remembered that it was the veto power and the dispensing power which produced the revolution in England. Our ancestors fought against such usurpation for generations, and when our Constitution was being formed there was a strong protest against the veto power and all other kingly prerogatives. Mr. Hamilton said that, as the veto power had not been exercised in England since the Revolution, it would not be used in this country except to defend the Presidential office from usurpation by Congress. Under this special plea the fatal power was incorporated in the Constitution. Franklin warned them of the danger. The danger that Franklin predicted has come. No legislation can be devised in either House of Congress the promoters of which do not tremble under the cloud of the veto.

It has been so for the last eight or ten years, and that cloud is growing larger and larger; and now, with all that immense power and that immense patronage that are so all-controlling,

you propose to place in the hands of the Executive the further power to appoint election officers at the polls, paid by the Government, without limit as to number, to intimidate and override the people by their force of imperial power. It ought not to be done. The plea for pure Congressional elections is not a sufficient excuse.

If this bill is not to be confined to Congressional elections alone, it ought not to pass. Congressional should not be mixed with State elections. It will alarm the people to see this bill go into operation. They will rebel in the North as well as in the South when Federal officers are empowered to supervise local elections, and that rebellion will come quickly. The people will not submit to the surrender of the right of local self-government. There is no excuse for interfering with local elections. Congressional elections can and must be separated from them if it is really necessary for the Government of the United States to supervise the elections of Representatives in Congress.

Let no man think that the people of this country are prepared for Federal interference in local elections. It cannot be done with impunity. The States are jealous of their rights and will assert them. I remember the description of the feeling in Colorado as given us the other day by the junior Senator from that State [Mr. Wolcott]. He told me that although the Federal officers did not interfere with local elections, yet every citizen of Denver felt humiliated to see supervising officers placed over them. That humiliation will become a reality if this bill, with the unlimited appropriation and the unlimited army of assistants to supervise and control elections therein provided for, is passed.

I say we have no right in the exercise of the power conferred by this clause in the Constitution to go beyond the letter and spirit by any indirection, by passing legislation that interferes with any power reserved to the States.

At the proper time I shall make a motion to recommit this bill and to confine its operation to constitutional limits.

On January 20 Senator Aldrich moved to take up a resolution, previously introduced by him, amending the rules of the Senate so as to cut off debate at the will of the remainder of that session. The object of Mr. Aldrich and his associates, who were in favor of the Force bill, was to end debate so that a majority could pass the Force bill at will.

The rule was debated in connection with the Force

bill until January 22, when it was side-tracked by the bill making an apportionment of Representatives in Congress among the several States. This was a very important bill, and it was necessary that it should be passed before the 4th of March in order to provide for the following fall elections. Mr. Wolcott had charge of the bill.

We canvassed the Senate thoroughly and ascertained that we would have a majority to take it up on January 22.

There were just enough Senators paired with those in favor of taking up the Apportionment bill to carry it by one majority without the vote of Senator Stanford, and by two majority with his vote. Senator Stanford had gone to New York, and a violent snow, hail, and rain-storm had cut off telegraphic communication between that city and Washington. However, before Senator Stanford left, in anticipation of the necessity of his vote, I called at his house and he told me I might pair him in favor of taking up the Apportionment bill at any time.

On January 22, according to our understanding, Senator Wolcott moved to take up the Apportionment bill, and demanded the yeas and nays. The various pairs were stated and arranged except that of Senator Stanford. I contended that he was in favor of taking up the Apportionment bill, and emphatically denied the right of any Senator to pair him against me. There the matter rested, and the Senator from California was not paired.

The Apportionment bill, when the vote was announced, was taken up by 35 to 34. The Senate then proceeded to the consideration of the bill, which required considerable time. It was conceded both by the friends and foes of the Force bill that it was too late in the session to consider it, in view of the Apportionment bill and appropriation bills then pending.

On the afternoon of that day I happened to be in the cloakroom, and heard one of the colored messengers remark that Senator Aldrich was going to New York that night. The train for New York was to leave at five o'clock, and I determined to make the trip myself. I took it for granted that his journey on that night was for the purpose of securing the vote of Senator Stanford to resume the consideration of the Force bill.

I went to the Senate restaurant to take lunch before leaving, and there met Senator Aldrich. I told him I would accompany him to New York on the pleasure trip he was about to take. He looked a little surprised, but said nothing. We were in the same car most of the way, but after we had passed Philadelphia I went into another car to secure an opportunity to have a private conversation with the baggage-man as he would come through the train; and, as I expected, the man who collected baggage appeared as usual about half way between Philadelphia and New York.

I told him that I was extremely anxious to make the quickest trip ever made from the landing of the ferry-boat to the Windsor Hotel, and asked if he could secure a fast and light double team for that purpose. He said he did not know. I gave him five dollars and told him I *wanted* him to know. Then he said that he thought he could, and that he would have the team ready by the time I reached the ferry slip.

It was then between eleven and twelve o'clock and a very unpleasant night.

The baggage-man had the team ready, and I had ten dollars ready for the driver, which I handed to him with the understanding that he would let the horses run wherever they could. The streets were clear of vehicles, but there was some snow and sleet upon them. The horses ran most of the way, and reached the Windsor Hotel in pretty quick time. I inquired for Senator

Stanford's room, and gave a boy a quarter to take me there immediately.

When I arrived Mrs. Stanford was in the parlor of the suite of rooms which she and the Senator occupied. I told her my business, and said that according to the understanding with the Senator, which, by the way, was agreed to when she was present, I would not allow him to be paired in favor of the Force bill.

She said the Senator had met with a severe accident, having been thrown from a hansom in the afternoon of that day and quite severely bruised, and that it was unnecessary to disturb him, as she could attend to the business as well as he could. She said she knew what his views were and would make them known.

She called the Senator's secretary, and asked him for the dispatch which he had written to send as soon as the wires were again up between New York and Washington. It was directed to me, and read:

Pair me against the Force bill and all matters connected therewith.

(Signed) LELAND STANFORD.

I asked the secretary to go down stairs with me, and as we reached the office floor we met Senator Aldrich at the elevator on his way to visit Senator Stanford. I told him he was too late, and the clerk showed him the dispatch. He turned away, and there the matter dropped, and thus the Force bill was defeated, never again to be revived. After that it was never indorsed by the Republican party of the nation or of any State.

Happily, there are many questions affecting the whole country which bring the people of the North and South together in common cause. The nation is a unit whenever anything affecting the flag takes place in any part of the world. The Spanish-American war brought the people together in a manner which fosters fraternal feeling and affection for a common country.

In 1888 the last effort was made to discriminate against soldiers of the late Confederacy in appointment to Federal offices on account of participation in the rebellion. L. Q. C. Lamar was nominated by President Cleveland as Associate Justice to the Supreme Court of the United States.

The Judiciary Committee found him otherwise qualified, but reported that his participation in the rebellion ought to prevent his confirmation. I then thought, and the people now think, that when the "question" was settled, the States restored, and amnesty granted, all persons in the Confederate States who accepted in good faith the conditions prescribed for restoration were entitled, other things being equal, to hold any office to which any citizen of the United States is eligible.

The question was discussed by the public press and no objection was raised to the confirmation except that Mr. Lamar had borne arms against the United States.

It was known that I was in favor of his confirmation; a flood of letters and petitions poured upon me, none of which questioned Mr. Lamar's fitness for the office, except the fact that he had borne arms against the Government. I was so importuned that I was constrained to publish a letter explanatory of my position. In it I gave a full history of the thoroughly patriotic course pursued by Mr. Lamar after he accepted the conditions imposed by the United States for the restoration of the several States, and received the amnesty of the Government by a vote of two-thirds of each House of Congress. His record was conspicuous among the leaders of the South who advised the people to let by-gones be by-gones and unite cordially with the people of the North in every policy and enterprise which would be beneficial to the country at large.

The facts stated in that letter, together with the report of the Judiciary Committee, removed every

objection to the confirmation which the Senate could possibly consider.

The rejection of Mr. Lamar would have been a direct precedent for the rejection for any Federal office of every man in the South who had participated in the rebellion.

The contest was a bitter one, and the Senate was very evenly divided. It required two votes from the Republican side to secure the confirmation. I consulted with Senator Stanford of California at his house, with regard to the matter. We discussed it in all its bearings, and when I left his room he assured me that he would vote with me for the confirmation of Mr. Lamar. Mr. Stanford did so, Mr. Lamar was confirmed; and the Senate of the United States was saved from the disgrace of granting amnesty and then withdrawing it; and of pledging equality of civil and political rights and afterward violating that pledge.

CHAPTER XXXIV

Harrison's infidelity to pledges—His capacity to repel both friends and foes—Cleveland's panic—The fall of Congress into the arms of the gold trust—My protest against the Gladstone-Cleveland bondholding combination.

Benjamin Harrison was a unique character. He was gifted beyond comparison with a capacity to be disagreeable. He never either refused or granted a favor during the time he acted as President that he did not give offense. He was so impartial in the distribution of his disagreeableness that when a Senator entered the cloak-room of the Senate his associates could tell by his excited and disgusted manner if he had visited the White House that day.

