

JAMES BUCHANAN
AS A LAWYER

AN ADDRESS

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BY

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“While lawyers and because we are lawyers we are statesmen . . . and who may measure the value of this department of public duty? . . . I do not know that I can point to one achievement of this department of American statesmanship which can take rank for its consequences of good above that single decision of the Supreme Court which adjudged that an act of the legislature contrary to the Constitution is void, and that the judicial department is clothed with the power to ascertain the repugnancy and to pronounce the legal conclusion. That the framers of the Constitution intended this to be so is certain; but to have asserted it against the Congress and the Executive—to have vindicated it by that easy but adamant demonstration than which the reasonings of the mathematics show nothing surer—to have inscribed this vast truth of conservatism on the public mind, so that no demagogue not in the last stage of intoxication denies it—this is an achievement of statesmanship of which a thousand years may not exhaust or reveal all of the good.”

Rufus Choate.

JAMES BUCHANAN AS A LAWYER.

Except in so far as his performance of official duties was related to and influenced by his training and character as a lawyer, I shall not enter into any exposition or defense of Mr. Buchanan's conduct in the many positions of public trust and responsibility which he filled during a long and notable career.

Upon a fit occasion, however, I should not shrink from maintaining the proposition with which his authoritative biographer concludes his work: “He was the most eminent statesman yet given by that (this) great Commonwealth to the service of the country since the constitution was established.”

I shall assume that the main events of his life are familiar to this audience—his long experience and signal services in the many places of public trust he held; his unsullied private character and unquestioned personal integrity; his almost continuous discharge of high official duties through the many years in which he rose from the rank of State legislator, through service as representative, diplomat, senator, secretary of state and ambassador, to the highest office under our government—advancing to the place by those gradations of experience, once familiar and common, but now seldom known in our political system; since—for better or worse—canned statesmanship, like condensed food and preserved music, are furnished to order, on short notice and ready for immediate use—accepted generally for the gaudiness of the label rather than on the merits of the contents.

He was born of that hardy race whose pioneer settlements early penetrated Pennsylvania, who carried rifle and Bible toward the ever receding frontier, who believed in a church without a bishop and a state without a king, and who, by temperament, experience and education, were especially fitted to produce and nourish leaders of the new American jurisprudence. Mr. Buchanan's own parents, like the progenitors of most notable Americans, were of that great so-called “middle class” of worthy people, to whom Agur's prayer was answered, to be spared alike

from grinding poverty and from smothering riches. His mother was a woman of literary as well as religious culture, his father keen in business and alert to civic duty; both were persons of much force of character, affectionately loyal to their children's fortune, but deeply sensible of the duty of discipline. Graduated from Dickinson, whence Taney had gone out years before, and where Gibson matriculated, young Buchanan lost little time in getting to work in the best law school of that day—a general country practitioner's busy office. The choice of Lancaster as a place of residence never needs explanation or apology. A century ago that second judicial district of Pennsylvania was second only to Philadelphia in the volume and variety of its business and in the strength of its bar. James Hopkins was easily the leader; his fame and clientage were state-wide, and when the elder Buchanan saw and heard him try a case somewhere in the Cumberland Valley he fixed upon Hopkins as a preceptor for his son.

James Buchanan came to Lancaster in December, 1809, in his nineteenth year. His determination that severe application should make him a good lawyer was only equalled by the splendid self-restraint with which he followed his father's prayerful exhortation that he guard against the temptations which beset a young man in Lancaster—one hundred years ago.

I have recently had the privilege of reading correspondence between Mr. Buchanan and his parents while he was a law student. It is pervaded by a spirit of domestic piety, parental solicitude, filial respect and mutual confidence that I fear do not abound nowadays as they should. Their solemn injunctions to a life of rectitude, regard for the Sabbath, purity of political action and respect for religious observances, go far to account for the singular integrity of his professional and political career.

The traditions of the Lancaster bar as to both preceptor and student justify the statement that young Buchanan maintained the standards of study which he exacted in later years from his own students.

He has left on record this statement of his own methods of study:

"I can say, with truth, that I have never known a harder student than I was at that period of my life. I studied law, and nothing but law, or what was essentially connected with it. I took pains to understand thoroughly, as far as I was capable, everything which I read; and in order to fix it upon my memory and give myself the habit of extempore speaking, I almost every evening took a lonely walk, and embodied the ideas which I had acquired during the day in my own language. This gave me a habit of extempore speaking, and that not merely words but things. I derived great improvement from this practice."

The success which he so rapidly attained after his own admission on November 17, 1812, confirms it.

There were no peculiar personal advantages to Buchanan in locating his permanent office in Lancaster, except the volume of business there and the strength of the local bar. Walter Franklin was the president judge—within eight years Buchanan was to be called upon twice to defend him in impeachment proceedings. Besides Hopkins, the Rosses, Smiths and Montgomerys were in the front rank; likewise William Jenkins, who built "Wheatland," later the home of William M. Meredith, and then of Mr. Buchanan; Amos Ellmaker, afterwards Attorney-General of Pennsylvania and a nominee for Vice-President of the United States; Molton C. Rogers, destined to become Secretary of the Commonwealth, and a Justice of the Supreme Court of Pennsylvania; and here also sought admission, about that time, John Bannister Gibson, whose fame as the great Chief Justice of our State is the heritage of every lawyer between Westminster and California.

Until lately I was of the opinion that Buchanan never had hesitated about engaging in practice where he had to break his youthful lance against foemen of experience and well-tested strength. Some years ago, the New York "Herald" re-published an old story of the future President going to the far country of Kentucky to settle, where he supposed the bar was weak; that there he found Ben Hardin and other intellectual giants in homespun who had forgotten more of Coke and Blackstone than he ever learned, and that he made quick return to the easier rivalries of Lancaster practice. The publication was promptly refuted. I had myself the assurance to "explode this myth," by demonstrat-

ing conclusively that no trace of this fiction appeared anywhere in the great amplitude of early Buchanan biography. Although the refutation has never been publicly contradicted, I now feel constrained to admit the "explosion" was premature. Further investigation has satisfied me the Kentucky story is credible. From some unpublished family correspondence I find as early as April 19, 1811, his father inquiring as to his future settlement to practice. He recurs to the subject some months later and favors Lancaster as a place where lawsuits and money were plenty—one hundred years ago. March 18, 1812, he answers a letter from his son in which the latter contemplated "a ride to Kentucky" for his health, to look after some Buchanan lands and doubtless to spy the prospects for a young lawyer. No further trace of this South-Western venture appears anywhere, but it was likely made during the summer that preceded his actual admission to the Lancaster bar. Samuel Haycraft, who had been Clerk of the Court of Hardin County, Kentucky, for half a century, published a serial local history in the Elizabethtown, Ky., "News," in 1869. He refers confidently to the Buchanan incident; and Alfred M. Brown, of the same bar, who died in 1905, at the age of ninety-one, verified it. Both agree as to the impression created upon the ardent Pennsylvania youngster, with his social and scholarly culture, by the towering intellectual strength of such backwoods lawyers as Judge Rowan and Ben Hardin.

More singular and convincing testimony of the visit of Buchanan to Kentucky is furnished by an incident that has special interest for older members of the Philadelphia bar. There is in existence a manuscript narrative written by Mrs. Susan Dixon, who was a sister of the late John C. Bullitt, the widow of Hon. Archibald Dixon, United States Senator from Kentucky, 1852-1855, elected to fill the vacancy caused by the resignation of Henry Clay. One of the phases of a memorable journey from Kentucky to the great Eastern capitals, described by Mrs. Dixon, was the visit of her party to Washington and their reception by President Polk. His Secretary of State, Mr. Buchanan, was a conspicuous figure, and, after some polite attentions to the ladies of the group, he turned his attention to Mr. John C. Bullitt, and their talk is thus described by our contemporary reporter:

"Mr. Buchanan at once engaged in conversation with brother John—seeming to take great interest in him—inquiring about his location, etc. He said very earnestly, 'You ought to come East—come to Philadelphia—you will make a success there—Eastern people like the Western pluck and grit—and Kentucky is a great state to come from. When I was a young man, I thought with my learning and fine education I could make a great show in Kentucky—could cut a great figure before her backwoodsmen who had no education (as I imagined). Well, I went to Russellville to practice law. The first Court that met was at Bowling-Green—I went there full of the big impression I was to make—and whom do you suppose I met?

"There was Henry Clay! John Pope, John Allan, John Rowan, Felix Grundy—he named about a dozen, but I forget the rest) why, sir, they were *giants*, and I was only a pigmy. Next day I packed my trunk and came back to Lancaster—that was big enough for me. Kentucky was too big. But sir, if you will come East, you will succeed—you will make a big success in your profession, and I advise you to come.'

"How much this may have had to do with brother John's going to Philadelphia, the next spring, I do not know. I do not remember our speaking of it afterwards, but it may have been the first thing to turn his attention that way.

"A singular coincidence in connection with this occurred quite recently. When I went to West Point in the summer of 1900, to escape the intense heat of Louisville,—I met an old gentleman, Dr. Greenlay—who had practiced medicine in Jefferson County for years and years. He was very intelligent and agreeable, over 80 years old, and could relate many things of interest. He told me of this incident of Mr. Buchanan's coming to Kentucky, exactly as the Secretary of State had told it to me."

Despite some discrepancies of locality among these various witnesses, the main fact is proved. Considering the professional futures that awaited both Mr. Buchanan and Mr. Bullitt, it may be conceded that a successful law practice could be built up by a man of talent and genius, whether he stayed in Pennsylvania a hundred years ago or migrated from Kentucky forty years later.

Mr. Buchanan's admission in Lancaster was not, however, a finality as to his permanent location. An eminent Philadelphian may have determined that. About that time Lancaster County, the prolific mother of counties westward, had joined Dauphin in the parentage of Lebanon; and Hopkins recommended his pupil to Jared Ingersoll, then Attorney-General under Governor Simon

Snyder, for the deputyship in the new county. In soliciting this appointment of district attorney—which he received—Mr. Buchanan said: "I am a young man just about selecting a place of future settlement, and your determination will have a considerable influence upon my choice."

From the very outset of his career at the bar Mr. Buchanan secured a large clientage and what was then a profitable practice, and he retained both until the larger activities of official life claimed his exclusive attention. Between 1813 and 1829 his professional emoluments ranged from \$938 per annum—a fine start for the first year—to \$7,915 in 1818. After 1825 he gave less attention to his law practice, and, after 1835, I find no mention of him in the court records. He frequently appeared in the neighboring counties of York, Dauphin and Lebanon. His practice covered the wide range of a miscellaneous and busy country lawyer, without any of the modern labor-saving devices, with no digests to speak of and even printed paper books being unknown. His work lay almost exclusively in the state courts, *nisi prius* and appellate. From 3 Sergeant & Rawle (1817) to 4 Watts (1835)—the termination of his active practice—he is reported as of counsel in 108 cases in the Supreme Court of Pennsylvania, his last reported participation being in *Bassler v. Union Canal Company*, 2 Watts, 271.

He was admitted to the bar of the Supreme Court of the United States March 16, 1824, but there is no record of his engagement in any case before that tribunal; and as this date was after he became a member of Congress, his admission to the Supreme Court, likely, was only formal.

