CONSTITUTIONAL RIGHTS.

Speech of Hon. Chas. E. Littlefield on the Roberts Case in the House of Representatives, Jan. 23, 1900.

(Continued.)

Mr. Wilson took the same view, saying, "Besides, a partial enumeration of cases will disable the legislature from disqualifying odious and dangerous characters." (Ibid., page 373.)

When this section in the draft was under discussion, after "three" had been stricken out and "seven" inserted as to citizenship, Alexander Hamilton moved "that the section be so altered as to require merely citizenship and inhabitancy," and suggested that "the right of determining the rule of naturalization will then leave a discretion to the legislature on the subject which will answer every purpose." (Ibid., page 411.)

Here it is clear that, as Hamilton construed this provision, without this latitude as to naturalization, the legislature had no discretion or power. From the affirmative language of this provision, then, as it stood in the report of the committee of detail, and the understanding of the framers of the Constitution, it is clear that it was exclusive. This section was not changed to the negative form by amendment, or as the result of any debate. In its affirmative form, with other sections that had been finally acted upon, and their construction and terms definitely settled, it was referred to a committee "to revise the style of and arrange the articles which had been agreed to by the House, and this committee consisted, among others, of Mr. Hamilton, Mr. Gouverneur Morris, and Mr. Madison. (Ibid., page 530.)

This committee had no power to make any change in the legal effect of any of the clauses submitted to them. They were simply "to revise the style of and arrange." Certainly, with his very pronounced views, Mr. Madison would not have made a change in Article IV, section 2, that would, in his opinion, have placed it within the power of the legislature to "subvert the Constitution."

Yet, when the committee reported the Constitution as it now stands, Article IV is rearranged so as to be included in Article I, and the original affirmative section 2 of Article IV appears in the negative form as the second independent paragraph of Article I, somewhat changed, it is true, but in no sense connected with or dependent upon the preceding paragraph, which, with an improvement in phraseology, is section 1 of Article IV of the draft. This deprives the argument sought to be derived from the juxtaposition of all significance. (Ibid., page 559.)

An examination of the finished work discloses the fact that the rearrangement and changes in phraseology by the committee were extensive. The object unquestionably was, to make the arrangement more orderly and lucid, and the language more perspicuous and felicitous. To hold that in any particular, any change was intended to be made in the legal effect, is to impeach the integrity of men whose characters are of the most illustrious in our history. To assert that they unwittingly made such changes, is a much more grievous assault upon their intelligence and ability.

Moreover, we are not left to inference as to how this clause in its present form was interpreted by the most eminent of its framers. The Federalist, as is well known, was published while the Constitution was undergoing public discussion, and while it was being ratified by the States. It had been ratified by six states only when the numbers of the Federalist hereafter referred to appeared. The author of No. 52 evidently assumes that all of the qualifications of Representatives has been "very properly considered and regulated by the convention."

He says:

The qualifications of the elected being less carefully and properly defined by the State constitutions, and being at the same time more susceptible of uniformity, have been very properly considered and regulated by the convention. A representative of the United States must be of the age of 25 years; must have been seven years a citizen of the United States; must at the time of his election be an inhabitant of the State he is to represent, and during the time of his service must be in no office under the United States. Under these reasonable limitations, the door of this part of the federal government is open to merit of every description, whether native or adoptive, whether young or old, and without regard to poverty or wealth or to any particular profession of religious faith.

If the learned author had supposed that any limitations in addition that might appeal to the caprice of a legislature could be added, he would hardly have used the term "these reasonable limitations," as he evidently did, as descriptive of all of the limitations to be imposed. In No. 57 a general reference to this clause is made, which evidently proceeds upon the idea that the qualifications to be required, are stated in the Constitution. It reads:

Who are to be the objects of popular choice? Every citizen whose merit may recommend him to the esteem and confidence of the country. No qualification of wealth, of birth, of religious faith, or of civil professions is permitted to fetter the judgment or disappoint the inclination of the people.