His repudiation of his pledges, and the platform of his party, on the question of silver, naturally enraged the advocates of honest money. His attempt to pass the Force bill through Congress aroused the whole country, and particularly the South, where the colored population was to be forced into power by a partisan President.

He had no difficulty in securing the delegates to the National Convention of the Republican party held at Minneapolis in June, 1892. The gold standard contractionists were powerful enough in the Republican States of the North and East to reward their faithful servant.

He was repaid for his efforts to place the South under negro control by solid colored delegations from nearly every State in the South. I knew his nomination was inevitable. My State offered to elect me a delegate to the Convention. I declined to accept, or to go to Minneapolis to be a witness to the nomination of such a man as Benjamin Harrison.

Nevada led off by organizing a silver party which coöperated with the Populist party and the silver men of the Mountain States. This vote went to James Weaver, the candidate of the Populist party, and secured for him five States.

The gold trust made an active campaign to nominate Grover Cleveland for a second term in 1892. The South was so exasperated against Harrison for his attempt, as they termed it, to secure negro domination in the late Confederate States, that the delegates from that section were inclined to look favorably upon the nomination of Cleveland.

The managers of the gold trust prepared a platform for him on the silver question, which they contended, and which the Democratic press of the country contended, was so plain a proposition in favor of bi-metalism that Cleveland would be bound to obey it. It was a cunning device and read as follows:

We hold to the use of both gold and silver as the standard money of the country, and to the coinage of both gold and silver without discrimination against either metal or charge for mintage, but the dollar unit of coinage of both metals must be of equal intrinsic and exchangeable value or be adjusted through international agreement, or by such safeguards of legislation as shall insure the maintenance of the parity of the two metals and the equal power of every dollar at all times in the markets and in the payment of all debts.

The contest in the campaign of 1892 was three-cornered between Harrison, Cleveland, and Weaver. The Populist party had its stronghold in the South and West, which, other things being equal, would have cast their vote for Weaver. But the Populist party of the South, dreading the possibility of the reëlection of Harrison, and believing that he would renew his efforts for negro supremacy, joined the gold trust of the North in favor of Cleveland.

Harrison having fewer personal friends and supporters than any man who ever occupied the White House, was very strong in the slow race, and Cleveland received an overwhelming majority against his unpopular opponent.

In the session of Parliament previous to the inauguration of Mr. Cleveland there was a strong effort to demonetize silver, when Prime Minister Gladstone, among other things, said :

I suppose there is not a year passes over our heads which does not largely add to the mass of British investments abroad. I am almost afraid to estimate the total amount of property which the United Kingdom holds beyond the limits of the United Kingdom, but of this I am well convinced, that it is not to be counted by tens of hundreds of millions [pounds].

One thousand millions [\$5,000,000,000] would probably be an extremely low and inadequate estimate. Two thousand millions [\$10,000,000,000], or something even more than that, is very likely to be nearer the mark.

I think under these circumstances it is rather a serious matter to ask this country whether we are going to perform this supreme act of self-sacrifice.

I have a profound admiration for cosmopolitan principles. I can go a great length in moderation [laughter] in recommending their recognition and establishment; but if there are these two thousand millions [\$10,000,000,000] or fifteen hundred millions [\$7,500,000,000] of money which we have got abroad, it is a very serious matter as between this country and other countries.

We have nothing to pay them; we are not debtors at all; we should get no comfort, no consolation out of the substitution of an inferior material, of a cheaper money, which we could obtain for less and part with for more. We should get no consolation, but the consolation throughout the world would be great.

This splendid spirit of philanthropy, which we cannot too highly praise—because I have no doubt all this is foreseen—would result in our making a present of fifty or a hundred millions [\$500,000,000] to the world. It would be thankfully received, but I think the gratitude for our benevolence would be mixed with very grave misgivings as to our wisdom.

Mr. Cleveland fully concurred with Mr. Gladstone, and contended that the American people ought to coin

no more silver, and that they should pay the bonded debt of the United States and all other debts of the States and the people in gold alone; notwithstanding that the United States never agreed to pay gold, but agreed to pay coin, of gold or silver, of the standard value at the time the funding bill was passed July 14, 1870.

In obedience to the demands of the bondholders everywhere, Mr. Cleveland deliberately proceeded to create the panic of 1893 after his inauguration. But before he got the panic fully under way he invited the leading Democrats of the United States to a grand feast at the White House, and then and there took occasion to show contempt for all Democrats who advocated free coinage, placing in charge of the feast only disciples of the gold trust, which created much feeling.

The leading bankers of New York, coöperating with Mr. Cleveland's Secretary of the Treasury, John G. Carlisle, refused to extend loans or to allow the banks of the West their usual accommodations. The stringency occasioned was known at the time as the "bankers' squeeze," and had its effect. The banks of the interior commenced to fail. These failures brought on the most disastrous panic the country has ever seen.

New York banks, in the confidence of the Treasury Department, violated the law under which they were created and refused to pay either drafts or checks drawn on them except in their own certificates of deposit. They issued in violation of law over forty millions of certificates which the people were compelled to take in lieu of money, and thus the syndicate banks lost nothing by the panic, but made enormous gains by creating money without authority of law.

When distress became general and the great mass of enterprising men of the United States were being destroyed Cleveland, on June 30, 1893, issued a proclamation convening an extra session of Congress

to assemble on August 7 following, to repeal the silver purchasing clause of the Sherman Act. This message was well calculated to increase the panic by intensifying the distrust which had already been created by the bankers' squeeze which the conspiracy organized.

The first two paragraphs of the proclamation read as follows:

Whereas, the distrust and apprehension concerning the financial situation which pervade all business circles have already caused great loss and damage to our people, and threaten to cripple our merchants, stop the wheels of manufacture, bring distress and privation to our farmers, and withhold from our working men the wage of labor;

And whereas, the present perilous condition is largely the result of a financial policy which the Executive branch of the Government finds embodied in unwise laws which must be executed until repealed by Congress: [Meaning the purchasing clause of the Sherman Act.]

Such a proclamation at such a time was like an alarm bell in a heavy fog on a rocky coast. The scramble of the people of the United States to save themselves from financial ruin, the approach of which was proclaimed by the Chief Executive, was very like the frantic disorder of the passengers on a ship when warned of approaching danger. The proclamation created a storm of distrust, and every man not in the conspiracy struggled to hold on to some portion of the financial wreck to save himself from utter destruction, which was the common fate of the mass of business men.

When Congress assembled on the 7th of August, 1893, it required three months of manipulation by Cleveland and other emissaries of "frenzied finance," many of whom have figured in the recent investigation of life insurance companies, to subject Congress to the will of the gold trust.

It required about a month to subdue the House of Representatives, and three months to persuade the

majority of the Senate to do what everybody ought to have known was wrong.

I will not allude to individuals, for it would be unkind, and might be unjust, because the pressure was too great for an ordinary Senator to withstand.

I struggled against the Gladstone-Cleveland combination until a clear majority was secured for the gold trust. I took the floor at all times to prevent the consummation of the wrong, when no one else would occupy it. The Congressional Record contains between two hundred and two hundred and fifty pages of my speeches during that contest.

I closed the debate, when the vote was about to be taken, and protested in as strong language as I could command against the consummation of the great wrong. But Cleveland, life insurance manipulators, Shylocks and bond-dealers were too strong to be resisted by the Senate of the United States, and the people suffered the consequence.

CHAPTER XXXV

The money question—Adherence to principle regardless of party—Supply of money a necessity, enormous output of gold furnished that supply—Conversion of my critics to the views I advocated in 1900—No more office for me.

The depreciation of silver as compared with gold during the twelve years from March, 1875, to March, 1887, was a great calamity to the people of my State, and more injurious to the people of the civilized world than famine, pestilence, and war combined.

The $412\frac{1}{2}$ grains of silver which composed a silver dollar had been for hundreds of years worth little more than 23.8 grains of standard gold, which composed the gold dollar, and my investigation satisfied me that there was nothing in the relative production of the two metals which changed their relative market values.

From the discovery of gold until the beginning of the last century, Von Humboldt estimated that there were over forty ounces of silver produced for every ounce of gold, which would have made the ratio of value, according to the production for that period, over 40 to 1, which was not the case.

On the contrary, an ounce of gold would at no time during that period buy more than $15\frac{1}{2}$ ounces of silver. From 1800 to 1850 about thirty ounces of silver were produced for each ounce of gold. Still, their relative prices remained the same. From 1850 to 1873, when the frenzied financiers of that day excluded silver from the mints of the United States, only six ounces of silver were produced for one ounce of gold; still, an ounce of gold would buy in the world's market $15\frac{1}{2}$ ounces of silver.

After much investigation I realized that it was legislation, and not production, which had depreciated the

price of silver as compared with gold; for so long as a certain quantity of silver and another certain quantity of gold could each be taken to the mint and coined into the same amount of money without cost, it was evident that that certain amount of silver and that certain amount of gold would be equal to each other in value according to the axiom in mathematics that things equal to the same thing are equal to each other.

