IMPEACHMENT.

Trial of President Andrew Johnson for High Crimes and Misdemeanors.

The Case for the Prosecution Closed.

Adjournment of the Court Until Thursday Next.

ERRATIC TESTIMONY OF GENERAL EMORY.

WASHINGTON, April 4, 1868.

The Managers of the impeachment trial closed their case, as Mr. Butler expressed it, "substantially" to-day. Some unimportant documentary and cumulative evidence is expected to be introduced when the court reassembles on Thursday next.

About three o'clock, after Messrs. Bingham and Boutwell had read some brief extracts from laws of the United States affecting the case of Mr. Pickering, who was removed from the office of Secretary of State by President Adams, and also several messages sent to Congress by President Johnson within the past year, showing his recognition of the Tenure of Office act, Manager Butler rose and said the prosecution had nothing more at present to produce, and declared the case closed on behalf of the House of Representatives, reserving the right to offer certain additional testimony when it was forthcoming.

Nothing either lively or important occurred in the proceedings of to-day. Two shorthand writers testified as to the correctness of their reports of the President's famous speech at St. Louis, and Mr. Robert Chew, a thirty-four years veteran clerk in the State Department, explained the form of commissions issued to officers of the government before and since the passage of the Tenure of Office act. After Mr. Butler got through with this witness Mr. Stanbery put a leading and very pertinent question to him, to which Mr. Butler interposed a sudden and vigorous objection. He asked the witness, whose long experience was certainly worth something, if he knew, during his prolonged service, of any head of a department being requested to resign and refusing to do so. The witness was on the point of replying in the negative, though perhaps reserving the recent exception of the individual who has stirred up the present strife between two branches of the government, when Mr. Butler sprung from his seat, and, in that indescribable voice of his, exclaimed sharply, "Stop! I object—I object to that." And the experience of the witness was lost to the world.

The documentary evidence which followed proved nothing beyond the fact that President Adams, in the year 1800, sent certain nominations to the Senate soon after the vacancies were created.

When all was over Mr. Curtis made a brief, cogent and dignified appeal for a few days' time to prepare for the defence. The Senate was evidently impressed with the candor and reasonableness of his request, and would by a majority have granted it there and then, but some irrepressible radical was bound to make a motion against it. Old Simon Cameron, who has been commendably quiet thus far, wanted to know what the defence required more time for. The Managers were prepared to go on, and he thought the defence ought to be equally ready.

The Chief Justice had more trouble in bringing Simon to order than he previously had, a few days ago, with the incorrigible Drake. Mr. Conness moved to grant two days from Sunday. Reverdy Johnson moved the counsel's request for three days, or until Thursday, and after a vote the latter was carried.

The audience to-day was a duplicate of the one yesterday and several days previous. It consisted of members' male and female relatives and friends, to the exclusion of all others. The House was represented on the floor by about a dozen members. All the rest had gone either home or to the circus. Speaker Colfax said to-day he had given leave to all but fifty of his "boys" to go home and look after their re-nominations and other congenial interests. Washington is consequently dull.

Assistant Treasurer H. H. Van Dyke, having been summoned to appear before the Impeachment Managers, arrived here this morning, and was examined by them at ten o'clock this morning.

It is ascertained this evening that the statement made by General Emory in his testimony before the High Court of Impeachment a few days ago that he took advice from Robert J. Walker, who declared that no order of the President was valid unless issued through General Grant, is pronounced by Robert J. Walker himself the very reverse of what he did recommend; and Reverdy Johnson, who was placed in the same category as denying the right of the President to issue orders except through General Grant, declares he never gave utterance to any such opinion; and both these distinguished authorities have been represented in the evidence in a wrong light before the country. Their opinions are, according to themselves, diametrically opposite to those with which they have been credited by the witness.

A Washington despatch to the *Evening Telegram* says:—For one hour prior to the meeting of the impeachment court to-day the Senators amused themselves with the discussion of the resolution of Senator Sherman to abolish the present system of issuing tickets for admission to the Senate galleries during the impeachment trial. Senator Morrill, of Maine, who took the lead in favor of the ticket system, defeated the resolution by talking against time. He did not conclude his harangue till the hour for assembling of the court arrived, thus rendering it impossible to get a vote on it. Popular indignation against the ticket system is very great. Many persons, who spend time and money coming from a distance to witness the proceedings, are unable to gain admittance and are forced to return disappointed. In the disposition of tickets Senators and members exhibit favoritism, which is strongly condemned. Those who have attended regularly have observed the same faces in the galleries almost daily, showing that but a comparatively small number have been able to attend the trial. These favorites are becoming wearied, and as a consequence the galleries for the last few days have not been half filled, while hundreds are standing outside unable to obtain admission.

PROCEEDINGS OF THE COURT.

Ninth Day.

UNITED STATES SENATE CHAMBER,
WASHINGTON, April 4, 1868.

At twelve o'clock the Chief Justice entered the Senate Chamber and took the chair, which had just been vacated by the President *pro tem.* of the Senate.

