THE PUBLIC LIFE OF JAMES M. ASHLEY

A Thesis Presented for the Degree of Master of Arts

By

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Approved by:

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The author has tried to present a well-rounded portrait of James M. Ashley, with special emphasis on the part he played in the Reconstruction period. In several instances, brief verbatim quotations from the pen or mouth of the subject have been used. This was found peculiarly necessary in an attempt to portray a conscientious and truthful picture of the man's character. The author has endeavored to present the man and to permit the reader to develop his own conclusions.
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CHAPTER I.

EARLY LIFE
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EARLY LIFE

James M. Ashley was born in a suburb of Pittsburgh, Pennsylvania, November 24, 1822. His colonial ancestor was Capt. John Ashley, whose name appears in the second Virginia charter of 1609. His great grandfather, William, was master's mate in the navy during the Revolutionary War.¹ For nearly two centuries the descendants of James M. Ashley resided in and near Norfolk, Virginia. One branch of the family drifted to the frontier of Pennsylvania, settling near Pittsburgh in the early years of the nineteenth century. In 1826 the Ashley family moved to Portsmouth, Ohio. The future Congressman's grandfather, Rev. Benjamin Ashley, was a Baptist minister and his father, John C. Ashley, was also an itinerant minister and a follower of Alexander Campbell. The boy had no formal schooling, his early education being acquired at home chiefly under the guidance of his mother. From his ninth to his fourteenth year he frequently accompanied his father, who preached in a circuit extending through the border counties of Kentucky and western Virginia. Here he glimpsed something of the system

of slavery, and early came to detest it.2

At the age of sixteen, rebelling against the austere regulations established by his father for the government of the household, he ran away from home. He first secured employment as a cabin boy and later as a clerk upon an Ohio River steamboat, and for several years followed a roving life on the river. A still more deep-rooted abhorrence of slavery was acquired through his experiences on the southern rivers. Time and again he saw Negroes, with safe conduct passes, sold back into slavery; he also witnessed the cruel treatment of slaves on board steamboats and the utter disregard of their persons and rights all through the country.

During one of his early river trips, when his boat was detained at Memphis, he made his way to the Hermitage in Tennessee, where his boyhood hero, Andrew Jackson, still lived. The night spent there made a profound impression upon him, for to him Jackson was the symbol of liberty. The trip cost him his last cent, as his boat left without him, taking all his belongings, and he found himself destitute in Tennessee. At nineteen he had worked his way to a lumber camp in Virginia where his antislavery views were strengthened. Presently he was told to leave the State because of his free expression against slavery.

In March, 1841, he visited Washington, D. C., to witness the inauguration of William Henry Harrison. While

there Col. Richard M. Johnson, the retiring vice president, introduced him to President Van Buren and other distinguished men.  

Shortly after his return to Ohio, Ashley entered the printing office of the *Scioto Valley Republican*, edited by James P. Camden, and subsequently was employed in various printing offices until he became editor of the Portsmouth Democrat. During his experience as an editor he studied law with Charles O. Trace, under whom he prosecuted his studies until he was admitted to the bar in 1851. Instead of practicing his profession, he engaged in boat-building, but was only moderately successful.

On April 7, 1851, he was a candidate for mayor of Portsmouth as a Democrat against Benjamin Ramsey, a Whig, but he was defeated.

While in Portsmouth he became connected with the "underground railroad." He assisted two different groups of slaves to escape across the Ohio River, one company of seven and another of five. At one time he met a Quaker on the street who said to him, "James, I think you need this," and handed him a twenty dollar gold piece. Ashley said that the Negroes along the Ohio River knew that he was connected with the "underground railroad" and they often came to him for help.

3 Evans, op. cit., 289.
In 1851, Ashley was married to Emma J. Smith, of Portsmouth. They had three sons: James M., Henry W., and Charles S., and one daughter, Mary, who later became the wife of Edward R. Hewitt of New York City.

In 1851, he moved to Toledo, Ohio, and opened a drug store which was destroyed by fire in 1857.

He was by this time keenly interested in politics. Hitherto a Democrat, his intense antagonism to slavery swept him into the Free-Soil party. In 1852, he at first supported Franklin Pierce, but later, seeing the pro-slavery drift of the Pierce campaign, he changed his mind and voted for Hale and Julian.

In 1854, Ashley participated in the anti-Nebraska Convention of Lucas County, held in the courthouse at Maumee. He was a delegate to and a member of the resolutions committee in the first State convention of the party held in Columbus, March 22. He was one of Ohio's delegates to the preliminary Republican national convention at Pittsburgh in 1856 and also to the Philadelphia nominating convention of the same year, and voted for the nomination of John C. Fremont.

Ashley was temporary chairman of the State Republican Convention held in Columbus, July 13, 1858. He delivered a

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5 Evans, op. cit., 292.
6 Ibid., 290.
8 Toledo Blade, Nov. 17, 1868.
short address of thanks and congratulations and in the course of his remarks he said:

"The occasion which brings us together in the capital city of Ohio today is one of great importance to us as a State and a people. It is the anniversary of a day that should ever be held in remembrance by the Nation, but more especially by the people of Ohio - a day that secured the priceless boon of freedom to all her children and to all who should inherit any portion of the almost uninhabited territory of what today is the great Northwestern Empire of free States. Let us then preserve the high stand we have taken as a party cultivating harmony, inviting cooperation, compromising with none, but ever inscribing on our banner that true Republican motto, "Liberty and Union, Everything for Principle. Nothing for Men."9

In 1858, he was elected to represent the Fifth Ohio Congressional district in the Thirty-Sixth Congress by defeating William Mungen, a Democrat. During the campaign he had announced himself not only opposed to the extension of slavery but in favor of immediate abolition. "To preserve inviolate," he said in 1859, "the Constitution and the Union, to roll back the dark tide of sectionalism...which is insidiously approaching us in the shape of a formidable political party organization, under the lead of a privileged class and bearing the sacred name of Democratic, is the purpose and mission of the Republican party."10

In October, 1858, he was invited to campaign with

Salmon P. Chase in Illinois, where the famous Lincoln-Douglas debates were in progress. He first met Abraham Lincoln at Alton, Illinois, at the close of the debates. 11

Ashley, on his way to Washington to take his seat in Congress, witnessed the hanging of John Brown at Harper's Ferry. He was one of the very few Northern men who were permitted to witness the execution. He furnished his family with a graphic account of his experiences at the event.

"Men may talk as they will, but I tell you there is a smoldering volcano burning beneath the crust, ready to burst forth at any moment.... I was undoubtedly the only one, who, among all that throng, watched sympathizingly every move and sought for every word, while beholding the horrid sight, that I might truthfully report to her (Mrs. Brown).... All conceded to him courage of the highest order, and here admit his honesty of purpose.... Simple in his manners, and with but few wants, he lived only to help the helpless. However, much I condemn and lament, as I most sincerely do, his attack on this place, I cannot but admire his heroism, his straight-forward independence, and his undoubted courage." 12

A correspondent for the Cincinnati Commercial wrote an interesting account of Ashley at Harper's Ferry.

"A Major from Albemarle County (Virginia) was not a little afflicted about Mr. Ashley of Ohio. He inquired: "Is he a Black Republican?" I said, "To be sure, he was (sic) one of the black-est of 'em." The Major begged to know "for God's sake, if it was (sic) true that a majority of the representatives from Ohio in Congress was (sic) Republicans?" When I assured him that was the fact, he declared lustily about the ingratitude of the people of Ohio, when old Virginia gave them this land, and earnestly inquired as to what account "on God's earth such men as Ashley were?" 13

11 Ibid., 747.
12 Toledo Blade, Dec. 9, 1859.
13 Cincinnati Commercial, Dec. 6, 1859, cited by Toledo Blade, Dec. 8, 1859.
CHAPTER II.

WORK IN CONGRESS
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WORK IN CONGRESS

From the time Ashley entered Congress he was recognized as a radical abolitionist and he bent all his energy toward the relief of the Negro. He opposed the demands of the slave interests and warned the Southern members that, should they make good their threats of secession, it would become the duty of the nation to crush the rebellion and maintain the Union. ¹

When the Crittenden resolutions were proposed in 1860, which suggested a constitutional amendment excluding slavery from all territory north of the parallel 36° 30', and establishing it with federal protection in all territory south of that line, he, like other Radicals, strongly opposed the compromise. ² It was his principle, and he said so frankly, to agree to nothing which would admit slavery into another territory.

Ashley believed that the Civil War was a war to relieve the Southern people of the military despotism and mob law with which they were cursed, and to preserve the Union and our national existence as a free government. He did not think that the people of the United States would consent to

¹ Congressional Globe, 36 Cong., 1 sess., app., 373.
fight against the slave master and at the same time fight to make slavery perpetual. According to Ashley, all the power of the government must be directed to make an end of human slavery and of the privileged class which it created. The Toledo Blade took issue with Ashley on this point. The paper said that the preservation of the Union and the vindication of the authority of its government, as they existed before the rebellion, should be the paramount objectives. According to the paper, such was the view of the President and his Cabinet, when they called for men and money to carry on the war, and it was the understanding of a vast majority of the soldiers who composed the patriotic army.

Ashley reiterated these same ideas in an address in Toledo, November 26, 1861, when he said, "Slavery and slavery alone, is the cause of this rebellion." In commenting on this speech the Blade said, "We could not see how a Constitution and a Union, under which slavery has always been allowed to exist, could be preserved and perpetuated, while at the same time another Constitution and another Union were established in which slavery should be prohibited." In January, 1861, he made a plea in the House for unconditional emancipation. "This grand consummation," he said, "has been practically achieved in eighteen states. The system of government adopted by them is the best system

3 Letter to the Toledo Blade, June 4, 1861.
4 Letter to the Toledo Blade, June 7, 1861.
5 Toledo Blade, June 8, 1861.
6 Ibid., Dec. 17, 1861.
7 Ibid.
known to man... because it rests upon labor and is created and controlled by the free and untrammeled will of the laborer." 8

He introduced a bill in April, 1862, to abolish slavery in the District of Columbia. The bill was referred to the committee on the District of Columbia, of which Ashley was a member. 9 The committee later drew up a compromise bill which was passed by the House and Senate and signed by President Lincoln on April 16, 1862. This bill abolished slavery in the District of Columbia, provided for the compensation of the owners of slaves, and appropriated a sum of money for the voluntary colonization of the Negroes in Haiti or Liberia. 10 In a speech in support of this bill Ashley said, "I am for liberation not only of all slaves in this district, but wherever national jurisdiction extends ....I am for it because I believe it an act of justice to white, as well as black." 11

At the time of Lincoln's Emancipation Proclamation on January 1, 1863, Ashley wrote to the Toledo Commercial: "Today the Rubicon was crossed and the nation, thanks to the persistent demands of her earnest sons, is at last irrevocably committed to the policy of universal emancipation ....No man can read this proclamation of the President without a thrill of patriotic pride." 12

8 Congressional Globe, 36 Cong., 2 sess., app., 61-62.
9 Speeches, 114.
10 Congressional Globe, 37 Cong., 2 sess., app., 347.
11 Ibid., 101.
12 Speeches, 241, 245.
On December 14, 1863, the Congressman from Toledo introduced a bill "to provide for the submission to the several States of a proposition to amend the Constitution prohibiting slavery, or involuntary servitude, in all the States and territories now or which may be hereafter acquired by the United States." "I advocate emancipation from the first," he said, "because I believe ideas more formidable than armies, justice more powerful than prejudice and truth a weapon mightier than the sword." James G. Blaine says that Ashley is entitled to the credit of having made the first proposition in Congress to amend the Constitution so as to prohibit slavery throughout the United States. The amendment was defeated in June, 1864, but it was made an issue of the presidential campaign of the same year. Ashley devoted unswerving fidelity to the accomplishment of his object. This was attained when the amendment was passed January 6, 1865, by the necessary two-thirds majority. It was ratified the same year and became known as the Thirteenth Amendment. Ashley considered the greatest achievement of his life the attainment of constitutional emancipation for all slaves.

