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THE

CONSTITUTIONAL

AND

POLITICAL HISTORY

OF THE

UNITED STATES,

BY

Dr. H. von HOLST,
PROFESSOR AT THE UNIVERSITY OF FREIBURG.

TRANSLATED FROM THE GERMAN

By JOHN J. LALOR, A. M.

1828-1846.

JACKSON'S ADMINISTRATION — ANNEXATION OF TEXAS.

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TRANSLATOR'S NOTE.

THE title of the first volume of the German edition of this work is *Verfassung und Democratie der Vereinigten Staaten von Amerika.* Believing that the literal translation of that title would not convey to the American reader as correct an idea of the contents of the distinguished author's book as: "The Constitutional and Political History of the United States," the translators of the first volume agreed to call the work in English by the latter name. This was done without any previous consultation with the author himself. Professor v. Holst, however, has given this second volume the title — which is to be preserved in those that are yet to come — *Verfassungsgeschichte der Vereinigten Staaten seit der Administration Jacksons* — or "The Constitutional History of the United States from the Administration of Jackson." It is due to Professor v. Holst and the public to say that the author himself is of opinion that the title chosen by the translators for the first volume raises a claim which that volume does not entirely support. This second volume fulfills the promise of the translators' title, and hence the reader will find the scope of this second volume somewhat different from that of the first.

Those acquainted with the German edition will notice that the *Einleitung* (Introduction) to the second volume is

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not here translated. The reason of its omission is that it was intended by the author only for the German edition.

I desire to acknowledge my indebtedness to the kindly criticism of Professor William F. Allen, of the University of Wisconsin, General James M. Lynch, of Milwaukee, and Alfred B. Mason, counsellor at law of Chicago, my collaborator in the translation of the first volume, whose withdrawal from the continuation of the task has not diminished his interest in a work, the great merits of which he was one of the first to recognize.

JOHN J. LALOR.

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JACKSON'S ADMINISTRATION:

ANNEXATION OF TEXAS.

CHAPTER I.

THE REIGN OF ANDREW JACKSON.

Andrew Jackson's administration constitutes, in more respects than one, an important epoch in the history of the United States. With the nullification ordinance of South Carolina and the compromise of 1833, the first phase in the development of states-rightsism came to a close. Jackson's election was the triumph of the radical over the moderate democracy. In the person of Adams, the last statesman who was to occupy it for a long time left the White House: professional politicians and the crowd took possession of it.

A mere accident, in 1824, broke down the barrier which had, since 1804, restricted the taking of the initiative in the matter of proposing presidential candidates to congress. William H. Crawford, secretary of the treasury under Monroe, was the designated candidate of a portion of the democratic party, when a stroke of paralysis made of him a physical and mental ruin. Spite of this, however, his more intimate friends did not want to drop him. Their hope was in the weight which custom gave to the nomination made by a so-called "caucus" of the party members in congress. They had not rightly read the signs of the times. The undemocratic "King Caucus" was already so thoroughly hated that, under any and all circumstances, his days were

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numbered.[1] The effort to make such a man the head of the nation decided his immediate and permanent downfall. Only sixty-eight votes were cast in the caucus, and, from the very first moment, Crawford had not the least prospect of success.[2]

The leading men in congress considered it most probable that the "dynasty of the secretaries of state" would be still continued, and that the younger Adams would be elected. The wariest and oldest politicians began to evince the most noteworthy distrust of the power of precedent.

Andrew Jackson was a thoroughly "irregular" candidate. The legislature of Tennessee had recommended his election, to the extreme astonishment of the people of the New England states, who did not know whether to laugh at the absurdity or grow wroth at the audacity of the recommendation. Hitherto, only the names of men with whom the people had been long acquainted as statesmen filling the most important official positions, had been mentioned in connection with the presidency. But Jackson had not yet shown that he understood even the alphabet of the art of politics. Tennessee had, indeed, sent him to the house of representatives during Washington's administration, and afterwards to the senate; but all that congress knew of him was, that, whenever he began to speak, violence choked his utterance. And his mind was as untrained as his passions were unbridled. He had been, it is true, a lawyer of note in Tennessee, and had sat on the bench of the supreme court of the state. But he had won his laurels in this field at the time when, to both lawyers and judges, it was, in Tennessee,

[1] The caucus was, however, not only undemocratic, but unquestionably in conflict with the spirit of the constitution, for art. II, sec. 1, § 2, provides: "No senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector."

[2] "The caucus has hurt nobody but its friends, as far as I can judge now." Dan. Webster to Ez. Webster, 22 Feb., 1824. Webster's Priv. Corresp., I, p. 346.

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a matter of almost as much importance to be up to the wiles and intrigues of the Indians, to have a fearless heart, and be a good shot, as it was to be versed in the law of the land.

The nation knew Jackson only as a successful and arrogant general. But the leading men of the eastern states thought, and rightly so, that the political wisdom and political sobriety of the people were too great to allow them to pay such a price as the presidency for the battle of New Orleans and a few victorious Indian fights. Another force, the influence of which they did not comprehend until later, and even then only imperfectly, was the decisive one.

Jackson was the man of the masses, because by his origin and his whole course of development, both inner and outer, he belonged to them.

From the mass of the population in the southern states there arose an aristocracy of large landed proprietors and slave holders, and in the northeastern states a bourgeoisie composed of merchants, those engaged in industrial pursuits and the followers of the learned professions. The struggle for political supremacy had thus far been carried on by these two strata of the population; and the plebs, with political rights, as a rule did no more than furnish the common soldiery with which the leaders fought their battles. But the heat of party struggles and their vicissitudes had already taught this same plebs, and well enough, that the power was in their hands, and that it only depended on their will, whether they would actually exercise it themselves or not. The construction of the state was based on the assumption that they were equal to the task, and the talk of their leaders had gradually clothed the theory of popular sovereignty in such a garb, that its literal execution and the idea of the republic and of freedom seemed to be coincident. All that was wanting to change the desire of making the actual con-

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dition of things harmonize better with theory, into a resolve, was an exciting cause in the shape of an opportunity. This opportunity was afforded by Jackson's candidacy, for his name was already a very noticeable one in the history of his country. It was not the victorious general, but the man of the people, the "popular man," who by his warlike deeds had added to the people's fame and demonstrated his qualifications as a leader, that was selected as a standard bearer.

New England's scorn was silenced when the state convention of Pennsylvania, on the 4th of March, 1824, with only one dissenting voice, indorsed the nomination of the legislature of Tennessee. If it were not for the fact that there were four candidates in the field, Jackson would, in all probability, have been elected, even now, by an imposing majority. In consequence of this division, no one of the candidates received the constitutional majority of all the electoral votes, and the election, therefore, — Clay, who had received the smallest number of electoral votes, dropping out — devolved on the house of representatives. Crawford had received only four votes more than Clay, and was virtually no longer considered.[1] The question was now between Jackson and Adams, and the decision lay with Clay and his adherents. Ninety-nine electors had voted for Jackson, and eighty-four for Adams. Spite of this, however, Clay cast his weight into the balance for Adams, and the latter was elected by the house of representatives, by the votes of thirteen states against eleven, of which last seven were cast for Jackson and four for Crawford.[2]

[1] "Shortly before the election of president, a meeting was held by the members of the New York delegation, friendly to the election of Mr. Crawford, at which, upon a full view of the subject, they decided with great unanimity to adhere to Mr. Crawford to the end, and leave the election to be made by others." Hammond, The Hist. of Political Parties in the State of New York, II, pp. 540, 541.

[2] Deb. of Congr., VIII, p. 324.

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Twelve days before the election in the house of representatives, the *Columbian Observer*, a journal issued in Philadelphia, had printed an anonymous letter charging Clay with having traded his influence to Adams for the secretaryship of state. One Kremer, a half-educated representative from the rural districts of Pennsylvania, acknowledged himself later to be the author of the letter, and persisted in his charge, although he refused to appear as a witness before the committee of the house of representatives, which at Clay's own request had been appointed to investigate the matter. The Jackson party eagerly grasped at the accusation, and when Clay afterwards accepted the secretaryship of state, his acceptance was declared an entirely valid proof of its truth. Jackson himself was fully convinced of his rival's guilt, and remained so until his dying day. "The knaves," wrote Clay January 29, 1825, to F. P. Blair, "cannot comprehend how a man can be honest."[1] Unfortunately enough, circumstances afforded the "knaves" and little souls the most various points of support for their imputations and suspicions. Clay was neither personally nor politically a friend of Mr. Adams. He complains himself that he was left "only a choice of evils."[2] Besides, Kremer's charge was one of those libels which, in skillful hands, never fail to do good service, no matter what the attitude one may assume towards them. If Clay had not been invited to take a place in the cabinet, or if he had declined the call, there were those who, with hypocritical glances, would have congratulated themselves that "honest Kremer" — evidently only a coarse tool in the hands of others — had by his opportune revelations prevented the "corrupt trade."[3] Adams and Clay

[1] Priv. Corresp. of H. Clay, p. 112.

[2] Ibid., p. 110.

[3] According to Sargent, Public Men and Events, I, p. 70, the letter was probably written by Eaton.

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would have gained nothing; but the most insignificant person might henceforth hope to be able to compel the most distinguished and best tried men of the nation to bend to the force of the basest calumny. All the protestations possible that they had not been influenced by force, would have availed the president and Clay as little as the assurances, supported by the testimony of unimpeachable witnesses, that their decisions had been governed only by political and patriotic considerations, availed them now. Benton, Jackson's fanatical partisan, declared then, and later in public, in emphatic words, that before December 15, 1824, that is, long before the time at which it was said the alleged trade was made, Clay himself had informed him that he would vote for Adams.[1] James Buchanan, who, according to Jackson's statement, proposed the same trade to him, at the suggestions of "Clay's friends," in January, 1825, was obliged to absolve Clay from being privy to it in any way, and to take this dubious attempt at friendly mediation entirely on his own shoulders. Yet, spite of all this, the base lie remained a great impediment in the way of Adams' further progress, but especially of Clay's, although they had the fullest certainty that their names would be handed down to history unsullied by this blot.

The accusation was so entirely baseless that it could not, for a long series of years, have played so significant a part in the history of presidential elections, were it not that another circumstance made the election of Adams, through Clay's influence, appear in the eyes of a majority of the people as the commission of a great crime. Jackson had received a no trifling plurality, both of the electoral and popular vote; and in several of the states which had voted for Crawford or Clay, he was second in favor. Relying on this,

[1] Thirty Years' View, I, p. 48; Niles', XXX, pp. 375, 376. Compare, also, Clay's Priv. Corresp., pp. 109–112.

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he claimed that the house of representatives had made bold to trample the will of the people under foot.[1] This was his honest conviction, and this, almost more than the personal undeceiving he had experienced, was the source of the acrimony to which he gave vent on every occasion, in a way that showed an utter absence of tact.

The reproach found the loudest echo among the people. The constitutionality of Adams' election was, of course, not denied; but its "moral" justification was called in question.[2] The "moral" justification, as it seemed to this conception of the "Demos Krateo" principle, was not, under all circumstances, coincident with the provision of the constitution; and the majority of the people joined with Jackson in demanding that the latter should be unconditionally subordinated to the former.[3] This demand was not only in direct contradiction with the letter and spirit of the constitution, but it attacked the principle of the supremacy of law. In

[1] He writes in July, 1826: "If it be true that the administration have gone into power contrary to the voice of the nation, and are now expecting by means of this power thus acquired to mold the public will into an acquiescence with their authority, then is the issue fairly made out, shall the government or the people rule?"

[2] Benton writes, February 8, 1825, to John Scott, the only representative from Missouri who had decided to cast the vote of the state for Adams: "The vote which you intend thus to give is not your own. It belongs to the people of the state of Missouri. They are against Mr. Adams. I, in their name, do solemnly protest against your intention, and deny your moral power thus to bestow their vote." Niles, XXVIII, p. 51.

[3] The election of Mr. Adams was perfectly constitutional, and as such, fully submitted to by the people; but it was also a violation of the Demos Krateo (*sic*) principle, and that violation was signally rebuked. . . . Still, the great objection to the election of Mr. Adams was in the violation of the principle Demos Krateo, and in the question which it raised of the capacity of the Demos to choose a safe president for themselves . . . upon it (this high ground) the battle was mainly fought (1828) and won. . . . It was a victory of principle." Benton, Thirty Years' View, I, pp. 47, 49.

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its ultimate consequence, it raised the caprice of a majority, and possibly of a plurality of those possessed of the right of suffrage, to the dignity of sole law of the land. It was not a postulate of democracy, but the overthrow of the constitutional state. In a democratic constitutional state, the legally and morally binding rule is not the will of the majority of the people expressed in any way that suits their whims, but the will of the majority expressed in the way provided by the constitution, and in no other. Unquestionably, in such a state, "the people's" will is the will of the state; but the highest expression of "the people's" will, that which unconditionally governs, is the constitution, outside the limit of which lies revolution. The Jackson democrats demanded the subordination of the well-considered will of "the people," fixed in the fundamental law of the land, to the momentary wishes of the people, which, in part, at least, could be ascertained only by uncertain combinations of circumstances.

The constitutional provisions relating to the election of a president were based on two fundamental notions: the election was to be an indirect one, and in case no candidate received a majority of all the electoral votes, an election from a smaller number of candidates was to be had by another electoral body. To the people, therefore, it had seemed well, without providing for any exception, to surrender all right to the direct election of the president, and to charge men with it who stood to them in a confidential relation. If this course of procedure was a damnable violation of the "Demos Krateo principle," the people alone were responsible for it. If the cause of the violation of the Demos Krateo principle were a want of confidence in "the capacity of the Demos to choose a safe president for themselves," the burthen of the undemocratic doubt had to be borne by the Demos alone. If, four years later, Jackson's election was a victory of the

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right democratic principle, it was a victory of the people over their own self-willed ordering, incorporated into, and remaining in, the fundamental law of the land: the people slapped their own face and made a laughing stock of their constitution. If the electors had, without offering any resistance, allowed the power confided to them to be wrested from them, and contented themselves with the empty form, that certainly imposed no duty on the house of representatives to follow the example when the election devolved on it. The constitution intended that the house should truly *elect;* that a plurality of the electoral votes should *not* be a sufficient expression of "the people's" will; for it cannot be assumed that its framers agreed to any provision which should simply create an empty and objectless ceremony.

These events in the election of 1824 played so great a part in the electoral campaign of 1828 that Senator Benton rightly designated its issue as "the victory of the Demos Krateo principle over the theory of the constitution." The question of the merits of the Adams administration and of the relative statesmanlike worth or worthlessness of the two candidates, was thrown completely into the shade. Adams was not to be reëlected, in any case, because success was not to be recognized as a justification of the "theory of the constitution." Jackson had to be elected, that "the people" might demonstrate that to despise their "will," even under the protecting mantle of the constitution, was a revolt of the servant against his master, as foolish as it was audacious. This was the soul of this whole electoral campaign, the only principle involved in it. This one thought, like a tidal wave, overflooded all rational political thought, all political thought which concerned itself with the *real* interests of the people. Intoxication ruled the day: the "Demos" wished to strut about in all their majesty. The power and energy of their will they brilliantly demonstrated, but the more

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sober-minded believed that they had again reached one of those turning points at which the question, how far the national history was a justification of the principle of the sovereignty of the people, was a pertinent one.

The most serious thing was not that Andrew Jackson was preferred to John Quincy Adams, nor that the stiff-necked swordsman was placed at the head of the state. A great party, the greatest of the four parties in the field, had desired to do the same thing four years before, and the battle was a relatively unimportant one. The motives which now led the people, and the manner in which they gave effect to their will, showed that the democratic development had entered on a new phase. The most forcible arguments were the erection of a hickory pole and a "hurrah for Andrew Jackson!" The war of words, both in the press and on the "stump," was carried on more violently than ever before; but it had never yet been so devoid of political meaning. From the time of the second presidential election, personal gossip had, in a very great measure, become the loathsome seasoning of presidential campaigns; but now gossip was turned into base and studied calumny. It no longer seemed to be the task of parties to expose the grounds of the greater worthiness and serviceableness of their own, but the private and political vileness of the opposing candidates. The most important newspapers did not blush to trample together the most sacred family relations into campaign mud. In this, indeed, they overshot the mark. The rule of political passion over the healthy moral feeling of the people did not extend far enough to permit such weapons to perform good service. They were chiefly employed against Jackson, and contributed their part to his brilliant victory. He received one hundred and seventy-eight electoral votes, against only eighty-three for Adams.[1]

[1] Deb. of Congr., X, p. 394.

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The picture presented at the solemnities attending the inauguration was in keeping with the character of the electoral campaign. Washington was overflooded with guests from far and near, who demeaned themselves as if the threatened life of the republic had been made safe by infinite exertion.[1] A most motley crowd, they gathered around the new holder of power. The victorious plebs showed at the reception at the White House, in the most forcible manner, how entirely they felt themselves at home there.[2]

The most surprising and most significant of all the strange faces among them were the "hungry ones," who were to be found in every group of this society, swept together from all quarters. Wheresoever the carcass is, there will the vultures be gathered together.

The inauguration address declared: "The recent demonstration of public sentiment inscribes on the list of executive duties, in characters too legible to be overlooked, the task of reform." The influencing of elections by governmental patronage should cease, and "those causes which have disturbed[3] the rightful course of appointment, and have placed or continued power in unfaithful or incompetent hands," be counteracted.

[1] "To-day we have had the inauguration. A monstrous crowd of people is in the city. I never saw anything like it before. Persons have come five hundred miles to see General Jackson, and they really seem to think that the country is rescued from some dreadful danger." Webster's Priv. Corresp., I, p. 473.

[2] "After this ceremony [the inauguration] was over, the president went to the palace to receive company, and there he was visited by immense crowds of all sorts of people, from the highest and most polished, down to the most vulgar and gross in the nation. I never saw such a mixture. The reign of King 'Mob' seemed triumphant." J. Story to his wife, March 7, 1829. Life and Letters of J. Story, I, p. 563.

[3] The rightful course of the bestowal of office had indeed been just disturbed in an ominous manner, but not by Adams, but by the senate, and by Jackson's friends in the senate. "After General Jackson was known

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Judge Story said that the address was couched in terms so general, that it might mean everything or nothing. The portion just cited alone did he make an exception of. On what facts the charges made against the out-going administration were based, was more than any one could tell; but only few permitted themselves to doubt that the promises of "reform" were very seriously intended. People were not so ingenuous as to ascribe the extraordinary stream that flowed towards Washington simply to joy over the "salvation of the country." The saviors of their country had come to get their pay, and the words above cited were looked upon as an assurance that they should not be disappointed.[1]

Did they in this, relying on the personality of the man now in power, think only of a temporary deviation from the system of appointment hitherto followed; or did they suppose that deeper and more general causes were preparing a permanent change of system?

to be elected, and before his term of office began, many important offices became vacant by the usual causes of death and resignation. Mr. Adams, of course, nominated persons to fill these vacant offices. But a majority of the senate was composed of the friends of General Jackson; and, instead of acting on these nominations, and filling the various offices with ordinary promptitude, the nominations were postponed to a day beyond the 4th of March, for the purpose, openly avowed, of giving the patronage of the appointments to the president who was then coming into office . . . that decision of the senate went far to unfix the proper balance of the government . . . it completely defeated one great object, which we are told the framers of the constitution contemplated, in the manner of forming the senate; that is, that the senate might be a body not changing with the election of a president, and therefore likely to be able to hold over him some check or restraint in regard to bringing his own friends and partisans into power with him, and thus rewarding their services to him at the public expense." Webst.'s Works, I, p. 359.

[1] The "United States Telegraph," the principal organ of the Jackson party, edited by Duff Green, writes as early as the 2d of November, 1828: "We know not what line of policy General Jackson will adopt. We take it for granted, however, that he will reward his friends and punish his enemies." Sargent, Public Men and Events, I, p. 167.

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The electoral campaign of 1824 brought to light a correspondence which had passed between Monroe and Jackson in the year 1816, in which the latter expressly recommended the newly elected president, in his appointments, and especially in the selection of the members of his cabinet, to rise above party spirit, as became the head of the state.[1] This view seemed to have become more deeply rooted in his mind with years, and to have become more rigorously developed. When Tennessee, in 1825, nominated him again as a candidate for the presidency, he resigned his commission as United States senator, because that office might be used by him to promote his candidacy. He, at the same time, declared an impure combination of the executive and legislative powers to be the greatest danger to the sovereignty of the people, and recommended, in order to guard against it, an amendment to the constitution excluding members of congress from all federal offices — the bench excepted — during the term for which they were elected, and for two years after its termination.[2]

Jackson was no demagogue, and has never been taken for one. The programme above referred to was not a conscious *captatio benevolentiæ*, and the promised reform meant something more than a caring for his hungry partisans. Not in vain and not wrongly did he point to the "demonstration of public sentiment" which demanded the "reform." The real

[1] "Everything depends on the selection of your ministry. In every selection, party and party feelings should be avoided. Now is the time to exterminate that monster called party spirit. . . . The chief magistrate of a great and powerful nation should never indulge in party feelings. His conduct should be liberal and disinterested, always bearing in mind that he acts for the whole, and not a part of the community. By this course you will exalt the national character, and acquire for yourself a name as imperishable as monumental marble. Consult no party in your choice." Niles' Reg., XXVI, pp. 164, 165.

[2] Niles, XIX, p. 157.

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source of alarm was the conduct of the people who had taken a principal part in the agitation of the election. As to Jackson personally, even Webster still harbored the hope that the president had intended only to throw them a sop, and that the state would escape with little hurt.[1] Jackson would scarcely have been elected by so overwhelming a majority if that had been the universal opinion of politicians. And if he had made the attempt, he would, judging from the rest of the history of his administration, provided he put his full personality into it, certainly have been successful; but his stand would have been as hard as any in the many victorious battles which he fought. But, by this means, only a short delay would have been gained. To prevent the evil, it was necessary to avert its causes, and to do this there was need of something more than a powerful will; a single person could assuredly not do it.

On the great questions of the day, but only slightly noticed, a stagnation of the political spirit, and as a natural consequence of this, gradually, also, a sluggishness of political life had early begun. The period of the war of independence had by no means borne the sublime ideal character with which fancy has so often clothed it.[2] Yet the leading

[1] "What it [the inauguration speech] says about reform in office may be either a prelude to a general change in office, or a mere sop to soothe the hunger, without satisfying it, of the thousand expectants for office who throng the city and clamor all over the country. I expect some changes, but not a great many at present." Priv. Corresp., I, p. 473. As early as January, 1829, Webster wrote: "Great efforts are making to put him [Jackson] up to a general sweep, as to all offices; springing from great doubt whether he is disposed to go it." Thereupon he remarks, however: "He will either go with the party, as they say in New York, or go the whole hog, as it is phrased elsewhere, making all the places he can for friends and supporters, and shaking a rod of terror at his opposers." Ibid., I, p. 467.

[2] John Adams writes on the 9th of February, 1811, to Josiah Quincy: "But, to tell you a very great secret, as far as I am capable of comparing

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men, with only very few exceptions, were borne onward by one great thought, and filled with a nobler ambition; and in the case of the majority of the people, there was, spite of all their indolence and short-sighted selfishness, no ignoring that they were fully conscious that they were fighting for their own cause and for a good one.

We have already seen what serious alarm it then caused, that the men of the best talent left congress, by degrees, because they found a more congenial and more remunerative field for their political activity in the several states. Men of the acutest vision, Madison, for instance, were of opinion, that this would remain so also under the new constitution.[1] And during the first years, it seemed so in fact. Washington frequently found it difficult to fill the places in his cabinet and the posts of ambassadors; a governorship was preferred to a seat in the senate of the Union, and even to the position of chief justice of the federal supreme court; and the ablest men could often be moved to accept a renomination to congress only by the most urgent appeals of their friends.[2] But when parties became more sharply defined, and the Federal government grew in estimation, a rapid change took place in this respect. Even during Madison's

the merit of different periods, I have no reason to believe that we were better than you are. We had as many poor creatures and selfish beings, in proportion, among us as you have among you; nor were there then more enlightened men, or in greater number, in proportion, than there are now." Works of J. Adams, IX, p. 630.

[1] Federalist, No. XLIV.

[2] Hamilton writes in 1799 to a relative in Scotland: "Public office in this country has few attractions. The pecuniary emolument is so inconsiderable as to amount to a sacrifice to any man who can employ his time with advantage in any liberal profession. The opportunity of doing good, from the jealousy of power, and the spirit of faction, is too small in any station to warrant a long continuance of private sacrifices." Reminiscences of J. A. Hamilton, p. 15.

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first presidency (1809–1813), office-hunting by members of congress was carried on to such an extent and in such a way that an effort was made to oppose a direct hinderance to it by the constitution,[1] and Quincy, in one of his most brilliant speeches, drew up a most unmerciful indictment against the guilty ones.[2]

Madison's supposition that the offices of the different states would continue to be more eagerly looked for, turned out to be erroneous. But whatever the relative estimation

[1] Both in the plan of a constitution submitted to the Philadelphia convention by Randolph and in that submitted by Ch. Pinckney, it was provided that no member of either house of congress should be invested either by election or by nomination with any federal office during the period for which he was elected. Randolph wished to see the prohibition extended, both for representatives and senators, to a number of years to be more accurately determined, and Pinckney, at least for the senators, to one year after the expiration of the term. This question was frequently discussed by the convention, and only after the conclusion of consultations, the provision, different in principle, of Art. I, sec. 6, § 2, was decided on. (See Eliot, Deb. V., pp. 127, 130,189, 190, 375, 378, 420.) Motions were now repeatedly introduced into congress to change the constitution in the sense of the Randolph and Pinckney draughts.

[2] "This class of persons . . . are in truth spending their time at the doors of the palace or the crannies of the departments, and laying low snares to catch for themselves or their relations every stray office that flits by them. . . . I never have seen and I never shall see any of these notorious solicitors of office for themselves or their relations standing on this or the other floor, bawling and bullying, or coming down with dead votes in support of executive measures, but I think I see a hackney laboring for hire in a most degrading service." Life of Quincy, p. 220. In Stickney's Autobiography of Amos Kendall, on the whole a worthless book, there is some interesting information on the trade in offices at this time. Thus, for instance, an office passed through four hands in a short time at a rapidly increasing price. R. M. Johnson, member of congress from Kentucky and vice-president of the Union during Van Buren's administration, was the mediator in the trade. The history of the Stockton and Stokes claim belonging to a later period, and which is inferior to the notorious Chorpenning case, which belongs to our own day, in scarcely any respect, is also very instructive.

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in which the federal and state offices might be held as compared with one another, the number of office-seekers increased much more rapidly than the number of both kinds of offices taken together. Even during the colonial period, all public positions had had a peculiar charm for the people But it was only with the growing violence of independent party life that this inclination assumed a morbid cast, and it was only with advancing democratization that a definite class of office-hunters began to be formed. As long as in all the states the exercise of the full rights of citizenship was made dependent on the possession of property to a greater or lesser extent; and, as long as, at the same time, in what concerns the possession of property in general, the happy uniformity of a modest medium prevailed, the whole political life of the people, spite of all its deficiencies and of all unhealthy excrescences, bore the impress of a republic made up of a peasant and small middle class. But when later, with the economic growth of the country, the difference between rich and poor became more and more frequent and continued to grow in magnitude, and citizenship became more and more the only requisite to the full enjoyment of political rights, there gradually arose a guild of professional politicians. The press was in their hands in part, and by its means they succeeded already in some of the states in making themselves felt in their public affairs. The great mass of active citizens, wrapped up in their every-day avocations by the love of acquisition, at all times characteristic of the people, did not perceive how slowly, but at the same time how uninterruptedly, the destinies of the country were passing away out of their power; for they confounded political interest with self-acting political life, and considered that when they had cast their votes on the day of election they had acquitted themselves of their duty as citizens.

This development of the last mentioned state of things,

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was still in its first stages in the second decade of this century. But the mischief caused by government patronage had, under the furthering influence of bad institutions, already reached a high degree in some of the states.[1] From this point the poison spread, and its seeds found the most favoring soil in the mode of appointment to office provided for by the constitution. As the better elements still exercised a preponderating influence in congress, and as the personages in possession of the presidential chair did nothing to promote the evil, it was only after a long time that the evil could break out. But the host of those whose appetite was whetted for office swelled to greater dimensions every day, and they were waiting only for the moment that a finger should be reached them, to grasp the arm and make themselves master of the whole man. And that after no very long time they would find a man after their own heart was certain, for they grew every year more powerful and more bold. Even Quincy had directed his castigatory speech not only against the scabby sheep among the members of congress; he still more angrily scourged the beggar-crowd, whom he compared to a lot of pigs noisily crowding about the trough.[2] John Adams inquired whether the picture, in so

[1] Compare the leading article in Niles' Reg., XVII, pp. 426–428, in many respects an interesting article.

[2] "Is there on this earth any collection of men in which exists a more intrinsic, hearty and desperate love of office or place — particularly of fat places? Is there any country more infested than this with the vermin that breed in the corruption of power? Is there any in which place and official emolument more certainly follow distinguished servility at elections, or base scurrility in the press? And as to eagerness for the reward, what is the fact? Let now one of your great officeholders, a collector of the customs, a marshal, a commissioner of loans, a postmaster in one of your cities, or any officer, agent, or factor for your territories or public lands, or person holding a place of minor distinction, but of considerable profit, be called upon to pay the last great debt of nature. The poor man shall hardly be dead, he shall not be cold, long before the corpse is in the coffin, the mail

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far as it was true, did not apply to earlier times as well as to the present.[1] But the course of events was a striking justification of Quincy's view, that people were slipping down a very declivitous path.

Clay[2] and Randolph,[3] at the end of Monroe's administration, renewed Quincy's jeremiad over the corruption of the times, and when the younger Adams took the presidential chair, it was well known to all those acquainted with the actual course of political workings, that to come to an understanding with the office-seekers was a cardinal question.[4]

shall be crowded to repletion with letters and certificates, and recommendations and representations, and every species of sturdy, sycophantic solicitation by which obtrusive mendicity seeks charity or invites compassion. Why, sir, we hear the clamor of the craving animals at the treasury-trough here in this capital. Such running, such jostling, such wriggling, such clambering over one another's backs, such squealing because the tub is so narrow and the company so crowded! No, sir, let us not talk of stoical apathy towards the things of the national treasury, either in this people or in their representatives or senators." Life of Quincy, p. 221.

[1] "But are you right in supposing the rage for office more eager and craving now than it always has been, or more grasping and intriguing for executive offices than legislative stations? Have you read many of the circular letters? Have you attended much to the course of elections, even in our New England town meetings?" J. Adams, Works, IX, p. 633.

[2] "I have been again and again shocked, during this session, by instances of solicitation for places before the vacancies existed. The pulse of incumbents, who happened to be taken ill, is not marked with more anxiety by the attending physicians, than by those who desire to succeed them, though with very opposite feelings." Speeches of H. Clay, I, p. 230.

[3] "I concur most heartily, sir, in the censure which has been passed upon the greediness of office, which stands a stigma on the present generation. Men from whom we might expect, and from whom I did expect better things, crowd the ante-chamber of the palace for every vacant office; nay, even before men are dead, their shoes are wanted for some bare-footed office-seeker." Deb. of Congr., VIII, p. 18.

[4] Webster writes, May 9, 1830: "In general, when I open a letter, the silent question which I put to myself is, who is this that wants a cadetship or a midshipman's warrant, or an office, or an errand done at one of the departments?" Priv. Corresp., I, p. 500.

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But now there came applications not only for places that were already vacant, but for those which people hoped to see soon made vacant by death. Without any palliating concealment, the plain demand was made to deprive political opponents of their offices, and to distribute them to political friends. Adams related, in May, 1825, that he was "urged very earnestly and from various quarters," to dismiss the custom house officials who "throughout the Union, in all probability," had opposed his election.[1] He dejectedly complains: "One of the heaviest burdens of my station is to hear applications for office, often urged, accompanied with the cry of distress, almost every day in the year, sometimes several times in the day, and having it scarcely ever in my power to administer the desired relief."[2] What stood in his way, indeed, was only a healthy political insight and honorable principles—limitations which were not respected by the applicants. He did not yield, and had to experience the anger of those who had been undeceived. An unsolicited adviser, it is said, prophesied to him that the consequence of his decision would be that he would lose his office first. This circumstance coöperated largely to cause his defeat, but it is going too far to ascribe that defeat principally to it. That view, however, was a very prevalent one, and this itself is significant.[3]

The real decision in the electoral campaign was, by chance, given by New York to Jackson. And New York was the state in which the bestowal of public offices, in accordance with party purposes, had been exercised longest and to the greatest extent, and a state which had recently taken a great

[1] Quincy, Mem. of J. Q. Adams, p. 147.

[2] Ibid., p. 157.

[3] Hammond writes: "John Quincy Adams attempted to repudiate it [the maxim: to the victors belong the spoils], and was soon politically prostrated." Polit. Hist. of New York, I, p. 429.

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step in the direction of radical democracy. All this was no accidental combination of circumstances. Various causes had for a long time made the party struggles in the state peculiarly violent and complicated. The heads of the great families who contested the supremacy with one another, learned early to make use of the so-called right of nomination as an efficient party machine. The nominating council held the sword uplifted over the highest and the lowest public officers, and whenever the interests of party seemed to demand it, it mattered not for what reason, the stroke was as sure to fall as is the sun to sink below the horizon in the evening. The rule of this body, which had now lasted nearly fifty years, had, according to Hammond, the concise and able historian of the state, "frequently produced a state of feeling in the public mind which threatened the dissolution of the bonds which unite together a civilized and Christian community."[1] All political life was poisoned, and the nominating council had undeniably so great a part in bringing this about, that in the convention of 1821 for the revision of the constitution, no earnest effort was made to have its existence continued.[2]

The system was not, however, changed. In theory men became, perhaps, a little more reasonable, but in practice they held fast to it; for the politicians had become too well acquainted with its value. The so-called "Albany Regency" soon enjoyed a national reputation, and, indeed, the machin-

[1] Polit. Hist. of New York, II, p. 78.

[2] Edwards said, in the convention: "It is a lamentable fact, that while other states move on with tranquillity, the state of New York, torn by factions and dissensions, although the keystone of the arch that binds the Union, has lost its power and reduced its influence. And what had been the grand cause of this reduction of influence and limitation of power? It was the corruption that had infused itself into all the veins and arteries of the government. More iniquity had been practiced in our legislative hall than in, perhaps, all the other states in the Union." Ibid., II, p. 75.

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ery of party has seldom been managed more efficiently or with more certainty.[1] By means of the development of the system of reward and punishment, regardless of consequences, the party was subjected to military discipline, and, by means of its rigid discipline, it remained unconquerable for many years. Van Buren was the soul of the "Regency."[2] He led the state triumphantly over into Jackson's camp, and was the designated head of Jackson's cabinet.[3]

[1] "All questions in relation to the selection of candidates for elective offices, either by the people or the legislature, were settled in caucus, and every member of the party was in honor pledged to support the decision of these assemblies. S. Wright, A. C. Flagg, E. Croswell, B. Knower, J. A. Dix, and James Porter, all of them discreet and sagacious politicians, constituted the soul of the Albany Regency, by the result of whose deliberations the democratic party, so far as related to mere political operations, were generally governed." Ibid., II, p. 429.

[2] The following testimony to the character of the persons in office in the Union, is all the more valuable for the reason that it emanates from this virtuoso of the policy of the spoils. Van Buren writes to Coleman, on the 4th of April, 1828: "That from the proneness on the part of agents so far removed from the people to corruption and other causes, there is not at this moment sufficient honesty in the administration of this government to keep decent men in countenance." The conclusion sounds very well in his mouth: "And that we are indebted for the little that remains to constant apprehension of rebuke and resistance from the states." Reminiscences of J. A. Hamilton, p. 77.

[3] Hammond writes: "In his first and only message as governor of New York, Mr. Van Buren recommended the repeal of the law providing for the choice of electors by districts, which we have seen was enacted by the legislature in obedience to the fiat of the people expressed at the polls of the election, and the passage of a law requiring the presidential electors to be chosen by general ticket and by a plurality of votes. His recommendation was promptly adopted by both houses of the legislature, and a law passed in conformity with it. The Van Buren party at that period was surely a bold and adventurous party. When Mr. Crawford was a candidate for the presidency [1824; Van Buren was among his most decided partisans] they successfully opposed giving to the people the right of choosing presidential electors; in 1825, the same party advocated the choice of electors by single congressional districts; and in this they were supported by a large majority

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We may now understand what was the meaning of the reform promised in Jackson's inaugural address. Honestly as Jackson had recommended the ideal theory to Monroe, he was a thoroughly practical man in every day life, and this had taught him other lessons. The camp was the higher school of life to which, and through which, he had gone, and he involuntarily carried the customs and discipline of the camp into his new sphere of action. It was not his desire for revenge, and his unprincipled ambition to rule, that suddenly transformed the habitual good custom hitherto, into the evil, which to this day is one of the great misfortunes of the republic. He only opened the gates which had long dammed the flood; he opened them as the representative of the political tendency which, with his election, became predominant, and he opened them with that energy which was peculiarly his own.

There had been removals from office under all former presidents, but now the holders of office, with divergent political views, began to anxiously ask themselves, whether they were to belong to the excepted ones whom the hard man would not immediately deprive of their bread and butter.[1]

of the people, speaking through the ballot-boxes; and at the earliest moment after the death of Mr. Clinton (Feb. 11, 1828), which explains the whole matter, that same party having a majority in both houses of the legislature, without a reference to the people who had a short time before declared in favor of the district system, abolished that system, and established, by a law of their own making, the general-ticket system, which had been recommended by Mr. Clinton, and which, by their votes, they had condemned." The Life and Times of Silas Wright, p. 63. Sargent assures us: "Had the bill in the legislature of New York passed, giving the election of the electors to the people, the entire electoral vote of that state would have been given (1824) to Mr. Adams." Public Men and Events, I, p. 67. New York, in 1824, gave 26 votes for Adams, 5 for Crawford, 4 for Clay, 1 for Jackson. Deb. of Congr., VIII, p. 324. In the year 1828, the vote of the senate was 20 for Jackson and 16 for Adams. Ibid., X, p. 394.

[1] During Washington's administration, nine persons were removed from

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The person who had entered the "civil service" of the country had chosen a career for life. Now the bestowal of office became a species of payment, and a change of incumbents after four, or, at most, eight years, was to be expected almost with certainty; for others had claims for remuneration to urge against the new president. The people were treated to superficial talk on the necessity of rotation in office, and the real purpose of offices came to be more and more the bestowal of them on political agitators and their protégés. Thus stumbling blocks were placed in the way of statesmen, which, however, only served to pave a broad highway for the professional politicians. The destruction of stability in the administration began.[1] The whole machinery of government, down to the lowest officials engaged in the administration of public affairs, was subjected to the fluctuations of the political current. The great body of citizens began to sink to the level of mere figurants, and the majority of real com-

office; during John Adams', ten; during Jefferson's, thirty-nine; during Madison's, five; during Monroe's, nine; during John Quincy Adams', two, and in the first year of Jackson's administration, two hundred and thirty officials of higher rank, and seven hundred and sixty post-masters and subordinate officials. Works of Calhoun, II, p. 438; Niles' Reg., XLIII, p. 9. Benton admits that during the first year six hundred and ninety officials were dismissed. Thirty Years' View, I, p. 160. Clay writes March 12, 1829, that is, eight days after the inauguration: "Among the official corps here there is the greatest solicitude and apprehension. The members of it feel something like the inhabitants of Cairo when the plague breaks out; no one knows who is next to encounter the stroke of death; or, which with many of them is the same thing, to be dismissed from office. You have no conception of the moral tyranny which prevails here over those in employment." Priv. Corresp. of H. Clay, p. 225.

[1] Congress had, indeed, as far back as 1820, taken an ominous step, inasmuch as it had limited the time of holding whole classes of important offices, especially those to the incumbents of which was confided the collection and disbursement of government money, to four years. Statutes at Large, III, p. 582.

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batants grew more and more weary in their advocacy of ideas and ever warmer in their struggle for the doliar.[1]

When Adams was besieged to take the initiative in the ominous change, he said: "I can justify the refusal to adopt this policy only by the steadiness and consistency of my adhesion to my own. If I depart from this in any one instance, I shall be called upon by my friends to do the same in many. An invidious and inquisitorial scrutiny into the personal position of public officers will creep through the whole Union, and the most sordid and selfish passions will be kindled into activity to distort the conduct and misrepresent the feelings of men, whose places may become the price of slander upon them." This prophecy was now fulfilled to the letter. The capital of the Union presented a revolting picture. Flattery, servility, espionage, tale-bearing and in-

[1] Clay said in the senate, in 1835: "But I would ask the Senator [Wright] what has been the effect of this tremendous power of dismission upon the classes of officers to which it has been applied? Upon the post-office, the land-office, and the custom house? They constitute so many corps d'armée, ready to further, on all occasions, the executive views and wishes. They take the lead in primary assemblies whenever it is deemed expedient to applaud or sound the praises of the administration, or to carry out its purposes in relation to the succession. We are assured that a large majority of the recent convention at Columbus, Ohio, to nominate the president's successor, were office-holders." Sp. II, p. 272.

