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JUDGE JAMES LOCKHART

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GEORGE R. WILSON

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# JUDGE JAMES LOCKHART<sup>1</sup>

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## PART I

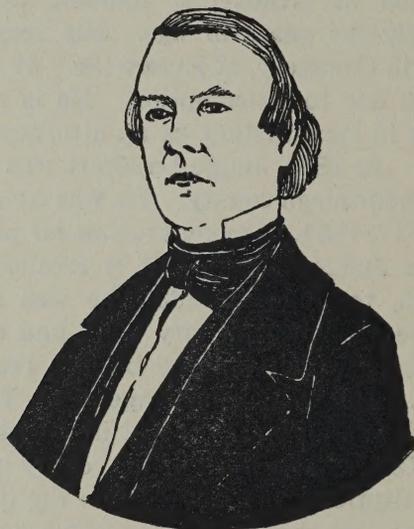
JUDGE JAMES LOCKHART, of the "Pocket of Indiana," was born at Auburn, New York, February 13, 1806, and died at Evansville, Indiana, September 7, 1857, past fifty-one years of age. His remains are at rest in Oak Hill Cemetery, at Evansville. It was thought his death was due to consumption. He is most prominently known in local history as an attorney, jurist and congressman. In 1833, Judge Lockhart was admitted to the bar in Vanderburgh county. He was commissioned a notary, April 17, 1834. Among the smaller political positions filled by Judge Lockhart, it is recalled that from May 23, 1835, to June 10, 1836, he was surveyor at Evansville; he then became city clerk and served until June 7, 1837, at which time he became trustee of the second ward. He was county agent of Vanderburgh county. This was an office created in March, 1818, and abolished in 1852. The work of the county agent, under the first constitution, was merged into the duties of the county auditor, by the present constitution. In 1837, Judge Lockhart was an attorney at law, in Evansville; he became prosecuting attorney in his judicial district, in 1842.

Judge Lockhart's signature as it appears upon the state constitution of 1851, and many other legal documents in the "Pocket of Indiana," very much resembles

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1. This biographical sketch was prepared for the Southwestern Indiana Historical Society, and presented at its annual meeting held at Evansville, Indiana, February 28, 1923.

the handwriting of James Madison, James Monroe, Andrew Jackson, and men of their day and generation. The present state constitution is engrossed on sheep skin, in book form, and is preserved, in a glass case in the office of the secretary of state, at Indianapolis. From that document the fac-simile of his signature below his picture was traced.



*James Lockhart*

Judge James Lockhart was a great favorite in Dubois county, and he had much to do in establishing that county's political history and bearing. At Jasper, in 1839, Judge Lockhart was nominated for congress, in the old log courthouse. In those days, one county could nominate a man, that is, name him, as its choice. The

term has changed its meaning. In those pioneer days "to nominate" meant "to name," as the choice of any one particular assembly of men. The word "instruct" is now used in the sense, "nominate" was formerly used. In 1841, at Boonville, Judge Lockhart was nominated for congress, on the Van Buren ticket. In the same year he received, in Dubois county, 202 votes, against 190 votes for Proffit. Proffit was also much thought of in Dubois county.

In Elliott's *History of Evansville and Vanderburgh County*, among other things, we read as follows:

"In 1846, James Lockhart was commissioned to succeed Judge Embree as judge of the fourth judicial circuit, by Governor James Whitcomb. \* \* \* Judge Lockhart had become one of the leading lawyers of the state, and it may be said that his appointment was the beginning of a new era in the history of the judiciary of Indiana, that henceforth it required some legal ability and knowledge of law to become a judge of the fourth judicial circuit. Judge Lockhart was slow in decision but was almost invariably right in his conclusions. He was an untiring worker, and a close student, consequently a careful judge. He was a splendid office lawyer and a regular 'book worm'. He afterwards figured to a great extent in politics, and was a member of the twenty-third congress of the United States. Alvin P. Hovey succeeded Judge Lockhart in 1851."

In the *History of Pike and Dubois Counties*, we read:

"James Lockhart received the judicial ermine from the shoulders of Judge Embree as is shown by the commission from Governor Whitcomb, February —, 1846.

"James Lockhart was admitted to the bar in 1832, and was prosecutor for seven years. He is described as being a 'leading lawyer of strong and determined mind' and in spite of every obstacle attained a commanding position in his profession. He was

2. pp. 137-138.

tall in person, of remarkable voice, was a keen and logical debater and an impartial and popular magistrate. He was the first to formulate a code of rules to govern his court. There were thirty-nine in all under the heads, motions, pleadings and papers, docket, trial, sheriff, chancery and miscellaneous. 'Under trial' is this rule; 'one lawyer only on each side can question a witness.'<sup>3</sup>

From a book called *Evansville and Its Men of Mark*, the following notice is taken of Judge Lockhart:

"Around the name of James Lockhart cluster the recollections of a brave and gallant spirit; a refined and cultivated man; an erudite jurist; and a politician who understood so well the wants and necessities of Indiana. He was born in Auburn, N. Y., on the thirteenth of February, 1806. The eldest of ten children, he was forced to assist his father, Ephraim L. Lockhart, in the carding and fulling-mill business, and served a full apprenticeship in the same. During his leisure time, he devoted himself to studying the preparatory books for college, and enjoyed the privilege of a partial course. Owing to his lack of means, he was forced to relinquish his hope of being a graduate. He also studied law; but was not admitted to practice till after his arrival at Evansville, in 1832. His name was familiar to the people as a leading lawyer for many years. His strong will and determined mind caused him to study carefully the cases presented to his charge; and he, in spite of every obstacle, took a commanding position in the profession. For several years he acted as prosecuting attorney; and for over seven years he served as Circuit Judge. Many are the pleasing memories of Judge Lockhart; and he must have been an impartial and popular magistrate.

"In 1851, he was a member of the Constitutional Convention, and in that body exerted an influence second to none in the state (1852). He was elected by the Democrats as a member of the thirty-second congress and was a member elect of that body at the time of his death, in September, 1857. His health barely survived the first (1856) campaign; and we have no doubt that his extreme labors as a public speaker were the cause of his untimely death. Tall in person; weight over two hundred pounds when

3. pp. 309, 310, 311.

in health; and possessing a remarkable voice for public speaking, his presence on the stump was the signal for a great rally of his political friends, and even opponents. A keen and logical debater, his arguments were presented in a style peculiar to himself; and he won a distinction for political debates which has secured for him a lasting reputation. His career in congress was such as to add to his fame; and in Washington, as well as in Indiana, Judge Lockhart was regarded as one of the 'men of the times'."

He was married in 1835, to Miss Sarah G. Negley, daughter of David Negley, an old resident of Pigeon Creek settlement.<sup>4</sup>

In a *History of Vanderburgh County* the following notice is made of Judge Lockhart:

"The last mentioned of the president judges was Hon. Elisha Embree. His successor, Judge James Lockhart, commissioned in March, 1846, by Governor James Whitcomb, was a resident of Evansville, and before ascending to the bench had become one of the foremost lawyers in this part of the state. His selection to the important office was a just tribute to his abilities and worth. A native of New York, he was born in 1806 and died in this city in 1857. Admitted to the Evansville bar, in 1832, he soon gained recognition as an able and erudite lawyer. He was not a man of quick perception and ready speech, but studious and painstaking. When addressing court or jury he was slow, deliberate and earnest. His intense interest in any case which he undertook, and his deep, enthusiastic earnestness carried conviction. He was known as a book lawyer, plodding patiently through authorities and working his cases thoroughly. He was much like Judge Iglehart, well known to later practitioners, except that he lacked some of the smoothness of the latter and was not as clear a writer. Throughout his career as a practitioner he held a commanding position. On the bench he was impartial, just and thoroughly capable. For several years he was prosecuting attorney for the district, was a member of the Constitutional Convention in 1851, and was elected to a seat in the thirty-second congress, but died before taking the office. He was well known as a politician throughout the district, and was a recognized leader of the democracy. Socially he en-

4. p. 83.

joyed a very high standing, being refined and cultivated and having a most excellent wife, daughter of David Negley, of Center Township. The fact is worthy of mention that the only dinner ever given to the Evansville bar was at the hospitable home of Judge Lockhart shortly before his election to congress. There were then about sixteen lawyers in the city, and all were present on the occasion. It need hardly be said that a most delightful afternoon was enjoyed. His attainments and character gave Judge Lockhart a lasting hold upon the esteem of his contemporaries in social and professional circles.

"The next to preside in the circuit court of Vanderburgh County was Alvin P. Hovey, who was commissioned in September, 1851, by Governor Joseph A. Wright."<sup>5</sup>

Judge Lockhart was commissioned December 13, 1845, as president judge of the fourth judicial circuit for the term of seven years from January 21, 1846. He resigned in 1851, and General Alvin P. Hovey, was commissioned on May 31, 1851, to fill the vacancy. Judge Lockhart served in congress in 1851-1853. He was elected over the Whig candidate, Judge L. Q. DeBruler.

In the early days law libraries were not very extensive; but what few books were on hand were extensively read, thoroughly studied, and well understood. From what can be learned of Judge Lockhart at this late day, he appears to have been a strong advocate before a judge or jury for he argued from the bedrock of principles. He was trained to it, and in this was his power. His reasoning was sound, along the line that is expressed by the words "common law is common sense." He always attempted to brush away the little things in a case and get at the real facts in the case itself.

Judge Lockhart had a high respect for the law and the dignity of the members of the bar. The old county

<sup>5</sup>. p. 341.

clerks, as standing in a close relation to the bar, were his friends. He stood high in their regard, and they were admitted to a share of his intimacy. In Dubois county a few of the older citizens named their sons "Lockhart." To Judge Lockhart the profession of the law was the highest of all professions, because it appeared as a brotherhood, was sacred as between lawyer and client, and maintained the rights of men. It also preserved the government, and controlled the administration of the law.

Judge Lockhart was a close student of the law and realized in it the profession which created the liberties of man, and preserved them. It was the profession of Blackstone, Bacon, Coke, Clarendon, Lord Hardwick, Lord Mansfield, Pratt, Eldon, Erskine, Pendleton, Henry, Wythe, Jefferson, Webster, Marshall, Bracton, etc. Judge Lockhart always spoke of law with affection, reverence, and enthusiasm. He was a strong advocate of many of the older laws and practices before the last constitutional convention.

Judge Lockhart gave the law such intense study that he was able to analyze the most intricate problems in it and present them in plain, simple language. He could make many eccentric phrases melt into reasonable expressions, into common law and common sense. His law language became a vehicle of thought and, in this way, his mind and the minds of the jurors could meet upon a common understanding.

Perhaps Judge Lockhart's greatest work was done while he was a member of the last constitutional convention. The work he did there left its imprint upon the laws of Indiana and its blessings upon the future citizens

of the state. In that convention Judge Lockhart represented a district composed of the counties of Posey and Vanderburgh. This convention itself was productive of more good results than is usually recalled.

The words "Evansville" and "Vanderburgh" have enough German sound in their makeup to have attracted the attention of the people of that nation. Did they do so? Judge Lockhart was very solicitous of German interests in the making of the constitution and in its publication and in the publication of the revised statutes made thereunder. This congressional district had many German voters and in his race for congress he received their well-earned support. The days of know-nothingism were not far in the future.

The *Book of Debates* of the Indiana Constitutional Convention is well worth the careful perusal of anyone interested in our present constitution. All of us should be. In the main, those two volumes are the authority for much that is related herein of that constitution, and the part Judge Lockhart played in its making. At the time of the convention Judge Lockhart was closing a successful term of seven years on the bench, and he possessed a vision and a view of law and constitutions not in the possession of many delegates to the convention. He was easily one of its most brilliant and valued delegates. It is quite evident that the Hon. Benjamin Rose Edmonston, of Dubois county, and many other delegates, all prominent in the convention, relied upon Judge Lockhart for much of the technical information.

Judge Lockhart's experience on the bench had taught him that it was almost a crime to send a first offender to the Jeffersonville prison, at that time one of the worst

in the world, there to associate with unredeemable criminals, to absorb their hatred of law and order, etc., so on Monday, October 28, 1850, which was early in the convention, Judge Lockhart offered a resolution to obtain from the warden of the state prison, at Jeffersonville, certain information as to the age, sex, and other statistics of criminals, in order that the convention might judge of the necessity for another kind of prison, an institution intermediate between the county jail and the state prison—something similar to a house of correction or a “house of refuge”; later in years, really represented by what is now known as the Boys’ School at Plainfield, near Indianapolis. This was a generation before the state reformatory existed, and about sixty years before there was a penal farm in Indiana. The resolution carried, but the “house of refuge” was not then created.<sup>6</sup>

In a broader sense he had the idea or the theory now advanced, in a large measure, by the state board of charities, or the state board of pardons. In that sense he was a generation in advance of his state. While acting in a judicial capacity Judge Lockhart dreaded very much to send a youth to the state’s prison. In speaking upon this subject before the state constitutional convention, among other things, Judge Lockhart said:

“It seems to me that there is no question that can be presented for the consideration of this convention, that is of more importance than this. The correction and reformation of juvenile offenders is a subject upon which I have thought and reflected much. Having occupied, for several years past, a high judicial position, I have often been pained to see the youth, the mere boy,

6. *Proceedings of the Constitutional Convention*, Vol. I, pp. 254, 493. Vol. II, p. 1036. Joshua XXI, verses 13, 21, 27, 32, 38, Numbers 35-6. Holloway’s *Indianapolis*, 1870, pp. 191, 192.

branded as a felon, under our laws, and sent for a series of years to that worst of all prisons in the United States—the Jeffersonville state prison.”

