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## History of the Impeachment of Andrew Johnson Chapter VII. Impeachment Reported To The Senate

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### The President's Answer

On February 25th, 1868, Messrs. Stevens and Bingham, a committee of the House, appeared at the bar of the Senate, and Mr. Stevens said:

Mr. President, in obedience to the order of the House of Representatives, we appear before you, and in the name of the House of Representatives and of all the people of the United States, we do impeach Andrew Johnson, President of the United States, of high crimes and misdemeanors in office; and we further inform the Senate that the House of Representatives will in due time exhibit particular articles of impeachment against him and make good the same; and in their name we demand that the Senate take order for the appearance of said Andrew Johnson to answer said impeachment.

The committee retired, and after debate the following resolution was adopted by the Senate:

Resolved, That the Message of the House of Representatives relating to the impeachment of Andrew Johnson, President of the United States, be referred to a select committee of seven, to consider and report thereon.

On the 26th, Mr. Howard, from the select committee appointed to consider and report upon the Message of the House of Representatives in relation to the impeachment of Andrew Johnson, President of the United States, reported the following resolution:

Whereas, the House of Representatives, on the 25th day of the present month, by two of their members, Messrs. Thaddeus Stevens and John A. Bingham, at the bar of the Senate, impeached Andrew Johnson, President of the United States, of high crimes and misdemeanors in office, and informed the Senate that the House of Representatives will in due time exhibit particular articles of impeachment against him and make good the same; and likewise demanded that the Senate take order for the appearance of said Andrew Johnson, to answer to the said impeachment: Therefore,

Resolved, That the Senate will take proper order thereon, of which due notice shall be given to the House of Representatives.

On the 28th, Mr. Howard, of the Select Committee appointed to prepare rules for the government of trials of impeachment, reported a series of rules, which were adopted by the Senate on March 2nd, after a three days debate.

On the same day, the following gentlemen were elected by the House of Representatives as Managers to conduct the prosecution of the impeachment of the President before the Senate

Hons. Jno. A. Bingham, of Ohio; George S. Boutwell, of Massachusetts; James F. Wilson, of Iowa; Benj. F. Butler, of Massachusetts; John A. Logan, of Illinois; Thomas Wilson, of Pennsylvania, and Thaddeus Stevens, of Pennsylvania.

On March 3rd it was ordered by the Senate:

That the Secretary of the Senate inform the House of Representatives that the Senate is ready to receive the managers appointed by the House of Representatives to carry to the Senate articles of impeachment against Andrew Johnson, President of the United States.

In the Senate, on the 4th, the following formal proceedings were had:

The managers of the impeachment on the part of the House of Representatives appeared at the bar, and their presence was announced by the Sergeant-at-Arms.

The President pro tempore: The managers of the impeachment will advance within the bar and take the seats provided for them.

The managers came within the bar and took the seats assigned to them in the area in front of the Vice President's Chair.

The Speaker of the House of Representatives advanced and took a seat on the right of the President pro tempore of the Senate.

Mr. Manager Bingham:

Mr. President, the managers on the part of the House of Representatives, by order of the House, are ready at the bar of the Senate, whenever it may please the Senate to hear them, to present articles of impeachment and in maintenance of the impeachment preferred against Andrew Johnson, President of the United States, by the House of Representatives.

The President pro tempore:

The Sergeant-at-arms will make proclamation.

The Sergeant-at-arms:

Hear ye! Hear ye! All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States, articles of impeachment against Andrew Johnson, President of the United States.

The managers then rose and remained standing, with the exception of Mr. Stevens, who was too feeble to do so, while Mr. Manager Bingham read the articles of impeachment, as follows:

Articles exhibited by the House of Representatives of the United States in the name of themselves and all the people of the United States, against Andrew Johnson, President of the United States, in maintenance and support of their impeachment against him for high crimes and misdemeanors in office.

#### ARTICLE I.

That said Andrew Johnson, President of the United States, on the 21st day of February, in the year of our Lord eighteen hundred and sixty-eight, at Washington, in the District of Columbia, unmindful of the high duties of his office, of his oath of office, and of the requirement of the Constitution that he should take care that the laws be faithfully executed, did unlawfully, and in violation of the Constitution and laws of the United States issue an order in writing for the removal of Edwin M. Stanton from the office of Secretary for the Department of War, said Edwin M. Stanton having been theretofore duly appointed and commissioned by and with the advice and consent of the Senate of the United States, as such secretary, and said Andrew Johnson, President of the United States, on the twelfth day of August in the year of our Lord eighteen hundred and sixty-seven, and during the recess of said Senate, having suspended by his order Edwin M. Stanton from said office, and within twenty days after the first day of the next meeting of said Senate, that is to say, on the twelfth day of December in the year last aforesaid having reported to said Senate such suspension with the evidence and reasons for his action in the case and the name of the person designated to perform the duties of such office temporarily until the next meeting of the Senate, and said Senate thereafterwards, on the thirteenth day of January, in the year of our Lord eighteen hundred and sixty-eight, having duly considered the evidence and reasons reported by said Andrew Johnson for said suspension, and having refused to concur in said suspension, whereby and by force of the provisions of an act entitled "An Act regulating the tenure of certain civil offices," passed March second, eighteen hundred and sixty-seven, said Edwin M. Stanton did forthwith resume the functions of his office, whereof the said Andrew Johnson had then and there due notice, and said Edwin M. Stanton, by reason of the premises, on said 21st day of February, being lawfully entitled to hold said office of Secretary for the Department of War, which said order for the removal of said Edwin M. Stanton is in substance as follows, that is to say:

Executive Mansion, Washington, D. C., Feb. 21, 1868.

