

WASHINGTON.

Jealous and Partisan Opposition to the Confirmation of Cushing.

Calumny Refuted in the Facts of His Patriotic Career.

The Senate Passes a Sweeping Repeal of the Back Pay Bill.

Prospect of Large Reductions in Departmental Expenditures.

Rejection of the Inflation Proposition by the House.

WASHINGTON, Jan. 12, 1874.

The Charges Against Cushing Refuted by the Facts of His Patriotic Career—Hope of His Ultimate Confirmation as Chief Justice.

Very considerable opposition has developed itself as to the nomination of Mr. Cushing as Chief Justice. That opposition is taken shape from the allegation that he is not in accord with the republican party upon the great measures reconstruction and the constitutional amendments which authorized them, and the fear is expressed that it may not be safe to trust him as the head of the Supreme Court with these cardinal principles of the republican party, or as a republican Senator expressed it, with the jewel of the party. The opposition is fomented largely by candidates with lingering hopes that they may take his place, in case Mr. Cushing is rejected. The animus of those opposing Mr. Cushing may be understood upon hearing the remarks of a candidate for the Chief Justiceship from Massachusetts who came on the floor of the House to-day, and said to a brother member, "Have you heard the latest news? It is said that the President has withdrawn Cushing's name for Chief Justice and named Kerry Black? Still it is believed by thinking men here that when Mr. Cushing's record is laid before the Senate they will find that since the breaking out of the war (and who of the Senate dare go back of that date?) his record has been as good and firm on the side of his country as the most prominent republicans from the democratic party, such as Logan, Morton and Butler. While Mr. Cushing has not been as noisy as some of these, especially the last one named, in his profession of devotion to the republican party, it appears that he has been quite as patriotic and effective in aiding all the leading measures of reconstruction. It was asserted in the Senatorial caucus, in an informal discussion, by a republican Senator to-day, that Mr. Cushing was the author of the original draft of the text of the Fourteenth Amendment to the Constitution. The facts of Mr. Cushing's record as presented by his friends seem to be briefly these:—