Here we have seen a covenanter by inheritance, bred in an environment of strife -- his sympathies enlisted

13 Congressional Globe, 38 Cong., 1 sess., 19.
14 Speeches, 297.
for a people deprived of opportunity, oppressed and degraded through, as he believed, the artificial regulations of the government under which he lived. The hope of giving these people complete freedom was the aspiration of his life. He was saturated with plans to complete his purpose.

On December 23, 1861, Ashley introduced a resolution "instructing the Committee of Territories, of which he was chairman, to inquire into the legality and expediency of establishing territorial governments within the limits of the disloyal states, or districts in rebellion." This resolution was laid on the table because it was drawn "to emancipate at once and forever all slaves and to seize all public lands belonging to the rebel states and to lease such lands to the slaves so emancipated." Neither Congress nor the President was ready to undertake such a step. A few days later Ashley was asked by Senator Collamer, "Ashley, where do you find a precedent for your bill to establish such governments as you propose for the States in rebellion?" His answer was characteristic of the man, "Sir, we make precedents here."

The problem before Congress during the war, as well as immediately after was not only how to conquer the rebels but also how to determine the status of their states after they were conquered. Were they to be readmitted to all their former privileges as soon as their territory was secured by Union soldiers? If not, what was to be the nature of

16 Speeches, 361.
17 Ibid.
the organization governing them until they did recover their former status? When were they to be readmitted, and by whom? What, in short, was the relation of the Southern territory and its inhabitants to the Union now that its state constitutional governments had passed ordinances of secession and its citizens taken up arms against the Federal government? Were the seceded states still to be states only to be conquered and readmitted as such with few conditions imposed, and the inhabitants still citizens with their former relations to state and nation? These ideas were held by President Lincoln and later by President Johnson. Had the states forfeited by acts of secession and rebellion all claims to their rights as states, as the the Radicals believed? These were questions for which there were no precedents and which Congress and the President must solve.

By the end of 1862, parts of Tennessee, Arkansas, and Louisiana were recovered by the Federal armies and governed by the commanders in the field, who appointed the local officers and preserved order. President Lincoln realized that this was not a proper function for a field commander and created military governors with powers derived from him as commander-in-chief.¹⁸ These men appointed local officers, established courts and supervised police functions. But they were only a temporary makeshift. President Lincoln was opposed to military government, and showed that he

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was anxious to unite the states as soon as possible. He encouraged General Banks in Louisiana to order a state election for February 22, 1864, and to call a state convention to adapt the Louisiana state constitution to new conditions, especially that of abolishing slavery. Ashley and the rest of the Radicals declared that General Banks had no such authority, and they opposed all that was done. They felt that President Lincoln was too mild toward the South. The Radicals declared especially for Negro suffrage and were alarmed less Congress should be deprived of its constitutional privileges, as they thought, to determine the conditions which should be imposed upon the seceding states before they should be restored to the Union.

The House of Representatives had a Radical majority, and in December, 1863, at the opening of the Thirty-Eighth Congress, they began to take an interest in the subject of reconstruction. A committee was appointed to report a Congressional plan; Henry Winter Davis, of Maryland, was chairman and Ashley was a member. Ashley introduced a bill on reconstruction, but it was amended by the committee and passed the House, and was further amended in the Senate where it was passed July 2, 1864. It was hereafter known as the Wade-Davis bill.

The bill in its original form, as drawn by Ashley, provided for the establishment by the President of temporary civil governments in the insurrectionary states - consisting

19 Ibid., 597.
20 Congressional Globe, 38 Cong., 1 sess., 3482.
21 Bassett, op. cit., 598 and Speeches, 363, 424.
of executive, legislative, and judicial departments. The governor was to have the same powers and duties as those of the governor of the Territory of Washington. The legislature was to consist of a council of not less than seven or more than thirteen — the number for each district to be determined by the President. The judicial power was to be vested in a superior court, and such inferior courts as the council might establish. Each officer was to be appointed by the President with the consent of the Senate, but Congress was to have power to remove at any time any such officer. The council was forbidden to pass any act recognizing or protecting slavery; and the governor and legislative council were authorized to take possession of all abandoned or forfeited estates within the limits of the seceded states and lease them in behalf of the United States for a term not exceeding five years. All public lands were to be seized and held for the use of Union soldiers. Schools were to be established and compulsory attendance required. The number of hours of labor for field hands was prescribed — not to exceed twelve hours a day. Such a government was to be maintained until the loyal people of the states should form new governments, republican in form, and should obtain admission to the Union as states.

The draft was changed to coincide with Lincoln's plan of allowing ten per cent of the voting population of 1860, when they had taken the oath of loyalty, to elect members

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22 Speeches, 364-368.
to a constitutional convention. This convention was to draw up a constitution in accordance with certain conditions imposed by the national government -- such as the acceptance of the Thirteenth Amendment -- and the constitution was to be ratified by the electors of the states. When these requirements were met, the states might apply for readmission. 23

As the law was finally passed by the two Houses it provided for provisional governors, until civil government could be reestablished by one-half of the male inhabitants qualifying for electors. The work of restoration should be done by a state convention, for which no man should vote and in which no man should have a seat who had held state or central office under the Confederacy, or voluntarily fought against the Union. The state convention must amend the constitution so as to provide: (1) that Confederate officials, except in offices merely administrative and in military rank below Colonel, should not vote for, or be, governors or members of legislatures; (2) that slavery be forever prohibited; and (3) that all debts incurred in behalf of the Confederacy should be repudiated. When this constitution had been ratified by the people, the state was to be allowed representation in Congress. 24

This bill, though less drastic than the plan later carried out by Congress, was too severe for President

23 James D. Richardson, A Compilation of the Messages and Papers of the Presidents, 1789-1897, VI, (Government Printing Office, Washington, D. C., 1897), 213.
24 Bassett, op. cit., 598.
Lincoln, and it received a "pocket veto". It was to secure the passage of this reconstruction bill that Ashley made his first speech on the floor of Congress on this subject, March 30, 1864. He discussed at length the validity of secession and its effect; he urged that the government must form some definite plan upon which it could proceed in regard to the rebellious states. "The hour has come," he said, "when Congress must deal with the great crime of the nineteenth century; the leading conspirators must be punished by punishment commensurate with their terrible deeds." He went on to say that the acts of secession were unconstitutional and no state could either by general election or by convention of the people constitutionally pass an ordinance of secession or ordain a new state government or a constitution hostile to the United States. If such acts were passed and hostile state government organized, they were illegal, and those passing them "committed the crime of treason against the government." 25

Ashley believed that the problem of reconstruction was a matter for Congress to decide. He did not care whether its power was derived from the war or peace powers of Congress. He believed either to be constitutional and sufficient. He said,

"Certainly, Congress may as representative of the sovereign power of the nation pass such laws as in its opinion may be necessary to secure the rights and liberties of the loyal people, in those states whose governments have been destroyed by

traitors. To this end Congress may by authority of the national Constitution prescribe such conditions for the restoration of those states whose governments have been usurped or overthrown as will best secure the peace and stability of the nation and guarantee to such states republican form of government.  

Ashley felt that the government should have some definite policy, and was very much disappointed when Lincoln's "pocket veto" prevented the Wade-Davis bill from becoming law in 1864.

Ashley tried to introduce the subject again in the Second Session of the Thirty-Eighth Congress, but the bill failed to pass Congress. The Radicals hesitated to commit themselves to any definite policy. Ashley bitterly regretted its defeat, as he felt Congress should have a definite plan as a basis for restoration. "We were left," he said, in 1866, "at sea in this great question of reconstruction and today we are reaping the fruits of our stupidity and folly."  

Ashley, with Horace Greeley and Schuyler Colfax went overland to the Pacific Coast in the summer of 1865. He was invited to speak in San Francisco and Sacramento. In San Francisco, on September 17, 1865, he appealed to the citizens to be consistent in their devotion to the Union cause and begged them to consider carefully to whom they entrusted the restoration of the states. "Shall it be loyal or disloyal men who rule," he asked, and continued by giving his theory of the invalidity and effect of secession.  

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26 Speeches, 267.
27 Ibid., 395.
28 Ibid., 371.
introduced for the first time his idea of impartial suffrage as the only safe basis for reconstruction. He said that he feared disaster and defeat for the Union cause, not only in the rebel states but in some of the others also, if the question of suffrage was to remain an open one, unless all loyal men, without distinction of race or color, were permitted to vote for delegates to the proposed constitutional conventions. He saw no reason why the loyal Negroes and loyal whites in reorganizing their state governments should not limit the franchise, if they wished, to Negroes who could read and write and all who had seen United States military service. He was strongly opposed to having intelligent loyal Negroes excluded, while loyal whites, those "professedly loyal and the pardoned and unrepented rebels", were allowed to vote for the convention delegates. He said, "All I demand in reorganization of state governments in the rebel states is justice. Justice alike to loyal white and loyal black -- justice to the late rebels also -- justice tempered with mercy if you will -- but nevertheless justice." 29

In Sacramento a few days later Ashley reiterated what he had said in San Francisco and also stated his apprehension concerning the assumption of the rebel war debt. He said that all debts contracted prior to the Act of Secession should be valid, but all those contracted thereafter in aid of the rebellion should never be paid. He considered this next in importance to impartial suffrage in the new

29 Ibid., 378.
constitutions. If this restriction were imposed it would prevent the possibility of political combinations being made for the purpose of forcing the repudiation of the Union war debt or the assumption of the rebel debt. Unless this was required in the new constitutions as a condition precedent to the admission of Senators and Representatives from the reorganized states, he feared the Southern politicians would make a combination with their late Northern allies, the "Copperheads", or insist upon the incorporation of the rebel war debt with the national one. He felt that mere discussion of the question would impair the national credit to the amount of millions. 30

Upon his return from California in December, he found the Radicals alarmed at the popularity of Johnson's policies and the prospect of an influential moderate party under his leadership. On December fourth, by a two-thirds vote of the House, the Radicals excluded the Representatives from the states of Louisiana, Tennessee, and Arkansas, which had been newly reconstructed under the presidential plan. 31 By this act they openly gave notice of their opposition to presidential reconstruction. At the opening of the Thirty-Ninth Congress, Thaddeus Stevens offered his resolution,

"That a joint committee of fifteen members shall be appointed, nine of whom shall be members of the House and six members of the Senate, who shall inquire into the conditions of the States which formed the so-called Confederate States of America, and report whether they or any of them

30 Ibid., 389-390.
31 Bassett, op. cit., 604.
are entitled to be represented in either House of Congress, with leave to report at any time by bill or otherwise....and all papers relating to the representation of the said States shall be referred to the said Committee without debate."32

Congress now felt the need of some basis of reconstruction, but as yet had not been able to agree on one. The resolution was passed and Ashley voted in the affirmative but moved an amendment be adopted in which "all resolutions touching the question should also be referred to the committee," but the amendment failed to pass.33

Many resolutions and suggestions were introduced and referred to the Joint Committee on Reconstruction of which Ashley proposed five. The committee reported May 3, 1866, to the House, that the so-called Confederate States were not as yet entitled to representation and that "before they were readmitted, adequate security for future peace and safety should be required." Thereupon a joint resolution for amending the Constitution was offered and also two bills.34 These were for changing the Constitution, determining the civil rights and privileges of all citizens, protecting the loyal people against future claims for the war expenses incurred by the seceded states and for manumitted slaves.35 Ashley voted in favor of the report, because he said he believed that it was the best they could get and because it reflected the aggregate sentiment of the

32 Congressional Globe, 39 Cong., 1 sess., 7.
33 Ibid.
34 Ibid., 2372.
35 Ibid.
country. However, he was opposed to it because it ignored the great body of loyal men of the South — "Who during the rebellion were our friends and fought with the Union, while it practically left the government of the late rebel states in the hands of those who attempted to destroy the nation." He was bitterly disappointed because the report did not include, definitely, impartial suffrage, which he believed should be the basis of any reconstruction policy. The resolution was accepted by the House, May tenth, and by the Senate on June 13, 1866.