Less than two years after his admission to the bar, he had served in the army and had been elected to the Legislature; and before he had ended his first term, a shrewd, strong-minded and influential Democratic Senator ventured to predict that if he would change his politics he "would become President of the United States." He did both. His father had no less concern for him as a legislator than as a law student, and, after his election, wrote him: "Above all earthly engagements, endeavor to merit the esteem of Heaven; and that Divine Providence, who has

done so much for you heretofore, will never abandon you in the hour of trial."

His sagacious parent was wise enough to know that the law is a jealous mistress and wrote him that political office-holding was calculated to lead him away from study and practice; that eminence at the bar was "preferable to being partly a politician and partly a lawyer." Mr. Buchanan himself realized this when, twelve years later, he wrote to his friend, Andrew Jackson: "I have spent a busy summer. This change from law to politics and from politics to law makes both pursuits very laborious. A man cannot do himself justice at either."

The law student of today may profitably ponder Mr. Buchanan's advice to one who applied for a desk in his office in 1821. He wrote:

"I should be proud in being instrumental to make you a useful man and a respectable lawyer. This can only be effected by years of close study and abstinence not only from the dissipation of the world, but from the levity and waste of time which necessarily follow an indulgence in fashionable society. If you persist in the study of law you should be under my absolute control and if you become inattentive you shall seek another preceptor."

One of the earlier judges of Lancaster has left on record this tribute to Mr. Buchanan's ability as a lawyer:

"There was a combination of physical and intellectual qualities that contributed to make him a powerful advocate. He was more than six feet in height, with a fine, imposing figure, a large, well-formed head, a clear complexion, beautiful skin, large blue eyes, which he turned obliquely upon those he was addressing, looking so honest and earnest as to engage their sympathy by his gaze alone; then his voice was strong, resonant and not unmusical, and his elocution, though very deliberate, flowed on like a full river in a constant current. Add to this, he was a logician and indefatigable in his preparation of his case. In fact, he was cut out by nature for a great lawyer, and I think was spoiled by fortune when she made him a statesman."

Horton in his 1856 "Campaign Life" relates an incident which is likely true, but of which I cannot furnish local identification. He says of Mr. Buchanan at the Lancaster bar:

"Once only after he left his profession, could he be prevailed upon to again appear at the bar. This was in the cause of an aged widow, where he was appealed to by the most earnest solicitations. It was an action of ejectment which involved all her little property. The case was a difficult one, and technically decidedly against the unfortunate woman. To the surprise and astonishment of every one, he succeeded in establishing her title to the property in question. The poor woman was intoxicated with joy, and overwhelmed her benefactor with expressions of gratefulness, and offers of remuneration. Mr. Buchanan, however, would accept nothing for his services."

His most notable case as a country lawyer was his successful defense of Judge Franklin before the Senate of Pennsylvania, when he was only twenty-five years of age; when next called to a like task he insisted on the association of senior counsel.

The frequency of judicial impeachments at that early period illustrates asperities of the profession and animosities of politics that by no means prevail today. Franklin and his lay associates were vindictively pursued because in a doubtful case they had declined to summarily order reputable members of the bar to pay over to their clients a balance retained under a claim of right. Even the nine votes, out of thirty, cast for their conviction seem to have been inspired by party prejudice. Another effort was made to impeach them because they took cognizance of a case of trespass against the members of an alleged illegal court martial. Finally, in 1825, Franklin was again impeached for various judicial delinquencies, and, though he was acquitted on all four articles, one vote of 12 to 16 was close enough to have almost the admonitory character of a Scotch verdict.

By the way, the attempt to impeach Judge Franklin that failed grew out of the celebrated case of *Moore v. Houston*,¹ which gave Tilghman an opportunity to write one of his most notable opinions, wherein is enunciated the doctrine that "Where the states are prohibited expressly by the constitution of the United States, from the exercise of power, all their power ceased from the adoption thereof; but where the power of the state is taken away by implication, they may continue to act until the United States exclude them."

¹3 Sargent & Rawle, 170.

This case twice went to the Supreme Court of the United States. The fact that one of the defendants in the original action subsequently became a justice of the Supreme Court of Pennsylvania, only illustrates the vitality of the Lancaster bar—a hundred years ago.

Mr. Buchanan's early entrance into politics and his steady continuance in its activities leave little room for doubt that a public career for him was design and not chance. Nevertheless his training and experience as a lawyer were his main equipment, and these he never ceased to recall. In 1847 he wrote: "I shall ever feel proud to have been a member of the Lancaster bar."

II.

When he became a legislator, having been elected to Congress in 1820, he had opportunity to reveal the character and to exercise the qualities of a constitutional lawyer. He served five successive terms—during four years of Monroe's administration, four of the younger Adams and two of Jackson. This was the period of partisan dissolution. The old distinctions of Federalist and Democrat could scarcely be observed. Mr. Buchanan, however, had changed his politics and his views of our governmental system; and, franker than many others who have done so and denied it, he made free avowal. "Time was that when the brains were out men died"; and nothing is more foolish than when parties have abandoned their distinctive dogmas and utterly changed their fundamental faiths, individual members cling closely to the empty shibboleths. Of Mr. Wayne MacVeagh's many reported witticisms, none is keener than, when a notable person accused him of being a Democrat, he retorted: "I am a Democrat, and I know it. You are a Democrat, too, but you don't know it."

The time Mr. Buchanan began his Congressional career was opportune for a Federalist to become a Democrat; and it was easy for him from the outset to act and talk and vote like a lawyer, though a public and party representative in the House. He had been a member scarcely three months when his speech against the Bankrupt bill challenged the attention of his colleagues and the

country for its masterfulness. It largely influenced the defeat of the bill, notwithstanding the law had been reported by Mr. Sergeant, chairman of the Judiciary Committee, and Mr. Buchanan's intimacy with, his confidence in and affection for Sergeant were all so great that he had ardently desired, if he consistently could, to support his colleague's pet measure.

In his second term Mr. Buchanan encountered new colleagues, among them Edward Livingston, of Louisiana, Clay and Webster; and he became a member of the Judiciary Committee of the new House, of which Webster was chairman. Jackson and Benton came to the Senate at the same time. Throughout his membership of Congress, in debate Mr. Buchanan measured up to the best of his contemporaries, always logical, incisive and effective; nor was his range less extensive than that of the most versatile.

When on a proposition to send ministers to a Pan-American Congress at Panama (Jackson having named John Sergeant as one of them), the House was disposed to defeat the mission by refusing to vote the necessary appropriation, Mr. Buchanan made a scholarly argument to demonstrate that the House was bound to vote salaries for ministers appointed by the President and confirmed by the Senate; Mr. Webster said he had placed the whole subject in a view that could not be improved on. He favored strictness in expenditure, but was never parsimonious, especially toward patriotic appeals. In discussing the tariff, navigation laws, inland improvements, banking and indeed every subject of legislative interest or action, he exhibited comprehension and courage of conviction. His attitude as a legislator was notably consistent in upholding the dignity of American citizenship, the independence of the judiciary and the soundness of the government's financial system—three vital elements of our national life, which challenge the allegiance of every patriotic member of our profession.

Two conspicuous services rendered while a member of the House, and when he was scarcely forty years of age, establish Buchanan's rank as a lawyer, and avouch contemporary recognition of his ability. In 1830 he had succeeded Mr. Webster as chairman of the Judiciary Committee, and as such he not only re-

ported the articles of impeachment against Judge Peck, but he was chosen chief manager to conduct the prosecution. Peck, it will be remembered, had committed and disbarred Luke E. Lawless, of St. Louis, for alleged undue criticism in the newspapers of Judge Peck's judicial decision in a case in which he was of counsel. The rarity of precedents made the responsibilities of the managers weighty; and the eminence of Judge Peck's counsel—Wirt and Jonathan Meredith—put the prosecution into a position in which learning, logic and eloquence had to be invoked to make the combat equal. All of these pervaded the trial on both sides, not only in its conduct, but in the summing up. To Mr. Buchanan was given the task of replying to a four days' speech of Mr. Meredith, only ended by his physical exhaustion, and then to three days of Wirt's matchless wit, sarcasm, and pathos. Mr. Buchanan's argument was entirely adequate to the occasion, and the bare acquittal of Judge Peck by a vote of 21 to 22 was in no wise due to ineffectiveness of presentation on the part of the chief manager of the impeachment.

Prior to this eventful episode in his career as a lawyer, and which shortly preceded his retirement from Congress, Mr. Buchanan had, in a speech of great lucidity and power, strikingly displayed his knowledge of the Federal judiciary system, in discussing the question of releasing the Judges of the Supreme Court entirely from the performance of circuit duties. While neither he nor any of his contemporaries could then forecast the future exactions upon their time and services, or the enormous subjects of their jurisdiction, one extract from his great argument relating to the Supreme Court judges has an ever-recurring timelessness:

"It has been said, and wisely said, that the first object of every judicial tribunal ought to be to do justice; the second, to satisfy the people that justice has been done. It is of the utmost importance in this country that the judges of the Supreme Court should possess the confidence of the public. This they now do in an eminent degree. How have they acquired it? By travelling over their circuits, and personally showing themselves to the people of the country, in the able and honest discharge of their high duties, and by their extensive intercourse with the members of the profession on the circuits in each State, who,

after all, are the best judges of judicial merit, and whose opinions upon this subject have a powerful influence upon the community. Elevated above the storms of faction and of party which have sometimes lowered over us, like the sun, they have pursued their steady course, unawed by threats, unseduced by flattery. They have thus acquired that public confidence which never fails to follow the performance of great and good actions, when brought home to the personal observation of the people.

"Would they continue to enjoy this extensive public confidence, should they no longer be seen by the people of the States, in the discharge of their high and important duties, but be confined, in the exercise of them, to the gloomy and vaulted apartment which they now occupy in this Capitol? Would they not be considered as a distant and dangerous tribunal? Would the people when excited by strong feeling, patiently submit to have the most solemn acts of their State Legislature swept from the statute-book, by the decision of judges whom they never saw, and whom they had been taught to consider with jealousy and suspicion? At present, even in those States where their decisions have been most violently opposed, the highest respect has been felt for the judges by whom they were pronounced, because the people have had an opportunity of personally knowing that they were both great and good men. Look at the illustrious individual who is now the Chief Justice of the United States. His decisions upon constitutional questions have ever been hostile to the opinions of a vast majority of the people of his own State; and yet with what respect and veneration has he been viewed by Virginia? Is there a Virginian, whose heart does not beat with honest pride when the just fame of the Chief Justice is the subject of conversation? They consider him, as he truly is, one of the greatest and best men which this country has ever produced. Think ye that such would have been the case, had he been confined to the city of Washington, and never known to the people, except in pronouncing judgments in this Capitol, annulling their State laws, and calculated to humble their State pride? Whilst I continue to be a member of this House, I shall never incur the odium of giving a vote for any change in the judiciary system the effect of which would, in my opinion, diminish the respect in which the Supreme Court is now held by the people of this country.