How could he know that, unless the Constitution settled the qualifications? The authorship of these two numbers is in doubt between Madison and Hamilton. Hamilton is conceded to be the author of No. 60, and with many no authority is greater than his; and this, so far as his authority goes, settles it beyond cavil. He says:

The truth is that there is no method of securing to the rich the preference apprehended but by prescribing qualifications of property, either for those who may elect or be elected. But this forms no part of the power to be conferred upon the national government. Its authority would be expressly restricted to the regulation of the times, the places, the manner of elections. The qualifications of the persons who may choose or be chosen, as has been remarked upon other occasions, are defined and fixed in the Constitution and are unalterable by the legislature.

This unequivocal declaration was made after the negative form was used. It is not believed that the Federalist was a determining factor in securing the ratification of the Constitution, though it was undoubtedly published for that purpose. So far, however, as this clause weighed in the public mind, as this is the only construction that appears to have been placed upon it, it may be inferred that this construction was adopted by the States which afterwards ratified.

Here is the crucible out of which the Constitution came; here the history that surrounded it, the conditions under which it was made, and the declarations of the men who framed it.

In the light of these facts it is to be deplored that exigencies arise which are supposed to justify a construction in direct conflict with the intention and interpretation of those who framed and assisted in ratifying the Constitution. It seems clear that the negative form of expression has no interpretive significance, and as it affords no support for the proposition which involves the right to add qualifications, that proposition must fall with the erroneous construction upon which it is based.

The gentleman from Ohio admitted that this provision reported by the committee on detail, being positive in form, was exclusive. I would like to have some metaphysical, hypercritical member give this House the distinction between the expressions "at least" and "shall have attained"—"he shall not have attained twenty-five years of age" and "at least twenty-five years of age." Why is "at least" any more pregnant with the idea of exclusiveness than "shall not have attained"—"shall not have attained" twenty-five years; in other words, must be "at least" twenty-five? Why are they not in essence synonymous?

This is the whole proposition upon which these gentlemen rest their case, that they can add, not only in legislation by Congress, but by the act of this House alone, a disqualification that is not mentioned in the Constitution. Let them stand here—some member with an analytical mind—and explain the distinction between the words "shall not have attained" and "at least." It may be substantial, but I do not believe they will attempt it.

Sound reason does not sustain this claimed right. If the construction contended for is admitted, it must be conceded that the power of adding qualifications is unlimited, as there is nothing in the Constitution which circumscribes it. The suggestion in Barker vs People that the only power to add is in case of a conviction of crime is purely arbitrary and gratitious, and absolutely no constitutional authority is given therefor.

The rigid confinement by the court of the right to break away from the Constitution to a conviction for crime must have been in the nature of expiation, a satisfying of the judicial conscience for the departure thus made from the Constitution. If the power exists, it must be unlimited; and therefore, while you can not take from, or narrow, the first two specific elements, you have unlimited power to add to them. For instance, unless a man is at least twenty-five years of age he is not eligible; therefore the Constitution does not undertake to say that a greater age may not be required. In fact, the necessary inference is, that only the minimum limit as to age has been established and the Legislature has unlimited power to add to that qualification, and hence may require all Representatives to be fifty years of age. The same course would be pursued with reference to the seven year's citizenship clause; you cannot act within the domain to which the Constitution has confined itself. Outside of it you can do anything.

But we do not stop here. If this provision in the Constitution which is now under discussion is not exclusive, why is it that in 1866, the American Congress, by reason of experience through which it had recently been—why is it that the American Congress saw fit to propound an amendment to this Constitution, adding a qualification? Why observe a solemn form of submitting it to the States for ratification?

I submit to the common sense of the House. Was that act of the American Congress, when ratified by the requisite number of States, a solemn farce, a vain ceremony, or was it necessary to amend the Constitution in order to exclude men who were there denominated as traitors. Such men had been excluded, were being then excluded, but why amend the Constitution if this tremendous power exists, existed then, this "general welfare" power to do anything and everything under heaven that this body happens to want to do, when it meets a man it does not like, and sees fit to read a disqualification into the Constitution and exclude him? Why pass the fourteenth amendment? I read section 3:

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken the 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.

Was it necessary to adopt that amendment to the Constitution? If it was not necessary, why was it done? I say if this great power existed, could not this House invoke it in the case of the application of a traitor to be admitted within the walls, as my friend here suggests, without a Constitutional amendment?

The House and Senate had both exercised the power to exclude traitors without an amendment to the Constitution in great emergencies. Does not the fact that this amendment grew out of that crisis, demonstrate that both the House and Senate knew that their action in thus excluding, was unauthorized by the Constitution?