Proclamation was made and the Managers and members of the House were announced as usual, the former being all present as well as the President's counsel.

TESTIMONY OF L. L. WALBRIDGE.

After the journal had been read L. L. Walbridge was sworn and examined by Mr. BUTLER, as follows:—

Q. What is your business? A. I am a shorthand writer.

Q. How long have you been engaged in that business? A. Nearly ten years.

Q. Have you had during that time any considerable experience, and if so how much in that business? A. Yes, sir; I have had experience during the whole of that time, including newspaper and outside reporting.

Q. With what papers have you been lately connected? A. More recently the *Missouri Democrat*; previous to that time the *Missouri Republican*.

Q. Do the names of those papers indicate their party proclivities, or are they reversed? A. They are reversed, sir.

Q. The *Democrat* means Republican, the *Republican* means Democrat? A. Yes, sir.

Q. To what paper were you attached on or about the 8th of September, 1866? A. The *Missouri Democrat*.

Q. Did you report a speech delivered from the balcony of the hotel in St. Louis by Andrew Johnson? A. I did, sir.

Q. What time in the day was the speech delivered? A. Between eight and nine o'clock in the evening.

Q. Was there a crowd in the streets? A. Yes, sir; there was on the balcony also.

Q. Where were you? A. I was on the balcony, within two or three feet of the President while he was speaking.

Q. Where was the President's party? A. I don't know.

Q. Were they there? A. I have no recollection of seeing one of the party on the balcony.

Q. Did the President come out to answer to a call from the crowd on the street apparently? A. Yes, sir, I judge so; I know there was a very large crowd on the street, and continual cries for the President, in response to those cries I suppose he came out.

Q. State whether he had been received in the street by a procession of charitable and other societies? A. He had, sir, been received in the afternoon by the municipal authorities.

Q. Had the Mayor made him an address? A. He had, sir.

Q. Had he answered that address? A. He had, sir.

Q. Did you take a report of that speech? A. I did, sir.

Q. How fully? A. I took every word.

Q. After it was taken how soon was it written out? A. Immediately.

Q. How written out? A. By my dictation.

Q. By whom? A. The first part of the speech previous to the banquet was written out in one of the rooms of the Southern Hotel; that occupied about half an hour, I should think; we then attended the banquet, at which speeches were made; immediately after the close of the banquet we went to the *Republican* office, and there I dictated the speech to Messrs. Monagram and McHenry, two of the attachés of the *Republican* office.

Q. You have spoken of a banquet. Was there a banquet given to the President by the city? A. Yes, sir, immediately after speaking from the balcony.

Q. At that banquet did the President speak? A. He made a very short address.

Q. Now, sir, after that speech was written out was it published? A. It was, sir.

Q. When? A. On the next morning, in the Sunday *Republican*.

Q. After it was published did you revise the publication by your notes? A. I did, sir.

Q. How soon? A. Immediately after the speech was published in the Sunday morning *Republican* I went down to the *Democrat* office in company with my associate, Mr. Edwin F. Adams, and we very carefully revised the speech for the Monday morning *Democrat*.

Q. Then it was on the same day—on the same Sunday that you made the revision. When you made the revision had you your notes? A. I had, sir.

Q. State whether you compared the speech as printed with those notes. A. Yes, sir, I did at that time and since.

Q. When you compared it did you make any corrections that you needed in the wording? A. My recollection is that there were one or two simple corrections, errors, either in transcribing or on the part of the printer. That is all that I remember in the way of correction of that speech.

Q. Did you correct from your notes? A. I did, sir.

Q. When was that? A. I think, sir, that it was a little over a year ago.

Q. What occasion led you to revise it from your notes then? A. I was summoned by the Committee on the New Orleans Riot; I think it was a little time after receiving the summons; I hunted up my notes and again made a comparison with the speech.

Q. How far did that second comparison verify your correctness? A. It was perfectly correct, sir.

Q. In regard to the particulars of the report, were you enabled to report so correctly as to give inaccuracies of pronunciation? A. Yes, sir, I did so in many instances.

Q. Where are your original notes now? A. I can't tell, sir; I searched for them a little after I was summoned here, but failed to find them.

Q. You had them at the time you were examined before the Committee on the New Orleans Riot? A. Yes, sir; I have no recollection of them since that time.

Q. Have you a copy of that paper? A. I have, sir.

Q. Will you produce it? (Witness produces a printed paper.) Q. Is this it? A. It is.

Q. From your knowledge of the manner in which you corrected it state whether you are now enabled to say that the paper which I hold in my hand contains an accurate report of the speech of the President delivered on that occasion? A. Yes, sir; I am able to say that it is an accurate report.

Mr. BUTLER said he proposed, if there was no objection, to offer the paper in evidence, and he proposed to do so also if there was objection. (Laughter.)

Cross-examined by Mr. Evarts:—

Q. I understand that you took down the entire speech from the President's mouth, word for word, as he delivered it? A. I did.

Q. In the transcript from your notes and in this publication did you preserve that form and degree of accuracy and completeness? A. I did.

