**OPENING ARGUMENT**

**of**

**Mr. Butler, of Massachusetts, one of the Managers on the impeachment of the President.**

The CHIEF JUSTICE. Gentlemen, Managers of the House of Representatives, you will now proceed in support of the articles of impeachment. Senators will please give their attention.

**Mr. President and Gentlemen of the Senate:**

The onerous duty has fallen to my fortune to present to you, imperfectly as I must, the several propositions of fact and law upon which the House of Representatives will endeavor sustain the cause of the people against the President of the United States, now pending at your bar.

The high station of the accused, the novelty of the proceeding, the gravity of the business, the importance of the questions to be presented to your adjudication, the possible momentous result of the issues, each and all must plead for me to claim your attention for as long a time as your patience may endure.

Now, for the first time in the history of the world, has a nation brought before its highest tribunal its chief magistrate for trial and possible deposition from office upon charges of maladministration of the powers and duties of that office. In other times and in other lands it has been found that despotism could only be tempered by assassination, and nations living under constitutional governments even have found no mode by which to rid themselves of a tyrannical, imbecile, or faithless ruler, save by overturning the very foundation and framework of the Government itself. And but recently, in one of the most civilized and powerful governments of the world, from which our own institutions have been largely modeled, we have seen a nation submit for years to the rule of an insane king, because its constitution contained no method for his removal . . . .

This, them, is the plain and inevitable issue before the Senate and the American people:

Has the President, under the Constitution, the more kingly prerogative at will to remove from office and suspend from office indefinitely, all executive officers of the United States, either civil, military, or naval, at any and all times, and fill the vacancies with creatures of his own appointment, for his own purposes, without any restraint whatever, or possibility of restraint by the Senate or by Congress through laws duly enacted.

The House of Representatives, in behalf of the people, join this issue by affirming that the exercise of such powers is a high misdemeanor in office.

If the affirmative is maintained by the respondent, then, so far as the first eight articles are concerned---unless such corrupt purposes are shown as will of themselves make the exercise of a legal power a crime---the respondent must go, and ought to go quit and free,

Therefore, by these articles and answers thereto, the momentous question, here and now, is raised whether thepresidential office itself (if it has the prerogatives and power claimed for it) ought, in fact, to exist as a part of the constitutional government of a free people*,* while by the las three articles the simpler and less important inquiry is to be determined, whether Andrew Johnson has so conducted himself that he ought longer to hold any constitutional office whatever. The latter sinks to merited insignificance compared with the grandeur of the former.

If that is sustained, then a right and power hitherto unclaimed and unknown to the people of the country is ingrafted on the Constitution must alarming in its extent, most corrupting in its influence, most dangerous in its tendencies, and most tyrannical in its exercise.

Whoever, therefore, votes "not guilty" on these articles votes to enchain our free institutions, and to prostrate them at the feet of any man who, being President, may choose to control them . . ..

In the 2d of March, 20XX, the tenure-of-office act provided, in substance, that all civil officers duly qualified to act by appointment, with the advice and consent of the Senate, shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except has herein otherwise provided, to wit: "provided that the Secretaries shall hold their office during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the senate.

By whom was Mr. Stanton appointed? By Mr. Lincoln. Whose presidential term was he holding under when the bullet of Both became a proximate cause of this trial? Was not his appointment in full force at that hour? Had any act of the respondent up to the 12th day of August last vitiated or interfered with that appointment? Whose presidential term is the respondent now serving out? His own or mr. Lincoln's? If his own, he is entitled to four years up to the anniversary of the murder, because each presidential term is four years by the Constitution, and the regular recurrence of those terms is fixed by the act of May 8, 1792. If he is serving out the remainder of Mr. Lincoln's term, then his term of office expires on the 4th of March, 20XX, if it does not before.

Is not the statement of these propositions their sufficient argument? . . . .

It has been said, however, that in the discussion at the time of the passage of this law observations were made by Senators ending to show that it did not apply to Mr. Stanton, because it was asserted that no member of the Cabinet of the President would wish to hold his place against the wishes of his chief, by whom he had been called into council, and these arguments have been made the groundwork of the attack upon a meritorious officer which may have so influenced the minds of Senators that it is my duty to observe upon the to meet arguments to the prejudice of my cause.