The present generation would do well to recall Calhoun's prophecy as to what would have to be the upshot of all this: "When it comes to be once understood that politics is a game; that those who are engaged in it but act a part; that they make this or that profession, not from honest conviction or an intent to fulfill them, but as a means of deluding the people; and throughout that delusion to acquire power — when such professions are to be entirely forgotten — the people will lose all confidence in public men; all will be regarded as mere jugglers — the honest and patriotic as well as the cunning and profligate; and the people will become indifferent and passive to the grossest abuses of power, on the ground that those whom they may elevate under whatever pledges, instead of reforming, will but imitate the example of those whom they have expelled." Calh.'s Works, II, p. 441.

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trigue thrived as they scarcely ever had in the most infamous European courts of the seventeenth and eighteenth centuries,[1] only the court varnish was wanting. Jackson himself, when not in a rage, possessed an unstudied dignity which impressed the masses; but, through the general political pressure at Washington, there ran a streak of genuine brutality.

In congress, the new system was proclaimed and glorified with surprising boldness. Marcy, of New York, declared in the senate: "It may be that the politicians of New York are not so fastidious as some gentlemen are, as to disclosing the principles on which they act. They boldly *preach* what they *practice*. When they are contending for *victory*, they avow their intention of enjoying the fruits of it. If they are defeated, they expect to retire from office. If they are successful, they claim, as a matter of right, the advantages of success. They see nothing wrong in the rule that to the victor (? *sic*) belong the spoils of the enemy."

"To the victor belong the spoils!"

From that hour, this maxim has remained an inviolable principle of American politicians, and it is owing only to the astonishing vitality of the people of the United States, and to the altogether unsurpassed and unsurpassable favor of their natural conditions, that the state has not succumbed under the onerous burden of the curse. Jackson was then

[1] "We behold the usual incidents of approaching tyranny. The land is filled with spies and informers, and detraction and denunciation are the orders of the day. People, especially official incumbents in this place, no longer dare speak in the fearless tones of manly freemen, but in the cautious whispers of trembling slaves. The premonitory symptoms of despotism are upon us; and if congress does not apply an instantaneous and effectual remedy, the fatal collapse will soon come on, and we shall die — ignobly die! base, mean, and abject slaves — the scorn and contempt of mankind — unpitied, unwept, unmourned!" Sp. of H. Clay, II, p. 230.

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and afterwards, and, more than justly, made responsible for it. Only secondary, and in part even accidental circumstances, permitted the tendency which lay in the conditions of the country and in its institutions thus suddenly to manifest itself. It is, however, true that Jackson carried the element of personality into it to an extent not possible for later presidents. In place of the personal kindly disposition of the president, which was now the governing consideration, came the interest of party, that is, of party leaders, great and small.

In the construction of his cabinet, Jackson himself paid little attention to party; and, back of the cabinet, there still stood the "Kitchen Cabinet," which always possessed undue power, and frequently exercised the deciding influence in the most important questions. Van Buren was the only member of the cabinet who, in a certain sense, enjoyed a national reputation; and he owed his selection less to his distinguished position in the party than to his great share in Jackson's success. The most important member after him was Berrien, the attorney general. Yet his reputation as a jurist was not such that, had the old practice been in vogue, Wirt would have been obliged to vacate for him the place which he had filled for twelve years with the greatest distinction. The chief merit of the remaining members of the cabinet was their common enmity to Henry Clay. The postmaster general, Barry, could, in addition to this, boast that, from being an intimate friend of Clay, he had become one of his enemies. Branch, the secretary of the navy, was an indifferent personage; he now obtained a place in the cabinet, just as he had previously, on account of his wealth and of his highly respectable social position, obtained the governorship of North Carolina and a seat in the senate of the Union. Ingham, of Pennsylvania, the secretary of the treasury, a clever business man, had long been a useful mem-

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ber of congress. He had recommended himself to Jackson chiefly by the part he played in producing the cry about the pretended "trade" between Clay and Adams. The secretary of war, Eaton, was, indeed, a United States senator, but had never played an important political part. He was chosen as a boon companion from Tennessee, and out of gratitude for his services in bringing the electoral campaign to a happy issue.

Another, and an exceedingly piquant circumstance, which was attended by important political consequences, gave Eaton a further claim on Jackson's favor. Some months before the inauguration, Eaton had, after previous consultation with Jackson, married a certain Mrs. Timberlake, with whom, according to the reports circulated and universally credited in Washington, he had, for some time, maintained unlawful intercourse. Jackson's chivalrous nature led him, on every occasion, to espouse the cause of the weaker sex. But accusations of this kind especially provoked him to contradiction, for they had been made against himself also and his wife, to whom he clung with touching devotedness, and were renewed during the electoral campaign. It seems as if the deep acrimony which this had generated within him made it seem to him to be a duty towards the good genius of his life, who had died in the meantime, to restore the good name of Mrs. Eaton. Washington society, and especially the society of other members of the cabinet and their families, had to be compelled to look upon Mrs. Eaton as entitled to all the rights of their circle, and to recognize her to be entitled to them. But the lady rulers of Washington society were determined not to permit the disreputable woman to be forced upon them. The president was the cause of exceedingly angry scenes with the wives of foreign ambassadors; and with the married members of the cabinet, whose families were in Washington, he soon found himself engaged

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in an open and violent feud brought about by the question. Jackson was not used to meeting with an energy equal to his own. The contest, on this account, soon assumed a very malignant character, and finally became the real provocation to the complete reorganization of the cabinet — a reorganization which at first was not at all understood outside of Washington.

In this tragico-comic interlude which is entirely *sui generis* in the history of the United States, every one of Jackson's characteristic qualities, good and bad, great and small, may be recognized. Opposition of any kind was insupportable to him. He was always too certain of the goodness of his cause, especially when his feelings came into play, to believe, much less to be able to understand, that the opposition arose from honest conviction. In political life, as in the field, he knew only friends and foes, and he was, therefore, ruthless in his battles with his enemies. But he was just as unreserved in his devotion to his friends. He made their cause his own completely. Personal questions which most frequently gave him offense, he grasped with such intensity that they became the real ones at issue to him. And just as the limits of what was personal to himself and the real question at issue faded one into the other, so also did the limits between political life and civil life. In addition to this, he was wanting in the ability to estimate the relative importance of different questions. He could not distinguish the small from the great, because he gave his entire thought and will to every task; and he, therefore, began nothing new until he had carried out his previous undertaking. His resolves were quickly made, and without any weighing of the possible consequences to his own person. But neither his formal education nor the schooling which life had given him, made him capable of objective examination and consideration. His own person, that is, his personal feeling,

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assumption and belief were the starting point and the rallying point of all his deliberation, thought and action the one and the other subjectivity in the highest power. To shake an opinion which he had once formed, by argument, or even to modify it, was, therefore, almost impossible; but until he had formed a fixed opinion, he was like wax in skillful hands. This was all the more dangerous, since he could not at all distinguish between his person and his office. He not only made use, on a most extensive scale, of his official position in extra-official affairs, because he, in good faith, dragged his office into that which concerned only his own person; but, what was much more far-reaching in its consequences, he marked out the boundaries of the rights of the office in accordance with his own personal judgment and the wants of the moment, because he gave the duties of the office an improperly wide extension, and was conscious that he desired to fulfill them honestly. Since Louis XIV, the maxim, *l'état c'est moi*, has scarcely found, a second time, so ingenuous and complete an expression as in Andrew Jackson. The only difference is, that it was translated from the language of monarchy into the language of republicanism.

That such a phenomenon was possible in the republic, and that, at the same time, its political and social-political development kept on its course as undisturbed and consistently as if this singular man had never sat in the presidential chair, is easy of explanation. Washington was called the embodiment of the best traits of the American national character, and Jackson was the embodiment of all its typical traits. He was unquestionably a man of great parts, but he was at the same time entirely incapable of rising, in any respect, to the height of a great man, because the disfavor of circumstances during the years that he was capable of being educated had kept him in the ingenuous coarseness of the child of nature. Spite of the frightful influence, in the

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real sense of the expression, which he exercised during the eight years of his presidency, he neither pointed out nor opened new ways to his people by the superiority of his mind, but only dragged them more rapidly onward on the road they had long been traveling, by the demoniacal power of his will. The supporters of his policy were the instincts of the masses; the sum and substance of it, the satisfaction of those instincts. The power of his will gave it absolute sway.

These last lines give the key to the right understanding of the political bearing of the bank-controversy, which was mainly the occasion of so rude a development of personal rule that we may very properly speak of the reign of Andrew Jackson.[1] This is not the place to discuss the general political and purely economic question, whether the bank answered equitable demands and did not abuse the privileges granted it. It is sufficient to indicate that the controversy was not, as the friends of the bank were wont to assert, an entirely baseless one. The bank question had, indeed, long ceased to be a party question, and men had learned to appreciate its advantages; but the masses of people continued to be filled with distrust of the immense power of its capital.[2] It is probable, however, that this distrust would have remained latent until such time as the bank should apply for an extension of its franchise, had not Jackson made the question sooner the order of the day. What it was that first provoked him to this, it is not possible to determine definitely. The tradition of the democratic party, to which Ban-

[1] Even Story, who was a moderate man and far removed from partisanship, writes: "And I confess that I feel humiliated at the truth, which cannot be disguised, that though we live under the form of a republic, we are in fact under the rule of a single man." Life and Letters of J. Story, II, p. 154.

[2] The capital of the bank amounted to $35,000,000.

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croft also has lent the weight of his name,[1] is, in my opinion, not well founded. Jackson did not come to Washington resolved to wipe out the bank.[2] He had never been favorably inclined towards it, but, like the rest of its opponents, he considered it a fact to which he had to be reconciled. He had even recommended the creation of a branch office in Pensacola, and again in 1828, the appointment of certain persons to places in the branch office at Nashville. During the first months of his administration, the relation of the bank to the administration continued to be what it had been under former presidents. There are several letters of this period known, in which the secretary of finance expresses his acknowledgments for the manner in which the bank complied with the wishes of the administration. The first demonstrable provocation of ill temper was afforded by a matter unimportant in itself, the beginning of which dates back to July, 1829.

Levi Woodbury, senator from New Hampshire, and one of Jackson's most radical partisans, laid charges, in a letter of the 27th of June, before the secretary of the treasury, against Jeremiah Mason, one of the most distinguished jurists of New England, as president of the branch bank at

[1] In a eulogy on Jackson, delivered in Washington.

[2] In opposition to this, indeed, may be adduced Jackson's own assurance in the so-called "paper, read to the cabinet on the 18th of September, 1833," that even at the time that he entered on the duties of the presidency, his "convictions of the dangerous tendencies of the bank were so overpowering." Niles, XLV, p. 73. But such a declaration of a party in a manifesto, which marks the culminating point of the struggle, could have little weight attached to it, even if the established facts might not be made to constitute so strong a presumptive proof against it. There is, however, no need of assuming that Jackson told an absolute untruth. The attitude he assumed in September, 1833, towards the question, made it, considering his character and his whole mode of thought, seem self-evident to him that he must necessarily have always thought so.

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Portsmouth. The letter calls attention to Mason's "political character," and that the hint might certainly not be misunderstood or remain unheeded, Woodbury also points to the fact that Mason was a "particular friend of Webster." In a letter of the same date to Nicholas Biddle, the president of the bank, Woodbury lays stress on the fact, notwithstanding, that all complaints against Mason proceeded "exclusively from his [Mason's] political friends." Both letters alleged that the complaints were universal, both among the merchants and among the "people in the interior," and the one to Ingham closed with the request that he would exert his "influence with the mother bank" to have Mason removed. Thereupon, Ingham, on the 11th of July, wrote to Biddle, remarking that complaints of a "similar kind" had been already made from other quarters, and urging him to afford efficient redress. Biddle, in his answer, promised to cause an investigation, but demonstrated then and there the complete injustice of many of Woodbury's assertions, which contained malicious insinuations against Mason and against the bank.

If there had been really complaints of a material kind only against Mason, the affair would properly have stopped here until the promised investigation had taken place. But back of Woodbury and the secretary of finance stood another personage. Isaac Hill, at the time an employe of the treasury office, and soon one of the most dreaded powers behind the throne, held the wires in his hand behind the curtain; and his only aim was, not simply to scatter seeds of evil and leave their germination to chance; he wanted to attain at the moment an entirely definite and plain object.

"About sixty of the most respectable members of the legislature of New Hampshire" had petitioned for a change of the board of directors of the branch bank, and, in addition to this, had taken the trouble to recommend other

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"suitable persons." The conductors of the mother bank must have badly read the signs of the times, if they did not now perceive at what point those hankering after their patronage wanted to place the lever. Hill, however, removed all doubt for them on this matter. On the 17th of July, he addressed a letter, to which he subscribed his official signature, to two gentlemen in Philadelphia, who communicated its contents to Biddle. In this letter we read: "The friends of General Jackson in New Hampshire have had but too much reason to complain of the management of the branch at Portsmouth. All that they now ask is, that this institution in that state may not continue to be an engine of political oppression by any party." [1]

The charge did not harmonize well with Woodbury's assurance that Mason's political friends were the first and loudest in their complaints. But the maxim of such people in following out such plans is always: hearts are trumps, but a club takes the trick, if we play it. The watchword which Hill here gave remained unchanged to the end of the contest. The bank unquestionably assumed later a political attitude; that is, it sought to influence politics. But even if Jackson could say, with reason, that it was not entitled to defend its life against the administration, it must have been self-evident, even to a child, that it would, under all circumstances, defend itself, right or wrong. And it matters not how much or how little just blame it may deserve on this account, the history of the quarrel about the Portsmouth branch bank justifies, so far as the beginning of the bank struggle is concerned, Calhoun's assertion that the "real offense of the bank is not that it *has* intermeddled in politics, but that it *would not* intermeddle on the side of power." [2]

[1] See the correspondence relating to the Portsmouth branch bank in Niles, XLII, pp. 289–292, 315, 316. Parton, Life of A. Jackson, III, p. 260 et seq., adds some items not to be found in Niles.

[2] Calh.'s Works, II, p. 323.

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In the beginning of August, the secretary of war also interfered in the matter, inasmuch as he directed Mason to transfer the pension agency from Portsmouth to Concord. Mason had already, on the 31st of July, informed Biddle that Hill, who, up to the time of his appointment to a place in the treasury office, had been president of the small bank in question in Concord, was laboring to effect this transfer of the pension agency. Mason, as well as the mother bank, refused to comply with Eaton's demand, because the law did not empower him to do so. The bank was the victor.

In the meantime, the correspondence between the mother bank and the secretary of the treasury continued, and had covered the general relation of the bank to the administration. Ingham expressed himself on the subject of the "control" which became the administration, in such a manner that one did not need to be altogether too distrustful in order to see in it, with Biddle, the assertion of a claim to exercise an influence "on the election and on removal from office." Ingham, indeed, denied very decidedly any such intention. That he did not know how Hill had shuffled the cards which had been given him to play from, seems pretty certain. But if the thought of making the bank the vassal of the administration was far from his mind, then not only are certain of his expressions which were evidently intended to be significant hints entirely meaningless, but the menaces also to which he resorted totally inexplicable.[1] Now the declarations of the bank that it had nothing to do with politics and that it did not wish to have anything to do with them, were in harmony with the facts of the case; and with any other offense it was not even charged.

The bank remained the victor, both as against the secre-

[1] In his letter of the 8th of October, the threat of withdrawing the federal deposits is emphatically expressed.

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tary of the treasury and the secretary of war; and it was in the right as opposed to both. But it cannot be said, however, that it had acted wisely. Even if the supposition that this wrangle gave Jackson the first impulse to his declaration of war against it be unfounded, this much is certain, that the arrogant tone in which Biddle repelled all guardianship of the administration, except that expressly granted by law, hit him on his sorest spot. But Ingham was right in his view, that the bank very much over-estimated its power, it mattered not how great that power might be, if it supposed it could withstand a struggle with the administration.

Nothing was known of these differences in wider circles, or else no attention was paid to them. The declaration of the first annual message, that the president could "not too soon present to the deliberate consideration of the legislature and the people," the petition which was to be expected, asking for a renewal of the charter of the bank, was a surprise to the general public. By what spirit the presenting of this declaration to the people was dictated, is shown by the concluding sentence of the short paragraph: "Both the constitutionality and the expediency of the law creating this bank are questioned by a large portion of our fellow citizens, and it must be admitted by all, that it has failed in the great end of establishing a uniform and sound currency." If the meaning of this was that Jackson himself considered the bank unconstitutional, still this was true only of this bank and not of a bank in general. The disguised attack on the existing bank he followed with the conditional proposition to substitute for it "a national one, founded upon the credit of the government and its revenues." Whether it was intended to place such an instrument in the hand of the president in case the new system governing the bestowal of office should be continued, is a question, the answer to which must

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be sought in the history of Jackson's administration, and especially in that of the bank controversy.

If any doubt whatever could have existed that Jackson had desired to declare war on the bank, it must have been removed by the repetition of that recommendation in the two following annual messages.[1] But no one yet dreamt of a struggle for life or death. It came to this only through a blunder made by the bank.

In one point, Jackson was apparently true to the programme which he had drawn up on the occasion of his resignation as a senator of the United States. In his first message, he recommended that the reëligibility of the president should be done away with by an amendment to the constitution; and he repeated the recommendation in all his succeeding messages. But the politicians rightly assumed that that would not prevent himself from accepting a second election.[2] And it would have been a hard thing for them to find a person more accept-

[1] Ibid., II, pp. 849, 861. In his second annual message he says still more definitely that he objected to the bank only "as at present organized," and that "the advantages afforded by the present bank" might be secured by a government bank, which was only a "branch of the treasury department."

[2] Webster writes, April 18, 1830, to Clay: "The president means to be re-elected. He has meant so all along. Seeing this, Van Buren was endeavoring to make a merit of persuading him to do so, on the ground of its being necessary to keep the party together." Priv. Corresp. of H. Clay, p. 259. As early as the 27th of February, 1830, he had written to Mason that Calhoun and Van Buren overlooked "the probability that General Jackson will run again, and that that is his present purpose I am quite sure." Priv. Corresp. of D. Webster, I, p. 488. Adams shared this view, but as to the rest, saw better. He writes, March 28, 1828, in his diary: "The vices of his administration are not such as affect the popular feeling. He will lose none of his popularity, unless he should do something to raise a blister upon popular sentiment; and of that there is no present prospect. If he lives, therefore, and nothing external should happen to rouse new parties, he may be re-elected, not only once, but twice or thrice." Mem. of J. Q. Adams, VIII, p. 210.

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able to them, or one whom there was a better prospect of electing.

In the latter respect, indeed, the leaders of the national republicans were of a very different mind. They confidently hoped for victory to the last,[1] partly because they assumed that the masses were of their own way of thinking politically, whereas they (the masses) were guided entirely by their political instincts; partly because they under-estimated the influence which the professional politicians had already secured for themselves, by skillful management, in the determination of questions of this kind, precisely.

In the place of the dethroned "King Caucus," another machine had to be put — one which, by making known the "people's will," exempted the electors from their constitutional duty to elect the man president who, in their judgment, was the fittest for the position. From the "Kitchen Cabinet" seems to have come the first proposition to make the "national conventions," which are customary even to the present day — that is, assemblages made up of party delegates, chosen without any legal control whatever, the ex-

[1] Clay, who, it was well known, was the candidate of the national republicans, writes, April 24, 1830, to Fr. Brooke: "The whole case presents one encouraging view. Jackson has lost, is losing, and must continue to lose;" and on the 23d of July, 1830, to J. S. Johnston: "I think we are authorized, from all that is now before us, to anticipate confidently General Jackson's defeat;" and again, on the 21st of February, to Fr. Brooke: "Everything is going on well. Van Buren, old Hickory, and the whole crew, will, I think, in due time, be gotten rid of." Priv. Corresp. of H. Clay, pp. 264, 307, 326. In the address of the national republican convention of Baltimore we read: "Without meaning to encourage an undue confidence, which would only generate inactivity, we believe that, with proper exertion, the success of the good cause is beyond the possibility of doubt. The present administration has for some time past been justly discredited in public opinion — General Jackson has been gradually losing, ever since the commencement of his official term, the popularity with which he entered it." Niles, XLI, p. 312.

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ponents of the "will of the people."[1] What prospects the army of office holders and office seekers, who were ever ready for fight, had to influence the election to this convention, and how powerful a pressure the "nominations" of the conventions would necessarily exert on the party, or on the electors chosen by the party, we need not enter into any minute discussion of here.[2]

Jackson, indeed, would have needed no artificial help towards being again proposed; but, as it was offered, his opponents should have been doubly cautious in going to work to prepare their programme. Instead of confining themselves to a watchful defensive, however, and permitting him to run the risks of taking the initiative, they suddenly took the offensive, misled by an over-estimation of their own strength and by the impatience of Clay's ambition.

In the beginning of December, 1831, that is, nearly a year before the choice of electors, the national republicans opened the electoral campaign with a national convention held at Baltimore. Clay was unanimously nominated their presidential candidate. An address to the people furnished, in the negative form of a criticism of the then administration, the party's programme. Much might have been added to it; much that was said might have found more severe expression and the criticism still have been justified; but polit-

[1] See the letter of Major Lewis to Amos Kendall, of the 25th of May, 1831, reproduced in Parton's Life of A. Jackson, III, pp. 382, 383. In July of the same year, a "convention" of the republican members of the legislature of New Hampshire, at the suggestion of Kendall and of J. Hill, made the formal proposition that a national convention should be held, with the further proposition that each state should send as many delegates to it as it was entitled to electoral votes.

[2] "The bank, admitting all that is said to be true, has not, in our opinion, expended so much money in defending herself, as has been expended at the late election held in the city of New York, alone, by persons holding offices there, that the 'spoils of victory' may be made to remain with them." April, 1834. Niles, XLVI, p. 97.

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ical wisdom demanded a more moderate tone. The peculiar manner in which the masses considered Jackson their direct representative, caused them to look upon the personal attacks on him as an animadversion on themselves, and they seized with satisfaction the opportunity to demonstrate their "sovereignty" once more, and in a more striking manner.

In reference to the bank, the address assumed a much more decided position than was absolutely called for by the steps which Jackson had thus far taken against it. Extravagant praise was showered on the bank, and it was denied that the attacks of the president had even the least semblance of reason. Between the lines people could read that the explanation of the address was to be found in Jackson's own bank-project, which amounted to a paper-money machine for the government. Certain it was, however, that the annihilation of the bank, if Jackson was elected again, was a matter resolved upon and settled.[1] The conclusion was easily drawn: whoever wishes to save the bank must vote for Clay.

The national republicans, therefore, chose as their watchword for the campaign: "The bank or Jackson!" and they endeavored to force the president to adopt the same, by inducing the bank to petition now for the renewal of its charter.[2] When experience had taught them the folly of this step, they denied all design, and pretended that, without any mental reservation, they only obeyed the summons contained in the first annual message. Since they, by this means, succeeded in making the obscurity which prevailed in the public judgment on the dark course of the struggle greater, the allusion to the address of the Baltimore convention, which was for the most part overlooked, seemed necessary. Together with many others, Clay himself has borne witness to the fact,

[1] Niles, XLI, p. 310.

[2] The petition was laid before the senate on the 9th of January, 1832, by Dallas. Deb. of Congr., XI, pp. 357, 358.

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that Jackson did not wish to see the question brought up at this session, but that the "responsibility of a decision" was forced upon him by the friends of the bank.[1]

Not only Jackson personally had to complain of this manœuvre. The bank and its friends might appeal later, as much as they liked, to the right of self-defense, when Jackson forged a powerful weapon against them out of the thousands of dollars they had spent for purposes of political agitation. With its application before a presidential election, about five years before the expiration of its charter, and in a congress the members of which had been elected without any reference whatever to this question, the bank carried its money power into the political arena in a manner which could not be justified from any point of view. By means of this fact, it exercised on a great number of citizens, especially in the money-poor west, a pressure which awakened to an extent greater than ever before the political alarms in relation to an institution of the kind, which had been lulled to sleep by time. These were of more importance in the development and in the issue of the struggle than the economic side of the question.[2] But the really decisive element was that

[1] "The executive is playing a deep game to avoid, at this session, the responsibility of any decision on the bank question. It is not yet ascertained whether the bank, by forbearing to apply for a renewal of their charter, will or will not conform to the wishes of the president. I think they will act very unwisely if they do not apply." H. Clay to Fr. Brooke. Dec. 25, 1831. Priv. Corresp., p. 322.

[2] J. M. Ludlow says, in a review of the first volume of this work: "Yet surely the question involved in it [Jackson's struggle with the U. S. Bank], was one of the gravest constitutional nature, and big with issues affecting the whole future of the United States, viz., whether a money-power of national dimensions should be allowed to subsist which took part in political warfare, set at nought government control, and seized the dividends on the public stock. How momentous such a danger is in a republic, from the want of all those countervailing influences which other forms of government may supply, the instance of the Erie ring shows, which but

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Jackson accepted the challenge of the Baltimore convention, and that he also made "Jackson or the Bank" the watchword in the electoral campaign.

The democratic members of congress had not expected that the president would place before the party the alternative of either dropping him or of rejecting the petition of the bank. It was, indeed, known that he took umbrage at the application just at this time; but, although the democrats had a considerable majority in the house of representatives, the bank bill was passed by a vote of one hundred and seven against eighty-five.[1] The following day, July 4, it went to

the other day we saw controlling the legislature and half the judiciary of the "Empire State" of the Union. If James Fisk's mammonocracy was confined to a state or two, it was probably thanks only to the toughness of "Old Hickory," which, forty years before, had thrown Fisk's precursor, Nicholas Biddle, in that previous wrestle, wherein the control of the Union itself was at stake." (The Academy, May 2, 1874.) I share Ludlow's view that the continuance of the bank was not desirable. But that alone is not the question. The credit Jackson deserves for destroying it is more than counterbalanced by the evil he caused by the manner in which he brought about its destruction. Besides, Jackson proved himself entirely incompetent to put anything better in its place. Ludlow's comparison of the bank with the "Erie Ring," and of Biddle with Fisk, is, in my opinion, an exceedingly unhappy one. It seems to me that here Ludlow, in part, looks somewhat through the Benton-Parton historical spectacles; that, in part, he does not take sufficiently into account the immense difference between the economic condition of the country then and now; and that, in part, he ignores entirely the true nature and the political significance of the Erie ring and of its one-time chief. The fact that New York had its James Fisk, and that a swarm of greater and lesser Fisks is spread over the United States, was made possible, for the first time, by the general political development which manifested itself in all its power during Jackson's administration, and which Jackson himself promoted more than any other personage. I do not believe that I underestimate Jackson, as the honorable critic reproaches me with doing. If I am not greatly self-deceived, I estimate him all the more correctly because I follow the causes of things to lower depths in their wider ramifications, and because I follow their effects, and not the direct effects only, farther.

[1] Deb. of Congr., XI. p. 753.

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the president, who, on the tenth of the same month, sent it back to the senate with his veto.[1] In doing so, he now, in an unambiguous manner, gave it to be understood that he would regard the issue of the election as the final decree of the people. By this means the renewal of the charter of the bank became really and entirely a party question. Only few of the many democratic friends of the bank had the courage to remain true to their former views. Many of those who had just again petitioned for its continuance, now reviled it as a "monster" which threatened to devour the freedom of the republic, and there were some even who, with slavish shamelessness, acknowledged that Jackson's order had simply made opposition to it a party law.[2] This was the first time that, in an important question, party discipline was raised to the dignity of the supreme law of the demo-

[1] Statesm.'s Man., II, pp. 863–876.

[2] In the city of New York, the democrats wrangled among themselves over the question, whether the member of congress, hitherto Verplanck, or one Selden instead, should be elected to the house of representatives. The "Evening Post," one of the official papers of the Tammany society which took Verplanck's part, remarked in an article: "Mr. Verplanck, it seems, voted in favor of the United States Bank. There is not a single act but this in the whole course of his political life which even the noisy champions of Mr. Selden have ventured to name against him. On the contrary, on all important questions, he has ever been found on the side of the executive. . . . 'But he has committed one sin,' say certain obstreperous friends of Mr. Selden — 'he voted in favor of rechartering the United States Bank.' But let it be borne in mind that, at the time that question was taken in congress, it had not yet become of party demarcation in this city. It was not yet an ascertained fact that the president would veto the bill; and Mr. Verplanck was in possession of no data which could, by any means, make it certain that his constituents were opposed to the bank. He had before him petitions of a large number of his constituents, praying, in earnest terms, for the renewal of the charter. These petitions had on them the names of many as sound democrats as are to be found in the whole country. They had on them names of men who stood and stand among the highest at Tammany Hall — leading spirits in the wigwam — chiefs at the council board." Niles, XLIII, p. 145.

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cratic party; and, for the present, the party acknowledged the opinion and the will of the president to be the source of their party programme.

But this alone did not give the veto an importance which extended far beyond the question of the continuance or cessation of the bank. The president based his justification of it on a series of principles which advanced a theory of the relation of the executive to the legislative and judicial powers which was pregnant with meaning.

In his veto message, Jackson declared that if he had been solicited to, he would have been ready to lay before congress the plan of a bank against which no objection, constitutional or of inexpediency, could be raised. During Washington's administration, the anti-Federalists had frequently expressed themselves very pointedly to the effect that congress permitted itself to receive suggestions from the heads of departments, especially from Hamilton, in the matter of the framing of bills. The practice, however, did not fall into total disuse even under the republican regime. But the thought of having recourse to the president for the draught of a proposed law, was entirely new. Great as was the part played by the theory of the "division of power" in the views of the founders of the republic, they had a great deal too much political good sense to attempt to carry it out absolutely in the constitution. The president was, after much deliberation, made a coöperating factor in legislation, but, in the debates of the convention at Philadelphia, the thought of giving him a share in the initiative of legislation was not expressed even once. Divergent as views were, it was still considered, and without exception, a self-evident matter, that the participation of the "executive" in the legislative power could have had no object but its own protection, and to act as a certain check on the legislative. In the *Federalist*, also, the question is discussed only from these two points of view. The "recommendation" by him

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of "such measures as he should judge necessary and expedient," and which, besides, is made the duty of the president by the constitution, has nothing in common with the taking of the initiative in legislation. Whether the genius of republicanism permits the executive power under any circumstances to take part in it, this is not the place to discuss; that it does not has, from the first, been the opinion universally entertained in the United States, and it is certain that the genius of the constitution ran counter to Jackson's pretensions. Clay said that if the president were to furnish draughts for the laws, the country should be governed by "ukases and decrees," and not be subjected to the useless expense of a congress.

The censure contained in this expression was not as exaggerated as may seem at first sight. In constitutional monarchies, it was already customary not to permit the prince to be drawn into parliamentary transactions, that there might not be so much as a semblance that there was an intention to exert a pressure on the free deliberations and resolves of the legislative body. In the congress of the republic, however, it now became a very usual thing to use the prediction of a presidential veto as a chief argument in debate. This could not be explained by an improper dependence of some members of congress on the president alone. Congress had either to take a corrupt and revolutionary course, or the president must have had a view on the veto power which departed widely from that of his predecessors.

Of this last, the veto message left no doubt. Jackson characterized a great part of the provisions of the existing bank law as unconstitutional, and accused the new bank bill of substantially preserving these provisions. The provisions in question, he claimed, were unconstitutional, because they were not, as the constitution required, "necessary and proper" to attain the object intended.

That the veto was valid in law there was no question, since

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the constitution, with the exception of a few provisions as to time, attaches no condition to the exercise of the veto-power, except a statement of the reasons therefor. But the question of law was not limited to this. It was not only an interesting question theoretically, but a practical question of the highest importance, whether these reasons of Jackson were constitutional. And when the bill came up for discussion again in the senate, much greater weight was attached to this than to the question of utility.

Since the president, as already said, is not to be considered as a power coördinate with congress in the matter of legislation,[1] we may call it running counter to the spirit of the constitution that the president should think himself justified, the moment any provision in the details of a bill did not entirely suit him, to exercise his veto power. Yet, of course, a well defined limit cannot here be drawn. But Jackson extended the competency of his individual judgment on the "necessary and proper" to the constitutional question too. Doubtless, the president not only might refuse his assent to every bill which he considered unconstitutional, but he had to do so. But, it was just as unquestionable, that, in the formation of his judgment on this question, it was improper for him to make his views concerning the "necessary and proper" of the separate provisions, the sole criterion. If a general power were granted to congress, to congress also belonged the right to judge finally how it could exercise that power so that it might best serve the end for which it was given. To make the constitutionality of a legislative act depend on whether some other governmental factor may not consider that certain other individual provisions might serve the purpose better, is absurd. The constitutionality of an act is, as the word implies, a question of law, and the

[1] Art. I, sec. 1, of the constitution, reads: "All legislative powers herein granted shall be vested in a congress of the United States.

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rule governing the decision of questions of law cannot be individual opinion on mere questions of expediency.[1] Were this not so, not only the certainty of the law, but its continuing identity would be, in principle, done away with. The president, if he were consistently to carry out this new doctrine, should endeavor to prevent all legislation which did not, in every particular, entirely correspond with his views, and he might do it in all instances in which he could count on one-third of the members of both houses of congress. What yesterday was legal might be to-day — so far as the executive was concerned — illegal, of no binding force, if another person had in the mean time assumed the presidental chair, if the president had changed his mind, or if a change of circumstances seemed to require a different judgment as to how well a legislative measure was adapted to its end. For Jackson desired not only to pass judgment on the constitutionality of the bills laid before him for his approval, but also on that of existing laws, which had become such in a constitutional manner, taking his own views on the suitableness of their separate provisions as a criterion.

Whatever Jackson's views as a private individual might have been, as president he should have looked on the charter

[1] "This power, if constitutional at all, is only constitutional in the hands of congress. Anywhere else, its exercise would be plain usurpation. If, then, the authority to decide what powers ought to be granted to a bank belong to congress, and congress shall have exercised that power, it would seem little better than absurd to say that its act, nevertheless, would be unconstitutional and invalid, if, in the opinion of a third party, it had misjudged, on a question of expediency, in the arrangement of details. According to such a mode of reasoning, a mistake in the exercise of jurisdiction takes away the jurisdiction. If congress decide right, its decision may stand; if it decide wrong, its decision is nugatory; and whether its decision be right or wrong, another is to judge, although the original power of making the decision must be allowed to be exclusively in congress. This is the end to which the argument of the message will conduct its followers." Webst.'s Works, III, p. 438.

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of the bank not only as a binding, but also as a constitutional law. When a law has come into existence in a constitutional manner, the constitution knows of only one authority, the judicial, which may declare it unconstitutional. But Jackson — as president, whose highest duty the constitution makes it to "take care that the laws be faithfully executed" — not only claimed the right to deny the constitutionality and force of a law, in the absence of such a decision by a federal court, and to make this his conviction the motive of official action; but he did so in the face of an express decision of the supreme court. He, indeed, would not allow that the decision in the case of *McCulloch v. State of Maryland* covered the whole question, because the court had declared only that the establishment of a bank was constitutional, but not that all the provisions of the charter of that bank were constitutional. But the court had, at the same time, declared that it was authorized to pass judgment only on the first question, for the reason that the constitution gave full discretion to the legislator in relation to the second;[1] but the legislator is congress, and not congress and the president.[2]

[1] "But where the law is not prohibited [by the constitution], and is really calculated to affect any of the objects intrusted to the government, to undertake here to inquire into the degree of its necessity, would be to pass the line which circumscribes the judicial department, and to tread on legislative ground." Wheaton's Rep., IV, p. 423; Curtis, IV, p. 431.

[2] The last sentence is not to be found in the decision of the supreme court, but is an opinion put forward by myself. So far as I know, the supreme court has never had an opportunity to give an opinion on this point. But it is apparent from the course of the argument in the matter of McCulloch v. State of Maryland, that the court, considering the discretion which it ascribes to congress, looked upon it as the sole possessor of the legislative initiative. Thus, for instance, we read: "To have declared that the best means shall not be used, but those alone without which the power given would be nugatory, would have been to deprive the legislature of the capacity to avail itself of experience, to exercise its reason, and to accommo-

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But Jackson went even a step farther. He denied entirely the competency of the court to give a binding interpretation of the constitution in such questions. In the veto-message, he says: "Each public officer who takes an oath to support the constitution, swears that he will support it as he understands it, and not as it is understood by others." This was unquestionably correct in relation to open questions, but it was just as unquestionably incorrect in relation to questions which were no longer open, because the authority established by the constitution to give a final decision had already decided them. If the constitution does not make it the duty of the federal executive and the federal legislative powers to recognize the judgment of the federal supreme court as final in constitutional questions, then there is no constitutional law of the Union; and the fundamental idea on which this constitutional state rests is, that it should not be an unarbitrary law-respecting state *(Rechtsstaat);* the law denies itself. According to this, the supreme court of the Union has its own constitutional law; each president his own; each new majority in congress its own; and the public law of the Union is in principle the chaos of law, and the decision of a question of law lies outside the realm of possibility.

In a congress, in which men versed in the law like Daniel Webster sat, these obvious consequences of Jackson's constitutional doctrines must have been drawn with great acuteness.[1] But the veto-message contained one paragraph which made the masses stupid and deaf even to the clearest reasoning

date its legislation to circumstances. . . . As little can it be required to prove, that in the absence of this clause congress would have some choice of means. That it might employ those which, in its judgment, would most advantageously effect the object to be accomplished." Jackson, therefore, was by no means authorized to say: "Under the decision of the supreme court it is the exclusive province of congress and the president to decide," etc.

[1] Webster's Works, III, pp. 433, 434.

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and to the most impressive warnings. Jackson reckoned the charter of the bank among the laws which grant "exclusive privileges" which "undertake to make the rich richer and the potent more powerful," and which, therefore, give "the humble members of society, the farmers, mechanics and laborers, who have neither the time nor the means of securing such favors, a right to complain of the injustice of their government." When chords like these are struck only by the hands of a mere demagogue, danger is never entirely absent. If struck by a real man of the people, with all the energy of conviction of a narrow-minded man with absolute faith in himself, a powerful echo is always certain to follow.

The leaders of the opposition so little understood the masses that they hailed the veto with joy, and endeavored to circulate the message as widely as possible, just as the continental congress had once done with the proclamation of North's ministry.[1] The joy of the administration party was, with good reason, unlimited; the veto-message made Jackson master of the Union for as long a time as he desired to be such.[2] Spite of all the terrors of the cholera, the electoral

[1] Biddle himself writes to Dallas as follows: "You ask what is the effect of the veto? My impression is, that it is working as well as the friends of the bank and of the party could desire. . . . As to the veto-message, I am delighted with it. It has all the fury of a chained panther, biting the bars of his cage. It is really a manifesto of anarchy, such as Marat or Robespierre might have issued to the mob of the Faubourg St. Antoine; and my hope is, that it will contribute to relieve the country from the dominion of these miserable people." Priv. Corresp. of H. Clay, p. 341.

[2] Ed. Livingston writes to Dallas, Aug. 26, 1832: "As to the message, I will say no more of it than that no part of it is mine. This is a great piece of self-denial, considering the extravagant applause with which it has been received. . . . There are arguments in it that an ingenious critic might plausibly expose, and I am glad that it has only been nibbled at by the editors. Is this concert? Or what can be the reason of this forbearance? I dreaded an immediate attack. Our friends have lost no time in

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campaign was carried on in the summer of 1832 with an energy and enthusiasm never before equalled; and all the well-placed speeches and all the pamphlets in armor of the opposition were completely powerless against the power of the hickory trees. Jackson received two hundred and nineteen electoral votes against forty-nine for Clay.[1]

In view of Jackson's character, it was self-evident that the consequence of this brilliant victory, which surpassed all expectation in its brilliancy, would be followed by the most ruthless prosecution of the war against the bank. The annual message of December 4, 1832, surprised congress by the recommendation to convert all funded property which the government had invested in the stocks of corporations created by itself or by the several states, into ready money. To this was added a summons to cause an investigation to be made into the condition of the bank, as there were rumors in circulation which, if true, gave reason to fear for the safety of the federal deposits.[2] This summons was all the more surprising, since the house of representatives had already, on the 14th of March of the same year, appointed a committee of investigation,[3] which, although composed for the most part of men opposed to the renewal of the charter of the bank, had made an entirely favorable report. Jackson had, indeed, in his veto-message, declared the action of this committee unsatisfactory in every respect. But the presumptuous boldness of this assertion did not suffice to make congress render itself ridiculous by ordering another investigation, as a pretext for which the president had not adduced

taking off its force, by anticipating the public opinion." Hunt, Life of Edw. Livingston, pp. 370, 371.

[1] Vermont had given its seven votes to Wirt, and South Carolina its eleven votes to John Floyd. Deb. of Congr., XII, p. 168.

[2] Statesm.'s Man., II, p. 883.

[3] Deb. of Congr., XI, pp. 605, 638.

