

The Impeachment and Trial of President Johnson.

The trial on impeachment of President JOHNSON is certain to take place. The result is not certain, though it is likely to be his conviction and removal from office; and, in that case, Senator WADSWORTH, of Ohio, will fill the Presidential office until March 4, 1869,—one-fourth of a full Presidential term. The House has not yet presented articles of impeachment, but has only resolved that he shall be impeached, and appointed a committee to prepare articles for its consideration. After agreeing what they shall be, they will be sent to the Senate, and the trial will proceed.

The first point of importance in the case relates to the nature of these articles. What are the charges against the President?—what are the "high crimes and misdemeanors" for which the House will impeach him, and which the Senate will be required to try? The House, on the 7th of December, resolved, by a vote of 107, (of whom 66 were Republicans and 41 Democrats,) against 57, all Republicans, that up to that time the President had done nothing for which he could properly be impeached; and, on the 13th of February, the Committee on that subject rejected ~~again~~ a proposition for impeachment for the same reason. We suppose it is fair to assume that both the Committee and the House hold the same opinion now as they did then, in regard to the President's acts up to that time. We are, therefore, bound to suppose that it is for his *subsequent* acts that both the Committee and the House have decided to impeach him. We do not well see how they can now include in their articles of impeachment acts which they have so recently and so decisively pronounced not deserving of such an arraignment. The recent removal of Mr. STANTON, and the appointment of Gen. THOMAS Secretary *ad interim*, in violation of the Tenure of Office law, will in that case constitute the sole offence for which he is to be tried.

It is not necessary, of course, that the House should thus limit the scope of its complaint, though doing so would expedite the trial and clear it of many embarrassing circumstances, such as the calling and examination of witnesses, &c. This last act speaks for itself, and leaves room for neither doubt nor dispute as to the facts, but only as to the degree of culpability which it involves. If it be the sole charge embodied in the articles of impeachment, therefore, the trial will be short; there will be no pretext for long delay, and Congress can the sooner resume the work of reconstruction and the other business of importance which presses for prompt and decisive action.

The next point of interest is the disposition which will be made of the impeachment by the Senate. It seems to be assumed in many quarters that conviction is a foregone conclusion,—that the Republicans of the Senate have already decided upon their action in caucus, and that nothing but the knowledge of this fact would have induced the House to reverse its first action and resolve upon impeachment. We think this is a great mistake. That there are Republican Senators quite willing to make such a disposition of the whole case, in advance and regardless of the oath they will take when they enter upon the trial, is possible,—though we would much rather not believe it;—and we are quite certain that there are other Republican Senators who would not do this, and who would not deem the subject a proper one for a caucus decision. The trial, we have no doubt, will be, in the main, a fair one, and the conclusion to which each Senator will come will depend upon his personal conviction of the degree of guilt involved in the President's acts. A verdict against him can only rest upon the conviction that he has been guilty of "high crimes and misdemeanors;" and these cannot be separated from the question of *motives*. Whether Judge WILSON'S position, that these terms mean "crimes and misdemeanors" known as such to the law, be sound or not, they necessarily involve the assumption that the President *intended* to violate the law,—that his having done so was not accidental, nor the result of a mistake as to the meaning of the law. Upon this point the President, in his communication to the Senate, after stating his view of the law and the reasons of his action, says:

It may be, however, that in this, as in other cases of implied repeal, doubts may arise. It is confessedly one of the subtle and debatable questions which arise in the construction of statutes. *If, upon such a question, I have fallen into an erroneous construction, I submit whether it should be characterized as a violation of official duty and of law. I have deemed it proper in vindication of the course which I have considered in my duty to take, to place before the Senate the reasons upon which I have based my action. Although I have been advised by every member of my Cabinet that the entire Tenure of Office act is unconstitutional and therefore void, and although I have expressly concurred in that opinion in the veto message which I had the honor to submit to Congress when I returned the bill for reconsideration. I have refrained from making a removal of any*

officer contrary to the provisions of the law, and have only exercised that power in the case of Mr. STANTON, which, in my judgment, did not come within its provisions. I have endeavored to proceed with the greatest circumspection, and have acted only in an extreme and exceptional case, carefully following the course which I have marked out for myself as a general rule, faithfully to execute all laws, though passed over my objections on the score of constitutionality.

In the present instance I have appealed, or sought to appeal, to that final arbiter fixed by the Constitution for the determination of all such questions. To this course I have been impelled by the solemn obligations which rest upon me, to sustain inviolate the powers of the high office committed to my hands. Whatever be the consequences, merely personal to myself, I could not allow them to prevail against a public duty so clear to my own mind and so imperative. If what was possible had been certain, if I had been fully advised when I removed Mr. STANTON that in thus defending the trust committed to my hands my own removal was sure to follow, I could not have hesitated, actuated by public considerations of the highest character. I earnestly protest against the resolution of the Senate which charges me in what I have done with a violation of the Constitution and laws of the United States.

ANDREW JOHNSON.

WASHINGTON, D. C., Feb. 22, 1868.

The question whether the act for which the President has been impeached was the result of an "erroneous construction of the law," or of a deliberate purpose to violate the law and defy its authority, is one which the Senate, sitting as a court for the trial of impeachment, cannot refuse to entertain. And each Senator will unquestionably feel bound to answer that question fairly, and upon a candid estimate of the evidence in the case, of which the President's solemn averment must, of necessity, form part.

The trial, we believe, will be deliberate and fair, and the decision reached will command the substantial confidence of the country. The Senate is not at all likely to be governed by party passion and personal feeling, in anything like the degree to which those sentiments were conspicuous in the debates of the House of Representatives. The Senate is a body of much more self-command than the House, and acts habitually under a deeper and stronger sense of responsibility. It will appreciate and will weigh much more carefully and candidly than the House, the legal aspects of the case, and the reasons and motives of the President's action. But it must, nevertheless, be borne in mind that impeachment is not a narrowly legal process. It is not to be tried like an indictment at common law, or under a specific statute. The Senate, sitting as a Court of Impeachment, is not like a jury—confined to definite points, and bound to receive its law from any other source. It is both judge and jury,—master of both law and fact,—clothed with very large discretion, and free to give scope to a very wide estimate of motives and of public policy. And it is safe to assume that in the present instance the Senate will not feel bound to free itself from all thought of the effect of its action upon the policy of the Government and the practical conduct of public affairs. Such considerations will inevitably enter more or less into its decision of the points involved in this case;—and we are inclined to believe that they will lead to the conviction of Mr. JOHNSON and his removal from office.