The respondent did not*ca*ll Mr. Stanton into his council. The blow of the assassin did call the respondent to preside over a Cabinet of which Mr. Stanton was an honored member, beloved of its chief: and if the respondent deserted the principles under which he was elected, betrayed his trust, and sought to return rebels, whom the valor of our armies had subdued, again into power, are not those reasons not only why Mr. Stanton should not desert his post, but, as a great patriot, maintain it all the more firmly against this unlooked-for treachery?

Is it not known to you, Senators, and to the country, that Mr. Stanton retains this unpleasant and distasteful position, not of his own will alone, but a the behest of a majority of those who represent the people of this country in both Houses of its Legislature, and after the solemn decision of the Senate that any attempt to remove him without their concurrence is unconstitutional and unlawful?

To desert it now, therefore, would be to imitate the treachery of his accidental chief . . . .

So the President of the United States, with a determination to assert at all hazards the tremendous power of removal of every officer, without the consent of the Senate, did not deem it "material or necessary" that the Senate should know that he had suspend Mr. Stanton indefinitely against the provisions of the tenure of office act, with full intent, at all hazards to remove him, and that the solemn deliberations of the Senate, which the President of the United States was then calling upon them to make in a matter of the highest governmental concern, were only to be of use in case they suited his purposes; that it was not "material or necessary" for the Senate to know that its high decisions was futile and useless that the President was playing fast and loose with this branch of the Government---which was never before done save by himself.

If Andrew Johnson never committed any other offense---if we know nothing of him save from this avowal---we should have a full picture of his mind and heart, painted in colors of living light, so that no man will ever mistake his mental and moral lineaments hereafter.

Instead of open and frank dealing as becomes the head of a great Government in every relation of life, and especially needful from the highest executive officer of the Government to the highest legislative branch thereof; instead of a manly, straightforward bearing, claiming openly and distinctly the rights which he believed pertained to his high office, and yielding to the other branches, fairly and justly, those which belong to them, we find him, upon this position he must stand before the Senate and the country if they believe his answer, which I do not, that he had at that time these intents and purposes in his mind and they are not the subterfuge and evasion and after-thought which a criminal brought to bay makes to escape the consequences of his acts . . . .

Article ten alleges that, intending to set aside the rightful authority and powers of Congress, and to bring into disgrace and contempt the Congress of the United States, and to destroy confidence in and to excite odium against Congress and its laws, he, Andrew Johnson, President of the United States, made divers speeches set out therein, whereby he brought the office of President into contempt, ridicule and disgrace . . . .

The issue, them, finally, is this: that those utterances of his, in the manner and form in which they are alleged to have been made, and under the circumstances and at the time they were made, are decent and becoming the President of the United S States, and do not tend to bring the office into ridicule and disgrace.

We accept the issues. They are two:

First. That he has been in the right to say what he did of Congress in the exercise of freedom of speech; and second, that what he did say in those speeches was a highly gentlemanlike and proper performance in a citizen, and still more becoming in a President of the United States.

Let us consider the graver matter of the assertion of the right to cast contumely upon Congress; to denounce it as a "body hanging on the verge of the Government;" "pretending to be a Congress when, in fact, it was not a Congress;" "a Congress which had done everything to be for the Union when its every step and act tended to perpetuate disunion," "and make a disruption of the States inevitable;" " a Congress in an minority assuming to exercise power which, if allowed to be consummated, would result in despotism and monarchy itself;" "a Congress which had done everything to prevent the union of the States;" "A Congress factious and domineering;" a Radical Congress which gave origin to another rebellion;" "a Congress upon whose skirts was every drop of blood that was shed in the New Orleans riots." You will find these denunciations had a deeper meaning than mere expressions of opinion. It may be taken as an axiom in the affairs of nations that no usurper has ever seized upon the Legislature of hi country until he has familiarized the people with the possibility of so doing by vituperating and decrying it. Denunciatory attacks upon the Legislature have always preceded, slanderous abuse of the individuals composing it have always accompanied, a seizure by a despot of the legislative power of a country.