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even one plausible fact. The house resolved on the 2d of March, 1833, by one hundred and nine against forty-six votes, that the deposits "may . . . be safely continued in the Bank of the United States."[1]

Under ordinary circumstances, the unusual majority by which this resolution was passed would have been considered decisive of the matter. Jackson never considered elements of this nature in his resolves. If congress wished to coöperate with him, well and good; if not, he went his way alone unconcerned.

And it was with the cabinet as with congress. The majority of the former wanted to have nothing to do with the plan suggested in that passage of the annual message. McLane was on this account transferred from the department of finance to the department of state, and Duane was made secretary of the treasury in his stead. Jackson expected a more cordial coöperation from the latter, because he was a decided opponent of the charter of the bank.[2]

On the first of June, 1833, Duane entered on the duties of his office, and as early as the third of June the president personally communicated to him his intentions in relation to the deposits. Duane immediately replied that he was not able to share the president's views, and proposed that either congress should be called upon to make another investigation

[1] Ibid., XII, p. 191.

[2] This is not to be understood as if Duane had been nominated to withdraw the deposits. And it can, just as little, be said with certainty, as it appears from Parton's (Life of Andrew Jackson, III, p. 508) representation, that the choice was made entirely independently of this question. Parton appeals to the fact that the negotiations with Duane had been opened as early as December, 1832. But the first demand was made on the day on which the annual message was dated. Jackson had, therefore, certainly already entertained the thought not to leave the deposits in the bank, and it will scarcely be claimed that he hoped to obtain the assent of this congress to their removal.

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or that recourse should be had to the courts.[1] Jackson rejected both these propositions absolutely. Here the matter rested until the end of the month. On the first of July, Duane received a proposition, with a very full statement of reasons, to cause inquiries to be made, through an agent, of certain banks, whether they would be willing to take the federal deposits on the conditions already fixed, in every detail, by the president. A more preposterous financial project has scarcely ever emanated from the head of a government. Duane, too, sent a written answer, discussing exhaustively every pertinent question. That the conclusions he drew fell on deaf ears, need scarcely to be told now. Several letters more were passed between the president and the secretary, without making any impression on either side. The practical results of the negotiations were confined to a promise given by Duane, at the end of July, to hand in his resignation in case he could come to no understanding with the president, and commissioning Kendall to inform himself what kind of a reception the eventual execution of Jackson's plan would meet with from the best banks.

Kendall's mission was, in Duane's opinion, entirely without result; the president's bank-agency plan was "unanimously" rejected, and the banks which had professed themselves ready to take the deposits were the least reliable.[2] Jackson, however, was entirely satisfied with the report of the agent, for his resolve was already taken.[3] On the tenth of

[1] Mr. Duane's Exposition, Niles, XLV. p. 236.

[2] Even Benton writes: "Instead of a competition among them [the local banks] to obtain the deposits, there was holding off, and an absolute refusal on the part of many." He is not at a loss for an explanation tending to establish his own view of the whole matter. "It was the fear of the Bank of the United States." Thirty Years' View, I, p. 385.

[3] Benton writes: "But a competent number were found." Considering the exuberance with which he describes this "heroic deed" of Jackson's, this expression is significant.

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September he informed the cabinet that he desired to have a day fixed, dating from which the funds of the government should be no longer deposited with the bank.[1] One week later, he, at another meeting of the cabinet, heard the views of each of its members on the communication of the tenth. On the following day (September 18[2]), he, contrary to the custom hitherto, communicated his own views to the cabinet in writing. The written form was not chosen, because of the extraordinary importance of the question. The principal address of this remarkable document ran to the people and not to the cabinet; the president endeavored to obtain a verdict of the people in his favor, in a manner unknown to the constitution and the laws, before judgment could be passed upon his mode of action by competent authority.

On the 20th of September, after Duane had made known his last resolve to the president, the *Globe*, the official paper of the administration, wrote that it was authorized to say that the deposits would be made with the state banks, instead of with the United States Bank, as soon as the arrangements necessary to that end had been made.[3] Duane had previously entered his protest against this semi-official announcement.[4] Referring to this, he wrote to the president on the 21st of September that he recalled his over-hasty promise, and that

[1] The same interpretation is to be put on the "removal of the deposits." The money already deposited with the bank was not withdrawn from it all at once, but gradually; according as the actual wants of the government demanded it.

[2] Benton gives the 22d of September (l. c., p. 376). It would be exceedingly surprising if this was no more than a typographical error. Benton had his hand so deep in the bank game that he knew very well the importance of dates for a correct understanding of Jackson's mode of action. The false date is certainly not a pardonable error.

[3] Niles, XLV, p. 237.

[4] Letter of the 19th of September. The entire correspondence between him and Jackson of September 19 to September 23, is printed in Niles, XLV, pp. 237-239.

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he would not give up his position voluntarily, for the reason that, in his opinion, the discretion in the matter of removing the deposits rested with him, and that he could not give his approval to it. Jackson immediately returned the letter to him as unbecoming, curtly refused all "further discussion," and asked him for a decisive answer to the question, whether he would take the measures which he (Jackson) considered necessary. On the very same day, Duane sent three other letters to the president, in which he, while more minutely elaborating certain points, reiterated his refusal to order the removal of the deposits or to resign, with still greater determination. Whereupon Jackson sent him his dismissal. On the very same day, Attorney General Taney was nominated secretary of the treasury, and he gave the order desired by the president without delay.

Thus matters stood when congress met in December. On the 4th of that month, Taney, in accordance with the law, communicated to it his reasons for the order he had given.[1] His statement of reasons began with an exhaustive discussion of the question of law, although the argument pretended that the raising of such a question was entirely inadmissible. By the opposing side, it was rightly considered the more essential, because, as a precedent, it might obtain an importance which might extend vastly farther than the frightful disturbances which the economic life of the country experienced through the autocratic action of the president.

The critical examination of the legal question had, of course, to be made in accordance with the law of April 10, 1816, which had created the bank. Section sixteen of this law reads: "And be it further enacted, that the deposits of the money of the United States, in places in which the said bank and branches thereof may be established, shall be made

[1] Niles, XLV, pp. 258–264.

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in said bank or branches thereof, unless the secretary of the treasury shall at any time otherwise order and direct; in which case the secretary of the treasury shall immediately lay before congress, if in session, and if not, immediately after the commencement of the next session, the reason of such order or direction."[1] The wording of this provision was unquestionably so broad that the secretary of the treasury could be accused only of a violation of its spirit, but not of its letter. But to the broad wording of the provision, Taney gave so broad an interpretation, that, according to it, there could not be, under any circumstances, the possibility of a violation of even the spirit of the law. He was, indeed, right, reasoning from the intention of the legislator, in considering that the discretion of the secretary of finance was not confined altogether exclusively to the case of the want of safety of the deposited moneys — a want of safety which was not even pretended now. But he certainly went too far in the other direction when he said: "He has the right to remove them [the deposits], and it is his duty to remove them whenever the public interest or convenience will be promoted by the change." Such an actual "absolute" discretion would be unexampled in the entire history of federal legislation. In this way, congress would have left a matter of the greatest importance to the economic life of the whole people completely at the caprice of an official, in the appointment of whom only one of the two houses had any direct part. Taney did not say that he saw nothing extraordinary in this proceeding. Rather did he himself declare: "The power over the place of deposit for the public money would seem properly to belong to the legislative department of the government, and it is difficult to imagine why the authority to withdraw it from this bank was confided exclusively to the executive." This confessed difficulty,

[1] Stat. at L., III, p. 274.

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however, did not suggest to him to go beyond the letter of the law in search of its spirit, although he knew well enough that such search was, not only in politics, but also in the courts, a proper one, frequently absolutely necessary and even decisive.[1] And he did not, otherwise, adhere too tenaciously to the letter of the law. Rather did he feel warranted to give very great scope to political considerations, a scope entirely unheard of. He not only allowed himself, with the president, to declare different provisions of the bank law unconstitutional, but he defended his order for the removal of the deposits, in part, by the allegation that the decision of the "people" against the renewal of the charter of the bank was to be read in the result of the presidential election. But, on the other hand, he was so entangled in the wording of the law, that he found that expressed in it which was only his own arbitrary deduction from it. It was no where provided that the secretary of the treasury should "exclusively" possess the right to remove the deposits. And he wanted the word understood in its most exact sense, for he, with the strongest emphasis, denied congress the right to order the removal, of its own motion. In this, he relied on this other allegation, that the bank law was a "contract," and that, therefore, congress could not, without breach of contract, exercise a right of which it had divested itself in favor of the secretary of finance.

Taney was too thorough a jurist to be able to overlook several other principles of law applicable to all contracts in general, and especially to contracts of this nature, were it

[1] Chancellor Kent says: "To reach and carry that intention [of the parties to the instrument] into effect, the law, when it becomes necessary, will control even the literal terms of the contract, if they manifestly contravene the purpose; and many cases are given in the books, in which the plain intent has prevailed over the strict letter of the contract." Comm., II, p. 745. "In conventibus contrahentium voluntatem potius, quam verba, spectari placuit."

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not that he treated the question as a politician, and did not weigh it with juridical objectivity. To the contractants belong *ipso jure* the rights which are agreed to in the contract for their agents, unless it expressly provides otherwise.[1] But the contractants were the bank and the Federal government, while the secretary of the treasury was only the agent of the Federal government, and especially of congress. How would it have been if it had pleased congress entirely to abolish the office of secretary of the treasury for the twenty years for which the charter of the bank had been granted, and to transfer its duties to any other officer? Would it, perchance, have lost the right to do this by that clause of the bank law? Or could not the deposits in such case have been removed from the bank under any circumstances? If the bank law was really a contract which thus absolutely bound congress, and if congress was in the position of a contracting party simply, the bank might, indeed, object to being made the further object of legislative action without its consent. But this congress had done in 1819,[2] the president had sanctioned the bill, and neither the bank nor any one else interposed the slightest objection.

Unquestionably, the bank law was, in a certain sense, a contract; but the bank and congress were not on an equal footing as to rights. Even if congress had assumed certain obligations by which it was legally bound toward the bank, in consideration of certain services, it did not cease on that account to be the legislative power of the country, even in relation to the bank. The latter could not, without a gross violation of duty in a matter of this kind, place itself, like a private person, completely under the protection of the courts;

[1] "The power of revocation is incident to all agency, unless in express terms, by the instrument creating it, a different provision is made." Clay's Sp., II, p. 207.

[2] Stat. at L., III, p 508.

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since these, in a great many supposable cases, might not be able to guard the interests of the government or of the country, although they might declare the charter forfeited for misuser.[1] Was it so impossible that the bank should fall into bad hands, and that the secretary of the treasury should not have underhanded dealings with it? Or was congress tied completely hand and foot by that provision of the law?[2]

[1] "A private corporation created by the legislature may lose its franchises by a misuser or a nonuser of them; and they may be resumed by the government under a judicial judgment upon a *quo warranto* to ascertain and enforce the forfeiture." Terret *v.* Taylor, Cranch's Rep., IX, p. 51; Curtis, III, p. 256.

[2] On this point my opinion differs somewhat from that of Story. He writes: "I agree with him [Taney] that congress could not remove the deposits without his consent; but I think they may require them to be restored without his consent. They may prevent his acting in favor of themselves, but they cannot act against the bank without his consent, and through him." (Life and Letters of J. Story, II, p. 157.) It cannot be questioned that, according to the constitutional law of the Union, the charter of the bank was a contract. The federal supreme court has decided in the case of Dartmouth College *v.* Woodward (Wheaton's Rep., IV, p. 518; Curtis, IV, p. 463 ff.), and in the case of the Binghampton Bridge (Wallace's Rep., III, p. 74), that acts of incorporation are contracts between a state, and therefore, in a corresponding case, between the government of the Union and the stockholders. And in the case of Providence Bank *v.* Billings (Peters' Rep., IV, p. 514; Curtis, IX, p. 171 ff.), it has been specially decided that an act incorporating a bank is a contract. It does not, however, seem to be by any means beyond doubt that, as Story assumes in the case before us, "both parties have made his [the secretary of finance's] discretion *casus fœderis*, and that he was the special agent selected by both parties." In my opinion, the wording of the bank law does not at all exclude the construction that congress, only for reasons of expediency of a business nature, transferred in a faculty-like manner to the secretary of finance the initiative in the exercise of a right, but that the most material object it had in view in taking this clause into the bank act was to reserve this right to itself in order to protect safely the interests of the state. I therefore consider it wrong, also, when Story later opposes an action of the secretary of the treasury in favor of congress to an action against the bank. The Federal government is a party to the contract, but congress is not a party with an interest of its own like the bank. In

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Or was the sole protection of the country to be the hope that the president would dismiss the secretary of the treasury? Not congress, but the government of the Union, was a party

relation to interests, the bank is opposed to the state, as whose agent congress is to be looked upon.

Story writes concerning the principle first asserted and the most essential: "Politically, I think the charter manifestly contemplated, and so was understood by all parties, that the deposits should not be withdrawn by the secretary, except for high and important reasons of state, upon unexpected emergencies, and cases where the action of congress could not be obtained until after it was necessary to act." (Life and Letters of J. Story, II, p. 156.) What can be the nature of the action of congress here referred to by Story, since he considers it necessary to adhere closely to the wording of the act, and since the act speaks only of an action of the secretary of finance in relation to the deposits? But he admits further: "Congress may certainly repeal or modify his [the secretary of the treasury's] general powers." To whom, then, did the right to exercise the power which was reserved in the interest of the state, belong in case this office was abolished? The supreme court has declared, in the case of the Binghampton Bridge (1865; Wallace's Rep., III, p. 75): "Charters are to be construed most favorably to the state, and (that) in grants by the public nothing passes by implication. . . . The principle is this: that all rights which are asserted against the state must be clearly defined, and not raised by inference or presumption; and if the charter is silent about a power, it does not exist. If, on a fair reading of the instrument, reasonable doubts arise as to the proper interpretation to be given to it, those doubts are to be solved in favor of the state; and where it is susceptible of two meanings, the one restricting and the other extending the powers of the corporation, that construction is to be adopted which works the least harm to the state." The general principle on which this judgment is based seems to me to be applicable to this case also. On what reasonable ground should the grant of a right by which the state is prejudiced, and the renunciation of a right essential to the guarding of the interests of the state, be judged differently? Whether the renunciation is made directly as regards the corporation or indirectly in the form of a delegation of the right to an agent common to both parties, can make no difference. In my opinion, according to the interpretation laid down in the case cited, the matter stood in such a way that, under ordinary circumstances, the initiative in the removal of the deposits belonged to the secretary of the treasury alone; but congress not only had a right to order their restoration, but might, when extraordinary circumstances required it, order their removal

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to the contract. Congress was the legal originator of it. From congress the secretary of the treasury had received all the powers which belonged to him in the matter. But if it was, notwithstanding, the intention of the legislature to divest itself of the right to the power of protecting the interest and rights of the country against the abuse of this authority, we cannot altogether understand why the secretary of the treasury was required to give his reasons for the removal of the deposits, and this as soon as he could send any information whatever to congress. If Taney's construction were right, then congress had desired only to insure to itself, by this provision, the gratification of an idle curiosity. What good reason could the law have for providing that the public moneys "should" be deposited in the bank, if, in its design, it was the duty of the secretary of the treasury to remove the deposits when, by his so doing, at any moment he might promote the public interest, in any respect or "any degree," although the bank was "perfectly solvent," and "faithful in the performance of its duties!" If, in other words, it were the intention of congress to make it the duty of the secretary of the treasury, in depositing the public moneys, to consult only his views as to what the public interest for the time being demanded, it was guilty of a contemptible fraudulent deception of the bank, inasmuch as it expressed such intention in a form which induced the bank and the whole country to believe, that it was obligatory to deposit the public moneys with it, unless extraordinary circumstances, or circumstances which could not have been foreseen, made some other disposition of them necessary. Thus

of its own motion, in case it was considered certain that the secretary of the treasury would not make use of his power. State reasons absolutely demanded that congress should have this right, and that the wording of that clause of the bank law admitted a different interpretation is incontestable. The only correct interpretation, therefore, was the one which recognized this right in congress.

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the privilege of the bank in relation to the public moneys was reduced to this, that they should be deposited with it whenever the secretary of the treasury should consider it best that they should be so deposited. But where is the monied corporation which, in consideration of such a "privilege," of such a "monopoly," would have undertaken the obligations imposed on the bank in its charter?

This absolute denial of a control by congress and of a legally limited power, in relation to the removal of the deposits, found its full meaning in the control to which Taney declared himself subject. He writes: "And as the secretary of the treasury presides over one of the executive departments of the government, and his power over this subject forms a part of the executive duties of his office, the manner in which it is exercised must be subject to the supervision of the officer to whom the constitution has confided the whole executive power, and has required to take care that the laws be faithfully executed." The person who, in contradiction of his own views of the requirements of a rational legislative policy, held with such stubborn consistency to the letter, was certainly not warranted in making, at the same time, the deductions of his audacious logic, from what he was pleased to consider the spirit of the constitution, the legal rule of his action. That the powers of the secretary of the treasury in relation to the bank belonged to the "executive duties" of his office, was not provided by the bank law; and just as little did it provide for the right of supervision by the president. This could, under the supposition of the correctness of the first allegation, be deduced only from the broader allegation, that the constitution had confided the entire executive power to the president. But this, however, is not predicated of him in the constitution. On the contrary, it gives the senate a part in some of the most essential of the executive privileges. But even if the

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constitution had bestowed all executive authority on the president, it could evidently only mean, all the executive powers granted by the constitution, but not all authority which should, according to any political theory whatever, or according to the views of any person whatever, belong to the highest possessor of the executive power. But the constitution has nothing to say of a right or of a duty of the president to supervise or control the heads of departments in the exercise of the rights granted them by law, or of the duties imposed upon them. Such a right or such a duty could be inferred from the clause, "to take care that the laws be faithfully executed," only by degrading the constitution and making it a deception and a blind. That clause "means nothing more and nothing less than this, that if resistance is made to the laws, he shall take care that resistance shall cease."[1] If it were made the duty of the president to enforce the execution of the laws by all the means at his disposal, in the sense in which he understood them, the republic was turned over, bound hand and foot, to one man.

In opposition to this general clause touching the duties of the president, there is another much more strictly formulated, from which it is entirely clear how far the control of the president over the official action of the heads of departments or of any other executive or administrative officer extends. Art. I, sec. 8, par. 18, reads: Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof." Hence, the constitution refers the president entirely and completely to the laws, gives congress alone the right "to make" laws, and the president only a qualitative veto.

No law granted the president a right of control over all

[1] Clay's Sp., II, p. 190.

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official action of the heads of departments, and the clause in question of the bank law did not mention the president. But the supreme court had, indeed, thirty years before, recognized the right in congress[1] to impose duties by law on the heads of departments, in relation to which the president had no "constitutional or legal discretion," and in relation to which their acts, not "his acts," were not only subject to political criticism but to judicial decree.

The heads of departments are not such determining elements in the governmental organism of the Union, that their views on questions of public law which involve important principles can exercise, through their office, a decisive influence. Taney's justification of the order of the 26th of September would not, therefore, deserve so exhaustive a review, if it contained only his views, and if it could be considered

[1] "By the constitution of the United States, the president is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character, and to his own conscience. To aid him in the performance of these duties, he is authorized to appoint certain officers, who act by his authority and in conformity with his orders.

"In such cases their acts are his acts; and whatever opinion may be entertained of the manner in which executive discretion may be used, still there exists, and can exist, no power to control that discretion. The subjects are political. They respect the nation, not individual rights, and being intrusted to the executive, the decision of the executive is conclusive. The application of this remark will be perceived by adverting to the act of congress for establishing the department of foreign affairs. This officer, as his duties were prescribed by that act (!), is to conform precisely to the will of the president. He is the mere organ by whom that will is communicated. The acts of such an officer, as an officer, can never be examinable by the courts.

"But when the legislature proceeds to impose on that officer other duties; when he is directed peremptorily to perform certain acts; when the rights of individuals are dependent on the performance of those acts, he is so far the officer of the law; is amenable to the laws for his conduct; and cannot at his discretion sport away the vested rights of others." Marbury *v.* Madison, Cranch's Rep., I, pp. 165, 166; Curtis, I, p. 380.

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that the order really emanated from him. "I want to know not the clerk who makes the writing, but the individual who dictates," said Clay. Taney was not a pliant tool nor one that acted through selfish motives, in the hands of Jackson, as party spirit then and for a long time after asserted that he had.[1] He fully shared Jackson's opinion concerning the bank, and even seems to have emphatically urged the removal of the deposits at a time that Jackson was still in doubt on the question. But, spite of this, Jackson was the real originator of the order, and Taney's statement of reasons of the 4th of December was only a repetition of the document which Jackson had read before his cabinet on the 18th of September.[2] This gives the matter its deeper meaning. The real usurper was not the secretary of the treasury, but the president. And hence, the usurpation was not simply the assumption of a definite authority not granted by the laws. The process of reasoning by which it was sought to justify it changed the whole relation of the executive to the legislative power, appealed in questions of legislative policy to a forum unknown to the constitution and the laws, one additional to and above congress, and raised the president above the laws, inasmuch as it accorded to him the right to absolve officials from their legal responsibility and to assume it himself by referring to the decisions of that forum.

Jackson ascribed the disclaimer by congress of the power of removing the deposits from the bank — a disclaimer which surprised him — to an "oversight," but at the same time declared it to be undoubted that that power was conferred "exclusively" on the secretary of the treasury. He, however, expressed the view, much more directly and definitely

[1] The complete establishment of this is almost the only merit of Tyler's voluminous biography of Taney. See my review of the work in Sybel's Histor. Zeitschrift, 1873.

[2] Niles, XLV, pp. 73–77.

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than Taney, that this "exclusively" was to be understood with a very important reservation. He declared that he honestly lamented this "oversight." Said he, the president would be glad to be free from the "heavy and painful responsibility which had been thereby imposed upon him." He reached this strange conclusion from the "exclusively," in the same way as Taney; a "power" granted to "one executive department," evidently imposed the "responsibility" of the exercise of that power on "the executive branch of the government." Hence he was "called upon to meet" the question: it was "his duty to decide."

Jackson did not continue to be consistent with himself. He expressed the hope that the secretary of the treasury would see in the document "only the frank and respectful declarations of the opinions" which the president had formed on the question, "and not a spirit of dictation, which the president would be as careful to avoid as ready to resist." "Far be it from him to expect or require that any member of the cabinet should, at his request, order or dictation, do any act which he believes unlawful, or in his conscience condemns." But directly after, this exposition of "opinions" is closed with the following sentences: "The president again repeats that he begs his cabinet to consider the proposed measures as his own, in the support of which he shall require no one of them to make a sacrifice of opinion or principle. Its responsibility has been assumed after the most mature deliberation and reflection. . . . Under these convictions, he feels that a measure so important to the American people cannot be commenced too soon, . . . and therefore names the first day of October next as a period proper for a change of the deposits."

That Jackson honestly believed that he was exercising a right which fully belonged to him, is certain. On the many cases in which he exceeded his rightful authority, he found

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his real justification in his own eyes — a justification which was proof against all attacks — in his own judgment, the correctness of which he never doubted himself, and in the honesty of his intentions. Under this broad shield, a statesman of the backwoodsman type might bury many doubts as to the law. And in this instance, his objects were certainly important enough to rather drop the stubborn Duane than to give up the attainment of them. He "assumed the responsibility" of the removal of the deposits for no smaller reasons than because it was "necessary to preserve the morals of the people, the freedom of the press, and the purity of the elective franchise." But who had made the president the guardian of the morals of the people, of the liberty of the press, and the freedom of the elective franchise? And not only against the bank, but against congress, which had called this "monster" into being, and which had just declared itself in favor of its continuance, against the direct representatives of the people and the states, did Jackson enter the lists as the defender of these pillars of social order and free political life. The first count in the indictment on which the people had once passed an irrevocable sentence of condemnation on the federalist party, was the violation of the freedom of the press by the sedition law. Now the people exulted over the triumph which the cause of liberty and popular sovereignty celebrated, because Jackson had asserted the claim above mentioned, and victoriously fought it through. There is no reason, even to-day, why the warning which Clay and Webster addressed to the people should be scoffed at,[1] even if they ignored the economic consequences of Jackson's bank policy, and even if Clay's question, why the president did not likewise assume the guardianship of religion, has remained objectless. The bank struggle has a

[1] This has recently occurred again in the "North American Review," January, 1873, pp. 173, 174.

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permanent political significance, far surpassing its economic and legal importance; and this significance lay in the elements which made Jackson able, actually and successfully to assert his claims, in conflict both with the constitution and with the idea of republicanism, to a position between congress and the people as patriarchal ruler of the republic.

On the 28th of March, 1834, the senate, after a three months' debate, passed the following resolution by a vote of 26 against 20: "Resolved, That the president, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both."[1] Jackson replied, on the 15th of April, by the transmission of a "protest" argued at length, with the demand that it should be entered on the journal of the senate.[2] Thereupon, the senate, on the 7th of May, by a vote of 27 against 16, passed a series of resolutions to the effect that the protest ascribed powers to the president irreconcilable with the authority of the two houses of congress, and with the constitution; that it was an infringement of the privileges of the senate and should not be entered on the journal, and that the president did not have the right to send the senate a protest against any of its acts.[3] This new wrangle was brought to a close on the 16th of January, 1837, by a resolution of the senate, passed by a vote of twenty-four against nineteen, that the resolution of the 28th of March, 1834, should be expunged from the journal of the senate.[4]

In my opinion, no definite legally unassailable answer can be given to the two questions which were directly in dispute: whether the senate had the right to give expression in a resolution to a formal censure of the president, and whether the

[1] Deb. of Congr., XII, p. 301.
[2] Ibid., XII, pp. 308–318.
[3] Ibid., XII, p. 363.
[4] Ibid., XIII, pp. 155, 156.

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president had the right to enter a protest against such a resolution or against any resolution whatever of the senate;[1] and for the reason that the constitution furnishes no sure basis for their solution.[2] Legal arguments are here entirely cast into the shade by political arguments, and hence the answer to the question of law is strongly influenced by the political views of the person judging. Only one thing seems to me to be free from all doubt, that the senate grossly violated the letter and spirit of the constitution when it resolved, in 1837, to expunge the resolutions of 1834 from the journal. The constitution provides: "Each house shall keep a journal of its proceedings." What has taken place in one of the houses of congress and is entered upon its records is part of the history of the country, and no one is authorized to alter one jot or tittle of it. The senate, in 1837, had the same right to express its views that it had in 1834. No one could restrain it from making the declaration that the majority, in the resolution of the 28th of March, had exceeded the constitutional authority of the senate. Between such a declaration and the expunging of the resolution, there was evidently more than a formal difference. The former would have been the giving and recording of a dissenting judgment; the latter was an entirely unworthy proceeding—a smiting of itself in the face by the senate, inasmuch as it thereby dragged its own action into the arena of common party scuffling. The curse of Jackson's administration may be summed in a few words: it systematically undermined the public conscious-

[1] For the right of the senate, Webster's arguments (Works, IV, pp. 112, 113) are certainly the weightiest.

[2] "It is true that no such resolution ever passed before; it is also true that no such resolution ought ever to pass that body. But precisely similar resolutions have been introduced and debated on more than one occasion. . . . The parties in the senate have always voted for or against these resolutions according as they supported or opposed the president." Mem. of J. Q. Adams, IX, pp. 130, 131.

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ness of right, and diminished the respect of the people for the government. In what concerns the last, the Benton "expunging resolution" was the last high card played by the Jacksonians.

Jackson's personal guilt in this most essential result of his administration, was not occasioned so much by individual determinate actions as by his conception of the position of the president to the other factors of the government, and to the "people."

The protest in the first place contained a reiteration of the essential points of the document of the 18th of September on the question of law, in part more definitely and severely expressed. Jackson declared very directly, that not only no relation between the president and the secretary of the treasury had been created by the bank law, in reference to the deposits, different from that which obtained between them generally, but that congress could not, in any respect whatever, have taken the secretary of the treasury from the supervision and control of the president, without becoming guilty of a usurpation of the powers of the executive. If there were "sufficient reasons" for the removal of the deposits — that is, if the president was of opinion there were, which was precisely the same thing, according to Jackson — it was the "legal duty" of the secretary of the treasury to order their removal; and if the secretary did not do so, the president had to comply with his "sworn duty" to execute the laws; that is, to look for another secretary of the treasury who would do his duty. This argument had one merit, and that was decisive of the issue of the controversy: it seemed irrefutable to the majority of the masses.

The protest, however, adduced another proof of the legal impossibility of curtailing the right of control over the deposits claimed by the president, or even of taking it away. All national property, and of course, also, national money,

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Jackson claimed were always under the guardianship of the executive power; that is, in the hands of officials nominated by, and responsible to the president, and, therefore, had always to remain in such hands, "unless the constitution be changed." Congress could not install any one in a position whose appointment did not devolve on the president, and who should not be responsible to him. The provision of the constitution which confides the property of the government to the guardianship of the executive is not pointed out;[1] but especially was no reason given why it followed directly from the president's right of nomination, that the officials nominated by him were responsible to him in all things. It was impossible to claim that it lay in the nature of the case. Even Jackson never pretended that the judges nominated by him were responsible to him. His proof here, as in so many other instances, was the boldest assumption. The protest declares: "The power of removal, which, like that of appointment, is an original executive power, is left unchecked by the constitution in relation to all executive officers for whose conduct the president is responsible, while it is taken from him in relation to judicial officers, for whose acts he is not responsible."

A more remarkable sentence is scarcely to be found in an American document. If there was any principle of constitutional law which had hitherto been recognized, not only by all parties but, we may say, by all citizens, without any reservation, it was the principle that the Federal government

[1] Webster, in his speech of the 7th of May, 1834, mentions a law of May, 1800, which provides for the depositing of the custom house bonds in the then United States Bank, or in its branch banks, without reserving any rights whatever over them to the secretary of the treasury or to any other official. (Works, IV, p. 130.) It may be that the date is not correctly given, for I have not been able to find the law in the Statutes at Large. Such a law, however, would be unquestionably constitutional, but it would not have been reconcilable with Jackson's doctrine.

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possessed only those powers which were granted to it. Now the president appealed to original prerogatives of the executive power, part of which were left to it by the constitution and part taken away. What authority is there which might not be rightly claimed by the legislative or judicial power as well as by the executive, if all that was needed was to assume that that authority originally belonged to it, and it was then proved that it was not taken away by the constitution; and this whether it was granted by the constitution or not? Where, on this supposition, would be the rights of the states, the freedom of the citizen, the exact lines of demarcation between the different powers of government? Where would the whole system of constitutional law be? The constitution is not the faultless masterpiece which Americans, for the most part, esteem it to be; but so monstrous a chaos of law, as would have resulted from the recognition of this new method of determining constitutional law, the constitution certainly did not create.

And yet it was the inventor of this new method who claimed that it was his duty, as it was his intention, to be the defender *par excellence* of the constitution. This peculiar attitude of the president towards the constitution, it was claimed, resulted "from the very nature of his [the president's] office," but the founders of the republic had given it "a peculiar solemnity and force" by means of the oath which the president had to take in entering on his office.

The views entertained towards the end of the last century in the United States, as well as in the rest of the world with a western civilization, on the relation of the "executive power" to the free progressive development of nations, scarcely permit us to doubt, that the guiding thought in the prescribing of this oath was not so much a desire to place the constitution under the special guardianship of the president against internal enemies, as it was to protect the people

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against the attacks of the president on the constitution itself, so far as it was possible for an oath to do this. In the Philadelphia convention as well as in the ratification convention, it was strongly urged that the executive power should be confided to a board, because the history of all times and nations taught to what dangers liberty is exposed when too much power is placed in the hands of one man. Whatever the American people may have learned later, by sad experience, of the tendency of the legislature to exceed its legitimate authority, they then applied the principle of the mistrust of government, which is the condition precedent of the perpetuation of freedom, in the first place, to the executive power. Only the most intelligent then recognized that the danger impended as much, or even more, from another quarter, and it was only by pointing to the experience of the war of independence that they succeeded in having the executive power made really coördinate with the judicial, and especially with the legislative. But it never occurred even to them to make the president the defender of the integrity of the constitution as against congress. That was the sphere of the judicial power. The competency of the president, in this respect, was limited to his qualitative veto. But Jackson claimed a right to oppose the alleged exceeding of its constitutional authority by the senate not only in this determinate instance; he set himself above the senate and between the "people" and the other two factors of government. The president, he declares, is "the direct representative of the American people, elected by the people and responsible to them," but the senate was "a body not directly amenable to the people." As the representative of the people, therefore, he owed it to their representatives to oppose the violation of their constitutional prerogatives by the senate, and it was his "fixed determination to return to the people unimpaired the sacred trust 'they had' confided to his charge — to heal

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the wounds of the constitution and preserve it from further violation."

The constitution knows only a president as the bearer of executive power; of a "direct representative of the American people" it knows nothing.[1] Hence, also, it knows nothing of an election of the president by "the people." It is the intention of the constitution, that the electors should not be mere ciphers, but the only real choosers of the president. Besides this, it does not allow the electors to be simply chosen by the people, but by the people organized in states and as they are represented in the popular house of congress, giving two further electors for their representation in the upper house. Finally, the constitution entirely ignored the president's responsibility to the "people." If it was Jackson's intention to speak only of political responsibility, nothing could be objected thereto. But this responsibility was shared by every other political personage with him, and, above all things, no rights could be deduced from it. Further, such a political responsibility could not be called a direct one. In this expression was contained the idea that the people were the legal forum which, in the last instance, had to judge of the political acts of the president. But on such a right of the people, also, the constitution is silent. The only forum before which it cites the president to account

[1] What again made this falsification of the constitution so acceptable to the masses was the thoroughly democratic character of the doctrine. If, by means of this character, the people were to be permanently won over to them, the future prospects of the constitutional state were sad enough How easy a thing it would be to operate against all constitutional law if this doctrine were taken as admitted premises, one illustration may show: Levy Woodbury, member of the cabinet under Jackson and under Van Buren, and later judge of the supreme court, says, in a speech made on the 19th of October, 1841, in Faneuil hall: "Tell them [the whigs] to keep off profane hands from destroying the veto power in the constitution, which they threaten. It is the people's (!) tribunative prerogative, speaking again through their (!) executive." Writings of L. Woodbury, I, p. 571.

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for his political acts is the senate, when the representatives have preferred an impeachment charge against him. Indeed, the constitution does not know the "people" at all, in the sense in which Jackson uses the term. It creates legal relations, but it does not overthrow the law by elevating every majority of those possessed of the right to vote, no matter how constituted, above the law, by making their will the law. In the United States, indeed, the "people" are the one original source of law, but it is the people in their entirely definite, aggregate, political, that is, constitutional organization, that is meant here. Any other "people" as an independent source of law, as a legal political forum, is not only unknown to the constitution, but, if admitted by it, would be its destruction; for it is the purpose of that instrument to create an unarbitrary state, while such a "people" is the negation of the unarbitrary state. It was to the "people" in this anti-state sense of the term that Jackson appealed in all his controversies about his rights. In other words: the holder of the executive power made the subordination of the state to society the determining principle of the republic which, in the highest sense of the word, should have been an unarbitrary law-respecting state. The protest also repeatedly substituted "public opinion" for "people." Webster, therefore, was not guilty of exaggeration when he said that the reasoning of the president amounted to claiming that it was permitted to him to do whatever public opinion sanctioned; or, to express it more simply: that it was permitted to him to do whatever he could do.

That Jackson did not permit himself in his whole active official life to be led by this principle, but, like his predecessors, generally kept within legal limits, is not of decisive importance. His administration received its typical character from the fact that he set up the principle above referred to, actually pursued it in some questions of the greatest im-

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portance, and that his action in the premises obtained the sanction of the "people." This was reason enough to conjure the people in the most solemn and impressive manner to pause and soberly inquire to what end this road would necessarily lead them. The leaders of the opposition, indeed, selected the most absurd means to accomplish this, when they held up to the country the bugbear of the erection of a tyranny which would soon, perhaps, not allow even the empty forms of popular sovereignty to exist. They mistook the symptoms for that which was essential; and they, just as little as the masses of the people, recognized the deeper causes of the symptoms. They, too, swam in the general stream, even if they swam only on the borders, terrified at the rapidity with which those were carried onward who were impelled by the force at its center.

No one expected to see Jackson proposed a third time as a candidate for the presidency.[1] With his exit, the "rule of one man" had also come to an end. It may be that his influence in making his candidate for the succession the party candidate went far enough. But whoever his successor might be, Jackson could not transmit his influence to him as an inheritance. In a democracy, there can never be at the same time, and almost never immediately following each other, two personages to whom the people place themselves in the attitude that the majority of the great crowd did to Andrew Jackson in the United States. On the other hand, in democracies, idols are never apotheosized for their own sake; the great crowd worship themselves in them. Hence the heir of Jackson's supremacy was not one man, but the great crowd. The great crowd, however, can never

[1] Here and there, indeed, such an idea found expression, but it did not take root deeply enough among the democratic politicians to make the whigs look upon it, for a moment, as a contingency to be taken into consideration.

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actually assert their supremacy, except for moments of time, in great political communities; and this is especially so in such as are so peculiarly organized as the United States. The idea that since Jackson's time the supreme power has in reality lain in the hands of the masses, is a piece of deception as great as it is pernicious; and yet it is one which the permanent heirs of Jackson's power have, in great part, practiced even to the present day on the masses of the American people. The undeniable and sadly plain fact is, that since that time the people have begun to exchange the leadership of a small number of statesmen and politicians of a higher order for the rule of an ever increasing crowd of politicians of high and low degree, down even to the pot-house politician and the common thief, in the protecting mantle of demagogism. When people from the region lying between the limits of society and the house of correction obtained a controlling influence in politics, this at first appeared as the consequence of an unfortunate condition of local affairs. And that politics became a profession in which mediocrity — on an ever descending scale — dominated, and moral laxity became the rule, if not a requisite, people refused to consider an unfortunate condition so long as a life devoted to acquisition approached nearer to the goal of its satisfaction. Live and let live, had become a general maxim to such an extent that the politicians marvelled at even the uprising in which the people tore to pieces the bridle to which they had been so long used, when it looked as if they were to be ridden into the abyss[1] to which they had, since the origin of the republic, in part, been drawn nearer, and to which, in part, they had nearer and nearer glided.

A popular state in which the generality drops into a *dolce far niente* in relation to politics, seeing in the election of their legislators, in universal suffrage and the like, in and

[1] 1860 and 1861.

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of themselves, the guaranties of freedom, is ever on a declivitous path; one on which it is always difficult to reverse one's course, and on which this, even under the most favorable circumstances, can be done only gradually. The condition precedent of a healthy popular state is not rights, but the reasonable assumption of duties by means of which rights become reasonable means to the attainment of the ends of the state and of society. Popular sovereignty, in the sense that not only the general direction of politics is determined by the will of the majority, but that this will minutely prescribes the conduct of the factors of government in the questions that arise in any manner, in the form of "public opinion," for instance, would be not only a dreadful condition of things; it is impossible. But when, in a popular state, politics become a despised trade, the state is brought face to face with the question of life or death; for to the extent that this has really happened,[1] self-government is only

[1] This is even yet the case in the United States to a much smaller extent than persons of superficial information commonly believe. To be called a "politician," is, indeed, as great an offense as to be called a "Jew," in certain circles. But it is only the mass of politicians, not politics, that are despised. Men like Charles Francis Adams, Schurz, Trumbull, etc., are yet held in high estimation, and the people are proud of them. When I first wrote these lines, Charles Sumner was still living, and I had placed his name after that of Adams. I may here cite a few words from Schurz's eulogy on Sumner, pronounced at Boston. They are not mere rhetorical phrases, but correctly describe the real attitude of the people towards such politicians: "When you, Mr. Mayor, in the name of the city government of Boston, invited me to interpret that which millions think and feel, I thanked you for the proud privilege you had conferred upon me, and the invitation appealed so irresistibly to my friendship for the man we had lost, that I could not decline it. And yet, the thought struck me that you might have prepared a greater triumph to his memory had you summoned, not me, his friend, but one of those who had stood against him in the struggles of his life, to bear testimony to Charles Sumner's virtues. There are many among them to-day to whose sense of justice you might have safely confided the office, which to me is a task of love."

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a shadow without substance; but a healthy popular state without real self-government is a contradiction in terms.

But the process through which the life of a nation goes is not measured by days or by a few years. In the case of a people who bear within themselves the conditions necessary to the building up of a healthy popular state in a high degree, and who have already, in part, made such a state an actuality, decades, even in the most unfavorable case, must elapse before they decline politically to such an extent that a broad chasm separates their social from their political life, and before an organized band of trading politicians can become completely master of them. The rapid and universal decline of a healthy political spirit, the first clear symptom of which was the election of Jackson twice to the presidency, and which was greatly promoted by his administration, caused the growing influence of the real trading politicians, with their bread-and-butter principles, to take the appearance at first of something almost accidental. The greatest immediate gain from this revolution in the condition of affairs, which was being accomplished, was made by those who knew how to employ these elements in their service. The shallowing, materializing, demoralizing transformation of the American democracy, for which a broad path was paved by Jackson's administration, first found its most disastrous consequences in the hands of the southern states, by which it was turned to account in the promotion of the cause of slavery.