"The judges whom you would appoint to perform the circuit duties, if able and honest men, would soon take the place which the judges of the Supreme Court now occupy in the affections of the people; and the reversal of their judgments, when they happened to be in accordance with strong public feeling, would naturally increase the mass of discontent against the Supreme Court."

It was left to him in the closing days of his membership in the House, to render a most signal service to our whole constitutional system, to the cause of federal sovereignty, national unity and the enlarged jurisdiction of the Supreme Court of the United States. The movement in 1831 to repeal or modify the 25th section of the Judiciary Act of 1789 had, in its inception, discussion and defeat, the germ and potency of nearly everything that makes for the essential elements of our nationality.

Granted that in our governmental ideas of both commonwealth and country, the executive, judicial and legislative branches are co-ordinate and independent, each in its sphere, in the last analysis one must be supreme. Otherwise conflict of authority would result in conflict of force. Since it is at last fully settled in our jurisprudence that in all federal matters, even the State judiciary are subordinate to the Federal judiciary, and that all question as to whether or not a Federal question is involved must be finally determined by Federal power; so it is finally settled that the judicial power may nullify the legislative and mandamus the executive—the mace of the marshal shall sheathe the sword of the commander-in-chief. But these conclusions have been reached and acquiesced in only after long years of forensic debate and judicial discussion. In the earlier days of Pennsylvania jurisprudence the right of the Court to declare a legislative statute invalid because of its unconstitutionality was not only seriously questioned, but it was vigorously denied.

Early in his judicial career Gibson (1817) expressed the view that to hold a legislative act unconstitutional was a judicial power to be sparingly exercised by the Courts. In *Eakin, et al. v. Raub, et al.*,² he denied the right of the state judiciary to nullify an act repugnant to the Federal constitution. Finally in *De Chastellux v. Fairchild*,³ he asserted the complete power of the judiciary and declared "from its very position, it is apparent that the conservative power is lodged with the judiciary, which, in the exercise of its undoubted right, is bound to meet every emergency."

² 12 Sargent & Rawle, 330.

³ 15 Pa. 18 (1850).

Early in the history of the United States Supreme Court the question as to whether it could declare void an act of Congress that violated the constitution, was carefully avoided. Subsequently Marshall and Story gave the doctrine vigor and vitality. In the Federal Courts generally the power to declare a State statute invalid because it violated the Federal constitution, was, a century ago, very "sparingly exercised," if indeed it was ungrudgingly conceded anywhere. Although the 25th section of the Judiciary Act seemed to give the Supreme Court the power, in specified cases, to review and reverse the highest Court of law in any State, the constitution had not, in express terms, conferred this power; and its exercise was either sullenly acquiesced in, or, as in the case of Virginia, boldly denied. Patrick Henry rejoiced "that Virginia has resisted"; and around such cases as *Martin v. Hunter's Lessee*,⁴ *Cohen's v. Virginia*,⁵ *McCulloch v. Maryland*,⁶ and *Dartmouth College v. Woodward*,⁷ waged conflicts that "shook" the very "arsenal." To the extreme exponents of State's rights this doctrine frankly avowed was "tyranny unmasked." To the Jeffersonians it was "judicial usurpation." To every close student of our institutions and judicial system it must appear as to Professor Patterson, that no more important function is vested in the Supreme Court than the exercise of its appellate jurisdiction from the State tribunals. Defeated in court the advocates of the exclusive State rights doctrines appealed to the legislative branch of government. They had not the temerity of modern agitators to resort to a "popular vote," or to the ruder methods of the assassin's bullet in the mountains of Virginia and the anarchist's bomb in Manhattan.

The battle for a reversal began in the attempt in Congress to repeal the 25th section of the Judiciary Act. The motion went to the House Committee on the Judiciary, where a large majority, in sympathy with the great body of the membership, were in favor of the repeal. It was then Mr. Buchanan again illustrated that, though he may have quit the Federalist party, he had not abandoned Federalist doctrine, so far as it conformed with the

⁴ 1 Wheaton, 304.
⁶ 6 Wheaton, 264.

⁵ 4 Wheaton, 316.
⁷ 4 Wheaton, 518.

constitution and was in harmony with the spirit of our national life. A majority of his committee reported a bill to repeal; he secured the support of only two others to a minority report, which he drafted, and of which Mr. Curtis, a great constitutional lawyer, has said: "I know of few constitutional discussions which evince a more thorough knowledge or more accurate views of the nature of our mixed system of government than this report from the pen of Mr. Buchanan." He was, "at this comparatively early period of his life, a well-instructed constitutional jurist."

Despite the political accord of the majority of the House with the majority of the Judiciary Committee, and notwithstanding the vehement popular opposition in many States to the doctrines enunciated by Marshall and Story, the minority report submitted by Mr. Buchanan prevailed by a vote of 138 to 51—a most signal and permanent victory for national unity and federal sovereignty. Surveying the long line of decisions that have followed—involving rights of property and person, checking encroachments on federal rights, restraining state interference in inter-State and Federal concerns, repelling confiscatory attacks on corporate and individual property and rights, down through such cases as *Ableman v. Booth*⁸ to the recent deliverance of the Supreme Court, through Mr. Justice Van Deventer, in the Connecticut case of *Mondou*, holding that rights arising under Federal regulations must be enforced, as of right, by and in the state courts and the decision in *Northern Pacific Railway v. Washington*,⁹ that, in a matter subject to Federal authority, when Congress acts or manifests a purpose to call into play its exclusive power, the right of the State ceases—will be seen that the section of the Judiciary Act saved by Mr. Buchanan's report and leadership has constituted a most powerful bulwark against Federal disintegration and weakening of the spirit of nationality. For this statement let me cite an authority far more credible and authoritative than any opinion an Old Line Democrat might venture. In a recent address on the history of the Federal courts, your gifted Hampton L. Carson frankly and bravely said:

⁸ 21 Howard, 506.
⁹ 222 U. S. 370.

"In truth the 25th section of the Judiciary Act, regulating the appellate jurisdiction of the Supreme Court of the United States, is one of those veritable Bonds of Union which has become sacred from time and association. An effort to repeal it was once attempted, and the measure received a favorable recommendation from the majority of the Judiciary Committee of the House of Representatives in Congress, which was defeated on the floor by the extraordinary strength of the dissenting minority report of James Buchanan, of Pennsylvania, for which service his memory deserves at the hands of our profession a Civic Crown, for it is the section from which, as from a quarry of Parian marble, John Marshall chiselled those columns of Doric strength which support the dome of the Capitol."

It were surely enough to vindicate the reputation of any lawyer that he merited this eulogium; and no American statesman has higher claim to fame than that, regardless of past or present partisan association or future ambition, his instinct as a lawyer and his fidelity as a patriot led him to the high ground from which he battled successfully against all attempts to overturn the vital principle of national sovereignty.

[I am much indebted to Mr. Charles L. Miller, A. B. (Haverford, 1908, and now of the Law School, 1912), for a comprehensive and valuable appendix to this lecture, illustrating, by numerous cases cited, the far-reaching influence, upon the political institutions and jurisprudence of the United States, of preserving in all its vigor the 25th section of the Judiciary Act of 1789. That its salvation was due solely to Mr. Buchanan's patriotic instincts and legal ability is undeniable. The ultimate effect was inestimable in establishing the doctrine of Federal sovereignty and national unity. Had the then popular Democratic sentiment for the repeal of this section prevailed, who can say that the eloquence of Webster or the political skill of Lincoln or the military genius of Grant would have availed to save the Union from disintegration? Nay, there might have offered no opportunity to any of them to have been invoked or exercised.]

III.

Thenceforth immediately Mr. Buchanan's public services ran on diplomatic lines; but, as Minister to Russia, under appointment

from Jackson, his treaty negotiations stamped him as a master of international law. Retiring from foreign service to be elected to the United States Senate, he entered that body at a time and served it with men whose historic traditions made the period of his membership a golden age of American politics. The great triumvirate of Clay, Webster and Calhoun were there; Thomas H. Benton and Lewis Cass, Rufus Choate and Silas Wright were of his contemporaries; and numerous of those silver-tongued and adroit Southerners whose charm and chivalry gave them in the legislative branch of government an influence more than commensurate with their relative number.

Without any of that quality which has come to be styled "Jingoism" in modern diplomacy, Buchanan as diplomat, Senator and Secretary, always stood stoutly for the American view of international vexations; and whether in the assertion of the rights of naturalized aliens, or in defense of the prerogatives of the native citizen, he was almost aggressively positive. In the discussions over the power of appointment and removal and the exercise of the right of veto he maintained the independence of the Executive, with resoluteness and skill such as were displayed by President Cleveland in his first term, when he practically vanquished the veteran lawyer leaders of an opposition Senate.

As early as 1836 his expressed views on the independence of Texas forecast the attitude of an administration ten years later, in which he was to become premier throughout the period of the Mexican war. His early assignment to the head of the Committee on Foreign Relations marked his eminence in a body of which he was one of the younger members. His speech in defense of Jackson on the famous Benton expunging resolution was one of the ripest of his forensic efforts; and repeated deliverances on questions of banking and finance demonstrated that he had the too infrequent combination of legal learning and business genius. Quite often he and Mr. Clay and sometimes he and Webster were the chief antagonists in always courteous debate; and though Mr. Buchanan seldom resorted to the weapons of wit, their controversies were sometimes illumined with that humor, without some sense of which any otherwise great lawyer is markedly deficient. Rufus Choate, who was surely lawyer enough to know

one of his class, especially admired Buchanan, and there is lasting evidence that Mr. Webster was on terms of private hospitality. I find this neat note among the Buchanan papers in the Pennsylvania Historical Society:

(Saturday, March 21, 1835).

"Dear Sir:

"My wife may like to go to meeting, or church, tomorrow, in the P. M.—Would it not be better for that reason, that we taste your wine at a later hour than that proposed.

"Yrs. truly

"D. Webster.

"Hon. J. Buchanan."

Lancaster was famous for its Madeira—a hundred years ago. The "J. B." whiskey, which Mr. Buchanan made celebrated during his public career, did not take its brand from his own initials, but was made by his neighbor, "Jake" Baer. Some of Buchanan's most vehement quarrels with his colleagues was because they insisted on the superiority of the distillage of their respective districts. In this respect at least he was always right.

The offer, by President Polk, to him of the place of Secretary of State was not in terms of unbounded graciousness, and the recently published diary of that Executive shows there was always some reserve between him and his premier. But Mr. Buchanan's dignified and firm assertion of our country's rights in the Oregon boundary question and the final settlement of that long controversy was a diplomatic trophy of the Polk-Buchanan administration, to be followed by the complete national triumph over Mexico in the Cabinet and on the field of battle.

When Grundy resigned the office of Attorney-General under Van Buren, in 1839, the President offered the place to Buchanan, and he declined it. Later his thoughts turned toward the logical goal of every lawyer's ambition—a place on the highest court in the land. When Mr. Justice Baldwin died, early in Polk's term, Mr. Buchanan's desire to steer shoreward from "the stormy deep," which he had ridden for a quarter of a century, made him hope for appointment to the Supreme Bench. His friends reflected, rather than himself expressed, his disappointment, though it would have involved withdrawal from the premiership of the

administration, at the critical time when the Oregon boundary dispute and the shadow of a war with Mexico made his presence in the Cabinet indispensable to his chief and gave him opportunity to display exalted statesmanship. Later, when there is reason to believe the President would have been glad to transfer him, he had taken the hint which his friend, William R. King, once sent him in a letter from Paris when he wrote: "You will find the field open for the Presidency unless you place yourself on the shelf by accepting of the judgeship."