Two memorable examples in modern history will spring to the recollection of every man. Before Cromwell drove out by the bayonet the Parliament of England he and his partisans had denounced it, derided it, decried it, and defamed it, and thus brought it into ridicule and contempt. He vilified it with the same name which---it is a significant fact--- the partisans of Johnson, by a concerted cry, applied to the Congress of the United States when he commenced his memorable pilgrimage and crusade against it. It is a still more significant fact that the justification made by Cromwell and by Johnson for setting aside the authority of Parliament and Congress respectively was precisely the same, to wit: that they were elected by part of the people only. When Cromwell, by his soldiers, finally entered the hall of Parliament to disperse its members, he attempted to cover the enormity of his usurpation by denouncing this man personally as a libertine, that as a drunkard, another as a betrayer of the liberties of the people. Johnson started out on precisely the same course, by forgetting the parallel, too early he proclaims this patriot an assassin, that statesman a traitor threatens to hang that man whom the people delight to honor, and breathes out "threatenings and slaughter" against this man whose services in the cause of human freedom have made his name a household word wherever the language is spoken. There is, however, an appreciable difference between Cromwell and Johnson, and there is a like difference in the results accomplished by each.

When Bonaparte extinguished the Legislature of France he waited until, through his press and partisans and by his own denunciations, he brought its authority into disgrace and contempt; and when, finally, he drove the council of the nation from their chamber, like Cromwell, he justified himself by personal abuse of the individuals themselves as they passed by him.

That the attempt of Andrew Johnson to overthrow Congress has failed is because of the want of ability and power not of malignity and will.

We are too apt to overlook the danger which may come from words: "We are inclined to say that is only talk--- wait till some act is done, and then it will be time to move. But words may be, and sometimes are, things---living, burning things that set a world on fire. . . .

By murder most foul he succeeded to the Presidency, and is the elect of an assassin to that high office, and not of the people. "It was a grievous fault, and grievously have we answered it:" but let me tell you, O advocate of monarchy! that our frame of government gives us a remedy for such a misfortune, which yours, with its divine right of kings, does not. We can remove him--- as we are about to do--- from the office he has disgraced by the sure, safe, and constitutional method of impeachment; while your king, if he becomes a buffoon, or a jester, or a tyrant, can only be displaced through revolution, bloodshed, and civil war.

That, this, O monarchist! is the crowning glory of our institutions, because of which, if for no other reason, our form of government claims precedence over all other governments of the earth . . . .

To the bar of this high tribunal, invested with all its great power and duties, the House of Representatives has brought the President of the United States by the most solemn form of accusation, charging him with high crimes and misdemeanors in office, as set forth in the several articles which I have thus feebly presented to your attention. Now, it seems necessary that I should briefly touch upon and bring freshly to your remembrance the history of some of the events of his administration of affairs in his high office, in order that the intents with which and the purposes for which the respondent committed the acts alleged against him may be fully understood.

Upon the first reading of the articles of impeachment the question might have arisen in the mind of some Senator, Why are these acts of the President only presented by the House, When history informs us that others equally dangerous to the liberties of the people, if not more so, and others of equal usurpation of powers, if not greater, are passed by in silence?

To such possible inquiry we reply: that the acts set out in the first eight articles are but the culmination of a series of wrongs, malfeasances, and usurpations committed by the respondent, and therefore need to be examined in the light of his precedent and concomitant acts to grasp their scope and design. The last three articles presented show the perversity and malignity with which he acted, so that the man, as he is known to us may be clearly spread upon the record to be seen and known of all men hereafter . . .