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CHAPTER II.

THE ABOLITIONISTS AND THE SLAVERY QUESTION IN CONGRESS.

While the reign of Andrew Jackson paved the way on which the slave-holding interest ascended to the zenith of its supremacy over the Union, there arose, at the same time, in the body of the abolitionists, the enemy which undermined the firm ground under the feet of that same slave-holding interest.

The expression, "abolition of slavery," is to be met with even before the adoption of the constitution. But the word "abolitionism," as descriptive of a definite political programme, occurs for the first time in this period. When Goodell, Wilson and others frequently speak of the older anti-slavery societies as "abolition societies," their language only seems to render the understanding of the development of the slavery question more difficult. Those older anti-slavery societies had simply a programme of action based mainly on humanitarian motives. The history of the origin of the abolitionists, on the other hand, is a political process of reaction; although, with the peculiar double nature of the slavery question, for reasons not far to seek, its moral side first became the basis of operation.

The debates on the Missouri question had called forth reflections here and there which could not be smothered by any legislative compact. People at the north had not forgotten the manner in which the so-called slavery compromises had been wrested from the constitution by the south. Its obstinate *aut — aut* in the Philadelphia convention was, in great part, reduced to the same motives of action which

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were the decisive ones in the question of the representation of the smaller states; the southern states wanted generally to insure to themselves an equal weight in the government of the Union, and therefore could not completely renounce the representation of their slaves. The idea of any special jeopardy of the slave-holding interest was much farther from their minds. Now, for the first time, people began to perceive with horror that the rule of slavery over the slave-holders threatened to become as absolute as the rule of the latter over their slaves. But, after the storm had blown over, most of them again found rest in the consideration, that submission to the law was both a Christian and a citizen's duty, and that the nature of the Union absolved the north of all responsibility for the slavery-sins of the south. But not all were satisfied with this. To object to what political sages taught concerning constitutional law in the matter of the slavery question, did not at first enter their minds. Their rights as citizens they first submitted to an independent examination, when it was sought to prevent their performing their duties as men and Christians, as they understood them. The blow with which the south struck the north down, woke up both the religious and political conscience of the people even where such an effect was least expected. The powerful and the wise were felled to the ground, and from the little and weak there rose up men who, with the weapons of Christian morality, resumed the battle undaunted. As missionaries, beseeching and exhorting men to do that which they professed with their lips, the first abolitionists entered on their career. People made martyrs of them, and martyrdom transformed them into agitators, with the indomitable energy of religious fanaticism.

The immediate precursor, and, in a certain sense, the father of the abolitionists, was Benjamin Lundy, a Quaker, born in New Jersey. In Wheeling, West Virginia, where

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he learned the saddler's trade, he had ample opportunity to become acquainted with the horrors of slavery, as great cargoes of slaves, on their way to the southern states, frequently passed the place. Lundy had been endeavoring for some years to awaken an active interest among his neighbors in the hard lot of the slaves, when the Missouri question brought him to the resolve to consecrate his whole life to their cause. In 1821, he began to publish the *Genius of Universal Emancipation*, which is to be considered the first abolition organ. The nineteenth century can scarcely point to another instance in which the command of Christ to leave all things and follow him, was so literally construed and followed. Lundy gave up his flourishing business, took leave of his wife and of his two dearly beloved children, and began a restless, wandering life, to arouse consciences everywhere to a deeper understanding of the sin and curse of slavery.[1] In the autumn of 1829, he obtained, as associate publisher of his sheet, William Lloyd Garrison, a young litterateur, born in Newburyport, Massachusetts, who, from the position of a poor apprentice to a tradesman, rose to be a type-setter, and from being a type-setter to be a journalist.

The removal of Garrison from New England to Baltimore, where Lundy was then publishing the *Genius*, was an event pregnant with consequences. Garrison had long been a zealous enemy of slavery, but had hitherto seen the right way of doing away with the evil in the efforts of the coloni-

[1] He says, himself, in April, 1830, in an appeal to the public: "I have, within the period above mentioned [ten years], sacrificed several thousand dollars of my own hard earnings, have traveled upwards of five thousand miles on foot, and more than twenty thousand in other ways; have visited nineteen states of this Union, and held more than two hundred public meetings — have performed two voyages to the West Indies, by which means the liberation of a considerable number of slaves has been effected, and, I hope, the way paved for the enlargement of many more." Goodell, Slavery and Anti-Slavery, p. 385.

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zation society. What he now saw of slavery and its effects with his own eyes, produced a complete revolution in his views in a few months. He not only recognized the impossibility of preventing the extension of slavery by colonizing the free negroes in Africa, to say nothing of gradually doing away with it altogether, but he became convinced also that the leading spirits of the colonization society purposely sought to induce the philanthropists of the north to enter on a wrong course, in the interests of slavery. Hence his own profession of faith was, henceforth, "immediate and unconditional emancipation." His separation from the more moderate Lundy, which was rendered unavoidable by this course, was hastened by an outside occurrence. The captain of a ship from New England took on board at Baltimore a cargo of slaves destined for New Orleans. Garrison denounced him, on that account, with passionate violence. The matter was carried before the court, and he was sentenced to prison and to pay a money fine for publishing a libelous article, and for criminally inciting slaves to insurrection. After an imprisonment of seven weeks, his fine was paid by a New York philanthropist, Arthur Tappan, and Garrison left the city to spread his convictions by means of public lectures through New England. Although his success was not very encouraging, he, in January, 1831, established a paper of his own in Boston, known as *The Liberator*. He was not only its publisher and sole writer for it, but he had to be his own printer and carrier. His only assistant was a negro. The issuing of the paper did not become known to H. G. Otis, mayor of Boston, till September, 1831, and even after seeking more accurate information concerning it, he could not discover any person who took it. He did not even do Garrison the honor of mentioning him by name.[1] "The tide is entirely in one direc-

[1] In an answer to a lawyer in South Carolina, dated October, 17, 1831,

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tion," was the assurance which he, in common with all the politicians of the north, gave; and with them, he considered that that ended the matter.

The south judged otherwise. Sober political thought scarcely permitted it to see into the question any clearer than the north, but the instinct of self-preservation caused it to recognize, from the very first, that a serious danger threatened it, and that this danger was none the smaller because the attack proceeded from nameless "individuals." There are things of which it is rightfully said: if men will hold their tongues, the stones will cry out. Benjamin Lundy and Lloyd Garrison, the nameless ones, with small school training, cast as boys into practical life, without friends and without money, would hardly have thrown themselves against the "flood" of the public opinion of the north, and faced the angry storm of the south, were it not that slavery in the United States had come to be one of these things, or was destined to become one of them, in the very near future.

The time was favorable to the abolitionists. Beginning with about the year 1825, the various Protestant churches were taken possession of by an unquiet spirit. Revivals were the order of the day. Home and foreign missions were organized with such zeal, and on such a scale, that one might have thought this earth was to be conquered for heaven by one mighty assault. From the pulpits it was proclaimed

we read: "This [an article which appeared a few weeks previous in the 'National Intelligencer'] was the first intimation I had of its ['The Liberator's'] existence. Upon inquiring among my associates in office, I learnt that such a paper was printed in this town — but no individual within the immediate reach of this inquiry has seen it. . . . Upon further inquiry, I have not ascertained the name of any person who takes it. . . . I am told that it is supported chiefly by the free colored people. . . . It is edited by an individual who formerly lived in Baltimore." Niles, XLV, p. 42.

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that the kingdom of the Lord was approaching in great glory. Excited imaginations saw already the "dawn of the millennium." The doctrine of Hopkins and Edwards on the necessity of "immediate and unconditional repentance" for all sins, found acceptance again, and it was scarcely possible to do enough in the cause of the faith. Peace conferences were endeavoring to rid the world of the evils of war. Temperance societies organized a crusade against all intoxicating beverages, and endeavored to press the arm of temporal authority into their service. It fared hard with theaters and lotteries. In the observance of the Sabbath according to the prescriptions of the Old Testament, people wished to go so far as to prohibit the transmission and distribution of the mails on that holy day. Public lectures on these and kindred subjects were delivered everywhere. Religious papers and periodicals were founded, and they excited thought and discussion in a more lasting manner than the other means of agitation. The political press also entered on a new stage of development. It took possession of a broader territory, and assumed a more democratic character. Without ceasing to be the guide of political opinion, it became the organ of that opinion to a greater extent than it had hitherto been; and voices from among the general public ventured more and more frequently to speak through the daily papers.

In all of this — with the exception of what we have said about the press — there was much over-doing, and much that was unhealthy, but it was, nevertheless, evidence of intense occupation with the moral problems of life. It would have been very strange, indeed, if, spite of all this, no one should have proposed the abolition of slavery as a national problem, because it was a universally admitted principle of constitutional law, that the constitution had completely left slavery the character of an institution based on the municipal law of the several states, and entirely independent of the general

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government. It is true, indeed, that the great majority of the population of the northern states, in their attitude towards slavery, remained, to the last, of the ingenuous opinion that moral convictions might be absolutely controlled by positive provisions of law. When now facts began to prove the contrary, a great part of the churches were the first to join that majority in turning against the abolitionists. But they were not able, any more than the politicians, to quench the fire which they had helped to kindle.

In one year, Garrison had found so many who shared his views, that it was possible to found the "New England Anti-Slavery Society" in Boston.[1] The example was imitated in other states. The movement spread so rapidly that as early as December, 1833, a "national" anti-slavery convention could be held in Philadelphia. The immediate practical result of this was the foundation of the "American Anti-Slavery Society." It introduced itself to the public with a "declaration of principles," which constitutes one of the most important boundary marks in the history of the United States. The essence of the declaration, that is, that which makes it such a boundary mark, may be comprised in two simple sentences: "slavery is a crime," and all reasons of expediency for its perpetuation are, therefore, *eo ipso* of no force; there is but one justifiable way of dealing with a crime; complete expiation for it; and: the free states share in the crime, and their population are therefore bound to take action;[2] "the whole nation" must be brought to "immediate repentance."

In these principles a war was declared against slavery

[1] January, 1832.

[2] The different subjects in the antecedent and consequent propositions, are not owing to negligence in the form, but caused by the peculiar attitude which the abolitionists assumed at this time towards the constitutional questions.

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which excluded the possibility of peace; it was to, and could, end only by the destruction of one or the other.[1]

That this declaration of war proceeded from a handful of private persons, opposed to whom was the whole south in solid phalanx, was of decisive importance only for a moment. It was in the very nature of the institution that it was brought face to face with the question of existence, by such a confession of faith. With the acknowledgment that it was intrinsically impossible to reconcile these contraries, the end of the development phase had begun, since to mediate between them externally was still possible. The actual intensification of these contraries had, even previously, not stood still a moment; but from this time forward, the recognition of this fact became necessarily and uninterruptedly deeper and more widespread.

In the same year that Garrison raised the standard of unconditional abolitionism in Boston, an event happened in Virginia, which, from the opposite side, contributed powerfully to lead the slavery question over into its new stage of development. In August, 1831, an uprising of slaves, under the leadership of Nat. Turner, occurred in Southampton county. It was, however, quickly subdued, but cost the life of sixty-one white persons, mostly women and children.[2] The excitement throughout the entire south, and especially

[1] G. Smith said, in 1834, to a meeting of abolitionists: "It is not to be disguised that war has broken out between the south and the north, not early to be terminated. Political and commercial men, for their own purposes, are industriously striving to restore peace; but the peace they accomplish will be superficial and hollow. True and permanent peace can only be restored by removing the cause of the war — that is, slavery. It cannot ever be established on any other terms. The sword, now drawn, will not be sheathed until the deep and damning stain is washed out from our nation. It is idle, criminal, to speak of peace on any other terms." Wilson, Rise and Fall, etc., I, pp. 290, 291.

[2] Annual message of Governor Floyd, of December 6, 1831. Niles, XLI, p. 350.

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in Virginia and the states contiguous to it, was out of all proportion with the number of the victims and the extent of the conspiracy. For a long time, the imagination of every idle boy was a power which could put broad tracts of country in the most frightful excitement.[1] The weightiest voices permitted themselves to be carried away by intemperate advice and cruel threats. Governor Floyd advised the legislature to order all free persons of color out of the state, and the *Richmond Whig* declared that another uprising would deliver all the negroes to the sword.[2]

It was not so difficult to account for the fact that one blast of wind sufficed to disturb the waters to the very depths. The southern press and the correspondents of northern papers hastened, indeed, to assure the country that the insurgents were only common murdering robbers. Turner's trial, however, proved that he was a religious fanatic, who believed he had been called directly by heaven to break the chains of his enslaved brothers by race with fire and sword. Floyd, in his message to the legislature, gave important testimony to show that this was the natural explanation of the Southampton tragedy. He accused the negro preachers of being, in the first place, the instigators of the "spirit of revolt;" and was of opinion that, in the interest of

[1] Niles writes, in his 21st number, of the 15th of October, 1831: "The lower part of the state of Delaware and the adjacent parts of the eastern shore of Maryland, have been much agitated by apprehensions of a servile insurrection, and a good many persons of color were arrested — many expresses sent off for arms and men, and awful reports were heaped upon one another by fear! There does not appear to have been the least foundation for this excitement — but the ease with which it was worked up shows a most unhappy state of society." XLI, p. 131.

[2] Even the moderate Niles writes, in his "Register:" "The idea prevails that, because of the terrible events in Southampton, the white population, in case of like outrages in future, will retaliate by an indiscriminate slaughter of the blacks — and such, we think, will probably take place!" XLI, p. 19.

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the public good, their mouths should be closed.[1] And he was not the only person that held this view. Niles writes: "It is to be apprehended they will be pretty generally deprived of the opportunity of religious instruction."[2] This wide-spread conviction, that the consolations of the Savior of sinners must turn into the seed of the dragon in the hearts of the "burthened and heavily laden," was a frightful commentary on the alleged patriarchal character of slavery. Granting that it was as the south assumed, and that the great majority of the slaves clung with childlike attachment to their masters — of what availed that fact in view of such a conviction? The institution must have been all the more execrable, all the more horrible, if notwithstanding this, the motion of a branch or the rustling of a dry leaf could excite sudden terror in numberless breasts. Governor Hayne, of South Carolina, admitted that slavery compelled the state to be continually armed.[3] Brodnax cried out in the legislature of Virginia: "Life becomes a burden if men are forced to lock their doors at night, and open them in the morning to receive their servants to light their fires, with pistols in their hands." And

[1] "The public good requires the negro preachers to be silenced, who, full of ignorance, are incapable of inculcating anything but notions of the wildest superstition, thus preparing fit instruments in the hands of the crafty agitators to destroy the public tranquillity." Niles, XLI, p. 350. Maryland now forbade not only the slaves but also free persons of color to assist at a religious meeting, unless such meeting was led by a white ordained preacher, or by a white man authorized by such a preacher to lead it. Sketch of the Laws of Maryland, in relation to the colored Population of the State, ibid, p. 217. Baltimore and Annapolis only were exempted from obedience to this provision, and slaveholders might allow their slaves to have prayer in common.

[2] Ibid., p. 130.

[3] "A state of military preparation must always be with us a state of perfect domestic security. A profound peace, and consequent apathy, may expose us to the danger of domestic insurrection." Message of Gov. Hayne to the legislature of South Carolina, 1833.

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Niles complained: "Thousands of mothers, while trembling for their own safety, press their infants more closely to their bosoms, *feeling* that what had happened in Southampton *may* happen to themselves." This "may" weighed like an Alp, wherever there were slaves, on the minds of the people, and again for a moment tore away the network of sophistry which had been woven blacker and thicker about the institution.

It was owing to a favorable accident that at the same time the legislature of Virginia was forced by another cause to engage in an unreserved discussion of the slavery question. In the mountainous west of the state there were only few slaves. Hence there prevailed there, for a considerable time, great dissatisfaction because the quota of representation in the legislature was estimated according to the aggregate population. The plantation-owners of the eastern flat country, who constituted only a small minority of the white population, were by this means insured the rule of the country. The convention called to effect a timely transformation of the constitution, in the year 1829–1830, afforded the desired opportunity for an effort to break the preponderant power of this aristocracy. The delegates of the western and middle counties confidently hoped for victory. But the serried ranks of the planters, the bearers of the oldest and proudest names of Virginia, showed themselves in the end too strong for the innovators. They could not succeed even in having the white population made the basis of representation for the house of representatives. In the compromise which was finally effected, a definite principle was wanting as a firm basis, and neither party was satisfied.

This disposition had not yet died out when Turner, by way of addition, cast an argument of fearful weight, based on the bloody scenes at Southampton into the scale of the defeated democrats. They now, in the session of 1831–1832, resumed

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the fight with redoubled energy, and extended their attack along the whole line of their enemies. Thomas Jefferson Randolph, a grandson of Jefferson, made a motion that a committee should be appointed to investigate the suitableness of a gradual emancipation of all slaves, and to report to the house on it. The debates lasted several weeks, and the whole Union followed them with riveted attention. Powell excellently described their character, without perceiving how severe a judgment he, in doing so, passed on his own party. "In listening to an unrestrained discussion upon a subject on which we are accustomed to breathe our opinions with the lowest whisper, I feel that I am in a dream." Well indeed might it seem like a dream, to hear slavery denounced once more in the legislature of Virginia, with a pathos such as, outside of the small circle of abolitionists, scarcely any one in the free states had dared to denounce it. "Tax our lands, vilify our country, carry the sword of extermination through our now defenseless villages, but spare us, I implore you — spare us the curse of slavery, that bitterest drop from the chalice of the destroying angel." The all-embracing question was illuminated from every side, but throughout the greatest weight was attached to the disastrous consequences of slavery, and of these again the greatest stress was laid on the economic. Marshall said that for the slaves' sake, the abolition of slavery was not at all desirable; "but," he went on, "it is ruinous to the whites; retards improvement, roots out an industrious population, banishes the yeomanry of the country, deprives the spinner, the weaver, the smith, the shoemaker, the carpenter, of employment and support. This evil admits of no remedy, it is increasing, and will continue to increase, until the whole state will be inundated with one black wave covering her whole extent, with a few white faces here and there floating on the surface."[1]

[1] Wilson, Rise and Fall of the Slave Power, I, p. 201.

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But the palm in the whole debate was carried away by James McDowell, by the calm lucidity with which he endeavored to follow the essential nature of the struggle to its lowest depths. The dirty subterfuge which was as old as the slavery question itself, that a more favorable moment must be awaited, he met with the assertion that, unless the evil were now attacked by legislative means, its removal would have to take place amid convulsions.[1] For that slavery had ultimately to come to an end, in the one way or the other, there could be no question, because it is impossible to reconcile the slave to his fate.[2] The inflexible *non possumus* with which it was thought to oppose an unsurpassable limit to every attempt at a rational and legal solution of the question, was completely worn out; the right of property cannot be an absolute one, but must find its limitation in the higher demands of the universal good.[3]

[1] "A necessity for acting . . . exists now, unless we are prepared to surrender every hope of legislative remedy and patiently commit ourselves to the issues of convulsion." Speech of J. McDowell in the Virginia House of Delegates, January 21, 1832, p. 18.

[2] " . . . A slave is the more unhappy as he is the more indulged. Introduce him step after step into the enjoyments of that estate from which he has fallen, and yet proclaim to him that he is never to regain it, and his heart rejects every favor but the favor which is denied. As you benefit his external condition, then, you do not better him as a slave; but, with feelings of increased discontent, you improve his intellect, and thereby increase both his disposition and his capacity for the purposes of resentment. Depend upon it, sir, that he will use his capacity for such purposes — that the state of things which we boast of as the evidence of our humanity, is not the state of things to be trusted in." And it was just as impossible to attain the desired end by the opposite road. "You may put him under any process which, without destroying his value as a slave, will debase and crush him as a rational being — you may do this, and the idea that he was born to be free will survive it all." Ibid., pp. 19, 20.

[3] "The private property . . . which a state allows to be held by its citizens, must consist with the general end for which the state itself is created; must be held under the reserved and necessary condition, that it is not to be productive of public disadvantage, or, that if it be, that then it

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These debates, even up to and after the beginning of the civil war, remained a hobby with the partisans of the south in the north. They would fain have seen in them an irrefutable proof that Virginia was removed only one short step from the resolve to abolish slavery gradually, and they declared themselves convinced that it would have taken the step, during the next succeeding years, were it not that, in consequence of a righteous indignation at the abolition agitation, a revolution in public opinion big with fate was produced. But the assertion was repeated so frequently, that even other circles began to half believe in its correctness. But, in reality, it is in such glaring contradiction with the facts, that it is difficult to convince one's self that we have to do with a misunderstanding of the facts, and not with a barefaced distortion of them. Not Virginia, but West Virginia, in which slavery dragged out only a wretched and artificial life, struggled with honest zeal for emancipation. Between the two halves of the state there existed a conflict of interests, and, therefore, also of views, which here clashed greatly one with the other. This conflict, even if it was for a time less apparent, never died out entirely, and it made itself felt in the most striking manner at the moment of the breach between the north and the south. The abolition agitation had neither now nor later exerted any influence on the decision of this question; it only served to help those slavocrats to somewhat greater clearness, who had hitherto very successfully deceived themselves with lies. This middle party decided the battle, and they decided it in favor of the slavocrats, which could not have been otherwise. McDowell, and those who thought like him, were very much deceived, if they expected any success from their speeches. The time when slaveholders were open to argument was long since

becomes the fair subject, to the state, of resumption or restraint." Ibid., p. 11.

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passed. Many of them were yet so sensitive to the titillation of rhetoric that they even surpassed the pathos of their opponents, but actual circumstances weighed so heavily on them that they would not have attempted even the slightest resistance. They, in the same breath, called slavery the "mildew" which would necessarily destroy all life, and declared the right of property of masters in their slaves to be inviolable. The impression which the Southampton massacre had made on this kind of people — at the time the great majority of the population of the slave states — was wiped out as rapidly as it had been violent. The terror of the storm was shaken off with the last echo of the thunder. They now calmly philosophized over the perfection in fact of the protection of the house against storms and the elements, and violently denounced the unsolicited friends who continued to talk of the necessity of a conductor to lead the lightning away, after they had, the moment before, clamored for it so anxiously themselves.[1] From this to the charge that it

[1] That this description is not exaggerated, we may prove by Niles, who is always reserved and moderate. In the article, already frequently cited, of the 15th of October, 1831 (XLI, pp. 130, 131), we read: "Free labor and slave labor cannot abide together. . . . Such is the truth — and it will reach the heart and home of every one interested, through sober reflection, or in frightful necessity. . . . Let, then, the soundest heads and best hearts of the nation be engaged to build up some practicable project which shall, at once, afford the hope of security to white persons and extend the prospect of an ameliorated condition to the slaves. . . . There are men whose voices would be heard — whose sound sense and established patriotism would reach many of the most obdurate and compel them to reflect, under an awful assurance of events that must flow from an adherence to the present state of things. But still, certain 'would not believe though one arose from the dead,' to admonish them — for there are some who must feel before they reason." And on the 25th of February, 1832, he writes: "But the southern people will not agree to be 'taxed' to pay for what they regard as their own property — and will, indeed, generally resist the adoption of any measure which looks to the final extinction of negro slavery in the United States. They love their slaves, and say their slaves love

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was only the unfortunate and criminal talk of the former which had provoked the danger, there were only a few steps.

Governor Floyd had from the first gone thus far. The message of the 6th of December directly calls the "fanatics" of the neighboring states the presumable originators of the conspiracy.[1] Who were meant by the "fanatics" was naturally understood equally well in the north and the south. But this was not all; denunciation broke out just as violently in the north as in the south. Hatred for the abolitionists was only just beginning in the south; in the north, on the contrary, the fanaticism of quiet was already fully developed. Even in the first number of the *Liberator*, Garrison declares that a greater revolution in public opinion had to be accomplished in the north than in the south. "Here," he says, "I found contempt more bitter, detraction more relentless, prejudice more stubborn, and apathy more frozen than among slave-owners themselves."[2] People from different quarters hastened to establish the truth of this cutting charge by reaching out their hands with imbecile greed for the most terrible fruit which slavery had ripened in the land of freedom.

them. We do not see any reason why those who are not slaveholders should press this subject, to separate persons who are so much attached to one another — so mutually advantageous — so happy and contented. We only irritate, by suffering our feelings to enter into this question. . . . We are not for obtruding our services on those who scornfully reject them, and would wish them to 'manage their own concerns in their own way.' We shall do the same." Ibid., p. 472.

[1] There is much reason to believe that the spirit of insurrection was not confined to Southampton. . . . From the documents which I herewith lay before you, there is too much reason to believe those plans of treason, insurrection and murder have been designed, planned and matured, by unrestrained fanatics in some of the neighboring states, who find facilities in distributing their views and plans amongst our population, either through the post office, or by agents sent for that purpose throughout our territory." Ibid., p. 350.

[2] Wilson, Rise and Fall, etc., I, p. 182.

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In those stormy debates in the legislature of Virginia, after Turner's insurrection, Moore, one of the most fiery advocates of emancipation, declared it to be a peremptory demand of slavery that the "ignorance of his [the master's] slaves" should be "as profound as possible." That this was really systematically aimed at in the slave states, has not been denied. The responsibility for this, also, it was sought to throw upon the abolitionists, through whose agitation alone these precautionary measures became necessary. How completely untenable this claim is, is shown by the superficial examination of Judge Stroud's book, Sketch of the Slave Laws, which appeared in 1827.[1] It is, however, unquestionable that about this time fresh measures were taken by legislation to brutalize the slaves, and it is certain that abolitionism contributed largely to bring this about. The abolitionists should be the last to hesitate to admit this, for nothing can bear louder or more irrefutable testimony for them than this effect of their agitation. In North Carolina, in 1830, it was forbidden to teach a slave to read, under penalty of $200.[2] About the same time, a law of the same import was passed in Georgia, which, besides, threatened the circulation of incendiary documents with death.[3] In 1833, the senate

[1] We may here briefly refer to some of the older laws. In 1740, in South Carolina, it was forbidden to teach a slave to read, under a penalty of one hundred pounds sterling. A penalty of twenty pounds sterling was attached to the same crime in Georgia. A law of Virginia of the year 1819, declared all meetings, "either in the day or night, under whatsoever pretext," in which reading or writing was taught to slaves, unlawful, and the justice of the peace might sentence the participants to as many as twenty strokes of the lash. Whoever in Savannah taught reading or writing to a colored person, "slave or free," was fined thirty dollars. If the guilty person was colored, he received, besides, thirty-nine strokes of the lash (1818). Goodell, The American Slave Code, pp. 319–321.

[2] Jay, Letter to Bishop Ives, Misc. Writ., p. 482.

[3] Niles, XXXVII, p. 341.

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of South Carolina passed a bill of the following tenor:[1] A white person who taught a slave or a free person of color to read or write, was fined $100 and sentenced to six months' imprisonment; a free person of color, guilty of the same crime, was fined $50 and received 50 strokes of the lash; if a slave were the guilty party — (this was also applicable in the case of parents in relation to their children) — the only punishment was 50 strokes of the lash. No slave and no free person of color was henceforth to be permitted to preach or to deliver lectures. White persons were allowed to preach or lecture before slaves or free persons of color only in the presence of at least three white slaveholders.[2]

These examples suffice. All slave states, and especially all plantation states, harbored to a greater or lesser extent the same principle, that every ray of light should be kept from the minds of the slave, and, as far as possible, from the minds even of the free person of color. There is evidence enough to show what revolting effects this endeavor produced. But most revolting of all, the free north also began to feel it its duty to make it impossible for persons of color to rise to an existence worthy of human beings.

New Haven, the seat of one of the oldest and most important higher institutions of learning in the country, gave, so far as the sources at my command afford any information, the signal for the crusade against the educational endeavors of people of color. In June, 1831, a convention of free persons of color in Philadelphia resolved on the establishment of a college which should afford boys and young men of their race an opportunity to pursue "classical studies" while they were at the same time instructed in agriculture, or in a trade, and might meet the cost of this higher schooling by

[1] As I have no collection of the state laws at hand, it is impossible for me to say whether, or to what extent, these provisions of law were modified.

[2] Niles, XLV. p. 292.

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their own work. New Haven was chosen as the prospective seat of the institution. This induced the mayor and aldermen to call an extraordinary town meeting on the 10th of September. The meeting gave them a vote of thanks and resolved "to resist, . . . by every lawful means, the establishment of a college . . . to educate the colored population," as "incompatible with the prosperity, if not the existence, of the present institutions of learning," and "as destructive of the best interests of the city." Besides, it was argued, "the founding of colleges for educating colored people is an unwarrantable and dangerous interference with the internal concerns of the other states, and ought to be discouraged."[1]

This example found imitators. In Canterbury, Connecticut, a Miss Prudence Crandall had founded an institute for girls. After a time, she admitted into it colored girls also. Neither the white scholars nor their parents entered any protest against this. But the people of the place were determined not to suffer such an outrage. When all means of malicious chicanery were exhausted, a great agitation was begun, and a law was passed (May 24, 1833) prohibiting the establishment of schools for persons of color from other states, as well as the admission of such into other schools, without the written permission of a majority of the local authorities and selectmen. Prudence Crandall was cast into prison for violation of this law, and confined in a cell which had been occupied, a short time before, by a criminal condemned to death. The case was carried to the highest court of the state, the court of errors, and its decision turned on the question of the constitutionality of the law of the 24th of May, 1833. The first time the case was tried the jury were unable to agree on a verdict. The second time, the

[1] See the resolutions of the town meeting and the reply of the agent of the convention, in Niles, XLI, pp. 88, 89.

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jury found Prudence Crandall guilty, but the court of errors found a back door of escape, and avoided giving a decision or an opinion on the constitutionality of the law. Canterbury then took the matter into its own hands. After an attempt to burn the school had failed, it was stormed with stones and crowbars on the night of 9th of September, 1834. The noble-hearted woman who had stood unshaken for nearly two years against the ignorance of the place and of the whole state, now abstained from all further resistance; the day was won by the priests of night.[1]

Shorter work was made of it, in a similar case, in Canaan, New Hampshire. In 1834, a college was established there, the by-laws of which promised admittance to all who were morally and intellectually qualified for admission. A town meeting resolved to have no intercourse whatever with any one who persisted in the attempt to establish a school in the place in which only persons of color, or persons of color in common with white persons, should receive instruction. When, spite of this, the school was opened the following spring, another town meeting charged a committee with the duty of removing it by force. On the 10th of August, 1835, the building was razed to the ground with the aid of about a hundred oxen, and left there a mass of ruins. Not one of the instigators of the disgraceful deed was brought to justice.[2]

In New York, the embitterment against the abolitionists had reached such a height, the year before, that they had to be in constant expectation of personal violence. When, on the 2d of October, 1833, they called a meeting, in Clinton Hall, to establish an abolition society, the walls and the cor-

[1] The history of this struggle is very accurately told by Samuel J. May, who played a very distinguished part in it himself. Recollections of the Anti-Slavery Conflict, pp. 39–71.

[2] Jay, on the Condition of the Free People of Color in the United States. Misc. Writ., pp. 384, 385.

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ners of houses were covered with appeals intended to frustrate the purpose. Clinton Hall was taken possession of at an early hour by a noisy crowd, so that the abolitionists betook themselves secretly to the Chatham street church, and there constituted themselves a society, while their opponents went to Tammany Hall, where they permitted themselves to be entertained with denunciations of the ruthless jeoparders of the Union. The following day, the *Commercial Advertiser*, one of the most respectable papers of the city, assured the country that if hands could have been laid on Garrison, he would hardly have escaped a "coat of tar and feathers."[1]

The next summer people were not satisfied with threats. From the 7th to the 11th of July, 1834, the city was the scene of wild tumult. The spark which set the pile of combustible material aflame was the struggle between the blacks and the whites for the right to use the church in Chatham street. The row in the church was continued in the streets. A crowd proceeded to the house of Lewis Tappan, who, for a noble spirit of sacrifice as a philanthropist and abolitionist, stood second to but one man in New York, his brother Arthur. This night the rabble confined themselves to raining a heavy shower of stones upon the house. But every succeeding evening brought new disturbances, and these assumed a more serious character every day. Lewis Tappan's house was stormed, the furniture thrown out of it, broken and burned. The houses of other abolitionists and some churches shared the same fate. A proclamation of the mayor, the admonitions of the press, the cudgels of the police

[1] "We will not record the expressions of disgust and abhorrence which were coupled with his [Garrison's] name; and we believe that had he been present, many grave and respectable citizens, who, under other circumstances would have been the last to participate in any disorderly popular proceedings, would at least have assented to his decoration in a coat of tar and feathers." Niles, XLV, p. 111.

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availed nothing.[1] Barricades were erected, and had to be taken by storm. It fared worst with the negroes. The *Daily Advertiser* reports, of the 12th of July: "The vengeance of the mob appeared to be directed entirely against the blacks; whenever a colored person appeared, it was a signal of combat, fight and riot." Only after the mayor had called out all the military at his disposal, and on all the citizens to organize as a guard extraordinary, was quiet gradually restored.[2]

Similar events had taken place simultaneously in Newark, New Jersey, and Norwich, Connecticut.

The mayor of New York, as well as the daily press, were obliged to preface their appeals for quiet and order by very decided verdicts against the abolitionists. The whole country now seemed resolved to crush them out by the moral weight of their unconditional disapproval. The newspapers had new anti-abolitionist meetings, in which the highest local officers, and sometimes even the highest officers of the state, played a very important part, to report every day. There was only one thing wanting to make the weight of this moral pressure annihilation: morality itself, which was on the side of those whom it was sought to oppress. Thus it happened that the mountain of accusations and condemnations under which the little band were to be buried, fell without effect behind or before the object aimed at, while one-half of the persecutors could not help — even if frequently against their will — to hold a protecting shield over it against the missiles of the other half. The rabble — the

[1] A reporter says of the night of the 11th of July: "The military were on duty, and the mayor was at the hall all night. It cannot be disguised, however, that the mob were complete masters of the city, and the city government was overawed, and for the time at an end."

[2] The more extensive reports of the daily press are printed in Niles, XLVI, pp. 357-360.

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washed as well as the unwashed — felt that, in this way, they could not only never reach the goal, but that they were pushed farther and farther from it. Their rage drove them repeatedly to other deeds of violence, by which, however, they only injured their own bad cause.

The abolitionist society of women in Boston called a meeting for the 21st of October, 1835. It was rumored about that the English abolitionist, Thompson, would speak at that meeting. A public notice called on the citizens to hunt the "foreign scoundrel," and offered a reward of one hundred dollars to the individual who should first "lay violent hands" on him, that he might be brought to the "tar kettle before dark." Crowds of people surrounded the place where the headquarters of the society were situated, stormed into the hall, and endeavored, by blustering and bellowing, to prevent the transaction of any business by the meeting. The mayor appeared on the scene, admitted that the meeting had a right to his protection, but declared himself powerless, and bade the women disperse, in order to prevent any further trouble. His order was obeyed. Garrison, for whom the mob had been bellowing for a long time, endeavored to escape unnoticed by a back door, but was seized, and, a rope about his neck, dragged through the streets amid the howling of the multitude. It was only with difficulty that the mayor succeeded in getting him into a carriage and saving him from his persecutors in a jail.[1]

Utica, New York, was the theatre of similar scenes the

[1] See the extended report of the daily press of these events in Niles, XLIX, pp. 145, 146. The "Boston Gazette" wrote: "We never before saw so gentlemanly a rabble — if a rabble it may be called — as that assembled yesterday. . . . It was, in fact, a meeting of gentlemen of property and standing from all parts of the city, who were disposed, and still are determined, at all hazards, and 'come what may,' to preserve the peace of the city from all domestic incendiaries, as well as to protect the Union against foreign interference"

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same day. The city council had promised to a meeting of abolitionists, which was announced to meet at Utica on that day, a hall in a public building. On the 17th of October, a public meeting was held which put its veto on this permission. The abolitionists, therefore, four hundred in number, met in a Presbyterian church, which had been placed at their disposal. Scarcely had their proceedings begun, when the committee appointed by the public meeting of the 17th appeared, accompanied by great crowds of people, and — the county judge, Hayden by name, being their mouthpiece — informed them that they must dissolve without delay, and that the "people" were resolved, by all means in their power, to prevent their meeting in the city. As there was no doubt that violence would be employed, the abolitionists yielded to the demand after the records were torn from their secretary.[1] In the evening, the office of the *Standard and Democrat* received a visit from the "people," who threw its type and other printing material into the street. The abolitionists had, on the invitation of Gerrit Smith, adjourned to his place at Peterboro. On the way thither, a part of them had to endure severe ill-treatment from the mob at a place called Vernon.[2]

The effects of all these acts of brutality and violence — the list might be continued almost indefinitely, but enough

[1] The "Albany Journal" writes: "There is not the slightest doubt but the meeting at the court house [the meeting of the 17th of October], and its action through the committee, saved the church from destruction, and perhaps the members of the convention from the tender mercies of an infuriated populace. If they had refused to receive the committee, or if they had attempted to continue their meeting, no power on earth could have saved the church from being torn down upon the heads of its occupants." According to a report in the "New York Journal of Commerce" on these "peaceful illegalities," as the "Utica Observer" called them, the multitude marched to the church with "fire hooks, ladders and ropes," and even began to demolish it. Niles, XLIX, pp. 146–149.

[2] Ibid., p. 183.

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has been said to characterize them — were diametrically opposed to those which their instigators expected.

The abolitionists had not only the mob with its love of disorder and aristocratic hate for the despised negro, the demagogues of politicians with their competitive bidding for the favor of the southern holders of power, and the selfishness of all who endeavored to allay every political storm that their peace and money-interests might not be put in jeopardy, against them; they also aroused the best qualities of the national character to great and even bitter resistance against them. The radical character of abolitionism was in the most flagrant contradiction with the Anglo-Saxon spirit of conservatism. This spirit instinctively recoiled from a creed which rejected, on principle, any attempt towards the adoption of a middle course, and which declared that under no circumstances could it surrender an iota of its demands. What angel had come down and brought to the abolitionists from the throne of the Lord of the world, the commission to charge the whole nation — and their forefathers around whom was the halo of fame — with harboring and nursing in their bosom the "sum of all villainies," and to proclaim the judgment of heaven against them, unless they cast the viper to the earth and trampled it under foot? National pride rebelled against this threatening absolutism in speech, of the prophet and the judge. It felt itself all the more severely wounded, when the prophets and the judges had to a certain extent divested themselves of their nationality. Garrison had headed the *Liberator* with the motto: "My country is the world, my countrymen are all mankind." A love for sonorous phrases and for an exaggerated mode of speech had long been nurtured in the people by the tribune and the press, but their more sober sense had never permitted them to be misled into seeing cosmopolitan vagueness and extravagance introduced as real forces in the treatment of

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practical political questions. And the abolitionists had endeavored to do this in a manner which the national good sense of no great people could or should have borne with equanimity. Garrison had gone to England to awaken active sympathy with the efforts of the abolitionists there, and Englishmen who had earned great merit in the cause of emancipation in the English West Indies were induced to come to the United States to take part in the agitation there. It were both foolish and inequitable to wish to throw stones at the abolitionists on that account to-day. They were people completely governed by one idea, and who were able to see this idea only under the visual angle of the absolute principle. But it would be at least as foolish and unjust to make it a matter of reproach to the rest of the American people that they looked on the dragging of foreigners into the most difficult and important question of their politics as an outrage, and that they refused to meet those foreigners simply as the advocates of an absolute principle, as men simply or citizens of the world, and not primarily as Americans. Woe to the United States, if there had not been enough fiery zealous idealism and a sufficiently pure code of ethics to call forth the abolitionists, and to make them the leaven by which, in the course of decades, and under the pressure of great events, the entire population of the free states were to be leavened! But woe, also, to the United States, if they had had so little sense for realistic politics, that the entire population of the free states should have sided with the abolitionists immediately, and that the fruit of the labors of these latter should have been matured before they had suffered from a severe conflict from within and without, because the conservative party was wanting in moral force!

Could there now be any doubt whatever that the immediate and complete abolition of slavery meant a revolution in

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the existing circumstances of the United States farther reaching and more-sided than any people had yet experienced? Did not the abolitionists themselves bear witness to this, day after day, when they said that slavery was poisoning the entire life of the nation? And will any nation ever resolve to take such a step immediately, provided only the demands of the moral principle are placed in a clear light? Or could or should a rational and politically viable people immediately proceed to the solution of such a problem? Can it be said that with the question, What should be done? the answer, How it should be done, is also given; or can the answer to such a question be found in a night? It was a great good fortune that there were people who cared only for the supreme law, and would hear of no other. But at the same time, it would have been a great misfortune if the masses of the people could not have understood that, in politics, interests which have once begun to exist, in and of themselves, obtain the character of existing interests, and, in a certain sense and to some extent, the character of rights also. Simple as the question might be before the court of absolute morals, as a question of practical politics it appeared only a skein of conflicting interests and rights which could not be disentangled.