Q. Is it all of the speech? A. It is.

Q. No part of it is condensed or paragraphed? A. No sir, it is all the speech.

Q. You say that besides the revision of the speech which you made on the Sunday following the delivery of the speech you made a revision of it a year ago? A. Yes.

Q. For what reason and on what occasion? A. At the time that I was summoned before the Committee of Congress on the New Orleans Riots.

Q. At Washington? A. Yes.

Q. When was that? A. I can't say; it is over a year ago; I can't fix the date precisely.

Q. Were you then inquired of in relation to the speech? A. I was.

Q. And did you produce it then to that committee? A. I did.

Q. Were you examined before any other committee than that? A. No, sir.

Q. Was your testimony reduced to writing? A. Yes.

Mr. BUTLER—Was your testimony before the New Orleans Riot Committee published? A. I am not aware whether it was or not.

Mr. BUTLER then put in evidence the St. Louis *Democrat's* report of the President's speech in St. Louis, made on the 8th of September, 1866.

The speech was read in full by the Clerk. The most offensive portions of it are set out in the third specification of the tenth article. Curiously enough it contains a paragraph predicting that the Fortieth Congress, if constituted as the Thirty-ninth Congress was, would try to impeach and remove him from office on some pretence of violating the constitution or refusing to enforce some law.

TESTIMONY OF JOSEPH A. DEAR.

Joseph A. Dear sworn and examined by Mr. Butler:—

Q. What is your business? A. I am a reporter.

Q. How long have you been in the business? A. Five years.

Q. How do you report speeches? A. I am a shorthand writer.

Q. Did you join the President's party when it went to St. Louis via Cleveland? A. I did join in Chicago.

Q. Were you in the President's party at St. Louis? A. I was.

Q. Did you make a report of any speeches made there? A. I reported all the speeches made there.

Q. For what paper were you reporting? A. I was with the party as a correspondent for the Chicago *Republican*. I made the report for the St. Louis *Times*.

Q. Have you your notes of that report? A. I have a part of them.

Q. Was there speaking on the steamboats? A. There was.

Q. Did you report that speech? A. I did.

Q. State whether that was an address in reply to the welcome by the Mayor? A. I think it was a speech in answer to an address of welcome by Captain Leeds, who represented a committee of citizens who met the party in Alton.

Q. How did you make that report? A. In shorthand writing.

Q. How soon did you write it out? A. That evening.

Q. How accurate was it? A. Where it purports to be accurate. The report was made for the St. Louis *Times*, and, as a matter of course, reporting for a paper of strong democratic politics I corrected the inaccuracies of grammar. That is all.

Q. Have you since written out from your notes so far as you have notes? A. I have.

Q. Look at this paper and say if it is in your handwriting from your notes? A. It is an exact transcript, so far as it goes.

Q. Is that an accurate report of the speech as made by Andrew Johnson? A. It is, with the exceptions I have mentioned.

Mr. STANBERY (to Mr. Butler)—Is that the steamboat speech?

Mr. BUTLER—No; it is the speech from the balcony of the Southern Hotel.

Witness—The first speech is the speech at the Lindell Hotel; the other is the speech at the Southern Hotel.

Mr. BUTLER (to witness)—Take the one at the Southern Hotel. So far as that report goes this is an accurate report of that speech? A. It is.

Q. Why is it not all here? A. Because I have lost part of my notes.

Q. Whereabouts did it commence? A. The speech commences in the middle of a sentence. The first words are, "Who have shackles on their limbs, and who are as much under the control and will of their masters as the colored men who are emancipated."

Witness (to a Senator)—This speech was made at the Southern Hotel, in St. Louis.

Q. Does the speech then go through as printed? A. Yes, it goes through to the end.

Q. Have you compared the transcript with this paper, the St. Louis *Democrat*? A. No, sir.

Mr. BUTLER offered the transcript as evidence.

Cross-examined by Mr. Stanbery:—

Q. Was your report published? A. Yes.

Q. In what paper? A. In the St. Louis *Times*, on the Sunday following, I think the 9th of September.

Q. How much more time does it require a shorthand writer to write out his notes in longhand than is required in taking the notes? A. We generally reckon the difference in the notes between long and short hand about six or seven to one.

Re-direct by Mr. BUTLER:—

Q. Do I understand you to say that the whole of the speech was published in the *Times*. A. No, sir; not the whole of it.

Q. Was it condensed for publication? A. It was considerably condensed.

Q. Was Andrew Johnson a rapid speaker? A. Mr. Johnson is a fluent speaker, but a very incoherent one.

Q. Does he frequently repeat his words? A. Frequently; he is tautological, very verbose.

Q. Does that enable him to be taken with more ease? Yes, it does, sir.

Q. Is it not in your experience that there are men who by practice of longhand and by abbreviations can follow a speaker pretty accurately who speaks as Andrew Johnson speaks? A. I think they can give the sense of his speech without doing him any injustice.