In the meantime Thaddeus Stevens brought forward another resolution also reported from the Committee of Fifteen, advising that "no Senator or Representative shall be admitted into either branch of Congress from any of said states until Congress shall have declared such states entitled to representation." It was passed by a large majority as was also the Civil Rights Bill — "An act to protect all persons in the United States in their civil rights and furnish means of vindication." This bill was vetoed by President Johnson, and was passed by Congress over his veto March 27, 1866. On both occasions Ashley voted in the affirmative. He was so much dissatisfied with the report of the Committee of Fifteen that on May seventh he again attempted to get Congress to accept impartial suffrage as one of the

36 Ibid., 2373.
37 Ibid.
38 Ibid., 943.
39 Ibid., 2429.
conditions for readmitting the Southern States. His resolution instructed the Judiciary Committee "to inquire into the expediency of reporting a bill that hereafter the elective franchise shall not be denied or abridged in any territories of the United States on account of race or color." Thaddeus Stevens during the First Session of the Thirty-Ninth Congress introduced a bill "to restore the states lately in insurrection to their full political rights." This was a bill based on the joint resolutions of the Committee of Fifteen, which both the House and Senate had approved. It was drawn to establish governments in the South on the Radical theory of a "conquered province" and to do away with the existing Johnson organizations, which the Radicals felt were controlled by rebels. On May 29, 1866, Ashley rose to urge the passage of the bill and to offer an amendment to the measure. He did not approve of the bill in its entirety but he felt the necessity of mutual concessions in order that the states might be restored to all their rights and privileges as soon as possible and he begged Congress to approach the subject "with charity for all and malice toward none." He believed Congress had the power to exact conditions of the Southern States before readmitting them. He also believed that it was expedient to require those conditions proposed by the Committee of Fifteen, though he felt that their bill fell far short of what the loyal men of the South were justified in expecting.

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40 Ibid., 2429.
41 Speeches, 392, 403.
The bill as introduced by Representative Stevens required the adoption by two-thirds of all the States of the Constitutional Amendment proposed (subsequently the Fourteenth) before any state, no matter when it might have ratified it, should be readmitted. This would give the Northern States, by declining to ratify, the power to exclude states which had in good faith ratified the amendment and had complied with the resolutions proposed. Ashley wanted to amend the bill so that whenever a state should have ratified the amendment and complied with the other conditions exacted, her Senators and Representatives might be admitted to Congress—perhaps before the amendment was ratified by three-fourths of the states and so adopted as a part of the Federal Constitution. He wanted the Union to be reunited as soon as possible; but he demanded new elections of officials in rebel states because he said, "Every one of them under the Johnson governments, except perhaps in Tennessee, had elected traitors to Congress." He maintained that the loyal men who had had no voice in the reconstruction governments, who had been silent under the sway of "traitors placed over them by the acting President," should have a fair opportunity to select men who should represent them.

The Stevens bill was too radical for the moderates and was not voted on at this time, but the constitutional amendment (later known as the Fourteenth) which had been proposed

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42 Congressional Globe, 39 Cong., 1 sess., 2880.  
43 Speeches, 398.  
44 Ibid., 399.
by the Joint Committee, passed the House by a large majority. In its first form it "proposed to exclude Negroes from the basis of representation in those states in which they were precluded from voting." The Senate under Charles Sumner's leadership rejected it, because it did not expressly authorize Negro suffrage.\(^45\) In its second form two months later, it retained the old suffrage provisions and three new features were added: (1) "All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the States where-in they reside." (2) "No State should abridge the rights of such citizens." (3) "No State could deprive any person of life, liberty, or property without due process of law," or deny equal protection of the laws. It excluded from office, until pardoned by Congress, persons who, having held high federal or state office, later supported the Confederacy. It also guaranteed payment of the national debt, while it denied to the states the right to pay any of the Confederate debt or pay for the loss of slaves through emancipation.\(^46\)

The Radicals in the Senate could not refuse such a sweeping program, so the amendment passed both Houses and was sent to the States for ratification in the summer of 1866. Though Congress had taken no definite action on the subject, it was implied that if the Southern States accepted the amendment they would be readmitted to the Union. Tennes-

\(^45\) Bassett, *op. cit.*, 607.

\(^46\) *Ibid.*, 608.
see adopted it, and was readmitted in the same year.

The fall elections of 1866, however, increased the Radical majority in both House and Senate, so that in January, 1867, Thaddeus Stevens called up his previous Reconstruction bill again with some modifications. He hoped that Congress on account of the attitude of the Southern States toward the Fourteenth Amendment would not accept his proposal to rid the South of Johnson's governors, giving it instead, military rule under the direction of Congress. His bill was referred to the Joint Committee on Reconstruction. Ashley in the meantime offered a substitute for the bill which provided for a temporary condition, and that the provisional governments elected by the constitutional conventions were to administer the business of the states until a permanent organization was recognized by Congress. This substitute was, like the others, referred to the Joint Committee on Reconstruction. 47

A month later, February, 1867, the Stevens bill was reported from the Reconstruction committee with some modifications. By it the seceded states, except Tennessee which had been admitted in 1866, were divided into five districts. Over each of these was to be a military governor with authority to preserve order, see that the local civil government and the operation of the Freedmen's Bureau were carried on and issue calls for Constitutional conventions, which

were to be elected by all citizens except those disfranchised for rebellion or for felony at common law. When the revised constitution was approved by those who voted for the members of the convention and was accepted by Congress, and when the legislature under it had adopted the Fourteenth Amendment and the amendment had become a part of the Federal Constitution, such a state should be readmitted into the Union and military government should cease.  

Ashley now withdrew his substitute measure and strongly urged the passage of the Stevens bill. In his opinion the Republican party had practically committed itself to a policy of restoration when they went so far as to admit Tennessee. He said, "The body of men recently in rebellion, under the lead of the executive had rejected the mild terms." According to Ashley it now rested with Congress to say upon what terms the Southern States should be admitted, and the Republican party as yet had come to no definite agreement. He urged the passage of this act immediately, saying that if he were a Southern loyalist, he would rather have no government at all than the informal despotism which was crushing the loyal men of the South - meaning the provisional governments established by President Johnson, and, therefore, according to Ashley, controlled by rebels. Again he urged that the way to protect the rights of these loyal men was to clothe the population with the right of franchise,

48 Bassett, op. cit., 609-610.
49 Speeches, 421.
even though the community consisted entirely of Negroes. He thought the Johnson governments were illegal and he wanted them declared illegal before Congress adjourned. He said, "I want peace, I want unity, I want the governments restored, but I do not want the men who conquered the rebellion proscribed and the governments of the rebel states carried on by the men who have been waging bitter war against us for the past four years." The bill was passed by Congress and was vetoed by President Johnson, but Congress by a two-thirds vote overruled the veto, March 2, 1867. The Radicals at last had a definite plan for reconstruction. 50

In the meantime Ashley had voted with the rest of the Radicals in favor of an act to continue in force and amend the Freedmen's Bureau bill, which the President vetoed and Congress passed by a two-thirds majority in July, 1866.

Two bills supplementary to the act of March second were passed: one on March twenty-third and another July 19, 1867, to amplify the original act and make its provisions more definite. The act of March twenty-third provided for a registration of voters and for holding the elections of delegates to the conventions. It also provided that a constitution to be accepted must have the approval of a majority of the registered voters. The act of July nineteenth provided that the General of a military district should determine who had held positions in federal or state governments, prior to the war, and then given aid and comfort

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50 Congressional Globe, 39 Cong., 2 sess., 1213, 1733.
to the rebellion, for by the act they were denied the ballot and made ineligible to office. 51 This left the question of suffrage almost entirely to the judgment of the five military commanders. Both of these acts were supported by Ashley. 52 He worked for the adoption of a proposition to secure definitely the ballot to all citizens qualified to discharge the duties of an elector. 53

Ashley's final appeal on the subject of reconstruction was that a more fundamental and vigorous policy must be adopted -- an amendment which would confer and guarantee the ballot to freedmen. Anything short of this was "delusion and a snare." "If," he said, "after all the loyal white and black men of the South have done for this nation during the late rebellion, the Republican party should now abandon them, I must abandon it. I believe we ought not to triumph, if we prove false to our principles." Many years later, in 1892, he said, "experience has taught us that the reconstruction measures finally enacted by Congress were not so safe nor so desirable as my original bill -- which provided for putting the rebel states in a territorial condition, until Congress should provide by law for their reorganization." 54

Failing to secure the adoption of his measure he voted with the Radicals in the next year for the admission of Alabama and six other states which applied. 55 The readmitting

51 Bassett, op. cit., 610.
52 Speeches, 428.
53 Ibid., 433.
54 Ibid., 681.
55 Congressional Globe, 40 Cong., 1 sess., 2399, 2937, 3331, 3440.
act of Congress had declared that the total vote in favor of ratification of the state constitution must exceed half of the registered vote in the State. In Alabama the new constitution was defeated. Though the vote was 70,812 for, to 1,005 against, it still did not constitute a majority of the registered electorate. The Radicals thereupon amended the bill in such a way that only a majority of those voting was necessary to ratify, and Alabama was admitted. North and South Carolina, Georgia, Florida, Arkansas, and Louisiana ratified their constitutions and were received into the Union by the middle of 1868. Three states remained unreconstructed, Texas, Mississippi, and Virginia. The constitutions framed in the two last disfranchised Confederates, and for this reason Virginia delayed ratification, while Mississippi rejected it outright. The situation appealed to the sympathies of Grant, who became president March 4, 1869, and in April he suggested that the two states vote on their constitutions with separate votes on disfranchisement. Congress agreed, and the constitutions without disfranchisement were promptly ratified. In 1870 the three states were received into full fellowship and the Union was again complete. The Fifteenth Amendment was formally adopted in that year. At that time Ashley was no longer

57 Ibid.
58 Ibid., 119.
a member of the House.

In July, 1867, Ashley introduced a bill which provided that no soldier or sailor should be considered a deserter who left his command after April 19, 1865, without authority. The act was passed by Congress on July 17, 1867. It was found that Ohio had a total of 27,178 persons listed as deserters but a fourth of these had deserted after Appomattox because of fears that they would be used on the frontier or sent to Mexican border to finish their enlistment periods.

Ashley proposed an amendment to the Constitution on May 30, 1868. It provided that the President of the United States should be elected for a single term of four years and the office of Vice President should be abolished. It also proposed that the President be elected by a direct vote of the people. He also introduced another amendment on February 13, 1869, which would reduce the vote to override a presidential veto from two-thirds to a simple majority.

During his time in Congress Ashley took an active part in Radical reconstruction and had the privilege of voting for the Thirteenth, Fourteenth, and Fifteenth Amendments.

59 U.S. Stat. at Large, XV, 14.
60 Eugene H. Roseboom, The Civil War Era, 1850-1873 (volume IV of The History of the State of Ohio ed. by Carl Wittke, Ohio State Archaeological and Historical Society, Columbus, Ohio, 1944), 458.
61 Congressional Globe, 40 Cong., 2 sess., 2713.
62 Congressional Globe, 40 Cong., 3 sess., app., 207.
CHAPTER III.