Let me suggest another consideration to my friends. Here is this fourteenth amendment, that limits the disqualification to persons who have taken an oath, only those. There were a great many traitors at one time in this country who had never 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." What about that vast body? When there is a constitutional provision limiting the disqualification to those who had taken such "oath," would this committee and this House hold that they could go further, and exclude any and every traitor, irrespective of his having taken the oath? Why, they say they can now. Here is a clause in this Constitution that provides for the method to be adopted when a man who is disloyal stands at the door and knocks.

And what does the chairman of this committee say? What does the gentleman from Ohio (Mr. Tayler) say? He says the member from Utah, Mr. Roberts, is "disloyal." Well, if he is disloyal, does he not come under the fourteenth amendment? Has this House, in the plentitude of its power, or rather in the plentitude of its determination, the power and the right to do anything that it sees fit, under any circumstances, when this constitutional amendment confines the right to exclude, to a man who has taken such oath? And there is no pretense that the gentleman from Utah has taken an oath, and there were thousands and thousands of traitors who never have taken the oath to support the constitution of the United States. Let me see, has something been said about the sacredness of the Constitution? The minority of your committee stand here to say, that they take the Constitution as it reads, and stand for its interpretation upon reasonable, logical, common-sense principles.

M'CULLOCH VS. MARYLAND.

The case of McCulloch against Maryland is, on the part of the gentleman from Ohio, said to have great significance in construing this provision of the Constitution; and as I remember, when he made his speech to the House on the second day of the session, he said, he shuddered to think what Judge Marshall would have said, if some one had suggested that you cannot add to this provision of the Constitution relating to qualifications. If the gentleman had taken a little pains, and read the opinion through, he would have found that Chief Justice Marshall was discussing a section of the Constitution (section 8, Article I), which confers various powers upon Congress. That section concludes with this provision:

To make all laws which shall be necessary and proper for the carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof.

That is the section of the Constitution that Chief Justice Marshall was discussing—in relation to the powers vested in Congress and the right to execute those powers and carry them into effect.

Purely as a dictum, made by way of illustration, when discussing the powers reasonably to be implied from the concise and general provisions of this section, necessary, appropriate, and plainly adapted to effectuate its purposes, he said that—

He would be charged with incanity who should contend that the legislature might not superadd to the oath directed by the Constitution, such other oath of office os its wisdow might suggest.

This does not impress me as entitled to much weight in construing a provision of the Constitution, which the court was not considering, and to which the doctrine "that the government intrusted with such ample powers, on the due execution of which the happiness and prosperity of the nation so vitally depends, must also be intrusted with ample means for their execution," can have little, if any, application.

Now, the gentleman in effect says, that the opinion of Chief Justice Marshall in McCulloch against Maryland is to be used in construing every provision of the Constitution. If this be true, the annotator of the Constitution should have repeated that citation under every section; instead of placing it only under those which related to the powers conferred on Congress by section 8, article 1. If the gentleman from Ohio could see the awful shade of Chief Justice Marshall, when he first learned that the language he had used, a dictum, by way of illustration, in respect to the construction of section 8, was to be applied to this section of the Constitution under discussion, the gentleman from Ohio would shudder before he had time to think. (Laughter.)

(To be Continued.)

BAD COMPLEXIONS, pimples, blotches, blackheads, red, rough, oily, mothy skin, dry, thin, and falling hair with irritated scalps and dandruff, red, rough hands, with itching, burning palms, shapeless nails and painful finger ends, and baby blemishes, prevented by CUTICURA SOAP.

It removes the cause of disfiguring eruptions, loss of hair, and baby blemishes, viz.: the clogged, irritated, inflamed, or sluggish condition of the PORES. No other medicated soap ever compounded is to be compared with it for preserving, purifying, and beautifying the skin, scalp, hair, and hands. No other foreign or domestic toilet soap, however expensive, is to be compared with it for all the purposes of the toilet, bath, and nursery. Thus it combines in ONE SOAP at ONE PRICE—namely, 25 CENTS—the best skin and complexion soap and the best toilet and the best baby soap in the world. Sold everywhere. POTTER DRUG AND CHEM. CORP., Sole Props., Boston, U. S. A. "How to Purify and Beautify the Skin," free.