On examining the legislation of Congress I found that the silver dollar had been omitted from the list of coins in the Mint Act of 1873, and a trade dollar containing about 420 grains of standard silver for use in the Orient to compete with the Mexican dollar, with legal-tender power of only \$5 in the United States, had been substituted for the dollar of the fathers.

Although I was a member of the Senate at the time this legislation took place, I had no knowledge of the change, but continued to suppose that the dollar of Jefferson and Hamilton was still recognized by the mint laws, and in a speech in favor of specie resumption I declared myself in favor of gold, meaning specie, in one or two sentences of my speech; but the context of the speech shows that I had no idea of advocating gold as distinguished from silver.

This speech became the stock in trade of Sherman and every frenzied financier who manipulated insurance companies or was engaged in kindred rascality. I was compelled in self-defense to investigate and expose the manner of the demonetization of silver and the tricks employed for that purpose, all of which will be found at length in the Congressional Record. The outrage of discontinuing the use of silver when there was not enough of both gold and silver for use as money made a deep impression upon the people, and the managers of the scheme to enhance the value of money and bonds, and depreciate the value of property and wages, found it necessary to pretend they were in favor of restoring

silver. The Republican party vied with the Democratic party in various pretenses that they were in favor of the rehabilitation of silver. Times went from bad to worse.

After my experience with Harrison's Administration I found it would be impossible for me to further indorse the Republican party without indorsing the crime of John Sherman in demonetizing silver.

When it became evident that Benjamin Harrison would be nominated his own successor in 1892, I severed my connection with the Republican party and joined my fellow-citizens of Nevada in the organization of a silver party, to which I adhered until the silver question was disposed of by a sudden and unexpected output of gold. The general prosperity which a thousand millions of new gold in the short period of four years had produced made further agitation of the silver question in the campaign of 1900 not only unnecessary, but useless.

The silver question having been eliminated from politics for the time being at least, I frankly told the people of my State the honest truth, which they all now believe. I told them the output of gold had buried the silver party, and that the adherents to that organization were at liberty to align themselves politically as they thought proper. For all of which I was criticised by a portion of the public press.

I have no harsh words for those who criticised me on account of their financial necessities, or because of their ignorance of the conditions, or because of their unreasonable faith in the speeches that William J. Bryan made in Nevada. It is possible they did not observe the fact that Bryan's silver speeches in Nevada were not heard outside of the battle-born State, or that there was no party in any other State favoring the remonetization of silver.

They should, however, have known that Mr. Bryan could not remonetize silver with Nevada alone. They must have realized in the campaign of 1904, when they

supported only gold-standard candidates for the Presidency, that their effort to remonetize silver through the silver party of Nevada in 1902 without the aid of other States was a mistake.

I have no apprehension that they will criticise me for doing what they have done themselves, or for finding out that the output had buried the silver question before they did.

I am deeply attached to Nevada. It has been my home for more than forty-six years at the time of this writing, and I am deeply grateful to the people for their many acts of kindness. While I live I shall do all I can to promote the interests of my State, but shall never accept reelection to the Senate of the United States or other important office.

After the silver question was eliminated from politics, having been a Republican from the organization of that party, I returned to my natural allegiance, and entered upon the campaign with the Republican party in 1900. My Republican associates in the Senate understood that I severed my relations with the Republican party on the silver question, and that my position on that question was unchanged. They restored to me positions on committees which were reserved for the dominant party. Among other things, they made me chairman of the Committee on Indian Affairs, one of the leading committees of the Senate.

While I believe that organization is necessary, and that there should be several political parties in the government of the country, I have never allowed the party lash to force me to violate my conscience, in or out of office.

CHAPTER XXXVI

Cleveland's bond speculations and Venezuela deal—His repudiation by the Democratic Convention of 1896—The nomination of Bryan on a free-coinage platform—His brilliant campaign and defeat by lavish use of money by the gold trust—Bryan's mistake in advocating silver money after the enormous output of gold made money plenty.

Grover Cleveland's second administration was an object-lesson. It was probably the worst administration that ever occurred in this or any other civilized country. A few more examples of the unparalleled audacity and greed of Cleveland and his cohorts will be sufficient to satisfy thinking men that Cleveland was the boldest man the country ever produced.

The United States four per cent. bonds, commonly called four-thirties, because they drew four per cent. interest and had thirty years to run, had not sold in the market for twenty years for less than one per cent. premium for every year they had to run. The four-thirties then outstanding, having about thirteen years to run, were selling at from 14 to 15 per cent. premium.

Without giving the people a chance to purchase bonds, he sold to private parties sixty-two millions of four-thirty bonds at $4\frac{1}{2}$ per cent. premium, which if they had been sold at the market value would have brought thirty per cent. premium. He attempted to sell another one hundred million at the same rate, but financiers resented the favoritism to the parties having purchased the sixty-two millions, and the matter was compromised among them by a pretense of a sale to the public. It was only a pretense, however. The combination syndicate secured nearly all of the one hundred million bonds at an average of eleven per cent. premium.

It required several months to arrange matters before the one hundred and sixty-two millions could be put upon

the market. When this was done, however, the bonds sold from 29 to 30 per cent. premium; and to-day, notwithstanding more than one-third of the time before their maturity has run, they are selling for over 30 per cent. premium.

Making all liberal allowances for commissions and expenses of every kind, somebody made thirty millions at least by Cleveland's bold and unscrupulous stock-jobbing.

It may be asked why Mr. Cleveland was permitted to do this. The answer is easy, and is furnished by a question or two. How did Rockefeller acquire a thousand millions of money? How has J. Pierpont Morgan obtained what millions of the toiling masses produced? How has the money of the life insurance companies been used to build up colossal fortunes?

The Venezuela job was the grandest scheme on record. Before it was consummated I received reliable information that our Minister to England, Mr. Bayard, would convey a belligerent message from Mr. Cleveland to Lord Salisbury, and that if he could obtain permission from the Prime Minister of England to send that message officially, and not give offense, he would inaugurate a diplomatic war for the purpose of diverting the attention of the people from the silver question.

At that time I was editing a paper called *The Silver Knight*, published in Washington. I prepared an "interview" of what seemed to me would take place on the presentation of Mr. Cleveland's private message to Lord Salisbury by Minister Bayard. I had the parties participating in that interview caricatured; all of which I published in *The Silver Knight* of November 7, 1895.

On the 17th of December Cleveland inaugurated the diplomatic war. He sent a message to Congress, proposing to fix the boundary between Venezuela and British Guiana, without consulting either Venezuela or Great Britain, and to compel the British Empire to

accept the same, either with or without war with the United States. No more threatening document was ever issued by the United States against any country, weak or strong. The concluding paragraphs of this special message to Congress read as follows:*

Assuming, however, that the attitude of Venezuela will remain unchanged, the dispute has reached such a stage as to make it now incumbent upon the United States to take measures to determine with sufficient certainty for its justification what is the true divisional line between the Republic of Venezuela and British Guiana. The inquiry to that end should of course be conducted carefully and judicially, and due weight should be given to all available evidence, records, and facts in support of the claims of both parties.

In order that such an examination should be prosecuted in a thorough and satisfactory manner, I suggest that the Congress make an adequate appropriation for the expenses of a commission, to be appointed by the Executive, who will make the necessary investigation and report upon the matter with the least possible delay. When such report is made and accepted, it will, in my opinion, be the duty of the United States to resist by every means in its power, as a willful aggression upon its rights and interests, the appropriation by Great Britain of any lands or the exercise of governmental jurisdiction over any territory which after investigation we have determined of right belongs to Venezuela.

In making these recommendations I am fully alive to the responsibility incurred and keenly realize all the consequences that may follow.

I am, nevertheless, firm in my conviction that while it is a grievous thing to contemplate the two great English speaking peoples of the world as being otherwise than friendly competitors in the onward march of civilization and strenuous and worthy rivals in all the arts of peace, there is no calamity which a great nation can invite which equals that which follows a supine submission to wrong and injustice and the consequent loss of national self-respect and honor, beneath which are shielded and defended a people's safety and greatness.

The uninitiated supposed this message meant war, and panic followed. Stocks dropped ten to twenty per

*Messages and Papers of Presidents, 1789-1897, Vol. 9, pp. 655-658.

cent. on both sides of the Atlantic. The British Lion did not even growl. Henry Clews reported that five hundred millions changed hands.

Cleveland gave his friends three days to fill their shorts, which they did, while the people at large were greatly agitated over the war cloud which the message had brought over the country. On the 20th of December, 1895, he sent another special message to Congress in which he assured the bond-holding syndicates of London and New York and gold contractionists everywhere that the Administration was doing, and would do, everything in its power to pay all indebtedness in gold, and asking Congress to cooperate.* This was all the apology Great Britain required for the warlike message of three days previous. Lord Salisbury's administration was fully satisfied with both the insult and the apology, and no word of complaint came from the other side of the Atlantic.

This friendly message to bondholders closed the incident. The knowing ones became rich, and the uninitiated lost hundreds of millions of dollars.