It could not be questioned that the constitution had left the states complete discretion in what relates to slavery. And it was equally incontestable, that the slave states were resolved to continue the existence of the institution, and that its continued existence not only seemed endangered by any agitation and even by any discussion of the question, but was necessarily endangered by such agitation and discussion. Hence the efforts of the abolitionists were certainly in conflict with the spirit of the constitution, if we consider that spirit from this point of view. But a coming into collision with the spirit of the constitution should not be suffered, no

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matter at what point it might take place; for if such violence could be offered to it at one point, unpunished, it could no longer be secure from presumptuous attacks at any other. And was it not necessary that it should be protected with a hundred fold more care precisely in the question which had already shaken the Union to its foundations? Where positive law is opposed to him, the thought and feeling of the Anglo-Saxon are not easily turned into new channels. His respect for existing law, he carries almost to the point of immovability. To the most irrefutable proof of its injustice, he can oppose as an impenetrable shield the only argument, that existing law is, as such, a moral force. In addition to this, comes the discreet disposition, the development of long experience, which permits the wonted evil to continue even to the limits of the unendurable rather than run the risk of hasty action.

All this coöperated to make an immense majority of the population look with the deepest displeasure on the abolitionist agitators.[1] Many as may have been the impure elements which were mixed up with this feeling of displeasure, and frequently as these were incontestably preponderant, it was, on the other hand, also an upright and deep conviction, which did not seek merely to hide its nakedness behind false moral scruples, but which was really based on justifiable moral principles. The assurance which people did not tire of repeating, that abolitionism could not be more strongly condemned at the south than it was at the north, was the

[1] The "Alexandria Phenix," a witness who certainly cannot be objected to, writes in 1835: "There is no doubt with us that the entire north, from Maine to Maryland, is sound on the great questions to which we have referred. . . . You will find Tappan and Garrison, and their co-laborers, denounced wherever you go; and that with a bitterness and warmth which must satisfy the most prejudiced that the north is sincere in its recent exhibition of sympathy and affection for the south." Niles, XLIX, p. 80.

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simple truth. But to the person who refuses to see anything in this fact save the infinite depravity of the north, under the rule of the slavocracy, and that of the northern politicians enlisted in its service, all the history that follows must remain an unintelligible enigma. That there is a contradiction, such that it is difficult to imagine one more direct or violent, running through all that has been said, can not, indeed, be denied. But the contradiction lay in the actual circumstances of the time and in the existing laws *(Rechte)*. Hence it could not be otherwise than that individuals should be carried hither and thither between the opposing views, in the mad whirl. They were looking for a solution where there was no solution.

The reasons which induced the "intelligent and enlightened statesmen" to consider abolitionism as an unfortunate aberration or even as an abomination, compelled them also to lament and condemn the means by which it was sought to suppress it. There was evidently no foundation whatever for the worst charges which fanaticism and demagogism laid at the door of the abolitionists. It had never entered their minds to incite an uprising of the slaves. They had never shown any enthusiasm for an amalgamation of the races. Rather did they, whenever occasion offered, declare that "God Himself" had placed a barrier between them. The reproach, that they desired to spur on the government of the Union to the adoption of a course inimical to slavery, they unconditionally repelled. They unreservedly acknowledged that all constitutional authority to do this was wanting, and they declared that it was as much their desire as that of the most radical states-rights man, to keep within the limits of the constitution. They asked the Federal government to take action only in relation to the District of Columbia, and that the constitution authorized it to do that was maintained by many who had nothing in common with

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the abolitionists. Besides this, they only asked that slavery should not be supported nor promoted in any way by the Union. Their own action was to be confined entirely to the employment of moral means. What, then, was it that made them "fiends in human shape,"[1] who should be and must be looked upon and treated by honest men, in patriotic union with candidates for the house of correction, as outlaws? Why should not Jefferson's honored saying, that error is harmless so long as reason is not prevented combating it, be applied to them? Much as it might be the duty of the "patriots" to oppose them by all legal means, how could it be justifiable to make no means used to persecute them reprehensible? Would it concern only the abolitionists, if the blind rage of judge Lynch was raised to the dignity of the code in accordance with the provisions of which they were to be judged?[2] In what is the sovereignty of the law insured, when public opinion sanctions such proscriptions of a conviction? Or was the conviction so monstrous a one, that the eternal principles of right and of morals, against which no law can prevail, imperatively demanded its suppression? Let the tongue of calumny say what it might, so long as it could not slay the consciences of men, so long could it not stifle the feeling that abolitionism was the cry of revolted conscience. What, then, could it be that, according to the profound psychologists of the south, stirred the demon in these men to cast the brand of an unappeasable conflict among the nation? Their only reward was censure, spleen, hatred and ill-treatment. When, notwithstanding

[1] Brown, of North Carolina, called them, in 1836, in the senate, "fiends in human shape, who would endeavor to lay waste the happiness and liberties of this country." Deb. of Congr., XII, p. 709.

[2] Niles writes, October, 1835: "In the south we almost daily hear of 'judge Lynch,' and of persons who are flogged and driven away or 'executed' under sentences rendered by him." XLIX, p. 65.

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this and the paucity of their numbers, a cry came from the whole south as if it had been mortally stung by a viper, and the north loudly echoed it back, was there any other explanation of the phenomena except that there lay an irrepressible truth of overpowering force in the creed of the abolitionists? Was there, then, any further proof of it needed? Had the north, then, ceased unanimously to declare slavery the heaviest curse with which providence could burthen a country? And how long ago was it that the south had just as unanimously, at least with its lips, acquiesced in this view? How, then, could the abolitionists be outcasts of human society, simply because they drew a plain, simple conclusion from that confession?

Thought, conscience and the feeling of liberty had not so far decayed in the north, that the hue and cry raised against the abolitionists did not force these questions on ever growing circles of people. Those who were led over to the abolitionist camp by these means continued, indeed, to remain an evanescent minority, and this spite of the fact that they soon began to be numbered by thousands.[1] But the number of those who after as before, lamented and condemned the abolitionist agitation, but who began to perceive with horror that they and the whole country were threatened with frightful danger from the persecutors of the abolitionists, increased incomparably faster. The south did everything in its power to open their eyes to this fact. Its rage seemed to have robbed it of the power of deliberation. All constitutional law, the fundamental principles of the free views handed down by tradition from their fathers, were cast to the ground and trampled under foot in order to strangle abolitionism in its cradle. Governor Lumpkin, of

[1] In August, 1835, there were 263 anti-slavery societies. In December of the same year, there were 350. Letter of the executive committee of the New York anti-slavery society to president Jackson, December 26, 1835. Jay, Misc. Writ., p. 368.

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Georgia, on the 26th of December, 1831, had signed an act of the legislature which promised a reward of $5,000 to the person who would bring Garrison there to be judged according to the laws of the state. That is to say, the state of Georgia offered a prize for the commission of a crime! And for what a crime! In the form of a law, Georgia proclaimed to the whole Union that it claimed that it might take all the banditti in the Union into its service to rid itself of any person who incurred its displeasure. And Georgia seemed not to have become insane alone. When, three years later, the rumor ran that $100,000 were to be paid to the person who should apprehend Arthur Tappan, the *Richmond Whig* commented bitterly on the fact that the press of New York thought it had ground to complain.[1] The *Charleston Courier* asserted that the "mimic fact" of the burning of Garrison, Cox and Tappan would be transformed into a "real tragedy" the moment hands could be laid upon them.[2] In South Carolina, an agitation was started to bring the whole south to the resolution to dissolve all business intercourse with those northern cities and states

[1] "The 'New York American' considers it monstrous that Arthur Tappan should be menaced with kidnapping. Very unreasonable indeed! The scoundrel who has set a whole country in a flame, tightened the discipline upon two millions of people, and subjected innocent men to the lash, ought by all means to enjoy unmolested security." Niles, XLIX, p. 73. Another sheet gives vent to its rage against Tappan in the following imprecation: "He must now experience some of these awful sensations and terrific images that he has been the cause of exciting in thousands of innocent breasts in the southern states. If he starts from his guilty slumbers with the visioned hand of the murderer pointing the bloody dagger at his breast, let him, while every limb quakes, and while the cold terror sweat stands in bubbles on his brow, reflect, that it was him *(sic)* who drove sweet sleep and happiness from the tearful eye of many a southern matron and maid. That it was him *(sic)* who made the name of Tappan synonymous with incendiary — midnight murderer — assassin! Let him 'sleep no more' — he 'has murdered sleep.'" Niles, XLIX, p. 75.

[2] Ibid., p. 74.

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which did not oppress the abolitionists. In other parts of the south, this idea was taken up by the papers with fiery zeal, and they endeavored to convince themselves and the north that the execution of the plan was fully assured. With great ingenuousness, they acted, in this matter, as if all that was needed was that they should take the resolution referred to; that is, as if the north owed it entirely to the magnanimity and favor of the south, that it had thus far been permitted to act as a mediator in trade between it and the rest of the world.[1]

[1] "Let non-importation agreements be entered into by a proper combination among those engaged in trade at the south, to cease all intercourse with places that show hostility, or a criminal indifference to our rights and interests." ("The Charleston Patriot.") "Let our planters and cotton buyers in the interior compel the American cotton and rice trade to concentrate on the seaboard of the cotton and rice growing states. There is no need of sending their produce to be stored in New York to insure a speedy realization of the proceeds. Why not store it here? Our banks are able and willing to advance to every reasonable extent. Let us then take our own trade with Europe into our own hands, and assert, at least, our commercial independence of the north. Let the whole people of the south urge and encourage their merchants to effect this patriotic and union preserving object. Let it be one of the chief subjects of deliberation in the convention of the southern states, if that convention is called, as we trust it will be in accordance with the Charleston resolutions; in the end the step must result, not only in the greater stability of southern institutions, but in southern wealth, derived from retaining at home all those benefits of southern industry on which northern enterprise now fattens. It may starve some of the restless spirits of fanaticism out of their present purse-fed insolence, and, at any rate, will compel the trading community in that section, to attempt, by striking down this hell-born monster of hypocrisy at home, to win back the confidence which once gave them a rich portion of the products of southern labor." ("The New Orleans Bee.") "The suggestion of acting upon fanaticism by withholding the profits of southern commerce from those engaged either actively or by countenance, in propagating its designs, is obtaining extensive popularity. A general persuasion prevails of its efficacy . . . Southern commerce is essential to the north. Without it their cities had been fishing villages and whaling stations; without it they would soon feel the touch of decay . . . it will render us

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But it did not stop with demonstrations of the press and irresponsible public meetings. The zeal with which the north had shaken off the abolitionists by no means satisfied the south. Even where, as in Albany and Philadelphia, people had humbled themselves to the dust before it, they obtained but little thanks. "Nothing is wanting, indeed," said the *Richmond Whig*, sneering at the Albany meeting, "but that which being wanting, all the rest we fear is little more than 'a sounding brass and a tinkling cymbal.'" And a correspondent of the *Augusta Chronicle* complained: "Words, words, words are all we are to have." But the south cared little for these. Much as it feared the words of the abolitionists, the words of the anti-abolitionists of the north were valueless to it. With one voice, as it were, the southern press demanded the gagging of the abolitionists by penal laws. "Up to the mark the north must come if it would restore tranquillity and preserve the Union," said the *Richmond Whig*. And a whole series of state legislatures soon joined in the demands of the press.[1] Alabama

less dependent on the north, build up southern cities, invigorate southern trade, open a direct intercourse with the markets of Europe, and secure to southern citizens those immense profits on southern business which are now principally monopolized in New York . . . That the south should transact her own buying and selling, without the intervention of northern agents, who run away with the profits, is a proposition so undeniably true, and an end so patriotic, that every hand and every heart should be united to effect it. The south would then find some equivalent for sustaining the almost entire burden of the government of the Union." ("The Richmond Whig.") Seven years before the same paper said: "It is the condition of their masters, weighed down and impoverished by the nature of negro slavery — and of Virginia, blighted and held back in the glorious race of improvement and power by the same cause, that impels us to pray for its final extinction, and enlists our sympathies in behalf of colonization schemes." Niles, XLIX, pp. 74, 77, 78, 80.

[1] "*Resolved*, That the legislature of South Carolina, having every confidence in the justice and friendship of the non-slaveholding states, announces her confident expectation, and she earnestly requests, that the

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went a step farther still. The grand jury of Tuscaloosa county found an indictment, on the 25th of September, 1835, against Robert G. Williams, publisher of the *Emancipator*, in New York, for the dissemination of seditious articles. Thereupon, Governor J. Gayle made a requisition on Governor Marcy, of New York, on the 14th of November, to give Williams up, in accordance with art. IV, sec. 2, § 2 of the constitution, that he might be tried under the laws of the state of Alabama. Gayle admitted that the wording of the provision in question made it possible to doubt whether his demand was justifiable, as Williams "was not in the state when the crime was committed," and had not "fled therefrom;" that is, the two conditions on which the constitution had made the surrender of a criminal dependent were wanting here. The governor, however, was of opinion that the wording of the constitution could not be decisive in this case, because Williams had "evaded the justice" of the laws of the state of which he was governor.[1]

government of these states will promptly and effectually suppress all those associations within their respective limits, purporting to be abolition societies." Dec. 16, 1835.

"*Resolved*, That our sister states are respectfully requested to enact penal laws prohibiting the printing, within their respective limits, all such publications as may have a tendency to make our slaves discontented." General Assembly of North Carolina, Dec. 19, 1835.

"*Resolved*, That we call upon our sister states, and respectfully request them to enact such penal laws as will finally put an end to the malignant deeds of the abolitionists." Alabama Legislature, Jan. 7, 1836.

"*Resolved*, That the non-slaveholding states of the Union are respectfully but earnestly requested promptly to adopt penal enactments, or such other measures as will effectually suppress all associations within their respective limits purporting to be, or having the character of abolition societies." Virginia Legislature, Feb. 16, 1836. Goodell, Slavery and Anti-Slavery, pp. 413, 414.

[1] See the documents in Niles, XLIX, pp. 358–360. The following passage, from the message which accompanied the requisition, deserves to be literally quoted: "It has been improperly admitted by writers in the south, who have engaged in discussing this subject, that the constitu-

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These demands decided the turn which public opinion took in the free states, and for which the way had already been prepared. A committee of the Massachusetts legislature, indeed, drew up pompous resolutions against the abolitionists;[1] the legislature of New York adopted a report which promised to accede to the wishes of the south,[2] and the governors of both states, Edward Everett and William L. Marcy, showed themselves highly favorable to the request which had been made.[3] But the penal laws demanded were actually passed nowhere, and the time when Garrison, a rope about his neck, could be dragged through the streets of Boston by "a very gentlemanly rabble," was passed forever. The south had over-strained the bow. It did not yet break, but the string snapped, and wounded the marksman severely. There are conflicts in which a single attack repelled is a defeat which cannot be compensated for by any subsequent victory.

The first amendment to the constitution forbids congress to make any law "abridging the freedom of the press." The federal constitution puts no restriction whatever on the several states in this respect. The constitutions of all the states, however, guarantee[4] the freedom of the press.[5] But the

tion and laws of the United States, in regard to fugitives from justice, do not authorize a demand for the delivery of these incendiaries to the states whose laws they have violated. This opinion has been embraced under the erroneous impression that the rules of strict construction which, with great propriety, apply to certain parts of the constitution must necessarily apply to all others."

[1] Niles, L, p. 87.

[2] Goodell, p. 420.

[3] Ibid., p. 415.

[4] The word "guarantee" is purposely chosen here. The expressions used in the provisions in question make the right appear throughout, not as a newly created one, but as one already existing. They must, therefore, be so construed as to make them guaranty the freedom of the press only as the common law understands it.

[5] The provisions are to be found in Cooley, Const. Lim., pp. 414, 417.

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authorities on constitutional law all agree that these guaranties, according to the common law, are to be considered only as a prohibition of all preventive censure.[1] On the other hand, however, the opinion universally prevails that, in view of the changed views and circumstances of the times, the import of these constitutional provisions cannot be exhausted by such an interpretation. The limits of their extension is given in the maxim: *sic utere tuo, ut non alienum laedas.*[2]

So far as constitutional law was involved in the question, this was the light in which the demands of the slave states had to be examined.

The slave interest was unquestionably right when it considered itself damaged by the abolitionist press. And it was just as unquestionable, that the federal constitution looked upon slavery as a fact existing by right, since it contained three provisions in favor of the slaveholders. But as it was, further, a universally admitted principle of constitutional law, that the federal constitution is a part of the constitution of each of the states, it was plain that the allegation of the slave states, that, in their demands, they had set up no anti-constitutional request, but that their demands were entirely in harmony with the meaning of the constitution, was well founded, provided the freedom of the press was to be considered limited in the manner intimated above.

Could such obligations be recognized by the free states?

[1] Kent, Comm., I, p. 612 (II, p. 21); Story, Comm., II, p. 617 (§ 1889); Cooley, p. 420. See also Blackstone, Comm., IV, p. 151; De Lolme, Const. of Eng., p. 254.

[2] Cooley, p. 422, says: "The constitutional liberty of speech and of the press . . . implies a right to freely utter and publish whatever the citizen please, and to be protected against any responsibility for the publication, except so far as such publications, from their blasphemy, obscenity or scandalous character, may be a public offence, or as, by their falsehood and malice, they may injuriously affect the private character of individuals."

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Unquestionably they never could, not even if they had been imposed by the constitution in the most express terms, instead of being deductions from very general expressions, which left the largest scope for the arts of the dialectician and the sophist.

The resolutions of the legislature of North Carolina, above referred to, demanded the suppression of every "publication" which tended to make the slaves of the south dissatisfied. It was self-evident that the other slave states would have to go as far as this in their definition of abolitionism, if they were to be fully secured against the dreaded dangers. And it was just as self-evident, that every expression concerning slavery, not uttered in the sense of the slaveholder, tended to create dissatisfaction among the slaves, once it reached their ears. Hence the demands of the slave states meant nothing more or less than that all discussion of slavery in the free states should be prohibited. Was there a single slaveholder bold enough to claim that such a prohibition could be reconciled with the guaranty of the freedom of the press? There was no need of a knowledge of constitutional law to find the proper answer to this question; sound common sense is sufficient rightly to estimate its absurdity *ab initio*. Were it not that people were under the pressure of custom, sound common sense would have sufficed to discover further, that the contradiction and the absurdity lay in the constitution itself: slavery and the freedom of the press cannot exist side by side. But so long as the free states had not become slave states, that is, so long as any opposition between the two halves of the Union, with its roots in slavery, continued, the north could not surrender the freedom of the press in relation to slavery. Unconditionally as it might condemn the radicalism of the abolitionists, every resolve to bring the discussion on slavery to a close was, so long as it still saw that slavery was an evil, meaningless. A nation

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that, with full consciousness that it was suffering from a great evil, prohibited and punished any discussion of the means of contending with that evil, would be consciously and in principle decreeing away its own capacity to live. And there was question here, not of temporary exceptional measures made necessary by a transitory and exceptional condition of things.

The south had taken care to make all self-deception on this point impossible. Governor McDuffie, of South Carolina, had, as early as 1834, in a message to the legislature, called slavery "the corner stone of our republican edifice."[1] The *Charleston Courier* expressed its firm conviction, that slavery in the southern states would be perpetual;[2] and the *Columbia Telescope* agreed with it, with the beast-like emphasis of the "fire-eater" of the genuine stamp.[3]

[1] "Domestic slavery, therefore, instead of being a political evil, is the corner stone of our republican edifice. No patriot who justly estimates our privileges will tolerate the idea of emancipation, at any period, however remote, or on any condition of pecuniary advantages, however favorable. I would as soon open a negotiation for selling the liberty of the state at once, as for making any stipulations for the ultimate emancipation of our slaves." Referring to the abolitionists he says: "It is my deliberate opinion that the laws of every community should punish this species of interference by death, without the benefit of clergy, regarding the authors of it as enemies of the human race." Niles, LXI, p. 140. James G. Hammond, who was elected governor of the state in 1842, writes to Thomas Clarkson: "I indorse, without reserve, the sentiment of Governor McDuffie, that 'slavery is the very corner stone of our republican edifice,' while I repudiate as ridiculously absurd, that much lauded, but nowhere accredited motto of Mr. Jefferson, that 'all men are born free and equal.'" We may here call to mind the saying of Madison: "Where slavery exists, the republican theory becomes still more fallacious." June 19, 1787. Madis. Papers, p. 899.

[2] "As respects the institution of slavery, we firmly believe that it will be perpetual in the south; and, to say the least, are *certain* that ages must roll into the eternity of the past, before any scheme of general emancipation can be attempted, with the remotest probability of success." Niles, XLIX, p. 74.

[3] "Let us declare through the public journals of our country, that the

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The south, by this absence of moderation, became the best ally of the abolitionists. Niles complains: "These things, on the part of the south, have caused a great reaction in the north;" and the *Boston Courier* said that they had made more converts to abolitionism in three months than the abolitionists themselves had been able to win over in three years.[1]

question of slavery is not, and shall not be open to discussion — that the system is deep rooted among us, and must remain forever — that the very moment any private individual attempts to lecture us upon its evils and immorality, and the necessity of putting means in operation to secure us from them, in the same moment his tongue shall be cut out and cast upon the dunghill." Ibid., 65.

[1] "The "Boston Courier" published at this time a poem, the last verses of which I here give because they afford eloquent testimony, in a characteristic way, to the reaction which had begun:

"Is't not enough that this is borne?
And asks our haughty neighbor more?
Must fetters which his slaves have worn
Clank round the Yankee farmer's door?
Must *he* be told, beside his plow,
What he must speak, and *when* and *how?*

Must *he* be told his freedom stands
On slavery's dark foundations strong —
On breaking hearts and fettered hands,
On robbery and crime and wrong?
That all his fathers taught is vain —
That freedom's emblem is the chain?

Its life — its soul, from *slavery* drawn?
False — foul — profane! go teach us well
Of holy truth from falsehood born —
Of heaven refreshed by airs from hell!
Of virtue nursed by open vice —
Of demons planting paradise!

Rail on then, 'brethren of the south' —
Ye shall not hear the truth the less —
No seal is on the Yankee's mouth,
No fetter on the Yankee's press!
From our Green mountains to the sea,
One voice shall thunder — *we are free!*"

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Ten months after the mayor of Boston had succeeded with difficulty in saving Garrison from the mob, in a jail, it happened in Boston that two female refugee slaves were taken from the court house, placed in a carriage that was in waiting for them, and carried off from their hunters from Baltimore.[1]

The history of the succeeding period excludes the assumption that the south learned anything from this incipient reaction. It was to be ascribed neither to a return to comparative moderation nor to a greater consideration for the demands of prudence, that the rage against the abolitionists through the press and at popular meetings, gradually abated somewhat. The proximate cause of this was the recognition that the immediate object of the agitation could not be attained. The public became weary of listening to this loud-voiced declamation, as no practical result from it could be discovered; and when the public grew tired of it, the press and public speakers were compelled to endeavor to hold their attention in some other way. Asperity and alarm continued as great as before; only the mode of agitation was changed in part. The demonstrations of the audience in the *parterre* grew less frequent and noisy, but more life was put into the play on the stage, and the complication of the tragic plot continued.

Even before the establishment of the *Liberator* and the conspiracy of Turner, the slave states had began to protect themselves by a rampart of Draconian laws against everything in the shape of print which was calculated, as the conventional phrase had it, to excite dissatisfaction among the slaves, or to incite them to insurrection. In 1830 even, "when the evil was comparatively in its infancy," as Governor Swain expressed himself, a law of North Carolina declared the publishing or dissemination of such printed

[1] See Niles, L, p. 337.

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matter a felony, and made the first offense punishable by fine, whipping and the pillory, and the second with death.[1] In Maryland, a law of 1831 punished the same act with detention in the house of correction for not less than ten nor more than twenty years.[2] Georgia cast the evil doers into the house of correction; Louisiana hanged them; all the slave states threatened them with severe penalties.[3] And now all these safeguards threatened to become illusory. The pious wish that the abolitionists might come within "catching distance" remained unfulfilled; but the products of their press were carried whithersoever they wished by the United States mail. The rage which took possession of the south cannot be imagined, when, in the summer of 1835, the first great shipments were discovered. South Carolina, as usual, stood at the head of the ultras. The *Southern Patriot*, published in Charleston, declared, on the 29th of July: "If the general postoffice is not at liberty to act in this manner [to prevent the circulation of the papers], it is impossible to answer for the security of the mails in this portion of the country." The following night, the postoffice building of the city was broken into, a bag containing tracts and papers was taken out, and it was announced that its contents would be publicly burned the following day. The sheet just mentioned was of opinion that the act of violence was an overhasty one; that it would have been time "to take the law into their own hands when an unsatisfactory answer had come from the general postoffice. But we would suggest that whatever be done in that way, let it be performed in open daylight and on the highway, and that persons of responsibility and weight of character be deputed to act in the name and for the good of the whole of the citizens."[4] These suggestions were followed, inasmuch as a meeting of the

[1] Niles, XLIX, p. 228.
[2] Ibid., XLIX, p. 8.
[3] Ibid., LVIII, p. 230.
[4] Ibid., XLVIII, pp. 402, 403.

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people nominated a "committee of safety" of twenty-one members on the 4th of August. This committee put itself in communication with the postmaster of the city, who, in everything, readily acceded to its wishes. With the utmost harmony, it was established what "incendiary" publications were, and their delivery to the persons they were addressed to neglected. A second large popular meeting, on the 10th of August, brought the "patriotic" uprising to a provisional close. The resolutions passed there reached their climax in the usual flourish — a convention of the slave states and the eventual dissolution of the Union.[1]

The complacency of the postmaster of Charleston did not, however, confine itself to the above mentioned kindnesses. He wrote to his colleague in New York, and requested him to prohibit the transmission of the incendiary publications. The latter at first asked the anti-slavery society to suspend the sending of their publications until he had received instructions from the postmaster general. As he received an answer refusing this request, he announced that their publications would not be sent until further notice.[2]

On the 22d of August the postmaster general, Amos Kendall, answered the request for instructions in a long letter,[3] which calls for a more careful consideration. Kendall begins with the declaration: "That the postmaster general has no legal authority . . . to exclude from the mails any species of newspapers, magazines or pamphlets; such a power vested in the head of this department would be fearfully dangerous and has been properly withheld." But that he might not be misunderstood by him (S. L. Gouverneur), the abolitionists or the public, he desired to add: "If I were situated as you are, I would do as you have done." If

[1] Niles, XLVIII, pp. 446, 447.

[2] The correspondence is printed in Niles, XLVIII, pp. 447, 448.

[3] Ibid., XLIX, pp. 8, 9.

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postmasters knew that it was the object of the contents of a newspaper, or of any other publication, to promote the commission of a crime, it was "their duty to detain them." "As a measure of great public necessity, therefore, you and the other postmasters who have assumed the responsibility of stopping these inflammatory papers, will, I have no doubt, stand justified in that step before your country and all mankind."

This document finds its complement in a letter of Kendall to the postmaster of Charleston. It is there acknowledged that the authority to exclude printed matter from the mails, on account of its contents, would give the postoffice department "a power over the press." At the close we read: "By no act or direction of mine, official or private, would I be induced to aid, knowingly, in giving circulation to papers of this description, directly or indirectly. We owe an obligation to the laws, but a higher one to the communities in which we live; and if the former be perverted to destroy the latter, it is patriotism to disregard them."[1]

The postmaster general, a member of the cabinet, therefore, in an official document, declares it to be the patriotic duty of his subordinates grossly to violate, not only the statute law, but the constitution; for he lays stress on the fact that the mode of action which is made their patriotic duty is the exercise of "a power over the press," which the constitution had expressly withheld even from the legislative power. If there was question here only of Kendall, the matter would deserve consideration at most as a curiosity. But the president was back of the postmaster general, for if he had not shared the views of his minister, he would not have left him one hour in his position after such a monstrosity. Those letters of Kendall were, indeed, conceived and written in the real Jacksonian spirit. We recall Jackson's saying:

[1] Niles, XLVIII, p. 448.

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"Every public officer who takes an oath to support the constitution, swears to support it as he understands it, and not as others understand it." From this principle to the other, that every public officer was in duty bound to set himself above the constitution whenever "patriotism" required it, there was but one step. This principle and that of Governor Gayle cited above, that certain parts of the constitution were to be strictly construed and others not, give us the key to the spirit which governed the policy of the democratic party from its origin to very recent times. Its stubborn faith in the letter has always been only the external appearance with which it — for the most part, indeed, in good faith — deceived itself. From its nature, it always belonged to the *a priori* school. Only the eminently realistic character which circumstances in the United States impress with overpowering force on the life of individuals and of the entire people, has preserved it from the all-sided and unbridled growth of doctrinarianism to which its original French prototypes succumbed. The principal difference between that party and the purer school of Rousseau, is that the latter ascends logically from the individual to the "general will," while the former, for the most part, has lost sight of the speculative basis of the theory, and takes the moods of the masses for its starting point. Whatever is in harmony with these is correct and right. But the moods of the masses find their official expression in the commands of party. Within these narrow and yet infinitely elastic limits, the sovereign individual will has full force. The criterion to ascertain whether it has broken through them, is again furnished by the moods of the masses. And finally, absolution, not only before the world but also of oneself, for the sin of, at the same time disregarding positive law, which is sometimes unavoidable, is found in the good intention which comes clothed in the drapery of true and enlightened patri-

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otism. This explains the charm which the democratic party has always exercised over the lower strata of the masses.

Kendall's letter to postmaster Gouverneur, however, threw light on the question from another side. Immediately after the emphatic declaration, that no legal right existed to exclude the abolitionist publications from the mails, follows the equally emphatic expression of the doubt, whether the abolitionists had a legal right to require that their publications should be transmitted to the slave states through the mails. This question is apparently answered by the first declaration. Such, however, is not the case. Heretical as the opinion may seem even to-day to most Americans, there can be no doubt that Kendall's argument on this point was to the purpose.

The postmaster general starts out with the incontestable principle, that so far as the federal constitution entered into the question, the several states had the right to prohibit the dissemination within their limits of publications which appeared dangerous to them. Every one of the slave states had made such a prohibition in relation to all publications which bore a character inimical to slavery. "Now have these people," Kendall asks, "a legal right to do by the mail carriers and postmasters of the United States acts which, if done by themselves or their agents, would lawfully subject them to the punishment due to felons of the deepest dye? Are the officers of the United States compelled by the constitution and laws to become the instruments and accomplices of those who design to baffle and make nugatory the constitutional laws of the states? . . . It might be plausibly alleged that no law of the United States can protect from punishment any man, whether a public officer or citizen, in the commission of an act which the state, acting within the undoubted sphere of her reserved rights, has declared to be a crime." That from this, the authority of the

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general government, to say nothing of the several federal officers, to violate the freedom of the press guaranteed by the constitution cannot be inferred, is as self-evident as that the exclusion of whole classes of publications from the mails, because of the opinions expressed in them on certain institutions and on the condition of things in certain parts of the country, would have been a gross violation of the freedom of the press. But this does not do away with those objections of Kendall. Neither in congress nor elsewhere have they been validly refuted. That, contrary to the persistent assertions of the south, the abolitionists did not send their publications to slaves, and that the desire to incite an insurrection of slaves was as far from them as from the slaveholders themselves, changes the case in nothing.[1] The state

[1] The Anti-Slavery Society of Massachusetts issued an address "to the public" on the 17th of August, in which we read: "It is intimated that we are guilty of circulating incendiary publications among the southern slaves. We utterly and indignantly deny this calumny, and we call for the proof. We have no design and no means to address the slaves. Nothing can be further from our wishes than to excite the slave population. We should consider any action of this kind as far worse than useless — as highly dangerous, and as little less criminal than murder. Why should we seek to promote insurrection? What should we not lose by it? As merchants and mechanics, as citizens and parents, as patriots and Christians, we have as much to risk as others in this community; and we know that such an event would be the greatest calamity to the slaves, and to the cause of freedom. No anti-slavery society, and no person connected with any anti-slavery society, is believed to have ever circulated among the slaves any circulation whatever, as is so often hinted, but never yet, we believe, distinctly charged, by the opposers of our cause. We solemnly pledge ourselves, that if it can be shown that any person connected with our cause has ever circulated inflammatory tracts among the slaves, or with a view to be read by them, we will publicly renounce him as a foe to the peace of society, and to the best interests of the oppressed.

"We refer our fellow citizens to any and all of our publications, peremptorily denying that there can be found in them a sentence from which could be inferred other counsel to the slaves than this, 'to suffer injury and still be kind' — 'not to avenge themselves, but give place unto wrath.'

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laws which interdicted their publications, and branded the dissemination of them as a great crime, were not in conflict with the federal constitution. The general government which, on the one hand, was compelled by the constitution to transmit the abolitionist publications through the mails like all other publications, was, on the other hand, guilty of a violation of the constitutional criminal laws of those states by so transmitting them. Here, again, it was true that slavery and the freedom of the press could not exist side by side. But the conflict here went deeper. If — as the constitution provided — the postoffice was to be a matter of national concern, and to lie within the exclusive domain of the general government, the guaranteeing of the freedom of the press in respect to the general government could not be harmonized with the total absence of protection of the press in respect to the several states, so far as the federal constitution was concerned. If, in this conflict, freedom won the victory, and it is not to be feared, after the abolition of slavery, that any conflict on this question will ever arise again, it is due to a mere matter of fact that this final decision has been reached. The freedom of the press has become part of the flesh and blood of the American people to such an extent, and is so conditioned by the democratic character of their political and social life, that a successful attack on it, no matter what legal authority it might have on its side, is impossible. Even the gigantic power of the slavocracy gave the battle up as hopeless after the first onslaught.

The president's message of the 2d of December, 1835,

"We have never advocated the right of physical resistance on the part of the oppressed. We assure our assailants, that we would not sacrifice the life of a single slaveholder to emancipate every slave in the United States." Niles, XLVIII, p. 457. See also the letter of the New York Anti-Slavery Society of the 26th of December, 1835, to President Jackson. Jay, Misc. Writ., pp. 364–369.

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brought the question in an official manner before congress.[1] Jackson, after his own fashion, took the thing easily. The "representative of the American people" does not need to examine either the state of the fact or the constitutional law. The agitation of the wicked abolitionists was, indeed, a frightful poison, but out of the constitutional magic kitchen of the infallible one came the antidote ready to be administered. Attempts had been made to disseminate "inflammatory appeals addressed to the passions of the slaves" through the mails. That was not only "unconstitutional," "but repugnant to the principles of our national compact and to the dictates of humanity and religion." If the "expression of the public will" should not suffice to put an end to these atrocities, "not a doubt" could be entertained that the free states would employ all other suitable means to prevent the slightest interference with the "constitutional rights of the south." But it was, above all things, the duty of the general government to preserve "inviolate the relations created among the states by the constitution." Hence, the president proposed that a law should be passed prohibiting, "under severe penalties, the circulation in the southern states, through the mail, of incendiary publications intended to instigate slaves to insurrection."

On Calhoun's motion, the senate referred this part of the message to a special committee of five members,[2] four of whom were chosen from the south. Spite of this, the report which accompanied the bill introduced on the 4th of February, 1836, had a very small claim to be called the report of a committee. Not only Davis, of Massachusetts, but King, of Georgia, and Linn, of Missouri, declared that they could agree to only a part of it.[3] Only the minority — Calhoun and

[1] Statesm.'s Man., II, pp. 1018, 1019.
[2] Dec. 21, 1835. Deb. of Congr., XII, p. 704.
[3] Thirty Years' View, I, p. 531.

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Mangum, of North Carolina — unreservedly acquiesced in it. Strictly speaking, there was no report whatever, for, in the United States — contrary, indeed, to the usual mode of speech — it has, to say the least, always been a question of debate, whether the minority of a committee could make a report. (?).

Moreover, the bill was so far from having the undivided acquiescence of the senators of the southern states that its rejection was from the first considered certain. Its opponents were controlled partly by constitutional considerations and partly by doubt as to its expediency. The latter should have been reasonably sufficient for all. The import of the bill was, that no postmaster should "knowingly" transmit any "paper"[1] which treated of slavery in a way in conflict with the laws of the state in question, to the slave states, or deliver any such paper to the person in the slave states it was addressed to. Any person disobeying its provisions was to be punished by fine and imprisonment. If, as Calhoun asserted in answer to an objection by Webster, the word "knowingly" was honestly intended, the law could not but remain a nonentity; for how often could it be shown that the postmaster knew the contents of the prohibited publication. If the intended effect were to be attained, postmasters would have had to inform themselves of the contents of the mails. Thus every postmaster would have to constitute himself a *cabinet noir*, and his instructions to be the law of the state in which his postoffice lay. This would have led to strange things. The "crime" for which Williams, of New York, was to be surrendered to Alabama, consisted in the following sentences of the *Emancipator:* "God commands, and all nature cries out, that man should not be held as property. The system of making men property has plunged two million two hun-

[1] The bill, after enumerating specially, newspapers, pamphlets, pictures, etc., adds "or any other paper." Deb. of Congr., XII, p. 754.

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dred and fifty thousand of our fellow countrymen into the deepest physical and moral degradation, and they are every moment sinking deeper." This certainly was no worse than the "self-evident" truth of the Declaration of Independence, that all men are born free and equal. It might, however, have very easily happened that the Declaration of Independence or the constitution of Massachusetts, which had adopted that principle, should have been treated as "incendiary publications, intended to instigate the slaves to insurrection." A few years later, one Chauncey B. Black, an agent of the Bible Society in New Orleans, was cited before the court because he had asked some slaves whether they would like to have a Bible. Only on the assurance of the Bible Society that he had acted in opposition to their views, and on proof that he had not understood his instructions, was he discharged after receiving a warning to do so no more.[1] Timorous or very zealous postmasters might, therefore, very easily have placed the Bible, as a fire-brand, on the index. A great part of the speeches delivered in congress should, plainly enough, never have passed the limits of a slave state. The press of the southern states preached every day the murder and manslaughter of the abolitionists. What monstrosities might not postmasters, in the carrying out of such a law, have committed unpunished, provided only they protected themselves with the plea of their zeal for the slavery interest? Even now a southern postmaster dared to write to an acquaintance in Boston: "Yesterday, while examining the mail in search of 'incendiaries,' I discovered a letter written on a beautiful sheet of pink paper. I broke it open and, lo and behold, it was a love letter from our old friend Miss —— to young ——, of this village. It would make

[1] "New Orleans Picayune," August 16, 1841, cited in Jay, Letter to Bishop Ives. Misc. Writ., p. 475.

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you laugh to read it."[1] "Shade of Washington!" exclaimed the *Boston Atlas*, "where are our liberties?"

Calhoun's bill was, indeed, rejected, but it received nineteen against twenty-five votes.[2] Of the nineteen who voted aye, there were four from the free states.[3] It was time to conjure up the shade of Washington when such a bill could receive the vote of nearly four-ninths of the senators. But one of the signs of the times, much more significant than the bill itself, was the constitutional vindication of it by its originator.

A law such as the president had proposed, Calhoun declared to be indubitably unconstitutional, as it would obviously violate the freedom of the press.[4] Such a law would give the government greater power over the press than it had formerly assumed in the repudiated sedition laws,[5] which were universally held to be unconstitutional. Moreover, such a law would not avert the danger which threatened the southern states, but rather increase it. If it was for congress to decide what publications were incendiary, it would have had to decide, also, what publications were not incendiary; but if this were so, slavery was delivered over to the mercy of congress.[6] Fortunately such a right did not belong to congress. The care for their internal peace and security

[1] Niles, XLVIII, p. 451.

[2] Deb. of Congr., XII, p. 771.

[3] Buchanan of Pennsylvania, Robinson of Illinois, Tallmadge and S. Wright of New York.

[4] Calhoun's Works, V, pp. 191, 192.

[5] Calhoun's Works, II, p. 514.

[6] "Nothing is more clear than that the admission of the right, on the part of congress, to determine what papers are incendiary, and, as such, to prohibit their circulation through the mail, necessarily involves the right to determine what are not incendiary, and to enforce their circulation. Nor is it less certain that, to admit such a right, would be virtually to clothe congress with the power to abolish slavery, by giving it the means of breaking down all the barriers which the slaveholding states have erected for the protection of their lives and property." Ibid., V, pp. 196, 197.

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devolved on the states, and they alone had to decide what might endanger that peace and security.[1] The general government had only to respect the measures taken by the states to insure their internal peace and security, to support the carrying out of the same, so far as the powers delegated to it in the constitution permitted, and to the extent that it became necessary to modify its laws in that behalf.[2] The essential difference between a law such as the president's message proposed and the bill introduced by the committee, consisted in this: that in the former case congress would exclude certain products of the press from the mails as dangerous to the peace of the slave states; in the latter, it would not presume to take that unconstitutional initiative, but, in accordance with its constitutional duty, command certain federal officers, under pain of punishment, to govern themselves in their official action entirely by the proper state laws.