He championed a “house of refuge,” etc., for young offenders.<sup>7</sup>

The legislature of Indiana, by an act approved March 8, 1867, authorized an institution to be known as “A HOUSE OF REFUGE FOR THE CORRECTION AND REFORMATION OF JUVENILE OFFENDERS.”

To carry out the provisions of this act the sum of fifty thousand dollars (\$50,000.00) was appropriated. The general supervision and government of the institution was vested in a board of control. It consisted of three commissioners, appointed by the governor, by and with the advice and consent of the senate. Charles F. Coffin of Wayne county, A. C. Downey of Ohio county, and General Joseph Orr of Laporte county were the first members of the board. Charles F. Coffin was the first president. The institution at Plainfield, in Hendricks county, thus had its origin, and Judge Lockhart’s vision of sixteen years before came true.

In the convention the position of auditor of state was created and Judge Lockhart was the author of the title “Auditor of State,” the legal name for the official commonly known as state auditor.<sup>8</sup>

Upon the question of taking private property for public use, and providing for the pay of the same, Judge Lockhart presented valuable argument before the convention, covering what could happen in the case of non-residents, feme covert, infant, idiot, lunatic, etc. He

7. *Proceedings of Constitutional Convention*, Vol. II, p. 1903.

8. *Ibid.* Vol. I, p. 336.

declared, "No man's particular services shall be demanded without just compensation. No man's property shall be taken without compensation; nor, except in case of the state, without such compensation first assessed and tendered to the owner," etc.<sup>9</sup> His talk continued and covered cases wherein the owner was physically unable to reach or receive compensation, etc. Judge Lockhart usually received close attention and marked respect.

Upon the question of negro immigration and rights Judge Lockhart took an active part in the convention. He was in favor of the legislature passing laws, with as little delay as possible, prohibiting negroes or mulattoes from coming into or settling in this state, and prohibiting all negroes and mulattoes who have come into this state since the 10th day of February, 1831, and who have not complied with the provisions of the general assembly of this state entitled "An act concerning free negroes and mulattoes, servants and slaves," approved February 10, 1831, "from purchasing real estate, or any interest therein, hereafter."<sup>10</sup> The act of 1831 was styled the "black law" by many pioneers.<sup>11</sup>

Upon this point Judge Lockhart made a very interesting and learned address.<sup>12</sup>

A portion of the old law read as follows:

"From and after the first day of September next (1831), no black or mulatto person coming or brought into this state, shall be permitted to reside therein unless bond with good and sufficient security be given on behalf of such person of color—in the penal sum of five hundred dollars, conditioned that such person shall not at any time become a charge to said county."

9. *Ibid.* Vol I, pp. 437, 560.

10. *Ibid.* Vol. I, p. 572.

11. *Ibid.* Vol. I, p. 622.

12. *Ibid.*

While debating this question, among other things, Judge Lockhart said:

“That section virtually provides that they might come into the state, and if they did, that they should comply with its provisions. For a time it was supposed that this law was unconstitutional. The supreme court, however, has decided otherwise and that the act is constitutional. The amendment I have offered is substantially this:

“That all negroes who have been born in this state or those who came into the state prior to the act of tenth February, 1831, just recited, and all who have come into the state since that period and have complied with the provisions of the law shall be permitted to hold real estate hereafter, as they have heretofore. It seems to me that if these instructions be adopted, the friends of the most stringent law on that subject would be satisfied. It would be leaving the negro exempted in the amendment, free to acquire and hold property. The ground which I have taken, I think, would be neutral and common ground on which we all would meet, that it would be a position which we could all maintain and which would be maintained by the people of the state. It cannot be urged with propriety, that those who have come into the state since the passage of the act of 1831, and have not complied with its provisions, can have any claim to the protection which the law otherwise would have afforded them, or any other of the laws of the state. They reside here in fraud of the law and have no right to claim its protection.’ \* \* \*

“It has been said during the discussion of this question, that there is a pro-slavery party in this convention; that there are men on this floor who are pandering to the Southern slave-holders—men who are not willing to maintain the principles declared to be the rights of citizens of this state, guaranteed by the present constitution. I, for one, Sir, am not prepared to say that when I take the position which I do, that I am pandering to the prejudices of the Southern slave-holder. I maintain that Indiana ought to be, and should forever remain, free soil. I go in, however, for maintaining the integrity of the laws and of the constitution of the United States. I go in for the enforcement of the bill which has been denounced from one end of the Union to the other—I

mean the fugitive slave law. I believe that it is a duty which we owe to the sister states, a duty which we owe to ourselves, a duty which we owe to the integrity of the Union, to see that the laws are faithfully, honestly and impartially administered. That was one of the principles on which the federal constitution was framed; and it is unquestionably our duty to preserve it inviolate. Sir, I see very little moral honesty in declaring upon this floor, that we are in favor of maintaining the supremacy of the law, while at the same time we stigmatize each other as being panders to the interests of Southern slave-holders, or Northern fanatics. If to maintain the supremacy of the law be to pander, then I am willing to be branded as a panderer." \* \* \*<sup>13</sup>

The speech was of considerable length and one may easily see as he reads it that Judge Lockhart looked, as did Daniel Webster, upon constitutions and laws as contracts not to be broken. So long as slavery was a constitutional right the slave-holder had rights other men must observe, etc. All sections of the new constitution that touched upon slavery brought forth unusual decisions. True, at that time, there was no slavery in Indiana, but its blight, or evil influences, reached over into Indiana, and the slave question was becoming serious.

When the question of providing for a new county to be constructed from portions of Perry and Spencer was before the last state constitutional convention (which is fully reported in Volume I, between pages 931 and 941, of the convention proceedings), Judge Lockhart's sympathies were with Mr. Huff, the delegate from Spencer. Judge Lockhart said:

"My feelings are all with the mover of the reference. The division of counties, it is true, is not to be encouraged, nor ought we unnecessarily to prevent it where a clear majority of the people are in its favor. I regard this, Sir, as a question over which

13. *Ibid.* pp. 622, 627.

the people themselves in the local jurisdictions ought to have control. I therefore trust that the proposition will receive the favorable action of this convention, and that the section will be amended as proposed."

Today, the final analysis, or answer, is to be found in the following provision of the present constitution; Schedule, Article XV, near the end of the state constitution:

"Whenever a portion of the citizens of the counties of Perry and Spencer shall deem it expedient to form, of the contiguous territory of said counties, a new county, it shall be the duty of those interested in the organization of such new county, to lay off the same, by proper metes and bounds, of equal portions as nearly as practicable, not to exceed one-third of the territory of each of said counties. The proposal to create such new county shall be submitted to the voters of said counties, at a general election, in such manner as shall be prescribed by law. And if a majority of all the votes given at said election shall be in favor of the organization of said new county, it shall be the duty of the General Assembly to organize the same out of the territory thus designated."<sup>14</sup>

The size of the General Assembly of Indiana brought forth a general discussion such as we hear now-a-days in congress. A full representation was desired. At the time of this convention (1851) Indiana had only ninety counties.

When the question was before the state constitutional convention, quite a discussion arose as to the number of state senators and state representatives that should be required to constitute the "General Assembly of the State of Indiana." Edmonston, of Haysville, and Judge Lockhart took prominent parts in this discussion, and their wishes prevailed.<sup>15</sup>

14. *Ibid.* Vol. II, p. 2077.

15. *Ibid.* Vol. I, pp. 981, 985.

When the constitutional convention of 1851 was closing up its work, Mr. Bright, of Jefferson county,

“offered a resolution to the effect that the secretary be authorized to have five thousand copies of the constitution and address published in the German language, etc.”

the resolution was adopted.<sup>16</sup>

About the time this state constitution was being written (1850-1851) states north of us were passing laws very inviting to the Germans then preparing to leave Europe for the freedom of America. It caused this state constitutional convention to be exceedingly liberal in its constitutional provisions regarding aliens' rights, votes, etc., so liberal, in fact, as to make Indiana a favorite of the German emigrant. The constitution itself and the statutes were printed in German, laws were passed favoring the German language in public schools, and the proceedings of some town councils, etc., were kept in German. No wonder the jolt in the World War was a severe one, for many Germans never realized until then that they were in America and actually American citizens, subject to American laws and customs after all. The Democrats were the majority party in the state constitutional convention. Judge Lockhart requested that fifteen thousand copies of the new constitution be printed in German.<sup>17</sup>

Benjamin R. Edmonston, of Haysville, offered a section to the constitution to the effect that in each school district the qualified electors thereof may decide, by vote, whether they will have any other than the English language taught in the district, but it was voted down.<sup>18</sup>

16. *Ibid.* Vol. II, p. 2066.

17. *Ibid.* p. 2030.

18. *Ibid.* p. 1861.

On Thursday, October 24, 1850, Judge Lockhart took a decided stand against local or free banks. He offered the following resolution, which was ordered printed:

“Resolved, That in the opinion of this convention, the interests of the people and the honor of the state demand that a provision be inserted in the constitution prohibiting the legislature from incorporating any bank or banking institution in this state.”

When the question of abolishing the grand jury system was before the state constitutional convention, in 1850, Judge Lockhart delivered an address in favor of the grand jury, in which he displayed a familiarity with English history not often seen, even at this time. His address was in the language of his day, with a full supply of “Sirs,” and other courtesies not now in use. It had many rounded periods which reminds one of the orations of George H. Proffit, but it was more specific and legal in its terms and premises. Since this particular address may give us a character picture of Judge Lockhart, in middle life, and is a fair example of the orations of that famous convention, perhaps the greatest ever held in Indiana, the address, practically complete, is given and marked “Exhibit A,” at the close of this sketch.

Judge Lockhart was a strong advocate of the state banking system. On January 7, 1851, when the banking question was before the state constitutional convention, Judge Lockhart delivered a set speech well worth reading. It is to be found marked “Exhibit B,” near the close of this biographical sketch.

It is to be remembered that Judge Lockhart had a profound respect for things old, and established, and fought many proposed and radical changes upon the floor of the convention. He had a high regard for law and order

and implicit faith in the final judgment of the common people. He realized that, in the final analysis, the people's approval was required to make a new state constitution—the convention was drafting the text, but the people were required to give it force and effect.

In this state constitutional convention Judge Lockhart was appointed on Monday, October 14, 1850, to serve on the following committees: To represent the fourth judicial circuit "On the organization of the courts of justice" and "On salaries, compensation, and term of office."<sup>19</sup> In the decade of the forties the fourth judicial circuit was composed of the counties of Posey, Gibson, Vanderburgh, Pike, Dubois, Spencer, Perry, Crawford, and Warrick, but the changes were frequent.

The General Assembly of Indiana was in session during the part of the time the state constitutional convention was in session, and some delegates to the constitutional convention were at the same period members of the General Assembly, then serving under Indiana's first constitution. When the General Assembly convened it was necessary for the convention to move from the State House to the Masonic Hall. Madison invited the convention to convene in that city and complete its work, but the invitation was not accepted.

When the constitutional provision regarding the site of the battle of Tippecanoe was before the constitutional convention, Judge Lockhart raised the question of the expediency of erecting a monument at the capital of the state, to the memory of the gallant volunteers who fell in Mexico.<sup>20</sup> The Whigs claimed the honors for Tippecanoe but blamed the Democrats for the Mexican war.

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19. *Ibid.* Vol. I, pp. 57, 58.

20. *Ibid.* Vol. II, p. 1342.

The state constitutional convention was in session from Monday, October 7, 1850, to Monday, February 10, 1851. The latest constitutions of other states were freely consulted and the suitable parts were adopted or adapted to Indiana's needs. On the last day of this convention it convened at six o'clock in the morning. The committee on revision then made its final report. Modern statesmen would hardly convene at six o'clock on a Monday morning to revise anything.

