

JUSTICE CLARK ON THE STAND

Defense Did Not Submit Him to a Cross Examination

ARGUMENT HAS BEGUN

Major Guthrie Opens for the Prosecution

HAS SPOKEN 4 HOURS

And Will Conclude this Morning—Judge Clark Admitted that He Advised Treasurer

Worth Not to Obey the Court's Mandamus and that He Said There Would Be Three Vacant Seats on the Court if Writ Was Issued—The Major Contends that Hoke vs. Henderson Has Not Been Law Since Constitution Was Amended in 1876

Justice Walter Clark of the Supreme Court, whom the impeachment trial has been revolving for the past ten days, was the stellar witness yesterday before the Court.

The expected sensational developments did not materialize; and after the prosecution was satisfied with a number of observations, answers to which were promptly given, the defense contented itself with a few simple questions which were directed to the witness.

There were all kinds of reports as to the character of questions that would be put to Justice Clark, and there was general surprise when Mr. F. L. Osborne, who took the witness in hand for cross-examination, announced that he could stand aside. The determination not to cross-examine the witness was reached after a brief conference between counsel for the defense.

Judge Clark's testimony was practically a corroboration of that given by the other Justices of the Supreme Court, though it was dashed with a sufficient amount of ginger to make it entertaining.

Judge Clark's testimony was practically a corroboration of that given by the other Justices of the Supreme Court, though it was dashed with a sufficient amount of ginger to make it entertaining.

Judge Clark's testimony was practically a corroboration of that given by the other Justices of the Supreme Court, though it was dashed with a sufficient amount of ginger to make it entertaining.

Judge Clark's testimony was practically a corroboration of that given by the other Justices of the Supreme Court, though it was dashed with a sufficient amount of ginger to make it entertaining.

Judge Clark's testimony was practically a corroboration of that given by the other Justices of the Supreme Court, though it was dashed with a sufficient amount of ginger to make it entertaining.

Judge Clark's testimony was practically a corroboration of that given by the other Justices of the Supreme Court, though it was dashed with a sufficient amount of ginger to make it entertaining.

cross-examined before the committee, but that he was submitted to a most rigid cross-examination before the court.

The taking of testimony was concluded early during the morning session, and at 11 o'clock Maj. W. A. Guthrie began to address the jury in behalf of the prosecution. Major Guthrie spoke four hours, and will conclude this morning.

THE MORNING SESSION

Judge Walter Clark Examined, but Was Not Cross-Examined

When the court convened there were 47 Senators present. Gen. T. F. Davidson called the name of "Judge Walter Clark," after the roll had been called. Judge Clark was in one of the court offices and he was promptly sent for. He was administered the oath and his examination was begun by Mr. Davidson.

"State what position you occupy," "Justice of the Supreme Court."

"How often have you occupied that position?" "I was first appointed in November, 1880, by Judge Fowle, and I have occupied it since."

"Judge Merrimon was appointed Chief Justice, and I was appointed to succeed him. The following year I was nominated and elected. It was afterwards held that it was for an unexpired term, and I was re-nominated in 1894 for the present term, 8 years."

"Prior to that time, did you occupy any position in the State?" "I was Superior Court judge from the 15th of April, 1885, and was in that position when appointed to the Supreme Court bench."

"By whom was that appointment made?" "By Governor Seales."

"Will you state whether or not you were a member of the court, and took part in the deliberation and discussion of the question of office-holding cases, beginning with the 12th N. C., and coming down practically to the present time?"

"I have taken part in every discussion of the court since I have been there except those on which I did not sit for personal reasons."

"In all these cases you sat?" "Yes, sir."

"Took part in the deliberations?" "Yes, sir."

"Do you recollect the facts connected with the issuing of the mandamus directed to the Treasurer and to the Auditor in the case of White vs. Auditor?"

"I think I recall most of them—all of the material ones."

Judge Clark Tells of White Case

"Will you state them, with all the circumstances connected with them as they appeared to you as one of the judges of the court?"