[1] "The internal peace and security of the states are under the protection of the states themselves, to the entire exclusion of all authority and control on the part of congress. It belongs to them, and not to congress, to determine what is, or is not, calculated to disturb their peace and security." l. c.

[2] "If the right to protect her internal peace and security belongs to a state, the general government is bound to respect the measures adopted by her for that purpose, and to coöperate in their execution, as far as its delegated powers may admit, or the measure may require. Thus, in the present case, the slaveholding states having the unquestionable right to pass all such laws as may be necessary to maintain the existing relation between master and slave in those states; their right, of course, to prohibit the circulation of any publication or any intercourse calculated to disturb or destroy that relation, is incontrovertible. In the execution of the measures which may be adopted by the states for this purpose, the powers of congress over the mail, and of regulating commerce with foreign nations and between the states, may require coöperation on the part of the general government; and it is bound, in conformity with the principle established, to respect the laws of the state in their exercise, and so to modify its acts as not only not to violate those of the states, but, as far as practicable, to coöperate in their execution." Ibid., III, p. 199.

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Clay inquired where congress had obtained power to pass a law to put the laws of the states into execution. Congress had only the powers which were granted it by the constitution; but the bestowal of such a right he was not able to discover in it.[1] Davis of Massachusetts expressed the same truth still more pointedly. "If," he said, "congress, by its acts, so far adopts the law of a state as to make it a rule of conduct for public officers, requiring them, under penalties, to obey it, is not such a law in fact a law of congress by adoption? Is it not in truth a part of our legislation in the regulation of the postoffice as much as if it had emanated directly from congress?" The law proposed by the president and the law introduced by the committee were the same, not only as to their end, but also as to their means. If, as Calhoun claimed, the law proposed by Jackson was unconstitutional, the law demanded by himself could not be constitutional.[2]

This argument is irrefutable unless the constitutional law of the Union is to be debased to a play upon words, in order to make it possible, by long-winded reasoning, to establish any desired sophism, and therefore to set up any desired claim. Without prejudice to this, however, it was of the greatest significance that Calhoun, even if he arrived at the same goal as Jackson, had chosen a starting point diametrically opposite to his. It is this, his fundamental principle, which makes the debates on the "incendiary publications" a new boundary mark in the development of the states-rights theory. Calhoun went with it a great distance beyond the position which he had assumed on the tariff question. Then the premise of this main point was that the state and Federal governments, or the states and the Union, were, according to Jefferson's expression, "coördinate departments of a simple

[1] Thirty Years' View, I, p. 587. [2] Deb. of Congr., XII, p. 753.

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and undivided whole."[1] Finally he had, with the Kentucky resolutions of November 10, 1798, inferred that, as in all cases of a treaty between powers who have no common judge, each party has a right to decide for himself in what concerns violations of the treaty, as well as the manner and the measure of the remedy. And finally, with the Kentucky resolutions of the 14th of November, 1799, he had found the right means of redress in "nullification." Only in the second place, and in evident contradiction with the "party" relation which he had alleged before, was the former made to assume the position of an "agent" of the latter. Now, on the contrary, the government of the Union seems debased to the playing of this part whenever it pleased the states to so debase it for the purpose of enforcing their (the states') reserved "rights." Not a word about the "equal right" to examine and to judge; the general government has nothing to do but to receive and execute the orders of the states. There were at the time twenty-four states, and their number was continually increasing. No matter how contradictory the laws of all these "sovereignties" might be, nor how outrageous they perhaps were, in part, the general government was not to reason about them, but execute them all with equal fidelity. But let us confine ourselves to the case in hand. If Calhoun's general principles were right, the states were certainly entitled to ask that postmasters should, before delivering the mails, inform themselves minutely as to their contents. As a consequence, it might be a thing of a daily occurrence, that the Federal government should be compelled to disgrace a postmaster in Massachusetts by dismissal, if he did that which a postmaster in Alabama refused to do, and for failing to do which the latter might be equally disgraced and injured by dismissal. But this was not enough. Calhoun readily granted that the laws of the states, in the execution

[1] See Vol. I, p. 469.

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of which the Federal government could be constitutionally made to coöperate, might be in conflict with laws of the Union which lay entirely within the sphere of action of the general government. The question, whether, in such a case, the state law should yield to the federal law, or the federal law to the state law, had to be decided in accordance with the simple principle recognized the world over, that that which is only expedient should be postponed to that which is necessary. Here not only reason, but the constitution itself, demanded that the decision should be in favor of the states,[1] for postoffice regulations which endangered the safety of the states, could not, evidently, be looked upon as suitable or proper laws; and congress was authorized to pass no other. With whom the solution of the problem rested, on which side the higher interest was at stake, is a question which Calhoun avoided raising. But his answer to it is given with undoubted certainty from his whole attitude. The final conclusion from his principle was, therefore, that the government of the Union was subordinate to the states

[1] "The low must yield to the high; the convenient to the necessary; mere accommodation to safety and security. This is the universal principle which governs in all analogous cases, both in our social and political relations. Wherever the means of enjoying or securing rights come into conflict (rights themselves never can), this universal and fundamental principle is the one which, by the consent of mankind, governs in all such cases. Apply it to the case under consideration, and need I ask which ought to yield? Will any rational being say that the laws of eleven states of the Union, which are necessary to their peace, security and very existence, ought to yield to the laws of the general government regulating the postoffice, which at the best is a mere accommodation and convenience — and this when the government was formed by the states mainly with a view to secure more perfectly their peace and safety? But one answer can be given. All must feel that it would be improper for the laws of the states, in such case, to yield to those of the general government, and, of course, that the latter ought to yield to the former. When I say ought, I do not mean on the principle of concession. I take higher grounds; I mean under the obligation of the constitution itself." Calh.'s Works, II, p. 527.

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in everything in which it might occur to the latter to claim any superiority. It must be conceded that he was not very clear in his own mind on this matter. It could certainly not be a matter of no consequence to him to see thus clearly in what glaring contradiction his doctrine stood with the actual condition of things and their development since the adoption of the constitution. Hence, he did not carry his general argument any farther than was indispensably necessary to the defense of the practical interest which he represented. To any one who, with Benton, sees in Calhoun the demagogue, devouring himself with suppressed rage because his wild ambition remained unsatisfied, systematically and consciously laboring for the dissolution of the Union, not only this remarkable man himself, but the whole "irrepressible conflict," with its all-embracing and all-permeating entanglement of irreconcilable contraries, remains a closed book with seven seals. Calhoun clung truly and warmly to the Union. And even now nothing was farther from him than the desire to weaken it, to say nothing of shaking its very foundations. He was deeply impressed with the blessings which not only the people in the aggregate, but all the separate states as such, owed to the firm and powerful Union. He would have cheerfully, and with all the power of conviction, defended it, provided only slavery was made secure. Beyond this he did not go one inch; but he went as far as this, with a fanatical regardlessness of consequences. But it was the curse of his life that, through every stage of the struggle, and even to his death, he can claim the sad reputation of having perceived infinitely more clearly than any one else to what distance this "thus far" would necessarily go.

Benton called the alleged danger to slavery a false fear, and from many a southern mouth Calhoun was compelled to hear himself severely censured because he imprudently and in the heat of passion had announced to the north that

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the south would not be satisfied until it was unreservedly made the constitutional duty of the general government to play the part of bailiff to the slaveholding interest. How much more pointed and bitter would not these denunciations have been, if it had been known that Calhoun's wonderful instinctive understanding of the essential nature of slavery had forced him already far beyond this "extreme" standpoint. Both in the report and in his speech of the 12th of April, 1836, we find a remarkable tone, which was entirely foreign to him in the nullification controversy. To all appearances, the interpretation of the constitution continues to make up the burthen of his argument; but, in reality, he begins to transfer his footing from the unsafe ground of the more than ambiguous letter to the sure basis of facts. He cannot and will not drop the constitution, for it is the political gospel on which all have sworn in good faith, and he knows how to find in it whatever he needs. But the strong, hard-twisted thread which gives form and support to the wonderful filigrane work of his constitutional deductions is the clear sober thought: such are the facts, and the question will be, must be decided in accordance with the facts.

With extreme emphasis his weighty voice also declares that the abolition of slavery in the future is forever impossible. He here bases himself on the broad ground of the diversity of race between masters and slaves. This diversity of race excludes their political and social equality; and without this equality, at most, the form of slavery would be changed.[1]

[1] "To destroy the existing relations would be to destroy this prosperity [of the southern states], and to place the two races in a state of conflict, which must end in the expulsion or extirpation of one or the other. No other can be substituted compatible with their peace or security. The difficulty is in the diversity of the races. So strongly drawn is the line between the two in consequence, and so strengthened by the force of habit and education, that it is impossible for them to exist together in the same community, where their numbers are so nearly equal as in the slaveholding

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Hence, the destruction of the existing relation between the two races, "can only be effected by convulsions that would devastate the country, burst asunder the bonds of the Union, and engulf in a sea of blood the institutions of the country. It is madness to suppose that the slaveholding states would quietly submit to be sacrificed. Every consideration — interest, duty and humanity — the love of country, the sense of wrong, hatred of oppressors and treacherous and faithless confederates — and finally despair, would impel them to the most daring and desperate resistance in defence of property, family, country, liberty and existence."[1] People listened with impatient anger or with sympathetic smiles to these "wild exaggerations of a fanatic." Thirty years later they were prophecies, every letter of which had found its frightful fulfillment.

The fact that the south necessarily saw that the unaltered and permanent continuance of slavery was a question of life or death, in the fullest sense of the word,[2] was in Calhoun's eyes the decisive element, compared with which all else was empty sound. "I must tell the senate, be your decision what it may, the south will never abandon the principles of this bill. If you refuse coöperation with our laws, and conflict should ensue between yours and ours, the southern states will never

states, under any other relation than that which now exists. Social and political equality between them is impossible. No power on earth can overcome the difficulty. The causes lie too deep in the principles of our nature to be surmounted. But, without such equality, to change the present condition of the African race, were it possible, would be but to change the form of slavery." Calh.'s Works, V, pp. 204, 205. I have never heard the republicans appeal to this authoritative saying of Calhoun, in the later contests as to the placing of the emancipated on an equal civil and political footing with white citizens. Calh.'s Works, V, pp. 205, 206.

[1] Calh.'s Works, V, pp. 205, 206.

[2] In a speech on the 9th of March, 1836, on the petitions of the abolitionists, he had remarked: "There would be to us but one alternative — to triumph or perish as a people." Ibid., II, p. 489.

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yield to the superiority of yours. . . . Let it be fixed, let it be riveted in every southern mind that the laws of the slaveholding states for the protection of their domestic institutions are paramount to the laws of the general government in regulations of commerce and the mail; that the latter must yield to the former in the event of conflict." [1]

Calhoun obtained no direct result. The attempt indirectly to limit the freedom of the press by postoffice regulations was completely frustrated. In the same year, both houses of congress passed a bill prohibiting postmasters, under severe penalty, "unlawfully" to detain in their offices "any letter, package, pamphlet or newspaper with intent to prevent the arrival and delivery of the same." The slaveholding interest certainly reaped no benefit from this provision; but undoubted as its "constitutional rights" were considered by the president seven months before, he approved this bill.[2]

As an offset to these defeats, the south had two victories during the same year to record. The territory of Michigan had a long time importuned congress in vain to authorize it to organize as a state.[3] Tired of long waiting, it now proceeded to do so on its own account, and sought admission into the Union. As the same request was made by Arkansas at the same time, one of the weightiest objections against the admission of Michigan was removed: account could now be taken of the "slight jealousy" — as Benton more

[1] Ibid., II, p. 533.

[2] Law of July 2, 1836, sec. 32, Stat. at L., V, p. 87.

[3] Buchanan reminded the senate: "For three years they have been rapping at your door, and asking for the consent of congress to form a constitution, and for admission into the Union; but their petitions have not been heeded, and have been treated with neglect. Not being able to be admitted in the way they sought, they have been forced to take their own course, and stand upon their rights — rights secured to them by the constitution and a solemn irrepealable ordinance" (of 1787). Thirty Years' View, I, p. 629.

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than ingenuously expresses himself — which would not permit the equilibrium between the north and the south to be disturbed. The action of Michigan was thoroughly irregular,[1] but as the same objection had to be raised to that of Arkansas, the matter was quickly and easily disposed of in the senate.[2] On the 2d of April, 1836, the Michigan bill was passed by twenty-four against eighteen votes, and the Arkansas bill by thirty-one against six votes on the 4th of April.[3]

Things did not move as smoothly in the house of representatives. As the Michigan bill was the first to come from the senate, according to the usual course of business it should have been the first to be discussed. But Wise, of Virginia, moved to give the Arkansas bill the precedence.[4] This mo-

[1] These irregularities gave occasion, the following year, to a long and violent constitutional controversy in the senate. In treating of the struggle over the admission of California into the Union, notice will have to be taken of those interesting debates.

[2] Benton noticed this opportunity to place Calhoun's demagogical phantom in the clear light of his understanding: "It is worthy of notice, that, on the presentation of these two great questions for the admission of two states, the people of those states were so slightly affected by the exertions that had been made to disturb and ulcerate the public mind on the subject of slavery, as to put them in the hands of senators who might be supposed to entertain opinions on that subject different from those held by the states whose interests they were charged with. Thus, the people of Arkansas had put their application into the hands of a gentleman [Buchanan] representing a non-slaveholding state; and the people of Michigan had put their application into the hands of a senator [Benton himself] coming from a state where the institutions of slavery existed; affording a most beautiful illustration of the total impotence of all attempts to agitate and ulcerate the public mind on the worn-out subject of slavery. He would further take occasion to say, that the abolition question seemed to have died out." Thirty Years' View, I, p. 629.

[3] Deb. of Congr., XII, p. 752. Among the six senators who voted against the Arkansas bill were Porter of Lousiana, and Henry Clay. Hence the opposition was, in part, not determined by the slavery question.

[4] Deb. of Congr., XIII, p. 29.

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tion provoked a lively debate. No one doubted what Wise's object was. Several of his southern colleagues, however, were of opinion that this object might be attained without departing from the rules. As the bills had to pass through different stages, they might begin with the Michigan bill, since the final vote could be prevented until "some unequivocal guaranty were given the south that no difficulty would be raised as to the reception of Arkansas in regard to slavery."[1] Others, on the contrary, insisted that Arkansas should come first, because the south had to be secured by a pledge.[2] Lewis, of North Carolina, had the ingenuousness to "pledge" himself that the south would "offer no objections to the domestic institutions of Michigan in regard to slavery." He might, in his simplicity, believe that there were many who would accept such a pledge with gratitude, because Wise had declared that the south would carry slavery into the heart of the north, if the latter should withdraw from the Missouri compromise. Caleb Cushing, of Massachusetts, who later learned only too well how to allay the apprehensions of the slaveholders, wasted a great deal of pathos in repelling this absurd threat. These were, on both sides, cheap rhetorical flourishes, since the wish to overthrow the Missouri compromise did not even remotely enter the minds of the representatives of the northern states. John Quincy Adams was then the most decided opponent of slavery in the house, and he expressly declared that, in his opinion, not only the compromise of 1820, but also the Louisiana treaty, forbade all opposition to the admission of Arkansas as a slave state.[3] The opposition, so far as it was

[1] Bouldin of Virginia. Thirty Years' View, I, p. 632.

[2] "We of the south want a hostage, to protect us on a delicate question; and the effect of giving precedence to the Michigan bill, is to deprive of us of that hostage." Lewis of North Carolina, l. c.

[3] It is true that Adams even then, as he now remarked, had represented

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at all based on the slavery question, confined itself entirely to the provision of the constitution proposed by Arkansas: "The general assembly shall have no power to pass laws for the emancipation of slaves without the consent of the owners." Adams moved an amendment to the bill of admission, which recited that nothing contained in that bill should be construed as an acquiescence by congress to the provisions of the Arkansas constitution in relation to slavery. This reservation, however, was to have no legal force whatever, nor to impose any restriction on the state in regard to slavery. It was intended only to guard against the charge that these provisions enjoyed the approval of congress.[1] This was certainly not asking too much, and yet the amendment received only thirty-two votes,[2] while the vote on the bill itself stood fifty nays against one hundred and forty-three ayes. Here, therefore, it was plain that a large part of the opposition was determined by considerations which had no connection whatever with slavery. A single glance at the

the view that congress was not authorized to make the admission of Missouri, as a state, dependent on the abolition of slavery. Deb. of Congr., XIII, p. 33.

[1] "I propose no restriction upon her . . . but I am unwilling that congress, in accepting her constitution, should even lie under the imputation of assenting to an article in the constitution of a state which withholds from its legislature the power of giving freedom to the slave. . . . There is not in my amendment the shadow of restriction upon the state. It leaves the state, like all the rest, to regulate the subject of slavery within herself to her own laws." Deb. of Congr., XIII, pp. 33, 35. According to this, Kapp is inaccurate when he says: "Adams objected in the house that congress could not and should not give its approval to a constitution which took from the legislature the right to set the slaves free sometime, and that he therefore moved the rejection of this passage in the constitution of Arkansas." (Gesch. der Sklaverei, pp. 228, 229.) In my opinion, it would be difficult to prove that that provision was entirely "unconstitutional." Certain it is, that Adams did not so consider it.

[2] Deb. of Congr., XIII, p. 30.

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list of names suffices to prove this, for here we meet with several southern extremists in company with Adams. The slavery question, indeed, was, in the whole debate, a very subordinate element. People were concerned with the question of incomparably greater weight to the politicians: whether Michigan and Arkansas should be admitted now or only after the presidential election. The struggle of the opposition was hot and stubborn, because it was certain that both states would vote for the regular democratic candidate.

The refusal of the north to make any attempt to use the Arkansas question as an attack upon the Missouri compromise, was placed in a clear light for the first time by the fact that the north had just tendered its assistance to the south most grossly to violate the "eternal stipulations" of that compromise, in the interest of the latter.

The northwestern boundary of the state of Missouri was not then, as it is to-day, formed by the river of that name, but it proceeded from the mouth of the Kansas along the meridian of the southwest boundary, and then turned easterly along the parallel of the Des Moines river.[1] Missouri was very desirous to obtain the tract of land between its northwestern boundary and the river. This territory was, by approximate estimation, about as large as Rhode Island, exceedingly fertile, and gave the state control over another large part of the great river which ran through it already from the entrance of the Kansas to its union with the Mississippi. It must have seemed scarcely imaginable that this desire would ever be realized. The tract of country to be acquired constituted a part of the territory ceded to the United States by the treaty of Prairie du Chien, in 1830, on condition that the president should allot it to the ceding or other tribes "for hunting and other purposes."[1] The

[1] Stat. at L., III, p. 545.
[2] Indian Treaties, Stat. at L., VII, pp. 328, 329.

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Sacs and Foxes, who had their seat there, had, therefore, to be frightened away again, and new reservations to be found for them in order to help one of the larger states to a very considerable further extension of its territory, at the expense of the Union. But this was, however, the least difficulty. The most material obstacle lay in the Missouri compromise, for the entire tract was situated north of 36° 30′, from which the solemn compact between the north and the south had excluded slavery forever. But it is self-evident that Missouri would not and could not make the acquisition on this condition. The territory secured to liberty for all time had, therefore, to be transformed into slave territory, if not directly, indirectly, by means of an act of congress.[1] Spite of this, Benton and Linn, the two senators from Missouri, set sedulously to work and accomplished their task as easily as if they had to do with the merest bagatelle. They skilfully used the one difficulty to pave the way for the overcoming of the other. The bill introduced by them was only a few lines long, and wore a very innocent appearance. "When," it ran, "the Indian title to all the lands between the state of Missouri and the Missouri river shall be extinguished, the jurisdiction over said lands shall be hereby ceded to the state of Missouri." There was not a word about the Missouri compromise and slavery. That dust could not be thrown in the eyes of congress in this manner is self-evident. It might, however, be hoped that the masses of the people would think no more about what lay behind this harmless boundary regulation. And congress neglected to cause the alarm to be sounded throughout the country. The matter was disposed of quietly and quickly. The bill was approved by

[1] The south had claimed frequently enough that the government of the Union had not power to do indirectly what it was not authorized to do directly. But if there was anything certain in constitutional law, it was that the government of the Union did not have the right to call slavery

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the president on the 7th of June, 1836.[1] The requisite contract with the Sacs and Foxes was closed on the 27th of September, and on the 15th of February, 1837, the proclamation of the treaty was made.[2] The legislative coach of the United States moved at a very rapid rate when the slavery interest held the whip.

"Slavery," Adams had said in the debates on the Arkansas question, "takes advantage of that kind, friendly and compassionate feeling of northern freemen for their brethren and fellow citizens" (awakened by the abolitionist question), to deal deadly blows at freedom.[3] Benton confirms with his weighty testimony the fact that this feeling of the north explains the facility with which the extension of Missouri was effected. He loudly extols the "generous" and "magnanimous" assistance which he received from the northern members.[4] And he had good reason to do so. They constituted a majority in the house of representatives; and in the senate, where a two-thirds majority was required to confirm the contract with the Sacs and Foxes, they were one-half. But was the freedom from all suspicion of sympathy for the abolitionists purchased too dearly by this act of complacency? We have seen in the debate on the Arkansas bill and the Michigan bill, how little disposed the south was to pay this hoped for price for the act of complacency. We shall yet see how the land bartered away for a song became the citadel of slavery in Missouri, from which the torch of

into being in any part of the territory of the Union — leaving the District of Columbia out of consideration — by means of a legislative act. This and all other constitutional maxims were of course forgotten the moment their points were turned against the slave-holding interest.

[1] Stat. at L., V, p. 34.

[2] Indian Treaties, Stat. at L., VII, p. 516.

[3] Deb. of Congr., XIII, p. 34.

[4] Thirty Years' View, I, pp. 626, 627.

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civil war was carried into Kansas. But above all, it will yet be shown how frightfully this unresisted sacrifice of principle avenged itself on the north. If the north now did not even risk a parliamentary battle to maintain the free side of the Missouri compromise for those rich lands on the Missouri, what reason was there why the south should not some day tear the whole document into fragments, and venture the experiment whether it were not possible to verify Wise's threat of carrying slavery into the heart of the north?

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CHAPTER III.

VAN BUREN'S ADMINISTRATION.

I. His Political Career — The Crisis of 1837 and the Independent Treasury.

The proclamation of the treaty with the Sacs and Foxes, which perfected the breaking through of the Missouri line, was one of Jackson's last governmental acts. *Le roi est mort; vive le roi!* So they cry in the United States, as well as in the monarchies of the old world. The first officer of the republic is wont to become a victim, to a greater or lesser extent, of political paralysis, for some time previous to his official death. The months intervening between the election of a new president and his inauguration to office, constitute, as a rule, a species of interregnum. All eyes are turned from the setting to the rising constellation. The constitution has so amalgamated the executive and the legislative branches of the government, in their functions, that it would be generally considered repugnant, both to sound policy and decorum, for either to go beyond the limits of mere routine business, without very cogent reason, during this time of transition. If a party of opposition has come forth from the battle victorious, any important political action taken by the party still in power is denounced as a violation of the principle of democracy. Positive law, and the real or assumed genius of the institutions of the country, come in conflict with each other. As the victors look upon it, the defeated endeavor to regain a part of the prize lost in the open campaign by dishonorable *coups de main*. Parties learn to look upon one another, not as opponents, but as

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enemies, who owe one another no regard. If there has been only a change of persons, the interest of the party has usually nothing to apprehend from the short delay. It is considered a reasonable wish of the president-elect to enter on the office not less free — within the limits of the constitution and of the party's programme — in what relates to the warp and woof of his policy, than was his predecessor.

If we can attach absolute faith to the assurances of Jackson's successor, he had never been guilty of entertaining this wish, which, in his particular case, would have been an unwarranted assumption. In his inaugural address, Van Buren referred to the fact that he was the first president who had had no part in the transfiguration-splendor of the revolutionary period.[1] But if, indeed, criticism approached him from the first with a different disposition, the fact was to be ascribed to this purely external cause, only to a very small extent. Not only as to time did he stand the representative of a new generation. The era of statesmen had come to a close with John Quincy Adams. The politicians, who, in Jackson's election, had won their first victory, were able, only eight years later, to raise a man from their own ranks to the presidential chair — Van Buren, the first politician-president. Jackson was no statesman, but he was a character. If the era of the politicians dates from his administration, it is not due to the fact that he was a politician himself, but to the fact that his character made him as pliable as wax in the hands of the politicians. His "reign" receives the stamp which characterizes it, precisely from the fact that the poli-

[1] "Unlike all who have preceded me, the revolution that gave us existence as one people was achieved at the period of my birth; and while I contemplate with grateful reverence that memorable event, I feel that I belong to a later age, and that I may not expect my countrymen to weigh my actions with the same kind and partial hand." Statesm.'s Man., II, p. 1153.

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ticians knew how to make his character, with its texture of brass, the battering ram with which to break down the last ramparts which opposed their rule. Van Buren's election was the last and strongest manifestation of this peculiar double nature of Jackson's administration. There was only too good a foundation for the complaint of his opponents, that he had named his successor.[1] But the watchword which, with stentorian voice, he gave his party, was now, as it had often been before, whispered into his own ear.

The external appearance of the two men was perfectly in keeping with the attitude which they ostensibly assumed towards each other and towards the party. The picture of the rising and of the setting sun symbolized them very badly. Rather did they suggest to the mind the little urchin Evening Star, led and supported by the strong hand of the parent Sun, of Hebel's poem — Jackson, a man with a tall, lean form, erect and straight, his fleshless hand firmly grasping the knob of his walking stick, without the aid of which his stiffened legs and swollen feet refused to move with their wonted certainty, every wrinkle of his long, sharply cut face carved as it were in granite, his large eyes behind his bushy eye-brows beaming with undiminished brightness spite of his spectacles, his white but still plentiful hair bristling up from his perpendicular forehead — Van Buren, on the other hand, reaching only precisely the middle height, in blameless toilette, his smooth snow-white shirt-bosom in complete harmony with his round face, carefully shaved with the exception of very decent side-whiskers, his

[1] H. Clay to Fr. Brooke. Wash., Dec. 19, 1836. "If a president may name his successor, and bring the whole machinery of the government, including its one hundred thousand dependents, into the canvass; and if by such means he achieves a victory, such a fatal precedent as this must be rebuked and reversed, or there is an end of the freedom of election. No one doubts that this has been done." Priv. Corresp. of H. Clay, p. 409.

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large double chin finding a pleasant support on his broad black cravat; the only characteristic folds proceeding from his fleshy underlip: a settled smile in which a studied, obliging manner, native good-nature and shrewdness have equal shares; in his bright-colored, vivacious, twinkling eyes, the same qualities to be read; a round high forehead, which appears higher still from the absence of hair on the crown, and bears evidence of endowments without, however, wearing the stamp of the thinker; a friendly, well-meaning bourgeois, in whom the largest and best part of simplicity and honesty are scarcely much more than skin-deep, in opposition to which the diplomatic reserve is more than a thin varnish, laboriously acquired by the parvenu. His wide mouth is certainly able in speech, but it is still better skilled in the art of a silence conscious of its object. The man understands how to wait without manifesting the least sign of impatience; but he will never walk away from a mark which he has once aimed at, and he thinks himself good enough for the best. Even if his temperament should not preserve him from palpable misdeeds, he would never become guilty of them, because he is wise enough to know that they would be irreparable mistakes. With happy facility, he reconciles himself to the most different convictions and parts, and even to those of the man sure of himself and rooted in principle. He does not urge his boat onward by the powerful oar-strokes of his own arm, but he knows where to find a proper rag as a sail to catch every wind that blows. Yet even the storm does not terrify him when he discovers, by his always cool process of calculation, that it will not presumably last so long but that he may consider himself safe from all serious danger. For no object can he risk everything, for, in the last analysis, he never cares for an idea; always for himself and for himself alone. Not *what* he strove for, but *how* he strove to attain his end, gave it to

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him to leave behind him the long road which separated the son of the peasant inn-keeper from the president of the United States. In place of the policy of ends, he puts the policy of means. He did not climb to the height of the statesman, but neither did he descend into the depths of real demagogism. From the very first to the last, he remained in that characterless middle, in the shallow stagnant water of trading politics.[1] So far as his own personal interest permitted, he would gladly have carried out some of his political ideas, and he had at least one really statesmanlike thought; but the propelling forces in him were never moral powers which he served for their own sake.

It was in keeping, not only with the position of ruler which Jackson had assumed for eight years in the party, but also with Van Buren's own most real nature, that he entered on the presidency without any programme of his own. As his opponents and the masses of his own party looked

[1] The "New York Evening Post" thus characterizes him in 1841: "Mr. Van Buren has little moral faith of any kind; barely enough to need no artificial excitation of body or mind. This deficiency drives him into an artificial code of political practice, in which he refers all social actions to individual interests, and all political actions to combinations of those interests. He believes firmly in the force of management, or the cool, considerate, artful application of general propositions to the existing temper and opinions of the masses, as far as these can be ascertained, and without any leading reference to their propriety or durability. His generalization of social phenomena never reaches so far as to a moral power, or necessary truth in public opinion; but he simply deals with the collective opinions of men, as manifested by the representatives, or otherwise conspicuous individuals from or among the people, by means of certain easy rules analogous to addition, subtraction, multiplication and division in arithmetic. He belongs wholly to the present time, and may be said to represent trading or business politics. He is the very impersonation of party in its strictest features of formal discipline and exclusive combination. He is ceremonious, polite, reserved in manner, very small, and extremely neat in person." Mackenzie, The Lives and Opinions of B. F. Butler and Jesse Hoyt, p. 44.

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on him as the heir chosen by Jackson, if not to his power at least to his office, so he declared, himself, that his programme was to be Jackson's imitator; the eagle had carried the sparrow beyond the clouds.[1] Much as there was of truth in this view, it was none the less true that Van Buren himself had done the best he could to insure his success. And this, not, as the opposition supposed, the weight of Jackson's patronage, was the ominous sign of the time.[2] There was little to be feared that a president would ever again assume Jackson's position, which was entirely *sui generis*, and just as little was it to be feared that the "nomination" of a successor could be repeated. But there were a great many Van Burens in the Union, and the petty means by which he climbed up the political ladder, even to the uppermost round, became every day more and more the common property of all politicians.

His first political studies Van Buren had made in the country tavern of his father, to whom his duties as an innkeeper left time enough to cultivate a small farm. The farmers of Columbia county, New York, and his intelligent mother, who is said to have taken a lively interest in public affairs, were his first political tutors. The village school of Kinderhook took care of his general education, which, there-

[1] "I content myself, on this occasion, with saying, that I consider myself the honored instrument, selected by the friends of the present administration, to carry out its principles and policy; and that as well from inclination as from duty, I shall, if honored with the choice of the American people, endeavor to tread generally in the footsteps of President Jackson — happy if I shall be able to perfect the work which he has so gloriously commenced." The letter of acceptance of his nomination by the democratic national convention at Baltimore, dated the 29th of May, 1835. Niles, XLVIII, p. 257.

[2] "And no reflecting man can doubt that, having been once done, it will be again attempted, and, unless corrected by the people, it will become, in time, the established practice of the country." Clay, l. c.

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fore, as may be imagined, remained rather superficial and defective.[1] In his fourteenth year, he entered the office of the attorney of the village to study law. The seventh year of the time provided by law for study he spent in New York in the office of the lawyer Van Ness, whose name is not yet quite forgotten in the United States, for the reason that he was Burr's second in his duel with Hamilton. After this, Van Buren was for five years actively engaged in the independent practice of his profession in his native village and in the principal city in the county. If the suits tried here were of a character which afforded little inducement to him to extend and deepen his knowledge of the law, they certainly were an excellent school for the young political aspirant.[2] His active participation in electoral campaigns merited a county office for him in 1808. After four years, an opportunity was afforded him to observe, from his own feelings, what a powerful political lever official positions are when bestowed in accordance with

[1] J. A. Hamilton, who stood for a time in close relation to Van Buren, writes: "Van Buren was sagacious; but he had no pretensions to being a statesman, he had no skill in composition. His first report in 1829 [as secretary of state] required much emendation. I remained with him after he entered upon the duties of his office, in April, 1829; we lived together at a private boarding-house until about June 8, 1829. During that time, in conversation about the historical events of this and other countries, I was amazed to learn how uninformed he was. He depended upon his son John to aid him in his writings, until he got Mr. Benjamin Butler, afterwards attorney-general, upon whom he essentially depended." Reminiscences of J. A. Hamilton, p. 216.

[2] Mackenzie, who, indeed, writes with great animosity, gives us the following description of him: "Martin Van Buren the elder, was a shrewd, cunning, clever boy — very fond of betting, gambling and card playing — a first-rate pleader for a small fee, in cases tried before a justice of the peace — very persevering in such branches of study as he found particularly useful — good at trading horses and making bargains — and endeavored to give some consideration to that branch of the science of morals called politics, at a very early age, at the tavern." The Life and Times of M. Van Buren, p. 20.

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the principle of reward and punishment. But the loss of the county office was soon gotten over, as he was elected to the state senate in the same year. This opened the way for him to independent political activity. He did not hesitate to make full use of the opportunity. He henceforth lived intent only on making the most politically of his opportunities, restlessly busy, esteeming nothing too small which might promote his influence,[1] nothing so high and holy as to make him budge from his sober calculation and his sleek politeness. The office of attorney general of New York, which he had filled since 1815 without, on that account, giving up his seat in the senate, was taken from him, in 1819, by the Clinton party. But he no longer depended on the favors of the great ones; he was now one of them himself. Even the year previous, he had felt strong enough to collect a faction of his own about him, in opposition to the Clintonians. The personal interests of the coterie furnished the basis of the party, and the absence of political ideas was more than made up for by masterly organization. The word of command from Albany, given through the medium of *The Argus*,[2] was unconditionally obeyed. The person who expected anything of the party could obtain it only through the "regency," and the "regency" took care to be repre-

[1] In October, 1834, the "New York Evening Star" writes: "When we look at the career of Mr. Van Buren, we are astonished at his perseverance, his industry, his close calculations and his active, untiring spirit. Ever restless and perturbed, there is no chance that he leaves untouched — no efforts untried. He travels from county to county, from town to town; sees everybody, talks to everybody, comforts the disappointed, and flatters the expectant with hope of success. The portrait is drawn by M. M. Noah, who remained a long time with Van Buren under one roof."

[2] "Without a paper thus edited at Albany, we may hang our harps on the willows. With it, the party can survive a thousand such convulsions as those which now agitate and probably alarm most of those around you." Van Buren to J. Hoyt, January 31, 1823. Mackenzie, The Life and Opinions of B. Butler and J. Hoyt, p. 89.

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sented in the remotest corners, by agents who were out after their pay. The political machinery gave Van Buren control over the state of New York, and the state of New York carried so much weight in all national questions that Van Buren, even before he had played any part in national politics, belonged to those with whom it was necessary to reckon.[1]

Spite of all his gifts, we can scarcely perceive any progressive development of Van Buren's political capacity after his early student years, although naturally he steadily improved in the routine of political business. We can recognize only one internal change, and this one lies in an entirely opposite direction. In two important questions he showed that he was both morally and intellectually qualified to be more than the model of the trading politician. In the constitutional convention of New York in 1821, he courageously and with weighty reasoning opposed the introduction of universal suffrage. This did not subsequently keep him from being the most zealous partisan of Jackson's theory of the democracy. And so, in the two preceding years, he had declared himself in favor of the prohibition of slavery in Missouri. His efforts in favor of the reëlection to the United States senate of Rufus King, who had taken a prominent po-

[1] The "Democratic Review" (July, 1848, p. 4), which had in previous years sung the praises of the "sage of Kinderhook" in every key, writes: "The scheme of state politics devised by him in 1821, through which he controlled New York, and, holding in his hands the electoral vote of this state, dictated to the Union, is still a subject of admiration and theme of praise to those followers who look upon party trickery as statesmanship, and who regard skill in legerdemain as praiseworthy as great learning in the sciences. Party centralization at Albany, controlling offices as well as safety-bank charters, presidents, cashiers and directors in all the counties, formed machinery which set every man's face towards Albany like a political Mecca, and working this machinery gave Mr. Van Buren his title to national honors."

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sition among the advocates of the "restriction,"[1] were determined, indeed, by other reasons; but, like all other senators, he, on the 20th of January, 1820, voted for the strictly-framed resolution of the house of representatives against the admission of Missouri as a slave state.[2]

The Missouri question had just been brought to an issue when Van Buren entered the United States senate. Before he there irrevocably pledged himself to one side or the other of the slavery question, he had leisure to study the influence which his attitude towards it would necessarily henceforth exert on the prospects of every politician. Well as he had learned to guide the political machine in his own state, on the larger stage he had yet much to learn. He made many a mistake during the first years, but he learned much from every blunder. In the presidential electoral campaign of

[1] The "Columbus Enquirer" writes, in the autumn of 1835: "In all this insidious and dangerous collision between the rights of Missouri, the interests of the southern states, and the madness and meanness of their assailants, Van Buren took a deep and active part against us. Here is the proof: Rufus King, then a senator from New York, was the soul and life-blood of the conspiracy. Martin Van Buren was then in the senate from that state, and urged the movement and vindicated the conduct of King. Read the following extract from a letter written by Mr. Van Buren, in the autumn of 1819, to one of his friends: 'I should regret to feel any flagging on the subject of Mr. King. We are committed to his support. It is both wise and honest, and we must have no fluttering in our course. Mr. King's views towards us are both honest and correct. The Missouri question conceals, so far as he is concerned, no plot, and we shall give it a true direction. You know what the feelings and views of our friends were when I saw you; and you know what we then concluded to do. My considerations, etc., and the aspect of the 'Argus,' will show you that we have entered on the work in earnest. We cannot, therefore, look back. Let us not, therefore, have any halting. I will put my head on its propriety.'" Niles, XLIX, p. 93.

Van Buren traveled over the state, and together with Marcy, wrote a pamphlet in King's interest. Mackenzie, The Life and Times of M. Van Buren, p. 278.

[2] The resolution is to be found in Niles, XLIX, p. 142.

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1824, he was, of course, a zealous partisan of Crawford, since it was long certain that the latter would be nominated by the "caucus," and that he would therefore be the "regular" party candidate. Besides, Crawford, to insure himself the vote of New York, had known how to bring it about that Georgia should nominate Van Buren for the vice-presidency. At first all that Van Buren reaped from this was ridicule, as, evidently, in no other state could the acquiescence of the party be obtained to this choice. But his name was once mentioned in connection with the second office in the Union, and he had time to wait. The bad success which attended the caucus did not keep him from doing his best for Crawford. But, although it was possible to avert the storm which, in New York, wanted, in the place of the nomination of the presidential electors by the legislature, to put their election by the people, Crawford received only five of the thirty-six votes of the state; of the remaining thirty-one, twenty-six were given to Adams, whom Van Buren also preferred to the other competitors of Crawford. Of Jackson, the organ of "the regency" thought there was no use in talking in New York.[1] The chief of the regency soon thought otherwise. When the choice through the electors had led to no result, he and his friends remained passive. Van Buren's confidence in the party machinery was not shaken, but he recognized that the congressional caucus had become an entirely useless piece of it. The effect which the election of Adams by the house of representatives and Clay's nomination as secretary of state, had with the masses, taught him how it was to be replaced.

[1] "It is idle in this state, however it may be in others, to strive even for a moderate support of Mr. Jackson. He is wholly out of the question, as far as the votes of New York are in it. Independently of the disclosures of his political opinions, he could not be the republican candidate. He is respected as a gallant soldier, but he stands in the minds of the people of this state at an immeasurable distance from the executive chair." "Albany Argus." Niles, XLIX, p. 188.

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From being a cool friend of Adams, he suddenly became a decided opponent of the administration. He saw that Jackson was the man of the future, or that, at least, he might be easily made such, but his watchward was profound silence, until he had had the full price for his assistance guaranteed to him. What he thought of the scorn with which his nomination by Georgia was greeted, people had heard even during the electoral campaign of 1824. The *New York American* announced that even now the principal question was, whether Van Buren was to be president after the fourth of March, 1833, and it adduced important reasons for this opinion.[1] In December, 1826, it is said that Van Buren and the original Jackson party came to an understanding, and in May, 1827, the conditions of the compact were made public. Van Buren was to be Jackson's secretary of state, and to succeed him after four years as president; he obligated himself, on the other hand, in economic questions, to favor the policy of the southern states.[2]

[1] "The apparent question now before the public is, who shall be our next president? but the real question is, whether Martin Van Buren shall be president of the United States on and after the 4th of March, 1833? At that time, the great state of New York, having never furnished a president, will have irresistible claims to that honor. If any of her citizens are now qualified [an allusion to De Witt Clinton], the blossoms of eternity, fast gathering on their heads, will have fallen, they will be superannuated, that is, they will have passed the age of sixty years, that gloomy period when the constitution of New York declares that judges lose their senses, and that all flesh is grass. In that day Mr. Van Buren will be in the full strength of life, the only New Yorker fit for the presidency." Cited by Parton, Life of A. Jackson, III, p. 32.