When the questions of permitting aliens to hold property in Indiana was before the state constitutional convention, among other things, Judge Lockhart said:

"In that portion of the state in which he resided, there was a large foreign population, many of whom had experienced great inconveniences in the settlement of the estates of deceased aliens. It was true for four or five years past we have had a statute which measurably removed the evil, yet he thought that it ought to form a section in the constitution. It may not be amiss to state that in some of the continental states of Europe, the laws of descent and distribution are made to depend upon the law of the country where the heir or distributee resides, so that if by the law of the country where the heir lived and owed allegiance, foreigners were allowed to inherit, the rule would be reciprocal hence the great importance of inserting the provisions of this section in the constitution. He had known a German who resided in this state, prior to the passage of the statute to which he had referred, who fell heir to property in one of the German states, who was compelled to change his residence from Indiana to Pennsylvania, or Maryland, before he was entitled to enjoy the inheritance. \* \* \* Let us then secure to them and their friends in the country from whence they came, their just right to inherit."<sup>21</sup>

Judge Lockhart endeavored throughout the state constitutional convention, as at all other times, to be cour-

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21. *Ibid.* p. 1404.

teous and respectful; he never upon any occasion during the convention united with those who felt disposed to make noise and confusion in the hall. He did not occupy much of the time of the convention; he knew what to say, how to say it, and how to quit when he had said it. He was absent only a few hours during the entire session.<sup>22</sup> He was a close student, keen observer, and faithful delegate; conscientious, untiring, and honest in his beliefs.

The words "Gentlemen" and "Sir" appear so often in the debates of the state constitutional convention, of 1850, that one is reminded of the dignity of English debates, or the courtesies and honor of southern people. The harsh, cold, and indifferent language of debates of today are not to be found, but the early language was, nevertheless, very cutting. It was simply delivered with more polish, eloquence and refinement.

In the state constitutional convention, of 1850, Judge Lockhart was generally referred to as the "Gentleman from Vanderburgh," but he represented the district composed of Vanderburgh and Posey counties.

In one of his speeches before the state constitutional convention, Judge Lockhart said:

"I desire to say that I will go as far as he who will go the farthest. I am for breaking down all distinctions between the several forms of actions, and for having the law administered in an uniform mode, without reference to the distinctions between law and equity. It is high time, Sir, that the artificial distinctions which have so long clogged the wheels of justice should be dispensed with. We have already passed a section which provides 'that all courts shall be open, and every person, for injury done to him, in his person, property or reputation, shall have remedy by due course of law', and in the beautiful language of Lord Coke, that section declares that 'justice shall be administered freely,

22. *Ibid.* p. 1532.

and without purchase, completely and without denial, speedily and without delay', etc."<sup>23</sup>

In many of Judge Lockhart's speeches one may see references, not only to the common law of England, but to the history of that common law. They show a general knowledge of the history of England and of continental Europe, as they pertain to law and equity. Apparently, public men of 1850 knew more of English and European history than do public men of today. They were really closer to the influence of England than we are. Many were only one or two generations removed from English forefathers.

As a reader studies the printed speech delivered at the state constitutional convention the conclusion draws upon him that the men who framed the present state constitution were probably the most resourceful men ever assembled in Indiana. They were learned in the law, history, achievements, ambitions, aims, hopes, and aspirations of genuine Hoosiers. They had been students and readers of the great men of the past, of the conventions and constitutions of other states and countries, and the history and progress made thereunder. The feudal system, the grand jury system, the right of eminent domain, imprisonment for debt, and many other things were discussed with a broad knowledge obtained from their earliest history. The grand jury system called for prolonged and serious discussions, and it was finally retained, as the best of various methods suggested for public protection.

Judge Lockhart closed his duties as a delegate to the state constitutional convention on Monday, February 10, 1851, and in a few days was on his way to Washington

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23. *Ibid.* p. 1840.

to become a member of congress, where he represented the first Indiana district in congress beginning Wednesday, December 3, 1851. At that time, Thomas A. Hendricks, afterwards vice-president, was a member from the fifth Indiana district. Messrs. Bright and Whitcomb were in the senate. One of Judge Lockhart's first acts was to introduce a bill to

"grant the right of way and make a donation of land to the states of Indiana and Illinois, in aid of the construction of a railroad from New Albany, in the State of Indiana, via Mount Carmel, on the Wabash River, to Alton, in the State of Illinois."

which was read the first and second time by its title, and referred to the committee on public lands.<sup>24</sup>

In March, 1852, Judge Lockhart presented a petition of "Samuel Hall, president of the Evansville and Illinois Railroad, asking for a grant of land to aid in the construction of said road from Evansville, on the Ohio river, to Indianapolis, Indiana." At the same time he filed a petition in favor of the assistant United States marshals who took the seventh census in the counties of the "Pocket," which petition asked for additional compensation for their services.<sup>25</sup>

On Friday, March 26, 1852, Judge Lockhart presented a petition for J. C. Graham, of Pike county, asking for additional compensation for services rendered as assistant marshal in taking the seventh census of the United States.<sup>26</sup>

On April 7, 1852, he filed a similar petition for B. B. Piper, census taken for Posey county.<sup>27</sup>

24. *Cong. Globe*, January 7, 1852, Vol. XXIV, Part I, p. 224.

25. *Ibid.* March 19, 1852, p. 800.

26. *Ibid.* Part II. March 26, 1852. p. 898.

27. *Ibid.* April 7, 1852. p. 1004.

On April 22, 1852, he again appeared before congress in the interest of the Evansville and Illinois Railroad and land grants.<sup>28</sup>

Judge Lockhart was a member of the committee on territories and was interested in providing for the selection of places for the location and erection of public buildings for the territories of Oregon and Minnesota.<sup>29</sup> He was also an active member in behalf of New Mexico, and in behalf of the people of Oregon who defended themselves against Indian attacks in 1847 and 1848.<sup>30</sup> This is sometimes referred to as the "Cayuse War," in Oregon.

On Saturday, May 29, 1852, the house had before it the disposal of the saline lands in Indiana and there was some discussion. The State of Indiana owned these saline lands at that time, but their sale price had been placed at one dollar and twenty-five cents per acre by the government, and the land did not sell, though on the market for nearly a quarter of a century. Eastern congressmen seemingly opposed the reduction of the price per acre. Originally the surveyors reported that these lands might contain salt springs, and therefore valuable, but salt did not develop. The discussion closed when Judge Lockhart said:

"The lands which the provisions of this bill affect are principally, if not all, in the district which I represent. I am, therefore, well acquainted with their situation and can concur fully in the statement made by my colleague, Mr. Dunham. I hope, therefore, that the honorable member from Connecticut (Mr. Cleveland) will withdraw his opposition to the bill and let it pass."

Mr. Cleveland accepted Judge Lockhart's explanation, withdrew his objection and the bill passed. It was of

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28. *Ibid.* April 22, 1852. p. 1171.

29. *Ibid.* pp. 1198, 1232, 1377.

30. *Ibid.* pp. 1377, 1455, 1456.

material assistance to the common schools of Indiana, and the proceeds are now recognized in what is known as the "saline funds" embodied in our tuition funds for the common schools of Indiana.

On June 24, 1852, Judge Lockhart presented resolutions of the legislature of the State of Indiana in relation to declaring the bridge over the Ohio river at Wheeling, (West) Virginia, a post route. This shows how far an interest in a bridge may be felt.

On July 8, 1852, Judge Lockhart addressed the house in behalf of the work of Dr. David Dale Owen, on the geology of Iowa, Wisconsin and Minnesota. Among other things Judge Lockhart said:

"As a geologist, Dr. Owen has but few equals, probably no superior in this or any other country. The work, Sir, is one of very great merit. As a literary production it will take a very high rank; as a scientific work it will have no superior in that branch of science. To the artisan and others who may hereafter wish to settle upon the great coal-fields or mineral lands of the Mississippi Valley, this report will be of incalculable value, etc."<sup>31</sup>

Dr. Owen's book is said to be one of the best, neatest and most inexpensive ever produced by congress up to that time. The resolution called for thirty-five hundred copies.

At an evening session of a committee of congress, on Saturday, July 24, 1852, the river and harbor appropriation bill was up for consideration. Judge Lockhart addressed the committee for an hour in favor of the bill. He avowed himself a strict constructionist of the constitution, and said he was prepared to vote for a just system of measures, of a national character, for the improvement of rivers and harbors. In doing so he was not

31. *Ibid.* pp. 1693, 1694.

departing from the Democratic doctrine, having before him the example of Jefferson, Madison, Monroe, Jackson, and Polk, etc.<sup>32</sup>

On August 4, 1852, Judge Lockhart took an active interest in the reports furnished by the engineer concerning the falls of the Ohio, the maps, and the additional improvements needed. The canal around the falls was a pioneer internal improvement which well deserved his serious consideration.

On August 14 and 16, 1852, the discussion concerning the "Wheeling Bridge" was attracting considerable attention. A bill was before the house declaring the Wheeling bridge a lawful structure and a post route. The decision of Judge Marshall concerning the territory situated, lying, and being to the northwest of the river Ohio, came into the debate. The question of jurisdiction over the Ohio river was a debated question. While the debate was on, Judge Lockhart, among other things, said:

"I wish to state that the case of Handley's Lessee vs. Anthony, to which he refers the question of state boundary was not discussed. The only question presented to the court for its consideration was whether thirty-six thousand acres of land, situate, lying and being to the northwest of the Ohio, and lying within the county in which I reside, was in Kentucky or Indiana. The lawyers in that case conceded that if the land in controversy was an island, it was in Kentucky, if not an island, it was in Indiana. From this statement it will be seen that what Judge Marshall says in relation to the boundary between the states of Kentucky and Indiana, is not entitled to the consideration of a judicial decision; that it is only the 'obiter dicta' of the judge who delivered the opinion, and is not authority judicially pronounced upon the important question of boundary."<sup>33</sup>

32. *Ibid.* Part III, p. 1889.

33. *Globe*, August 13, 1852, Vol. XXV, p. 1041.

Judge Lockhart was a "Jackson Democrat" and was evidently very proud to be one and to say so. On July 22, 1852, when a river and harbor bill was before the House, Judge Lockhart made one of his principal speeches before the "Committee of the Whole," upon the improvement of the Ohio river. (See "EXHIBIT C.")

In the second session of the thirty-second congress, Judge Lockhart still looked after the interests of the territories, the river and harbor appropriations, and the railroads then proposed in southern Indiana. One of his last acts in this congress was to secure twenty thousand dollars for building the marine hospital at Evansville. This he did February 19, 1853. Judge Lockhart's first congressional term ended with the thirty-second congress. Smith Miller represented the districts in the thirty-third congress which convened in March, 1853. Smith Miller's home was at Patoka, in Gibson county. He was a member of congress from the first Indiana district from March 4, 1853, to March 3, 1857. He served four years between the terms of Judge Lockhart, and thus congress lost the future service of Judge Lockhart, practically entirely. The Congressional Directory thus speaks of Mr. Miller:

"Smith Miller, a representative from Indiana, born in North Carolina May 30, 1804, moved to Patoka, Gibson County, Indiana; received a limited schooling; engaged in farming; member of the state house of representatives; elected as a Democrat to the thirty-third and thirty-fourth congresses (March 4, 1853, to March 3, 1857); died near Patoka, Indiana, March 21, 1872."<sup>34</sup>

Smith Miller of Gibson county was a delegate to the constitutional convention of 1850, and represented a dis-

34. Cong. Directory—Senate Documents, Vol. LVI, p. 864.

trict composed of Gibson, Pike, and Dubois counties. He served as a state representative from Gibson from 1835 to 1839, again in 1846. He also served as state senator from Gibson county in 1841-44 and in 1847-50. He served in the thirty-third and thirty-fourth sessions of the American congress and was succeeded by the Hon. James Lockhart, March 3, 1857, in the thirty-fifth congress. In 1856, Judge Lockhart was elected the successor to Smith Miller, in the thirty-fifth congress, but Judge Lockhart died September 7, 1857, before he took a very active part as a member of the thirty-fifth congress, and while a candidate for election for the thirty-sixth session. It seems there were two elections before active work under the first election had began. Lockhart, the congressman-elect, was a candidate for re-election with an undoubted chance for success, when he died, about a month before the election. Judge Niblack who was nominated to fill his place on the ticket was elected and entered upon his duties December 7, 1857. Judge Niblack was re-elected.

Judge Lockhart had returned to political power in 1856, but illness soon called him to a world beyond. In 1856, he was re-nominated to congress, and in 1857, re-nominated again. He was elected in 1856, but passed away before election day in 1857. Judge Lockhart was known as a man ready to march to the defense of the Democratic principles, whether as a leader or as a private in the ranks. Though defeated in the convention, in 1854, he was first to lead the van of the party's struggle of that fall, and although a private citizen, contributed largely to the success of the party in 1854.<sup>35</sup> Judge Lockhart

35. Rockport *Democrat*, May 24, 1856.

was nominated on the fifth ballot, Wednesday, June 18, 1856, at Petersburg. There were ninety-nine votes, and on the fifth ballot the vote stood: Lockhart, seventy-one; Hovey (then a Democrat), twenty; Niblack, eight. The counties were Martin, Daviess, Knox, Gibson, Posey, Vanderburgh, Warrick, Spencer, Dubois and Pike.<sup>36</sup> In this convention, Dubois county voted nine votes for Lockhart, five times.

In 1856, and previous to that, it was customary for candidates to traverse a district together, thus securing perfect fairness, and giving the people an opportunity of judging the men, side by side, each delivering his address, taking his position and attacking his opponent's, in the presence of the other. In 1856, the Hon. James C. Veatch was Judge Lockhart's opponent for congress. In 1856, he wrote Judge Lockhart as follows:

"Evansville, July 26, 1856.