Sir:--By virtue of the power and authority vested in me as President by the Constitution and laws of the United States you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon the receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the army, who has this day been authorized and empowered to act as Secretary of War ad interim, all records, books, papers, and other public property now in your custody and charge.

Respectfully yours, Andrew Johnson. To the Hon. Edwin M. Stanton, Washington, D. C.

Which order was unlawfully issued with intent then and there to violate the act entitled "An Act regulating the tenure of certain civil offices," passed March 2d, 1867, and with the further intent contrary to the provisions of said act, in violation thereof, and contrary to the provisions of the Constitution of the United States, and without the advice and consent of the Senate of the United States, the said Senate then and there being in session, to remove said Edwin M. Stanton from the office of Secretary for the Department of War, the said Edwin M. Stanton being then and there Secretary for the Department of War, and being then and there in the due and lawful execution and discharge of the duties of said office, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

#### ARTICLE II.

That on the said twenty-first of February, in the year of our Lord one thousand eight hundred and sixty-eight, at Washington, in the District of Columbia, said Andrew Johnson, President of the United States, unmindful of the high duties of his office, of his oath of office, and in violation of the Constitution of the United States, and contrary to the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March second, eighteen hundred and sixty-seven, without the advice and consent of the Senate of the United States, said Senate then and there being in session, and without authority of law, did, with intent to violate the Constitution of the United States, and the act aforesaid, issue and deliver to one Lorenzo Thomas a letter of authority in substance as follows, that is to say:

Executive Mansion, Washington, D. C., February 21, 1868.

Sir:--The Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War ad interim, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, Andrew Johnson. To Brevet Major General Lorenzo Thomas, Adjutant General U. S. Army, Washington, D. C.

Then and there being no vacancy in said office of Secretary for the Department of War, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

#### ARTICLE III.

That said Andrew Johnson, President of the United States, on the twenty-first day of February, in the year of our Lord one thousand eight hundred and sixty-eight, at Washington, in the District of Columbia, did commit and was guilty of a high misdemeanor in office in this, that, without authority of law, while the Senate of the United States was then and there in session, he did appoint one Lorenzo Thomas to be Secretary for the Department of War ad interim, without the advice and consent of the Senate, and with intent to violate the Constitution of the United States, and no vacancy having happened in said office of Secretary for the Department of War during the recess of the Senate, and no vacancy existing in said office at the time, and which said appointment, so made by said Andrew Johnson, of said Lorenzo Thomas, is in substance as follows, that is to say:

Executive Mansion, Washington, D. C., Feb. 21, 1868. Sir:--The Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War ad interim, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton, has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, Andrew Johnson. To Brevet Major General Lorenzo Thomas, Adjutant General, U. S. Army, Washington, D. C.

#### ARTICLE IV.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, in violation of the Constitution and laws of the United States, on the twenty-first day of February, in the year of our Lord one thousand eight hundred and sixty-eight, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, and with other persons to the House of Representatives unknown, with intent, by intimidation and threats, unlawfully to hinder and prevent Edwin M. Stanton, then and there the Secretary for the Department of War, duly appointed under the laws of the United States, from holding said office of Secretary for the Department of War, contrary to and in violation of the Constitution of the United States, and of the provisions of an act entitled "An act to define and punish certain conspiracies," approved July thirty-first, eighteen hundred and sixty-one, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high crime in office.

#### ARTICLE V.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the twenty-first day of February, in the year of our Lord one thousand eight hundred and sixty-eight, and on divers other days and times in said year, before the second day of March, in the year, of our

Lord one thousand eight hundred and sixty-eight, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, and with other persons to the House of Representatives unknown, to prevent and hinder the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March second, eighteen hundred and sixty-seven, and in pursuance of said conspiracy, did unlawfully attempt to prevent Edwin M. Stanton, then and there being Secretary for the Department of War, duly appointed and commissioned under the laws of the United States, from holding said office, whereby the said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

#### ARTICLE VI.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the twenty-first day of February, in the year of our Lord one thousand eight hundred and sixty-eight, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas by force to seize, take and possess the property of the United States in the Department of War, and then and there in the custody and charge of Edwin M. Stanton, Secretary for said Department, contrary to the provisions of an act entitled "An act to define and punish certain conspiracies," approved July thirty-one, eighteen hundred and sixty one, and with intent to violate and disregard an act entitled "An act regulating the tenure of certain civil offices," passed March second, eighteen hundred and sixty-seven, whereby said Andrew Johnson, President of the United States, did then and there commit a high crime in office.