The friends of Chief Justice Gibson generally believed that President Jackson would have appointed him to succeed Marshall, but for Buchanan's influence with the Executive. I do not find any direct evidence of this, though there are numerous writings which indicate Mr. Buchanan's distrust of Gibson's Democracy; that the great Chief Justice of Pennsylvania went to what would now be considered unjudicial lengths in his partisan espousal of Jackson's cause, is well known history. In deprecating Gibson's resignation, to take from Governor Ritner a new and longer appointment, Mr. Buchanan felt a regret that many lawyers shared, though, like him, they recognized his "transcendent legal abilities."

While he was Secretary of State Buchanan promulgated a doctrine that marked a distinct advance in American jurisprudence and positive statesmanship. Once more I shall cite a witness from a party opposed to his and mine, whose eminence as a lawyer adds weight to his testimony. In a speech in the United States Senate, on the treaty of 1832 with Russia, delivered so lately as December 19, 1911, Senator Elihu Root, of New York, said:

"In 1830, immediately before the negotiation of this treaty, there came up in the Supreme Court of the United States the case of *Shank v. Dupont*, which turned upon the question whether a citizen could divest himself of citizenship and acquire citizenship in another country. The Supreme Court of the United States, Mr. Justice Story delivering the opinion, said:

"The general doctrine is that no persons can, by an act of their own, without the consent of the Government, put off their allegiance and become aliens."

"And the case was decided on that ground.

"In that same year Mr. Kent, in his Commentaries, which were published from 1826 to 1830, declared the general rule maintained by the United States to be the rule of the common law of England of indefeasible allegiance.

"So, when this treaty was made and we gave our express recognition of the right of the Emperor of Russia to make laws to prevent the emigration of his subjects, it was a treaty between two powers both of which maintained that no subject or citizen of theirs could ever emigrate to the other country and become a citizen of the other country without the express assent of his native land.

"That, sir, was the universal doctrine of the civilized world at that time. We held to that doctrine for many years, until, in 1848, James Buchanan—to his eternal credit be it said—as Secretary of State of the United States, first announced the repudiation by the Government of the United States of that theory and declared the inalienable right of man to change his domicile and to change his allegiance at his own will.

"There were varying views expressed. After Mr. Buchanan, with views reverting to the old doctrine, came Webster and Everett and Marcy, until Buchanan became President, and then he again asserted his view, and so effectively that it has never been departed from by the United States. It was asserted by Buchanan as President. It was reasoned out by Jeremiah Black as Attorney-General of the United States, in dealing with the Ernst case, that arose regarding the effect of the naturalization here of a citizen of Hanover. In that case, by the action of these great statesmen, to whom sufficient honor has never been given for the firmness and constancy with which they asserted that view—in that case the position of the United States was irrevocably changed, repudiating the view she had taken at the time this treaty was made and repudiating the view under which she gave in this treaty her assent to the right of the Emperor of Russia to prevent the emigration of his subjects."

Although Mr. Buchanan was the logical candidate of his party for President in 1848, he did not press his candidacy; and he yielded to the supposed availability of Pierce in 1852. From his victorious rival he accepted the post of Minister to England, and no ambassador from America was ever more gracious to the Court of St. James, notwithstanding he had dealt firmly with British power and pretension in the Oregon boundary dispute.

Delicate diplomatic questions were skillfully handled; with England our chief contention revolved about Central American affairs, and the construction of the Clayton-Bulwer treaty. The Earl of Clarendon and the American minister pitted against each

other made a situation in which our government never figured other than creditably; and the relations between these two international lawyers, as shown by later personal correspondence, must have been of almost boyish affection. On one occasion the subject of arbitration came up between them. Buchanan said if it were not impossible he would rather take his country's chances before the Court of Queen's Bench than any sovereign the English would select. Clarendon answered laughingly that just as likely as not Campbell (meaning the Lord Chief Justice) would decide against them.

IV.

Unquestioned leadership and success at the bar of a great county and in a judicial district like Lancaster—a hundred years ago—could not be attained without merit. To supplement this with brilliant service in the State Legislature and in both branches of Congress, to fitly fill the chairmanship of the Judiciary Committee in the House and of Foreign relations in the Senate; to have been offered the high professional honors of legal adviser of one President and a place in the Supreme Court by another, to have conducted skillful diplomatic negotiations as minister to two of the great powers of Europe, and to have guided an Executive administration, as its premier, through two brilliant victories, one of peace and one of war, one with the Anglo-Saxon antagonist, and the other with the Mexican foe, surely gave proof of claims to the fame of a great American lawyer; and ordinarily. I might rest my thesis here with confidence. But the "avenging" pen of false history, poisoned with prejudice, has laid upon me the task of vindicating Mr. Buchanan as a lawyer from the foul and even wicked aspersions that have been cast upon his career as President. There is no phase of our history, from the landing of the Discoverer until the evangel of the self-proclaimed Deliverer, that has been so grossly misunderstood and so basely misrepresented as the relation of President Buchanan to the issues that plunged the country into civil war soon after he retired forever to private life. You, young gentlemen, who assume that history is fairly written, may be readily pardoned for accepting the familiar idea that Mr. Buchanan, as President, at

the outbreak of the secession movement, was a weak, timid, old man; who had gained his place by the favor of, if not through a bargain with, an arrogant, unscrupulous, slaveholding oligarchy of the South; that he was an accessory after, if not before, the fact, to the plot of a partisan majority of the Supreme Court to withhold the Dred Scott decision until after his election and then make it cover a point not vital to it, for unscrupulous political purposes; that he was the tool of crafty Southern leaders, who used him and his cabinet to bring to successful issue long predetermined plans to break up the Union; that in the development of these, he permitted, if he did not connive at, the weakening, scattering and disintegrating of the armed forces of federal power on land and sea, the distribution throughout the Southern States of great and disproportionate quantities of muskets, rifles and cannon, so that the impending Confederacy might have a long start on the Union forces in physical preparation for armed conflict; that he obstructed Congress in its efforts to avert rebellion and war, or to properly, promptly and effectively meet it when declared; that he drooped the colors of presidential dignity when he treated the envoys of defiant rebellion with a consideration due only to foreign ambassadors; that he parleyed over the re-inforcement of federal forces in government forts until the Confederates could rally enough troops to capture them; that he repudiated the right to assert some existing constitutional executive power to levy war against a rebellious state government or the people of a rebellious commonwealth; and that when he quit the office, March 4, 1861, he was succeeded by a firm, resolute, patriotic successor, whose policies, methods and executive acts, in striking contrast with, and immediate reversal of, Mr. Buchanan's, asserted the proper presidential prerogative, antagonized rebels, roused patriotism, reinforced forts, inspired Congress, raised armies, established national credit, waged war; and, with a combination of Jefferson's statesmanship, Jackson's courage, Washington's patriotism, Hamilton's skill and Webster's enthusiasm, after four years of civil war, the expenditure of ten billions of treasure and the loss of a half million human lives, accomplished what Mr. Buchanan could have done bloodlessly and economically had he not been a dotard or a traitor!

On the other hand the incontrovertible facts of history are that Mr. Buchanan was no more of a disunionist than Mr. Lincoln, and not nearly so much of one as Seward, Greeley, Beecher or Wendell Phillips; that the doctrine of secession, the right of a State to withdraw from the Federal Union, was not solely indigenous to the South and was never countenanced by Mr. Buchanan; that the views of the Buchanan administration on the constitutional right of the executive to coerce a seceding State, or to make war on its people, were exactly those then held by substantially all the great lawyers, judges and statesmen of the country, including Abraham Lincoln; that there was no spoliation of the public treasury, no apportionment of the federal military equipment, nor dispersion of the navy in the interest of any particular section; that in his efforts to maintain peace and prevent dismemberment of the Union, Mr. Buchanan was more aggressive, positive and definite than was Mr. Lincoln at the time; that *his* Secretary of State, during the time the secession movement was organizing, was more courageous and determined than Mr. Lincoln's premier, even after rebellion became far more defiant and threatening; that the attitude of Lincoln's administration toward the Confederate agents of peace was more conciliatory than Buchanan's; that in his efforts to preserve peace and effect a compromise, Mr. Buchanan had the encouragement and support of an overwhelming majority of the Northern people, and was hearkening to the almost unanimous voice of those who represented their great moral and material interests; that no act of his hastened or encouraged the outbreak of hostilities, and that nothing he might have done and left undone, could have checked, prevented or suppressed the rebellion and the ensuing war; that Mr. Lincoln's utterances against force, invasion of Southern territory and resort to arms, from the time of his election until his inauguration, were much more emphatic for peace and conciliation than Mr. Buchanan's; that a Republican House of Representatives and Congress, as a whole, during that period, did nothing, and did not offer to do anything, to justify or support the President in assuming any other attitude toward the South or its rebellion than he assumed—in short, that Mr. Buchanan did no less than Mr. Lincoln would or could have done in his place dur-

ing those four months, and Mr. Lincoln did, dared and said nothing before, at or immediately after his inauguration to show he was not in full accord and sympathy with the policies of the Buchanan administration.

A very eminent American historian, with whom I have had much controversial correspondence on this subject, finally writes me that the only fault he has to find with Mr. Buchanan as a statesman and lawyer, is that, being from a free State, he had not oppose the odious Fugitive Slave law; and that being in a position to suppress the incipient rebellion, he allowed it to proceed to the point of successful warfare.

I would not detract from the popular fame of Mr. Lincoln, albeit myth and mysticism have contributed largely to the ideal character which prevailing historical judgment ascribes to him. But it is altogether fair to compare his conduct and contrast his utterances with those of Mr. Buchanan, to ascertain whether contemporary history has been just and impartial in its estimate of their respective character and conduct. I assert with absolute confidence as to their attitude toward slavery that Mr. Buchanan was never more insistent that it should be let alone in the States where it existed and that the fugitive slave law was constitutional and should be enforced than Mr. Lincoln. Their differences were wholly as to the conditions which should govern it in Federal territory. Down to and long after his inauguration Mr. Lincoln reiterated his intention to not disturb slavery where it existed and to enforce the Fugitive Slave Law.

From the time Mr. Buchanan entered public life until he withdrew from it, no political party of any considerable strength and no public representative with any considerable and continuing constituency either asserted or demanded freedom or civil rights for the enslaved negro. No President, no Federal Court, no Congressional declaration and no platform of any recognized party ever claimed that slavery could be abolished in any State except by the action of the State itself. Lewis Cass and Thomas H. Benton, Daniel Webster and Henry Clay, Salmon P. Chase and Abraham Lincoln, and a hundred others—who concurred entirely with Mr. Buchanan in these views—are lauded as patriots and Unionists and friends of freedom, while a lot of so-called

historians defile "history" and the popular school books with aspersions of Mr. Buchanan as a "Bourbon," "pro-slavery Democrat," "traitor," "disunionist" and the like, for cherishing the same views as those who are extolled as liberty-loving souls.