Judge Lockhart.

Dear Sir: Having accepted the nomination for congress in this district, I desire to make such arrangements with you as may be mutually agreeable for a discussion of the questions of the day.

Yours respectfully,

James C. Veatch."

Judge Lockhart replied as follows:

"Evansville, July 26, 1856.

J. D. Veatch, Esq.

Dear Sir: Your note of this day has just been handed me, and in reply permit me to say that it will afford me great pleasure to meet you in the discussion of the 'questions of the day', at such times and places as may be mutually agreed upon, commencing on

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<sup>36</sup>. *Ibid.* June 28, 1856.

Monday, twenty-fifth day of August, which will afford us ample time to visit every county in the district.

Respectfully, your obt. servt.,

Jas. Lockhart."

Their trip started at Newburg, September 4, and closed at Boonville, October 11, 1856. They were billed for thirty-three meetings throughout the district.

A study of politics of 1856 brings to mind that there is a familiar ring to the cards that usually appear a few days before a general election. Here is one that probably exposes an attempt to mislead voters and it reads true to form:

"To the Democracy of the First Congressional District of Indiana:

The leaders of the Abolition party in this district have abandoned all hopes of carrying the election in the district by fair means, are now, with the aid of a prostituted press which they have established at Princeton since the commencement of the canvass, endeavoring to succeed by falsehood and distraction. Their paper abounds in low flung personal abuse and false and malicious charges and statements against me. I, therefore, issue this circular to put the democracy of the district on their guard, and to say to them that it is believed that between this and the day of election, the district will be flooded with false, forged and counterfeit affidavits and certificates, preferring all kinds of charges against all Democratic candidates and myself, particularly. I, therefore, caution the public against them and ask candid and fair men of all parties to indignantly frown upon every effort which seeks to carry the election by falsehood, fraud or violence.

Respectfully, your fellow-citizen,

James Lockhart."

Evansville, October 6, 1856.

The above card was directed at the work of the Princeton *Courier* which was supporting Mr. Veatch for con-

gress. In all this review due credit must be given to the fact, no doubt, there were charges and counter-charges.

Here is another example of notices, in 1856:

“RALLY! DEMOCRATS, RALLY!!

We hope the Democrats of Spencer will rally out in their strength on Monday at one o'clock p. m. to hear the speech of the Hon. James Lockhart. The judge is a good speaker and will make the Know-nothing abolition fur fly, so come out one and all.”<sup>37</sup>

In May, 1856, many voters in Dubois county, who were not Democrats, were classified as the “KNOW-NOTHING PROHIBITORY, SEARCH, SEIZURE and CONFISCATION ADVOCATES,” by Democratic newspapers of the Pocket.<sup>38</sup>

In the campaign of 1856, Know-Nothingism was an issue usually charged to the Fremont party, and the campaign was an unusually ugly one. The foreign element went with the Democratic party. The campaign was an introduction to 1860. Judge Lockhart was elected to congress in October, 1856, by a majority of 4,824.

Judge Lockhart was not a good story-teller in political discussions, but he was strong in good, sound reason and logic. James C. Veatch was considered a good story-teller, and that ability was an asset in his political discussions.

In noticing the death of Judge Lockhart the *Evansville Journal*, a Republican paper, of Tuesday, September 8, 1857, paid a fine tribute to Judge Lockhart. It is made a part of this sketch and marked “EXHIBIT D.” The tribute of the Rockport *Democrat* is also in “EXHIBIT D.”

Upon Judge Lockhart's death a congressional conven-

37. *Ibid.* April 12, 1856.

38. *Ibid.* May 10, 1856.

tion was held at Petersburg to place a man on the Democratic ticket for congress, for the approaching October election.

Judge William E. Niblack was nominated September 30th, and elected October 13, 1857. At the convention which nominated Judge Niblack the following resolution was adopted:

“Resolved, That we express the deepest regret at the untimely demise of our late talented leader, Hon. James Lockhart, and recognize in his loss a vacuum not to be supplied on the domestic hearth, in the social circle and in the ranks of the Democratic party, and that we extend to the widow and friends of the deceased our heartfelt condolment in this their great bereavement.”<sup>39</sup>

Judge Niblack was nominated at Petersburg for congress. His vote was 98; Judge Law, 34. It took seventy-three ballots. Judge Niblack was elected and started for Washington, Monday, November 23, 1857.

When Judge Niblack was elected to congress, he resigned as judge, and Judge Smith succeeded him. In 1858, Judge Niblack was again nominated for congress. This time the convention met at Princeton. The vote stood Niblack 115; Judge Law, 4. Law's four votes came from Warrick county. In this convention the leading Democrats from Dubois county were Dr. E. Stephenson and Stephen J. Jerger. The convention was held July 22, 1858. Niblack and Hovey canvassed the district together. Niblack was re-elected.

A Congressional Directory sketch of Judge Lockhart is to be found in “EXHIBIT E.”

While a member of congress, Judge Lockhart insisted upon a square deal for the mid-west. In this he took the same stand as did the Hon. George H. Proffit, of

39. *Ibid.* October 10, 1857.

Petersburg, ten years before. Judge Lockhart possessed a judicial mind that sought the bare facts and the naked truth in all cases before him. Judge Lockhart was an important character in the first congressional district, particularly so in Evansville. It is thought he left no descendants, and thus his name is not among us.

It has been said that an

“analysis of the political history of Indiana reveals the fact that the highest degree of statesmanship and quality of leadership developed between the years 1855-1885. A remarkably large number of Indiana’s sons came to the front during those years and acquired both state and national prominence. Among them were a number of high-grade men who would have done honor to any position to which they might have been assigned.”<sup>40</sup>

It thus appears that Judge Lockhart’s passing away came all too soon. He was in his fifty-second year. His early death is another reminder that pioneers did things early in life, and passed beyond at an age when some men now-a-days just begin to find themselves.

Judge Lockhart was a handsome man with an open, clean-cut face, smooth and pleasing; high forehead, heavy, dark hair, parted directly over his clear right eye, with a heavy lock coming down in front of each ear. His lips were not compressed and his mouth did not present a straight line across his face, such as indicates a mind closed to all future evidence or reason. In the style of the day, he wore his hair long, almost down to the collar of his coat, which was full, wide, and extensive. He dressed in the regulation black, with pleated white shirt, high, white collar and wide, black necktie, a medium between the kind worn by General Harrison in 1835, and Abraham Lincoln in 1865. The white linen collar was

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40. Indianapolis *Star*, February 18, 1921. John B. Stoll.

unusually large, but not rigid. His clothes were made of the dignified broadcloth, of the day as became his profession under the first constitution of Indiana. In all, his appearance was one of a dignified, pleasing person, such as one would enjoy to meet, cultivate and call a friend.

#### MISCELLANEOUS REFERENCES

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 History of Pike and Dubois, pages 309, 310, 311, 507 and 512.  
 Judicial Circuits, Acts of 1838 and 1839, Chapter II, page 8.  
 Judicial Circuits, Acts of 1841, pages 99 and 109.  
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 Congressional Globe, Volume XXIV, Part I, page 224.  
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 Congressional Globe, Volume XXIV, Part III, page 1889.

## PART II

The Following Quotations Are Added to Illuminate the  
Preceding Sketch.

## EXHIBIT "A"

## GRAND JURY SYSTEM

Judge James Lockhart's speech on the Grand Jury System, delivered before the constitutional convention, 1850, at Indianapolis:

"There is, Sir, perhaps no question that has been or will be submitted to the consideration of this convention of more importance to the people of this state than the one now under consideration. The question for decision is—shall the grand jury, an institution which has prevailed for so long a series of years in the country from which we have derived so large a portion of our present laws and institutions and which has been so long and so successfully in operation in this country, be abolished? This, Sir, is an important, a grave question and one which demands the serious consideration of this deliberate body.

"The gentleman from Tippecanoe, Sir, has taken a bold stand in presenting as he has for the consideration of the convention, a proposition which, if not entirely new, is measurably so here. He proposes to change essentially the organic law of the state and upon a point too, which has not attracted the attention of the constitutional conventions in other states of the Confederacy. He desires, Sir, to abolish the Grand Jury System and to substitute in its stead public examinations before justices of the peace. Instead of having bodies of men chosen by the constituted authorities of the state to examine into all violations of the penal statutes, he proposes public examinations before magistrates. I say, Sir, this is a bold proposition. As was remarked by the gentleman from Switzerland (Mr. Kelso), there are in Marion County ten townships and probably twenty-five justices of the peace. Should the proposition of the gentleman from Tippecanoe prevail, the duties that now devolve upon the Grand Jury would be transferred

to these twenty-five justices of the peace. You then have twenty-five petty courts in this county whose duty it would be publicly to inquire into all violations of the penal code, the evidence to be taken down by the respective magistrates and handed over to the clerk of the circuit court, by him to be transferred to the prosecuting attorney and then, if in his judgment there should be evidence enough to warrant a prosecution, he is to make out a proper accusation and file it. This is the plan, as I understand it, presented by the gentleman from Tippecanoe.

"The gentleman from Laporte (Mr. Niles), suggests another plan. He suggests that the five oldest magistrates of the county be chosen to discharge the duties that now devolve upon grand jurors, and that they shall hold open courts at stated periods for the purpose of hearing criminal accusations, and if the evidence be sufficient, recognize or commit the defendant to answer the circuit court, taking down the evidence the same as proposed by the gentleman from Tippecanoe and file it in the clerk's office for the use of the prosecuting attorney; but he does not appear to be satisfied that his plan will work, and if it does not I understand him to be in favor of retaining the present Grand Jury System. Indeed, after listening to his interesting and able argument, I came to the conclusion that he was in doubt himself what would be the best system—and to reduce his argument to a syllogistic form it amounted to this, that he was in favor of abolishing the Grand Jury if a better system could be devised; if not he was in favor of retaining it.

"Mr. L. ———: The gentleman from Tippecanoe says that we do not keep up with the spirit of the age in maintaining the Grand Jury System, that it is an attribute of kingly power, and that it retards rather than advances the interests of society. I do not admit that Grand Juries were instituted as auxiliaries to the crown, but assert that they were instituted to protect the citizen against malicious prosecutions.

"Allusion has been made to the court of the Star Chamber by the gentleman from Tippecanoe, by way of illustrating the position he maintained in regard to the abolition of the Grand Jury System. Now, Sir, I would ask the gentleman whether, if his proposition prevails, we will not be brought back to that period in English history, at which the court of the Star Chamber com-

menced its usurpation of power; whether, if we abolish the Grand Jury System and substitute the one he has proposed, it will not bring us back to the commencement of the reign of Henry VII. Previous to that period Grand Juries were organized and used for the purpose of presenting accusations against criminals for persecutions.

"The earliest history we have of that institution is that it was first introduced among the Saxons, but at what particular period it was adopted it is uncertain. Long before the court of the Star Chamber came into power and during the reign of Henry III, Grand Juries were in existence, and if my reading is correct they were instituted for the protection of the subject, and not to enable the king to carry out his tyrannical purposes. It is true the Grand Jury was virtually abolished by the enlarged jurisdiction assumed by the court of the Star Chamber, during the reign of Henry VII, to enable the crown to carry on its malicious prosecutions, will not the magistrates' courts, with their public examinations, be Star Chamber courts in miniature substituting only the prosecuting attorney for the king?

"The gentleman from Tippecanoe did not, when speaking of English jurisprudence, allude to that period in English history commencing with the reign of Henry VII and terminating with that of Charles I, a period of a hundred years during which the court of the Star Chamber triumphed in the overthrow of the Grand Jury System. He did not refer to the time when Henry and his successors took their seat on the bench and became a component part of the court, to carry out their own behests in violation of law and the rights of the subject. This system of administering the laws of England, prevailed for more than a century, and where was the right of the citizen during that time? This was the period so lightly passed over by the gentleman from Tippecanoe. The wrongs the people of England experienced during that period, called so loudly for redress that during the reign of Charles I the government was compelled to come back to the Grand Jury System. From that period to the present this system has been in use, both in England and America; every state in this Confederacy having incorporated it in their system of jurisprudence and now in the middle of the nineteenth century we are told that to retain it is behind the spirit of the age, I do not believe it.

“While the gentleman from Tippecanoe and the gentleman from Laporte are both strenuous in favor of the abolition of the Grand Jury System, they are equally anxious, they say, to afford to the accused an impartial trial by jury. How, Sir, I would inquire, if this resolution should be adopted and the Grand Jury System abolished are you to increase the chances for fair and impartial trials? There would exist the same objections to making public examinations before a single magistrate, as proposed by the gentleman from Tippecanoe, or three, four or five magistrates as proposed by the gentleman from Laporte, that there would be to public examinations before Grand Juries. The gentlemen who advocate the abolition of the Grand Jury System, admit that public examination before Grand Juries would never answer; my opinion is that they would answer in one place as well as the other.