#### ARTICLE VII.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the twenty-first day of February, in the year of our Lord one thousand eight hundred and sixty-eight, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas with intent unlawfully to seize, take, and possess the property of the United States in the Department of War, in the custody and charge of Edwin M. Stanton Secretary for said Department, with intent to violate and disregard the act entitled "An act regulating the tenure of certain civil offices" passed March second, eighteen hundred and sixty-seven, whereby said Andrew Johnson, President of the United States, did then and there commit a high misdemeanor in office.

#### ARTICLE VIII.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, with intent unlawfully to control the disbursements of the moneys appropriated for the military service and for the Department of War, on the twenty-first day of February, in the year of our Lord one thousand eight hundred and sixty-eight, at Washington, in the District of Columbia, did unlawfully and contrary to the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March second, eighteen hundred and sixty-seven, and in violation of the Constitution of the United States, and without the advice and consent of the Senate of the United States, and while the Senate was then and there in session, there being no vacancy in the office of Secretary for the Department of War, and with intent to violate and disregard the act aforesaid, then and there issue and deliver to one Lorenzo Thomas a letter of authority in writing, in substance as follows, that is to say:

Executive Mansion, Washington, D. C., Feb. 21, 1868.

Sir:--The Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War ad interim, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours, Andrew Johnson. To Brevet Major General Lorenzo Thomas, Adjutant General, United States Army, Washington, D. C.

Whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

#### ARTICLE IX.

That said Andrew Johnson, President of the United States, on the twenty-second day of February, in the year of our Lord one thousand eight hundred and sixty-eight, at Washington, in the District of Columbia, in disregard of the Constitution, and the laws of the United States duly enacted, as commander-in-chief of the army of the United States, did bring before himself then and there William H. Emory, a major-general by brevet in the army of the United States, actually in command of the department of Washington and the military forces thereof, and did then and there, as such commander-in-chief, declare to and instruct said Emory that part of a law of the United States, passed March second, eighteen hundred and sixty-seven entitled "An act making appropriations for the support of the army for the year ending June thirtieth, eighteen hundred and sixty-eight and for other purposes," especially the second section thereof, which provides, among other things, that "all orders and instructions relating to military operations, issued by the President or Secretary of War, shall be issued through the General of the army, and, in case of his inability, through the next in rank," was unconstitutional, and in contravention of the commission of said Emory, and which said provision of law had been theretofore duly and legally promulgated by General Orders for the government and direction of the army of the United States, as the said Andrew Johnson then and there well knew, with intent thereby to induce said Emory, in his official capacity as commander of the department of Washington, to violate the provisions of said act, and to take and receive, act upon, and obey such orders as he, the said Andrew Johnson, might make and give, and which should not be issued through the General of the army of the United States, according to the provisions of said act, and with the further intent thereby to enable him, the said Andrew Johnson, to prevent the execution of the act entitled "An act regulating the tenure of certain civil offices," passed March second eighteen hundred and sixty-seven and to unlawfully prevent Edwin M. Stanton then being Secretary for the Department of War, from holding said office and discharging the duties thereof, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

And the House of Representatives by protestation saving to themselves the liberty of exhibiting at any time hereafter any further articles, or other accusation or impeachment against the said Andrew Johnson, President of the United States, and also of replying to his answers which he shall make unto the articles herein preferred against him, and of offering proof to the same, and every part thereof, and to all and every other article, accusation, or impeachment which shall be exhibited by them, as the case shall require, do demand that the said Andrew Johnson may be put to answer the high crimes and misdemeanors in office herein charged against him, and that such proceedings, examinations, trials, and judgments may be thereupon had and given as may be agreeable to law and justice

#### ARTICLE X.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office, and the dignity and proprieties thereof, and of the harmony and courtesies which ought to exist and be maintained between the executive and legislative branches of the government of the United States, designing and intending to set aside the rightful authority and powers of Congress, did attempt to bring into disgrace, ridicule, hatred, contempt and reproach, the Congress of the United States, and the several branches thereof, to impair and destroy the regard and respect of all the good people of the United States for the Congress and legislative powers thereof, (which all officers of the government ought inviolably to preserve and maintain.) and to excite the odium and resentment of all the good people of the United States against Congress and the laws by it duly and constitutionally enacted; and in pursuance of his said design and intent, openly and publicly, and before divers assemblages of the citizens of the United States, convened in divers parts thereof to meet and receive said Andrew Johnson as the Chief Magistrate of the United States, did, on the eighteenth day of August, in the year of our Lord one thousand eight hundred and sixty-six, and on divers other days and times, as well before as afterward, make and deliver, with a loud voice, certain intemperate, inflammatory, and scandalous harangues, and did therein utter loud threats and bitter menaces, as well against Congress as the laws of the United States duly enacted thereby, amid the cries, jeer, and laughter of the multitudes then assembled and in hearing.

