

## Harlan's Defense of Grant

Few statesmen have served longer terms or rendered more renowned service in the United States Senate than Charles Sumner of Massachusetts, and few Senators have been more eloquent or more influential than Carl Schurz of Missouri. On one notable occasion, however, both Sumner and Schurz bowed in defeat before the invincible arguments of Senator James Harlan of Iowa. It was on the occasion of Harlan's defense of President Ulysses S. Grant.

When Grant became President he was confronted with the question of annexing the Dominican Republic to the United States. His predecessor had recommended it, but a congressional resolution of annexation had been defeated. President Grant was favorably disposed to the project but before officially adopting that policy he sent Orville E. Babcock as his confidential agent to the island to make further investigations and to report to the administration. Babcock, intent upon acquiring the new territory, negotiated a treaty of annexation. He reported that conditions in the island were deplorable and that either annexation or intervention by the United States was inevita-

ble. Grant sent the treaty to the Senate with an urgent request for consent to ratification. Meanwhile he instructed naval officers to maintain peace in Santo Domingo and if necessary to repel any invasion by a foreign power.

In the Senate, however, the treaty met vigorous opposition by a powerful political faction. Hoping to secure consideration of annexation on its merits, he called upon Senator Sumner, Chairman of the Committee on Foreign Relations, and asked him to support the treaty. Sumner, apparently unprepared for such a direct pledge, replied that he was an administration man and would give the question his "careful and candid consideration". The President understood this equivocal statement to mean that the Senator would work for annexation. When the treaty came up for adoption, however, Sumner led the fight against it, and the treaty was decisively rejected.

But Grant would not let the matter rest. He was convinced that annexation would rescue the island from political anarchy, lead to the abolition of slavery in the West Indies, promote American trade, and confirm the Monroe Doctrine. In his annual message to Congress in December, 1870, he proposed that a competent commission be appointed to investigate the advisability of acquiring Santo Domingo, and if the report were

favorable he suggested that the country be annexed by a joint resolution of Congress. Three remarkably able commissioners were appointed. Thus President Grant sought vindication.

Sumner knew it and flew into a rage. His opposition to the methods of conducting relations with the Dominicans and his resentment at being denied spokesmanship in foreign affairs, combined with his natural intolerance, had developed into an obsession. Up to this time he had not attacked the President in open debate, but on December 21, 1870, he took the floor to vent his spleen against the administration in a speech he chose to call "Naboth's Vineyard". "The resolution commits Congress to a dance of blood", he declared. In a "bitter and excited" manner he denounced the President's imperialistic policy in such intemperate language that his best friends were grieved.

When the new Congress was organized in March, 1871, Sumner was deposed from his chairmanship of the Committee on Foreign Affairs. Thenceforth he assailed the administration at every opportunity and his vehement denunciation inspired criticism by others. On March 28th, in a carefully prepared speech, Senator Sumner again attacked Grant for his alleged intervention in Santo Domingo and proposed official censure. "On evidence now before the Senate", he said, "it

is plain that the Navy of the United States acting under orders from Washington has been engaged in measures of violence and of belligerent intervention, being war, without the authority of Congress."

"It is difficult", he continued, "to see how we can condemn with proper whole-hearted reprobation our own domestic Ku Klux with its fearful outrages while the President puts himself at the head of a powerful and costly Ku Klux operating abroad in defiance of international law and the Constitution of the United States." Such a case, he declared, could not pass by without inquiry. "It is too grave for silence." Accordingly, for the sake of the Navy, "which has been the agent", for the sake of the administration, "under which the Navy acted", for the sake of republican institutions, "which suffer when the great Republic makes itself a pattern of violence", and for the sake of the Republican party, "which cannot afford to become responsible for such conduct", the distinguished Senator from Massachusetts contended that the case should be examined on the facts and the law, and in the light of precedent "so far as precedent holds the torch".

Thereupon, he contended with great fervor that the President had grossly erred in sending ships into a foreign port without authorization by Con-

gress. So strong were the arguments presented that a New York newspaper declared "Mr. Sumner makes out a case for impeachment of a much more serious nature than that worked up against President Johnson".