“Public examination must inevitably tend to lessen the chances for a fair trial before a traverse jury. Suppose the public mind becomes inflamed in regard to some particular criminal, how can he rely upon having a fair and impartial jury when all the evidence for and against him is known? But preserve the secrecy of the Grand Jury, let his case be examined there, keep the evidence from the public, and you increase his chances for a fair and impartial trial. How frequently is it now, that in counties where there have been certain violations of the penal law, that the public mind becomes exasperated and inflamed against the accused, so much so that a great number of applications are made for a change of venue, how much more frequent would these applications be if all examinations were public. And, Sir, three-fourths of these applications are brought about by the public investigation which we must necessarily have before committing magistrates, and at coroners' inquests. When any great crime has been committed, the whole community flocks to hear the trial, and the prisoner knowing that fact—knowing that the public mind is prejudiced against him, from having heard the examination, pleads for a change of venue. The court cannot fail to see that there is some ground for apprehensions entertained by the prisoner, and if not compelled by an imperative mandate of the law, would, from a sense of justice, feel bound to grant the prayer of the accused, the prisoner is transferred for trial, to another juris-

diction, where there are men whose minds have not been warped or prejudiced against him, where there are men who are entirely ignorant of the transaction, who can be placed on the panel, hear the evidence and pronounce an impartial and just verdict. In my judgment, Sir, nothing can be clearer than that, if public examinations are instituted, application on application will be made for changes of venue, because of the difficulty in getting fair and impartial juries. I would say here, Sir, that I am not in favor of having all offenses punished by indictment. I have long since arrived at the conclusion that our legislation ought to be different on that subject, and that a large number of misdemeanors now punishable by indictment, might be tried before justices of the peace, reserving of course the right of appeal. I think that in this particular, the Grand Jury System may be modified, without infringing the rights of the citizen, but I am utterly opposed to its entire abolition, considering, as I do, that no substitute can be found. And, Sir, before I would vote to abolish the Grand Jury, and place it in the power of one man to hear the evidence, take it down as he understands it, and then give the prosecuting attorney the power, from that evidence, to prepare an indictment and bring a citizen to trial—I say, Sir, before I could vote for such a proposition as this, a radical change must be wrought in my mind, I would, Sir, with my present impression as soon think of voting for the celebrated French declaration that there was no Sabbath and that death was an eternal sleep. I prefer rather to vest that power in the hands of eighteen Grand Jurors—men not versed in law and fresh from the masses of the people. Keep your prosecuting attorney out of the Grand Jury room, except when invited there as the legal adviser of the jury, so that he may exert no undue influence over them. Leave them to act free from dictation or any extraneous influence, and they will invariably do right. During my brief career at the bar I have prosecuted for the state and can bear testimony to the high and honorable bearing of citizens who usually compose Grand Juries. Let them receive the charge of the court, examine the statute law of the state, hear the evidence of the witnesses, and leave them unfettered by the admonitions of the prosecuting attorney, and, my word for it, ninety-nine out of a hundred of their decisions will prove correct. Malicious prosecutions to be sure, may sometimes be preferred, but abolish the

Grand Jury System and there will be ninety-nine malicious prosecutions preferred by the prosecuting attorney and his petty magistrates to one made by the Grand Jury.

"I repeat again, Sir, that there is no question in which the people are more deeply interested than in that of a fair and impartial administration of the criminal law of the state. It is due to our citizens and the state that such a system of jurisprudence should be adopted by this convention, as will not only guarantee the rights of citizens, but will at the same time secure to the state her full rights, and enable us under all circumstances, without unnecessary delay, to punish those who violate our penal laws. Can we do this, Sir, by abolishing the present Grand Jury System, and substituting public examinations before justices of the peace in its place? I think not. I am of opinion that no institution or system can be devised so perfectly well adapted to secure the rights of citizens and of the states as that of the Grand Jury. I predict, Sir, that if the principles contained in this resolution are adopted and embodied in the new constitution that at the expiration of five years there will be found a large majority of the people of this state in favor of coming back to the Grand Jury. It will be found that the expense of prosecuting before magistrates will far exceed the expense of the Grand Jury System. The expense, however, is not what I look at. The question is, is this institution an important element in the perpetuity of our free institutions? If it is it matters not what it costs. The question is not one of dollars and cents, but is it the best system for effecting the purpose designed in its organization?"

Proceedings, Volume I, pages 200 and 202.

## EXHIBIT "B"

## BANKING

Remarks in part, of Judge James Lockhart, on BANKING, delivered in the constitutional convention, January 7, 1851:

"There was, perhaps, no period in the history of the Western country so favorable to the assembling of a convention to lay down the fundamental laws of a free state, as the period at which the convention of 1816 assembled. It was immediately after the close of the late war with Great Britain that the delegates of the Indiana Territory assembled in convention at Corydon to form our present constitution. It was a period when universal bankruptcy prevailed throughout the land—when business of every kind was prostrated; at a period when we had but little or no commerce upon which to levy import duties, or to replenish an exhausted, a bankrupt national treasury. It was at that gloomy period in the financial history of the United States, that our constitution was formed, and it will not be saying too much for the delegates of the convention that they formed a better constitution for Indiana, than any then known to our political history. It was the first constitution, I believe, of any state in which the elective franchise was declared open and free to every citizen. It was at that day a model constitution; since then many of the older states have assembled in convention to alter, revise and amend their organic laws; the bright example set forth by Indiana in placing all her citizens upon the same broad political platform, by most of them, was deemed worthy of imitation. Indiana was the first state of the Union that declared in her constitution that there should be no bank or banking institution established in the state unless it should be a state bank and branches, in which, by implication at least the state was to be a stockholder, and that individual stock to a certain amount should be subscribed and paid in, in specie, before the bank could commence operations. The farmers of the constitution had seen the evils incident to independent or free banking. They had seen the entire banking system of Kentucky go by the board. They had seen bank after bank in other states go bankrupt. They

had seen the country flooded with the paper of broken banks, not worth a cent on the dollar. They had known the farmer, the mechanic and the laboring man to receive in exchange for his produce, his wares or his labor, that which was supposed to be money, and that which passed for money in the evening which on the following day was of little value as so much blank paper. They had been eye witnesses to the (enormous) monstrous frauds which had been practiced by these "shin-plaster machines," upon the honest, unsuspecting citizens. To remedy those evils they placed the provision in the constitution to which I have alluded, and but for that wise and wholesome provision, I have no doubt but that Indiana would have been this day overrun with rotten, with worthless banks, the same as many of our sister states have been and now are. As Indianians we may feel proud of the convention of 1816; if our labors shall close with the production of a constitution as far in advance of other states now, as was the constitution of 1816 then, we may congratulate ourselves with having discharged the high and important duties assigned us, to the satisfaction of those who sent us here. Under that constitution Indiana took her place in our glorious sisterhood of states with a population barely sufficient for admission; but how does the account stand today? In the brief period of thirty-four years our population has increased from sixty thousand to a million. How rapid the change! How amazing the advancement! Up to 1834 we progressed slowly but steadily. In that year the legislature incorporated the present state bank. From that period a brighter day dawned for Indiana. From that time to the present, our growth and improvements have been extremely rapid. Since the organization of the state bank as imperfect and monopolizing as it is, and the overthrow of the bank of the United States, every interest throughout the state has prospered and improved, without a parallel in the progress of states. Since then our population has rapidly increased; nearly doubled, perhaps more than doubled.

"It must be admitted by every gentleman upon this floor that the state bank has done much towards producing the rapid changes to which I have alluded. It has enabled produce dealers and commercial men to purchase for cash and at fair prices, the rich productions of the soil. It has furnished means to the farmer, by which to enable him to add to his possessions and the number of

his fields, by increasing the value of his produce. No one, I think, will deny this. If he does, let me refer him to the ten years immediately preceding the establishment of the bank, and ask him, to contrast that period with the ten years next succeeding its establishment. By so doing, he will find that the products of the farm brought at least fifty per cent more on the average annually, after its incorporation than before.

"I have now briefly alluded to some of the benefits which I think the community at large has derived from the institution of the state bank. That the bank has been productive of some evil, as well as much good, no one acquainted with its operations, will pretend to deny. But that the benefits which the community at large have derived from it, are infinitely (was) superior to the evils which it has entailed, but few, I apprehend will dispute. With a knowledge of these facts before us, can we, in the present financial history of the country, as prudent and consistent men, withdraw this institution, and substitute in its place free banks? Shall we destroy an institution which from its commencement, has furnished us with a safe and sound paper circulation, a circulation in which our entire population has confidence?

"I call upon delegates to pause and reflect before they do it—to be well advised before they transplant to our soil the New York or Michigan system of free banking. Banking I have always regarded as an evil, but an evil which for the present we must tolerate. The interests of the people demand it. We are an agricultural people; our farms and plantations are every year being enlarged, and an increased amount of territory brought within the bounds of cultivation. As an evidence of our rapid increase in agricultural productions, it is only necessary to refer to the well-attested fact, that more produce passes through the Wabash and White rivers, in the course of a year, than twenty-five years ago passed down the Ohio in the same time. This rapid increase in the productions of the soil, is not limited to Indiana. The entire west is becoming one vast garden. Our lakes and rivers, which but a few years ago were our main thoroughfares to market are now inadequate to our marts. A canal passing from the north-eastern corner to the southwestern angle of the state, is nearly completed. To this, railroads and plank roads are being added in almost every direction. All of which are needed to bear off the

rich production of the soil. To sustain these interests, is the plain duty of every citizen. Can it be done by limiting the circulation to gold and silver? Those best acquainted with the financial affairs of the country, say no. They insist that our currency, with all the aids we receive from banks, is inadequate to our wants. Withdraw from the circulation the \$125,000,000 of bank paper now in circulation and put in circulation the \$51,000,000 of specie in the vaults of the banks, and you will withdraw from circulation \$74,000,000 of currency; a result which no friend to commerce or the interests of the agricultural portion of our people would desire. Yet to annihilate banks would produce this very result. Hence the cry for banks. The people in the portion of the state from which I come, are generally in favor of a state bank and branches. In the northern and central portions the cry is "free banks." For myself, I can say, that if I must choose between the two systems, I am decidedly in favor of the state bank system. My great anxiety is, that if we tolerate banks at all, that we should have none but sound solvent specie-paying banks, and if we cannot have such, let us have none. The state bank approximates as near to this standard as any banking institution well can. Will free banks do as well? This inquiry can only be answered by comparison, as we have no practical experience in free banking."

(See Proceedings of the Convention, Volume II, page 1557.)

### EXHIBIT "C"

#### INTERNAL IMPROVEMENTS

Speech of Judge James Lockhart on River and Harbor Bill, July 22, 1852:

Among other things, Judge Lockhart said:

"In that provision of the bill which appropriates money for the improvement of the Ohio and Mississippi rivers, the people of the district which I have the honor of representing are deeply interested. That district extends from the mouth of the Wabash River to within eight miles of the Falls of the Ohio, a distance

of about two hundred and fifty miles. Fronting this district most of the obstructions in the lower Ohio are to be found. My constituents, then, are deeply interested in every movement made for the improvement of the navigation of that noble river.

"I, Sir, would prove recreant to duty and the best interests of my constituents were I to omit to urge the importance of these improvements upon the attention of congress, and to ask its favorable action upon them. The waters which descend the western slope of the Alleghanies and drain the great basin of the Mississippi Valley, in their meandering course to the ocean, wash the shores of thirteen of the finest states of this Confederacy. Upon the bosom of the noble rivers of the West, the rich agricultural productions of these vast regions are borne to market, and millions of our fellow-citizens, in their passage from one section of the republic to another, annually travel.

"Before proceeding to give my views upon the merits of the bill now before the committee, it is perhaps proper that I should say that I belong to the class of politicians who believe in a strict and rigid adherence to the principles of the constitution.

"I maintain that the states are independent powers, and possess absolute sovereignty, which carries with it an undoubted right to legislate upon all questions unless restrained by local constitutional law or the Federal Constitution, and that congress possesses no power to legislate upon any subject unless that power is expressly delegated to it by the constitution, or necessarily implied to enable the expressly delegated powers to be executed. To travel beyond this point in looking for authority for our action, we are trespassing upon the reserved rights of the states and the people. This is what I understand to be a states-rights Democratic doctrine. Professing to be guided by these views, I can vote for most of the appropriations contained in this bill. I am aware, Sir, that upon this subject there are differences of opinion between members of the same great political family, and it is probably fortunate for the country that it is so. If we were all of one mind, and in power, by taking one direction, profligacy and extravagance might mark our course; if the other, the wants, interests and rights of the people might be neglected and disregarded. These different and conflicting views, while they restrain and control extravagance and waste, will insist upon a just and liberal policy

which will impose no unnecessary or unjust burdens or restrictions upon any class of our fellow-citizens, but on the contrary afford just and equal protection and facilities to all. I, Sir, agree with neither of these extremes; there is a medium, a just and prudent course, which I think, with all due deference to the opinions of others, ought to be pursued.