The masses of the Democratic party broke loose in 1896 from the control of the Cleveland bondholders, and met in convention at Chicago and denounced the bond-dealing administration of Grover Cleveland in their platform in the following language:

We are opposed to the policy and practice of surrendering to the holders of the obligations of the United States the option reserved by law to the Government of redeeming such obligations in either silver or gold coin.

We are opposed to the issuing of interest-bearing bonds of the United States in time of peace, and condemn the trafficking with banking syndicates which, in exchange for bonds and at an enormous profit to themselves, supply the Federal Treasury with gold to maintain the policy of gold monometalism.

The Democrats nominated William J. Bryan on a

*Special Messages and Papers of Presidents, 1789-1897, Vol. 9, p. 659.

free-coinage platform, but unfortunately loaded it down with an attack on the judiciary and other outside matters which embarrassed the canvass.

Bryan made a campaign of energy and oratory without a parallel in American politics. The manipulators of finance on both sides of the Atlantic, who had impoverished the nations by falling prices and doubled the obligations of bonds and contracts for the payment of money, became alarmed before the middle of September. They poured out their money like water, and counted and returned in the pivotal States thousands, if not hundreds of thousands, of votes beyond the number of voters then existing; and although Mr. Bryan was probably elected, the returns were in favor of Mr. McKinley.

McKinley did all in his power to make matters go as smoothly as possible, and Providence or chance favored his efforts to have a popular administration. War is always popular, and the Spanish War was no exception to the rule; but if the money volume had continued to shrink and prices had continued to fall, the money powers would have been overthrown in 1900.

Fortunately for McKinley and the people at large, the output of gold increased in a phenomenal manner. Over one thousand millions of new gold was produced between 1896 and 1900. This new gold was added to the volume of money in circulation, and caused rising prices, because all the money in circulation and all the property for sale are reciprocally the supply and demand of each other, and the increase of money produced rising prices, as it always does.

From 1896 to 1900 the rise in prices occasioned by the new gold stimulated industry and created good times. Then came the fatal mistake of William J. Bryan.

He had hitherto floated on the tide of popularity. He was a magnetic orator, and his theme of hard times found willing ears as long as prices were falling and

times were going from bad to worse. In 1900 he was unwilling to accept the situation and claim, as he rightfully might, that his argument had been vindicated, that want of money was the cause of universal distress and more money was the remedy. When the remedy came from the output of gold he should have claimed a vindication of his theory. One of two things must be said of him—he either did not understand the money question or he was willing to deceive the people.

If he had understood the money question he would have known that more gold was just as good as more silver, and that it was neither more gold nor more silver that was wanted, but more money. When that need was supplied it was idle to call upon the country to supply a want where none existed.

It is impossible to estimate the wrong and misery inflicted upon the western world by the exclusion of silver from the mints. At the time of the passage, or rather the smuggling through, of the Mint Act of 1873, the output of both silver and gold was not adequate to the supply of the legitimate demand for money metal. The cutting off of one-half of the supply produced want and misery throughout the civilized world. This could not have been done if the people had not been ignorant of the money question.

The manipulators of finance, or, more properly, financial robbers, have been able to keep the people in ignorance of the question of finance. The fact that money is a function created by law which is made manifest by the stamp of the Government, and that any material upon which the edict of the Government may be stamped commanding creditors to receive it in payment of debts is money, is kept a secret by the designing few.

Anything bearing the stamp of the Government making it legal tender is the best money that can be created. The value of each unit of money, of course,

must depend upon the volume of money in circulation compared with property for sale. The idea of regulating that volume by the accident of mining, whether it be gold or silver, or both, is no more intelligent than the practice of putting a stone in one end of the bag to balance the corn carried to the mill.

The idea that any one commodity, or any number of commodities, will always bear the same relation numerically to all other commodities, is too absurd for reflection. But inasmuch as money can be stamped on gold, if you can get enough of it it will answer all the purposes of commerce equally as well as if it were stamped on paper—and no better.

A moment's reflection will convince any one that gold has depreciated fully 50 per cent. in the last ten years; or, what is the same, that prices in general have risen fully 50 per cent. in the last decade.

We hear on every hand that everything is growing dearer, and our daily experience verifies the enormous rise in the value of property compared to what it was ten years ago. If Mr. Bryan had understood these simple principles of finance and accepted the situation which presented itself in 1900, he would not have led his party to defeat and deprived himself of a brilliant reputation which he acquired in his campaign of 1896.

Before the inauguration of McKinley, after the campaign of 1896, I published a little book entitled "Analysis of the Functions of Money," which states the money question as I understand it after some years of study and investigation.

It gives me great satisfaction to be able to name one of the most conspicuous exceptions to the dreary diatribes in Congress on the money question, viz.: the speeches and writings of my honored colleague, John P. Jones, which will survive for the instruction of future generations.

It is not my purpose to speak ill of former colleagues

who are now dead, but John Sherman has left the most enduring monumental record of fraud and deception in manipulating the currency to enrich the few and impoverish the many which can be found.

The Record, when examined, will show that I gave him every opportunity to explain the deception he practiced in the Senate, which he could not do, although he made a desperate effort to defend himself against the charges I made.*

I submit to the candid judgment of my readers if any self-righteousness or egotism could be more colossal than the claim of the manipulators of London and New York, that they were the purest and best, and that anybody who complained of the villainous schemes of robbery and oppression was dishonest. Does anybody suppose the Morgans and Rockefellers, and their associates, in concentrating the wealth of the nation in the hands of the few, are any worse to-day than the conspirators who concocted the demonetization of silver and doubled the obligation of thirty thousand millions of bonded indebtedness?

If the people of the United States succeed in uncovering their methods and preventing the destruction of the Republic by impoverishing the masses and concentrating the wealth of the nation in the hands of the few, liberty may survive. No government has ever survived the accumulation of the wealth of the country in the hands of an unscrupulous few.

The extravagant panegyrics upon the exploits of Alexander the Great are not warranted by the fact that the vast empires of the East which he invaded were rotten to the core. The people had no interest in their governments, and hailed Alexander with his few soldiers as a

*See March 8, 1888, Cong. Record, 50th Congress, 1st Sess., Part 2, pp. 1848-52; and June 5, 1890, Cong. Record, 51st Cong., 1st Sess., Part 6, pp. 5622-5641; and Sept. 5, 1893, Cong. Record, 53rd Cong., 1st Sess., Part 1, pp. 1211-1236.

deliverer, and not as an enemy. Those empires which were defenseless against an invader could send armies abroad.

Rome furnishes another example of what frenzied finance could do. When the naked barbarians swarmed down upon the Roman Empire they had no fighting to do. Financial robbers had done their work. The people sought refuge from their oppression in the arms of the wild men of the North. Hundreds of examples of this kind might be given, but enough has been said to call attention to what may happen to the United States.

If the colossal fortunes already acquired continue to accumulate, the time is not far distant when the people at large will have no love for a government in which they have no interest. If action be taken in time the people of this country will not flock to a foreign or barbarous standard for deliverance from bondage at home.

The panic-breeding National Bank system is a twin sister of the regulation of commerce by private corporations. I have insisted, since its organization, in and out of Congress, that it ought to be abolished. Under it banks are allowed to borrow money from the United States without interest. The deposit of United States bonds in the Treasury is a sham. The banks draw interest on their bonds while they are in the Treasury; consequently, it costs the banks nothing to get money from the Government. The country banks are allowed to loan all or nearly all of their depositors' money to the great banks of New York and draw interest thereon. The New York banks loan the money so obtained from the country banks, and derive great profit therefrom. The multi-millionaires control the stock of the great banks of New York and use the funds of those banks to carry on their speculations.

When the stocks in which Rockefeller and his kind

are interested are boomed far in excess of their value, mainly on margins, the great banks which the trusts control refuse to loan money. The investors in stocks and bonds are unable to make their margins good, and a panic ensues and the great manipulators who caused it collect up, at their own price, the stocks and bonds which are practically thrown away. Confidence is then restored by resumption of loans by the great banks which, in the mean time, have held their money and issued certificates in violation of the statutes of the United States.

Why should the Government loan money to anybody without interest? Why should not all persons have a right to get money from the Government on equal terms? The Government alone is authorized by the Constitution to coin or stamp money, which is the same thing, and regulate the value thereof. The law of supply and demand regulates the value of money as it does of all other things.

The only way the Government can regulate the value of money is to regulate the supply. The Government can regulate the supply by furnishing money to all persons on equal terms. Pass a law whereby all the people, including bankers, who have bonds of the United States may sell them to the Government at par for currency, and all persons having currency may also have the privilege of buying bonds at par. The banks would not then have a monopoly of the currency by getting money from the Government without interest. If they were compelled to pay for money with bonds, the same as all other persons and corporations, they would not be a favored class and the business of the country would not be controlled by them.