[2] "From a source I cannot as yet mention, I learn that Van Buren's bargain with Jackson's friends — their mutual understanding, I may as well call it — bears date in December, 1826. In that month he expected the friends of Adams to attack him, and soon afterwards (February, 1827) he and Cambreleng [one of the noted politicians of New York] are seen directing Hoyt to circulate Gen. Green's 'Telegraph.' In April, they are off to South Carolina, from whence their equally flexible associate, Ritchie, re-

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De Witt Clinton's death made a partial change in the programme necessary, and gave Van Buren an opportunity to make surer of his game. Instead of Clinton, Calhoun appeared as a candidate for the vice-presidency, and Van Buren caused himself to be put up as a candidate for the governorship of New York. All were successful. Van Buren, whose past as a statesman was an empty page, resigned the governorship which he had scarcely entered upon, and, as secretary of state, stood at the head of Jackson's cabinet. Every one had known that it would be so, and no one wondered that it was so. It was no longer a matter of surprise that the politicians got the start of the statesmen.

Adams had not yet left the White House when the pretenders to the heritage of Jackson, Van Buren and Calhoun, opened their batteries of intrigue upon one another.[1] The

ceives a letter, dated 'Charleston, S. Car., May 7, 1827,' and here it is from the 'Richmond Enquirer,' eighteen months before Jackson's election:

"'Our friend Van Buren has at last reconciled nearly all the most important jarring claims and interests. Gen. Andrew Jackson consents to accept of the presidency of the United States, pledging himself inviolably to subserve the people of the south, and to resign at the end of four years. John C. Calhoun has been prevailed upon, in conformity to the wishes of some of our most influential friends, to relinquish his claims upon the vice-presidency. Every effort is to be made to induce De Witt Clinton to accept the vice-presidency. Martin Van Buren to serve as secretary of state under General Jackson, and at the end of four years to be nominated and supported for the presidency; with a perfect understanding that he will pursue the southern policy, in relation to domestic manufactures and internal improvements.'" Mackenzie, Life and Times of M. Van Buren, p. 83.

[1] H. Clay to Fr. Brooke, Wash., Dec. 26, 1828. "It is said that a good deal of jealousy is felt, and in private circles sometimes manifests itself, among the partisans of the vice-president and the governor-elect of New York." Priv. Corresp. of H. Clay, p. 215.

In New York, a letter from Washington was published, in which we read: "There are strong symptoms of a speedy dissolution of the 'combination.' The ends of both sections of the party are answered. The game has been run down, and, like hounds, they are about fighting for the prey they have made their own. Van Buren's friends wish to have him in

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process of undeceiving to which the Calhoun faction was subjected by the composition of the cabinet, embittered the strife.[1] So far as the issue of the controversy depended on Jackson, it could, from the first, be scarcely doubtful which of the rivals would obtain the victory. Two such headstrong persons as Jackson and Calhoun do not make yoke-fellows. But it was not a difficult matter for the little plastic Van Buren not to strike or rub against the angles and corners of the president. Flatteringly and warmly he insinuated himself into every crack and rent in the coarse bark of "Old Hickory," while, in Calhoun, Jackson was confronted with a character. Calhoun had also, indeed, read the signs of the time well enough to attach much importance to the good will of the idol of the masses, but he had never fawned upon him. He would have given much to be Jackson's successor, but his ambition had not so far degenerated into vanity that he would have bargained his independence and his convictions for the presidency. Not even in the great political question as to Mrs. Eaton's social fitness did he consent to cover up his place in the opposition. Mrs. Calhoun would not see the lady whose previous chastity had become a question of national importance, in her parlors.[2] The widower Van Buren not only did not permit himself to

the cabinet. To this, Calhoun's object, and these rival chieftains scatter through the crowd, by means of their partisans' ambiguous phrases, pregnant with future contests and political divisions." Cited in Parton, Life of A. Jackson, III, p. 168.

[1] Adams writes in his diary, on the 19th of March, 1829: "Seymour says there is already great bitterness between the partisans of Van Buren and those of Calhoun." Mem. of J. Q. Adams, VIII, p. 116. Compare, also, Priv. Corresp. of D. Webster, I, p. 488; Priv. Corresp. of H. Clay, p. 261.

[2] Adams even writes: "Calhoun heads the moral party, Van Buren that of the frail sisterhood; and he is notoriously engaged in canvassing for the presidency by paying his court to Mrs. Eaton." Mem. of J. Q. Adams, VIII, p. 185. See, also, p. 195.

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be wanting in courtesy to her, to any extent, but he took great pains, with the assistance of some unmarried ambassadors, by measures of intrigue, to have her received as one fully entitled to all the social distinction of her husband's position. People were soon convinced that in this way he had taken a giant step towards reaching the goal of his aspirations — the presidency.[1] The personal breach between Jackson and Calhoun, which soon afterwards followed, left the way entirely clear for Van Buren; only he was obliged to wait patiently four years longer than he had hoped and expected at first.

Even before the bitter war of pens between the president and vice-president had begun, Major Lewis, the head of the "Kitchen Cabinet," commenced the agitation in favor of Jackson's reëlection. During the second week of March, 1830, that is, just at the beginning of the second year of Jackson's administration, the *fidus Achate*, in the White House, wrote the letter in which, a few days later, sixty-eight members of the legislature of the "Keystone state," Pennsylvania, announced to the president, that is, to the people, that the salvation of the party and of the country imperatively demanded his reëlection.[2] Members of the

[1] D. Webster to Mr. Dutton, Wash., Jan. 15, 1830: "Mr. Van Buren has evidently, at this moment, quite the lead in influence and importance. He controls all the pages on the back stairs, and flatters what seems to be at present the Aaron's serpent among the president's desires, a settled purpose of making out the lady, of whom so much has been said, a person of reputation. It is odd enough, but too evident to be doubted, that the consequence of this dispute in the social and fashionable world is producing great political effects, and may very probably determine who shall be successor to the present chief magistrate." Priv. Corresp. of D. Webster, I, p. 483.

[2] This highly instructive correspondence is given verbatim in Parton, Life of Jackson, III, pp. 297–302. The formal resolutions of the caucus of the 31st of March are to be found in Niles, XXXVIII, pp. 169, 170. Lewis is not correct, however, when, in a note to his correspondence with

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legislatures of New York[1] and Ohio[2] followed the example, as Lewis himself boasted, induced to do so by him.[3] Webster was presumably right when he thought that Jackson had, from the first, wished for reëlection; but he, indeed, underestimated Van Buren's keen insight when he said, that the latter now did as the Romans did only to reap some advantage from the disagreeable necessity. It is probable that Van Buren was really convinced — and, indeed, not without reason — that it needed Jackson's popularity to claim the field against the opposition of the three most distin-

Colonel L. C. Stanbaugh, he says: "This was the first movement made toward bringing out General Jackson for a second term." Even in December, 1829, the press of New York had begun to discuss the question with vigor. The "New York Courier and Enquirer," of the 19th of December, expressed the hope that the question of succession would not be seriously agitated until such time as Jackson had given a final decision as to his reëlection; but that if he declined it, Van Buren was unquestionably the right man.

The following quotation from Adams' diary throws wonderful light on the situation of affairs: "He (Major Mercer) said he had been some time at Harrisburg, and seen much of the members of the legislature; that he had seen but one man who spoke in terms of approbation of the present administration, and that was a senator by the name of Krepps — the same with whom Major Donelson has had a correspondence respecting the nomination of General Jackson for re-election by the members of the Pennsylvania legislature. This nomination was made by a meeting of more than half the members of the legislature, although every one of them except Krepps was open-mouthed against him. He said he asked several of them why, holding and expressing such opinions, they could vote a nomination of him again. They said the people had not been disabused of their prejudice in his favor, and if they should hesitate about his reëlection they would be turned out by their constituents." Mem. of J. Q. Adams, VIII, p. 351.

[1] Niles, XXXVIII, pp. 170, 171.

[2] Ibid., XL, p. 127.

[3] Adams writes, on the 21st of April, 1830: "The Harrisburg and Albany nominations of Jackson for re-election, were a trick of Van Buren's against Calhoun." Mem. of J. Q. Adams, VIII, p. 222.

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guished statesmen of the Union.[1] He could, moreover, be well resigned to the short delay, as Jackson, long before he had formally declared himself ready to accept the presidency a second time, had designated him by letter, and in a manner which could not be misunderstood, as his most worthy heir. The father of this idea again was the inevitable Major Lewis, and his motive, fear that Jackson, the condition of whose health warranted the most serious alarm, might die before the great "principles" of his reign had been fought out. To provide for this case, the president, under Lewis's correction, wrote a letter to his old friend, Judge Overton. The copy which the Major retained, Jackson subscribed with his own hand, in order to place it fully in his power to use the name of the dead lion as a "powerful lever in raising Van Buren to the presidency."[2]

The fears of Lewis turned out to be unfounded, but nevertheless sedulous efforts were made to make Van Buren's eventual success certain. When the quarrel with Calhoun and his faction, together with the Eaton scandal, made a reorganization of the inharmonious and wrangling cabinet necessary, a good opportunity to push this matter also a long step further was offered. Immediately after his entrance on the duties of the presidency, Jackson sent a written document to the members of his cabinet, in which he had developed the "principles" of his administration. In this document, it was laid down that no head of a department should, during the time he remained in office, become a candidate for the presidency or vice-presidency. Sooner or later, therefore, Van Buren had to withdraw. To do so now, would be to kill two birds with the same stone. After Eaton had gladly

[1] Clay, Webster, Calhoun.

[2] The letter to Overton, and the explanatory remarks by Lewis, are reproduced in Parton, Life of A. Jackson, III, pp. 293–295. A misprint makes the date of the letter December 31, 1830, instead of December 31, 1829.

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given up the office which he had accepted only reluctantly, and Van Buren had resigned, Jackson declared to their colleagues that the necessary harmonious character of the cabinet could not be maintained by only a partial reconstruction; the ministers entirely devoted to Jackson handed in their resignations, that the friends of Calhoun might, without any violation of the rules of decency, with great politeness be shown the door. This was the determining cause of this *coup d' état* within the government (April, 1831). It was, therefore, telling a bold untruth, when Jackson afterwards asserted that Van Buren's future candidacy for the presidency could not have come into consideration at all in this matter, since his candidacy was not at the time had in view by any one.[1] The letter to Judge Overton and its history, might, at the moment, have been blotted from the memory of the old

[1] "I say he [Judge White] cannot have forgotten that one of my first acts as president was, to reduce to writing the general principles which would guide my public course, one of which, in reference to my cabinet, was the following: 'That no head of department should become a candidate for the office of president or vice-president of the United States, while he remained in the department.' . . . If I had set out with the expectation of influencing the choice which the people were to make of some one to succeed me in the office of president, it is not probable that this rule, excluding all members of my cabinet from the field of competition, would have been adopted — so that, at least up to the time of the difficulties which led to the dissolution of that cabinet, it will be difficult to find an excuse for the allegations he has been at so much pains to preface with the Herring case. But he may have only intended to convey the idea that the organization of a new cabinet was controlled by a desire of mine to promote the interests of Mr. Van Buren. Here, too, he is equally unfortunate, for it is well known, that at this period Mr. Van Buren's name had not been announced, and, as far as I have been informed, had not been thought of as a candidate for the office of president or vice-president. It was not until he was rejected as minister to England, that the republican portion of the people, becoming indignant at the reasons which produced it, with one voice, from Maine to Louisiana, declared him their candidate, and elected him." Ex-President Jackson to the people: Reply to Judge H. L. White, June, 1837. Niles, LII, p. 299.

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man, but he could not possibly have forgotten Van Buren's letter of resignation, in which the secretary of state assigned this fact, with calculating verbosity, as the sole motive of his withdrawal.[1] It is, however, true, that Van Buren's triumph became complete only through the stupidity of the opposition.[2] The masses of the people looked on the refusal of the senate to confirm his nomination as minister to England as a malicious stroke of his rivals. If their devoted friendship for Jackson had drawn this insult upon them, it was a duty which they owed to Jackson and to themselves, to demonstrate in a most striking way that "the people" ruled. Benton was right when, immediately after the vote was taken, he said: "You have broken a minister and elected a vice-president."[3]

Van Buren's fortune was now made. The manner in which the senate had rejected his nomination was a personal insult to Jackson. With all the regardlessness of which he was capable, he henceforth labored for the success of his favorite. Only by the election of Van Buren, it was now said, could the people guarantee to themselves the permanent possession of the conquests which they owed to Jackson.[4] The

[1] Ibid., XL, pp. 143, 144.

[2] How far this stupidity went is manifest from the following citation from a letter of Clay to Fr. Brooke, dated May 1, 1831: "Did you ever read such a letter as Mr. Van Buren's? It is perfectly characteristic of the man — a labored effort to conceal the true motives, and to assign assumed ones, for his resignation, under the evident hope of profiting by the latter. The 'delicate step,' I apprehend, has been taken, because, foreseeing the gathering storm, he wished early to secure a safe refuge. Whether that will be on his farm or at London, we shall see. Meantime, our cause can not fail to be benefited by the measure." Priv. Corresp. of H. Clay, pp. 299, 300. Clay, indeed, looked through a peculiarly thick mist, because he had calculated with certainty for years, on moving into the White House on the 4th of March, 1833. See Mem. of J. Q. Adams, VIII, p. 86.

[3] Thirty Years' View, I, p. 215.

[4] "The late executive, then, has had his will carried into effect by the vote of the American people. They have listened to his statements, 'that

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president did not blush to make use of his franking privilege to bring his own case as well as that of Van Buren before the people. Numbers of the *Globe*, containing a speech by Benton on the expunging resolution, and a deluge of charges against Judge White, under the frank of the president, were sent to all the members of the legislatures of Tennessee and Alabama.[1] In a letter intended to justify this unexampled descent from his elevated position to take part personally in political fist-fights, he declared it to be his duty as the guardian of the constitution to enlighten the people on the unconstitutional encroachments of the senate. The attacks on Judge White he did not expressly refer to. He did not dare, or did not think it worth the trouble, to say that they were accidentally to be found in the same number of the administration organ. If it were not precisely his duty, it was at least his unquestionable right to bring all "useful" documents or papers before the people at the expense of the country.[2] But in Jackson's eyes, White had

the whole value of his administration would be lost unless Mr. Van Buren was elected to carry out his unfinished measures.'" Speech of Judge White at Knoxville, August 1, 1838. Niles, LV, p. 8.

[1] Ibid., XLIX, pp. 139, 294, 335; see also pp. 35 and 92.

[2] "By my oath of office, I am not only bound to support the constitution of the United States, but to guard, protect, and defend it to the best of my abilities. . . . Thus assailed [by the resolutions of the senate of the 28th of March, 1834], how was I to guard, protect and defend my constitutional rights, but by making known to the people how and wherein they have been violated? If this was the only mode within my reach, and I am acquainted with no other, it is manifest that the circulation of Col. Benton's speeches was not only proper in itself, but was demanded by my public duty to the country. . . . But, independently of the special reason which existed in this case, I hold myself as clothed legally with the privilege of circulating, under my frank, any documents or papers which I deem useful to the country, or which are designed to furnish expositions of the public questions which grew out of the legislative or executive proceedings of the day." A. Jackson to A. O. P. Nicholson, December 18, 1835; ibid., XLIX, p. 576.

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become guilty of the sin against the political holy spirit. He, long the friend and confidant of the general, to whom a seat in the cabinet had been tendered repeatedly and urgently, was not only an opponent of the expunging resolution — he not only had all kinds of censure for the "reforms" in relation to the administration of government patronage — he was not only an opponent of Van Buren, but he assailed the dogma of absolute party discipline, and set himself up as the presidential candidate of the dissatisfied within the party. It was certainly edifying to the country to have these monstrosities exhibited in all their nakedness, and the hand of the president of the United States was not too good to tear the mask from the face of the beast whose name had long been counted among the best in the country. Stupidity or party animosity alone could see anything blameworthy or dangerous in the endeavor to employ the immense power of the presidency in the interest of party. It was a vexatious thing to see that many old friends and admirers of the general agreed in this with the opposition, and that they expressed their views on the subject openly.[1] It was still more vexatious that the legislature of his own state should have answered the instructions conveyed in this manner by the unanimous reëlection of White to the senate, and that Tennessee should have expressed its emphatic agreement with the senate, by giving its vote for the presidency to White. But these desertions were, after all, only isolated cases. The trading politicians followed even a hint from Jackson with as much obedience as a staff of officers the word of command of their general, and the masses cried hurrah as vociferously, as readily and as thoughtlessly as ever did a Russian regiment of the line. Jackson, in a letter, gave his highest sanction to the project hatched in the kitchen cabinet of a

[1] See the cutting letter of J. W. Womack, of Alabama; ibid., pp. 294, 295.

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national nominating convention;[1] party machinery allowed only trading politicians to come to the surface in the elections for delegates; the convention unanimously chose Van Buren for its standard bearer;[2] the masses fought the battle of the election with energy and fidelity to conviction for the new party chief, of whom they knew nothing, and who had never been popular;[3] and the United States had obtained the first president of whom they knew neither why nor how he had become president.

Van Buren and his adherents could not say enough in praise of the discretion and modesty with which he had kept himself back and refused to obtain votes for himself by even

[1] "You are at liberty to say, on all occasions, that, regarding the people as the true source of political power, I am always ready to bow to their will and to their judgment; that, discarding all personal preferences, I consider the true policy of the friends of republican principles to send delegates, fresh from the people, to a general convention, for the purpose of selecting candidates for the presidency and vice-presidency; and that to impeach that selection before it is made, as an emanation of executive power, is to assail the virtue of the people, and, in effect, to oppose their right to govern." A. Jackson to Rev. J. Gwin, February 23, 1835; ibid., XLVIII, p. 81.

[2] Ibid., p. 257. General Th. Flournoy, of Georgia, writes: "I declare it to be my opinion that the farce played off, on that occasion, is an insult upon the good sense of the American people." Ibid., p. 81.

[3] Brownson's (democratic) "Boston Quarterly Review" wrote in January, 1841 (pp. 70, 71): "Mr. Van Buren has been defeated; but he is much dearer to the American people than he was when elected president. He has failed in his reëlection, not because he has lost in popularity, but because he never was the choice of the American people. The people never willed his elevation to the presidential chair. He was elevated to that chair, not by his own popularity, but by the popularity of his predecessor, and by the management of party leaders. Since he became president, he has for the first time in his life gained a place in the affections of the American people, and he retires from the presidency with an enviable popularity and an honest fame which will endure." We shall see how far removed Brownson was later from allowing the assertions of this last sentence to be true.

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a word. There was no need of his doing so. The machinery of the party, once it was put rightly in motion, and his great protector, took care of the business alone. Van Buren had calculated correctly, and entirely so, when he thought that he could best serve his own cause by withdrawing temporarily in 1831 from all prominent or direct participation in party politics. The vice-presidency was much better adapted to enable him to pursue this course than the ministerial position in London. His seclusion in the presidency of the senate was naturally much more noticeable, and yet it did not compel him to take an active part in the controversies on the questions of the day. This was not, indeed, entirely so. Accident, as well as the ill will of his opponents, might compel him to show his true colors, and he was, in fact, forced to do this on the most important question of all. Calhoun's bill relating to seditious publications afforded an excellent opportunity to discover, from their own confessions, the attitude of the northern senators towards the slavery question. Calhoun received Van Buren's confession on this point by so arranging it that there was an equal number of votes on the question whether the bill should be engrossed. He impatiently called for the vice-president, who was not at the moment in his place, but who immediately responded to the call, and without any hesitation voted his decisive aye.[1]

The test was scarcely necessary. Van Buren had already taken care to have the south know that it might expect the best from him. In a letter of the 10th of September, 1835, intended for publication, he did not confine himself to assurances in general terms, but he called special attention to the fact that he entirely approved the severe resolutions of a meeting held in Albany, against the abolitionists, and that he was one of those who had advised the calling of the meet-

[1] Thirty Years' View, I, p. 587.

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ing in the first instance.[1] But the south could not be easily satisfied in this matter. Moreover, there came from North Carolina to Van Buren the direct question: what he thought of the powers of congress in relation to slavery in the District of Columbia. His answer proved that he, to the fullest extent, deserved the name of "a northern man with southern principles." What he said, many of the most estimable people in the north believed with him; but the manner in which he said it justified every word of Adams' judgment, that his "principles" were "all subordinate to his ambition."[2] He thus begins to state his position on the slavery question in general. He was not, indeed, questioned on this point, but his response was a sugar-coating to that which could not be acceptable to the interrogators in the real answer; for to satisfy them entirely was more than he could do. He acknowledges that he cannot ignore the constitutional powers of congress, but he bends even to the earth with sorrow because he cannot. He hastens to give assurance that his desire to be able to give another interpretation to the clause of the constitution may yet be fulfilled. And relying on this hope the south could certainly venture it with him, since he was fortunate enough to be acquainted with other reasons which were just as forcible as the want of constitutional power. He therefore gave his solemn

[1] Niles, XLIX, p. 93. In the resolutions we find, among other things, the following: "That whilst they would maintain inviolate the liberty of speech and the freedom of the press, they considered discussions which, from their nature, tend to inflame the public mind and put in jeopardy the lives and property of their fellow citizens, at war with every rule of moral duty, and every suggestion of humanity, and would be constrained, moreover, to regard those who, with a full knowledge of their pernicious tendency, persist in carrying them, as disloyal to the Union."

[2] "His principles are all subordinate to his ambition, and he will always be of that doctrine upon which he shall see his way clear to rise." Mem. of J. Q. Adams, VIII, p. 129.

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assurance that any attempt on the part of congress to exercise this, its constitutional power, would find in him "an inflexible and uncompromising opponent."[1]

The south professed to be satisfied with this declaration, but the north had received a new proof that it was governed, not by the black slaves of the south, but by its own white slaves. Henceforth, to the extent that it depended on the south, no one could become president of the Union, unless he had first permitted himself to be bound hand and foot so far as the slavery question went. The incubus of "the wishes of the slave-holding states," from this time forward, weighed on the constitution like a mountain. Jackson had repeatedly and grossly violated the spirit of the constitution, but he was always honestly convinced that he was doing nothing but restoring its absolute sovereignty. Van Buren now recommended himself to the country by the assurance that he would use the power granted him to maintain and enforce the constitution, to make that constitution a dead letter in a question of the highest importance. This was the meaning of the declaration that he would, under all circumstances, oppose the exercise of a right which, in his own

[1] "As anxious as you can possibly be, to arrest all agitation upon this disturbing subject, I have considered the question you have propounded to me, with a sincere desire to arrive at the conclusion that the subject, in respect to the District of Columbia, can be safely placed on the same ground on which it stands in regard to the states, viz.: the want of constitutional power in congress to interfere in the matter. I owe it, however, to candor, to say to you, that I have not been able to satisfy myself that the grant to congress, in the constitution, of the power of 'exclusive legislation in all cases whatsoever' over the federal district, does not confer on that body the same authority over the subject that would otherwise have been possessed by the states of Maryland and Virgina, or that congress might not, in virtue thereof, take such steps upon the subject in this district, as those states might themselves take within their own limits, and consistently with their rights of sovereignty.

"Thus viewing the matter, I would not, from the lights now before me,

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opinion, was incontestably granted by the constitution to congress. But if the president were justified in thus virtually correcting the constitution in one instance, why not in all others? The two rivals, Calhoun and Van Buren, the leader of the extreme slavocracy and the leader of the professional politicians of the northern states, here met; hand in hand they entered the service of the slave-holding interests, passing over formal right to the ground of naked facts. And the majority of the people acquiesced in their action by electing Van Buren president.

"Political management"[1] was in a condition to place Van Buren in the White House, but to make his bed there one of down it could not do. Fate seemed only to have waited for the moment of his triumph with the long impending commercial crash. His opponents did their best to make capital out of this adventitious circumstance. The whole blame was cast on Jackson's wild, lawless treatment of the most difficult and delicate economic problems, and Van Buren was, in this respect, treated as Jackson's *alter ego*; and this, for two reasons: because he endeavored to turn it to advantage that he had been chosen successor by his predecessor, and that he wished to serve as an "instrument" to carry out the policy of the lat-

feel myself safe in pronouncing that congress does not possess the power of interfering with, or abolishing, slavery in the District of Columbia. But whilst such are my present impressions upon the abstract question of the legal power of congress — impressions which I shall at all times be not only ready, but disposed, to surrender upon conviction of error — I do not hesitate to give it to you as my deliberate and well considered opinion, that there are objections to the exercise of this power, against the wishes of the slave-holding states, as imperative in their nature and obligations in regulating the conduct of public men, as the most palpable want of constitutional power would be. . . . I must go into the presidential chair the inflexible and uncompromising opponent of any attempt on the part of congress to abolish slavery in the District of Columbia against the wishes of the slave-holding states." Niles, L, pp. 126, 127.

[1] The "Democratic Review," July, 1844, p. 4.

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ter. With the presidency, Van Buren had, in the eyes of the people, inherited also the responsibility of Jackson's policy.

It is unquestionable that Jackson's inconsiderate intermeddling with economic interests had contributed much to bring on the crisis of 1837. But as the catastrophe extended far beyond the limits of the United States, its causes were not to be sought for there alone, and in so far as they were to be found there, the whole people shared the blame.[1]

The great growth of its industries through the development of its machinery system during the past thirty years of this century, was coincident in England with a series of good harvests and a very large extension of its banking business. Food was cheap, while the price of industrial products and the demand for raw material rose, and the facility of obtaining credit opened a boundless field to speculation. A real deluge of English capital overflowed the whole earth. The United States, especially, were preferred. Here the readiness of capitalists was met by the most energetic and most sanguine spirit of enterprise, and the natural wealth of the country which was to be unlocked was unlimited. Neither borrowers nor lenders gave any thought to the fact that the remunerative development of this national wealth had its limits in the possibility of turning it to account, *i. e.*, in the wants for the time being of the home and of the foreign market. Not only individuals leaped exultingly into the whirlpool of speculation, but the states themselves led the dance [2] in the building of railroads and the starting of all

[1] This fact is to-day universally recognized, but at first there were only very few individuals who conceded it, and pointed out that the recognition of it was a condition precedent of a change for the better. See, for instance, the letter of J. A. Hamilton to N. Biddle, Niles, LII, pp. 312-315.

[2] In reference to the railroads, W. G. Sumner says: "Railroad building was not a subject of unhealthy speculation, and the crisis did not, as it appears, stop an unnatural development in this respect, but rather checked

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other kinds of "internal improvements." Like mushrooms after a rainy night, banks sprouted up out of the ground. They scarcely required any other security now for the giving of credit, than the assurance that the money loaned would be invested in a speculation of some kind.

The luxuriant growth of the bank business, which was entirely out of proportion to the real wants of the country, and the resulting competition of the givers of a credit which was based in great part only on fictitious values, received a further and a powerful impulse from Jackson's successful war against the United States bank. A large number of small banks were called into being by reason of the withdrawal of the United States deposits from the former. Only the most rigid fulfillment of the obligation to redeem their notes on presentation in cash money, could have afforded sufficient security that these small, artificial creations would not be most wretchedly administered and mismanaged. The administration had neglected to provide for this, but, on the other hand, it had expressly counseled the banks of deposit to use the money of the government to stimulate business, and especially foreign trade.[1] The amount of these sums

a species of enterprise which, without it, might have gone on to produce great and healthy prosperity." Confirmatory of the correctness of this view is the fact, that during the four years after the crisis, 1838–1841, 2,038 English miles were finished, while during the four years previous, 1,117 miles had been built. A History of American Currency, pp. 117, 118.

[1] In the Treasury Circular of September 26, 1833, we read: "The deposits of public money will enable you to afford increased facilities to commerce, and to extend your accommodation to individuals; and as the duties which are payable to the government arise from the business and enterprise of the merchants engaged in foreign trade, it is but reasonable that they should be preferred in the additional accommodation which the public deposits will enable your institution to give, whenever it can be done without injustice to the claims of other classes of the community." Webst.'s Works, IV, pp. 443, 444. When Webster, in 1838, reproached

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was large enough to act as an ominous stimulant on the already feverish disposition towards speculation. They were, on the 1st of January, 1834, $11,702,905, and kept falling to the 31st of December, when they were $8,695,-981,[1] and on the 31st of March, 1836, the government had $31,805,155 outstanding, divided among forty banks.[2] The aggregate number of banks had increased during the last seven years from 330 to 634, and their capital had just doubled ($145,000,000 and $290,700,000), while the amount of their advances had almost trebled ($200,400,-000 and $525,100,000); their cash stores, on the other hand, had increased only from $22,100,000 to $37,900,000;[3] and

the administration with this, he had forgotten what he said in 1836. In a speech of the 31st of May, 1836, he complains: "I am of opinion that the first step is to increase their [the deposit banks] numbers. At present, their number, especially in the large cities, is too small. They have too large sums in deposit, in proportion to their capital and their legal limits of discount. By this means, the public money is locked up. It is hoarded. It is withdrawn, to a considerable extent, from the general mass of commercial means, and is suffered to accumulate, with no possible benefit to government, and with great inconvenience and injury to the general business of the country. On this point there seems little diversity of opinion. All appear to agree that the number of deposit banks should be so far increased that each may regard that portion of the public treasure which it may receive as an increase of its effective deposits, to be used, like other moneys in deposit, as a basis of discount, to a just and proper extent." Works, IV, p. 253.

[1] Calh.'s Works, V, p. 154.

[2] Report of Woodbury, secretary of the treasury, April 18, 1836, Niles, L, p. 153. According to the treasurer's report of August 28, 1837, that is, three and one-half months after the crash, the deposits amounted to $13,255,916, on which drafts to the amount of $3,877,468 were already drawn, but not paid. This sum was divided among 85 banks, of which several had less than $100, and one only $20. Ibid. LIII, p. 35.

[3] These numbers are taken from W. G. Sumner, A History of American Currency, p. 123, who in turn took them from Condy Raguet's Currency and Banking. I have not been able to procure this latter book, and I cannot therefore say whether Raguet obtained the numbers from official

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in addition to all this, a foolish experiment in the matter of the currency, which produced a complete revolution in hard money, found favor in 1834. Such was the old standard that it caused the gold to leave the country as fast as it was coined at the mint.[1] On the 29th of March, 1834, Benton made a motion in the senate for the appointment of a committee to discover what changes it was necessary to make in the existing gold standard in order to remove this evil.[2] The proposition met with great favor, and it was resolved by both houses, and by a large majority, to change the rates between the values of gold and silver from 15:1 to 16:1. Although it was universally conceded that this ratio was too large, yet the bill, with this clause, was passed in the senate

sources. The accounts to which I have been able to have access from contemporary non-official sources, depart largely from them, and differ greatly from one another. In the letter of J. Hamilton to N. Biddle, already cited, we read, for instance: "According to the most authentic returns we have seen within the last seven years, 357 new banks have been created in the United States, besides 146 branches, which, added to those previously in existence, made a total of 667 banks. This produced a corresponding augmentation of the banking capital of the country of $179,000,000 and an increase in the circulation of paper money amounting to $125,000,000." Niles, LII, p. 313. The statements in Calhoun, Works, III, p. 108, and Webster, Works, IV, p. 281, are too general to have any value. In reference to the ratio of gold and silver money to the bank notes, Calhoun, speaking of the year 1834, says: "There was then not more than one dollar in specie, on an average, in the banks, including the United States Bank and all, for ten of bank notes in circulation, and not more than one in eleven compared to the liabilities of the banks." Works, III, pp. 255, 256. A report of the secretary of the treasury makes the following estimate for December, 1836: in active circulation, $28,000,000 in gold and silver, and $120,000,000 in bank notes; besides which, $45,000,000 in specie in the banks. Statesm.'s Man., II, p. 1268.

[1] "Of all the gold which came in and was coined, the secretary of the treasury said, 1836, that not over $1,000,000 remained in the country in 1834, and of that small amount only a very diminutive portion was in active circulation." W. G. Sumner, l. c., p. 108.

[2] Deb. of Congr., XII, p. 303.

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by thirty-five against seven votes,[1] and in the house of representatives by one hundred and forty-five against thirty-six.[2] On the 28th of July the bill received the president's signature, and on the 31st of July the law went into force.[3] From this moment the silver coins disappeared as rapidly from circulation as the gold coins had previously, and every creditor lost $2\frac{5}{10}$ per cent. of his claims against his debtor.[4]

The compromise tariff of 1833 had preceded the foolish experiment with the currency; and its provisions, confused and destitute of all principle as they were, had no merit, except that they indefinitely postponed the solution of the states-rights question. The "horizontal rate" of twenty per cent. to which the duties until 1842 were to be kept down, left a whole series of specific duties untouched, largely increased the price of some important articles, as, for instance, of cheap woolen stuffs, considerably decreased the custom receipts, while no other sources of income were opened to the government, and, with the stability of the duties, took away the corner stone of a healthy development of trade.

The compromise tariff had not yet gone into force when the United States Bank began to contract its giving of credit. The withdrawal of the deposits served as a pretext for this. The most essential, if not the only reason, was evidently the hope of exerting a pressure on congress in the matter of the renewal of the charter. The effect of this sudden change of its politics was severe enough. It followed the so-called bank panic of 1834. Congress was flooded with representations and complaints. The debates were carried on in such a tone that it might have been inferred that the whole future

[1] Ibid., p. 515. An amendment in accordance with which the real value relation was to be maintained in the standard also, had, however, received at least 52 votes in the house.

[2] Stat. at L., II, pp. 699, 700.

[3] W. G. Sumner, l. c., p. 111.

[4] Ibid., p. 383.

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of the country was in jeopardy; but the president and the administration party became firmer in their resolve, in proportion as the attacks of the opposition grew more violent. The resolution of the house of representatives, adopted by a large majority, which ultimately was the death sentence of the bank, produced another revolution in its politics. Its contraction had finally operated as a stimulus to the activity of the smaller banks, and now that its fate was sealed, it began to follow the current generated at least in part by itself, and against its will.

Thus it happened that what, under other circumstances, would have operated as a powerful damper on the spirit of enterprise, served, by reason of the peculiar amalgamation of heterogeneous causes, to heighten the fever of speculation. It degenerated into a genuine epidemic, which raged even in those strata of society whose conservative inertia is proverbial. Every one wished to grow rich in a night, and it was a matter of course, that to become so, all that was needed was to engage in some kind of speculation. In the commercial cities, it seemed as if pieces of land were going to become as current as bank notes or coin. No one paid; every one bought to sell again next day with advantage, and prices were quoted which had no basis in real values. In New York, the assessors had estimated the city real estate in 1832, at $104,042,405; in 1836, it was appraised by the ward assessors at $231,258,964, and this appraisal was corrected by the city assessors in accordance with the selling prices last quoted, by an addition of $21,942,227; so that the taxes were levied on a valuation of $253,201,191.[1] The rise in

[1] Niles, LI, p. 167. Grosvenor gives $309,500,920 as the valuation of all taxable property (Does Protection Protect? p. 37). According to the list taken from the "New York Daily Advertiser" by Niles, the movable property was estimated at $74,787,589, so that the aggregate amount was $327,988,780.

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Mobile was incomparably greater. There the real estate was estimated in 1831, at $1,294,810, and in 1837, at $27,482,961. After this it declined steadily for ten years, until the appraisal in 1846 was only $8,638,250.[1]

These two examples are not arbitrarily chosen. There were deeper causes underlying the immense difference in the degree of the excitement, which point to the sorest spot in the economic life of the United States during the last seven years. The completion of the Erie canal, in the year 1825, the growth of steam navigation on the inland waters,[2] and the rapidly growing stream of emigration, had considerably increased the value of land in the ever receding "far west." The price of public lands up to 1820 had been $2 an acre.

[1] Grosvenor, l. c.

[2] The tonnage of the steamboats on the western rivers rose, in the years 1830–37, from 63,053 to 253,661. Grosvenor, l. c., p. 35. In a report of the committee of the senate on trade and commerce, of February 9, 1843, I find the following interesting data concerning the development of shipping on the Mississippi, Missouri and Ohio: "Before the introduction of steam navigation (which dates upon the waters of the Mississippi about 1817), the trade of the upper Mississippi and Missouri scarcely existed, and the whole upward commerce of New Orleans was conveyed in about twenty barges, carrying each about one hundred tons, and making but one trip a year; so that each navigation was, in those days, about equivalent to what an East India or a China voyage now is. On the upper Ohio, about 150 keel boats were employed, each of the burden of about 30 tons, and making the trip to and fro, of Pittsburg and Louisville, about three times a year. The entire tonnage of the boats moving in the Ohio and lower Mississippi was then about 6,500 tons. In 1834, the steam navigation of the Mississippi had risen to 230 boats, and a tonnage of 39,000, while about 90,000 persons were estimated to be employed in the trade, either as crews, builders, wood-cutters or loaders of the vessels. In 1842, the navigation was as follows: There were 450 steamers, averaging each 200 tons, and making an aggregate tonnage of 90,000; so that it has a good deal more than doubled in eight years. Valued at $80 the ton, they cost above $7,000,000, and are navigated by nearly 16,000 persons, at thirty-five to each. Besides these steamers, there are about 4,000 flat boats, which cost each $105, are managed by five hands apiece (or 20,000 persons), and make an annual expense of $1,380,000. The estimated annual expense of

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A law of the 24th of April of that year put it down to $1.25.[1] In 1818, public lands to the amount, in round numbers, of $2,600,000, were sold, and in 1819, to the amount of $3,270,000; but during the ten following years, the amount of receipts from this source remained below two millions, and in 1823 and 1824 it did not reach even one million. Commencing with 1829–30, we find a great, if not an entirely

the steam navigation, including 15 per cent. for insurance and 20 per cent. for wear and tear, is $13,618,000. If in 1834 they employed an aggregate of 90,000 persons, they must occupy now at least 180,000. . . . But at twenty (trips) each (steamboat), and carrying burdens far beyond their mere admeasurement of tonnage, their collective annual freight would be 1,800,000 tons, to which, if that of 4,000 flat boats (each 75 tons) be added, we have a total freight for the entire annual navigation of the Mississippi of about 2,000,000 of tons. . . . The downward trade may thus be stated at $120,000,000; the upward, or return trade of foreign goods, or of those brought up the river from other parts of the Union, is reckoned at about $100,000,000. Thus the entire amount of commodities conveyed upon the waters of the Mississippi does not, upon the best estimates, fall short of $220,000,000 annually; which is about $30,000,000 less than the entire value of the foreign trade of the United States, exports and imports, in 1841." Niles, LXIV, p. 124. Of the commerce on the great interior lakes, an almost simultaneous report (February, 1843) says: "In 1833, the first steamboat appeared off the shore where Chicago now is; as a town it did not then exist. In 1839, a regular line of eight splendid steamers of the largest class had been established, to run from Buffalo and Detroit to Chicago. . . . In 1841, there were upon Lake Erie and the upper lakes more than fifty steamers, constructed at a cost of between two and three millions of dollars. . . . During the same year, the probable amount of capital invested in sail vessels, on the same lakes, was estimated at $1,250,000, and their earnings at the same season are estimated at $750,000. If to these earnings there be added $150,000 for freight and toll upon United States products, passed during the same year through the Welland canal, it will be seen that the product of the navigation and commercial business upon these lakes amounts annually to the large sum of $1,700,000. . . . Of the actual condition of commerce of the lakes, some adequate conception, it is believed, can be formed. The secretary of war estimates its annual value at a sum exceeding twenty-five million dollars." Ibid., pp. 125, 126.

[1] Stat. at L., III, p. 566.

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steady rise. In 1834, nearly $5,000,000 worth was sold; and now speculation in public lands began to rage. Jackson had, in his annual message of December 4, 1832, recommended congress, as soon as practicable, not to treat them any longer as a source of income.[1] Spite of this, however, he, in his message of December 2, 1835, thought well to congratulate the country heartily, and without any qualifying remark, on the excellent sale of the public lands. He was ingenuous enough to see still in this only a proof of the prosperity of agriculture.[2] A moment's thought would have convinced him that an increase from $4,800,000 to $11,000,000, or rather $14,700,000,[3] within one year, could not correspond with the real wants of the country. When, in the following year, the proceeds increased to $24,800,000,[4] his

[1] Statesm.'s Man., II, p. 884.

[2] "Among the evidence of the increasing prosperity of the country, not the least gratifying is that afforded by the receipts from the sales of the public lands, which amount, in the present year, to the unexpected sum of eleven millions of dollars. This circumstance attests the rapidity with which agriculture, the first and most important occupation of man, advances, and contributes to the wealth and power of our extended territory. Being still of the opinion that it is our best policy, as far as we can, consistently with the obligations under which those lands were ceded to the United States, to promote their speedy settlement, I beg leave to call the attention of the present congress to the suggestions I have offered respecting it, in my former messages." Ibid., II, p. 1007. The last sentence suggests the idea that about this time he entertained the wish to give the business a still more powerful impetus by lowering the price still more. In the statement of his reasons for the veto which he had put on the land bill, on the 3d of December, 1833, we read: "I do not doubt that it is the real interest of each and all the states in the Union, and particularly of the new states, that these lands shall be reduced and graduated." Ibid., II, p. 948.