"This course was clearly and distinctly laid down by General Jackson, one of our ablest and most patriotic presidents. That doctrine is so clear and explicit, that he who reads can understand it. It received a universal approval from the American people at the time of its promulgation. It was then regarded as a Democratic doctrine, and those who rightly understand the doctrine of the Democratic party, I apprehend, will regard the teachings of Jackson as Democratic now. While he was very clear and explicit against all improvements of a local character, he was equally clear and explicit in favor of judicious appropriations for the improvement of our great navigable rivers. \* \* \*

"Here, Sir, you have the views of the sage of the Hermitage, a man whose memory will be revered, and whose name will be handed down to posterity as one of the ablest expounders of constitutional law, of this or any other age. Few men of any age have possessed more of those controlling qualities which combine to make the great man than did Andrew Jackson. By the lights of his counsel, I profess to be guided. By the standard which he erected, I am willing that my political faith shall be tested.

"But, Sir, General Jackson was not the only Democratic president who favored improvements of the character I advocate, they have received the countenance and support of Washington, Jefferson, Madison and Monroe. Does any one doubt it? I will give him incontestable proof. Washington, during his administration, approved some twenty bills, making specific appropriations for the erection and support of light-houses, and at least one for the support, maintenance and repairs of 'beacons, buoys and public piers, erected, placed or sunk within any bay, inlet, harbor or point of the United States.'" etc. \* \* \*

In this manner Judge Lockhart entered upon his speech asking for an appropriation to improve the Ohio and the Mississippi rivers, etc.

(Appendix, Volume XXV, Page 863, Congressional Globe.)

In this connection it is well to state that the eastern states, or states east of the mountains, were not very favorable to the development of the Mississippi valley.

### EXHIBIT "D"

#### NEWSPAPER TRIBUTES

The Evansville *Journal's* tribute to Judge James Lockhart:

"It is with grief and sadness that we announce the death of our townsman Judge James Lockhart, member of congress elect from this district. He died on Monday morning, the seventh inst., at three o'clock. He has been lingering for months, with the fatal disease of an ulcerated stomach, daily and visibly declining to the grave, which he approached with calmness, fortitude and hope, and has at last entered its gates, and they have closed over him forever, and shut from the eyes of those who have for the period of a generation seen him an active and conspicuous member of our community.

"In his grave lie buried all political animosities and personal envies, and we recall at this sad hour only the virtues, the good deeds, and the noble traits of the deceased, and in reflecting upon these, we can join in sympathy with his bereaved friends, and shed tears of grief and sorrow over his departure.

"It is sad to number the long train of old and worthy citizens who are daily passing from us to the tomb. Those who can recall the members of the old bar, as they traveled with the court twenty years ago, around the long circuit, a band of men, made athletic in body by travel and exposure, and ready and vigorous mentally by constant intellectual conflicts—generous and frank by mutual confidence and respect—are saddened by the reflection how few of them remain, lingering upon the earthly side of the grave. Judge Lockhart has for more than twenty-five years, been a conspicuous associate of them, and has been known to almost every

man living within the old first congressional district of Indiana; and few there are among the whole population, who will not—forgetting all former political prejudices—feel sadness and grief at his death. He became a resident of this city in 1832, then a mere village—and has been a participant, in its fortunes—a promoter of its growth and prosperity—manifesting a lively interest in its advancement up to the day of his exit.

“He was born in Auburn, State of New York, in the year 1806, and was therefore in the fifty-second year of his age. He began the practice of law here in 1833, and soon became a popular and influential advocate—and in 1841 he was elected prosecuting attorney for this judicial district, by a legislature, a majority of whose members were opposed to him in political sentiments. In 1843 he was re-elected to the same office. In 1845 he was appointed judge of this circuit for a term of seven years, which position he held until September, 1851, when he resigned it to take his seat in congress. His first election to congress was in October, 1850. At the election of 1852 he gave way to the pretensions of Col. Smith Miller. At the last October election (1856) he was again elected to congress, carrying the district, after a very warm contest, by a majority of nearly five thousand votes.

“Though his friends have long feared he would never fill his seat in the House, yet he has been maturing plans for the accomplishment of various public objects, for the benefit of his district, and promised himself the honor and gratification of achieving them. But his labors are ended and those who have known him so long amid the busy scenes around us, ‘will know him no more forever’. There is a void in the community, that will long be felt in the social circle—at the domestic hearth—in the forum—and in the political arena. He has ever been the leader of his party in the ‘Pocket’.”

(Page 2, column 2, the *Rockport Weekly Democrat*, Saturday, September 12, 1857; copied from the *Evansville Journal* of September 8, 1857.)

Rockport *Democrat's* tribute:

In the Rockport *Democrat*, of August 22, 1857, the following appears:

"Hon. James Lockhart. We are pained to learn, from private dispatches from Evansville, that the Hon. James Lockhart, M. C. elect from this district is rapidly sinking under that fell destroyer of the human race, consumption, and that in all probability he will be unable to take his seat in the next congress. Every Democrat in southern Indiana will very seriously regret this, as the importance of the question just now agitating the country demands the counsels and firm support of just such reliable men as the Hon. James Lockhart. This district especially will feel the loss of the ripe experience and unwearied devotions to her interests of the honorable member elect. We still indulge the hope that he may recover his health, and be permitted to take his proper position in the thirty-sixth congress."

After Judge Lockhart's death this tribute appeared:

"We learn with regret that the Hon. James Lockhart is dead. He died Monday morning at his residence in Evansville. He had been ill for a long time, and his death, from the nature of the disease was anticipated. The judge had many warm and devoted friends throughout the first congressional district, who will really and sincerely regret his departure hence. On the other hand, he had many bitter political enemies, who will doubtless rejoice at his demise. The judge was a terror to the opponents of Democracy. His principles and his party received the constant support of his warm and generous heart, and his death will leave a vacancy in the ranks of the Democratic party that will be hard to fill."

(The Rockport *Democrat*, September 12, 1857.)

## EXHIBIT "E"

CONGRESSIONAL SKETCH OF JUDGE JAMES  
LOCKHART

"James Lockhart, a representative from Indiana; born in Auburn, New York, February 13, 1806; moved to Indiana in 1832; studied law, was admitted to the bar and commenced practice in Evansville, Indiana, in 1834; prosecuting attorney of Vanderburgh county, 1841-1842; judge of the fourth judicial district, 1845-1851; delegate in the state constitutional convention of 1850; elected as a Democrat to the thirty-second congress (March 4, 1851-March 3, 1853); re-elected to the thirty-fifth congress, but died before the assembling of the congress, in Evansville, Indiana, September 7, 1857."

(Congressional Directory, Senate Documents, Volume LVI, page 814.)

Mrs. Agnes Lockhart Twineham of Princeton, who was a niece of Judge James Lockhart, kindly furnished the following clippings from the newspapers of the period indicated:

## EXHIBIT "F"

The following is taken from the Evansville *Daily Enquirer*:

"At a meeting of the members of the bar of Vanderburgh County, in the court room, September 8, 1857, during the session of the court of Common Pleas, to show respect to the memory of the Hon. James Lockhart, deceased; James G. Jones, Esq., was called to the chair, and Edmund B. Seymour, Esq., was appointed secretary.

"On motion, a committee consisting of Conrad Baker, Asa Iglehart and Charles Denby, Esqs., was appointed to draft suitable resolutions. The committee presented the following, which were unanimously adopted:

“Resolved, That we lament with deep regret the death of Hon. James Lockhart, late a member of this bar, and that we sympathise with his bereaved family in their affliction.

“Resolved, That having known the deceased by an intimate professional and social intercourse for many years, we render willing testimony to his purity and ability as a judge; to his high attainments as a practitioner of the law, and to his work as a man.

“Resolved, That as a mark of respect to the memory of the deceased, this court be requested to adjourn until tomorrow morning at nine o'clock; the members of the bar and the officers of the court attend the funeral in a body, and that we wear crape on the left arm for thirty days.

“Resolved, That these resolutions be spread on the records of this court, and that they be published in the newspapers of this city, and that the newspapers of this judicial circuit be requested to copy the same, and that a copy of proceedings of this meeting be handed to the widow of the deceased by the chairman.

JAS. G. JONES, Chairman.

EDMUND B. SEYMOUR, Secretary.”

### EXHIBIT “G”

The following legal notice appeared in an Evansville paper, October 8, 1857, for three weeks:

#### ADMINISTRATRIX'S NOTICE

Notice is hereby given that the undersigned has been appointed administratrix, with the will annexed of the estate of James Lockhart, late of Vanderburgh County, deceased. Said estate is supposed to be solvent.

SARAH C. LOCKHART,

Administratrix with the will annexed.

(October 8—3w)

## EXHIBIT "H"

In the *Evansville Daily Enquirer* (John B. Hall, editor), of Tuesday, September 8, 1857, appears the following OBITUARY:

## "HON. JAMES LOCKHART

"When a public man passes away from among scenes with which he has long been identified, and persons with whom he has long been connected, it is meet that a tribute should be rendered to his memory. When all that is mortal of him is consigned to its elemental dust, all feelings except those of regret and kind remembrance take their flight. The loss of a patriot and statesman is not confined to the narrow limits of his own immediate neighborhood, but in its far reaching ramifications is a public calamity. And now when our beloved country is just feeling the lull succeeding a great political crisis it is more than ever to be regretted when true and brave hearts fall from their posts in the ship of state, when it is so necessary that by their wise and prudent counsels the waves of the political ocean may be softened from what may be only a rigidly deceitful calm to an abiding stillness.

"James Lockhart is dead; and while we sincerely lament his loss as a tried personal friend, we cannot banish from our mind the great grief, that one of the noblest and most unflinching of the champions of democracy has left his post of command. Judge Lockhart was born on the thirteenth day of February, 1806, in the village of Auburn, Cayuga County, New York. In the fall of the year 1832 he removed to Evansville, where he has ever since continued to reside. In 1833 he commenced the study of the law and was admitted to practice in 1834 and cast his lot here and has ever since continued, by his counsels and exertions, to contribute to our present state of municipal prosperity. We have often heard him tell of the paucity of democrats on his first arrival here. But by his earnest and unremitting zeal and activity in the cause he has had the satisfaction of seeing the party of his faith going on from small to great, and spreading its branches from those, weak as the shoot from a mustard seed, until it has become the great tree in which the weary winged wanderer of political prejudice and monarchical oppression may be at rest.

"In the year 1841 Judge Lockhart was elected by the legislature of Indiana, prosecuting attorney for the fourth judicial circuit for the term of two years. Discharging the duties of his office with ability and faithfulness, he was again elected by the same body to the same office in the year 1843. During his travels through the district in his official capacity, he embraced every opportunity to disseminate the great principles of his political faith, and had the satisfaction of beholding and reaping the fruits of his exertions. On the fourth day of December he was elected by the General Assembly of this state to the office of judge for the judicial circuit in which he had so ably filled the prosecuting attorneyship. Receiving his commission from Governor James Whitcomb on the twenty-first January, 1846, he continued in the discharge of the duties of his office until the twenty-first day of September, 1851, when the resignation of judgeship tendered by him was accepted.

"In the fall of 1850 he was elected a member of the constitutional convention of this state, and was active in his exertions to improve the charter of our state liberties.

"The democracy of the first congressional district, when in the fall of the year 1850 they wished to elect a candidate to represent them in the halls of our national congress, chose Judge Lockhart as their standard bearer. He was triumphantly returned, and took his seat, which he filled with distinguished ability. After the expiration of his congressional term he resumed the practice of his profession, and in 1853, was appointed by President Pierce, as superintendent of the construction of the Marine Hospital in this city. When the know-nothing party first sprung up, Judge Lockhart was among the first to oppose and combat its pernicious principles. He took every opportunity to denounce the members of the secret organization and their aims, as opposed to the constitution of the United States and contrary to the spirit of our political institutions. The wrath of the members of the order was leveled at his head; threats were made against him; personal friendships were alienated; his professional practice was injured, but conscious of the rectitude of his purpose and firm in his patriotism, he never turned back or wavered in his hostility. In public discussion and private conversation he was the same devoted

opponent of the attempts of the know-nothing party to subvert the great charter of our liberties.

“During the most fearful political contest which ever racked our republic, Judge Lockhart was again chosen as the congressional standard bearer of the democracy of the first congressional district. Entering into the canvass with vigor and alacrity, notwithstanding his failing health, he carried terror into the ranks of the opposition by his trenchant arguments, and enjoyed the satisfaction of being returned to congress by nearly five thousand majority over his black republican competitor, Veatch. The efforts he necessarily made and the fatigue he was compelled to undergo during his canvass, completely destroyed his impaired strength, and as one with his mission complete, as far as human strength could make it, he has gone to his final rest. The destroying angel had no terrors for him. Calmly and peacefully he passed away. With his mind strong and unimpaired until the last, he gave directions concerning his affairs and spoke words of peace to those surrounding his bedside. Well might he have exclaimed ‘Non omnis moriar’, for a great part of him will still live in his deeds, and in the hearts of the democracy. Even those who differed with him in political sentiments, will mourn his loss as a citizen or a personal friend, while we of the democratic party must mourn him as a champion not easily replaced.”