#### ARTICLE XI.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office, and of his oath of office, and in disregard of the Constitution and laws of the United States, did, heretofore, to wit, on the eighteenth day of August, A. D. eighteen hundred and sixty-six, at the City of Washington, and the District of Columbia, by public speech, declare and affirm, in substance, that the thirty-ninth Congress of the United States was not a Congress of the United States authorized

by the Constitution to exercise legislative power under the same. but, on the contrary, was a Congress of only part of the States, thereby denying, and intending to deny, that the legislation of said Congress was valid or obligatory upon him, the said Andrew Johnson, except in so far as he saw fit to approve the same, and also thereby denying, and intending to deny, the power of the said thirty-ninth Congress to propose amendments to the Constitution of the United States; and, in pursuance of said declaration, the said Andrew Johnson, President of the United States, afterwards, to-wit, on the twenty first day of February, A. D. eighteen hundred and sixty-eight, at the city of Washington, in the District of Columbia, did, unlawfully, and in disregard of the requirements of the Constitution that he should take care that the laws be faithfully executed, attempt to prevent the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March second, eighteen hundred and sixty-seven, by unlawfully devising and contriving, and attempting to devise and contrive means by which he should prevent Edwin M. Stanton from forthwith resuming the functions of the office of Secretary for the Department of War, notwithstanding the refusal of the Senate to concur in the suspension theretofore made by said Andrew Johnson of said Edwin M. Stanton from said office of Secretary for the Department of War; and, also, by further unlawfully devising and contriving, and attempting to devise and contrive means, then and there, to prevent the execution of an act entitled "An act making appropriations for the support of the army for the fiscal year ending June thirtieth, eighteen hundred and sixty-eight, and for other purposes," approved March second, eighteen hundred and sixty-seven; and also, to prevent the execution of an act entitled "An act to provide for the more efficient government of the rebel States," passed March second, eighteen hundred and sixty-seven, whereby the said Andrew Johnson, President of the United States, did then, to wit, on the twentyfirst day of February, A. D. eighteen hundred and sixty-eight, at the city of Washington, commit, and was guilty of, a high misdemeanor in office.

Schuyler Colfax, Speaker of the House of Representatives. Attest: Edward McPherson, Clerk of the House of Representatives.

At the conclusion of the reading of the Articles of Impeachment, the President of the Senate responded that "the Senate will take order upon the subject of impeachment, of which proper notice will be given to the House of Representatives."

In addition to the Speaker and Managers, a large number of the members of the House of Representatives were present to witness the extraordinary and impressive proceedings, and at its close all withdrew and the Senate resumed the routine business of the day's session.

On Monday, March 23rd, 1868, the President, by his attorneys, appeared at the bar of the Senate and made answer to the several Articles of Impeachment, as follows:

(Answer to only the 1st, 2nd, 3rd, and 11th Articles, are here given, as the 2nd, 3rd and 11th were the only Articles put to vote--all others being abandoned, and as the 1st Article, though never put to vote, contained practically all there was of the impeachment.)

#### ANSWER TO ARTICLE I.

For answer to the first article he said: That Edwin M. Stanton was appointed Secretary for the Department of War on the 15th day of January, A. D. 1862, by Abraham Lincoln, then President of the United States, during the first term of his presidency, and was commissioned, according to the Constitution and laws of the United States, to hold the said office during the pleasure of the President; that the office of Secretary for the Department of War was created by an act of the first Congress in its first session, passed on the 7th day of August, A.D. 1789, and in and by that act it was provided and enacted that the said Secretary for the Department of War shall perform and execute such duties as shall from time to time be enjoined on and intrusted to him by the President of the United States, agreeably to the Constitution, relative to the subjects within the scope of said department; and furthermore, that the Secretary shall conduct the business of the said department in such a manner as the President of the United States shall, from time to time, order and instruct.

And this respondent further answering, says that by force of the act aforesaid and by reason of his appointment aforesaid the said Stanton became the principal officer in one of the executive departments of the government within the true, intent and meaning of the second section of the second article of the Constitution of the United States, and according to the true intent and meaning of that provision of the Constitution of the United States: and, in accordance with the settled and uniform practice of each and every President of the United States, the said Stanton then became, and so long as he should continue to hold the said office of Secretary for the Department of War must continue to be, one of the advisers of the President of the United States, as well as the person intrusted to act for and represent the President in matters enjoined upon him or entrusted to him by the President touching the department aforesaid, and for whose conduct in such capacity, subordinate to the President, the President is, by the Constitution and laws of the United States, made responsible.

And this respondent, further answering, says he succeeded to the office of President of the United States upon, and by reason of, the death of Abraham Lincoln, then President of the United States, on the 13th day of April, 1865, and the said Stanton was then holding the said office of Secretary for the Department of War under and by reason of the appointment and commission aforesaid; and, not having been removed from the said office by this respondent, the said Stanton continued to hold the same under the appointment and commission aforesaid, at the pleasure of the President, until the time hereinafter particularly mentioned: and at no time received any appointment or commission save as above detailed.