"The first time the case came to my knowledge, it was docketed in our court I think about the 12th of December, and a motion was made that day, or soon thereafter, to advance it as matter to be heard under Rule 14. It was advanced, and the argument heard on the 15th. The case was argued by Mr. F. H. Busbee on one side, and Mr. Loze Harris on the other. There was no point raised in the argument as to the mandamus. The sole matter discussed before us was as to the amount recovered. When the case came up in conference either that evening or the next day, the matter came up, and the other judges said it was merely a question of how much should be paid. When they got through, I told them that they were mistaken—that there was a mandamus in that case that had ever come before our court before. Judge Faircloth remarked: 'The counsel raised no point of that kind.' I said they did not, but it was my duty to raise it. I was sworn to support the constitution, and I thought this was a most serious violation of it. You five men have recently decided in Garner vs. Worth that this court cannot issue a mandamus to the State Treasurer, and now you ask to let this go without saying anything about it. It was understood that we were to decide it, but went over to the next term.

served, that we could not grant it to him. I think Judge Montgomery said to him, 'You ought to reply to the clerk.' The clerk was sent for. Mr. Harris came back on the 9th of October, and when he came back, Mr. Cook sat beside him, and Mr. Harris said he had served notice, and the counsel on the other side, Mr. Cook, was present, and he again applied for a mandamus. The court, after some talk among themselves, I do not remember exactly the conversation, asked him if he had filed affidavits. He said he had not thought it necessary. Mr. Cook being present, the money had not been paid, the mandamus was not issued, and he wanted a mandamus. He was told that, as there were no affidavits filed, it would not be issued, and he did not get his mandamus.

His Talk to Col. Kenan

"About Thursday, as we adjourned at dinner time, Col. Kenan the clerk, met me at the door, and said: 'Shall I have to issue that mandamus?' I said, 'Colonel, it has been refused by the court twice. I do not think you ought to do it without authority of the court. He said the other judges say I ought to do it, and I said, 'Col. Kenan, it is not you that ought to go to the court and ask the court about it. The argument was the next Thursday at one o'clock. We met in conference on Friday morning instead of afternoon, and while we were in conference Col. Kenan came, and as near as I can recollect, said he was very much embarrassed by the difference of opinion between the judges, that some thought he ought to issue the mandamus and I thought he ought not, and he simply wanted to know what to do.

The Court Polled

"He was in the service of the court, and would do whatever it wanted him to do. Finally he polled the court. Judge Douglas was, as far as I remember, rather non-committal. He asked Judge Montgomery, who was the same. He asked Judge Faircloth, who told him it was his duty to issue it. He asked me, and I said: 'Colonel, you know my views already.' We asked Judge Furches, and he said: 'As an individual, Colonel, I tell you you ought to issue it, but as a judge, I express no opinion.' He then turned to Judge Douglas, and my recollection is that Judge Douglas used the same language that Judge Faircloth did. Col. Kenan said: 'I do not know what to do.

Col. Kenan Satisfied

Finally, they had some further conversation, but Col. Kenan seemed to be satisfied. He went out, and when we adjourned he was out there. I said to him: 'Col. Kenan, what are you going to do?' He said: 'Judge, I will have to issue the mandamus.' I said: 'They did not tell you so.' He said: 'I think they did.' I said: 'You had better be prudent about this matter, and before you do anything, give me time to write a dissenting opinion, and send it down to you.' I telephoned down to George, our messenger, and sent the dissent down to him, about 6 o'clock that afternoon. About 8 o'clock the telephone bell rang, and Col. Kenan called me up and he said: 'Judge, there is no use sending that opinion. I will not issue the mandamus without a written order.' I said: 'Col. Kenan, I prefer that you should send them around.' On the next morning, as well as I recollect, I think it was Saturday, it may have been Monday, when I went in the library Senator Jarvis was present. I called him in the consultation room, and narrated to him as well as I remember what had happened in the court room, that is, that Col. Kenan had applied for instructions, I had sent in a protest."

Governor Jarvis Calls Judge Down

Mr. Jarvis—"Do you think it is proper to detail a private conversation between you and me?"

Judge Clark—"Not if you object."

Mr. Jarvis—"I do object to your detailing any private conversation." Do you think that you say after this trial, that without wishing to be impolite, requests never affect me, no matter how persistently they are made. I give on a certain well-defined principle, and on my own judgment as to what is best for the general mass of the class who want."

Most of the persons seeking gifts from Mr. Carnegie had been waiting all night. The St. Louis did not get up to her dock until 2 o'clock this morning. Then there was a mighty rush on the ship. The police had to be called on to drive back the crowds. Mr. Carnegie had retired at 11 o'clock p. m., leaving word that he was not to be called until 6 o'clock.