#### EXHIBIT “I”

The following beautiful TRIBUTE to the memory of Judge Lockhart appeared in an Evansville paper at the time of his death. It is written in the full flower of the language of his day and generation. It is well worth a careful perusal:

#### “CONGRESS AND LOCKHART

The Congress of the American nation convenes two weeks from to-morrow. The great men of the Union shall then meet in the exercise of the highest functions of a free people. Washington City shall then again be the center of attraction—the throbbing, pulsat-

ing heart of this ocean-bound Union—and the agitated and uncertain star of hope to the wishful and the oppressed of many a clime. Common citizens, talented gentlemen, distinguished orators, tried patriots and approved statesmen shall go up from every territory and from every Congressional district of every sovereign state. Elements of discord, demagoguery and prescription may be there also. Washington, however, completely aroused from her slumber of the last preceding fall and summer shall be herself again—all politics, all fashion, all life, all bustle—and overwhelmingly, full. And as attraction deepens, the arrival of every train of cars shall continue to make accessions, and additional accessions, to the wit and wisdom, tact and talent, wealth and beauty, and intelligence and patriotism, that had already assembled from every nook and corner of the land. But, amid all this life-stirring scene, and among this mighty Congress of great men, if you pause to look for or search out one familiar face—one that has been at home there, a peer among the greatest in times gone by; a statesman that the people of Indiana set store to, as one of her most favorite and reliable sons; and who was commissioned in 1856 by the democracy of her banner district to a seat in this same Congress, you will pause—look, search, in vain. James Lockhart is no more. Though called and commissioned to serve the nation for years to come, he harkened first to another and higher call. That he has gone out from among us, is OUR loss not HIS.

“His soul, enlarged from its vile bonds, has gone  
To that refulgent world where it shall swim  
In liquid light, and float on seas of bliss!”

“Let us offer a tribute to his memory: As a citizen, he has long been identified with the interests of Evansville, its prosperity and growth. As a friend he was warm and generous. In the hearts of all who knew him in friendship—socially and politically—his name is embalmed forever. The hallowed associations of that name shall grow greener, fresher and dearer, while one of us is left remaining on earth to deplore his absence.

“Lofty and sour to those that loved him not,  
But to those that sought him, sweet as summer.”

"In the political arena the name of Lockhart alone was a tower of strength to his friends and a terror to his enemies. Every pulsation of his heart was democratic. Bold and unswerving fidelity marked his whole course of life—and his undeviating attachment to friends and to principles, his indomitable energy in defending them, his stern patriotism, his high attainments, and the great amount of effective labor which he contributed to the cause of democracy and the best interests of our common country—all, pre-eminently marked him out as the champion of his party. It may be truly said that Judge Lockhart, at the continual sacrifice of his time and money, did, with his own hands—with his life-blood, and the best energies of a highly gifted and devoted patriot—lay deep and broad the foundations, and stone by stone did he rear the proud superstructure and crowning embattlements of Indiana democracy, that have so successfully and gloriously withstood the fiery, and frenzied, and midnight assaults of whiggery, know-nothingism and all other isms of the day. The First Congressional district is the citadel of democracy that gave the State to Willard, Buchanan and the constitution; and while the memory of James Lockhart lives this democratic Gibraltar shall remain impregnable forever. Then, in justice to him, to ourselves and to posterity, let us inscribe that name in imperishable characters high upon the outer walls, and upon the standard of victory.

"So identified and interwoven is the name of Lockhart with the democracy of Southwestern Indiana that we can scarcely bring ourself to believe that he is not now on duty in the front ranks of the party, dealing giant blows and beating back, as usual, the enemies of our country—we cannot, cannot realize, scarcely, that our chieftain has fallen! His bright history, his shining deeds are before us. Blunt, open and truthful—his undying fidelity to friends and country, his unconquerable, generous, and far-seeing ambition looms up higher and higher. We have said, however, that he is no more on earth. On the 7th of September last he appeared to have departed this life without a struggle.

"Like a shadow thrown softly and sweetly from  
A passing cloud,  
Death fell upon him.'

"Judge Lockhart was born in Auburn, New York, February 13, 1806. He removed to Evansville and commenced the study of law, the practice of which he began in 1835. He filled with honor to himself and constituency, many important offices. Among many others that of Congressman; and in 1856 was again, after a hotly-contested canvass, returned to Congress by a majority of 5,000 votes.

"In his decease the democracy of Indiana is bereaved of an able champion, Evansville of an enterprising and energetic citizen, the bar an accomplished member, and the domestic hearth an invaluable companion.

" 'We followed him when living;  
We honor him when dead.' "

### EXHIBIT "J"

(From the *Evansville Daily Enquirer* of January 3, 1858.)

In the House of Representatives, at Washington, on December 23, 1857, Judge Niblack, of Vincennes, took the floor and said:

"Mr. Speaker, I rise for the purpose of making an announcement similar to the one you have just heard—to announce the death of the Hon. James Lockhart, also a member elect to the present Congress from the State of Indiana. He died at his residence in the city of Evansville, in that State, on the 7th day of September last, after a severe and protracted illness.

"It will thus be seen that the hand of affliction has fallen heavily upon Indiana; that of the eleven members elected to the present Congress from that State, in October, 1856, two have already gone to the tomb.

"Judge Lockhart was born at the village of Auburn, in the State of New York, on the 13th day of February, 1806. In the fall of 1832 he emigrated to the State of Indiana, and located in the then village, but now city, of Evansville, in which he continued to reside until the time of his death. Not long after his location in Indiana, he commenced the practice of the law as a profession,

in which he continued, except at brief intervals, up to the time of his death.

"In the winter of 1841-42 he was elected by the Legislature of this State prosecuting attorney of his Judicial circuit. Two years afterwards he was re-elected for another term. In the winter of 1845-46, after the close of his second term as prosecuting attorney, he was elected presiding judge of the same judicial circuit. In the summer of 1850, while still in commission as judge of his circuit, he was elected a member of the Constitutional Convention, which assembled in that year to revise and amend the constitution of his State. Of that talented and influential body of men he was one of the most active and efficient members.

"In August, 1851, he was elected a member of the Thirty-Second Congress, and in the month following he resigned the office of circuit judge to enable him to take his seat in that body. He served as a member of that Congress for the full term. In the spring of 1853, after the expiration of that Congress, he resumed the practice of his profession.

"In the fall of 1856, after one of the bitterest contests ever known within our State, he was elected a member of the present Congress by a largely increased and overwhelmingly majority.

"At the time of his last election he was in feeble and failing health. It was obvious that, without a speedy restoration, his span of life was short. Notwithstanding the feeble condition of his health, he continued in the active discharge of the duties of his profession, and of those public duties which his position devolved upon him, until utter prostration bid him cease. Never was that iron will and indomitable energy, which so much distinguished him through life, so clearly manifest as during the last trying months of the most distressing illness. He died as the strong man dieth; he literally fell with the harness upon him. In matters political, Judge Lockhart was devotedly attached to the organization and the creed of the party with which he affiliated. As a political leader, he was bold and indefatigable. During the last fifteen years of his life, I enjoyed much of his personal friendship and confidence. But few persons, outside of his immediate family friends, knew him more intimately than I have known him. Having been elected to fill the place made vacant by his death, and occupying his seat in this House to-day, it affords me pleas-

ure to bear willing testimony to his energy, ability, and integrity as a public officer, and to the fidelity with which he discharged the many important trusts confided to him as a public man.

“Here, as in the ranks of the army, when one falls another takes his place, and everything moves on as before; but not so in the private relations of life. When a near and tried friend is stricken down, there is no one to take his place. When the protecting arm of a husband is withered into dust, there is no adequate earthly consolation.

“I submit the following resolutions for adoption:

“Resolved, That the members of this House have heard with deep regret the announcement of the death of the Hon. James Lockhart, a member elect from the First Congressional District of the State of Indiana.

“Resolved, That in token of respect for the memory of the deceased, the members and officers of this House will wear the usual badge of mourning for thirty days.

“Resolved, That the Clerk of this House forward a copy of these resolutions to the widow of the deceased.”

Mr. Davis, of Indiana, then made the following remarks:

“Mr. Speaker, I rise to second the resolutions just offered by my colleague (Mr. Niblack) I do not propose on this occasion to pronounce a lengthened eulogy on the life, character, and public services of the deceased. Were I disposed to do so, I would fail, I am sure, to improve on what has already been so well and so impressively said by my colleague; but being the only member of this House from the State which I have the honor, in part, to represent, who served with the deceased during the Thirty-third Congress, I cannot find it in my heart to remain silent, or to refuse, on this solemn occasion, to give utterance of a few words of sincere respect for the memory of the deceased and of condolence with his sorrow-stricken family in their bereavement.

“That I have known Judge Lockhart long and intimately, will remain among my most cherished remembrances. I knew him in the walks of private life and in the social circle, where he was respected by all who had the pleasure of his society. I knew

him as the efficient prosecuting attorney of his judicial circuit. I knew him as the able, upright, and impartial judge. I knew him as the representative of the people of the First Congressional district of his adopted State, on the floor of this House; in all of which positions he discharged his duties with ability and fidelity; with entire satisfaction to his constituents and to the country.

"Judge Lockhart, though naturally retiring and unobtrusive, was no ordinary man. He was a sound jurist and a sagacious politician, possessing a clear, logical, and discriminating mind. He was kind and benevolent to a fault; ardent in his friendship; firm and decided in his opinions, yet charitable towards those with whom he differed. Although always a firm and decided democrat, often participating in the exciting and angry political contests through which the country has been passing for the last twenty years, his high bearing and manly deportment gained, as their meed, the applause and admiration of his political adversaries.

"I saw Judge Lockhart in this city in March last, which was the last occasion of our meeting. The disease which finally proved fatal, was then progressing, and rapidly approaching the citadel of life. His physical powers were fast declining; but though feeble, his spirit was buoyant with the hope that he would ultimately recover. He spoke feelingly of our long acquaintance and former service here together, of many pleasant anticipations for our mutual interest during the approaching session; but, alas! these fond hopes have been blighted, and he is gone from among us forever.

"Mr. Speaker, why should I say more? Judge Lockhart is dead! How fresh in my remembrance is the occasion of the sad announcement! What a thrill of sorrow it brought with it, as it first fell upon my ear! How the memories of the past clustered thick and fast around me, and how instinctively, how deeply my mind yielded to the impress of the truth of the uncertainty of human life, and the utter futility of human fame and ambition! Sir, before we shall have discharged our duties, and finished our labors here, the shaft of death may make vacant the chairs which you and I occupy, and the ever-startling announcement again be flashed on the wings of lightning to the remotest portions of the republic. I say, such, sir, may be among the inscrutable decrees of Providence; then, we should let this sad announcement of to-day

affect our inner hearts, and admonish us that the inexorable hour awaits us all. Let it impress upon us all the necessity for the exercise of a spirit of kindness and forbearance for and toward each other, and let it soften the asperities which too often appear in our unguarded moments in the heat and excitement of debate.

"In conclusion, sir, from a sincere heart I invoke the blessings of Heaven upon the bereaved widow, and pray that the wind may be tempered to the shorn lamb. The resolutions were adopted."

### EXHIBIT "K"

In the *Evansville Journal and General Advertiser* published at Evansville, Indiana, No. 37, Vol. 1, under date of July 16, 1835, appears the following:

#### "ORATION,

Delivered on the 4th of July, 1835, by James Lockhart, Esq. Published at the request of the Committee of Arrangements.  
Friends and Fellow Citizens:

Of the task which the kind, but inconsiderate partiality, your committee of arrangement has imposed upon me, I feel most sensibly the difficulty and importance. Had it developed upon an individual more competent to throw around it the lustre of distinguished ability the object of the appointment would have been more effectually promoted. To the flattering compliment conferred upon me, I have no higher claim than a warm and fervid devotion to the institutions of our beloved country.

Though I wish not to affect an ostentatious humility, nor assume a feeling of indifference with regard to a distinction of which I have just cause to be proud, yet I cannot forget that for near sixty years, I have been preceded in the office I am now to fill, in almost every city, town, and village in the Union, by men, with whose names it is not barren encomium to associate the combined attractions of brilliant attainments and distinguished literary reputation.

While the recollection of this circumstance awakens in my mind a deep sense of my own inferiority, it greatly increases the disadvantages under which I labor. It cannot be expected that

anything now can be said on a subject, upon which so much has been written. I am also fully satisfied that there are but few, at this day, who have claims to originality in preparing Fourth of July orations. But I will not permit the recollection of those facts to depress or embarrass my efforts.