Mr. Cushing was a member of the Charleston Convention and presided over its deliberations, and also, on its adjournment at Baltimore, he, in connection with other Northern democrats, warned his Southern friends that the secession of the Southern members of the convention and consequent disruption of the party would surely bring about the sectional strife that followed, from which war must come, as it did. When a majority of the Convention at Baltimore insisted on filling up the Convention with delegates from the South without constituencies in place of those that seceded at Charleston, thus forcing the nomination of Judge Douglas, Mr. Cushing, with Butler and other Northern democrats, seceded from that convention and nominated Mr. Breckenridge, with the expectation that in the event of republican success, which they deemed certain, they would be enabled, by alliances with the Southern, to prevent secession, in the hope that the mistakes of 1860 might be corrected in 1864. But the disruption had gone too far, and when it appeared in the following December upon the meeting of the committee of the Breckenridge Convention, that South Carolina had gone out and war was inevitable, the Breckenridge democrats of the North, who have striven all within their power to preserve the Union almost without exception, enrolled themselves on the side of the constitution. Butler went to the war immediately after the firing on Sumter, and Mr. Cushing made a most patriotic speech, which was published in the HERALD at the time, in Newburyport, in which he tendered his services to his State and the Union in support of the government. This was within 10 days after the surrender of Fort Sumter. Mr. Cushing then tendered his services to Governor Andrew, with whom, however, he had had personal conflict on the floor of the House of Representatives in Massachusetts, which Andrew never could forgive. Andrew repelled Cushing's offer with insult, notwithstanding which, Cushing, being a war democrat, supported every war measure for the support of the government, and voted all supplies for carrying on the war, even when Andrew threatened to withdraw the Massachusetts troops if Lincoln did not at once emancipate the slaves. In the Trent affair, Mr. Cushing took the American view of the question, and in a long letter, in response to a letter from Fernando Wood, then Mayor of New York, asking his views, argued the question in the most masterly manner, the conclusion of which is as follows:—"To conclude then, in my judgment, the act of Captain Wilkes was one which any and every self-respecting nation must and would have done by its own sovereign right and power, regardless of consequences. It was an act which, it cannot be doubted, Great Britain would have done under the same circumstances. The same act was on an act equally justified by the principles and doctrines of international jurisprudence. We may well regret that occasion for the act has occurred, and that the seizure needed to be done from on board a vessel, and, still more, a mail packet of Great Britain, with whom, for all possible reasons, we desire to continue on the footing of cordial amity; but Messrs. Mason and Sidel, not having been embarked on board of the Trent by the British government, that government, as such, has not been offended by the seizure. The Trent, her officers acting on their own responsibility, could have no immunity from the ordinary laws of war, which affect the vessels of a great power equally as of a small one, and Great Britain cannot fail, I think, to perceive that, as no offence was intended to her in the matter, and as the rights of self-defence were exercised by Captain Wilkes in the most moderate manner, without seizure of mails, without bringing in as prize, without injury to private property, her national pride and her national honor conspire to dictate the most amicable construction of this inevitable event. Mr. Cushing's course was so grateful to President Lincoln that in December, 1861, he tendered to him the appointment of Brigadier General, intending to detail him with Butler's expedition to New Orleans, in order that he might have advantage of his legal learning in settling questions of international law, in the event of the capture of that section of the Confederacy, which might grow out of the movement. Napoleon was then making war against Mexico, Governor Andrew, on learning of the intention of the President, came to Washington and demanded that Mr. Cushing's name should be withdrawn. The President, unwilling to offend the Governor of a leading republican State, reluctantly consented, but showed his appreciation of Mr. Cushing by appointing him agent of the United States before the British American Commission, in the matter of the Hudson Bay Company. Mr. Cushing came to Washington, accepted the appointment and enjoyed the confidence of President Lincoln and Secretary Seward throughout. With his usual

activity and ability he discharged the duties of his place and became the confidential adviser of the State Department and of President Lincoln during the remainder of the war. When a commission was appointed to revise the United States statutes, at the instance of Mr. Sumner, President Johnson appointed Mr. Cushing at the head of the commission; but he found the labor of it too arduous and fatiguing, and soon resigned the position and returned to the practice of law, being employed by the government to take care of its great interests in recovering the property of the Confederacy in foreign countries, which came to us by the breaking out of the rebellion. During the time of the whole legislation on measures of reconstruction and the adoption of the amendments to the constitution, Mr. Cushing was in constant consultation with the great leaders of the republican party, especially with Mr. Stevens and Mr. Sumner. Doubtless the facts stated above will be new to the enemies of Mr. Cushing, yet he is advised and constructed the original draft of the Fourteenth Amendment. From that time those who have enjoyed Mr. Cushing's acquaintance in Washington have known how pronounced have been his opinions upon these amendments and the measures to carry them into effect. Notably he has retained the confidence and support of Mr. Sumner because of his opinions upon those subjects. Mr. Cushing has never had anything to do with the class of practices in Washington which falls into the hands of class agents. He has always held aloof from it. Nor has he ever promoted business or made arguments before the committees of the two houses of Congress. The single instance in which he broke this rule was in matters of election, and for a day or two, in the absence of other counsel, assisting his old friend and acquaintance, Mr. Ames, of Massachusetts, when the Union Pacific Railroad matters were being examined before a committee of the House. Mr. Cushing voted for Mr. Lincoln in 1864 and for Grant in 1868 and 1872, going to Massachusetts for that purpose, and contributed \$500 to the campaign in his adopted State of Virginia in the election of 1872. Having been so gravely wronged before the war, his services having been repudiated by the Governor of his State and being employed most fully in his profession, Mr. Cushing has never thought it proper to make any loud protestations of his republican feelings and views lest his motives might be misunderstood. The readers of the HERALD will remember, however, that he appeared in the Louisiana case in the Supreme Court, last winter, upon the question of the right of the government to put in operation the Enforcement laws in that State.