The ease with which panics can be created is shown by Cleveland's panic of 1893 and Rockefeller's panic of 1907. The bondholders' fraternity, who either owned or controlled Mr. Cleveland, induced him to send

his Secretary of the Treasury to New York and suggest that the great banks squeeze a little and tighten the currency. When hard times began Cleveland issued a proclamation declaring that the silver coin in circulation, amounting to about five hundred millions, was not good money, and that it was necessary to repeal the law then existing, authorizing the purchase and coinage of silver. A panic was created by the squeeze and the proclamation, and millions of enterprising citizens were ruined. We know now that Mr. Cleveland did not tell the truth when he said legal-tender silver dollars were not good money, because they have been circulating ever since on a par with gold, without question.

In 1904 President Roosevelt began an investigation of the various devices of the railroads and trusts to rob the people by means of rate discriminations. Among others, he dared to investigate the doings of the great and cunning financier, J. D. Rockefeller, and the Standard Oil Trust, which had been created by Rockefeller and his associates. Mr. Rockefeller told the country that if the President did not stop his investigations there would be a financial panic.

The President continued to investigate and prosecute the violators of the law; the squeeze began, and finally terminated in a most disastrous panic. All persons in the United States controlling or being controlled by the trusts and monopolists, who are subverting the Government of the Fathers into an oligarchy of multi-millionaires, turned against the President and his policy.

In November, 1907, at the time of this writing, every person the oligarchy can command is assailing the President and charging him with the prevailing panic. The great mass of the people who own themselves and control their own actions are in favor of the policy of Theodore Roosevelt and are grateful to him for raising the curtain in time to enable them to see the dangers

which threaten the Republic, and to avoid the final collapse which inevitably follows the concentration of wealth.

CHAPTER -XXXVII

The Pacific Railroad—Jefferson Davis's survey—Collis P. Huntington—Crossing the Rockies—Rivalry of the companies—Credit Mobilier scandal—Investigation by Congress—Beginning of railroad rate discrimination against the people.

It was the early dream of both the East and West to find a suitable route upon which to construct a railroad across the United States from the Atlantic to the Pacific. Jefferson Davis, while Secretary of War, had four routes surveyed across the continent by the engineers of the Army. The work was very thoroughly performed, and a complete description was given as to topography, temperature, and the natural resources along the four routes. These surveys were published by the Government in twelve large volumes, which I have in my library, and I have often perused them with much interest and profit.

It was deemed necessary by the War Department to purchase an additional section of land from Mexico, which was known as the Gadsden Purchase, to secure the right to construct a railroad on the 32d parallel.

It was contended by the engineers that it was impracticable to construct a railroad on either of the routes which are now known as the Santa Fé, the Central, and Northern routes. The people of the Pacific Coast were much gratified at the Gadsden Purchase, because they believed that ultimately a railroad would be constructed on that line.

From 1850 to 1860 the growing antagonism between the North and South on account of the institution of slavery was a great discouragement to the people of the Pacific Coast. They feared that the trans-continental railroad would never be constructed. After the war began there was a desire on the part of the Government

at Washington, as well as on the Pacific Coast, to connect the two sections by a railroad for military as well as commercial purposes. It was feared the Pacific Coast could not be held with the Atlantic States unless a military road joined them with bands of iron.

Five gentlemen, C. P. Huntington, Mark Hopkins, Leland Stanford, Judge Crocker, and his big brother Charles Crocker, residing in Sacramento, California, all Union men, conceived the project of a railroad over the Central route.

The press of San Francisco ridiculed the idea, but the Sacramento projectors of the enterprise never wavered. They went to Washington in 1862, and joined a party of business men from Boston, with Representative Oakes Ames of Massachusetts as their leader. Mr. Ames was a hardware merchant who had supplied California, from the earliest development of the mines, with picks and shovels, and his name was a household word in every Western mining camp. Congress passed a law for the organization of the Union Pacific Railroad Company, and invited men from all the Northern and Eastern States to take stock in the corporation.

The gentlemen from Sacramento, before going to Washington, organized themselves into a corporation called the Central Pacific Railroad Company. The Union Pacific Company, authorized by Congress, was given rights as far west as the California line, and the Central Pacific was authorized to construct a line from tide-water to meet the Union Pacific.

Aid in money and land was granted by the Government to both companies, but the embarrassed finances of the country in consequence of the war made it impossible for either company to comply with the conditions of the grant. The Central, however, having obtained some aid in California, constructed a few miles of railroad from Sacramento east, and selected

what was then known as the Dutch Flat route as the line of their road.

Two years later, in 1864, Congress allowed both of the railroads to issue a first-mortgage bond equal in amount to the subsidy of the United States; and the lien of the United States for the money advanced, about \$60,000,000, for the two roads, was made subsequent, by the Act of 1864, to the bonded lien which the Company was authorized to put upon the road as fast as it was constructed. When the work was actually commenced at both ends, Congress became anxious to expedite the construction, and passed a law allowing each company to build all the railroad it could until the tracks met. After this resolution the work went on with remarkable energy.

The Central Pacific Company organized among themselves a construction company in which all equally participated. The Union Pacific Company made a contract with an outside corporation, known as the Credit Mobilier.

The five hundred miles of the Union Pacific road from Omaha to Cheyenne were over a level plain and through a good agricultural country. The lands granted by the Government, and the bonds, much more than built the road. The Credit Mobilier Company made large dividends on its stock during the building of the road. As the roads approached each other a most exciting contest arose as to where the junction should be.

The law which allowed each company to build all the road it could construct provided that each should construct a continuous line. The Union Pacific Company, when it reached the Wasatch Mountains, did not wait for the completion of a tunnel, which was afterward constructed, but zigzagged its railroad over the mountain.

The Central Pacific Company tunneled through the

Sierra Nevada Mountains and built a continuous line so far as it went. The Union Pacific commenced construction at many points west of Ogden and as far as Elko, Nevada. The Central Pacific rushed its work, with the result that the lines of grade paralleled each other for more than two hundred miles.

The Union Pacific sought legislation to fix the point of meeting, and framed a bill to suit themselves, and passed it through the House of Representatives, where they had an overwhelming majority. The bill came up for consideration in the Senate in the winter of 1869. It was contended on the part of the Union Pacific that they were fully justified in extending their line as far as Elko, Nevada.

On the other hand, the Central Pacific contended that the Union Pacific was not entitled to come west of the Wasatch Mountains, because they had not complied with the conditions required to build a continuous line, but had built a temporary track over the mountains.

The Union Pacific had friends in all the Atlantic States, who not only gave them an overwhelming majority in the House, but also a majority that could not be overcome in the Senate.

I heard of a lawsuit which was instituted in Philadelphia by one of the Union Pacific stockholders against the Credit Mobilier Company and the Directors of the Union Pacific Company, for an accounting, in which it appeared that Oakes Ames, the president of the Union Pacific Company, had distributed a large number of shares of the Credit Mobilier Company among members of Congress. These shares became very valuable because they paid large dividends. I asked Mr. Huntington to obtain the record of that suit and all the testimony, and he did so.

I stated to the Senate the reasons why the Central ought to be allowed to proceed to a suitable stopping-place for both companies. I said that the people of

the West desired to reach the Salt Lake settlements of Utah, and the Central Pacific, having built a continuous line, were entitled to go there, if not farther. It was claimed on the part of the Union Pacific people that they needed something over six millions more to complete their line.

I exhibited the contracts between the Union Pacific directors and the Credit Mobilier Company, and contended it was the duty of the Government to investigate the affairs of the Union Pacific to prevent the subsidy granted by the Government being wasted through the instrumentality of the Mobilier Company, so that the Union Pacific Company might not be bankrupt or rendered incapable of redeeming the Government lien. After I had laid the foundation for my argument, I had read in the Senate the charter of the Credit Mobilier Company, and stated that I had the entire record of the litigation in Philadelphia to exhibit. After the reading of the charter the Senate adjourned.

The companies met that night and agreed upon Ogden as a place of meeting. The Union Pacific did not want the record of the Philadelphia case read in the Senate. A delegation from the two companies came to my room that evening and asked me if, in case of a settlement, I would eliminate from my speech in the Record the charter of the Credit Mobilier Company and my proposal to offer the record of the Philadelphia case. I agreed, for the sake of harmony.

In the next Presidential campaign the record which I had withheld was published, and the investigation of the Credit Mobilier Company followed in the next session of Congress. It was reported to me by Mr. Huntington that during the settlement between the two companies all matters were amicably adjusted except one, and that Oakes Ames had said he would forgive everybody except me.

At the next meeting of Congress, after the matter

of the Credit Mobilier was exposed, and before the investigation had proceeded to any extent, some member of the Senate made some very disparaging remarks about Oakes Ames, who, unknown to myself, was sitting behind me in the Senate.

The remarks were so unjust, for Oakes Ames had played such an important part in the construction of the Pacific Railroad, and had expended his great fortune in the enterprise, that I felt called upon to defend him. I did so, doing him nothing but simple justice.

I turned around a few minutes later to pass into the cloakroom, and saw Mr. Ames, with eyes wet with tears. He arose, extended his hand, and said:

"I told Mr. Huntington to tell you I never would forgive you. I want to take that back, and want to be your friend."