We have met to commemorate one of the most important events recorded on the pages of history. Although ancient history teems with those spirit stirring events, around which the imagination clings with unabated enthusiasms, and from which the mind draws the noblest lessons of political and moral virtue, and the most stimulating incentives to patriotism—although our minds dwell upon those kindling narratives that record the deeds of the heroes of olden time, by whom the oppressor was struck down, and the standard of a nation's liberty planted upon the blighted soil of despotism—although we linger with fond delight on those inspiring pictures of the historian's vivid pencil, in which we behold delineated the virtues of a Scipio, the unyielding patriotism of a Brutus, the stern justice of an Aristides, and the seductive accomplishments of a Pericles—although our imagination wings its flight to those consecrated spots where the ancients fought their battles and won their independence, where the patriot's blood was poured out as a willing offering to purchase the freedom of his country, yet, while with palpitating heart and excited feelings, we trace on the map the pass of Thermopylae and the plains of Marathon, we are ready to exclaim in the burning words of Byron:

'Where e'er we tread 'tis haunted holy ground!  
 No earth of thine is lost in vulgar mould!  
 But one vast realm of wonder spreads around,  
 And all the muses' tales seem truly told,  
 Till the sense aches with gazing to behold  
 The scenes our earliest dreams have dwelt upon.'

Yet all of these dwindle in nought when compared with that chain of glorious events by which our liberties were torn from a tyrant's grasp, and our unrivalled constitution firmly established. It appears as if it was reserved for the American colonies to fill the splendid galaxy. It appears as if Deity himself had predestined that America should become a land of freedom, an asylum for

the oppressed; and that his omnipotent arm had directed our puritanical fathers to seek quiet and repose on the confines of this mighty continent, that they might cherish, foster and protect the most generous principles of liberty, and those free institutions, which convert general maxims into practical truths, and make them a part of the daily life of man. The first settlers of Plymouth left behind them those restraints which, in some degree, checks the free actions of Englishmen. They brought with them the jury and the right of representation; but left behind them the chains which the church and the court were endeavoring to fasten upon their countrymen. Feudal services, privileged orders, corporations and guilds, with other similar burdens upon industry, and insults upon honest merit, found no place in the western forest; but civilization, arts and letters, without the corruption and gross licentiousness which characterized the reigns of James I and Charles II, were brought hither in the train of liberty.

Those instinctive lessons of liberty and republican simplicity, which animated the bosoms of the Puritans of 1620, they taught to their children, and to their children's children, from one generation to another, until their rapid strides towards glory and renown attracted the attention of continental Europe, as well as of England, who fearing that her colonies, peopled by her sons and daughters, would rise the arbiters of justice, and eclipse her in her meridian splendor, and become the pride and admiration of the world, commenced her course of tyranny and oppression by enacting laws the most burdensome and oppressive for the government of the colonies, and quartering large bodies of mercenary troops in the principal towns, with a view of enforcing obedience to them. Bound to the mother country by all the ties of fraternal feeling that bind a child to its parent, the colonists implored the mother country to desist from its course of cruelty and oppression; but their prayers and petitions, and entreaties were answered only by repeated wrongs and injuries, and usurpations. Reluctant to war and with their native country, the land of their fathers, the colonists were about to lay down in passive obedience to her mandates, relinquish their rights and submit forever to the imperial dictation of a British king.

In 1765, on the day that the stamp act was to take effect, public notice was given to the friends of liberty in Portsmouth,

New Hampshire, to attend her funeral. A coffin neatly ornamented and inscribed with the word 'Liberty' was carried to the grave. The procession moved forward from the State House, at the slow and solemn tap of the drum, minute guns were fired, the church bells tolled the funeral knell, until the coffin arrived at the place of interment. Then an eulogium on the deceased was pronounced, which was scarcely ended before the coffin was taken up and examined, when it was discovered that some remains of life were left. The inscription was immediately altered to 'Liberty Revived.' The bells exchanged their melancholy for a joyful sound, and joy and satisfaction appeared in every countenance. Similar manifestations of feeling were exhibited in Boston, and other places, which had their influence in bringing about a repeal of the act. But its repeal was no recognition of the right of the colonies to resist, for at the same time a declaratory act was passed, asserting the right of Parliament to bind the colonies in all cases whatsoever. Accordingly, in 1767, the bill passed Parliament, imposing duties on glass, paper, paints, tea, etc., which gave rise to combinations of the colonists against the importation of any of those articles. These combinations caused a repeal of the act. In 1770, the duty on tea being alone continued, and in 1773, the famous bill brought forward and carried through Parliament by the British Ministry, allowing the West India Company a drawback on all teas exported to America, was passed with a view of inducing the Americans to submit to a moderate system of taxation. In consequence of the passage of this act large shipments were made. But in New York and Philadelphia the vessels were not permitted to land their cargoes. In Charleston it was put in stores, but not permitted to be offered for sale; and in Boston, where the British authorities refused to allow the vessels to return without having been entered, the tea was thrown overboard. This act of violence on the part of the citizens of Boston, was followed by the celebrated port bill, interdicting all intercourse with the town of Boston, and by a bill for entirely subverting the government of Massachusetts. In this crisis, the other colonies made common cause with Massachusetts, and on the fifth of September, 1774, a general congress met at Philadelphia, which declared all the acts of the British Parliament, which imposed taxes and other burdens upon the American colonists, violations of their colonial and chartered rights.

These proceedings, however, of the American congress, had no influence to change the policy of the British government; and general preparations were made in the colonies for resistance. Gun powder was manufactured, war-like stores were collected, and the citizens began to arm themselves, and make preparations for war—'War to the Knife'. Their motto was 'Sink or Swim, Live or Die, Survive or Perish with Our Country, is Our Fixed Unalterable Determination.' Massachusetts was declared to be in rebellion, and new restrictions were imposed upon the trade of the colonies.

A detachment of troops, sent from Boston to seize some provincial stores collected at Concord, fired upon the citizens who assembled to oppose them. Actual hostilities were then and there commenced. The battles of Lexington and Bunker Hill, the capture of several posts, and unsuccessful expedition against Canada and the appointment of a Commander-in-chief of the American army, were among the acts that preceded the Declaration of Independence.

That memorable day, the fourth of July, 1776, can never be effaced from the memory of a true American, as long as the sun performs his diurnal revolutions, or a star endures in the firmament. They will ever venerate the cause for which a Warren and a Montgomery bled and died. That epoch can never be forgotten, when an Adams, a Henry, a Sherman, a Franklin and a Jefferson, roused their countrymen to a fearless defense of their privileges, and protected the ark of their liberties in the hour of peril and commotion. 'These were the times,' says an accomplished statesman, 'when the Senate run with eloquence, proclaiming the wrongs, advocating the rights and demanding the redress of millions; when one country building a new character upon the genius of her sons, not raised upon the spoils of a sordid commerce, or the trophies of a distinctive conquest, rose over an admiring world, the arbiters of justice, the emporium of humanity.' Yes, it was on that day, the anniversary of which we are now commemorating, that the American colonies were declared free, sovereign and independent states.

Fifty-nine years ago this day the 'North American Confederate Union' took her seat among the nations of the earth, and promulgated to the world the charter of her rights, which is replete with doctrines vital to the liberties of mankind, and destined to

stand a beacon to the friends of liberty, throughout the world, as long as the language in which it is written shall be remembered. It would be an unnecessary task for me to detail all of the events that transpired during a period of eight years from the commencement of the war, to the ratification of peace, in 1783. All acknowledge the justice of our cause—all acknowledge the bravery of our warriors who fought and bled for their country's liberty—all acknowledge the transcendent virtues of their Commander-in-chief George Washington—all read with breathless anxiety and exultation his God-like career. His memorials are beyond the reach of fortune and of time; his name will live in the recollection of his countrymen, until this mighty country shall cease to exist, whose liberties his unsullied patriotism nurtured into existence, and whose advancing glory is the most elegant epitaph that could be inscribed upon his tomb. Whether at the head of his countrymen, leading them on to battle and to victory, or in the councils of the nation, aiding, assisting or directing the machinery of government; we find him equal to every station and prepared for every emergency.

In mourning the loss of our heroes and statesmen, our minds involuntarily run back to review the career of those great men, who are now gathered home to their fathers; but who at the most spirit-stirring period of our country's history shed a blaze of glory around, which neither time nor circumstances can eradicate. Their bright examples will stand to the latest time a monument of exalted worth. The last of that band of statesmen who 'pledged their lives, their fortunes and their sacred honors,' in defense of the liberties of their country, has been summoned to the regions of bliss. Yes, the dauntless Carroll, of Carrollton, the last surviving signer of the Declaration of American Independence is no more.

The last surviving Major General of the American Revolution, too, has gone to join the companions of his youth. Yes, on the last anniversary of our nation's jubilee, while the wide mouthed cannon was announcing the approach of the 58th anniversary of American Independence, a solemn gloom spread over our village, which pervaded every bosom. The herald of the press had just announced the death of Gilbert Motier Lafayette, the companion of Washington, the friend of liberty. Although a Frenchman by

birth, we claimed him as an American citizen; although he died in France, his remains are buried beneath American soil.

In this brief summary it would be an unpardonable omission were I not to mention Poland; the land of Frederick Kosciusko, the last Generalissimo of the republic of Poland, and Joseph Pulaski, who endeavored in vain to restore the independence of his country, both of whom came to the United States in time of her greatest need, and proffered their services in defense of liberty, and fought and bled by the side of Washington. Brave and generous Poland, may you yet take your seat among the republics of modern times, may the illustrious examples of your sons and your daughters, who fought on the walls of Warsaw, inspire you with confidence, and nerve your arm in defense of that liberty for which they fought and bled and died. Yes, brave and noble Poland, America sympathizes with you in your misfortunes, and while sceptred monarchs would bind you down with chains of despotism, while they would stigmatize your chivalrous sons and daughters, as traitors and rebels, who fought and bled for freedom, their memory will live green in the mind of every Pole. Yes, that chaplet which you entwined around their brows, moistened as it is by the tears of the friends of liberty, and the tears of a grateful country throughout the world, will re-animate and bloom an evergreen upon their graves. But let us turn from the records of the past, and take a view of the present history of our country.

Fifty-nine years ago this day the American people through their representatives in congress assembled, declared that man was capable of self-government. What stronger evidence can be given of the correctness of that declaration, than the unparalleled prosperity of the American republic. At peace with all the world, and on the most friendly terms with every nation—prosperous and happy at home, and respected abroad. Although a slight interruption in our diplomatic relations with France at this moment exists, we have every reason to believe that the difficulties existing between the two nations will be soon adjusted on terms entirely satisfactory to the United States. Within the short space of 59 years, its population has increased from three to sixteen millions, and the number of states from thirteen to twenty-four. The country that we now inhabit, the very ground upon which this

edifice, dedicated to the service of the living God, is erected, was the forest home of the Red man, where neither civilization, arts, sciences nor industry had shed their benign influence, where nothing was heard but the howling of beasts of prey, and the furious yell of the savage warrior. But the rays of the light of liberty have dispelled the clouds of savage ignorance and barbarity, to which has succeeded the heart-cheering influence of enlightened and civilized society. The borders of the beautiful river whose banks we inhabit, was then the border of an impenetrable forest. Its banks are now studded by large skies, extensive towns and flourishing villages. It is the abode of an extensive population, actively engaged in the various pursuits and avocations that pertain to the life of man.

Are there any so skeptical as to believe that a government so free, so prosperous and happy as ours, will decay and crumble into ruins? If there are, their fears will be removed, if they will but swear upon the altar of their country's liberty eternal fidelity to her free institutions. Are there any who doubt the bravery of her citizen soldiers or their readiness to defend their rights? If there are, I would point them to Bunker Hill, Yorktown, Monmouth, Bridgewater and Saratoga. Do they yet doubt, I would point them to Plattsburgh, Queenstown, Bladensburgh and New Orleans. Do they doubt our skill in diplomacy. I would point them to a Jay, a Franklin and a Plackney. Do they yet doubt, I would point them to an Adams, a Hamilton and a Monroe, who have stood forth the champions of their country's rights, with a zeal which knew neither abatement nor fatigue, but which gathered strength from time, and derived new activity from constant exercise. But those great men, the founders of the republic, have now passed from the theater of their earthly career. Their voices can no longer be heard in the capitol, discoursing on the policy of nations, or in the private circle, teaching their countrymen by their examples. Those institutions nurtured into existence by them, have been bequeathed to us. It is then our duty to foster, cherish and protect them, that we may hand them down to posterity as we received them, unimpaired by the lapse of time, or unaltered by the change of circumstances.

Stand forward in defence of the Union, whether it be assailed by internal or by foreign enemies—show to the world as you did

on a recent occasion, that you will not permit its stability to be shaken by internal, much less by foreign enemies. Although a portentous cloud big with destiny, hung over a part of our hemisphere, threatening destruction to our free institutions, and a dissolution of the Union of the states. When the tocsin was sounded from your capitol, all true friends of the Union and of the rights of the states simultaneously exclaimed from one end of the Union to the other, in the emphatic language of a distinguished senator—'God forbid that I should stop to inquire whom the people have chosen to preside over the destinies of our country, I will march to the rescue'. Yes, I beseech you in the name of heaven—I beseech you in the name of every thing that is dear to freemen, to guard, protect and preserve the Union; for upon its stability hang the hopes of the friends of liberty, in every clime—guard it as the palladium of your liberties—teach its value and the necessity of its preservation to your children, and to your children's children, unto the latest time—let Union be the first lisp of infancy—let it be the last tremulous accent of age—God save the Union."

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