And this respondent, further answering, says that on and prior to the 5th day of August, A. D. 1867, this respondent, the President of the United States, responsible for the conduct of the Secretary for the Department of War, and having the constitutional right to resort to and rely upon the person holding that office for advice concerning the great and difficult public duties enjoined on the President by the Constitution and laws of the United States, became satisfied that he could not allow the said Stanton to continue to hold the office of Secretary for the Department of War without hazard of the public interest; that the relations between the said Stanton and the President no longer permitted the President to resort to him for advice, or to be, in the judgment of the President, safely responsible for his conduct of the affairs of the Department of War, as by law required, in accordance with the orders and instructions of the President; and thereupon, by force of the Constitution and laws of the United States, which devolve on the President the power and the duty to control the conduct of the business of that executive department of the government, and by reason of the constitutional duty of the President to take care that the laws be faithfully executed, this respondent did necessarily consider and did determine that the said Stanton ought no longer to hold the said office of Secretary for the Department of War. And this respondent, by virtue of the power and authority vested in him as President of the United States by the Constitution and laws of the United States, to give effect to such his decision and determination, did, on the 5th day of August, A. D. 1867, address to the said Stanton a note, of which the following is a true copy:

Sir:--Public considerations of a high character constrain me to say that your resignation as Secretary of War will be accepted.

To which note the said Stanton made the following reply:

War Department, Washington, August 5, 1867.

Sir:-Your note of this day has been received, stating that public considerations of a high character constrain you "to say that my resignation its Secretary of War will be accepted."

In reply I have the honor to say that public considerations of a high character, which alone have induced me to continue at the head of this department, constrain me not to resign the office of Secretary of War before the next meeting of Congress.

Very respectfully yours. Edwin M. Stanton.

This respondent, as President of the United States, was thereon of opinion that, having regard to the necessary official relations and duties of the Secretary for the Department of War to the President of the United States according to the Constitution and laws of the United States, and having regard to the responsibility of the President for the conduct of the said Secretary, and having regard to the permanent executive authority of the office which the respondent holds under the Constitution and laws of the United States, it was impossible, consistently with the public interests, to allow the said Stanton to continue to hold the said office of Secretary for the Department of War; and it then became the official duty of the respondent, as President of the United States, to consider and decide what act or acts should and might lawfully be done by him, as President of the United States, to cause the said Stanton to surrender the said office.

This respondent was informed and verily believed that it was practically settled by the first Congress of the United States, and had been so considered and uniformly and in great numbers of instances acted on by each Congress and President of the United States, in succession, from President Washington to, and including President Lincoln, and from the first Congress to the thirty-ninth Congress, that the Constitution of the United States conferred on the President, as part of the executive power and as one of the necessary means and instruments of performing the executive duty expressly imposed on him by the Constitution of taking care that the laws be faithfully executed, the power at any and all times of removing from office all executive officers for cause to be judged of by the President alone. This respondent had, in pursuance of the Constitution, required the opinion of each principal officer of the executive departments, upon this question of constitutional executive power and duty, and had been advised by each of them, including the said Stanton, Secretary for the Department of War, that under the Constitution of the United States this power was lodged by the Constitution in the President of the United States, and that consequently, it could be lawfully exercised by him, and the Congress could not deprive him thereof; and this respondent, in his capacity of President of the United States, and because in that capacity he was both enabled and bound to use his best judgment upon this question, did, in good faith and with an earnest desire to arrive at the truth, come to the conclusion and opinion, and did make the same known to the honorable the Senate of the United States by a message dated on the 2nd day of March, 1867, that the power last mentioned was conferred and the duty of exercising it, in fit cases, was imposed on the President by the Constitution of the United States, and that the President could not be deprived of this, power or relieved of this duty, nor could the same be vested by law in the President and the Senate jointly, either in part or whole.

This respondent was also then aware that by the first section of "An act regulating the tenure of certain civil offices," passed March 2, 1867, by a constitutional majority of both houses of Congress, it was enacted as follows:

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: Provided, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and one month thereafter, subject to removal by and with the advice and consent of the Senate."

This respondent was also aware that this 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; and although this respondent had arrived at and still retained the opinion above expressed, and verily believed, as he still believes, that the said first section of the last mentioned act was and is wholly inoperative and void by reason of its conflict with the Constitution of the United States, yet, inasmuch as the same had been enacted by the constitutional majority in each of the two houses of that Congress, this respondent considered it to be proper to examine and decide whether the particular case of the said Stanton, on which it was this respondent's duty to act, was within or without the terms of that first section of the act; or, if within it, whether the President had not the power, according to the terms of the act, to remove the said Stanton from the office of Secretary for the Department of War, and having, in his capacity of President of the United States, so examined and considered, did form the opinion that the case of the said Stanton and his tenure of office were not affected by the first section of the last-named act.