Q. How is it when are taken into consideration interruptions? A. The reporter would have to indicate the interruptions; he could not write them out.

Q. But could he get the sense of the speaker? A. Yes, he could.

By Mr. STANBERY—A longhand writer, you say, may take the sense and substance of a speech—that is, he may take the sense and substance as to his own ideas of what they are? A. Yes, his own view of what the speaker is saying.

Mr. BUTLER—By dictating a report from the notes to another person it can be written out much more rapidly? A. Yes, sir.

TESTIMONY OF ROBERT S. CHEW.

Robert S. Chew was sworn and examined by Mr. BUTLER:—

Q. You are employed in the State Department? A. I am.

Q. In what capacity? A. I am Chief Clerk in the State Department.

Q. Is it a part of your duty to supervise commissions that are issued? A. A commission is first written out by a person who is called the Commission Clerk of the Department; it is brought to me and by me sent to the President. When it is returned with the President's signature it is submitted by me to the Secretary of State, who countersigns it; then it goes to the Commission Clerk for the seal to be affixed to it.

Q. When a commission does not belong to your department, where does it go? A. If it is for the Treasury it goes to the Treasury.

Q. That is to say, the commissions of officers of the Treasury are prepared at your department? A. Yes, sir.

Q. For what officers, for instance? A. For Comptroller, Auditors of the Mint, Collectors of the Revenue, &c.

Q. For Secretary and Assistant Secretary also. A. Yes, sir.

Q. After they are prepared they are sent to the Treasury? A. Yes, sir.

Q. Those belonging to your office are issued from your office? A. They are issued from the Department of State.

Q. Have the kindness to tell us whether after the passage of the Civil Tenure of Office act any change was made in the commission of officers of your department to conform to that act? A. There was.

Q. What was that change? Tell us how the commission ran in that respect before and how it ran afterwards. A. The form of the old commission was, "during the pleasure of the President of the United State for the time being." These words have been stricken out and the words "subject to the conditions prescribed by law" substituted.

Q. Does that apply to all commissions? A. It applies to all commissions.

Q. When was that change made? A. Shortly after the passage of the Civil Tenure of Office act.

Q. How soon after? A. I cannot say exactly when the first case came up making it necessary for the Commission Clerk to prepare a commission; he applied for instructions under that act.

Q. Was the subject then examined at th deepartment? A. It was.

Q. Was that change made after examination or before? A. After the examination.

Q. State whether it was made by the direction of Secretary or not? A. The case was submitted by the Secretary to the Examiner, and on his opinion the change was made.

Q. By order of the Secretary? A. I think so.

Q. Do you print your commissions on parchment from a copperplate form? A. Yes, sir.

Q. Was the copperplate changed to conform? A. It was.

Q. Have you blank forms of the various kinds of commissions issued by your department? A. We have.

Q. Prior to the passage of the act of March 2, 1867 (being the Civil Tenure of Office act), state whether the commissions issued to hold office during the pleasure of the President for the time being were all issued in that form? A. They were all issued in that form.

Q. After the change have all the commissions been issued in a changed form? A. They have.

Q. Have such changed commissions been signed by the President? A. They have.

Q. Has there been any other change than what you have mentioned down to this day? A. None at all.

Q. Has any commission whatever to any officer been sent out from the department since the passage of the act except in that changed form? A. I am not aware of it.

Q. Could there have been any except by accident without your knowing it? A. Not except by accident.

Mr. BUTLER put the forms of the commission in evidence.

Cross-examination by Mr. STANBERY:—

Q. The old form contained this form, as I understand it:—"The said officer to hold office during the pleasure of the President of the United States for the time being?" A. Yes, sir.

Q. These words, you say, are left out? A. Yes, sir.

Q. And these other words are inserted, "subject to the conditions prescribed by law?" A. Yes, sir.

Q. Have you ever changed one of your plates or forms so as to introduce in place of what was there these words, "To hold until removed by the President, with the consent of the Senate?" A. No, sir.

Q. Has any commission been issued to the head of a department different from those that were issued before the Tenure of Office act? A. I cannot answer that there has been.

Q. Have you a separate plate for the commissions of heads of departments? A. I cannot answer that question.

Q. Do you recollect no instances in which any change has been made there? A. No, sir.

Mr. BUTLER—Has any commission been issued to the head of a department since March 2, 1867? A. I do not recollect it.

Mr. BUTLER—Then, of course, there is no change.

Mr. STANBERY—Of course not. (To the witness)—How long have you been chief clerk? A. Since July, 1866.

Q. How long have you been in the office? A. Since July, 1834.

Q. That is, you have been there thirty-four years? A. Yes, sir.

Q. In all that time before this change all commissions ran in this way:—"During the pleasure of the President for the time being?" A. Yes, sir.

Mr. BUTLER—Do you know Mr. Seward's handwriting? A. Yes, sir.

Q. Is this letter signed by him. A. It is.

Mr. BUTLER—I offer now in evidence a list prepared by the Secretary of State and sent to the Managers of all the appointments and removals of officers as they appear in the State Department from the beginning of the government.