Following this long and critical speech by the able Senator from Massachusetts, his distinguished colleague from Missouri addressed the Senate in much the same tenor and with equal eloquence. He paid high tribute to Grant as a military leader, but argued that the President had failed in civil life, and in this instance had greatly exceeded his authority as Chief Executive, much to the disadvantage of his party and to the embarrassment of the entire nation.

With a display of unusual eloquence, he compared the President to the Duke of Wellington. No man, he said, has given so much glory to the arms of old England as has the Duke, "yet all that glory could not protect his windows against the stones thrown by multitudes of indignant citizens when, as a minister he had forfeited the favor of the people." The vote of the House of Commons, which drove him from power, the speaker continued, "did not wipe out the glories of the Peninsular campaign nor dim the luster of Waterloo".

In like manner, he contended that a disapproval

of the presidential act of General Grant "will not encroach upon our appreciation of the capture of Vicksburg and the victory of Richmond". But, he declared, "the laurels of Vicksburg and Richmond cannot make his acts now under discussion constitutional, nor can they turn a presidential blunder into an act of wisdom".

In the face of such a barrage of eloquence and logic centered against the President, any defense program seemed to be almost useless. There was a hurried conference, however, and it was decided that James Harlan should lead the defense forces. If he was to speak, it must be at the next morning's session. As in the case of Webster's reply to Hayne, the speaker had but a single night "to sleep upon his speech". But that proved to be sufficient. On the following day, March 29, 1871, Senator Harlan presented his defense of the President in such a masterly and forceful manner that both Sumner and Schurz were forced from their positions of attack, and the contention that the President had committed an offense, so gross as to warrant impeachment, was dispelled.

After paying tribute to the ability of the venerable Senator from Massachusetts and to his able supporter from Missouri, Senator Harlan proceeded to examine the charges made against the President. "You may travel through these long

columns of extracts and comments which required several hours for their delivery," he said, "and you will find the whole case stated in that brief sentence, that the President instructed the officers of the Navy to maintain the peace in Dominica within the limits of that republic, and if need be, to repel foreign invasion during the pending of the treaties."

In the opinion of Harlan, there was nothing in these instructions to justify the charge of belligerent intervention. Moreover, no act of hostility or force had been committed. Thus the issues were clearly joined. The two Senators maintained that the President "had no right to use force to protect the existing Government with which we were at the time in incipient treaty relations". On the other hand, there were other Senators "equally learned" who believed that the President might thus protect the territory, which it seemed the United States might soon acquire. It was a nice question, and one upon which the destiny of men and the welfare of a nation was at that moment pending. Fortunately, no act of violence had resulted from the intervention.

As the debate proceeded Senator Sumner interrupted to say that the real cause for denouncing the President was that he had seized the power to declare war, which belongs to Congress. Mr.

Harlan admitted that the Constitution gives to Congress the power to declare war, but he contended that it did not clothe Congress with the additional power to deal with those matters which might precede an actual declaration of war.

"Wars against the Indian tribes", he reminded his opponents, "have been carried on in this country, year after year, from the days of General Washington down to the days of General Grant. Armies are marched into field, infantry, cavalry, and artillery, and pitched battles are fought; and yet I doubt if you can find, during our whole national history, one instance of a formal declaration of war by Congress against an Indian tribe."

As further illustrations of the exercise of war power, Senator Harlan declared that an army had been marched into Utah to suppress an armed force, without a declaration of war; that the first great battle of the Mexican War was fought before Congress took notice of our controversy with Mexico; and that even in the Civil War hostilities were begun in a manner not specifically provided for in the Constitution.

After a display of repartee and witticism, indulged in by various members of the Senate, Sumner again interrupted to say that "Everybody . . . recognizes the right of national defense." Thereupon Mr. Harlan replied: "I expected to

drive both Senators from their position before I closed. I had not expected them to yield so early in the discussion."

At that point Senator John Sherman of Ohio gained the floor to request that the Senator from Iowa be given at least the same courtesy that had been extended the other two Senators. For, he said, "I think, with a single remark or two, he has probably exploded most of their speeches, and I should like to hear him go on."

Having completed his array of arguments in support of the President's action, and having cited various cases of precedent for such action, Senator Harlan turned his attention to a consideration of the motives which animated the attack upon the President. He deprecated the whole discussion as one which had obviously been instituted for political purposes. With consummate skill and adroitness, he presented the view that certain politicians were willing that Grant should receive full glory for the victories of his military career, but they wished to rob him as President of the confidence of the American people. They were endeavoring, he said, to place either themselves or a friend in the executive chair. Moreover, it was charged that Senator Schurz had quarreled with the President because a few postmasters in Missouri were appointed without his approval.