It is known that Mr. McPherson, the Clerk of the House, has kept a record of the doings of public men of prominence ever since 1837, by cutting out all newspaper mention of their important acts and comments thereon. Senators on both sides have had access to this record, and they have failed to find a single word said by or against Mr. Cushing from that time until now which impugns his patriotic record, which is but now briefly recited. From the fact that one of the ablest judges of the Supreme Court of Massachusetts, which it might be well for the Senate to consider. It was published in the Boston Advertiser, in 1870, and an extract is as follows:—"It has seldom been our own fortune to agree with him, these many years past, but it has not seldom occurred to us that those who have been at the greatest pains to inveigh against him must find points in his character and history worthy of something more than contempt. His untiring industry, his great learning, the charm of his conversation, his entire devotion to whatever he undertakes to do, his actual success in official positions—these count a good deal in the sum of a public career and will some time be acknowledged. Never was a lawyer or a monitor more conscientious and vigorous on the bench; never a legislator who was more industrious and skilful and ready to assist in matters of general legislation even those from whom he entirely differed on purely political questions. It will be difficult to find a lawyer of eminence who does not like to meet an opponent of such fairness as well as ability. Perhaps the time has hardly come to say all this, and it may grate on the feelings of those who have warmly resented Mr. Cushing's political course, and may tend to rake upon the slumbering fires of old controversies; but we venture it, and also the further remark, that as things have turned out, the bitterest foe can afford to be just, as well as generous, to a citizen so remarkable, so able and so distinguished."

It is believed here that, upon full reflection upon the subject and upon Mr. Cushing's record as given, there will be no difficulty about his confirmation. The list of monitors opposed to him telegraphed from here is wholly unimpressive and unreliable. The names which head the list for and against confirmation are Ames and Alcorn. Both Senators are in Mississippi. Alcorn will not be here for several weeks and Ames not at all, he having gone down to take his seat as Governor. Your correspondent had an interview with Mr. Sumner to-night in regard to the confirmation of Mr. Cushing as Chief Justice of the Supreme Court of the United States, at which the following facts were elicited. He believed the nomination was a very good one, and that Mr. Cushing possessed all the qualifications of ability and record as a lawyer and in the requirements of intellect to make a good Chief Justice. He mentioned to most of the lawyers in the Senate and those on the Judiciary Committee, holding no doubt that a few who had not spoken to him on the subject. Prominent among those enumerated who were favorably disposed were Edwards, Conkling, Carpenter and Frelinghuysen. Cameron, Boutwell and Fenton he knew to be strong advocates of the favorable action of the Senate. He had received a telegram to-day from J. B. Smith, a colored member of the Legislature of Massachusetts and whom he pronounced a strong leader of long standing among the colored republicans of Massachusetts, in which the confirmation of Mr. Cushing was strenuously urged, closing with the remark, that "we colored people, have need of his great service." In addition this he had received a very strong letter from one of the highest sources of republican strength and respectability insisting upon the same action. Mr. Sumner laughed quite heartily at the statement in some of the republican papers, which said that it was Sumner's nomination. He stated that he did not know anything about the nomination until it was made, and he has not laid his eyes on Grant since the inauguration, and had not spoken to him for a long time. He had no opportunity of knowing anything about it until it was announced. He knew Mr. Cushing very well, as he had been a guest at his house, for a long time visiting him occasionally, and he had examined thoroughly into his record, and was conscientiously satisfied, through and through, that he was all right and perfectly acceptable to the republican party. He did not know of any opposition to him of any importance in the Senate. He could not account for the opposition of certain papers to him, especially one of the New York papers, unless it was the republican paper which said that it was Sumner's nomination. 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