Complete External and Internal Treatment of Every Humor.

CUTICURA THE SET $1.25 Consisting of CUTICURA SOAP (25c.), to cleanse the skin of crusts and scales and soften the thickened cuticle, CUTICURA OINTMENT (50c.), to instantly allay itching and irritation and soothe and heal, and CUTICURA RESOLVENT (50c.), to cool and cleanse the blood. A single set is often sufficient to cure the severest humor when all else fails.

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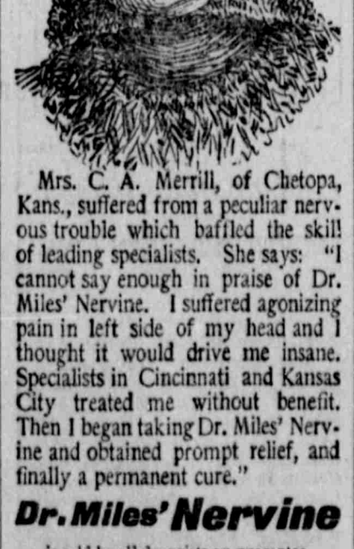

Mrs. C. A. Merrill, of Chetopa, Kans., suffered from a peculiar nervous trouble which baffled the skill of leading specialists. She says: "I cannot say enough in praise of Dr. Miles' Nervine. I suffered agonizing pain in left side of my head and I thought it would drive me insane. Specialists in Cincinnati and Kansas City treated me without benefit. Then I began taking Dr. Miles' Nervine and obtained prompt relief, and finally a permanent cure."

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CLEVERNESS OF THE BOERS

Julian Ralph Testifies to Their Military Ability and Courage.

Would Take Ten to One to Drive Them Back in a Frontal Attack on Their Trenches.

New York, Feb. 13.—A dispatch to the Herald from London says:

Mr. Julian Ralph, in a letter to the Daily Mail from Modder river, says:

"British defeats at the hands of the Boers are due to the fact that the methods of modern warfare have been brought to a pause by the demonstrated power of the weapons of today.

"The essential qualities of the army of twenty years ago are no longer the supreme necessities for success. The man behind the gun stands more supreme than ever.

"Dig a trench and line it with good shots, supported by modern artillery, and no enemy can advance in the face of them. They may be outflanked or starved, but, while their ammunition holds out, none can oust them, for they can fill the whole plain over a radius of at least four thousand yards with such a withering blast of shrapnel and rifle bullets that no troops can stand in the open before it."

Speaking of Magersfontein, he says:

"The Boers there demonstrated the fact that, given a plain, field glass, modern magazine rifles and quick-firing small guns, and the whole German army itself could not dislodge the sixty-five thousand men of the two Boer republics by a frontal attack on those grass-edged trenches. Not 50,000 British could have beaten those 15,000 Boers, except at such a sacrifice of life as no commander would require or could be pardoned for occasioning.

"For a frontal attack the old military manuals declared that the attacking force must be three times that of the defending force, but today, with the new weapons, it is said that ten men must attack one.

"One of the most formidable new conditions of war which we are experiencing is one that we have never, or next to never, seen before, for there are men in our army who have never seen a Boer in battle. I know of officers who have seen only one or two in one battle and five or six in another.

"Our men have thrown themselves upon the veldt and have fired for hours at a time at the noise or flame at the trenches of the enemy whom they could not see.

"At Modder river there were whole battalions of ours that did not know at the end of the day whether the enemy was north or south of the river.

"A European army fighting under European rules is a clumsy weapon against the Boer, who opposes us with weapons which render one man as good as ten, and all ten invisible.

"We remember the old saying that an army moves upon its belly, and we paraphrase it to make it read 'a modern army must fight upon its belly.'

"If Germany got in a trench that could not be turned, all the world could advance and be slaughtered, but not all the world could oust the Germans from that trench."

WHY NOT BUILD THE CANAL?

There is one more chimera deserving of special attack, and that is the idea that the Isthmus is remarkably unhealthy. The great preparations made by the old canal company indicate that it was expected to be so; perhaps the care taken by that company in the drainage of the sites chosen for its buildings and the concentration of the flow into the large streams, have rendered the country more wholesome; certain it is that there is no more sickness among the very considerable population now on the Isthmus than there is among any other equal number in the tropics. The railroad and canal employes now living there are perfectly free from any unusual diseases.