Afterward, during the whole of the investigation, I frequently talked to him about the conduct of different parties involved in the scandal. He did not appear to have much concern for himself or to realize that he had committed any wrong. He said that when the legislation, which made it possible to construct the Pacific Railroad, had passed both Houses of Congress, he did not anticipate that he should have occasion to call upon Congress for any further legislation, and he thought those who had been active in securing the legislation ought to have some token of recognition for their services. He did not know, he said, at the time he gave them the stock, that it would be so valuable. He said he was very sorry he did it, and intended no wrong.

What grieved him most was that a number of his old friends appealed to him to lie in their behalf. He brought me a letter one day from a Senator to whom he had given some of the stock, requesting him to make an affidavit that the charges were not true. Ames said he would not perjure himself. I told him he was right.

I do not feel disposed to discuss or criticise persons

who were involved in the Credit Mobilier investigation, but Oakes Ames, notwithstanding the errors he unwittingly committed, deserves well of the American people, and his name should be cherished by all as a brave, energetic, enterprising man.

The unjust and violent criticism of the press and of ambitious partisans will be deplored in view of the accomplishment of the great work under embarrassing and adverse circumstances, and particularly in view of the fact that the Government has received back all the subsidy granted, dollar for dollar, with interest at six per cent. per annum, while the Government at the same time was borrowing money for less than four per cent. per annum, making a net gain in interest of from two to three per cent.

The five gentlemen from Sacramento who conceived the idea of constructing a Pacific Railroad over the Central route, which had been condemned by the War Department as impracticable, and pushed the work with heroic faith, will be remembered in after years with gratitude and admiration. When their great success ceases to excite jealousy, and the work they did is viewed from an impartial standpoint, their merits will be acknowledged.

C. P. Huntington was the greatest railroad builder the United States has ever produced. He provided the sinews of war from the beginning. His financial honor and unswerving integrity soon secured for him the confidence of the financial world. He did not adopt the plan by which many of the great railroad magnates have made themselves millionaires.

He never wrecked a road, nor made a dollar from the destruction of other men's fortunes. He bought many run-down railroads, reconstructed them, and made them paying institutions. By this means he acquired millions and benefited the people. The construction of a railroad from Ogden to San Francisco, and from San Francisco

to Portland, Oregon; and another from San Francisco to New Orleans, with numerous branches to each, was a marvelous undertaking. A man who could devise such a gigantic enterprise will be remembered in history.

Huntington was a benevolent man; his charities were numerous, liberal, and judicious, and he intended that they should be private. He was never a candidate for laudation, and never attempted to purchase fame by spending money on the housetop.

It is true that the people have been unjustly discriminated against by the Pacific Railroad, but I know of my own knowledge that the managers of the railroad were not so much at fault in this matter as the merchants of San Francisco.

In 1849 the Board of Trade of San Francisco devised many schemes to acquire quick wealth at the expense of the miners in the interior. All the supplies which California consumed for several years after the discovery of gold on the American River came through the Golden Gate. The price of food, wearing apparel, tools, and machinery which the miners were compelled to have was not regulated by the law of supply and demand, but by arbitrary edicts issued by the Board of Trade. However abundant food was in San Francisco, the price at which it could be obtained was generally exorbitant.

When the Pacific Railroad was nearing completion the Board of Trade of San Francisco notified the managers that they must establish a freight schedule which would give them the trade they had previously enjoyed in supplying the interior. In other words, upon goods delivered at any point east of Sacramento there should be added to the freight rate to San Francisco the local rate from San Francisco to the point of delivery.

The railroad company hesitated, and the San Francisco merchants, to compel compliance, aided in the establishment of a clipper ship line around the Horn, and took measures to obtain freight by the Panama

route. In this way they forced the railroad company to submit to their demands. The system has been kept up since the construction of the Pacific Railroad, and is still in force so far as Nevada is concerned.

Southern California was partially rescued from San Francisco railroad monopoly by the construction of the Santa Fé Railroad. Oregon, Washington, and Idaho were liberated by the Oregon Short Line, the Northern Pacific, and the Great Northern.

Whatever may have been, and whatever now may be, the reason for the discrimination against Nevada in freights and fares of the Central Pacific, it is evident to every intelligent man who has investigated the question that the railroad has been the loser. If the same encouragement had been extended to Nevada in the way of freights and fares as Colorado has enjoyed from the beginning, Nevada would have been for the last forty years a growing and prosperous State, with abundant business and a network of railroads. There is no doubt in my mind that if the Sierra Nevada Mountains had been sufficiently high to be impassable, Nevada would now have a population equal to that of Colorado.

The Comstock did much to build up the city of San Francisco, but nothing is left in Nevada to bear testimony to the millions furnished by the great mine. The Virginia & Truckee Railroad, owned in San Francisco and New York, was built by assessments on the mines, and aid furnished by local county governments. Since its construction it has made millions for those who ordered the people to build it.

While Nevadians welcome Californians who can overcome the teachings of a generation, and without regard to prejudice or preconceived opinions cross the Sierra Nevada to dwell, they are glad to inform them that they can get along without them. The men of Pennsylvania, Colorado, Utah, Montana, Idaho, and other States make up a population good enough for

Nevada. Their presence in the State has revived enterprise and discovered vast mineral resources which will soon place Nevada in the lead of mineral-producing States. The agricultural resources of the State, developed by Government aid and private enterprise, will attract a large and thriving population to supply the markets which the developments of the mineral resources of the State will furnish.

The scheming Board of Trade of San Francisco, aided by the railroads it controls, must in the near future lose its grasp on the State of Nevada. Goods will be landed in any part of the State, as they now are in Colorado, Utah, or any other State, without the unjust discrimination which has paralyzed Nevada for a generation.

CHAPTER XXXVIII

Conflict between the railroads and the Government—How the trusts rob the people—An argument for government ownership a gloomy view of the economic situation—Praise for Theodore Roosevelt.

It must not be inferred that I indorse the present railroad system of the United States. While I commend the foresight, energy, and courage of such builders as C. P. Huntington and his associates, I realize that the railroads are subverting the Government and destroying the freedom and independence of the people.

Railroads have superseded public highways, and have been granted franchises under which they exact all the profits the traffic will bear; and they assume authority to decide what they shall take, and what they shall leave to the people. While it does not extend to all the property of the people, it extends to all persons and property transported on railroads, and as to such property, the power claimed and exercised by railroad corporations is co-extensive with the power of taxation possessed by any independent government.

The fixing of fares and freights by railroad corporations is the power of sovereignty without constitutional limitation. It is so emphatically the sovereign power of taxation which the railroad corporations have exercised in this country, and claim the right to exercise, as long as they own and control railroads, that I shall treat the regulation of fares and freights as taxation, not by the sovereign, but by usurpation of sovereign power.

The railroads also exercise the power to transfer the earnings of the people, not only to railroad corporations, but to favored companies and individuals.

Andrew Carnegie, the father of the Steel Trust, is

a most conspicuous example of how to get rich quick by railroad discrimination. He is now engaged in spending a small part of the proceeds of the hundreds of millions of watered stock which fell to his share when he organized the Steel Trust and doubled the price on all commodities manufactured from iron ore. The libraries he is establishing, to create and perpetuate his renown as a benefactor, are accessible to the rich; which he may regard as sufficient compensation to the taxpayers for the perpetual burdens his libraries invariably entail upon them. He was also one of the conspirators who demonetized silver to enhance the value of gold.

In 1891, when the distress from the demonetization of silver was most acute, and before the new output of gold had relieved the money famine, he published in the *North American Review* an arrogant and self-lauding article, mocking the toiling masses by telling them it was their duty to buy more gold—when they were straining every nerve to obtain money to save themselves from bankruptcy. I took occasion to reply to his publication in language which I deemed appropriate of his self-serving and egotistical production.

It was the partiality of the railroads to the Standard Oil Company that made it possible for Rockefeller to accumulate a thousand millions of money in addition to the colossal fortune of all connected with that favored company.

It was discrimination of the railroads in favor of the Packers' Trust at Chicago, Omaha, and Kansas City which enabled that gigantic institution to destroy the business of every independent butcher in the United States, and confine the killing of animals to the localities appointed by the trust, thereby not only giving the trust the monopoly over the markets of the United States, but giving it complete control of the price of cattle, sheep, hogs, and poultry throughout the entire country.

The millions taken from the people and concentrated in the enormous trusts are not the greatest evil inflicted upon the American people. The storage of beef, mutton, pork, and poultry in localities selected by the trust, to be distributed throughout the whole country as occasion may require, is destroying the vitality of the people of the United States. Potomaine poison is undermining the health of all the people.

The effect upon the health of the people is well illustrated by the fact that during the Civil War the stomachs of the young men, North and South, were rarely defective; but during the Spanish War it was difficult to find a recruit with a sound and healthy digestive apparatus.

Nearly every trust afflicting the United States has been created by the manipulations of the railroad managers. If under the present system of railroads there is no limit of power of managers of corporations in exercising taxation, or in building up or tearing down the enterprises of the people, there must be a change or the Government will be destroyed.