Mr. Carnegie's car was a Frenchman named Adam, who had come all the way from France to demand \$1,000,000 for the purpose of raising an army to aid the Boers. He was moderately willing to accept the sum in small instalments.

Letters and telegrams from all parts of the United Kingdom had been arriving for many days. These were collected at the company's office. They filled a mail-bag which was put aboard the St. Louis by the pilot before midnight. The postmarks and printed designations on the envelopes justify a guess that ninety-nine out of a hundred of them contain requests for money.

Funeral of Captain Irwin

Charlotte, N. C., March 21.—Special.—The funeral of Capt. John R. Erwin, an ex-Corcoran cavalry captain and a soldier, took place today, the body being interred at Steel Creek, near Charlotte. Confederate veterans bore the casket of gray, the color for which the deceased had so bravely fought.

Wolcott Story Denied

Washington March 21.—The announcement from Colorado that ex-Senator Wolcott is to succeed Edgar Allan Hitchcock as secretary of the interior was not confirmed at the White House today. While a positive denial is not made the impression was conveyed that no such proposition has ever been made

ALL WANT MONEY

Crowds Sit Up Waiting for Carnegie

RUSH WHEN HE LANDS

By Aid of Police He Dodges the Beggars—He Talks with a Reporter, but Declines to Disclose His Plans

Southampton, March 21.—Andrew Carnegie and family landed this morning from the steamer St. Louis and proceeded to London. Protected by the steamship line agents and scores of policemen, they ran the gauntlet of the crowds of assembled mendicants and entered the train which was waiting at the empress dock.

No such great crowd has greeted an incoming passenger since Lord Robert's return from South Africa. College professors, seeking endowments for chairs of philosophy, jostled elbows with beggars ready to supplicate donations for artificial legs. College boys cheered and eager-eyed representatives of English cities, seeking donations for hospitals, fought to get near the American steel king.

In an interview Mr. Carnegie said: "Well, I am surprised by the interest you tell me my library gift has aroused New York. I supposed greater attention would have been paid to my gift to the Carnegie workmen. Why, they were equal in amount. The fund for the Carnegie employes was announced first. You understand that I thought of them first, as it was my duty to do."

"My New York library scheme is complete as it stands. I looked for co-operation. In fact, without giving him any intimation of my plan, I counted on Abram Hewitt, and I am not surprised to hear that he has come to the front to push the project to a successful issue. He is the noblest Roman of them all. New York needed branch libraries to work in co-operation with the Lenox Library, and the idea of providing a fund I had long under consideration."

When told that the enthusiasm aroused by his New York library gift had led to the mention of his name in connection with the mayoralty nomination, Mr. Carnegie laughed heartily. He pointedly evaded the question whether he would accept if the nomination were tendered him, but he gave the impression that the very mention of politics was unpleasant to him.

"Have you any further philanthropic plans for immediate fulfillment?" he was asked.

"We shall see," he replied. "You know I never announce these things until everything is completed."

"Have you any intention of extending your munificence to the Old West?"

"In that I have nothing to say, either. I am only commencing to give, and who knows what I may turn? This I will say, though, as you tell me I am to be a mighty wisher to be impolite, requests never affect me, no matter how persistently they are made. I give on a certain well-defined principle, and on my own judgment as to what is best for the general mass of the class who want."

Mr. Carnegie refused to discuss the steel trust or other industrial questions. His party will remain in London only a few days, leaving for the Riviera.

Most of the persons seeking gifts from Mr. Carnegie had been waiting all night. The St. Louis did not get up to her dock until 2 o'clock this morning. Then there was a mighty rush on the ship. The police had to be called on to drive back the crowds. Mr. Carnegie had retired at 11 o'clock p. m., leaving word that he was not to be called until 6 o'clock.

Mr. Carnegie's car was a Frenchman named Adam, who had come all the way from France to demand \$1,000,000 for the purpose of raising an army to aid the Boers. He was moderately willing to accept the sum in small instalments.

Letters and telegrams from all parts of the United Kingdom had been arriving for many days. These were collected at the company's office. They filled a mail-bag which was put aboard the St. Louis by the pilot before midnight. The postmarks and printed designations on the envelopes justify a guess that ninety-nine out of a hundred of them contain requests for money.

Found Relief in Death

Washington, March 21.—Charles H. Fliener, eighty-four years old, retired builder, committed suicide today by shooting himself in the head. For about two months the aged man had been confined to his room, suffering from a complication of diseases, and at times his suffering had been so intense that he remarked he would welcome death.