And this respondent, further answering, says, that although a case thus existed which, in his judgment as President of the United States, called for the exercise of the executive power to remove the said Stanton from the office of Secretary for the Department of War, and although this respondent was of the opinion, as is above shown, that under the Constitution of the United States the power to remove the said Stanton from the said office was vested in the President of the United States; and also this respondent was also of the opinion, as is above shown, that the case of the said Stanton was not affected by the first section of the last named act, and although each of the said opinions had been formed by this respondent upon an actual case, requiring him, in his capacity of President of the United States, to come to some judgment and determination thereon, yet this respondent, as President of the United States, desired and determined to avoid, if possible, any question of the construction and effect of the said first section of the last named act, and also the broader question of the executive power conferred on the President of the United States, by the Constitution of the United States, to remove one of the principal officers of one of the executive departments for cause seeming to him sufficient; and this respondent also desired and determined that if, from causes over which he could exert no control, it should become absolutely necessary to raise and have, in some way, determined either or both of the said last named questions, it was in accordance with the Constitution of the United States, and was required of the President thereby, that questions of so much gravity and importance, upon which the legislative and executive departments of the government had disagreed, which involved powers considered by all branches of the government, during its entire history down to the year 1867, to have been confided by the Constitution of the United States to the President, and to be necessary for the complete and proper execution of his constitutional duties, should be in some proper way submitted to that judicial department of the government intrusted by the Constitution with the power, and subjected by it to the duty, not only of determining finally the construction of and effect of all acts of Congress, but of comparing them with the Constitution of the United States and pronouncing them inoperative when found in conflict with that fundamental law which the people have enacted for the government of all their servants. And to these ends, first, that, through the action of the Senate of the United States, the absolute duty of the President to substitute some fit person in place of Mr. Stanton as one of his advisers, and as a principal subordinate officer whose official conduct he was responsible for and had lawful right to control, might, if, possible, be accomplished without the necessity of raising any one of the questions aforesaid; and, second, if this duty could not be so performed then that these questions, or such of them as might necessarily arise, should be judicially determined in manner aforesaid, and for no other end or purpose, this respondent, as President of the United States, on the 12th day of August, 1867, seven days after the reception of the letter of the said Stanton of the 5th of August, hereinbefore stated, did issue to the said Stanton the order following namely:

Executive Mansion, Washington, August 12, 1867.

Sir:--By virtue of the power and authority vested in me as President by the Constitution and laws of the United States, you are hereby suspended from office as Secretary of War, and will cease to exercise any and all functions pertaining to the same.

You will at once transfer to General Ulysses S. Grant, who has this day been authorized and empowered to act as Secretary of War ad interim, all records, books, papers, and other public property now in your custody and charge. To Hon. Edwin M. Stanton, Secretary of War.

To which said order the said Stanton made the following reply:

War Department, Washington City, August 12, 1867.

Sir:--Your note of this date has been received, informing me that, by virtue of the powers vested in you as President by the Constitution and laws of the United States, I am suspended from office as Secretary of War, and will cease to exercise any and all functions pertaining to the same, and also directing me at once to transfer to General Ulysses S. Grant, who has this day been authorized and empowered to act as Secretary of War ad interim, all records, books, papers, and other public property now in my custody and charge. Under a sense of public duty I am compelled to deny your right, under the Constitution and laws of the United States, without the advice and consent of the senate, and without legal cause, to suspend me from office as Secretary of War, or the exercise of any or all functions pertaining to the same, or without such advice and consent to compel me to transfer to any person the records, books, papers, and public property in my custody as Secretary, But inasmuch as the General commanding the Armies of the United has been appointed ad interim and has notified me that he has accepted the appointment, I have no alternative but to submit, under protest, to superior force.

To the President.

And this respondent, further answering, says, that it is provided in and by the second section of "An act to regulate the tenure of certain civil offices," that the President may suspend an officer from the performance of the duties of the office held by him, for certain causes therein designated, until the next meeting of the Senate, and until the case shall be acted on by the senate; that this respondent, as President of the United States, was advised, and he verily believed and still believes, that the executive power of removal from office confided to him by the Constitution as aforesaid includes the power of suspension from office at the pleasure of the President, and this respondent, by the order aforesaid, did suspend the said Stanton from office, not until the next meeting of the Senate, or until the Senate should have acted upon the case, but by force of the power and authority vested in him by the Constitution and laws of the United States, indefinitely and at the pleasure of the President, and the order, in form aforesaid, was made known to the Senate of the United States on the 12th day of December, A. D. 1867, as will be more fully hereinafter stated.

And this respondent, further answering, says, that in and by the act of February 13, 1795, it was, among other things, provided and enacted that, in case of vacancy in the office of Secretary for the Department of War, it shall be lawful for the President, in case he shall think it necessary, to authorize any person to perform the duties of that office until a successor be appointed or such vacancy filled, but not exceeding the term of six months; and this respondent, being advised and believing that such law was in full force and not repealed, by an order dated August 12, 1867, did authorize and empower Ulysses S. Grant, General of the armies of the United States, to act as Secretary for the Department of War ad interim, in the form in which similar authority had theretofore been given, not until the next meeting of the Senate and until the Senate should act on the case, but at the pleasure of the President, subject only to the limitation of six months in the said last-mentioned act contained; and a copy of the last-named order was made known to the Senate of the United States on the 12th day of December, 1867, as will be hereinafter more fully stated: and in pursuance of the design and intention aforesaid, if it should become necessary to submit the said question to a judicial determination, this respondent, at or near the date of the last-mentioned order, did make known such his purpose to obtain a judicial decision of the said question, or such of them as might be necessary.