ASHLEY AND PRESIDENT JOHNSON
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In May, succeeding President Johnson's inauguration, Ashley had a conference with him on the subject of reconstruction. In the interview Ashley formed the opinion that the President earnestly desired to carry out the wishes of Union men of the country. They differed only on one question and that was whether the colored soldiers and colored loyal citizens should be permitted to vote when the rebel states were reconstructed. President Johnson held to the idea that neither he nor Congress had authority to prescribe the qualification of electors in the Southern States. Ashley believed under the President's military powers the Chief Executive had the power to say who should or should not vote at the preliminary elections for reconstruction.¹

Following this interview Ashley went West. In an address in San Francisco in September he said,

"I know him (President Johnson) and his cabinet well, it is made up of able, tried and true men. They are entitled to the nation's gratitude. If the loyal men of a nation cannot trust a President with such a cabinet cooperating with him, I do not know whom they can trust. At all events, until President Johnson proves false to the party which elected him I shall support his administration."²

¹ Toledo Blade, June 9, 1865.
² Speeches, 381.
When Ashley returned to Washington in December, 1865, he found that the Radicals were becoming alarmed at the prospect of a moderate Republican party under President Johnson's leadership. He also found that about sixty-five percent of the total vote of the non-seceding states favored the policy of the "indestructibility of the states."\(^3\) Johnson's message of 1865 was exceedingly popular with the people. Thaddeus Stevens, the leader of the Radicals, saw at the opening of the Thirty-Ninth Congress in December that the Radicals must immediately do something to keep control. Consequently, the Representatives from the newly reconstructed states were excluded by the House and a Joint Committee of Fifteen was appointed to assure congressional rather than presidential reconstruction.

The first break between Congress and President Johnson came when he vetoed the Freedmen's Bureau bill in January, 1866. The veto was sustained by the Senate. President Johnson was bitterly attacked both in Congress and out for vetoing the bill. He was pronounced a Democrat, and a Southern sympathizer, and it was pointed out that his friends in Congress were only Democrats and half-hearted Republicans. He was unmercifully condemned for a speech on February twenty-second, in which, carried away by the shouts of noisy admirers, he forgot the dignity of his office, and charged Stevens, Sumner, and Wendell Phillips with trying

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\(^3\) Bassett, *op. cit.*, 604.
to destroy the principles of the government. President Johnson continued his policy by vetoing the Civil Rights Bill.

From that time on the gulf between the President and Congress widened. The breach was intensified by vituperative speeches by Thaddeus Stevens, the leader of the House of Representatives. When Congress adjourned in July, 1866, the executive and legislative departments of the nation were at sword's points and both appealed to the country for endorsement. An exciting campaign followed. President Johnson lost his chance of securing a third of the House of Representatives by his unwise stumping tour through the country. The victory of the radical Republicans was overwhelming, a majority being secured of considerably more than two-thirds of the next Congress.

Ashley's attitude toward President Johnson changed to one of hatred. In May, 1866, he voted against a resolution approving the President's position as "independent, patriotic, and constitutional." On January eighth he had voted in favor of such a resolution of confidence. During the election of 1866 he severely criticized Johnson's actions. He saw the President of the United States "the apostle at the other end of the avenue making alliances with rebels

4 Ibid., 605.
5 Ibid., 606.
7 Rhodes, op. cit., VI, 2.
8 Congressional Globe, 39 Cong., 1 sess., 2573-2575.
and becoming the organized leader of a counter-rebellion -- as hostile and as dangerous to the United States and far more so than an open armed rebellion."  

On December 17, 1866, Ashley offered the following resolution in the House of Representatives:

"Resolved, that a select committee to consist of seven members of this House be appointed by the Speaker, whose duty it shall be to inquire whether any acts have been done by any officer of the Government of the United States which, in contemplation of the Constitution are high crimes and misdemeanors, and whether said acts were designed or calculated to overthrow, subvert, or corrupt the Government of the United States, or any Department thereof, and that said committee have power to send for persons and papers and to administer the customary oath to witnesses, and that they have leave to report by bill or otherwise."  

Although the resolution was not agreed to, its purpose was not lost sight of.  

President Johnson in the course of an interview with a correspondent of the Cincinnati Commercial gave his reason for Ashley's antipathy for the administration.

"Soon after my accession... Mr. Ashley called on me and said he had made a bargain with Mr. Anson Herrick of New York that if he would vote for the Constitutional Amendment abolishing slavery, he (Ashley) would get the appointment of Internal Revenue Collector for his (Herrick's) brother. Ashley said Herrick had performed his part of the bargain, and now he must have the Collectorship for his brother, according to agreement. He seemed to be very domineering, just as if he had a right to say, what he wanted, and have it done forthwith. 'Well', said I, 'I don't know about that. I am glad the amendment was passed by Congress, because there seemed to be some doubts as to the validity of the Emancipation Proclamation, and this will settle the question in the right way.... I endorse,
and shall carry out the measure and policy of Mr. Lincoln's administration, but I can't be a party to any such bargain with Mr. Herrick or anyone else.... Ashley got very much vexed at this, and went off in a great rage.... Ashley has been my enemy ever since."11

On January 7, 1867, in the House of Representatives, Benjamin Logan of Missouri offered a resolution which was referred to the Joint Committee on Reconstruction. The resolution provided for "the impeachment of the officer now exercising the functions pertaining to the office of President of the United States;" and his removal from that office upon conviction "of the high crimes and misdemeanors of which he is manifestly and notoriously guilty." A similar resolution by John K. Kelso of Missouri was referred to the Judiciary Committee.12

These two resolutions gave as a reason for impeachment "the purpose of securing the fruits of the victories gained on the part of the Republic during the late war, waged by rebels and traitors against the life of the nation." Another reason for impeachment was that it was necessary to give "Effect to the will of the people as expressed at the polls during the recent elections by a majority numbering in the aggregate more than 400,000 votes." Both resolutions seemed very indefinite.13

It was after the reading of the President's message vetoing the bill providing for Negro suffrage in the Dis-

12 Congressional Globe, 39 Cong., 2 sess., 320.
13 Ibid., 319-320.
strict of Columbia that Ashley rose to perform a "painful but nevertheless imperative duty." As a question of privilege, he submitted the following:

"I do impeach Andrew Johnson, Vice President and acting President of the United States, of high crimes and misdemeanors. I charge him with a usurpation of power and violation of law: In that he has corruptly used the pardoning power; in that he has corruptly used the veto power; in that he has corruptly disposed of public property of the United States; in that he has corruptly interfered in elections, and committed acts which, in contemplation of the Constitution, are high crimes and misdemeanors." 14

Thereupon Ashley offered a resolution directing the House Judiciary Committee to examine Johnson's official conduct and report if he "has been guilty of acts which are designed or calculated to overthrow, subvert or corrupt the Government of the United States or any department or official thereof." The resolution was adopted by a strict party vote. 15

The more influential Republican leaders were still unwilling to assume responsibility for a movement which would subject the nation at large, no less than its President, to unheard of disgrace. It was "not worth while," said Senator Grimes, "to establish an example which might result in making ours a sort of South American republic where the ruler is deposed the moment popular sentiment sets against him." 16

14 Ibid., 320-321.
15 Ibid.
16 Letter to his wife, dated March 12, 1867 in William Salter, Life of James W. Grimes, 323, cited by Oberholtz, op. cit., 441.
A caucus of Republican Congressmen which had met just prior to the presentation of the Logan, Kelso, and Ashley resolutions had been sparsely attended. Only a few were ready to advocate so extraordinary a course. Leading Radical newspapers, such as the New York Tribune, wildly anti-Johnson, counselled moderation on this point. Wall Street and men everywhere identified with the financial interests of the country feared the outcome of the impeachment proceeding in the current state of the stock and gold markets. The New York Times commented, "The impeachment question let us hope, is at rest for this session."

Finally at three o'clock on the last day of the session, on a Sunday morning, the Judiciary Committee was ready with its report. No committee during the entire history of the government said the eight men representing the Radical majority of the House, ever had been charged with so grave a duty. Witnesses had been called and heard, papers had been assembled, but there was not sufficient time to permit a complete examination of the multitude of facts. Unable to arrive at definite conclusions, they contented themselves with a statement that "sufficient testimony" had not been brought to the committee's notice, "to justify and demand a further prosecution of the investigation." The matter was commended to the attention of the next Congress. Andrew

18 Ibid., Jan. 8, 1867.
J. Rogers, of New Jersey, made a minority report in which he declared that there was "not one particle of evidence to sustain any of the charges" contained in Ashley's resolution. The case against the President was entirely void of proof. 21 No action was taken by the House except to lay both reports on the table. 22

James G. Blaine in discussing the question said, "On the part of the conservative Republicans there was a sincere hope that nothing more would be heard of the impeachment question. If a committee industriously at work for sixty days could find nothing on which to found charges against the President, they thought wisdom suggested the abandonment of the investigation." 23

Ashley, with his well known persistency, was determined to pursue the impeachment question still further. On March seventh, the third day after the Fortieth Congress was organized, he introduced a resolution directing the Judiciary Committee to continue the investigation as in the preceding Congress, with the additional power to sit during the recess. 24 Ashley expressed the hope that "this Congress will not hesitate to do its duty because the timid in our own ranks hesitate, but will proceed to the discharge of the high and important trust imposed upon it, uninfluenced by passion and unawed by fear." He was answered with indignation by James Brooks and Fernando Wood of New York,

21 Congressional Globe, 39 Cong., 2 sess., 1754-1755.
22 Blaine, op. cit., II, 342.
23 Ibid., 343.
24 Congressional Globe, 40 Cong., 1 sess., 18.
and the question became a party issue. Ashley's resolution was carried without a division after an ineffectual attempt to lay it on the table -- a motion which was sustained by only thirty-two votes. 25

In a speech concerning President Johnson on the same day, Ashley said that the President had come into office "through the door of assassination." He was guilty of "black and infamous crimes." He was a "loathing incubus" who had blotted the country's history "with its foulest blot. Such men were born into the world to curse the world but once in centuries....No man discharging the duties of the office of the President of the United States shall be permitted to turn the White House into a den of thieves and pardon-brokers." 26

The speaker felt obliged to call Ashley to order. Samuel J. Randall, a Democrat, asked amid amusement if there was an insane asylum near by. Fernando Wood and Benjamin M. Boyer, other Democrats, expressed the hope that the gentleman might be permitted to proceed. 27

As the Judiciary Committee continued its work it became obvious that impeachment could not succeed unless some real evidence could be secured. Ashley took upon himself the task of having evidence manufactured to prove that Andrew Johnson had inspired the plot to assassinate Lincoln.

One of the men whom Ashley believed he could use as a

25 Ibid., 19.
26 Ibid.
27 Ibid., 20.
tool to damage the President was John H. Surratt, son of the woman who had been hanged for participation in Lincoln's assassination. John H. Surratt, evading apprehension in April, 1865, had fled to Canada and thence to Europe. In the spring of 1866 he was discovered as a soldier in the Papal Zouaves at Rome. When the Papal authorities arrested Surratt, the prisoner broke away from his captors and made his way to Egypt. He was again taken into custody at Alexandria. On December 21, 1866, the United States naval vessel "Swatra" sailed for America with Surratt on board. 28

Before the "Swatra" arrived with her prisoner, the President had begun to suspect Radical efforts to connect him with Lincoln's assassination. He feared that Ashley or some of his fellow conspirators might suborn Surratt into any sort of lie to save his own neck. Late in January, 1867, President Johnson summoned Gideon Welles, his Secretary of the Navy, to the White House to tell him of his fears. "The man's life is at stake," the President said, "the more reckless Radicals, if they could have access to him, would be ready to tamper with and suborn him." Johnson wished orders given that unauthorized persons be kept from seeing the prisoner. 29 The President's apprehensions were well-founded. No sooner had Surratt been lodged in the Old Capital Prison at Washington, D.C. than Ashley and his

On February twenty-fifth one of Ashley's aides, Rev. W. B. Matchett, approached Dr. William Duhamel, the physician at the Old Capital Prison, and asked him if he often saw John H. Surratt. Duhamel answered that he did in a professional way. Matchett then asked the Doctor to tell Surratt that "there is a means by which he can save his neck, have the shackles struck from his arms, and his mother's name rescued from odium." Surratt had only "to give the name of someone high in position who might have prompted assassination." Duhamel, who was the President's friend, wrote him of this overture.