Thinking of Adjournment

Lincoln, Neb., March 21.—The State legislature on adjournment of the joint Legislature has agreed to recommending to both houses that final adjournment be taken Thursday, March 28.

WADDELL WINS OUT

Wilmington Democrats Give Him a Second Term

Reports Too Flippant

Wilmington, N. C., March 21.—Special.—In the primary election here today the Democrats of Wilmington showed their preference for Hon. A. M. Waddell for mayor for the next two years by giving him 1,269 votes against 1,035 for his opponent, W. E. Springer. The count was unusually warm. The city hall was packed with people tonight to hear the returns. The announcement that Waddell was elected was greeted with deafening cheers. Waddell made a strong speech, pledging his best efforts to discharge the duties of mayor with perfect impartiality.

The Y. M. C. A. convention began its twenty-first annual session here tonight. Rev. James A. Dorrittee of Charlotte, led the singing. Walter C. Douglas, general secretary of the Philadelphia association, made a stirring speech on work for young men in the nineteenth century.

Washington, March 21.—The announcement was made today that at a recent meeting of the national board of Deacons of the American Revolution, held in Washington, it was voted to exclude representatives of the press from future congresses. The reason given is that complaints have come from members of the organization in various parts of the country that the proceedings of the annual congress are reported with altogether too much freedom in the newspapers and that the delegates are made to appear ridiculous. Some influential members of the national board, including Mrs. Daniel Manning, regard the press reports of the late continental congress as flippant in many instances and as not reflecting credit on the society.

BOERS BREAK UP

Kitchener Thinks They Are Rapidly Weakening

PHILIP BOTHA KILLED

He Was a Brother to the Commander-in-Chief—Party of Carbineers Ambushed and Forced to Retire

London, March 21.—According to the latest advices from General Kitchener, Boer opposition in South Africa is rapidly decreasing and the backbone of even the small army that existed is broken. The war office received a cablegram today, sent from Pretoria yesterday by Kitchener, in which he states that Philip Botha, a brother of the burgher commander-in-chief, Louis Botha, has been killed in a fight at Doornbosch, and two of his sons severely wounded.

This is expected to put an end to organized operations in the section mentioned. General Kitchener also reports that the Boer forces in Orange River colony have disbanded and scattered, and that comparatively little trouble is expected in that quarter hereafter. According to General Kitchener's advices, General DeWet is near Heilbron, but it is not known how many men are with him.

A dispatch from Pretoria says that Tuesday night a party of Boers attempted to raid cattle at the sanitary farm close to the city. Yesterday morning twenty Bushveldt carbineers were sent in pursuit of the raiders and tracked them to Sheepoort, fifteen miles west. Sixty Boers, who had concealed themselves in the long grass on both sides of the road, opened fire on the unsuspecting carbineers at a distance of three hundred yards. During the fight that followed the British had one man killed, and it is understood that several were wounded. It is also understood that the carbineers were forced to retire on account of the superior numbers of the burgher raiders.

Unimportant engagements between small parties of Boers and British troops are reported in Pretoria almost daily.

The sixth contingent of the New Zealand mounted rifles arrived in Pretoria yesterday.

Bank of England Profits

London, March 21.—At the semi-annual meeting of the Bank of England today the governor announced that the net profits for the six months ended February 28, were £723,506, making the amount of reserve at that date £3,750,241. After providing for a dividend of 5 per cent the reserve was £3,022,691.

As to the King's Oath

London, March 21.—In the House of Lords this evening Lord Salisbury moved the appointment of a joint committee of the House of Lords and House of Commons to consider the question of what declaration on the question of religion should be required from the king on the occasion of his accession, and whether the language could be modified without diminishing its efficiency as security for the maintenance of the constitution.

QUARREL ENDED

Russians and British Agree to Disagree

THEY WILL NOT FIGHT

Troops to Be Withdrawn from the Disputed Ground and the Question of Title Reserved for the Future

London, March 21.—The quarrel between British and Russian troops over the possession of a railway siding at Tien Tsin, which has promised to develop into a serious affair involving bloodshed, is now at an end. England and Russia have reached an amicable understanding and Lord Lansdowne has issued the following official announcement:

"Russia and England have agreed to withdraw their troops from the disputed territory at Tien Tsin and reserve the question as to who has the title to the disputed land for subsequent examination."