I may point out that there are good harbors at each end of the Panama route which are in daily use by several lines of steamships, and also that these harbors are provided with the usual adjuncts, such as wharves, warehouses, coaling and watering facilities, and machine shops, where ordinary repairs can be made. Also that the value to commerce of any ship-canal will be about inversely as the square of its length when compared with that of another. Now, if we are really interested in having a canal between the oceans, here is one much shorter than any other possible line, already half built, if the extent of preparedness is taken into account; why not take hold and build it?

It seems to me that no engineer can cross the Isthmus without being convinced, as I am, that this is a perfectly practicable route and the most desirable one for a canal. —Charles Paine, in the Engineering Magazine for February.

An Editor's Life Saved by Chamberlain's Cough Remedy.

During the early part of October, 1896, I contracted a bad cold which settled on my lungs and was neglected until I feared that consumption had appeared in an incipient state. I was constantly coughing and trying to expell something which I could not. I became alarmed, and after giving the local doctor a trial bought a bottle of Chamberlain's Cough Remedy and the result was immediate improvement, and after I had used three bottles my lungs were restored to their healthy state.—B. S. Edwards, Publisher of the Review, Wyant, Ill.

Don't irritate your lungs with a stubborn cough when a pleasant and effective remedy may be found in BALLARD'S HOREHOUND SYRUP. Price 25 cents and 50 cents. Z. C. M. I. Drug Dept.

BRITISH OUTPOSTS ARE DRIVEN IN.

Another Boer Success Reported from Northern Cape Colony.

CONFIDENCE IN ROBERTS.

This is Boundless on the Part of the British Public—Military Scheme Called a Colossal Imposture.

[Early Dispatches.]

Rensberg, Feb. 12, evening.—The Boers have again driven in the British outposts on the western flank today, all outposts at Bastards Nek, Hobkirk's Windmill, and other points retiring to Maeder's Farm. There were several casualties, but details have not yet been received.

New York, Feb. 13.—The striking feature of the war situation in London is the boundless confidence reposed in Lord Roberts. General Buller's report of his third repulse, published today, arouses no harsh criticism, for some of the experts say the attack was only a feint ordered by Lord Roberts with a view to keeping General Joubert busy and preventing him from sending reinforcements to General Cronje, at Kimberley.

The pitiful condition of the inhabitants of Kimberley, who are dying of disease at an appalling rate, leads to the belief that Lord Roberts, with his fine army of 35,000 men, will endeavor to raise the siege at once. On the other hand, experts say that invasion of the Free State would be wiser tactics. But whatever Lord Roberts does will be accepted as the best thing to do.

The Boer raid in Zululand continues to alarm Natal. It is believed the Transvaalers will sweep vast herds of cattle out of Zululand and then raid northeastern Natal.

A dispatch from Pietermaritzburg states that fresh meat is abundant in Natal, thirty oxen being slaughtered daily and that the Boers have over 100 guns between the Tugela river and Ladysmith and the Boer artillery fire greatly impresses all who see it, the guns being mounted in almost impossible places.

Charles Williams, the military critic of the Morning Leader, who is understood to have close relations with Lord Wolseley, the commander-in-chief of the British army, writes as follows:

"The government last night refused to say whether Lords Roberts and Kitchener were sent to the front without consultation with Lord Wolseley or not. It has already been so stated in this place, and it is again asserted. Lord Wolseley learned the news from the Monday morning papers, and the appointments were made on the previous Saturday."

The remainder of the criticism is devoted to the government's army plans. The writer declares: "The ministerial scheme developed last night in both houses is in the main a colossal, costly imposture, designed at once to hoax the country into the idea that some satisfactory reform of our military system is at length to be accomplished, and to throw dust in the eyes of foreign nations."

Panama Canal Meeting.

New York, Feb. 13.—A dispatch to the Herald from Paris says:

A general meeting of the Compagnie Neuvelle du Canal de Panama was held in the Rue d'Athenes. Among those present were M. Lamper, who represented the interests of the republic of Columbia and also MM. Gauton and Klegges-Ferrett, shareholders appointed to act as scrutiniers should a formal ballot be necessary.

In the hall were about 200 shareholders, representing upwards of 400,000 shares.