A second tool in this subornation of perjury against the President was sought in the person of Sanford Conover, alias Dunham, a perjuring scoundrel employed to implicate Jefferson Davis and the Confederates in Canada in the assassination plots. His testimony proved to be a tissue of lies so infamous that Conover was indicted for perjury, tried and convicted, and sentenced to ten years' imprison-

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30 Milton, op. cit., 413: Ashley became known as the self-appointed "scavenger of the smelling committee."

31 Apparently, Matchett did not know that in addition to being physician for the Old Capitol Prison, Dr. Duhamel was President Johnson's personal physician. On the next day the Doctor wrote the President confidentially, laying before him Matchett's proposal. Matchett had further asked Duhamel to warn Surratt that "he need not look to Andrew Johnson, as he dared not interfere or pardon him." Johnson MSS., Vol. 110, No. 14, 634, cited by Milton, op. cit., 413.

32 Milton, op. cit., 414.
At the time when Ashley began his search for fresh "evidence", Conover was incarcerated in the Old Capitol Prison, awaiting court order to go to the penitentiary to begin his sentence. 34

Ashley visited Dunham in his jail quarters. Dunham and his wife assured Ashley that they could lay their hands on certain letters written by Andrew Johnson to Jefferson Davis and to John Wilkes Booth implicating the President beyond a doubt in the assassination of his predecessor. 35 Notwithstanding the notoriety of the criminal with whom he was dealing, Ashley showed no hesitation in taking his word. He was soon working for a pardon for Dunham. In the meantime, and until Dunham could obtain his pardon, Ashley began to work with La Fayette C. Baker, the late chief of the Detective Bureau, whom President Johnson had dismissed from office of inefficiency. 36 Ashley took him to the Judiciary Committee where he told his story. In the fall of 1865, a man from Nashville by the name of Adamson, who was prowling around Washington in search of a job, showed him a letter written by Andrew Johnson, while Military Governor of Tennessee, to Jefferson Davis. A colored servant of a son of Parson Brownlow had taken the letter from Johnson's desk before it was sent. Baker had carried the letter to the White House and, showing the signature only to the President's

34 Milton, op. cit., 413.
36 Ibid., 155.
private secretary, ascertained its genuineness, and afterwards returned the letter to Adamson who, as Baker admitted, wanted to sell it to the best advantage. Baker had read the letter several times and he gave to the committee from memory his version of its contents. It was a reply to a letter from the Confederate President or some one high in authority, and after disclosing the position of the Federal forces in Tennessee, suggested a certain line of policy, on the adoption of which by the Confederacy, the writer "would turn the whole power he possessed in Tennessee over to the rebel cause -- he would go with them." Several persons had seen the letter and Baker believed he could produce it as well as other letters which Adamson said he also possessed. He was dismissed to hunt for the letters. 37

A short time later Baker appeared before the committee a second time. He had not been able to find Adamson, but he had found one Mrs. Harris, who knew about the letters and whom he thought the committee might induce to appear for a valuable consideration. He also testified that when Booth's diary was delivered to the Secretary of War, no leaves were missing, there were no stubs; the book was intact. 38 He was again sent on his way in search of Mrs. Harris who eventually proved to be a mythical personage.

On August fifth a startling revelation was made. John

38 Ibid., 449.
M. Binckley, acting Attorney-General in the absence of Stanbery, laid his report regarding the pardon of Charles A. Dunham before the President. This document consisted of two parcels left at the executive office and referred to the Attorney-General. The first parcel contained four papers:

1. A letter from A. G. Riddle -- one of the counsel for the United States in the preparation of the case against Surratt -- to the President. In the letter he told of the services Dunham had rendered before and during the trial of Surratt. He also stated, "the Government is under great obligation to him and should mark its appreciation in a way not to be mistaken."

2. On a leaf of the same sheet, a communication from Joseph Holt in which he likewise recommended his (Dunham's) pardon.

3. A note from Ashley to Holt and Riddle suggesting that a petition for the pardon of Dunham should be prepared and signed by them. Ashley stated, "I think he (Dunham) is clearly entitled to it, and I hope you will aid him all you can."

4. The last paper was a petition addressed to His Excellency, Andrew Johnson, President of the United States, dated July twenty-sixth and signed "Charles A. Dunham," praying for a pardon.

The second parcel was composed of:

1. A long letter from Dunham dated July twenty-ninth and addressed to the President. In the letter he exposed the atrocious plot of

39 See appendix B, 65.
40 In 1869 President Johnson pardoned Dunham on account of ill health. DeWitt, op. cit., 280.
"Ashley and Co." In consideration of the pardon they were to obtain for him, he was to procure testimony connecting Andrew Johnson with John Wilkes Booth. Ashley carefully explained to him the kind of evidence he wanted Dunham to connect against the President: (a) That Booth paid Johnson several visits at Kirwood House. (b) That Johnson corresponded with Booth. (c) That the placing of Atzerodt with weapons at the Kirkwood was a sham to make it appear that the Vice President was intended as a victim and thus divert suspicion of Johnson's connivance at Lincoln's murder. (d) That Booth stated just before the fourth of March to intimate friends in New York that he was acting with the knowledge of the Vice President; that it was arranged to kill Lincoln on the day of inauguration, which accounted for Johnson's strange conduct on that occasion.

Dunham admitted assuring Ashley that he would have no difficulty in finding witnesses "of good standing and moral character to prove these matters," and it was agreed that he "should do so as soon as released." As an earnest of what he could do in this line, Dunham told that, at the desire of Ashley and Butler, he forwarded memoranda of the subject-matter of the testimony they were in need of to a "trusty friend." The friend was instructed to procure two other friends to memorize the enclosed statements and to come to Washington and repeat them. Dunham stated that these two people actually came to Washington and "were inspected by Ashley and Butler, and were found to possess
the requisite qualifications as to intelligence and personal appearance." They were introduced to several of the Radical members of the House. Butler wanted to take the depositions of these men at the time, but Dunham would not consent before he was released.

Accompanying this letter was a specimen of the memoranda used to coach the false witnesses; four notes of Ashley; and one note signed by Rev. Machett. The last note of Ashley bears the date July 8, 1867, and in it he writes: "If you can put the originals (i.e., letters of A. J. to Davis and Booth) in my hands, I will see that no one shall take or destroy them without your express order in writing except you are released."

With the printing of the foregoing report, the plot to implicate the President in Lincoln's assassination came to an end, but not without a final exposure of Ashley. On November twenty-third, on the summons of the Democratic members of the Judiciary Committee, he was called to the witness stand. He was asked what he meant by telling members of Congress that he had evidence that the President was implicated in Lincoln's assassination and why he had not presented it to the committee. "Because it was not of that legal character which would have satisfied me in presenting it," he answered. "It was not that kind of evidence which would satisfy a great mass of men especially the men who do not concur with me in my theory about this matter.... I have always believed that President Harrison and President
Taylor and President Buchanan were poisoned for the express purpose of putting the vice presidents in the presidential office. Members of the committee were anxious to know how Ashley could make so grave a charge against the Chief Executive on "bare suspicion," a question he was unable to answer.

The Republican press denounced Ashley for his blunders. On December nineteenth he wrote a letter to the Toledo Blade denying he had publicly accused the President of murder. He defended his association with Dunham with the statement that he "would have called on a murderer on the eve of his execution to get evidence if offered." The Blade in commenting on Ashley's plot said, "Ashley's attempt to fasten the crime of assassination upon the President was foolish and absurd; it miscarried, as it ought, and we have no sympathy whatever for him in his discomfiture."

The Judiciary Committee completed its labors on November 25, 1867, and George S. Boutwell, of Massachusetts, submitted to the House the report from the committee, representing the views of the majority. All were Republicans and had reported in favor of impeachment. The following resolution closed the report:

"Resolved, that Andrew Johnson, President of the United States be impeached of high crimes and misdemeanors."

The resolution failed by a vote of 57 yeas to 108.

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41 Imp. Inv., 1194-1208.
42 Toledo Blade, Dec. 19, 1867.
43 Ibid., Dec. 10, 1867.
44 Congressional Globe, 40 Cong., 2 sess., 65.
nays. Forty-one Democrats and sixty-seven Republicans voted in the negative, including such prominent Representatives as Banks, Bingham, Blaine, and Garfield. 45

In the meantime, President Johnson had suspended Edwin M. Stanton, Secretary of War, from his cabinet and had appointed General Grant to fill the office. It was with an eye to this situation that Congress had passed the Tenure of Office Act on March 2, 1867. This act required that employees "confirmed by the Senate should hold office until their successors were duly appointed, but cabinet members should remain in office during the terms of the President who named them." 46 The Radicals had adopted this method of keeping Stanton in a department which had wide supervision over the reconstruction laws. The act stated that if Congress was in recess at the time the President removed such an officer he was required to report the case to the Senate within twenty days after it convened, and if it disapproved the Senate might order reinstatement. 47 Johnson reported the matter to the Senate in December as the Tenure of Office Act required, but the Senate disapproved. Grant retired and Stanton assumed his duties as Secretary of War.

Johnson and his advisers now decided to test the constitutionality of the law and asked Grant to reclaim his position, so the matter would be brought up in court, but Grant refused. On February 21, 1868, Johnson dismissed

45 Ibid., 68.
46 Bassett, op. cit., 611.
47 Ibid.
Stanton by an executive order and appointed Adjutant-General Thomas in his place; he immediately called upon Stanton to vacate. Thomas was subsequently arrested the next morning for violating the Tenure of Office Act, but when he prepared to test the matter in the courts, the Radicals immediately released him. 48

When Stanton was formally dismissed on February twenty-first, the Radicals saw their chance to base impeachment on this act of the President.

In the House of Representatives on Monday, February 10, 1868, Representative Brooks of New York, offered a resolution that the President be requested to transmit to the House any further correspondence with General Grant in addition to that already submitted on the subject of Grant's vacation of the War Office. This was agreed to and at the same time it was agreed that the Committee on Reconstruction should have charge of the evidence taken by the Committee of the Judiciary. 49

On February twenty-second Thaddeus Stevens, Chairman of the Committee on Reconstruction, presented the report of the committee signed by all the Republicans, which recommended the adoption of the resolution:

"Resolved, that Andrew Johnson, President of the United States be impeached of high crimes and misdemeanors." 50

Debate went on during that day and on the twenty-fourth

48 Ibid.
49 Congressional Globe, 40 Cong., 2 sess., 1087.
50 Ibid., 1329.
the measure was adopted by a strictly party vote; each Democrat voted nay and each Republican voted aye. One hundred twenty-six voted for impeachment and forty-seven against it.\textsuperscript{51}

Stevens then offered two resolutions which were adopted. The first provided that Thaddeus Stevens and John A. Bingham be constituted a committee of two to inform the Senate of the action of the House. The other provided a committee to declare articles of impeachment against the President of the United States.\textsuperscript{52}

At the time Ashley said that he considered the removal of Stanton one of the least of the President's offenses. He held it necessary "for the safety of the country" and to teach those who come after him a lesson "that Andrew Johnson should be impeached upon whatever ground might be accomplished. His crime is the highest known in our country -- a crime against the republic itself."\textsuperscript{53}

On March 5, 1868, the Senate sat as a court of impeachment with Chief Justice Chase presiding. The committee had framed eleven articles which the Radical majority of the House had accepted. The first eight of these contained in different forms the indictment that Johnson had committed high crimes and misdemeanors in dismissing Stanton, contrary to the Tenure of Office Act. The remaining three declared him guilty of "declaring certain laws unconstitu-
tional, maliciously criticizing Congress in the "swing-around-the-circle" speeches through the West in 1866, and in opposing congressional reconstruction generally."54 A committee of seven from the House conducted the prosecution and called upon many members of Congress to testify but Ashley gave no evidence personally at the trial.