The first Republican National Convention, in which Lincoln was voted for and Fremont nominated, neither denied nor disputed the legal and constitutional right of slavery in the States where it existed. It claimed no Federal right to interfere with it. It expressly recognized and affirmed the constitutional doctrine that escaping slaves must be delivered up to their owners. Neither Abraham Lincoln nor the National Republican convention of 1860, before Lincoln's election, ever made any declaration against the legal and constitutional existence of slavery in the States where it existed, nor against the enforcement of the Fugitive Slave Law of 1850; and the Republican Convention of 1860, and Mr. Lincoln in his speeches as a candidate, expressly and distinctly declared for "the maintenance inviolate of the rights of the States and especially of the right of each State to order and control its own domestic institutions according to its own judgment exclusively"—by which declaration it was understood—and it was intended to be understood—that the Republican party of 1860, and its Presidential candidate, Abraham Lincoln, recognized and respected the right of each slave State to continue and maintain, under its own regulation, the institution of human slavery, free from Federal interference or disturbance by any other State. After his election and upon his inauguration Mr. Lincoln pledged himself to the slave States to regard and maintain the institution of human slavery. He assured "the Southern States that by the accession of a Republican administration, their property and their peace and personal security are not to be endangered." He declared that he "had no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it existed. I believe I have no lawful right to do so and I have no inclination to do so."

The Buchanan administration was mostly discredited by the turbulent proceedings over the declaration and determination of what was the actual verdict of the people of Kansas on the question of slavery under its state government. The attempt of

what was stigmatized as the "border ruffian" element to falsify that verdict reacted terribly against the political fortunes of the Democratic party. The outrages committed on both sides during that fierce and bloody contest were reprehensible; and it may be conceded that the slavery forces were by far the more aggressive, insolent and unscrupulous. It was a party blunder on the part of the Buchanan administration not to recognize this, or, if it was recognized, not to admit it was a political crime; albeit Kansas was finally admitted as a free State, President Buchanan signing the bill.

It may also be conceded that the Dred Scot decision, so far as it involved the unconstitutionality of the Missouri Compromise and held that the condition of slavery could not be excluded from the territories, was an unnecessary political blunder—and, being unnecessary, was therefore a political crime. But Mr. Buchanan was no party to that deliverance; and the brilliant, bitter and mendacious speech in which Senator Seward arraigned him and Taney for conspiracy, has long since been proved false. But, if as President he acquiesced in the judgment of a competent and supreme tribunal, he only acted upon Abraham Lincoln's advice, who declared at the same time:

"We believe . . . in obedience to and respect for the judicial department of the government. We think its decisions on constitutional questions, when fully settled, should control not only the particular cases decided, but the general policy of the country, subject to be disturbed only by amendments to the Constitution as provided in that instrument itself. More than this would be revolution."

The fundamental error and sin of slavery was in the assumption that there could be property in human flesh and blood. In this error and sin the whole nation shared. The smallest possible segment of the people of the United States differed from this view; and yet, the legality and morality of that institution once conceded, the Dred Scot decision and its results logically followed. If the black slave was only a beast of the field, there was no reason why his owner should not take him and his servitude at will into any Federal territory and reclaim him from escape into any free state.

A noted agitator of revolutionary changes in our system of government has singled out Mr. Buchanan's devotion to the constitution and his submission to the Dred Scot decision as an illustration of the imbecility and weakness of an Executive. May I remind you and him that the President of the United States takes an oath of fidelity to the laws and of submission to such interpretation of those laws as the Supreme Judicial power shall make. It may be popular, and even politic to break that oath and defy its obligation; but, if this republic is to endure, may God spare it from the unspeakable calamity of any man who preaches such treason ever attaining the presidency, whether by accident, election, or re-election!

It is as untrue as it is unjust to assert that Mr. Buchanan's strict regard for constitutional law withheld him from suppressing the rebellion by force at a time when those who succeeded him and his party in power would have acted otherwise. The Republican national platform of 1860 denounced "the lawless invasion of armed force of the soil of any State or Territory, no matter under what pretext, as among the gravest crimes." Mr. Lincoln, on his tour eastward to take the inaugural oath of office, publicly said: "The marching of an army into South Carolina without the consent of her people, and with hostile intent toward them, would be invasion; and it would be coercion, also, if the South Carolinians were forced to submit." This was as extreme a declaration of States rights and against Federal coercion as any utterance made by President Buchanan up to that time.*

Because these indisputable facts have been suppressed, concealed, disregarded or ignored by notable historians of this period, I have ventured to present them, not only for the truth of history, but lest the misrepresentation unanswered should destroy Mr. Buchanan's just claim to a high place at the American bar.

Not only the country at large, and even the city of his home, have been cruel to his memory, but the Commonwealth of which he was native and which he so ably and honestly repre-

*I am re-inforced in my statement of Mr. Lincoln's attitude, toward these questions of constitutional law, by a recently published letter of Hon. Robert T. Lincoln, relating to his distinguished father's lawyer-like view of judicial decisions. He uses almost the identical language and affirms the same opinion as I have expressed.
W. U. H.

sented in the seats of the mighty has done him the injustice of gross disrespect and neglect. In the great mural decorations of the new State Capitol an inspired artist, whose figures in his "Apotheosis of Pennsylvania" were doubtless suggested to him by some political historian, has found two score subjects without including the only Pennsylvanian who ever rose to the highest office in the nation. Nor is there a mark of him elsewhere, though the exquisite bronze doors are ornamented with portrait heads that have peered through prison gratings; and in the virgin-white marble niche on the grand stairway stands the chaste and spotless statue of the late Senator Quay. The ornamentation of this great pile of architectural splendor may not, however, be entirely completed!

A year or two before he died, reviewing his career at the bar and in public life, Mr. Buchanan wrote, "I pursued a settled, consistent line of policy from the beginning to the end, and, on reviewing my past conduct, I do not recollect a single important measure which I should desire to recall, even if this were in my power. Under this conviction, I have enjoyed a tranquil and cheerful mind, notwithstanding the abuse I have received, in full confidence that my countrymen would eventually do justice."

For this he may long wait; the judgment of his own conscience, I am sure, never tarried nor faltered.

Bishop Stubbs says finely in the preface to his Constitutional History of England:

"Constitutional History has a point of view, an insight, and a language of its own; it reads the exploits and characters of men by a different light from that shed by the false glare of arms, and interprets positions and facts in words that are voiceless to those who have only listened to the trumpet of fame. The world's heroes are no heroes to it, and it has an equitable consideration to give to many whom the verdict of ignorant posterity and the condemning sentence of events have consigned to obscurity or reproach."

W. U. Hensel.

APPENDIX.

THE IMPORTANCE OF THE ADOPTION OF BUCHANAN'S MINORITY REPORT ON THE REPEAL OF THE TWENTY-FIFTH SECTION OF THE JUDICIARY ACT OF 1789.

On the 21st of December, 1830, a resolution to inquire into the expediency of repealing the twenty-fifth section of the Judiciary Act of 1789 was referred to the Committee on the Judiciary of the House of Representatives. A majority of the committee made an elaborate report in favor of the repeal. Mr. Buchanan's minority report, which had the concurrence of two other members, caused the rejection of the bill presented by the majority by a vote of 138 to 51. The following cases have been collected for the purpose of showing the importance of the jurisdiction thus saved to the Supreme Court:

The 25th section of the Judiciary Act of 1789¹ is now embodied in Section 709 of the Revised Statutes, with some slight changes of phraseology and some additional clauses. The substance, however, of this organic law remains the same.² As the law now stands, the Supreme Court may review the final judgment or decree of the highest court of a state in which a decision could be had in three classes of cases where a Federal question is involved:

(1) Where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision of the State court has been against their validity; or

(2) Where is drawn in question the validity of a statute of, or an authority exercised under, any State on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of its validity; or

(3) Where any title, right, privilege, or immunity is claimed under the Constitution, or any treaty or statute of, or commission held, or authority exercised under, the United States, and the decision is against the title, right, privilege, or immunity specially set up or claimed by either party under such Constitution, treaty, statute, commission, or authority.

Without discussing the requisites and limitations of this appellate jurisdiction, it will perhaps be sufficient for the purposes of this appendix to note, that it extends to criminal as well as to civil cases;³ and may be exercised regardless of the citizenship of the parties;⁴ and is wholly irrespective of the amount in controversy.

¹ 1 U. S. Sts. at L. 85.

² The modifications were first introduced by the Act of Feb. 5, 1867, 14 Sts. at L. 385, §2. For a discussion of the changes made by this Act see *Murdock v. Memphis*, 20 Wall. 590 (1875).

³ *Twitchell v. Commonwealth*, 74 U. S. 321 (1868).

⁴ *Cohens v. Virginia*, 6 Wheat. 264 (1821).

THE MESSAGES

OF

PRESIDENT BUCHANAN.

With an Appendix

CONTAINING

SUNDRY LETTERS FROM MEMBERS OF HIS CABINET AT THE
CLOSE OF HIS PRESIDENTIAL TERM,

ETC.

COMPILED BY

J. BUCHANAN HENRY.

NEW YORK.

1888.

71-38

INAUGURAL ADDRESS.

Invocation of the Divine assistance.—Prompt submission to the will of the majority as expressed in the election an admirable spectacle.—Congress has declared that Kansas shall be admitted to the Union, with or without slavery, as its constitution may prescribe at the time of admission, upon this principle of popular sovereignty.—In the States, under our Constitution, slavery is beyond the reach of any human power except that of the States themselves in which it exists.—The material value of our Union is incalculable.—The duty of preserving the Government from the taint or suspicion of corruption.—We are embarrassed by too large a surplus in the Treasury.—No more revenue ought to be collected from the people than necessary for a wise, economical, and efficient administration of the Government.—Our noble inheritance in the public lands should be reserved for actual settlers at moderate prices, for homes for our children and children's children.—The grant of powers in the Constitution should be strictly construed.—All the great and useful powers necessary both for peace or war have been granted expressly or by clear implication.—Under the war-making power Congress can authorize the building of a military road to our Pacific States to protect them.—Our diplomacy should be direct and frank, neither seeking to obtain more nor accepting less than is our due.—We ought to cultivate peace, commerce, and friendship with all nations in a spirit of Christian benevolence.—We should avoid entangling alliances, do justice to all, and exact it for ourselves in return.

Fellow-citizens :

I appear before you this day to take the solemn oath “that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States.”

In entering upon this great office, I most humbly invoke the God of our fathers for wisdom and firmness to execute its high and responsible duties in such a manner as to restore harmony and ancient friendship among the people of the several States, and to preserve our free institutions throughout many generations. Convinced that I owe my election to the inherent love for the Constitution and the Union which still ani-

mates the hearts of the American people, let me earnestly ask their powerful support in sustaining all just measures calculated to perpetuate these, the richest political blessings which Heaven has ever bestowed upon any nation. Having determined not to become a candidate for re-election, I shall have no motive to influence my conduct in administering the government except the desire ably and faithfully to serve my country, and to live in the grateful memory of my countrymen.