Mr. STANBERY—Of all officers?

Mr. BUTLER—No; of all heads of departments. It is accompanied with a letter simply describing the list, and which I will read. The letter is as follows:—

Honorable JOHN A. BINGHAM, Chairman, &c.:—

SIR—In reply to a note addressed to me on the 23d inst., on the part of the House of Representatives in the matter of the impeachment of the President, I have the honor to submit herewith two schedules, A and B. Schedule A presents a statement of all removals of heads of departments made by the President of the United States during the session of the Senate, so far as the same can be ascertained from the records of the department. Schedule B contains a list of all appointments of heads of departments at any time made by the President, with the advice and consent of the Senate and while the Senate was in session, so far as the same appear on the records of the State Department. I have the honor to be, &c., WILLIAM H. SEWARD.

Mr. BUTLER then put in evidence schedule A, being the list of removals of heads of departments made by the President at any time during the session of the Senate, the only case being that of Timothy Pickering, Secretary of State, removed May 13, 1800. Mr. Butler also put in evidence schedule B, being a list of appointments of heads of departments made by the President at any time during the session of the Senate. The list contains thirty appointments, extending from 1791 down to 1866, and are principally the appointment of chief clerk to act temporarily as heads of departments.

Mr. BUTLER (to the witness)—There are in this list thirty acting appointments, like those of Mr. Hunter, Mr. Appleton and Mr. Frederick W. Seward. I do not ask the authority under which they were made, but I ask the circumstances under which they were made, and what was the necessity for making them—whether it was the absence of the Secretary or otherwise? Has there been, in the thirty-four years that you have been in the department, any appointment of an acting secretary except on account of the temporary absence of the Secretary? A. I do not recollect any at this time.

Q. By whom were those acting appointments made? A. they were made by the President or by his order.

Q. Did the letters of authority proceed in most of these cases from the President or from the head of a department?

Mr. EVARTS objected, and stated the papers themselves were the best evidence and must be produced.

Mr. BUTLER said that he was merely asking from whence the papers were issued—whether they came directly from the head of a department to the Chief Clerk or came from the President to him.

Mr. EVARTS—That is the very objection we make. The letters of authority are themselves the best evidence.

Mr. BUTLER—Suppose there were no letters of authority?

Mr. EVARTS—Then you would have to prove the fact by other evidence.

Mr. BUTLER—I am asking from whence the authority proceeded, because I cannot know now to whom to send to produce them.

The CHIEF JUSTICE (to the witness)—Is the authority in writing?

Witness—It is always in writing.

Mr. BUTLER—I put this question to the witness, "From whom did those letters of which you speak come?"

Mr. EVARTS objected.

The CHIEF JUSTICE directed the question to be reduced to writing.

Mr. BUTLER then modified it so as to read, "State whether any of the letters of authority which you have mentioned came from the Secretary of State, or from what other officer."

Mr. BUTLER said—My object in putting the question is that if he says that it came from the President that will end the inquiry, and if he says that they all came from the Secretary of State, then I want to send for them.

Mr. EVARTS—We object to proof of authority other than by the production of the writing, which, as the witness has stated, exists in all cases.

Mr. BUTLER—I am not now proving the authority. I am endeavoring to find out from what source these letters came, and am following the usual course of examination.

Mr. CURTIS (to Mr. Butler)—Do you mean to inquire who signed the letter of authority?

Mr. BUTLER—I mean to inquire precisely whether the letter came from the Secretary or from the President.

Mr. CURTIS—Do you mean by that who signed the letter, or do you mean from whose manual possession it came?

Mr. BUTLER—I mean who signed the letter.

Mr. CURTIS—That we object to.

Mr. BUTLER—I do not do it for the purpose of proving the contents of the letter, but for the purpose of identification.

Mr. EVARTS—We say that the paper itself will show who signed.

Mr. BUTLER—The difficulty with me is that unless I take an hour in my argument these gentlemen are determined that I shall never have the reply of my proposition. My proposition is not to prove the authority, not to prove the signature, but to prove the identity of the paper. It is not to prove that it was a letter of authority, because Mr. Seward signed it, but it is to prove whether I am to look for my evidence in a given direction or in another direction.

The CHIEF JUSTICE decided that the question in the form in which it was put was not objectionable, and that the question whether these documents were signed by the President would be also competent.

Mr. BUTLER—State whether any of the letters of authority which you have mentioned came from the Secretary of State, or from what other officer.

Mr. CURTIS—I understand that the witness is not to answer by whom they were sent.

Mr. BUTLER (tartly)—I believe I have the witness.

The CHIEF JUSTICE—The Chief Justice will instruct the witness not to answer at present by whom they were signed.

Witness—They came from the President.

Mr. BUTLER—All of them? A. Such is the usual rule; I know of no exceptions.

Q. Do you not know of any letter or authority to a chief clerk to act as Secretary of State that did not come from the President? A. I do not.