On May sixteenth the Senate was ready to vote. The prosecution became alarmed and decided to take the first vote on the eleventh, or last specification. It contained most of the vigor of the others, and they thought it offered the best chance of success. When the vote was counted Johnson had nineteen votes and his opponents thirty-five, and he retained his office by one vote.55 The Radicals adjourned the Senate for ten days, while they investigated to see if improper influence had been used on the Senators who voted for acquittal.

On Tuesday, May 26, 1868, decisions were made on articles two and three. The results were the same as before, thirty-five for conviction, nineteen for acquittal. Then the Senate sitting as a court adjourned sine die. Impeachment had been finally defeated.56

It was a fortunate thing for the country that the attempt failed. The convulsions of the Civil War had unsettled most seriously our conceptions of the relations of the three coordinated departments of the government. Lincoln

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54 Congressional Globe, 40 Cong., 2 sess., supplement, 3-5.
55 Rhodes, op. cit., VI, 150.
56 Congressional Globe, 40 Cong., 2 sess., supplement, 415.
had not hesitated to assume powers totally outside the ordinary functions of the Executive. The country had sustained him in this; but, with the return of peace, and with Johnson in the presidential chair, Congress had determined to resume its power. Again the country responded; but the violence of the reaction caused the pendulum to swing too far in the opposite direction; and our institutions were placed in greater danger than they were in before. But, just as the Civil War had settled the question as to the indissolubility of the Union, so no less emphatically did the failure of the impeachment trial confirm the equality of the three departments of our government.

Ashley, like many others of the extreme Radicals, dropped from political life when the conviction of the President failed. He was defeated in the ensuing fall election and left Congress March 4, 1869.
CHAPTER IV.

ELECTIONS AND POLITICS
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ELECTIONS AND POLITICS

Ashley was elected to Congress in 1858 by a majority of over five hundred votes out of a total of over twenty thousand. Ashley's opponent during this election was William Mungen, a Democrat.¹

In 1860, Ashley's adversary was James B. Steedman, who later became a general in the Civil War. Ashley's majority in this election was over twelve hundred.²

Ashley was a candidate for United States Senator in 1861 to fill the unexpired term of Salmon P. Chase, who resigned to become Secretary of the Treasury. He received ten votes on the thirty-fourth ballot, but his name was withdrawn before the completion of the thirty-fifth ballot. John Sherman was finally elected on the seventy-ninth ballot.³

The Republican Toledo Blade opposed the election of Ashley in 1862. It said that he improperly employed his official power and influence with a view to his own personal gain, pecuniary and otherwise. The paper also stated, "While others were recruiting soldiers to fight the battles of the country, he was recruiting official dependents for the

¹ Smith, op. cit., 84.
² Ibid., 128.
³ Toledo Blade, March 18, 1861.
Congressional campaign on which we have just entered." 4

On September 11, 1862, the Blade published five letters that had been written by Ashley in February, 1861, to F. M. Case. 5 In the letters Ashley solicited a bribe for securing the appointment of Case as Surveyor-General of Colorado. The price for securing the position was to be the appointment of Ashley's brother as Case's chief clerk at a salary of two thousand dollars a year, and a share in all land speculations on town sites. In the letters Ashley said, "The Gold Mines and the Pacific Railroad will enable the Surveyor-General and his assistant to make a fortune of 50 to $100,000. in four years, in my opinion, if he is a good business man."

In a letter to the Blade, September 19, 1862, Ashley admitted that the letters had been written by him. He said that he had never received a cent for securing the position for Case or from land speculation in Colorado.

On September 26, 1862, Ashley sued the Toledo Blade for twenty-five thousand dollars for damages to his "good name and reputation caused by the charge of corruption made against him in the Colorado fraud." 6 The libel suit was later dropped "for want of prosecution." 7

When Congress convened in December, 1862, Ashley asked that a committee of five be appointed "to investigate the truth of the charges made in the Toledo Blade in connection

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4 Ibid., August 22, 1862.
5 These letters may be found in Appendix A, 61.
6 Toledo Blade, Sept. 28, 1862.
7 Ibid., March 22, 1865.
with the Colorado Surveyorship." A committee was appointed and conducted an investigation. It brought out a report exonerating Ashley; the evidence showed that "no illegal or corrupt act had been committed on the part of Mr. Ashley." In March, 1863, on the recommendation of Ashley, -- who was chairman of the House Committee on Territories -- Case was removed as Surveyor-General of Colorado. The Missouri Democrat in commenting on the removal of Case said, "Our citizens will generally regret this removal and wonder what business Representative Ashley has to interfere with the officials of this territory. This Ashley has for some unexplained reason taken a very lively interest in our affairs for the past six or eight months.... We have no objection to Mr. Pierce, Mr. Case's successor, but we are curious to know why Gen. Case was removed....Surveyor-General Case has been a good officer, and one of the most perfect and pleasant gentlemen, and best citizens that Colorado ever had."10

During the election of 1862 Ashley received the wholehearted support of Salmon P. Chase, Secretary of Treasury. Chase was not able to come to the State in person, but he wrote numerous letters in support of Ashley.11

Ashley won the election, despite the Case letters, in a three-cornered fight, one of his opponents being Morrison R. Waite, running as an independent Republican.12

8 Ibid., Dec. 6, 1862.
9 Ibid., March 13, 1863.
10 Missouri Democrat, March 10, 1863, cited by Toledo Blade, April 6, 1863.
11 Donnal v. Smith, Chase and Civil War Politics (Ohio State Archaeological and Historical Society, Columbus, Ohio, 1931), 57.
12 Toledo Blade, Oct. 20, 1862.
In the campaign of 1864 Ashley's rival was Americus V. Rice, a Democrat. Ashley failed to carry the home vote of the Tenth District but was elected by the soldier vote. 13

Ashley's opponent in 1866 was Harry S. Commager. During the campaign Ashley stressed the idea of "Copperheads" and used it to good advantage. His majority in the campaign was nearly two thousand votes. 14

In 1868, Ashley was defeated by Truman H. Hoag, a Democrat, whose majority was almost a thousand votes. 15 In a letter to the Toledo Blade, Ashley said, "I was defeated by falsehood, treachery, and fraud....So extensive were these frauds, that the election in this district was little better than a farce." 16 Investigation showed no evidence of fraud. All of the Republicans on the ticket were elected by large majorities. If there had been a great amount of fraud, Ashley would not have been the only Republican defeated.

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13 Ibid., Nov. 14, 1864.
14 Ibid., Oct. 11, 1866.
15 Joseph P. Smith, op. cit., 259.
16 Toledo Blade, Nov. 17, 1868.
CHAPTER V.

LATER LIFE
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LATER LIFE

In April, 1869, Ashley was appointed territorial governor of Montana by President Grant. The Senate confirmed the nomination by a majority of one vote after a long and sharp debate. His confirmation was opposed by all Democrats and a number of prominent Republicans. The Nation denounced the confirmation as a scandal -- all the more scandalous since Charles Sumner voted for confirmation. The more facetious New York World explained that Ashley was "neither the cousin of General Grant, nor the aunt of Mr. Case, for to him President Grant had truly been a little less kin and more than kind."

Ashley went to Montana with the hope that he would be able to render much service to the territory as well as to advance his own political future. The first thing he did when he arrived was to make a tour of the territory in an attempt to obtain first-hand information and to meet the leaders.

He soon ran into difficulty with partisan politics. He had strong convictions and he faced an entrenched Demo-

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1 Toledo Blade, April 12, 1869.
2 Nation, April 6, 1869.
ocratic party. The legislature, which contained three Repub-
licans in the House, and none in the Council, extended the
olive branch by proposing that it be given the right to
indicate the holders of half of the appointive offices.
Ashley refused to make any such concessions; then the fight
began. The legislature repealed a previous act allowing
the Secretary and Governor an extra thousand dollars compensa-
tion, an act which was crippling in view of the high prices
prevailing in the territory. The legislature also gave
official notice that it would not ratify any appointments
made by the Governor. Nevertheless, Governor Ashley continued
to send in one name after another in the hope that he would
find someone who would have support enough to break the
deadlock. By December 31, 1869, the Council had rejected
fifteen nominees for Auditor, sixteen for treasurer, and
eleven for Superintendent of Schools. The Council then
sent Ashley a long list of names anyone of which it would
be willing to confirm for each office. Ashley refused to
consider any person on the list and the deadlock continued.

Due to this situation and because of a disagreement with
President Grant, Ashley was suddenly informed that he was
to be removed as Governor. This came as a surprise to him,
and was a blow to his political advancement. The Nation
mournfully observed that this damaged him more than his

4 Merrill G. Burlingame, The Montana Frontier (State Pub-
lishing Co., Helena, Montana, 1942), 167.
5 Ibid., 168.
corrupt partnership with Case.

After returning from the West, Ashley assumed the management of the anti-Sherman forces in 1870 when Senator John Sherman was running for reelection. The former Congressman offered his support to Governor Hayes, but this was promptly refused by him. Senator Sherman was reelected on the first ballot by a majority of six votes, in spite of Ashley's opposition.

In the presidential campaign of 1872, Ashley took a leading part in the movement that nominated Horace Greeley on the Liberal Republican ticket. He held that Greeley represented the principles of mercy, forgiveness and reconciliation, on which alone, he claimed, reunion and peace could be secured.

In 1872, the former Congressman became interested in building a railroad extending from Toledo across the Michigan Peninsula which would furnish an outlet for over three hundred square miles of the state. He finally succeeded in persuading the officials of the Pennsylvania Railroad to build the railway which became known as the Toledo, Ann Arbor, and Northern Michigan Railroad. It included, besides a railroad, a system of car ferries across Lake Michigan to the Upper Peninsula. This made the Toledo, Ann

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6 Nation, Dec. 17, 1869.
7 John Sherman, Recollections of Forty Years in the House, Senate, and Cabinet, I, (The Werner Co., Chicago, Ill., 1895), 479-480.
8 John H. Doyle, A Story of Early Toledo (C. S. Van Tassel, Bowling Green, Ohio, 1919), 135.
9 Fess, op. cit., 182.
Arbor, and Northern Michigan Railroad one of the important lines between the Northwest and the Ohio River. In connection with this enterprise Ashley indulged his philanthropic impulses by schemes of industrial profit sharing. 10

Having recouped himself financially, in 1890 he re-entered politics as a Republican nominee for Congress in the Toledo district. He was defeated by William E. Haynes, a Democrat, by a large majority. 11 He was a candidate again in 1892, but was defeated this time by Byron F. Ritchie by the slim majority of fourteen votes. 12

In 1893 the Afro-American League of Tennessee compiled and published Ashley's speeches, orations, and papers in a book called the Orations and Speeches of James M. Ashley of Ohio. A souvenir copy was presented to him on September 22, 1893, at the Art Palace in Chicago.