We have recently passed through a presidential contest in which the passions of our fellow-citizens were excited to the highest degree by questions of deep and vital importance; but when the people proclaimed their will, the tempest at once subsided, and all was calm.

The voice of the majority, speaking in the manner prescribed by the Constitution, was heard, and instant submission followed. Our own country could alone have exhibited so grand and striking a spectacle of the capacity of man for self-government.

What a happy conception, then, was it for Congress to apply this simple rule—that the will of the majority shall govern—to the settlement of the question of domestic slavery in the Territories! Congress is neither “to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States.” As a natural consequence, Congress has also prescribed that, when the Territory of Kansas shall be admitted as a State, it “shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission.”

A difference of opinion has arisen in regard to the point of time when the people of a Territory shall decide this question for themselves.

This is, happily, a matter of but little practical importance. Besides, it is a judicial question, which legitimately belongs to the Supreme Court of the United States, before whom it is now pending, and will, it is understood, be speedily and finally settled. To their decision, in common with all good citizens,

I shall cheerfully submit, whatever this may be, though it has ever been my individual opinion that, under the Nebraska-Kansas act, the appropriate period will be when the number of actual residents in the Territory shall justify the formation of a constitution with a view to its admission as a State into the Union. But be this as it may, it is the imperative and indispensable duty of the government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved. That being accomplished, nothing can be fairer than to leave the people of a Territory free from all foreign interference, to decide their own destiny for themselves, subject only to the Constitution of the United States.

The whole territorial question being thus settled upon the principle of popular sovereignty—a principle as ancient as free government itself—everything of a practical nature has been decided. No other question remains for adjustment; because all agree that, under the Constitution, slavery in the States is beyond the reach of any human power, except that of the respective States themselves wherein it exists. May we not, then, hope that the long agitation on this subject is approaching its end, and that the geographical parties to which it has given birth, so much dreaded by the Father of his Country, will speedily become extinct? Most happy will it be for the country when the public mind shall be diverted from this question to others of more pressing and practical importance. Throughout the whole progress of this agitation, which has scarcely known any intermission for more than twenty years, whilst it has been productive of no positive good to any human being, it has been the prolific source of great evils to the master, the slave, and to the whole country. It has alienated and estranged the people of the sister States from each other, and has even seriously endangered the very existence of the Union. Nor has the danger yet entirely ceased. Under our system there is a remedy for all mere political evils in the sound sense and sober judgment of the people. Time is a great corrective. Political subjects which but a few years ago excited and exasperated the public mind have passed away

and are now nearly forgotten. But this question of domestic slavery is of far graver importance than any mere political question, because, should the agitation continue, it may eventually endanger the personal safety of a large portion of our countrymen where the institution exists. In that event, no form of government, however admirable in itself, and however productive of material benefits, can compensate for the loss of peace and domestic security around the family altar. Let every Union-loving man, therefore, exert his best influence to suppress this agitation, which, since the recent legislation of Congress, is without any legitimate object.

It is an evil omen of the times that men have undertaken to calculate the mere material value of the Union. Reasoned estimates have been presented of the pecuniary profits and local advantages which would result to different States and sections from its dissolution, and of the comparative injuries which such an event would inflict on other States and sections. Even descending to this low and narrow view of the mighty question, all such calculations are at fault. The bare reference to a single consideration will be conclusive on this point. We at present enjoy a free trade throughout our extensive and expanding country, such as the world has never witnessed. This trade is conducted on railroads and canals—on noble rivers and arms of the sea—which bind together the north and the south, the east and the west of our confederacy. Annihilate this trade, arrest its free progress by the geographical lines of jealous and hostile States, and you destroy the prosperity and onward march of the whole and every part, and involve all in one common ruin. But such considerations, important as they are in themselves, sink into insignificance when we reflect on the terrific evils which would result from disunion to every portion of the confederacy—to the north not more than to the south, to the east not more than to the west. These I shall not attempt to portray; because I feel an humble confidence that the kind Providence which inspired our fathers with wisdom to frame the most perfect form of Government and Union ever devised by man will not suffer it to perish until it shall have been peacefully instrumental, by its

example, in the extension of civil and religious liberty throughout the world.

Next in importance to the maintenance of the Constitution and the Union is the duty of preserving the government free from the taint, or even the suspicion, of corruption. Public virtue is the vital spirit of republics; and history shows that when this has decayed, and the love of money has usurped its place, although the forms of free government may remain for a season, the substance has departed forever.

Our present financial condition is without a parallel in history. No nation has ever before been embarrassed from too large a surplus in its treasury. This almost necessarily gives birth to extravagant legislation. It produces wild schemes of expenditure, and begets a race of speculators and jobbers, whose ingenuity is exerted in contriving and promoting expedients to obtain public money. The purity of official agents, whether rightfully or wrongfully, is suspected, and the character of the government suffers in the estimation of the people. This is in itself a very great evil.

The natural mode of relief from this embarrassment is to appropriate the surplus in the treasury to great national objects, for which a clear warrant can be found in the Constitution. Among these I might mention the extinguishment of the public debt, a reasonable increase of the navy, which is at present inadequate to the protection of our vast tonnage afloat, now greater than that of any other nation, as well as to the defence of our extended seacoast.

It is beyond all question the true principle, that no more revenue ought to be collected from the people than the amount necessary to defray the expenses of a wise, economical, and efficient administration of the government. To reach this point, it was necessary to resort to a modification of the tariff; and this has, I trust, been accomplished in such a manner as to do as little injury as may have been practicable to our domestic manufactures, especially those necessary for the defence of the country. Any discrimination against a particular branch, for the purpose of benefiting favored corporations, individuals, or interests, would have been unjust to the rest of the community, and inconsistent with that spirit of fairness

and equality which ought to govern in the adjustment of a revenue tariff.

But the squandering of the public money sinks into comparative insignificance as a temptation to corruption when compared with the squandering of the public lands.

No nation in the tide of time has ever been blessed with so rich and noble an inheritance as we enjoy in the public lands. In administering this important trust, whilst it may be wise to grant portions of them for the improvement of the remainder, yet we should never forget that it is our cardinal policy to reserve these lands, as much as may be, for actual settlers, and this at moderate prices. We shall thus not only best promote the prosperity of the new States and Territories by furnishing them a hardy and independent race of honest and industrious citizens, but shall secure homes for our children and our children's children, as well as for those exiles from foreign shores who may seek in this country to improve their condition, and to enjoy the blessings of civil and religious liberty. Such emigrants have done much to promote the growth and prosperity of the country. They have proved faithful both in peace and in war. After becoming citizens, they are entitled, under the Constitution and laws, to be placed on a perfect equality with native-born citizens, and in this character they should ever be kindly recognized.

The Federal Constitution is a grant from the States to Congress of certain specific powers; and the question whether this grant should be liberally or strictly construed, has, more or less, divided political parties from the beginning. Without entering into the argument, I desire to state, at the commencement of my administration, that long experience and observation have convinced me that a strict construction of the powers of the Government is the only true, as well as the only safe, theory of the Constitution. Whenever, in our past history, doubtful powers have been exercised by Congress, these have never failed to produce injurious and unhappy consequences. Many such instances might be adduced, if this were the proper occasion. Neither is it necessary for the public service to strain the language of the Constitution; because all the great and useful powers required for a success-

ful administration of the Government, both in peace and in war, have been granted, either in express terms or by the plainest implication.

Whilst deeply convinced of these truths, I yet consider it clear that, under the war-making power, Congress may appropriate money towards the construction of a military road, when this is absolutely necessary for the defence of any State or Territory of the Union against foreign invasion. Under the Constitution, Congress has power "to declare war," "to raise and support armies," "to provide and maintain a navy," and to call forth the militia to "repel invasions." Thus endowed, in an ample manner, with the war-making power, the corresponding duty is required that "the United States shall protect each of them [the States] against invasion." Now, how is it possible to afford this protection to California and our Pacific possessions, except by means of a military road through the Territories of the United States, over which men and munitions of war may be speedily transported from the Atlantic States to meet and to repel the invader? In the event of a war with a naval power much stronger than our own, we should then have no other available access to the Pacific coast, because such a power would instantly close the route across the isthmus of Central America. It is impossible to conceive that, whilst the Constitution has expressly required Congress to defend all the States, it should yet deny to them, by any fair construction, the only possible means by which one of these States can be defended. Besides, the Government, ever since its origin, has been in the constant practice of constructing military roads. It might also be wise to consider whether the love for the Union which now animates our fellow-citizens on the Pacific coast may not be impaired by our neglect or refusal to provide for them, in their remote and isolated condition, the only means by which the power of the States, on this side of the Rocky Mountains, can reach them in sufficient time to "protect" them "against invasion." I forbear for the present from expressing an opinion as to the wisest and most economical mode in which the Government can lend its aid in accomplishing this great and necessary work. I believe that many of the difficulties in the way, which now

appear formidable, will, in a great degree, vanish as soon as the nearest and best route shall have been satisfactorily ascertained.

It may be proper that, on this occasion, I should make some brief remarks in regard to our rights and duties as a member of the great family of nations. In our intercourse with them there are some plain principles, approved by our own experience, from which we should never depart. We ought to cultivate peace, commerce, and friendship with all nations; and this not merely as the best means of promoting our own material interests, but in a spirit of Christian benevolence towards our fellow-men, wherever their lot may be cast. Our diplomacy should be direct and frank, neither seeking to obtain more nor accepting less than is our due. We ought to cherish a sacred regard for the independence of all nations, and never attempt to interfere in the domestic concerns of any, unless this shall be imperatively required by the great laws of self-preservation. To avoid entangling alliances has been a maxim of our policy ever since the days of Washington, and its wisdom no one will attempt to dispute. In short, we ought to do justice, in a kindly spirit, to all nations, and require justice from them in return.

It is our glory that, whilst other nations have extended their dominions by the sword, we have never acquired any territory except by fair purchase, or, as in the case of Texas, by the voluntary determination of a brave, kindred, and independent people to blend their destinies with our own. Even our acquisitions from Mexico form no exception. Unwilling to take advantage of the fortune of war against a sister republic, we purchased these possessions, under the treaty of peace, for a sum which was considered at the time a fair equivalent. Our past history forbids that we shall in the future acquire territory, unless this be sanctioned by the laws of justice and honor. Acting on this principle, no nation will have a right to interfere or to complain if, in the progress of events, we shall still further extend our possessions. Hitherto, in all our acquisitions, the people, under the protection of the American flag, have enjoyed civil and religious liberty, as well as equal and just laws, and have been contented, prosperous, and happy.

Their trade with the rest of the world has rapidly increased, and thus every commercial nation has shared largely in their successful progress.

I shall now proceed to take the oath prescribed by the Constitution, whilst humbly invoking the blessing of Divine Providence on this great people.

To Victor Henry with the compliments
Philip G. Auchampaugh

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*James Buchanan, The Conservatives'
Choice, 1856
A Political Portrait*

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THIS study aspires to depict in a brief account some of those political habits which kept James Buchanan in public life for more than forty years and which enabled him to reach the presidency.