At that point in the debate Senator Schurz sprang to his feet with an emphatic denial of the obvious assumption that "the appointment of a few postmasters" would in any way influence his course in so important a matter as that now under consideration. Senator Harlan retorted: "Mr. President, the honorable Senator leaps to a conclusion that I have not stated . . . Without the patience to wait till I drew my conclusion, he drew a conclusion for himself, a conclusion, I doubt not, that has been drawn long since by a majority of the American people."

The Senator from Iowa explained that he would not attribute to the Senator from Missouri, or indeed, to any Senator, "a consciousness of being influenced by any such consideration". He expressed a doubt, however, that Mr. Schurz "is any nearer infallible than other men of equal culture, rank, and learning". And he thought it barely possible that the Senator's judgment "might be warped a hair's breadth" by a feeling of personal unkindness, "without his being conscious of it or feeling degraded by it".

Harlan then took the position that the two opposing Senators had "testified before the Senate, rather than debated". They had testified "with great eloquence", he said, and had "given it as their opinion that President Grant is a worse man,

more worthy of impeachment than Andy Johnson because they have found, after a year's perusal of documents, that he instructed some naval officer to make a threat of the use of force if our inchoate rights in the island of San Domingo should be interfered with either by rebels or by a foreign force."

Then Harlan advanced one step further and asked a series of pertinent questions. "Has any crime been committed", he inquired, "have anybody's rights been trampled under foot, has anybody's life, liberty, or property been sacrificed by the President of the United States?" Whether an erroneous interpretation of international law may have been entertained at the State Department or by the President he believed was of but little consequence in a matter as grave as this. Accordingly, he moved that the resolution of investigation which had provoked this discussion be laid on the table, and the motion was carried by a vote of thirty-nine to sixteen.

The defense speech was widely heralded as a conspicuous success. The *New York Times* declared that Harlan was "effective beyond expectation" when he took the floor. "He pinned the cause and the object of the speeches so fast to their authors that the attempt to escape was futile". A Des Moines editor declared: "Senator

Sumner made shipwreck of his ill-advised and ill-starred expedition against President Grant and the Republican party". His first campaign, the editor continued, "closed with remarked discredit to himself," and his three weeks of "battle and bushwhacking" were brought to a sudden end by the masterly speech of Senator Harlan and by the passage of the motion that the "resolution in arraignment of Grant" be laid upon the table.

This salient victory of Senator Harlan was greeted by the friends of the President with great enthusiasm. While the speaker was concluding the debate, a crowd of Congressmen and others, filling the Senate Chamber, pressed forward "until General Sherman, rigidly erect, his arms folded, his wonderful, eagle eye flashing and gleaming as if in battle, stood but a yard away from Mr. Harlan watching him intently." The moment it was over, Sherman was gone. Zachariah Chandler, Senator from Michigan and later Secretary of the Interior in Grant's Cabinet, called a cab and drove rapidly to the Executive Mansion. But "Old Tecumseh" was there just ahead of him and, "bouncing upstairs and into the President's room, the delighted General shouted: 'Grant, Harlan's done it! He knocked them this way, and he knocked them that way!'" With eloquent gesticulation the General swung out each arm in suc-

cession, illustrating how the Iowa Senator had struck down the arguments advanced by his opponents.

In the years preceding the Civil War Senator Harlan had established an enviable reputation as a master of the forensic arts, but in his post-bellum career none of his oratorical efforts surpassed his defense of President Grant. In his own words, two eminent Senators had testified before the Senate "with great eloquence". But there are times when eloquence is placed in the balance against justice and right, and is found wanting. Harlan was pleading what he believed to be a just cause, and in the pleading of that cause he won a signal victory.

Just a week later the report of the Santo Domingo Commission was transmitted to the Senate. After a remarkably searching and impartial investigation they sustained Grant's action in the strongest possible terms. The President regarded the report as complete repudiation of the charges of corruption made against him, and shifted the responsibility for any further action to the Senate. And so the question of Dominican annexation was indefinitely postponed.

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