He died in Alma, Michigan on September 16, 1896, and was buried in Toledo, Ohio.

10 Evans, op. cit., 292.
11 Joseph P. Smith, op. cit., 592.
12 Ibid., 631.
APPENDIX A

THE CASE LETTERS

No. 1.

Washington, D. C., Feb. 2, '61

My Dear Case:— I talked with your brother a few days ago about your applying for the Office of Surveyor-General for New Mexico. He and I both wrote you on that day. I now write you to say that after looking at all the chances I think Utah the best. The salary is $4,000.—New Mexico only $3,000. The Territory west of Kansas, to be called "Idaho", will be formed out of part of Utah, and if I can get your appointment for Utah, I would try and have the Surveyor-General for Utah by law also made the Surveyor for Idaho, as the Surveyor now is for Kansas and Nebraska.

I spoke to Charlie today again about the matter and he agreed with me. I want my brother to go with you as chief clerk -- salary $2,500.

The Gold Mines and the Pacific Railroad will enable the Surveyor-General and his Assistant to make a fortune of 50 to $100,000, in the four years, in my opinion, if he is a good business man.

The only question with me is to where you should hail from. If __________ or if Indiana does not get a Cabinet appointment, I think you had better hail from Ft. Wayne, and then Charlie could, I think, get all the Indiana delegation, and I could get a number from Ohio, and I hope in this way to get the place. I would rather have the office for the next four years than any office in the gift of the government. Let me hear from you soon.

Truly,

J. M. Ashley

P. S. Charlie is not now in his seat. I did not think of

1 Toledo Blade, Sept. 11, 1862.
2 The Toledo Blade omitted the names of innocent parties in these letters.
the locality you were to hail from, whether Ohio or Indiana, until he left. I have heard of no one for Utah and hope there will be none.

J.M.A.

No. 2.

Washington City, D.C., March 12, '61.

My Dear Case: I have made some progress to-day about the Surveyorship of Colorado. In order to secure the Indiana delegation and _____ to operate on Smith, the Sec. of the Interior, I have promised that all the sub-appointments shall be made by us jointly, I giving them the first choice. You must write me a letter immediately authorizing me to make that pledge for you. I want you to write immediately to all your friends, and let them write letters, endorsing you as a practical civil engineer and otherwise, and direct the Secretary of the Interior, but to me on the envelope. I have written to _____ and _____ twice on the subject to get you the endorsement of the Legislature. I have not got it yet. Please write them. Charley feels a delicacy in pressing your claims because he expects to be a candidate for clerk of the next House, and does not want to run across the track of any one. What you do, do quickly.

Now, Frank, this is the best office in my judgment in the gift of the President, and I would resign to-day if I was (sic) sure I could keep it for four years. If you get it, I want to unite with you as a full partner in all land speculations and town sites. I have worked earnestly and hard for you, and hope to succeed. You do not stand as much chance for the Marshalship as you do to be struck by lightning, and Kingsbury not much better - a little. This is on the square.

Truly yours, J. M. Ashley

No. 3.

Washington City, March 16, '61

My Dear Case: I am surprised that your brother has not kept you fully advised and aided you as he promised me he would. The office is $3,000, the second, where I want my brother, $2,000, with half a dozen subordinates, all to be appointed by you. I am amazed at your indifference in this matter. Offices do not drop on men like this.

The subject was up in Cabinet yesterday. I do not know whether you can get anything here in time to help or not. Send letters from leading men, _____, and help you at once.

Truly, J. M. Ashley
No. 4.

(Strictly Confidential)

Washington, D. C., March 18, 1861.

My Dear Case:— Everything hangs on a hair. You must use the telegraph to obtain letters and have them forward to me at once. Let the writers send them to me instead of you.

If I get this appointment, it will be the first of such importance where the candidate has done nothing. I have promised all the subordinate places under you to get help, and you must write me at once, authorizing me fully under your own hand, to make this good. I asked for three of the places myself, and give the rest to other members who are helping me.

This is considered the best appointment in all the Territories, and is the best of all the Territorial appointments. I want to have an interest with you, if I get the place, in the city and town lot speculations. The Pacific Railroads will go through this Territory, and it will be a fortune to us if I can get it. _________ has promised to help me.

Write immediately -- make the letter plain and equivocal as to the appointments I have promised, so I can show it, and on a separate piece of paper say what you think of my proposition for city and town lot speculations.

I will probably be Chairman of Committee on Territories, if we can carry out the programme to elect Grow Speaker and your brother, Charley Case, of Indiana, Clerk, and then I will know all the proposed expenditures in the Territories and post you in advance. Write one letter for me and the other to show.

Damn your business in the Williams County Court. Write and telegraph.

Truly,

J. M. Ashley

No. 5.

(Confidential)  Washington City,

March 19, 1861.

My Dear Case: Our matter is in better shape to-day. The President promised me that this appointment should not be made until next week, and said I should have a fair hereing [sic].
I shall fear a defeat, however, if I do not get your written authority to guarantee that all your subordinate appointments shall be secured to the persons who helped me through with this matter, and that you fully authorize me to pledge you to perform the promises I have made that the Surveyors and Sub-contracts to be employed by you are to be at the joint disposal of two other persons and myself. Please copy and send me at once the enclosed, for that purpose.

Now, one word as to ourselves. It is agreed that my brother Eli is to be Chief Clerk, and my brother William, who is now in Colorado, shall have such a position as he can fill -- he having always been a farmer. The other I shall select when I have more time. The surveying, contracts, and e., we will fix after the appointment by meeting at Toledo or __________, by agreement with __________ and others.

Now, if I get this, I want to be a full co-partner with you in the purchase of all the real estate that you make in that Territory. I have spent a good deal of time and some money to get this place, and if I do get it, I trust you will cheerfully go in with me. I have drawn up the closed agreement, which I wish you would sign and keep, and copy just like it, sign it and forward to me at the same time you sign and return the other agreement enclosed.

Let me hear from you by return mail and hurry along any letters and telegraphs from men who can have influence here.

In haste, truly yours,

J. M. Ashley
APPENDIX B

THE ASHLEY-DUNHAM LETTERS
AND ALLIED PAPERS

Attorney-General's Office,
Aug. 5, 1867

Mr. President: The application of Charles A. Dunham having been referred to this office, in the customary order of Executive business, for the examination and advisory action of the Attorney-General, it has become my duty, during the indisposition and absence of the incumbent of the Law Department, to consider the case. In respectfully declining, as I do, to offer at present any recommendations in the premises, I beg to submit to your consideration the reasons which constrained me to reserve advice and suspend judgment until I have been further instructed by your Excellency.

Dunham, the person applying for pardon, is the same who has become notorious under the name of Sanford Conover. He was recently convicted of perjury in the District of Columbia, and is, as I am informed, now incarcerated in accordance with the sentence of the court. His application seems to be precipitated, in part, upon a supposed technical irregularity in the constitution of the jury, and is supported mainly by the services which he is alleged to have rendered the cause of justice in aiding the prosecuting counsel in the collection of evidence and otherwise upon the trial of John H. Surratt for murder.

The papers upon which his application is grounded and by which it is sustained, consist of four in a parcel, which by indorsement appear to have reached the office on Saturday, the 27th of July, 1867. The first is dated the 22d of July, and is written upon the ordinary note paper used by the members of the House of Representatives, with an engraved vignette caption. The following is a copy:

Fourtieth Congress United States,
House of Representatives,
Washington, D. C., July 22, 1867.

Gentlemen: I suggest that a petition something like the inclosed be prepared and signed by you, for the pardon of Mr. Dunham. I think he is clearly entitled to it, and hope you will aid him all you can.

Respectfully,
J. M. Ashley.

1 New York Times, August 10, 1867.
65.
Hon. J. Holt,  
Hon. A. G. Riddle.

It would seem from an expression used in this note that a draft of a petition was inclosed. It does not appear what petition was thus designated.

* * *

The above are all papers which have come to my knowledge in relation to the application for pardon. When considered in connection with other papers, adventitiously recited, they excite peculiar interest and command careful attention, and it is the extraordinary gravity of the import of these papers last mentioned, in connection with the source whence they come, which makes it my duty to submit their contents to your studious consideration, and to suggest that some proper disposition ought to be made of them, in consonance with the dignity of the Government and in justice to all parties. I introduce them as follows:

First, a communication addressed to the President of the United States, bearing date Washington, July 29, 1867, and signed Charles A. Dunham. It will be seen that this person, who is certified by gentlemen of official and professional respectability and of distinguished sagacity to be capable of great and valuable service in the disclosure of crime, makes startling asseverations directly against prominent members of the National Legislature.

Washington, July 29, 1867.

To His Excellency Andrew Johnson, President of the United States:

In applying to your Excellency for pardon I had not intended to offer any disclosures concerning the plotting of your enemies against you which could be regarded as an inducement for granting my application. I instructed my wife, in presenting the petition to refer to the conspiracy of Ashley and Co. so far only as appears necessary to remove any unfriendly feeling that might have been engendered within you toward me by the newspaper reports, that I had engaged to assist your enemies in their nefarious designs. I adopted this in the belief that the services I had rendered the Government, as certified by Judge Holt, Hon. Mr. Riddle and Mr. Ashley, would, in your view and judgment, render me deserving Executive clemency, and because I desired that it should appear on the record and on the face of my pardon that clemency had been extended to me solely in consideration of my services to the Government, and exclusively on the
recommendation of prominent Radicals; to the end that when I should come to expose the atrocious plot of Ashley and Co., the Radicals would not be in a position or able to charge me with doing so in consideration of a pardon, or that the President had pardoned me on condition of my implicating his enemies in an infamous conspiracy.

From the moment I was forced into association with these traitors and conspirators, I determined, as soon as I should be released, to place in the hands of your Excellency, or lay before the public a complete exposure of the diabolical decisions and most astounding proceedings. This, I believed, would be my sacred duty, for although accused of crime I am not so destitute of honor and patriotism as not to feel some interest in, and obligations to my country.

The interest these persons have felt and the efforts they have made, (which would have succeeded ere this but for the blunder of one of them,) and which they still propose to make for my release. I know they were prompted by the most selfish motives, in order that they might use me as an instrument to accomplish their devilish designs, and I shall not, therefore, be guilty of ingratitude in abandoning and exposing the villainy.

My wife has, I believe, explained to you how Ashley, first through his man - Friday, Matchett, and afterward in person, managed to make known to me his wishes, aims, and purposes, and enlist me, as far as forced promise would go, in his enterprise. I shall, therefore, only advert here to somethings (sic) which have been said and done by the conspirators which are susceptible of being proved against them by the most irrefragable evidence.

After obtaining my promise to render all the assistance in my power, Mr. Ashley explained to me the kind of evidence he thought it most admissable to present against you. (I must be very brief.) He thought it would be very plausible to prove.

1. That Booth had on several occasions paid you familiar visits at Kirkwood. This it was hoped, I might be able to induce some of the old female servants to testify to. If this could not be done then it should be proved by some of my friends who happened to be at the house at the time, who knew Booth, and C., and saw the visits.

2. That you corresponded with Booth, which should be shown by one or more persons who had taken notes from Booth to you, and your replies (contents unknown) thereto to Booth. The witnesses should be persons who would profess to have been intimate with Booth, and to have been enlisted by him to take part in the assassination.
3. That the placing of Atzerodt with weapons at the Kirkwood House was only a sham -- although Atzerodt was not aware of it -- to make it appear that you were intended as a victim, and thus distract all suspicion from you of conniving at Lincoln's murder. This, also, it was suggested, could be proved by persons who could testify that they had been induced to enter into the conspiracy with Booth, and had performed a part in organizing it, and e., which persons it was to be understood, were induced to testify under an assurance from the Government that they should not be prosecuted for any part they had taken.