The power of taxation is essential to all independent governments, without which no government can exist; but if the railroads can exact all the contributions that the business of the country will bear—as they claim the right to do—the time is not far distant when the country will be ruined and an oligarchy of railroad magnates will supplant the Government established by the Fathers.

I thank President Roosevelt for bringing the question before the people for discussion, in his recommendation of railroad regulation. He is entitled to the gratitude of the country for his exposure of the Beef Trust, Standard Oil Trust, Steel Trust, and other trusts and combinations, all of which are the creation of railroad discriminations.

The interstate commerce laws are the entering wedge

for the exercise by Congress of the power to regulate commerce with foreign countries and among the several States. The regulation of commerce cannot be left to private corporations. The wisdom of the constitution in conferring the power to regulate commerce upon Congress is fully vindicated by the unbusiness-like, if not dishonest, regulation of commerce by railroad corporations. Whether it is possible for Congress to regulate commerce on private railroads while those roads are managed by private corporations is an unsettled question, but if it cannot be done by the joint action of the Government and private corporations the United States must own the railroads. The question must be settled. The agitation will not stop until Congress regulates commerce without interference from any source. In view of the inevitable depreciation of railroad property and railroad securities during the long contest which will be necessary to secure the regulation of commerce over private railroads, why would it not be good policy for the railroads without coercive measures to sell to the General Government and take in payment interest-bearing bonds of the United States? Why would not such an investment be profitable to the Government? This would accomplish a settlement of a question which may agitate the country for a generation.

It has been suggested that ownership and management of railroads would place enormous power in the hands of the General Government, and so concentrate authority as to create a monarchical government, which might be dangerous to liberty.

If the alternative is presented of ownership by the Government, or the despotism of an oligarchy of railroad magnates, I prefer the former, because no government, however arbitrary, would undertake to transfer the earnings of the people to corporations, trusts, and favorite individuals, with such unparalleled rapidity as

the railroads have done in the last thirty years. Public sentiment is powerful with any government, while irresponsible corporations are blind to the wrongs of the masses, and treat with contempt the reasonable complaints of the people.

It may be that this Government can survive, notwithstanding the multi-millionaires already created by the railroads; but it cannot withstand the continuance of the process of transferring the earnings of the masses to an oligarchy of wealth without suffering the fate of the nations which have preceded us, whose people were slaves, and millionaires their slave-masters.

The conflict between the people and their financial oppressors cannot be postponed. One generation more of the rule of railroad monopoly will not only concentrate the wealth of the nation in the hands of the few, but will impoverish the people and weaken their power of resistance.

It must be admitted that railroad corporations, and the trusts they have created, are more formidable antagonists of the people than any with which former generations were compelled to contend; but the people of the United States are better prepared to overcome the enemies of human rights than any people who have preceded them.

The fact that the ancient empires of Asia, Africa, and Europe perished through the avarice and oppression of the masses by the cunning and greedy few, does not prove that there is not a remedy for intolerable injustice.

When the people of France were serfs, and all the property belonged to the church and the nobles, the vitality of the Gauls was sufficient to overthrow their oppressors and distribute the land among the natives of the soil.

When the church and the nobles seemed to have England in their perpetual control, Anglo-Saxon vigor

and manhood limited the monopoly of the soil by passing laws to deprive corporations from acquiring or holding more land than was absolutely necessary for the purpose of their organization.

The laws of mortmain, passed from time to time by the Parliament of Great Britain, show that the power of government in which the people had a voice checked the aggression of the monopoly. The success of the people of England, France, and many other countries of Europe in asserting their rights against oppression is most encouraging. How much more may not be predicted for the people of the United States, who have established and maintained the freest and the most potent Government which ever existed in the history of the world!

The only danger is delay. It will take but a few generations of the rule of railroads and trusts to prepare our Government for the fate of Egypt, Babylon, Greece, and Rome.

If the wealth of the country becomes concentrated in the hands of a few, its redistribution among the people may not be as gradual as the methods employed by our ancestors in the mother country, and it is even possible that it may exceed the horrors of the French Revolution in quick retribution for intolerable wrongs. It is to be hoped that the investigation of the railroad oligarchy and its brood of infamous trusts will reveal to the people a remedy by peaceful means without the necessity of violence or bloodshed.

CHAPTER XXXIX

Irrigation investigations in the arid regions—Marvels of the Mormons—Major Powell grows ambitious and is removed from office—A powerful friend in the White House—What Roosevelt has done for the development of the country.

In traveling over the arid regions of the West during the twelve years from 1875 to 1887, during which time I was not in the Senate, I was strongly impressed with the vast extent of country west of the one hundredth meridian that required irrigation to produce crops.

Immediately upon reëntering the Senate in 1887 I agitated the subject, and by speeches and articles in the magazines brought to the attention of the Senate the fact that two-thirds, if not three-fourths, of all the agriculture which had supported civilized and semi-civilized people had been pursued by means of artificial irrigation. The conflict between man and the desert has been unceasing since the dawn of history. When Egypt was the granary of the world, much of the Sahara Desert was irrigated from the Nile, and the dams and aqueducts which once turned that mighty river consisted of masonry so perfect in material and construction as to defy modern imitation. The ruins of irrigation works, such as dams, reservoirs, and aqueducts, are everywhere visible in the ancient land of Palestine. The waters of the Euphrates were spread over hundreds of acres that fructified what is now a vast desert, while the ruins of Babylon and other ancient cities challenge the curiosity and admiration of the scientists of our own time.

It was evident to me that the arid region of our country could only be made habitable by irrigation, and that the snow-capped region of the Rocky and Sierra

Nevada Mountains furnished a more abundant supply of water for irrigation of the valleys than was found in the ancient empires once so densely populated.

I offered a resolution in the Senate creating a Committee on Irrigation, and, following a full discussion, the resolution passed, and soon after a like committee was organized in the House of Representatives. I then offered a resolution in the Senate authorizing the Committee on Irrigation to travel over the arid region, investigate conditions, and report to the next session of Congress. I was made chairman of the Senate committee.

The two men on that committee who manifested the greatest interest and took the most active part were Senators John H. Reagan of Texas and James K. Jones of Arkansas. I invited Major Powell, Director of the Geological Survey, to accompany the committee. We visited every State and Territory of the arid regions.

In many places we found people residing on the banks of streams which flowed through valleys of fertile soil, actually suffering for the products of the farm which they could easily have acquired if they had known the elementary principles of irrigation. To these we imparted such information as we had, and passed on to Colorado and Utah, where deserts were being converted into fertile regions by diverting the streams.

Utah furnished a marvelous lesson. Whatever might have been said, or may now be said, of the Mormons, when they entered Utah from the agricultural lands of the North and the East where rain-fall supplied moisture, they had no knowledge of irrigation. But they experimented by diverting the water upon the land, while they had very little food except roots, wild game, and fish.

The hardships they endured while they were working out for themselves the problem of irrigation have done much to cement and build up the Mormon church.

When polygamy is eliminated and forgotten, as it must be as time passes, the history of the Mormons who created a great State in a desert, more than a thousand miles from supplies, will be read with sympathy and admiration.

Our committee found that irrigation had been practiced under the supervision of the Catholic priests who established missions in California, Arizona, and New Mexico, and that the American people who were occupying those countries at the time of our visit were improving upon the ancient systems, and gradually appropriating the water available in developing agricultural resources.

The committee found that in Idaho, Montana, Wyoming, and Nevada some progress had been made in agriculture by irrigation. The larger portion of Texas is in the arid and semi-arid region, and Senators Reagan and Jones took a lively interest in the development of irrigation in Texas, New Mexico, and Arizona, their immediate Western neighbors. These Senators were very influential throughout the South, and made irrigation popular in nearly every State south of Mason and Dixon's line.

Before the organization of the Committee on Irrigation, Senator Teller and myself appreciated the necessity of withdrawing from sale reservoir sites required for the storage of water for irrigation. The extent of the reservations for that purpose was not sufficiently guarded, for we did not anticipate that more land than was necessary would be withdrawn from the market by the Interior Department.

The ambition of Major Powell to manage the whole subject of irrigation, without regard to the views of others, led him to induce the Interior Department to withdraw vast regions of the public lands preparatory to the selection of the necessary sites. This withdrawal of public land from settlement practically closed many

of the land offices in the West, and created much complaint. It became necessary to secure legislation to restore the public domain to settlement.

The result was that Major Powell was removed from his powerful position as Director of the Geological Survey. Great dissatisfaction existed on the part of the Major and his friends on account of the action of Congress, and as if by some general and secret understanding articles appeared throughout the Northern States unfriendly to irrigation. The farmers were told by writers who gained access to the agricultural press that the irrigation of the arid region would ruin the agriculture of the North by bringing in competition a vast region of country, the products of which were of the same character as those of New England, New York, Pennsylvania, and all the Northwestern States. At nearly every session of Congress, however, the Senators of the Mountain States of the West continued to agitate the question, and with the aid of the Senators from the South would put upon various appropriation bills amendments providing for National aid to irrigation. But our amendments were never considered in the House of Representatives; in fact, the rules of the House were such that the Republicans of the North prevented any discussion of the question of irrigation in that body.