Q. Will you on your return to the office examine and see if there is anything? A. I will.

Mr. STANBERY—I see by the list only one instance of the removal by the President of the head of a department during the session of the Senate, and that was an early one—May 13, 1800. Q. Do you know anything of the circumstances of that removal? A. Not at all.

Q. You do not not know whether that officer had refused to resign when requested? A. I do not.

Q. In you own knowledge since you have been in the department, do you know of any instance in which the head of a department, when requested by the President to resign, has refused to resign?

Mr. BUTLER (to the witness)—Stop a moment; I object.

The objection was either sustained or the question withdrawn.

Mr. STANBERY—Have you ever examined the records to ascertain under what circumstances it was that Mr. Adams removed Mr. Pickering from the head of the State Department in 1800, when the Senate was in session? A. I have not.

Mr. BUTLER—Do you know that he was removed when the Senate was in session of your own knowledge? A. I do not.

Mr. BUTLER—I now offer, sir, from the ninth volume of the Works of John Adams (the Little & Brown edition), by his grandson, Charles Francis Adams, what purports to be official letters from Timothy Pickering, Secretary of State, to John Adams, and from Adams to Hill. Any objection (to Mr. Stanbery)?

Mr. STANBERY—Not the least.

Mr. BUTLER—The first one is dated the 10th of May, 1800 (pages 53, 54, 55). I offer them as the best evidence of the official letters of that time. I have not been able to find any record of them thus far. Any objection, gentlemen?

Mr. STANBERY—Not at all, sir.

Mr. BUTLER read a letter from President Adams to Timothy Pickering, Secretary of State, dated May 10, 1800, which, he said, was Saturday, announcing that the administration deemed a change in the office of Secretary of State necessary, and stating that the announcement was made in order to give Pickering an opportunity to resign. He next read the reply of Mr. Pickering, dated "Department of State, May 12, 1800," stating that he had contemplated a continuance in office until the 4th of March following after the election of Mr. Jefferson, which was considered certain, and refusing, from various personal considerations, to resign. He then read the letter of President Adams, of the same date, removing Mr. Pickering from office. Now, Mr. Butler said, will the Senate have the goodness to send for the executive journal of May 12, 1800, to be brought here? I propose to show that at the same hour on the same day Mr. Adams, the President, sent the nomination to the Senate.

Mr. STANBERY—Do I understand the honorable Manager to say at the same hour? Do you expect to prove it?

Mr. BUTLER—When I come to look at the correspondence I think I am wrong. I think the action of the Senate was a little previous. (Laughter.)

Mr. STANBERY—You do!

Mr. BUTLER—Yes, sir.

On motion of Senator SHERMAN it was ordered that the journal in question be furnished.

MR. CREECY RECALLED.

Mr. C. Eaton Creecy was recalled and examined by Mr. BUTLER:—

Q. You have been seven, I believe? A. Yes, sir. (Paper shown to witness.) You told us that you were appointment clerk in the Treasury office. You are familiar with the handwriting of Andrew Johnson? A. I am.

Q. Is that his handwriting? A. It is.

Q. Did you produce this letter from the archives of the Treasury to-day? A. I did.

Mr. BUTLER—Just step down a moment. Mr. President and Senators, it will be remembered that the answer of the President to the first article says, in these words:—"And it has ever since remained and is now the opinion of this respondent at the time when he was forced, as aforesaid, to consider and decide what act or acts should or might carefully be done by this respondent, as President of the United States, to cause the said Stanton to surrender the said office;" this respondent was also aware that this act (the Tenure of Office act) was understood and intended to be an expression of the opinion of the Congress by which that act was passed; that the power to remove executive officers for cause might by law be taken from the President and vested in him and the Senate jointly. Mr. Butler read further from the articles. The President claims that he had removed Stanton under the constitution. He then read the second section of the Tenure of Office act, empowering the President during the recess of the Senate to suspend civil officers, except United States Judges, for incapacity and misconduct, and authorizing him to designate a temporary successor to hold until acted upon by the Senate, and requiring him to report such action within twenty days from the next meeting of the Senate with reasons therefor. He also read the eighth section, requiring the President to notify the Secretary of the Treasury of such temporary appointments made without the consent of the Senate. He continued:—It will be seen, therefore, Mr. President, that the President of the United States says in his answer that he suspended Mr. Stanton under the constitution, suspended him indefinitely and at his pleasure. We propose now, unless it is objected to, to show that it is false under his own hand, and I offer his letter to that effect, which, if there is no objection, I will read.

Mr. STANBERY (after examining the letter)—We see no inconsistency in that, nor falsehood.

Mr. BUTLER—That is not the question I put to you. I asked you if you had any objection?

Mr. STANBERY—I have no objection.

Mr. BUTLER—The falsehood is not in the letter; it is in the answer. He then read the letter, dated Washington, August 14, 1867, as follows:—

SIR—In compliance with the requirements of the eighth section of the act of Congress of March 2d, 1867, entitled "An act to regulate the tenure of certain civil offices," you are hereby notified that on the 28th inst. the Hon. Edwin M. Stanton was suspended from his office as Secretary of War, and General Ulysses S. Grant authorized and empowered to act as Secretary of War ad interim. I am, sir, very respectfully yours, ANDREW JOHNSON.