In 1856, Buchanan ran for office for the last time. It was, as all know, the highest political stake the country afforded, and Buchanan won. As a kind of major premise for this analysis, I have taken a sketch made during the preliminaries by one of the "enemy" reporters in Washington.

Mr. Buchanan arrived here last night. He is more corpulent than before his residence abroad, but his patriotic aspirations and youthful ambition have undergone a corresponding extension. Time has not written any new wrinkles on his brow, but has actually been engaged in smoothing out the old ones, and a more well preserved old gentleman of sixty-four than James Buchanan, in his easy chair with a big segar [sic] in his mouth, discoursing pleasantly on matters and things with Slidell, Forney and Sickles, is not often seen. His appearance at the railroad station, in a black dress coat and clerical white cravat, was greeted by the applause of a couple of hundred of his friends, with whom he footed it, in true democratic style, to his hotel, the National. This pedestrian feat was pronounced by one of his friends, "a good Buncombe lick," and I rather like it myself.¹

This little sketch, playful but moderately hostile, indicates many of the political habits of Buchanan's political personality.

1. *The Evening Post*, New York, May 17, 1856.

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In Pennsylvania, where his friends kept track of his age, the call to run was almost a mandate. To refuse meant political retirement. That meant the success, perhaps, of his rival, George M. Dallas, now by the grace of President Pierce minister at the Court of St. James. Would a refusal to accept the offer of the Harrisburg convention be fair to hopeful friends who had remained loyal to their veteran chief in his later years?

Although Buchanan had been worried over the future of the Union in 1850 and although he feared that the year 1856, thanks to the sons of abolition, might be the beginning of the end, the role of being perhaps greater than Clay lured him on, beckoning with prospects of a great and final political compromise which would forever still the cries of discord and be the master triumph of his diplomacy. Ambition, patriotism, love of glory, and benevolence seemed to guard the gates of victory's open temple. Who could refuse their call?

Slidell,² Forney, and Sickles, behold them, men of enterprise and ambition, to say the least. Had the lance of Virginia, Henry A. Wise, also been present at the above meeting, the picture would have been almost complete, for these were the men who were to pilot Buchanan successfully past the shoals of the coming Cincinnati convention.

Slidell, the most powerful and important of them all, was boss of the Southwest. Born and raised in New York City, he brought a skilled hand into Louisiana politics. Young men felt his magnetism and followed him, although his political opponents sometimes are said to have shaken their heads at his methods. Terse of speech, but all-powerful in committees, this relentless man had formed a genuine

2. Additional information may be secured in Professor Louis M. Sears' able work on *John Slidell* (Durham, 1925).

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friendship for the cautious, conservative Buchanan. Both were men who put more trust in organization than demagoguery. Buchanan held that he could best express his patriotism through his party, and in 1860 boasted that he had never struck a Democratic ticket. When such men unite, steady, relentless action toward their goal could be easily predicted.

The other two men were journalists. Buchanan liked to encourage journalists and young talented writers. The art of enlisting young blood in his cause was admitted even by his enemies. They supplied the push and élan, while Buchanan, with careful eye and adroit touch, gave the necessary restraint. Forney, once the poor Lancaster boy, was now well known in Washington. Editor of Buchanan's favorite paper of 1850, the *Pennsylvanian*; editor of the *Washington Union*, beloved of Pierce, former clerk of the House of Representatives, and about to be chairman of the Pennsylvania State Central Democratic committee, Forney was almost the Hermes of Old Buck.³ Alas, friendship was to turn to chagrin, and chagrin to malignant opposition. Certainly none of that group in 1856 knew that here was a radical Republican in the making.

Then there was Daniel Sickles. He had been Buchanan's secretary of legation for a time in London a few months before. But Irish exuberance had caused a bit of trouble, and Sickles returned before the more staid minister set out for home. A Tammanyite, he was skilled in politics as well as journalism. Sickles was typical of the better educated Irish element in the party, an element which Buchanan was very careful not to overlook. The future held much in store for him, a seat in Congress, the favor of the President, a

3. A. K. McClure, *Old Time Notes of Pennsylvania* (Philadelphia, 1905), especially chapter XXIV.

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dramatic trial for murder with himself at the bar of justice, and acquittal, and, after Buchanan had left the stage, a general's commission and the loss of a leg for the Union cause at Gettysburg.

It was an alliance of middle states and southland. For years Buchanan had been organizing the combine. Thrice had he hoped to work it, in Democratic conventions; but the fates had contemplated his desire with gaze averted. Slidell almost personified the more material aspects of the Cotton Kingdom, Sickles in Tammany, the Irish vote, and the commercial interests of New York City, while Forney and Buchanan stood for the Jackson anti-bank and small farmer tradition in the Keystone.

Better symbols for expansion than these gentlemen could hardly have been found. Each member of the group in one way or another had been in some way concerned with the acquisition of Cuba and the Ostend Manifesto, that document which to the abolitionist was but another indication of robbery by the "slave power," and to loyal Democrats, a new enunciation of the revered Monroe Doctrine. Buchanan had drafted the document but had had no great enthusiasm in the matter. Indeed, he had obeyed his orders from Marcy with reluctance, and had prophesied that little good would come of a conference at that time. But the refusal of Pierce and Marcy to act upon the recommendations of Mason, Buchanan, and the more warlike Soulé, had alienated the support of Slidell from the Pierce administration. Henceforth he turned to his friend Buchanan more than ever. But since Slidell had already favored the nomination of Buchanan in 1852, it cannot be said that the Ostend Manifesto was the cause of his seeking Buchanan's nomination for the presidency. As will shortly be shown, it was

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Buchanan's power with Pennsylvania that finally secured him the Cincinnati nomination.⁴

Republicans like to picture the Democratic aspirant as an old man pursuing the phantom of presidential ambition even to the brink of the grave. Such a representation was, to say the least, ungenerous, and seemed to convey the idea that there was something sinister about Democratic presidential ambitions. The truth was quite the contrary. Since childhood, Buchanan, like many other youths of his day and since, had been inspired to serve his country in some prominent capacity. But his intentions were honorable and high-toned. He delighted in creating an atmosphere of respectable conservatism in political matters. In business affairs, he was soundly progressive, taking considerable interest in railroad extension. In the day of his Senatorial career, he was president of a Pennsylvania railroad which became part of the Pennsylvania system of the present day. His estate showed considerable investments in railroad bonds, real estate, and government securities.⁵ Such men usually do not promote rabble-rousing and tumults. They have too much stake in the welfare of the country. It was this class of men that the banker of New York, the more conservative merchants with accounts on southern planters no less than the planters themselves, wanted as their standard bearer in 1856. In addition, Slidell had his family connections with the Belmonts, the American agent of the Rothschilds,⁶ the creditors of indebted Spain. We know that Belmont was

4. Buchanan desired to have American policy conducted in such a manner that Spain's creditors, fearing the seizure of Cuba by the United States, would force her to accept the liberal purchase offer. Soulé favored more direct action. Buchanan and Slidell labored diligently to acquire the island in the next four years, but the Republican-controlled House would have none of the matter and refused the necessary funds.

5. Newspapers published his list of holdings in 1868. "Scrapbooks," Historical Society of Pennsylvania, Philadelphia.

6. Philip S. Foner, *Business & Slavery* (Chapel Hill, N. C., 1941), p. 121.

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piqued when he was not given a diplomatic appointment.⁷ Later he left Buchanan for Douglas. As in the case of Douglas, the rupture appears to have been permanent. But there were other conservatives to take his place and the Breckenridge men were still able to raise funds in New York City to battle in Pennsylvania as late as 1860. Some of them, like the financier and broker Augustus Schell,⁸ were friendly to the end. Conservatives of this type joined Buchanan's friends in the United States Senate in 1856 and persuaded the venerable diplomat that he was the man for the time. Buchanan's best campaign biographer, R. G. Horton, quotes Buchanan as follows:

Why should I, after forty years spent in the turmoil and excitement of public life, wish to leave my quiet home, and assume the responsibilities and cares incident to the presidency? They tell me that the use of my name will still the agitated waters, restore public harmony, by banishing sectionalism, and remove all apprehension of disunion. For these objects I would not only surrender my own ease and comfort, but cheerfully lay down my life. Considerations like these have imposed upon me the duty of yielding to the wishes of those who must know what the public good requires.⁹

Duty had reinforced ambition and won a decision.

Among the public men who spent much of their life in Washington in ante-bellum days, few had had more foreign travel and first-hand knowledge of foreign countries than Buchanan. During his two foreign missions abroad he had visited Great Britain, Germany, Denmark, Russia, Belgium, and France. As his entertaining letters indicate, he was a comprehensive observer not only of great personalities of the day, but of the way the average citizen lived and of economic conditions in general. In America, Buchanan

7. Sears, *op. cit.*, p. 159.

8. Foner, *op. cit.*, pp. 135, 136.

9. R. G. Horton, *Life and Public Services of James Buchanan* (New York, 1856), pp. 426-27.

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visited parts of his own and neighboring states. In his youth he had once thought seriously of locating in Kentucky. He and Marcy had contemplated the trip down the Mississippi to New Orleans after the close of Polk's administration, but never carried the plan into effect. Although Buchanan had not traveled in the prairie states, his friends supplied him with detailed descriptions of those regions. His interest in all kinds of people, and in business conditions, made him tolerant and broadminded. The two regions he seemed most to prefer were the nation's capital and his own Lancaster, where, at his fine residence called "Wheatland," he entertained visitors from all parts of the country. From his library he kept up a vast correspondence with persons in all walks of life, both great and small. If the letter in his fine copper-plate hand was not marked "private" or "confidential," it was often shown by the proud recipient to the neighbors; and thus his attitude upon public events was spread abroad.

Although it is true that Buchanan relied to a large extent upon alliances and plans with political leaders who gathered at Washington, he was far from despising small men. He would spend several hours trying to convince a lesser but substantial citizen at the cross roads to vote for Pierce, or he would hear at length and with interest the problems of the smaller farmers who came to see him. His niece, Miss Annie Buchanan, often wondered at his patience in some of these instances; but in the exercise of such talents he displayed his skill as a public man. He was an artist at sending people away charmed and satisfied with his hospitality. He even studied the preferences of children who accompanied their parents to Wheatland. Sometimes they repaid his interest with an appreciative memory. The false stories of Buchanan's lack of sympathy with folk in the

lesser walks of life could only be effective in the locations far away from the region where he was known.

This Washington meeting with Slidell,¹⁰ Forney, and Sickles was typical of the power which Buchanan, in common with certain other politicians, possessed, namely of getting coöperation from various types of men. Clingman, Buchanan's enemy and critic, put it well when he said, "few were more successful than he in securing coöperation;"¹¹ and another very hostile writer has said, "for Buchanan was gifted with an irresistible charm of kindness in speech and manner."¹² An illustration of one of the causes for Buchanan's success in this field is shown in Buchanan's reaction to President Johnson: "During Johnson's disputes with Congress, Buchanan remarked that the President seemed unduly anxious about his relative rank with his supporters. The ex-president said that a President ought to do without such jealousies."¹³ With Buchanan, his cause usually came first.