The resolution under which Butler's committee was appointed, it will be observed, provides for the protection of such persons who are furnished with a good excuse for not coming forward before -- by offering immunity to all who were connected in the conspiracy, who will now come forward and disclose their knowledge on the subject.

4. That Booth, just before March 4, stated to an intimate friend in New York whom he had endeavored to enlist in the conspiracy, that he was acting with the privilege of the Vice-President, and that it had been arranged to kill Mr. Lincoln on the day of the inauguration, which would account for Mr. Johnson's strange conduct on that occasion which had provoked so much comment by the press; that you expected the tragedy to be enacted then, and had taken several potations to compose and nerve you for the event; and that you were not so much intoxicated as nervous and excited. I feel much delicacy in referring to such topics, but I cannot inform you of your enemies' plans and projects without being plain, and I am obliged to write in too great haste to be choice in my language.

I assured Ashley that I should have no difficulty in finding persons of good standing and moral character to prove these matters, and that it was agreed that I would do so as soon as released.

As an earnest that I possessed the ability to do what I engaged, and in order to satisfy some of their party who doubted the existence of evidence to connect you with the assassination conspiracy, Ashley and Butler desired and pressed me to send for two or three persons of whose intelligence and qualifications they could satisfy themselves, and whom they could parade before their incredulous friends.

I consented, and Ashley supplied the facts it was desired they should know and repeat, and I forwarded them to a trusty friend with secret explanations as to my own purposes, and instructions for them to procure two other friends to commit to memory the statements inclosed to him,
and, when sent for, to come here and repeat them (but not under oath) to such persons as I should indicate.

After allowing my friends sufficient time to learn their parts, Rev. Mr. Matchett was sent for them in order that it might be said that the agent for the impeachers had found the witnesses and that their character was above suspicion.

On arriving here, these persons were inspected by Ashley and Butler, and were found to possess the requisite qualifications of intelligence and personal appearance, but unfortunately for the impeachers it was deemed necessary to make some changes, modifications in some and additions to other portions of their statements before presenting them to the lukewarm 'Radicals it was their intention to inflame. It being impracticable for the men to see me at the jail on such business, and equally so for me to communicate to them the desired charges and necessary explanations in writing to enable them to incorporate those charges before them with assurances that the most unquestionable evidence of your guilt could be produced. He therefore requested me to prepare an elaborate paper, setting forth that such and such persons would be produced who knew and could testify to this, that, and the other things, including the pretensions that Booth had been seen in your room several times; that you had corresponded with him and with parties in Richmond, and that the person who could testify to those facts were of the most respectable standing, and would come forward and tell all they knew, if protected by the Government. He wished me to put it in a style and tone that would be sure to carry conviction with it. He desired that, in addition to the points of evidence we had conferred about, my statements should contain others, and he gave me a memorandum of our points, which he requested me to incorporate in my statement. This memorandum I enclose, and I believe it is in Matchett's handwriting. After preparing the statement I sent it to him at Toledo, where he wished to make use of it.

There is another note from Ashley inclosed, worthy of attention. It is in pencil, and was written at the office of Judge Carter. After the failure, through the blundering of Matchett, to secure my release at the time promised, I became angry and used pretty severe language to Matchett. He went to Ashley and Butler in alarm, and reported that I was going to expose the entire scheme to you. After the persons I had sent for to New York as witnesses, had returned, Matchett endeavored, without my knowledge to persuade them to come here again, and in his letters to two of them he thoughtlessly made some additions that it was desired they should make to their statements. He made these suggestions by letter, as his letters explained, because he was not
certain that he should be here when they arrived, or they might meet Judge Bingham or some other persons they had been introduced to when previously here, before he could see them and give them points; and he therefore wanted them posted after my talking to him so severely on account of the failure to have me released at the time promised. D. F. Matchett became frightened and seemed to get the idea that I had his letters to those parties and had sent them, or copies of them, to you. He, therefore, made known his fears to Ashley, and Butler and Ashley endeavored by this note to obtain the letters.

I have just been ordered to get ready for the Penitentiary.

Very respectfully,

Chas. A. Dunham

The following are several papers which accompany the above. The letters of reference inserted in the foregoing and annexed to the succeeding are not upon the originals, but are introduced solely for your convenience in perusing this report.

The subject paper, headed "Memorandum by the Hand that Wrote It," bears internal evidence of having been furnished as a guide to some person or person who were expected to fabricate corresponding testimony.

MEMORANDUM -- Shortly before the inauguration of Lincoln and Johnson, the latter, through or in connection with Booth, sent several letters to the Confederacy, one of which was intended for Jefferson Davis. These letters were borne by a messenger named Allen, who had been acting as a scout or spy for the Union Generals. Allen was provided with a safe conduct through our picket lines, and was supposed to have been sent on secret duty in connection with his command. He was also provided with papers from a rebel emissary at the North to insure his proper treatment when he should enter the Confederate lines. After delivering his mail in Richmond he returned, bearing several letters which he received from J. B. Benjamin. These letters were enclosed to Booth. On returning to Washington Allen called on Booth, after examining the letters, went out as he said in search of his messenger. The messenger could not be found, and Booth asked Allen if he was too tired to walk as far as the Kirkwood House. Allen replied in the negative, when Booth, drawing forth the package which had been brought from Richmond, selected a letter addressed to Andrew Johnson, Vice-President elect of the United States, and asked Allen to deliver it. Allen promised to do so and then accompanied Booth to the barroom to first take a drink. Here Allen met a friend who was invited to join them in taking a drink, and
afterward accompanied him to the Kirkwood House and heard him inquire if Mr. Johnson was in, and saw him go to his (Johnson's) room. This friend waited until Allen came down stairs, when he asked him jocularity, "What in the devil's business he had with Johnson -- if he was already buzzing for an office?" Allen can be produced, as well as the friend who accompanied him to the Kirkwood House from Booth. Allen, before going to Richmond, had been led by Booth to believe that he was a confidential and secret agent of the Government, and that the letters borne by him had reference to peace propositions which would speedily lead to a suspension of hostilities and the restoration of the Union. Add also that it can be proved by two persons, formerly rebel soldiers, that Booth, on the first and second day before his death, fell in with them near Garrett's, and asked their advice and assistance in his efforts to escape. He informed them that he had killed Lincoln and thereby made a good Southern man President. One of these parties, whose name is Dawson, said to him that if he meant that he had made Andy Johnson President, he had done the worst possible thing for the South, and he was more extreme in his views, and a greater enemy to the South than Lincoln. Booth replied that it was a mistake -- that Johnson, as a candidate or office-seeker, had to say many things, but as President he would do as he pleased -- that he was bound to be a friend to the South, and that if he went back on him (Booth) he would have him hung higher than Haman. These men belong to good families, and have excellent characters, and can be produced as witnesses.

Here the paper ends, but the following, which was originally the final clause, and is now canceled, is still legible:

"For the names of Dawson and Allen, used above, leave blanks, or substitute the names of such persons as you know will take their parts."

"Thursday Morning, April 18, 1867.

Dear Sir: A telegram calls me to Philadelphia, and I go on the 11 o'clock A.M. train; I therefore send you an envelope, in which you can send me, by mail, your statement.

I hope you will be able to put it in the office this evening, so that I can get it next Monday. Wishing you every success, I am yours truly,

J. M. Ashley

At and after the words State - men, above, the words "incorporating the verbal" are stricken studiously out.
Toledo, Ohio, April 28, 1867

My Dear Sir: On my return home today, I found your favor and the promised statement inclosed. I expect to be in Washington on Thursday and will see you that day or the next morning.

Truly Your friend,

J. W. Ashley

C. A. Dunham, Esq., Washington.

This letter seems to have come here in a common envelope superscribed C. A. Dunham, Present, which is much pocket soiled. The same applied to the following:

Saturday, A.M., Jan. 1, 1867.

Dear Sir: Your note is just received. Let your counsel act as he deems best, taking advantage of every legal point which may be presented. I think the course proposed by them is all we want.

Truly,

J. W. Ashley.

Next we have the following:

House of Representatives, July 8, 1867.

Dear Sir: I have just seen your wife, and have your letter. You may rest assured that I do not credit the false and stupid reports made against you. If you had the letters I know you would send copies to J—. If you can put the originals in my hands, I will say that no one shall take or destroy them without your express orders in writing, except you are released. Will see your wife again this evening.

Respectfully,

J. M. Ashley.

C. A. Dunham

This note is not written in ink, but in pencil, and though dated "House of Representatives," is upon a half sheet of plain note paper, apparently torn from some note which had been carried in the pocket. It comes here in an envelope superscribed "C. A. Dunham, Esq., Prison." The envelope also shows apparent idle scribbling.
April 26, 1867

Dunham: It is all right. The matter will rest for the present, or until the thing is argued in May. You will not leave the city at interim. Mr. A. will return next week, when any other matters will be adjusted.

Yours,

W.B.M.

This is written on a small scrap in ink superscribed "C. A. Dunham." On a still smaller and much soiled scrap, in pencil, but evidently by the same hand is this memorandum or explanation?

1. The court cannot act without being a particeps criminis.
2. Congress will at the proper time exercise its power.
3. Witnesses will be first called before the Committee.

This, Mr. President, completes the full and literal recital of all the papers or other adhering data before me. The parcel comprising all but the pardon papers reached this office in an envelope from the Executive Mansion, indorsed "Received from Mrs. Dunham, July 30, 1867." The papers having come from the hands of a person whose application for pardon was undergoing official examination here, were, for very obvious reasons, associated with it in considering the matter. Struck by their extraordinary character, yet remembering in how unexpected and casual a manner that had been received at the Executive Office, I immediately determined that until I should have made this report, their quality and significance, whatever there may be, should remain unchanged by investigation, or by any extraneous connection or association whatever, not only of record, but, as far as practicable, in my own mind. This course, it is necessary to bear in recollection in the act of estimating the probable weight or value of the allegations. Never having seen the handwriting of Hon. J. M. Ashley, I thought it due to him that I should not proceed without acquiring a notion of his genuine chirography. I, therefore, exhibited that letter, which was written by Mr. Ashley to recommend the pardon of Dunham, to a gentleman acquainted with his handwriting. The latter, without hesitation, recognized that letter as genuine. The others strikingly resemble it.

In conclusion, I beg leave to express the profound sensibility with which I find myself obliged to bring to the serious notice of the President of the United States accusations and papers which must occasion him painful embarrassment. They expose prominent members of the Legislature of the Union to the shocking suspicion of having
conspired with a convicted perjurer for a stupendous imposition—first upon the House of Representatives, then upon the people, and then upon the Senate of the United States, for the purpose of effecting the impeachment and removal from office of a President of the United States solely upon subpoenaed testimony. I need not say with what astonishment mankind would hear it charged that a scheme so abominable was heightened still by the peculiar wickedness of attempting to induce the intended victim himself through appeals to his clemency to qualify by a pardon, with competency to act and testify, the principal instrument of the imposture! But, impossible as the existence of such a conspiracy may seem, is not the President exposed to a grave accountability for whatever consequences may possibly follow an incredulity too generous in the promises to be indulged, merely because these adventitious data have been thrust upon his casual notice by a party who has been dishonored by a criminal verdict, but who is still, in the opinion of competent professional persons, qualified to be a vehicle of truth in a court of justice.

I thus lay the whole matter before your Excellency for your better judgment. In the meantime the application for pardon will be suspended.

Very respectfully, your obedient servant,

John M. Binckley,
Acting Attorney-General.

To Andrew Johnson, President of the United States.
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