And this respondent, further answering, says, that in further pursuance of his intention and design, if possible, to perform what he judged to be his imperative duty, to prevent the said Stanton from longer holding the office of Secretary for the Department of War, and at the same time avoiding, if possible, any question respecting the extent of the power of removal from executive office confided to the President by the Constitution of the United States, and any question respecting the construction and effect of the first section of the said "act regulating the tenure of certain civil offices," while he should not, by any act of his, abandon and relinquish, either a power which he believed the Constitution had conferred on the President of the United States, to enable him to perform the duties of his office, or, a power designedly left to him by the first section of the act of Congress last aforesaid, this respondent did, on the 12th day of December, 1867, transmit to the senate of the United States a message a copy whereof is hereunto annexed and marked B, wherein he made known the orders aforesaid and the reasons which had induced the same. so far as this respondent then considered it material and necessary that the same should be set forth, and reiterated his views concerning the constitutional power of removal vested in the President, and also expressed his views concerning the construction of the said first section of the last mentioned act, as respected the power of the President to remove the said Stanton from the said office of Secretary for the Department of War, well hoping that this respondent could thus perform what he then believed, and still believes, to be his imperative duty in reference to the said Stanton, without derogating from the powers which this respondent believed were confided to the President, by the Constitution and laws, and without the necessity of raising, judicially, any questions respecting the same.

And this respondent, further answering, says, that this hope not having been realized, the President was compelled either to allow the said Stanton to resume the said office and remain therein contrary to the settled convictions of the President, formed as aforesaid respecting the powers confided to him and the duties required of him by the Constitution of the United States, and contrary to the opinion formed as aforesaid, that the first section of the last mentioned act did not affect the case of the said Stanton, and contrary to the fixed belief of the President that he could no longer advise with or trust or be responsible for the said Stanton, for the said office of Secretary for the Department of War, or else he was compelled to take such steps as might, in the judgment of the President, be lawful and necessary to raise, for a judicial decision, the questions affecting the lawful right of the said Stanton to resume the said office, or the power of the said Stanton to persist in refusing to quit the said office if he should persist in actually refusing to quit the same; and to this end, and to this end only, this respondent did, on the 21st day of February, 1868 issue the order for the removal of the said Stanton, in the said first article mentioned and set forth, and the order authorizing the said Lorenzo F. Thomas to act as Secretary of War ad interim, in the said second article set forth.

And this respondent, proceeding to answer specifically each substantial allegation in the said first article, says: He denies that the said Stanton, on the 21st day of February, 1868, was lawfully in possession of the said office of Secretary for the Department of War. He denies that the said Stanton, on the day last mentioned, was lawfully entitled to hold the said office against the will of the President of the United States. He denies that the said order for the removal of the said Stanton was unlawfully issued. He denies that the said order was issued with intent to violate the act entitled "An act to regulate the tenure of certain civil offices." He denies that the said order was a violation of the last mentioned act. He denies that the said order was a violation of the Constitution of the United States, or of any law thereof, or of his oath of office. He denies that the said order was issued with an intent to violate the Constitution of the United States or any law thereof, or this respondent's oath of office; and he respectfully, but earnestly, insists that not only was it issued by him in the performance of what he believed to be an imperative official duty, but in the performance of what this honorable court will consider was in point of fact, an imperative official duty. And he denies that any and all substantive matters, in the said first article contained, in manner and form as the same are therein stated and set forth, do, by law, constitute a high misdemeanor in office, within the true intent and meaning of the Constitution of the United States.

#### ANSWER TO ARTICLE II.

And for answer to the second article, this respondent says that he admits he did issue and deliver to said Lorenzo Thomas the said writing set forth in said second article, bearing date at Washington, District of Columbia, February 21, 1868, addressed to Brevet Major General Lorenzo Thomas, Adjutant General United States army, Washington, District of Columbia, and he further admits that the same was so issued without the advice and consent of the Senate of the United States, then in session; but he denies that he thereby violated the Constitution of the United States, or any law thereof, or that he did thereby intend to violate the Constitution of the United States or the provisions of any act of Congress; and this respondent refers to his answer to said first articles for a full statement of the purposes and intentions with which said order was issued, and adopts the same as part of his answer to this article; and he further denies that there was then and there no vacancy in the said office of Secretary for the Department of War, or that he did then and there commit or was guilty of a high misdemeanor in office; and this respondent maintains and will insist:

1. That at the date and delivery of said writing there was a vacancy existing in the office of Secretary for the Department of War.
2. That notwithstanding the Senate of the United States was then in session, it was lawful and according to long and well established usage to empower and authorize the said Thomas to act as Secretary of War ad interim.
3. That if the said act regulating the tenure of civil offices be held to be a valid law, no provision of the same was violated by the issuing of said order or by the designation of said Thomas to act as Secretary of War ad interim.