Friends and foes alike gave Buchanan credit for being as crafty as Van Buren. Governor Letcher of Virginia said he was even more clever. Clingman declared that "he was really possessed of great cunning" and that "his capacity for personal intrigue was extraordinary." Black found in 1860 that Buchanan prided himself upon his statecraft in trying to prevent hostilities. Had Anderson not moved to Sumter, the President would have no doubt rounded out those remaining months in tranquility.

10. For Slidell, see Louis M. Sears, *John Slidell*. This work quotes numerous letters of Slidell to Buchanan from the Collections of the Historical Society of Pennsylvania.

11. Clingman, *Speeches and Writings* (Raleigh, 1877), p. 508.

12. Charles S. Foltz, *Surgeon of the Seas; the Adventurous Life of Surgeon General Jonathan M. Foltz* (Indianapolis, 1931). Foltz was a Forney man and hence became hostile to Buchanan; in later years he was surgeon general by Grant's appointment.

13. Clippings found in a Buchanan Scrap Book, Historical Society of Pennsylvania.

Coupled with this talent for indirect methods went a type of elusive willfulness which was at once a problem for friend and foe. This is what Assistant Secretary of State Trescott referred to when he described Buchanan as "cold and calculating, with a clear head but no heart . . . with a habit of indirectness that at times almost became falsehood and a wariness that sometimes generated into craftiness." Yet even Trescott, who did not grasp the kindness of the man, readily admitted that the President had "no ulterior selfish purpose" but rather the wish to serve his country, and, we may add, the desire to live in history as a wise and good statesman. Van Buren, who did not approve all of Buchanan's policies while President, nevertheless appreciated his abilities. The New Yorker wrote in his autobiography, "He [Buchanan] was, assuredly before that occurrence [occupying the presidency], a cautious, circumspect and sagacious man, amply endowed with those clear perceptions of self interest and of duties as connected with it that are almost inseparable from the Scotch character."

Buchanan was accustomed to wait upon events rather than men. He prided himself upon being an experienced political navigator and in his younger days wanted to be accounted a "clever fellow." Thus the somewhat shy and trustful boy of the Pennsylvania mountains became the cynical old man who scarcely knew whom to trust when the storm gathered about him.

Attorney-general Black once declared, concerning Buchanan's relation to his cabinet members:

Mr. Buchanan was himself not only the central but the only figure. It is true that Mr. Buchanan was fearless and firm, even to stubbornness. He listened sometimes very patiently when he was making up his mind, but when once determined, he was immovable as a rock. After three days and three nights of discussion on the answer that was to be given to the South Carolina Commissioners he produced what

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he said was the reply he had decided upon. I and all of us supposed that to be the end of it. I have never been more surprised in my life than I was the next day when he yielded unconditionally and allowed me to change that paper radically. He had never before to my knowledge given up on an opinion once formed. He was in the habit of acting upon his own convictions, unmoved by the influence of anybody whatsoever. That is what made him as Mr. Thomas says, 'Hard to get along with.'"¹⁴

This trait of Buchanan is described by his niece who wrote:

There was a peculiarity of his mind which may possibly account to some extent for this mistaken impression [that he was not the President]. It very often happened that when some idea or proposition was suggested to him, he would at the first blush, entirely disapprove it, so that one not well acquainted with him might think the case was hopeless. When he had time, however, to think about it, and if someone would quietly give him the points of the case, and draw his attention to it, he would sometimes make up his mind in quite an opposite way from which he had first intended. After, however, he had once definitely and positively come to a decision, he was unchangeable. What he considered right, he did and no fear of consequences could alter his purpose.¹⁵

We may add that Buchanan, in deciding what was right, looked to the material welfare of the country rather than upon any theory *per se*. He supported the confederated theory of the Union which gave the different sections the best development according to their economic resources and social aptitudes. His was not a sadistic nature but a lover of harmony and a compromiser of difficulties. His cunning was revealed in his methods rather than in his political principles. On the latter, his life was an open book. He constantly deplored anti-southern sectionalism. Hence he was the open and determined foe of abolition. He made no effort to conceal his disapprobation of the New England

14. *Philadelphia Press*, August 21-22, 1881.

15. George Ticknor Curtis, *Life of James Buchanan* (New York, 1883), II, p. 677. The paper quoted was written by Miss Annie Buchanan, the daughter of Buchanan's brother, the Reverend Edward Y. Buchanan.

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abolition "heresies." Indeed, he gloried in the fact that he was an "ultra" in defending the rights of the South. For his own state he tried to get duties on iron and coal when tariff schedules were made, and in 1860 was ready to sustain the Democracy of Pennsylvania in a demand for more incidental protection. It was on the tariff rock that the Pennsylvania Democrats were broken by the Cameron Republicans in 1860. Buchanan had warned Alexander H. Stephens in 1859 that, unless greater concessions were made on the tariff, the Pennsylvania Democracy would be defeated. Buchanan was devoted to states rights as the best means of holding a diversified union together. In addition he admired what might be called the Scotch-Irish gentry of the old South. After all, he was himself a Scotch-Irish American.

Buchanan's caution, which functioned in conjunction with his firmness, although exasperating to those¹⁶ who failed to move him to their purposes, served him in good stead in many crises. It also kept him from those errors which sent others into retirement while he remained on the public stage until he was nearly three score and ten. His successful evasion of civil war and bloodshed on the one hand, and of impeachment by Republicans on the other, in the winter of 1860-61 well illustrates the point. Buchanan's personal integrity,¹⁷ his industry and capacity for routine work, were rarely equalled among politicians of his generation.

Partly from his fatalism and partly from his political

16. Both Black and Cameron found Buchanan sometimes unwilling to follow their more impetuous counsels. Toombs exhibited his exasperation in bitter criticism in 1861.

17. Buchanan has been accused of being a cordial hater in politics. But Black and his nephew, James Buchanan Henry, thought him too easy in that respect, since he was always considering it a victory for himself when he could win a foe to his cause. My opinion is that he was anxious to win political foes and put small value on vindictiveness. On the other hand, it was difficult for him to give up his aversions for those who cast discredit upon him personally or who had thwarted what he held to be necessary policies.

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experience, Buchanan had little faith in forcing issues. He preferred to try to educate the public through a friendly press. Then, having obtained the best he could get, he should accept the result until another opportunity to prevail presented itself. Public opinion, he once said, was king in this country. But then, like all rulers, it could be influenced. Slidell was much the same type of cool, calculating statesman; while Sickles and Forney were trained in the art of catching the eye and ear of the public through press and hustings.

In physical appearance, Buchanan could hardly fail to please a Nordic electorate. Massive, dignified, at ease, full blooded with white hair fluffed in such a way that it enhanced his height, with a thoughtful and sincere manner, Buchanan was by no means unattractive on the platform or at political gatherings. Even the fact that he had to hold his head a little to the side to adjust his vision seemed but to add an amiable eccentricity to his appearance. Moreover, to him high political society and social life in Washington were nearly as important as food and drink in the earlier stages of his career. To live in history as a great pacificator or benign ruler seems to have been a guiding motive of his later years.

In short, Buchanan looked the part of a distinguished public servant; and externals are not to be discounted in the game of politics. There was a magnetism about the man that was assuring and restful. The white cravat suggested the genial cleric in politics, a figure more common in Europe than America in that day. A keen-eyed journalist noticed that the cravat hid scars on Buchanan's neck; and this may have been its primary purpose. At the same time it befitted his general appearance, that of a gentleman of the old school. The big "segar" added the suggestion that here

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was a man of experience with the life of a practical person who did not allow his clerical tendencies to render him immune or inattentive to the kingdoms and principalities of this mundane existence.

Taking him all and all, there was a healthy conservatism about the man. He was, as his friends said, eminently "safe." Here was no wild-eyed fanatic with the lean and hungry look, but a man pretty much at ease with himself and everybody else who cared to be at peace with him. Small wonder that Slidell had preferred him to the more erratic and domineering Douglas whose political forces by 1856 were becoming abolitionized in Illinois. Buchanan "had never spoken ill" of the Southland or its rulers. His power rested upon their support and that of his friends in Pennsylvania.

In my opinion, it was Buchanan's genius for political organization in his own state, where he was the outstanding Democratic figure, that brought him the presidential nomination. No other Pennsylvania Democrat but ex-vice president George Dallas could compare with him; and Dallas' machine was much inferior to that of the Squire of Lancaster. Governor Henry A. Wise of Virginia, who was inclined to overrate¹⁸ the admittedly important services of his division of the Virginia delegation at the Cincinnati Convention of 1856, ably summarized the need and cause of his support of Buchanan. In an extensive speech delivered in Richmond during the campaign, he said:

... But he [Wise], had said the nomination was not only due to the man, but to the State of Pennsylvania. She is one of the oldest and

18. Wise chose to overlook the important work of Slidell, Bayard, and some other senators who met at Barlow's rooms at Cincinnati and organized the initial drive for Buchanan. At the critical moment, the Wise members of the Virginia delegation in the Cincinnati convention appear to have played a most important role in holding Buchanan's line; but the first work already had been completed.

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largest of the Old Thirteen. From 1801, in 1809, and the war of 1812, in the election of Monroe, through that of General Jackson, down to this day, she has been the keystone of the federal arch and the stay and support of the Democratic party and its principles. . . .

Then Governor Wise continued:

How long was she to stand the "great rejected" in the Union? Did she not deserve credit for standing rejected so long? Had she ever proposed a son of hers before 1844? And yet, from 1844 down to this hour, in 1844, 1848, 1852, she had patiently submitted and rallied to the democracy, and gave her strength to its cause, though repulsed and rejected, with a majority of democratic States at her back, three times in succession, and she has not thrown down her shield and buckler and retired to her tent. The fourth time now had come. She alone of all the Middle and Northeastern States stood firm for democracy; she alone of the Northern and non-slaveholding States of largest federal strength and size remains true and reliable; again she offered her son, who had been thrice sacrificed by non-democratic States. Was he to be again defeated—she again to be rejected? Ah! we might again have nominated without Pennsylvania; but could we have elected without her united voice of twenty-eight electoral votes?—Without the only certain first class State left to democracy and the South in the North? It was not safe to reject Pennsylvania a fourth time. She is true to principle, but true alike to herself. She holds her State pride and self-respect as high as any other State, and a fourth repulse of her pretensions might have caused disaffection in her and disaster to democracy. The Convention then, did most wisely in recognizing the claims of a State so large, so strong, so true, so faithful, and yet so long neglected and rejected. But above all, the nomination of Mr. Buchanan was best in reference to the present condition of the country.¹⁹

It is plain to see that to statesmen of the South, this alliance with Pennsylvania gave at least a hope of peaceful repose within the bounds of the great confederated union of the States.

19. "A Virginia View of Mr. Buchanan, Speech of Governor H. A. Wise," at Richmond, June 13, 1856. Quoted in *James Buchanan, His Doctrines and Policy as Exhibited by Himself and Friends* (New York, 1856). This speech was used by the Republicans as a reason why the North should not vote for Buchanan. It was one of the pamphlets circulated by them to aid Fremont.