To Hon. HUGH MCCULLOCH, Secretary of the Treasury.

Mr. BUTLER—I wish to call attention to this again, because it may have escaped the attention of Senators.

Mr. CURTIS—We object. We wish to know what all this discussion means. What question is now before the Senate? How is it that this statement is made?

Mr. BUTLER—I am endeavoring to show that when the President said that he did not suspend Mr. Stanton under the Tenure of Office act, and that he had come to the conclusion that he had the right to suspend him before August 12, 1867, without leave of the Tenure of Office act, he sent a letter saying that he did it under that act to the Secretary of the Treasury, under the 8th section of the act to which he refers. He expressly says in that letter that he did suspend him under this act.

Mr. CURTIS—We do not object to the honorable Manager offering his evidence; we do object to his argument.

Mr. BUTLER—I am arguing nothing, sir. I read the law.

The journal asked for by Mr. Butler arrived at this point and was delivered to Mr. Butler. He read the proceedings of Monday, May 12, 1800, and the subsequent action of the Senate on the following day, as follows, on Tuesday, May 13, 1800:—

The Senate proceeded to consider the message of the President of the United States of the 12th inst., and the nomination contained therein of John Marshall, of Virginia, to be Secretary of State, whereupon it was resolved that they do advise and consent to the appointment, according to the nomination.

Mr. STANBERY—Please to read when it appeared there and at what hour this was done.

Mr. BUTLER—I will not undertake to state the hour, sir. I stated directly to the Senate, in answer to you, that the nomination went to the Senate, as it will appear from an examination of the whole case, prior to the letters going to Mr. Pickering.

Mr. STANBERY—Will the honorable Manager allow me to add that he said he expected to prove it?

Mr. BUTLER—I expected it would appear from the whole case. He sent it first, I am quite sure now. Then, as it was the duty of Mr. Adams to send it first to the Senate, I presume he did his duty and sent it to the Senate first, before he sent it to Mr. Pickering. (Laughter.) I want to say for them that, being all on the same day, it must be taken to be done at the same time in law; but another piece of evidence is that he asked Mr. Pickering to send in his resignation, because it was necessary to send the suspension to the Senate as soon as they sat, which he did.

Mr. STANBERY requested a certified copy of the executive document in question.

MR. C. EATON CREECY RECALLED.

Mr. BUTLER—Upon the receipt of that notification by the President of the United States that he had suspended Mr. Stanton according to the provisions of the Civil Tenure of Office act, what was done? A. A copy of the Executive communication was sent to the First Comptroller, First Auditor, Second Auditor and Third Auditor.

Q. Have you the letters of transmissal there?

Witness produced and read one of the letters promulgating the information by the Secretary of the Treasury to the First Comptroller. He stated that the others were similar.

Q. Are those officers the proper accounting and disbursing officers of the department? A. They are for the War Department.

Q. Then, if I understand you, all the disbursing officers and accounting officers of the Treasury for the War Department were notified in pursuance of that act?

Objected to by Mr. Curtis.

Mr. BUTLER—Were thereupon notified? A. Yes, sir.

Q. Were you there to know of this transaction? A. Yes, sir.

Q. Did you prepare them in pursuance of any other act of Congress except the Civil Tenure act? A. No, sir.

RECESS.

On motion of Senator CONNESS, the Senate took a recess of fifteen minutes from half-past two o'clock.

AFTER RECESS.

Senator CONNESS suggested an adjournment, whereupon

Mr. CURTIS said—Mr. Chief Justice, it is suggested to me by my colleagues that I should make known at this time to the Senate that it is our intention, if the testimony on the part of the prosecution should be closed to-day, as we suppose it will, to ask the Senators to grant to the President's counsel three days in which to prepare and arrange their proof and enable themselves to proceed with the defence. We find ourselves in a condition in which it is absolutely necessary to make this request, and I hope the Senators will agree to it.

In response to an intimation from the Chief Justice that the request be postponed until the Senate was fuller,

Mr. CURTIS said he had merely suggested it now lest it should not be in order at another time.