The following board was elected, with only one or two dissentients:

M. Mariusbo, administrator of the credit Lyonaisse; M. Louis Chorun, directeur des etudes; M. Ettravaux, of the Company Abel Couvreut, M. Maurice Hutin, Baron Pierre de Lassus, M. Saint Genies, of the administration of societe general; M. Gegorges Martin, of the commission de controle of the Compton National d'Escompte; M. Fernand Monvoisin, administrator of the credit industrial et commercial, M. Charles Rouget, administrator of the Compagnie Francaise des Cables Telegraphiques, and M. Paul Terrier, director of the Compagnie General des Travaux Publiques.

Secretary Lamper said in an interview:

"The new board will now proceed to elect a president. Nothing definite will be known as to any future movement on the part of the company for about a week, and it goes without saying that up to that time any question affecting the proposed purchase by an American syndicate or of any considerable amount of shares cannot be discussed and certainly no one could yet say what the attitude of the company will be until the new board has begun work."

Pain in the Back

A Sure Sign of Kidney Trouble

A Trial Bottle Sent Free of a Medicine That Will Stop It.

Let us give you a piece of advice: Pain in the back is an almost infallible sign of Kidney disease; a surer sign is the condition of your urine: if you have a pain in the back then look to the condition of your urine. It is easily done. Take a glass tumbler and fill it with urine; after it has stood 24 hours, if it has a sediment, if it is milky or cloudy, if it is pale or discolored, stringy or ropy, your Kidneys and Bladder are in a dangerous condition and need immediate attention, or the consequences may prove fatal.

Dr. David Kennedy's Favorite Remedy is the one medicine that really cures all diseases of the Kidneys, Liver, Bladder and Blood, Rheumatism, Dyspepsia and Chronic Constipation and corrects the bad effects of whiskey and beer on the system. It is wonderful how it makes that pain in the back disappear, how it relieves the desire to urinate often, especially at night, and drives away that scalding pain in passing water and in a remarkably short time makes you well and strong. Dr. David Kennedy's Faverite Remedy, is sold at all drug stores for $1.00 a bottle, or six bottles for $5.00.

If you would like to try this wonderful medicine you can do so, absolutely free. Send your full name and address to the Dr. David Kennedy Corporation, Rondout, N. Y., when a free bottle, together with a pamphlet of valuable medical advice, will be sent you by mail postpaid, providing you mention this paper when you write. The publishers of this paper guarantee the genuineness of this offer.

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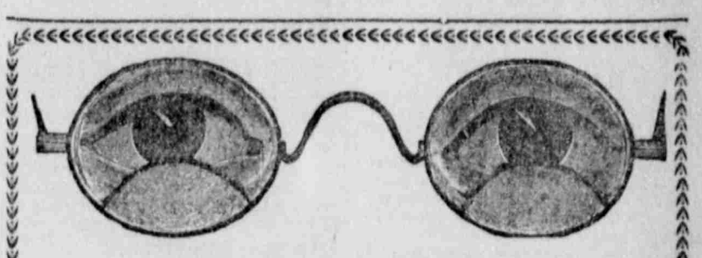

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"DIRT DEFIES THE KING." THEN

SAPOLIO

IS GREATER THAN ROYALTY ITSELF.

From a G. A. R. Man

"My attack of miller's Asthma was very bad. I was afraid to lie down at night for fear of smothering. I couldn't get my breath. No matter if all the doors and windows in the house were open, it seemed as if there was no air and that I must surely smother to death. Mr. W. B. Long, of this city, called my attention to Acker's English Remedy for Throat and Lung Troubles. I thought little of it but bought a bottle in the hopes that it might help me a little. It gave me wonderful relief, and the second bottle cured me completely. My recovery is permanent, too, for ever since I have not had the slightest return of my old enemy. I consider Acker's English Remedy by long odds the best medicine in the world for hacking coughs, asthma and bronchitis. It completely masters those stubborn diseases that many people wrongly suppose to be incurable. If sufferers will just try a single bottle, it will prove every word I have said, and more too." (Signed.)

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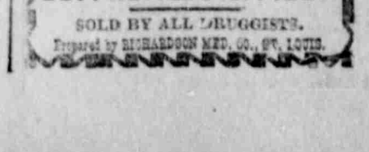

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