When President Roosevelt became the Chief Executive of the Nation by the deplorable death of President McKinley, irrigation had a powerful friend in the White House. He had lived in the mountain regions of the West, and was more familiar with Montana, Wyoming, Colorado, and New Mexico than any Representative from any of those States or Territories. In his first message he urged Government aid in irrigation in the West, and in private conversation with all who approached him on that subject he was earnest in his advocacy of the measure he recommended.

Senator Hansbrough of North Dakota introduced a

bill providing for National irrigation, and referred it to the Committee on Public Lands, of which he was chairman, because it was considered by the friends of irrigation that that committee was more familiar with the subject, and more enthusiastic in support of a measure of that kind, than the Committee on Irrigation.

After the bill was introduced the President suggested various amendments to perfect it. Senator Hansbrough in time reported the bill to the Senate, and after full explanation and debate it passed the Senate unanimously, went to the House of Representatives, and was referred to the Committee on Irrigation. That committee, as well as the Committee of the Senate, kept in close touch with the President, and took his advice at every stage of the proceedings. It required no argument to secure the support of Representatives of the Southern States, as they had been in favor of irrigation for many years. It was not necessary to educate the President, as he was as well informed as anybody in the United States. He sent for the leading Republican members of the North, and appealed to them to cease their opposition and permit the bill to pass as an Administration measure. The bill was passed.

Many men both in and out of Congress deserve credit for assisting in this great enterprise, but to Theodore Roosevelt the country owes the final success of the measure.

I first met Edmund Winston Pettus the summer of 1850 at Nevada City, California. We were both miners, and a warm friendship arose between us which lasted through life. He was a genial companion, and knew more of law and politics than any other young man of my acquaintance. He had been a lieutenant in the Mexican War. He returned to his home in Alabama in 1855, and I did not see him again until his entry into the United States Senate, March 4, 1897. Although a man much past middle-age he made a repu-

tation for himself in the Senate which added luster to his State. He did not believe in shams and took a comical view of buncombe oratory.

Senator Albert J. Beveridge, of Indiana, a young, aggressive, and flowery speaker, had occupied the attention of the Senate in February and March, 1900, in two or three florid and, what he assumed to be, commanding orations. A bill to regulate the status of the people of Porto Rico was under consideration. The debate also included suggestions with regard to the government of the Philippines. Mr. Pettus took occasion to comment on the oratorical performances of Senator Beveridge, and made one of the most humorous speeches I ever heard in the Senate.

"Mr. President," he said,* "we had a wonderful declamation yesterday from our great orator—wonderful. It was marvelous in all its parts. It was so marvelous that I dare say such a thing has never before been heard of in the Senate of the United States. When you get a genuine orator he is absolutely absolved from all rules of logic or common sense. When it is necessary, in the fervor of oratorical flourishes, to prove any proposition, true or false, rules of common sense and the decent observance of what is due to others must not stand in the way of maintaining 'my reputation as a great orator.' It will not do. If it is necessary I must break down the ideas of an observance of what the Senator from Vermont [Mr. Proctor] characterized as 'the best policy.' If it is necessary I must 'draw on my imagination for my facts and on my memory for my flights of fancy,' as Ovid Bolus did. When an orator speaks he has a right, in the fervor of his oratory, here in the United States Senate, in reference to the Republicans, and Democrats, and Populists, and any other man who may choose to take a seat here,

*Cong. Record, Vol. 33, Part IV, 56th Cong., 1st Sess., page 3509.

to speak of them as 'enemies to the Government.' He has a right to speak of them as 'opponents of the Government.' The Government, in his mind, is 'me and my wife, my son John and his wife; us four, and no more.'

"I was amazed at that speech. I once before heard one that went off in that direction. Oh, I tell you the senior or junior Senator from Iowa—I do not know which—and the senior or junior Senator from Maine—I do not know which—will have to take some action in reference to that orator. There is no doubt about it in the world. There will have to be some caucus on that matter. I tell you, Mr. President, these four wise men from Maine and Iowa could not devote their time, if they want to serve their party well, better than to take some consideration of the orators in this Chamber. Orators; yes!

"The Master once had to select a man to lead the children of Israel out of Egypt and through the wilderness to Canaan. He did not select an orator. No; he selected one of these men from Maine or Iowa, and his name was Moses. And he was a stuttering man, too. But Moses told his Master to his face that he could not do it, because he could not speak to the people. And what was the reply? 'There is Aaron. He speaks well.' And they took Aaron along, not in command, that was not allowed, but they took him along as a kind of deputy; and when Moses on his Master's order went up into the mountain for the Tables, the orator left in charge had a golden calf framed. And he put all the people down to worshipping the golden calf. More people worship the golden calf now than did in those days. But while Aaron and his people were all down worshipping the golden calf, the man of God appeared, and he pulled out his sword and demanded to know 'who was on the Lord's side,' and the orator jumped up from his knees, drew *his* sword, got on Moses's side,

and went to killing the Israelites along with Moses. All these orators will do the same thing—the last one of them. We saw an instance of it yesterday afternoon.”

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CHAPTER XL

Conclusion—The Pious Fund Case—I argue before the Hague Court of Arbitration—A tribute to the Dutch—I retire from the Senate—Back to the Nevada gold fields.

The Pious Fund Case was tried in the fall of 1902 before the Court of Arbitration authorized by The Hague Convention of 1899. I was employed with John T. Doyle as counsel in that case, and argued it as senior counsel on the final hearing. The case grew out of donations made by pious persons in the eighteenth century to create a fund for the civilization and conversion of the natives of California, and for the maintenance and support of the Catholic religion in that country. This fund was covered into the Mexican treasury by decree of October 24, 1842, with an undertaking on the part of Mexico to pay interest thereon for the purposes intended by the donators.

After the sale of California to the United States the Mexican Government failed to pay the agreed interest on that part of the principal belonging to the missions of upper California. There had been a previous arbitration and an award made to the United States in behalf of the Catholic Church of upper California, but the Mexican Government denied that anything more was due. Finally, by stipulation with the United States, it was agreed that the question should be submitted by the two governments to the permanent Court of Arbitration under The Hague Convention of 1899. The hearing before the court occupied the time from September 15 to October 14, 1902. After some two or three weeks of deliberation the court made an award in favor of the Catholic Church of \$1,420,662.69 Mexican money; and further decreed that the Mexican Government should pay to the

Catholic Church annually the sum of \$42,050.99. The Mexican Government has complied with the judgment, and thus the Pious Fund Case was finally settled.

It was a remarkable case in many respects. It arose before the Mexican Revolution, and was in controversy by negotiations and arbitration between the United States and Mexico from 1842 to 1902. It was the first case submitted to the permanent Court of Arbitration.

While at The Hague I took opportunity to visit nearly every place of interest in Holland. The existence of that little kingdom is one of the wonders of the world. The difficulties encountered and labor required to create a flourishing kingdom below the water level of the stormy North Sea required courage, fortitude, industry, and endurance beyond the comprehension of this generation; but the accomplishment of what now seems miraculous accounts for the heroic, determined, persevering, and unconquerable qualities of the Dutch. I saw more to admire in the Dutch character and in the deeds accomplished by that people than in any other nation in Europe. Every man in whose veins the blood of Holland circulates is liable to be a great character.

This is conspicuously illustrated by Theodore Roosevelt, now President of the United States, and by the Boers of South Africa, who, insignificant in number, fought the British Empire to a standstill. The odds were so fearful that no other race of men would have dared to enter the contest. The heroic deeds of the Hollanders in resisting the combined powers of Continental Europe for more than half a century can never be fully described. No people ever suffered more, endured more, or fought more bravely since prehistoric times.

I retired from the Senate for the last time, March 4, 1905, and returned to my old home in Nevada, and with a four-horse team attached to a camping-wagon

spent about six weeks inspecting the mining camps of the southern part of the State.

I came to the conclusion that the Bullfrog mining district was more promising than any other in the State. At the time I am writing, two railroads are approaching Bullfrog from the south, and another is contemplated from the north, making this a central point for a very extensive and wonderfully rich mining region. I located in Bullfrog in May, 1905. I have built a commodious office and furnished it with a law library of about three thousand volumes, and have also built a dwelling-house with all the necessary conveniences, where I reside with my family, consisting of my second wife and her little daughter.

My wife is a strong character, endowed with the rare gift of common sense, and although she is unaccustomed to Western life she adapts herself to the situation with readiness and ease, and makes my home more delightful than it would be in any other part of the world. We are not compelled to look abroad for excitement or entertainment. New developments and new discoveries are more agreeable than the vanities of society and the passing shows of large cities.

The climate is excellent. It is free from severe cold in winter, and the heat in summer is not as uncomfortable as it is in the inland country of the Northern States. The elevation at my office and residence is 3,575 feet above the level of the sea, and the cool breezes at night make it a comfortable place to sleep in the hottest weather.

At the present time I am engaged in my profession of the law, and acquiring interests in mines and assisting in their development. The fascinating business of mining is a perennial source of hope. It inspires both mental and physical vigor, and promotes health and contentment.