A St. Petersburg dispatch to Dalziel's News Agency, received this morning, says a semi-official note has been issued in regard to the trouble between the Russians and British at Tien Tsin over the railway siding. The note declares that a commonplace incident has been so terribly exaggerated that it has assumed the gravity of a casus belli. The trouble was due to the forcible manner in which the British tried to obtain possession of the disputed land and which made it necessary for Russia to order energetic action.

The note adds that the government feels sure that the trouble will be amicably settled.

A dispatch from Tien Tsin dated yesterday says: "The Australian contingent and also the British outposts from the lines of communication are being brought in. The British under arms are guarding the settlement. Serious developments are not expected."

A Tien Tsin dispatch of today's date says the situation there is unchanged. Both British and Russians are abstaining from any overt acts of hostility. The British have 1,000 white troops on the ground. The Russian force is far smaller.

BLOODSHED PREVENTED

Berlin, March 21.—According to advices received here, Count Von Waldersee, during his brief stay in Tien Tsin yesterday, succeeded in his mission, which consisted merely in preventing bloodshed among the allied troops. Beyond that it is said in official circles, Germany will remain neutral.

According to Russian accounts, which have reached Berlin, the question is not controversial; the Russian claims to the territory where the trouble occurred are indisputable. In addition to the Russian flag being there, it is said that the Russian boundary marks were exhibited which the British soldiers did not respect.

CUBAN VIEWS ON SNAP-SHOT PLAN

Hasty Observations Taken by Congressman Burton

Washington, March 21.—Chairman Burton of the House Committee on Rivers and Harbors and the members of the committee who recently visited Florida, and incidentally made a trip to Cuba, have returned to the city. The party included, besides the chairman and his wife, Representative Morris and daughter, Representative Mercer and wife, Representative Achison and wife, Representative Sparkman and wife, Representative and Mrs. Alexander, Representative Ball and Mrs. Ellis, clerk of the committee, natives Gillett and Moody of Massachusetts were in the party. Chairman Burton talked interestingly today with a reporter of his impressions of the political and industrial conditions of Cuba on his visit to the island.

"It is very difficult," said Mr. Burton, "for any person to form opinions of value in a brief trip to a country in which another language is spoken and which is inhabited by a race whose traditions and ideas are different from our own. The best on this trip must be obtained at second hand and from a very superficial examination. There is no indication on the surface of any unrest or probable disturbance. It is evident that conditions have greatly improved under American occupation. General Wood has done a great deal for Havana, not only in revising sanitary

NEGRO IN LINE OF PROMOTION

Benjamin Davis to Be a Lieutenant in the Army

Washington, March 21.—Benjamin O. Davis, of the District of Columbia, has the distinction of being the first colored man to pass the examination open to enlisted men of the regular army for appointment as a second lieutenant. The result of the recent examination at Fort Leavenworth, Kansas, has just been received at the War Department. Eighteen enlisted men entered the examination, including Davis, who is a sergeant major for of the Ninth Cavalry. Twelve of the number passed and Davis was third in the order. He made an average of 91 per cent, and was particularly strong in international law and military science and tactics.

Under the law the successful candidates will be appointed to vacancies whenever they occur, in case of Davis' appointment he will be the first negro private soldier to rise from the ranks to a commission in the regular army. His remarkable success reflects credit upon himself and the colored schools of the District of Columbia in which he received his elementary education.

Negotiations Suspended

Washington, March 21.—Senator Cress, of Nicaragua, minister, was at the State Department today to say goodbye to Secretary Hay before leaving Washington this afternoon for New York, whence he will sail Tuesday in the steamship Alliance for Nicaragua. He said that there would be no resumption of Nicaraguan Canal negotiations between the United States and his government until next fall.

Bank of England Profits

London, March 21.—At the semi-annual meeting of the Bank of England today the governor announced that the net profits for the six months ended February 28, were £723,506, making the amount of reserve at that date £3,750,241. After providing for a dividend of 5 per cent the reserve was £3,022,691.

As to the King's Oath

London, March 21.—In the House of Lords this evening Lord Salisbury moved the appointment of a joint committee of the House of Lords and House of Commons to consider the question of what declaration on the question of religion should be required from the king on the occasion of his accession, and whether the language could be modified without diminishing its efficiency as security for the maintenance of the constitution.