#### ANSWER TO ARTICLE III.

And for answer to said third article, this respondent says that he abides by his answer to said first and second articles in so far as the same are responsive to the allegations contained in the said third article, and, without here again repeating the same answer, prays the same be taken as an answer to this third article as fully as if here again set out at length; and as to the new allegation contained in said third article, that this respondent did appoint the said Thomas to be Secretary for the Department of War ad interim, this respondent denies that he gave any other authority to said Thomas than such as appears in said written authority set out in said article, by which he authorized and empowered said Thomas to act as Secretary for the Department of War ad interim; and he denies that the same amounts to an appointment, and insists that it is only a designation of an officer of that department to act temporarily as Secretary for the Department of War ad interim, until an appointment should be made. But whether the said written authority amounts to an appointment or to a temporary authority or designation, this respondent denies that in any sense he did thereby intend to violate the Constitution of the United States, or that he thereby intended to give the said order the character or effect of an appointment in the constitutional or legal sense of that term. He further denies that there was no vacancy in said office of Secretary for the Department of War existing at the date of said written authority.

#### ANSWER TO ARTICLE XI.

And in answer to the eleventh article, this respondent denies that on the 18th day of August, in the year 1866, at the City of Washington, in the District of Columbia, he did, by public speech or otherwise, declare or affirm, in substance or at all, that the thirty-ninth Congress of the United States was not a Congress of the United States authorized by the constitution to exercise legislative power under the same, or that he did then and there declare or affirm that the said thirty-ninth Congress was a Congress of only part of the States in any sense or meaning other than that ten States of the Union were denied representation therein; or that he made any or either of the declarations or affirmations in this behalf, in the said article alleged, as denying or intending to deny that the legislation of said thirty-ninth Congress was valid or obligatory upon this respondent, except so far as this respondent saw fit to approve the same; and as to the allegation in said article, that he did thereby intend or mean to be understood that the said Congress had not power to propose amendments to the Constitution, this respondent says that in said address he said nothing

in reference to the subject of amendments of the Constitution. nor was the question of the competency of the said Congress to propose such amendments, without the participation of said excluded States. at the time of said address in any way mentioned or considered or referred to by this respondent. nor in what he did say had he any intent regarding the same, and he denies the allegation so made to the contrary thereof. But this respondent, in further answer to, and in respect of, the said allegations of the said eleventh article hereinbefore traversed and denied, claims and insists upon his personal and official right of freedom of opinion and freedom of speech, and his duty in his political relations as President of the United States to the people of the United States in the exercise of such freedom of opinion and freedom of speech, in the same manner, form and effect as he has in this behalf stated the same in his answer to the said tenth article, and with the same effect as if he here repeated the same; and he further claims and insists, as in said answer to said tenth article he has claimed and insisted, that he is not subject to question, inquisition, impeachment, or inculpation, in any form or manner, of or concerning such rights of freedom of opinion or freedom of speech or his alleged exercise thereof.

And this respondent further denies that on the 21st day of February, in the year 1868, or at any other time, at the City of Washington, in the District of Columbia, in pursuance of any such declaration as is in that behalf in said eleventh article alleged, or otherwise, he did unlawfully, and in disregard of the requirement of the Constitution that he should take care that the laws should be faithfully executed, attempt to prevent the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, by unlawfully devising or contriving, or attempting to devise or contrive, means by which he should prevent Edwin M. Stanton from forthwith resuming the functions of Secretary for the Department of War, or by lawfully devising or contriving, or attempting to devise or contrive, means to prevent the execution of an act entitled "An act making appropriations for the support of the army for the fiscal year ending June 30, 1868, and for other purposes," approved March 2, 1867, or to prevent the execution of an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867.

And this respondent, further answering the said eleventh article, says that he has, in his answer to the first article, set forth in detail the acts, steps, and proceedings done and taken by this respondent to and toward or in the matter of the suspension or removal of the said Edwin M. Stanton in or from the office of Secretary for the Department of War, with the times, modes, circumstances, intents, views, purposes, and opinions of official obligation and duty under and with which such acts, steps, and proceedings were done and taken; and he makes answer to this eleventh article of the matters in his answer to the first article, pertaining to the suspension or removal of said Edwin M. Stanton, to the same intent and effect as if they were here repeated and set forth.

And this deponent, further answering the said eleventh article, denies that by means or reason of anything in said article alleged, this respondent, as President of the United States, did, on the 21st day of February, 1868, or at any other day or time. commit, or that he was guilty of, a high misdemeanor in office.

And this respondent, further answering the said eleventh article, says that the same and the matters therein contained do not charge or allege the commission of any act whatever by this respondent, in his office of President of the United States, nor the omission by this respondent of any act of official obligation or duty in his office of President of the United States; nor does the said article nor the matters therein contained name designate, describe, or define any act or mode or form of attempt, device, contrivance, or means, or of attempt at device, contrivance or means, whereby this respondent can know or understand what act or mode or form of attempt, device, contrivance or means, or of attempt at device, contrivance, or means are imputed to or charged against this respondent, in his office of President of the United States, or intended so to be, or whereby this respondent can more fully or definitely make answer unto the said article than he hereby does.

And this respondent, in submitting to this honorable court this his answer to the articles of impeachment exhibited against him, respectfully reserves leave to amend and add to the same from time to time, as may become necessary or proper, and when and as such necessity and propriety shall appear. Andrew Johnson Henry Stanbery, B. R. Curtis, Thomas A. R. Nelson, William M. Evarts. W. S. Groesbeck. Of Counsel.

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