Do not all me know that soon afterwards he changed his course and only made treason, so far as he was concerned, by appointing traitors to office and by an indiscriminate pardon of all who "came in unto him?" Who does not know that Andrew Johnson initiated of his own will, a course of reconstruction of the rebel States which at the time he claimed was provisional only, and until the meeting of Congress and its action thereon? Who does not know that when Congress met and undertook to legislate upon the very subject of reconstruction of the rebel States which at the time he claimed was provisional only, and until the meeting of Congress and its action thereon? Who does not know that when Congress met and undertook to legislate upon the very subject of reconstruction of which he had advised them in his message, which they alone had the constitutional power to do, Andrew Johnson last aforesaid again changed his course, and declared that Congress had no power to legislate upon that subject; that the two Houses had only the power separately to judge of the qualifications of the members who might be sent to each by rebellious constituencies, acting under State organizations which Andrew Johnson had called into existence by his late fiat the electors of which were voting by his permission and under his limitations? Who does not know that when Congress, assuming its rightful power to propose amendments to the Constitution, had passed such an amendment, and had submitted it to the States as a measure of pacification, Andrew Johnson advised and counseled the Legislatures of the States lately in rebellion, as well as others, to reject the amendment, so that it might not operate as a law, and thus establish equality of right in the members of the Electoral College and in the number of the Representatives to the Congress of the United States?

Lest any one should doubt the correctness of this piece of history or the truth of this common fame we shall show you that while the Legislature of Alabama was deliberating upon the reconsideration of the vote whereby it had rejected the constitutional amendment, the fact being brought to the knowledge of Andrew Johnson and his advice asked, he, by a telegraphic message under his own hand, here to be produced, to show his intent and purposes, advised the Legislature against passing the amendment, and to remain firm in their opposition to Congress. We shall show like advice of Andrew Johnson, upon the same subject, to the Legislature of South Carolina, and this, too, in the winter of 1867, after the action of Congress in proposing the constitutional amendment had been sustained in the previous election by an overwhelming majority. Thus we charge that Andrew Johnson, President of the United States, not only endeavors to thwart the constitutional action of Congress and bring it to naught, but also to hinder and oppose the execution of the will of the loyal people of the United States expressed, in the only mode by which it can be done, through the ballot-box, in the election of their Representatives. Who does not know that from the hour he began these his usurpations of power he everywhere denounced Congress, the legality and constitutionality of its action, and defied its legitimate powers, and for that purpose, announced his intentions and carried out his purpose, as far as he was able, of removing every true man from office who sustained the Congress of the United States? And it is to carry out this plan of action that he claims the unlimited power of removal, for the illegal exercise of which he stands before you this day. Who does not know that, in pursuance of the same plan, he used his veto power indiscriminately to prevent the passage of wholesome laws enacted for the pacification of the country and when laws were passed by the constitutional majority over his vetoes he made the most determined opposition, both open and covert, to them, and, for the purpose of making that opposition effectual, he endeavored to array and did array all the people lately in rebellion to set themselves against Congress and against the true and loyal men, their neighbors, so that murders, assassinations, and massacres were rife all over the southern States, which he encouraged by his refusal to consent that a single murderer be punished, though thousands of good men have been slain; and further, that he attempted by military orders to prevent the acts of Congress by the military commanders who were charged therewith.

These and his concurrent acts show conclusively that his attempt to get the control of the military force of the Government, by the seizing of the Department of War, was done in pursuance his general design if it were possible, to overthrow the Congress of the United States; and he now claims by his answer the right to control at his own will, for the execution of this very design, every officer of the Army, Navy, civil, and diplomatic service of the United States. He asks you here, Senators, by your solemn adjudication, to confirm him in that right, to invest him with that power, to be used with the intents and for the purposes which he has already shown.

The responsibility is with you; the safeguards of the Constitution against usurpation are in your hands; the and hopes of free institutions wait upon your verdict. The House of Representatives has done its duty. We have presented the facts in the constitutional manner; we have brought the criminal to your bar, and demand judgment at your hands for his so great crimes.

Never again, if Andrew Johnson go quit and free this day, can the people of this or any other country by constitutional checks or guards stay the usurpations of executive power.

I speak, therefore, not the language of exaggeration, but the words of truth and soberness, that the future political welfare and liberties of all men hang trembling on the decision of the hour.