Mr. BOUTWELL, of the Managers, called the attention of counsel to the statutes as explaining the nature of the proceeding in the fact of the appointment of Pickering. He said the only ppointment of the head of a department which appeared on the record to have been made during a session of the Senate was in the first statute of the 22d of September, 1789, in which it is provided that there shall be a Postmaster General, with powers, and the compensation to the assistant clerks and deputies whom he may appoint, and the regulations of the Post Office, shall be the same as they were under the resolution and ordinance of the last Congress. It was provided in the second section that this act shall continue in force until the end of the next session of Congress, and no longer, showing that it was merely the continuance of the Post Office Department that was contemplated. On the 4th of August, 1790, Congress passed a supplementary act, in which it was provided that "the act of last session, entitled 'An act for the establishment of a Post Office Department' be and the same is hereby continued in force until the end of the next session of Congress," which was also a continuance of the Continental system of Post Office management. On the 9th day of March, 1791, Congress passed another act continuing the act for the temporary establishment of a Post Office Department in full force and effect until the end of the next session of Congress, and no longer. On the 20th of February, 1792, Congress "passed an act making various arrangements in regard to the administration of the Post Office Department, and to establish certain post routes. That act provided that the act of the preceding session be continued in full force for two years, and no longer. This act did not provide for the establishment of a Post Office Department as a branch of the government; so that the act of the previous session was continued by it until 1794. On May 8, 1794, Congress passed an act covering the whole ground of the Post Office system, providing for a General Post Office, and for the Department of Postmaster General; and the last section of the act passed May 8, 1794, declares that it shall begin on the first day of June following the day when the Continental system terminated. And it appears from the record that it was then that Timothy Pickering was appointed, although the Senate was not in session; and they confirmed his appointment. This fully explains the appointment of the only person who was appointed during the recess of the Senate.

Mr. WILSON—I wish to call the attention of the counsel for the respondent to an entry in the Executive Journal of the Senate of the 10th of May, 1800; also the 12th day of May, 1800, and the 13th, showing that the Senate at that time met at an earlier hour than twelve o'clock. On page ten of Journal of the Senate for May 10, 1800, it is entered that the Senate met and adjourned to eleven o'clock on Monday morning. (Reading)—"On Monday morning, May 12, 1800, Senate met and adjourned;" and the entry of adjournment is made "after the consideration of executive business the Senate adjourned to eleven o'clock to-morrow, Tuesday, May 13, 1800, the Senate met in pursuance of said adjournment at eleven o'clock."

Mr. BINGHAM—Mr. President and Senators, we offer as evidence several executive messages of the President of the United States, dated respectively December 15, 1867, December 17, 1867, December 16, 1867, January 13, 1868, December 19, 1867.

The documents were read. They referred to removals and appointments of internal revenue and other officers.

Mr. BINGHAM also offered in evidence a letter of the Secretary of State accompanying one of the messages just read, dated December 19, 1867, notifying the Senate of the suspension of a consular agent in Borneo during the recess of the Senate.

Mr. BUTLER—Mr. President, I believe now that I may inform the Senate that the case on the part of the House of Representatives is substantially closed. There may be a witness or two here that we shall ask to call on Monday morning, and also other testimony that we shall ask leave to put in. It is substantially cumulative. It is possible that we may have left out a piece of documentary evidence or two in the nature of public documents when we can examine more carefully. With these immaterial exceptions, which I hope may not turn out to be exceptions after all, we have closed the case.

Mr. CURTIS—The counsel for the President will take no exceptions to what is proposed by the honorable Managers. It seems quite reasonable that they should have the opportunity to ascertain whether anything has been omitted. I now desire to submit a motion on behalf of the President's counsel, that when this court adjourn it will adjourn to meet on Thursday next, to allow to the president's counsel three working days to enable them to select, collect and arrange their proof, so as to present them to the Senate with as little delay as practicable. We have been totally unable to do this during the progress of the trial, and before the trial was begun we had no time whatever. I can assure the Senate that it will very little, if at all, protract the trial, because certainly those gentlemen in the Senate who have been in the habit of practising law are quite aware of the fact that more time is frequently consumed in the introduction of evidence from want of having it properly arranged and presented than would have been the case if proper arrangements had been made before the trial was begun. We think therefore that we can assure the Senate that a considerable delay will be saved if this indulgence can be granted to the President's counsel. We do not expect to introduce a large amount of oral testimony or a great number of witnesses, but we have a considerable amount of documentary evidence. We have thus far not been able to collect and arrange some portions which we have reason to suppose exist. We have not yet been able to search for it. We request, therefore, that this postponement be granted.

Senator CONNESS moved that the Senate, sitting as a court, adjourn until Wednesday next at twelve o'clock.

Several SENATORS—Give them the other day.

Senator CONNESS—That is the time that, in my judgment, should meet the wants of the counsel for the respondent.

Senator JOHNSON—If it is in order, I move to amend the motion made by the honorable Senator from California by inserting Thursday instead of Wednesday.

The question was put on the amendment of Mr. Johnson and agreed to, with only one dissenting voice.

Senator CAMERON—Mr. President——

The CHIEF JUSTICE—No debate is in order.

Senator CONKLING—I wish to inquire whether the Managers want to submit some remarks on the motion for delay.

The CHIEF JUSTICE—The question is on the motion to adjourn.

Senator CONKLING—My purpose was to ascertain whether they desire to make some remarks or not.

Mr. BUTLER—We want to have it understood.

In reply to the inquiry from Senator Anthony the CHIEF JUSTICE restated the question.

Senator CONNESS said the motion to amend had been submitted before he was aware of it. He had desired to accept it.

Senator CAMERON—I was going to ask the Managers whether they will not be prepared to go on with this case on Monday. I can see no reason