[3] The exact figures are to be found in Grosvenor, p. 36, following a report of the secretary of the treasury of 1863. The figures in Clay, Speeches, II, p. 288, are correct, but very incomplete.

[4] The secretary of the treasury had calculated on only four million. Webst.'s Works, IV, p. 261.

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eyes, and the eyes of all others who had shared his illusion, were opened. Deception as to the real state of the case would, from the first, even, not have been possible for a moment, if it had been only more clearly recognized that business generally had risen on Icarian wings from the solid foundation of facts. That speculation threw itself with peculiar intensity on the public lands, was owing to the nature of the given circumstances. Apparently, it bore, more than any other kind of speculation, the character of a solid investment of capital; for land was, and remained, a tangible object, and not simply a sign of value, like bank stock, which might be turned into a piece of waste paper in a night. Neither did it, like the products of industry, lose, in course of time, the qualities on which its capacity of being realized upon depended. That its value would some time be much greater than the price now paid for it, it was impossible to doubt. The mistake in the calculation of the speculators was, that they thought they would be able to sell it with advantage the day after they had bought it, whereas, from the very fact that speculation had obtained control of it, it would necessarily soon become unsalable for a long time.[1] Besides, the supply of the government was unlimited, and the price so low that it was possible to engage in very large speculations with comparatively small means; but it is to be

[1] "The honorable chairman tells us that the amount of land required for fair and honest settlement, by the progress of the country, is five millions of acres annually, and that the amount taken by speculation last year was thirty millions. If this be so, then there is already in the hands of speculators a six years' supply. Should all the land offices be closed to-morrow, the amount these speculators hold would not be absorbed by the regular demands of the country in less than six years. Now, the greater part of these purchases has been made upon loans; the interest is running on; and, unless the sales shall be in proportion, do not all men see that the accumulation of unproductive lands upon their hands must infallibly ruin those who are engaged in such speculations?" Calhoun, February 4, 1837; Works, II, pp. 620, 621.

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noted, especially, that the price of the public lands remained the same, while all other prices were rising greatly.[1]

It became a matter of great importance that the great temptation lying in this came to the south in a very seductive garb.

It has been remarked already that the speculation was very directly and very powerfully promoted by cities, counties, and even by states. How far this went in particular instances, I am not able to show. I have been able to find only a few vague statistics; but from these it is possible to draw an approximately correct picture of the state of things which prevailed. At the beginning of 1830, the aggregate of the state debts is said to have amounted to about $13,000,000,[2] and in May, 1836, Webster estimated the European capital invested in the securities of the states of the Union at $50,000,000.[3] Two years later he thought that not less than $100,000,000 of European money had been loaned, in the United States, to states, corporations and individuals, to be used in internal improvements.[4] It is said that the south alone — and, indeed, the youngest slave states and slave territories exclusively — had issued $50,000,000 of state securities, in the six or seven years preceding the crash, to cover the loans made in London.[5]

[1] "And, sir, closely connected with these causes is another, which I should consider, after all, the main cause; that is, the low price of land, compared with other descriptions of property. In everything else prices have run up; but here, price is chained down by the statute. Goods, products of all kinds, and, indeed, all other lands, may rise, and many of them have risen, some twenty-five, and some forty or fifty per cent." Webst.'s Works, IV, p. 262.

[2] The "North American Review," Jan., 1844, p. 110.

[3] Webster's Works, IV, p. 261.

[4] Van Buren says, in his annual message of December 24, 1839: "The foreign debts of our states, corporations and men of business can scarcely be less than two hundred millions of dollars, requiring more than ten millions a year to pay the interest. "Statesm.'s Man., II, p. 1244.

[5] "In 1831-2, money became very cheap in London, and, as a conse-

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The money obtained from the sale of bonds, most of which bore six per cent. interest, was employed in the establishment of banks, which loaned it to planters chiefly, at eight per cent. Not only the plantations, but also the slaves and their posterity, served as security for such loans — the plantations in Florida, for instance, at the rate of eight dollars an acre, and the slaves at three hundred and fifty dollars each. After the exposition of the nature of slave labor already given, it is not necessary to say that the borrowed money was not used in the improvement of plantations already under cultivation, that is, in more highly farming them. A real exodus of slaveholders and their slaves took place. Planters without any means, and the sons of large planters, moved away with from twenty to thirty slaves, began to grub up large tracts of virgin soil and laid the foundation of new plantations, without any capital except the sums borrowed from the banks on the security of the mortgaged land and slaves. Of the public lands which were sold in the ten years beginning with 1830, 20,132,240 acres were from the young slave states and slave territories — Alabama, Florida, Arkansas, Louisiana, Mississippi and Tennessee. This, therefore, meant a great shifting of the slave population. While its increase from 1830 to 1840, in the old slave states, amounted to 86,392, in the new slave states and slave territories it was 391,920, *i. e.*, in the latter their number nearly doubled. The aggregate increase of the slave population amounted to twenty-four per cent., but it was only five and a

quence, found its way in great abundance all over the world. The south was not slow to avail itself of this circumstance, and banks were started in great number, on borrowed money. Nearly all the states borrowed large sums: Alabama, $11,000,000; Louisiana, $20,000,000; Mississippi, $7,500,000; Arkansas, $3,500,000; Florida, $3,900,000 — altogether more than $50,000,000 of state stocks were issued for money obtained in London. This money was used for bank capital, and loaned to planters and others." The "Democratic Review," Aug., 1848, p. 101.

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half per cent. in the old slave states, and in three old border states and the District of Columbia, there was even a decrease of 26,288.[1] The center of gravity of the slave population, and with it the center of gravity of the slaveholding interest, began to be transferred in the direction of the southwest. The capital, under the stimulating influence of which this process was accomplished, came from the free states and from Europe.[2] The security for this capital was not only the land of the plantations, but also the slaves, with their yet unborn posterity. The ultimate exciting cause of the whole was the demand for cotton, which was increasing in immense proportions. The price of cotton had risen rapidly from six to eight and ten cents per pound;[3] maintained itself, between 1833 and 1834, steadily between the limits eleven and one-third and eleven and three-fourths cents; in 1835, between fourteen cents, its lowest price, and twenty cents,[4] its highest; fluctuated during the last months of 1836 between twelve and twenty; fell, in April, 1837, to eleven and fifteen; and finally, in May, to eight and twelve.[5] This enormous en-

[1]

	Alabama.	Arkansas.	Florida.	Louisiana.	Miss'ippi.	Tennessee.
1830	117,549	4,576	15,011	109,588	65,659	141,603
1840	253,532	19,939	25,717	168,452	195,211	183,059
Increase.	163,003	15,363	10,706	58,864	129,952	41,456

	Total.	New states.	Old states.
1830	453,936		1,555,057
1840	845,906		1,641,449
Increase.	391,920		86,392

	Delaware.	Maryland.	Dist. of Columbia.	Virginia.	Total.
1830	8,292	102,994	6,119	469,757	1,143,164
1840	2,605	89,737	4,649	446,987	1,116,876
Decrease.	637	13,257	1,425	22,770	26,288

[2] The "Democratic Review" (August, 1848, p. 102), from which the above data are taken, estimates the foreign capital with which this extension of slavery on a large scale was made, at $200,000,000.

[3] Grosvenor, p. 35. Unfortunately, he does not state the precise year.

[4] W. G. Sumner, p. 121.

[5] W. G. Sumner, p. 135.

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hancement of price, while production increased steadily and rapidly, might well turn people's heads. How was it possible not to call cotton "king," and to fall into the delusion that the limits of his kingdom could not be too wide! They extended with very great rapidity. The cotton crop of the United States was, between 1833 and 1837, from 1,070,438 bales to 1,422,968 bales, and the entire increase came from the new slave states.[1]

Even more acute thinkers than Jackson might have allowed themselves to be misled into exulting over the general prosperity, and seeing one of the clearest proofs of it in the astounding demand for the public lands. The president was now able to add the announcement that the national debt was entirely extinguished, to the gratitude which he had expressed to Providence in his yearly message of December 2, 1835, for the blessings[2] which had been bestowed on the country in a measure greater than ever before. He expected to see the yearly account closed with a credit of $19,000,000, and believed that about $11,000,000 would remain at the free disposal of congress.[3] The United States were so rich that the branches of government had to quarrel among themselves as to how the surplus should be employed. The irony of fate so willed it that the decision of this question had a material share in the rapid revolution of the wheel of fortune.

As early as April 16, 1832, Clay had introduced a bill

[1] The "Democratic Review," l. c. In 1833, of the entire crop, 536,450 bales came from the new slave states, and 513,988 from the old. In 1837, from the former, 916,960; from the latter, 506,608.

[2] "Never, in any former period of our history, have we had greater reason than we now have, to be thankful to Divine Providence for the blessings of health and general prosperity. Every branch of labor we see crowned with the most abundant rewards; in every element of national resources and wealth, and of individual comfort, we witness the most rapid and solid improvements." Statesm.'s Man., II, p. 996.

[3] Ibid., p. 1006.

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providing for the distribution of the proceeds of the sale of the public lands among the states, into the senate.[1] In the senate there was a majority in favor of the proposition,[2] but in the house of representatives the bill did not come up for debate at all. On the 12th of December of the same year, Clay introduced it again into the senate.[3] It was passed by both houses, and was sent to the president for approval on the 2d of March. As the 3d of March fell on a Sunday, on which it is not usual for the president to put his signature to bills, it was really the last day of the session, and Jackson allowed the committee to dissolve without having come to a decision. Not until the 4th of December did he send the bill to the senate with a veto, argued at length, and in which the weight of reasons was unquestionably on his side. More than two years elapsed and not one step farther had been taken. The extinguishment of the national debt, and the accumulating surplus, forbade the postponement of the question any longer: it was necessary to come to some conclusion. Calhoun, on the 25th of May, 1836, made a motion in the senate intended, under a false title and in a roundabout way, to lead to Clay's original object in that which was most essential.[4] He neither mentioned the public lands, nor did he wish to "distribute" the surplus among the states. Everybody knew that the public lands had hitherto been the great source of the surplus, and expected that they would continue to be so in the future. But Calhoun now treated the surplus as a fact with which it was necessary to deal, no matter to what cause it might be reduced, and he soon got rid of it by making, so far as form went, a mere provisional disposition of it. The ques-

[1] Deb. of Congr., XI, p. 446.
[2] Ibid., pp. 509, 510.
[3] Ibid. XII, p. 12.
[4] Deb. of Cong., XII, p. 765.

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tion of the deposits had to offer its services to solve the land question, and in such a way that after the deduction of a certain amount the surplus was to be "deposited" with the states. After some immaterial modification, the two houses agreed to this proposition, and on the 23d of June, 1836, the bill was signed by the president,[1] not, however, without reluctance. It was not even attempted in the debates to conceal in any way that these deposits were really a division. Calhoun did not, indeed, wish to admit the truth of Wright's assertion, that the unwillingness of the states to restore the sums they had once obtained would always leave the majority of congress against such a demand, but he readily granted that congress would come to this resolve only very reluctantly. On the other hand, he insisted that the deposits would give the states the means to discharge their debts and to continue their system of internal improvements.[2] But the watchword of the day was not: pay your debts, but: make debts; and the system of internal improvements, justifiable as it was in itself, was already close on the limits of what was required by present wants, and had for a long time been operating as a stimulant to the unbridled spirit of speculation.

Jackson had in the meantime become convinced that it was necessary to put a powerful check on the latter. He endeavored in his own inconsiderate and thorough-going manner to impose such a check himself on the spirit of speculation, without being conscious of the fact that in so doing he smote himself in the face.

Benton had, as early as the 23d of April, 1836, made a motion in the senate that henceforth only gold and silver should be received in payment for the public lands.[3] The

[1] Stat. at L., V, p. 52.
[2] Deb. of Congr., XII, pp. 768, 769. See, also, XIII, p. 491.
[3] Ibid., XII, p. 760.

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resolution found so little support that it was not possible to provoke any exhaustive debate on it. But scarcely was congress dissolved when the administration, of its own accord, disposed of the question in a way which was in harmony with Benton's motion.[1]

This so-called specie circular must be considered and judged from two different points of view: the legal and the practico-political.

Congress had, on the 30th of April, 1816, determined in the form of a resolution what value-paper besides the legal money of the United States should be taken in payment by the treasury.[2] The opposition looked upon this resolution as an imperative order which left no discretion whatever to the secretary of the treasury. On the other hand, Woodbury, in his circular, had said that the indulgences hitherto usual should no longer be granted. The administration, in support of its view of the case, adduced the fact that a certain amount of discretion had been actually exercised by former secretaries of the treasury, and that no objection to the exercise of such discretion had been raised by any one. The opposition rightly called the assertion that congress had committed the regulation of a matter so important to the entire economic life of the country entirely to the caprice of the executive, simply absurd. The wording of the resolution afforded ground for argument to both parties to the controversy, although it left the administration the weaker defensive position. It is not necessary to discuss more exhaustively the reasons on both sides, since people might here, in the best of faith, have held different views, and the different interpreta-

[1] July 11, 1836. Niles L., p. 337. The order to take only gold and silver for the public lands, on and after the 15th of August, was given under certain limitations, which were, indeed, not without importance at the time, but which can claim no general interest.

[2] Stat. at L., III, p. 343.

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tions of the resolution of April 30, 1816, involved no constitutional principles.[1] There were such principles, indeed, in question, but entirely independent of this resolution. Benton, who in a somewhat allegorical manner represented himself as the real originator of the circular of July 11th, thinks it incumbent upon him to laud Jackson in a special manner, because he issued it in opposition not only to congress, but also to a majority of his cabinet. The senator expressly states at the same time that the adjournment of congress was waited for only in order that it might not be able to dispose of the matter otherwise by a legislative act.[2] Subsequent events proved that this would have been actually the case. A bill was passed during the next session, in the senate, by a vote of forty-one against five, and in the house of representatives, by one hundred and forty-three against fifty-nine, which reversed the orders of the circular.[3] The bill reached the president only on the 2d of March, 1837, and fifteen minutes before the expiration of his term of office he announced that he would neither sign nor veto it. Whatever might have been the scope of the resolution of April 30, 1816, Jackson had known from the very first that the orders of the circular of the 11th of July were not in accordance with the will of congress, and his fears that the opposing majority was great enough to make his veto of no effect had been fully confirmed. Jackson had further expressly recognized that it was not only a question of prime importance, but that it called for legislative regulation.[4]

[1] Any one interested in this subordinate side of the legal question would do well to compare Webster's speech of December 21, 1836. Works, IV, pp. 265 ff., and Benton, Thirty Years' View, I, pp. 695 ff.

[2] "It was issued immediately after the adjournment of congress, and should have been issued before the adjournment, except for the fear that congress would counteract it by law." Ibid., I, p. 676.

[3] Deb. of Congr., XIII, pp. 190, 333.

[4] In the message of the 2d of December, 1835, Jackson says, in treating

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Now, as we have seen, the constitution grants the legislative power to congress alone, and there prevailed in it that unanimity of opinion which constitutes the constitutional limit of the president's power of control. Spite of this, Jackson acted contrary to the known will of the legislative power, and for a whole year kept the constitutional legislative will from actually becoming a law; that is, he, to whom the constitution had granted no legislative authority whatever, virtually made his own sovereign inclination the law of the land. The president was not guilty of a formal violation of the constitution, but the wit of man is not equal to the task, in the shaping of political life, of inventing forms which may not be employed as weapons against their own legitimate substance or contents. This Jackson did in this case. He did it fully conscious that he was doing it, and both he and his accomplices took great credit to themselves that he did do it. Again were the rights granted the pres-

of the question of deposits: "In the regulations which congress may prescribe respecting the custody of the public moneys, it is desirable that as little discretion as may be deemed consistent with their safe keeping should be given to the executive agents. No one can be more deeply impressed than I am with the soundness of the doctrine which restrains and limits, by specific provisions, executive discretion, as far as it can be done consistently with the preservation of its constitutional character. In respect to the control over the public money, this doctrine is peculiarly applicable, and is in harmony with the great principle which I felt I was sustaining in the controversy with the Bank of the United States. . . . The duty of the legislature to define, by clear and positive enactment, the nature and extent of the action which it belongs to the executive to superintend, springs out of a policy analogous to that which enjoins upon all the branches of the Federal government an abstinence from the exercise of powers not clearly granted. . . . In its application to the executive, with reference to the legislative branch of the government, the same rule of action should make the president ever anxious to avoid the exercise of any discretionary authority which can be regulated by congress. The biases which may operate upon him will not be so likely to extend to the representatives of the people in that body." Statesm.'s Man., II, p. 1012.

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ident prostituted to the base end of throwing the fundamental principle of the whole constitution to the ground, and trampling it under foot.

Under the visual angle of political expediency, this struggle between the president and congress appears in a somewhat different light. Bank notes had been issued in enormous quantities, and it was necessary to check the evil. It could not be long before the real nature of the wealth which everybody had acquired during the last few years would be revealed, wealth not acquired by labor, but conjured into existence by speculation. The immense bubble had to burst. And once burst, the direct loss of the United States would be, of course, greater, the longer the public lands were wasted for the depreciated notes, which the speculators could procure in any quantity they desired. This alone should have sufficed to determine congress to adopt the policy of the president. But it mattered not how great this direct damage might be, it could constitute but a small part of the loss which the entire wealth of the people was destined to suffer from a general commercial crisis. Such a crisis could no longer be avoided, but its disastrous effects could have been greatly weakened. If the president and congress had kept together on this question, and if congress had checked Jackson's indiscreet warmth, orders like those contained in the circular of the 11th of July would have served as a warning which would, beyond a question, have exercised great influence. But as congress, with an unheard of majority, assumed an attitude in opposition to the president, the latter, with his one-sided course, poured oil — not on the troubled waters, but into the fire. Not only the opposition, but a great many of his own most faithful partisans stood out against the president.[1] Moreover, the presi-

[1] Will. L. May, a democratic member of congress, writes on the 9th of December, 1836, to J. Hoyt: "I am inclined to believe that a very gen-

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dent had become untrue to himself. He now sought by the circular of the 11th of July to check and destroy the thing which he had so materially promoted by the deposit banks and by his instructions to them. His present view was, indeed, the more correct, and hence he should not be reproached with his inconsistency. But this inconsistency was now an undeniable fact, and hence his judgment, in view of the epidemic speculation-fever which was raging, and the great opposition among his own partisans in congress, had not, from the first, the slightest prospect of making any impression upon the people. And, considering this feeling of the people, the circular of the 11th of July, taken in conjunction with the law on the gold standard, served only to give speculation in general, and speculation in the public land in particular, a new and powerful impulse. Benton might boast that about ten millions of bank notes had been stopped on their way to the land offices by the circular.[1] On the other hand, seven millions in coin were, in the space of seven months, withdrawn from the banks and placed in the deposit banks,[2] while, at the same time, the demand for coin produced by the regulations of the circular, and the foolish provisions of the law relating to the gold standard, caused immense sums of gold to flow to the United States from Europe. Although from 1831 to 1837 the imports exceeded the exports by about $130,600,000, $36,000,000 in coin was

eral disposition exists on the part of the friends of the administration to limit the sales of the public lands to actual settlers; should this be accomplished . . . the necessity of keeping the treasury order in force would no longer exist, and the president would thus be supplied with the best possible reason for its immediate repeal. All parties, so far as my knowledge extends, deprecate the order, not only as injurious to every branch of trade, but as tending greatly to lessen the number of our political friends." Mackenzie, The Life and Times of M. Van Buren, p. 263.

[1] Thirty Years' View, L, p. 678.

[2] W. Sprague to J. D. Wolf, Aug. 10, 1837; Niles, LII, p. 407.

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imported from 1833 to 1837.[1] This money affected giddy banking projects and the land speculation in the same way that a steady, warm rain does vegetation in its earlier stages.[2] But the rope was already so tensely stretched that it could no longer bear even the rupture of a single thread, and the knife had been applied even before the issue of the circular of the 11th of July.

Speculation in Spanish and Portuguese goods had made great demands, in 1834, on the resources of the Bank of England. It had not yet regained its normal condition when speculation in the United States began in earnest. Up to the summer of 1836, bills of exchange to the amount of £2,600,000 had been drawn on the bank. Its reserve of gold was greatly reduced, and on the 1st of July it began to contract its credits. A rapid fall of prices followed,[3] and great anxiety prevailed in all businesses. In November, some English banks were greatly embarrassed, and the Bank of England came to their assistance only on condition that they would go into liquidation. This blow caused the ruin of three large houses which did business with the United States. The stone was set rolling, and it had scarcely began

[1] W. G. Sumner, p. 134. The data in Niles, LVII, p. 169, after an article from the "New York New Era," do not exactly agree with this, but the difference is not great. The estimate in Legaré (Writings, I, p. 301), that nearly $12,000,000 in coin were imported in 1834 is still too low; there were nearly $16,000,000.

[2] The "New York Era" writes: "Everybody was becoming suddenly rich. Villages and cities sprung up in the wilderness. Houses and lots became more profitable than fine gold. And wild and unproductive land became suddenly an inexhaustible mine of wealth. All who had money or credit plunged headlong into the stream. The farmer, the manufacturer and merchant instead of paying their debts bought lands. The country merchant bought lands and paid the city merchant, as well for his old debts as for his new purchases, in this new currency, upon the strength of valuation, which deceived himself as well as his creditors." Niles, LVII, p. 169.

[3] Legaré, Writings, I, p. 299, says twenty to thirty per cent.

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to move when its rolling was changed into a precipitous, headlong fall. The fancy values of landed property melted like snow in the April sun; immense quantities of commodities, stored up without any regard to the real wants of the country, lost in a day fully one-third of their value; the figures on all kinds of value-paper became a bitterer mockery with every hour; bankruptcies came in avalanches; one manufactory after another stopped, and the number of those who could find neither bread nor work increased by thousands and tens of thousands.[1] The south suffered most of all. From Virginia came the complaint that all the great staple articles had been dragged into the whirlpool.[2] In Mississippi, over a hundred cases at law were begun in a single county within one month. The governor rejected the petition of the population to call the legislature in order to put a stop to the course things were taking, by a "relief or replevin law;" but the citizens summoned the

[1] In the address which the committee of merchants of New York handed to the president on the 3d of May, 1837, we read: "Under a deep impression of the propriety of confining our declarations within moderate limits, we affirm that the value of our real estate has, within the last six months, depreciated more than forty millions; that within the last two months, there have been more than two hundred and fifty failures of houses engaged in extensive business; that within the same period, a decline of twenty millions of dollars has occurred in our local stocks, including those railroad and canal incorporations, which, though chartered in other states, depend chiefly upon New York for their sale; that the immense amount of merchandise in our warehouses has, within the same period, fallen in value at least thirty per cent.; that within a few weeks, not less than twenty thousand individuals, depending upon their daily labor for their daily bread, have been discharged by their employers, because the means of retaining them were exhausted, and that a complete blight has fallen upon a community heretofore so active, enterprising and prosperous." Niles, LII, p. 166.

[2] The "Richmond Inquirer" writes: "Tobacco has fallen beyond all calculation. Cotton is down from seventeen to ten cents per pound. Instead of exporting any breadstuffs, we have been compelled, by the scantity of our harvests, to draw upon the granaries of Europe." Niles, LII, p. 131.

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sheriff to resign, and threatened any one who should accept the office provisionally.[1] It was said that in Mobile nine out of every ten merchants had suspended payments.[2] New Orleans, it was written to the *Courier and Inquirer*, on the 16th of April, was in *anarchie financière*, and was entirely bankrupt.[3] And the *True American* wrote on the 4th of May: "The monopoly of the cotton staple has fallen by its own weight. There will not be a house left to tell the tale."[4]

While the airy castle of speculation was thus tumbling on all sides, the day was approaching on which the deposit banks had to pay the first two installments of the surplus of $40,000,000 which was to be divided. This was the finishing blow. When the Dry Dock Bank of New York, one of the deposit banks, stopped payment, the creditors of the other banks began to storm them in such a manner that they, without exception, suspended cash payments on the 10th of May. The banks of Baltimore and Philadelphia immediately followed the example of those of New York, and the suspension soon became general.[5] The wild anathema which Jackson now hurled against his own creatures, the "treacherous deposit banks," died away unheard, and

[1] Ibid., p. 101. "No land sales presented a higher degree of excitement, or more gigantic schemes of speculation, than in Mississippi. . . . In the crash of 1836, '7, '8, '9, an almost universal bankruptcy ensued amongst us, and some of the finest portions of Mississippi became partially depopulated." De Bow, Commerc. Review, I Ser., Vol. VII, p. 39.

[2] Niles, LII, p. 113.

[3] Ibid., p. 130.

[4] Niles, LII, p. 161.

[5] "What is not a little remarkable, and calculated to excite a suspicion that something was wrong, is the fact that the suspension at New Orleans, Mobile and other places occurred a few days after that at New York, but before there could have been any communication." Niles in the Senate, Sept. 20, 1837; Deb. of Congr., XIII, p. 376.

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could bring no assistance.[1] As all the blame was imputed to the financial policy of the administration, it was considered that the government should now come to the rescue. Only the account was not presented to Jackson, but to his fortunate heir.

Van Buren, who had entered the office with no programme but that of imitating his predecessor, Jackson, thus saw himself, during his very first weeks in the presidency, face to face with a new and great problem, which was destined to constitute the most important chapter in the history of his administration. We must do him the justice to say that he was much better fitted for the task of meeting it than the majority of congress. In this one question he really evinced courage, firmness and statesmanlike insight; and it was important enough to make the victory which he won in it figure as a large credit against the debit which constituted the rest of the account of his administration.

The position of the president was a very difficult one. Much as the guilt of his predecessor was exaggerated, it could not be denied that he was not entirely without blame. But if this was admitted, it was necessarily impossible, considering the frightful excitement in the country, to obtain from the people a measurably rational and equitable judgment as to the extent and nature of that guilt. And it must

[1] Jackson wrote, on the 9th of July, 1837: "The history of the world never has recorded such base treachery and perfidy as has been committed by the deposit banks against the government, and purely with the view of gratifying Biddle and the Barings, and by the resumption of specie payments, degrade, embarrass and ruin, if they could, their own country, for the selfish views of making large profits by throwing out millions of depreciated paper upon the people — selling their specie at large premiums, and buying up their own paper at discounts of twenty-five to fifty per cent., and now looking forward to be indulged in these speculations for years to come, before they resume specie payments." Niles, LII, p. 370. See also his letter of the 17th of December, 1837, to Moses Dawson. Ibid., LIII, pp. 314, 315.

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have been more difficult yet to make it apparent that what was bad would be only made worse, if simply the reverse of that which was originally really wrong in Jackson's policy, or which was first to draw evil consequences after it, were to be done now. In great economic crises, ignorance, consciousness of guilt and excitement always join hands to drag the government into the prisoner's dock, and they will always be inclined to make it a demand of healthy common sense and an unassailable logical deduction, that legislation should now veer about and steer, under full canvas, in the opposite direction. In an address handed by a committee of the merchants of New York to the president on the 3d of May, we read: "The error of our rulers has produced a wider desolation than the pestilence which depopulated our streets, or the conflagration which laid them in ashes."[1] That the crisis was to be considered the effect of "any excessive development of mercantile enterprise," was contested in express terms. On the other hand, it was emphatically alleged that New York considered itself "an adequate judge of all questions connected with the trade and currency of the country;" and then sentence of death was pronounced on the financial policy of the last administration in particular. This was the tone and character of the numerous addresses and representations which admonished the president to do his "duty," and to afford redress.

Van Buren bore the storm bravely. He repelled all reproaches with decision, but with no bitterness, and declared that he could not surrender his old views, which were well known to the country. Only in one point was he soon obliged to yield. The deputation from New York had requested him to convoke congress in extraordinary session. He answered that he saw no reason to so convoke it. He was obliged to come to a better conviction. The suspension

[1] Niles, LII, p. 166.

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of specie payments made it impossible for the government to comply with the provisions of the law of the 23d of June, 1836, on the keeping of the public moneys.[1] Hence, some other disposition had to be made of them by law. Besides, all the matured deposits were unavailable, at least to the extent that the administration did not wish to receive them in depreciated paper. As there was further prospect of a large reduction of income, especially from duties, it was inevitable that the administration would soon be greatly embarrassed. One year after the hotly contested question, how the government should dispose of the oppressive surplus, had been finally decided, congress had to be hastily convened in order to procure for the administration the means which were merely necessary to support itself, and it could discover no expedient but the creation of a new national debt in the form of treasury warrants.[2] Party politics charged this also to Van Buren's account.

Congress met on the 4th of September, 1837. In the house of representatives, the strength of the opposing parties was immediately evidenced by the choice of the speaker. James K. Polk, the administration candidate, received one hundred and sixteen votes, only three more than were required for an election.[3] There was consequently not much wanting to place the administration in the condition of a minority; for it was by no means a matter of course that all who adhered to it generally would share the views of the president in the all-overshadowing financial question also.

[1] Among the obligations which the banks were obliged to undertake in order to get the deposits, was this one: "To credit as specie, all sums deposited therein to the credit of the treasurer of the United States, and to pay all checks, warrants, or drafts, drawn on such deposits, in specie if required by the holder thereof." Stat. at L., V, p. 53.

[2] Law of Oct. 12, 1837. Stat. at L., V, p. 201.

[3] Deb. of Congr., XIII, p. 461.

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And Van Buren had, indeed, his own special views on the subject. His message was not confined to tracing the causes of the crisis and proposing means to remove the government's want of money at the moment. It is a document of lasting historical interest only because it in an exhaustive manner supports a plan of an entirely new organization of the administration of the finances. It was shameful to "postpone" the payment of[1] the fourth installment of the surplus; and it was still more shameful, as Webster said, to drive away the bank notes completely by gold and silver in the fifth year of the experiment, and to propose a "regular emission of paper money."[2] Great as the opportunities thus afforded to the opposition for sensitive thrusts was, money had to be procured, and these expedients lay nearest at hand. They were all the less adapted to a decisive attack on the administration, as they bore an entirely temporary character. Leaving the new system, the introduction of which the president advocated, out of consideration, nothing involved a principle of any importance except the declaration of the message that no specific aid should be expected from the administration in respect to the need of the moment; any attempt to afford such aid would be in conflict with the political nature of the republic, and would be beyond the constitutional power of the Federal government.[3] The denunciations which this

[1] Law of October 2d, 1837, Stat. at L., V, p. 201. The payment should have been made on the 1st of January, 1839; but the treasury had no money and it was not made then, nor at all.

[2] Webst.'s Works, IV, p. 318.

[3] "Those who look to the action of the government for specific aid to the citizen to relieve embarrassments arising from losses by revulsions in commerce and credit, lose sight of the ends for which it was created, and the powers with which it is clothed. . . . If, therefore, I refrain from suggesting to congress any specific plan for regulating the exchanges of the country, relieving mercantile embarrassments, or interfering with the ordinary operations of foreign or domestic commerce, it is from a conviction that such measures are not within the constitutional province of the general

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declaration called forth, found, it may be readily imagined, a loud echo among the people; but they were rather declamations with demagogical flights than arguments.[1] Van Buren unquestionably merited well of the country, because he refused his coöperation, in accordance with the guardianship principle of the old absolutisms, to accustom the people of the republic also, to see the government enter as a saving *Deus ex machina*, in every calamity brought about by their own fault and folly.

The new system which the president proposed consisted simply in this, that the public moneys should henceforth be administered by the government itself entirely independ-

government, and that their adoption would not promote the real and permanent welfare of those they might be designed to aid." Statesm.'s Man., II, pp. 1176, 1177.

[1] I here leave out of consideration the great controversy whether the general government has the right and whether it is its duty, besides gold and silver money, to create "a national currency." A critical examination of the question from the standpoint of constitutional law, would not be possible without an exhaustive exposition of its historical development; but this belongs rather to a history of finance, and would carry us too far here. I would only remark just now that I consider the argument of Webster and of the other whigs irrefutable, and that unhappy as they seem to me to have been in their positive proposals, I agree with their opinion in this, that the government should have made use of this right. In the censures against them in the text, I have had in mind only such expressions as this of Webster: "It is, however, to the credit of the president, that he has given, in an unequivocal and intelligible manner, his reasons for not recommending a plan for the relief of the country; and they are, that, according to his views, it is not within the constitutional province of government. I confess this declaration is to me quite astounding, and I cannot but think that, when it comes to be considered, it will produce a shock throughout the country. This avowed disregard for the public distress, upon the ground of the alleged want of power; this exclusive concern for the interest of government and revenue; this broad line of distinction, now, for the first time, drawn between the interests of the government and the interests of the people, must certainly be regarded as commencing a new era in our politics." Webst.'s Works, IV, pp. 313, 314. See also Deb. of Congr., XIII, pp. 380, 385, 436, 482.

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ently, and independent of banks of every kind. The friends of the plan called it the divorce of the government and the banks, otherwise the independent treasury. Van Buren's argument, very exhaustive and written with clearness and acumen, may be summed up in the following points: Neither the system of the national bank nor that of the deposit banks has stood the test of trial, and neither the one nor the other can ever stand the test of trial, because the fundamental idea of both is an absurd one; there remains, therefore, nothing to do but to put the government on its own feet, and this is not only possible, but will be a blessing both to the government and the people, because it would dissolve the unnatural connection between that which should be the exclusive domain of private business and the government; a connection which had produced the most disastrous effects.

Van Buren was not the father of the thought. As early as 1834, W. F. Gordon, of Virginia, had developed it in the house of representatives, and put it into the form of a motion. Only thirty-three votes were cast for the proposition, and of these thirty-two belonged to the opposition.[1] Hence, the president expected of the party that it would now do that which it had declared against three years before in one house of congress with only one dissenting voice. Considering the dread of American politicians of the charge of the slightest inconsistency, this was asking not a little. Benton's declaration that the good services of the state banks should have been secured against the United States bank, and that the deposit banks had led to the independent treasury,[2] was, looked at in the light, less a weakening of the reproach than a farther self-accusation. But as the inconsistency was demanded, not of individuals, but of the entire party, declarations like this might be used as an excuse, and even as a justification, without any fear of a ma-

[1] Deb. of Congr., XII, pp. 506, 507, and XIII, p. 403.

[2] He calls them the "half-way house."

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terial enfeebling of the party because of the inconsistency. The great majority, therefore, turned their coats with the same safe self-complacency as Benton, and those who did not do so had other reasons for it than the vote on the Gordon motion.

What Benton had said on the part which the state banks had been made to play in the struggle with the United States Bank was not incorrect, but it was only half the truth. Very many of those who had taken part in Jackson's crusade were interested, not so much in the abolition of the United States Bank as in the destruction of the great competitor of the rest of the banks. In the democratic party, too, there were many whose material interests were most intimately connected with the weal and woe of the banks. The divorce between the government and the banks now appeared to them as the taking away of the advantage which the banks had reaped from the government deposits. Others, besides, might have shared, to a certain extent, the apprehensions which the "independent treasury," politically considered, excited. A complete and unreserved defining of their position was not to be expected of them. They were far removed from wishing to desert to the camp of the whigs, who hoped to see the national bank rise again on the ruins of the great crash. They agreed with the latter only in not wanting the independent treasury, and on this point both could join hands without giving up their party in the rest. Party discipline could not be enforced with the severity otherwise peculiar to the democrats, because the question had just been raised by the president's initiative, and therefore could not acquire, completely, the character of a party question until the next elections. Whether it would lead to great disarrangement of party conditions, could not now be perceived. It did not seem entirely impossible, if the currents among the masses corresponded to the changes of position in congress.

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The separation of Calhoun from his allies hitherto caused the greatest excitement. The reproach made by the latter that he had gone over, bag and baggage, to the camp of the administration, was unfounded. It was no longer at all in his power to belong to a party after the manner of most politicians. And even now his camp was his own tent; only he removed it near to the fires of the army of the administration. He, indeed, fought with the latter, but, as he had always done, he strove only for himself and his cause. What was an end to his present companions in arms was to him only a means to his own ends. In his views on the economic questions there was much that was right, much that was confused, and some things which were absurd.[1] History may pass them over, for they contain no new truth and exercised no determining influence on the history of his country. The substance of his political life is exhausted in two words, slavery and state-sovereignty. The presumably favorable opportunity to make a hard fight for the latter it was which even now determined his resolve. "The government stands in a position disentangled from the past, and freer to choose its future course than it ever has been since its commencement. We are about to take a fresh start. I move off under the State-Rights banner, and go in the direction in which I have been so long moving. . . . I shall use my best efforts to give an ascendancy to the great conservative principle of state sovereignty over the dangerous and despotic doctrine of consolidation."[2]

[1] The following sentence reminds one of Jefferson's great saying, that the tree of freedom required to be manured every thirty years with blood: "So necessary is the reduction of the income to reform, that I am disposed to regard it as a political maxim in free states, that an impoverished treasury, once in a generation, at least, is almost indispensable to the preservation of their institutions and liberty." Calh.'s Works, III, pp. 398, 399. Ibid., III, p. 91.

[2] Ibid., III., p. 91.

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It is surprising, at the first blush, to see the question presented in this aspect. But it, in fact, fully explains Calhoun's change of alliance. His alliance with the whigs, he says, was directed only against Jackson, who, in his arbitrary government, relied on an entirely personal party. This was now dissolved, and the administration weakened to such an extent that nothing more was to be apprehended from it. People had returned to the point at which the process of consolidation had begun, and at which alone, from the nature of the the thing, it could have a beginning. The executive could never again grow powerful enough to become guilty of acts of usurpation unpunished, unless congress had first overstepped its legitimate powers. It was necessary once more now to guard against this danger. That danger impended now, as it had formerly, from the whigs, whom he had joined only to break Jackson's autocracy. They were endeavoring to restore the connection of the government with the money power, a connection which had been, as a matter of fact, dissolved by the crash. Van Buren, who was not able to entertain any usurping desire himself, wished to hinder them in this, and make it impossible in the future. Hence his (Calhoun's) place was evidently at the side of the president. It was not he that had changed, but there was another question awaiting its decision. The "natural" division of parties, and the one most salutary to the country, of state-rights and national, was again being accomplished.[1] Who could, then, doubt on which side he would be found? Afterwards, as before, he was an "honest nullifier."[2]

[1] ". . . The political parties will again be formed on the old and natural division of state rights and national, which divided them at the commencement, and which experience has shown is that division of party most congenial to our system, and most favorable to its successful operation." In the so-called Edgefield letter of November 3, 1837. Niles, LIII, pp. 217, 218.

[2] "He belonged to no party but the state-rights party; and wished to

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Calhoun was mistaken in one point, and that the most material. The victory of the administration could never turn to the advantage of the state-righters. The independent treasury gave the administration of the finances a really political *(staatlichen)* character for the first time, and it therefore must have contributed to the political growing together of the states of the Union. But no one will wish to claim that Calhoun had not really deceived himself on this point. The charge brought by his former associates that he had treacherously abandoned them in order to find a new prospect for his personal ambition, is destitute of all foundation. His description of the situation corresponds, in everything, with the facts. Unquestionably, he says, we should have been able entirely to overthrow the present possessors of power had the alliance been continued; but the victory would have been of advantage exclusively to our allies and their cause. Whatever intermediate stages the struggle might go through, the development of events ended in the alternative of a new national bank, or of the independent treasury.

The whigs recognized this clearly, and they therefore not only argued against the proposals of the president, but they denounced them with a want of moderation which was an insult both to decency and reason. The message was intended to be a declaration of war against all banks.[1] The government wished to dissolve its connection with the people; the money of the people was too bad for it. Its aristo-

be considered nothing more than a plain and honest nullifier." Calh.'s Works, III, p. 101.

[1] "The banks are not left to the mercy of their creators, but they are to be ground by the tender mercies of this administration, which brought them to the very condition which is now calculated to render them odious, and to furnish the pretext for oppressing them and their debtors." H. A. Wise, of Virginia, in the House of Representatives. Deb. of Congr., XIII, p. 493.

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cratic fingers should touch only gold and silver, even if in consequence the money of the people should become worthless scraps of paper. What was now wanted was not an independent treasuryship, but a treasury-bank. The executive now demanded to have the purse as well as the sword of the people. To give it would be the beginning of the end; and the fathers of the republic would have shed their blood in vain. Pictures were drawn of the unlimited despotism which would then place its brazen foot on the neck of the people, pictures which remind one of the horrible dramas in the theatrical stalls at European fairs to which the care for the higher intellectual education of the masses is left.[1] And before all, it was done by the great head of the whigs. His taste was too good to permit him to paint with the white-

[1] I would ask leave to give here a somewhat lengthy illustration of the eloquence in which the average politician is wont to clothe his official pathos. Naylor, of Pennsylvania, said in the house of representatives: "Sir, this scheme proposes to place in the hands of individuals who are dependent alone on the will of the president for their continuance in office, all, yes all the countless millions of the money of this government, for disbursement and safe-keeping. These men are to receive it, hold it, use it, when and as they please, with no earthly barrier between it and the temptation to appropriate it to their own uses, which the personal custody of such immense treasures must offer, than the feeble restraints of poor, weak, fallible human nature, and the fear of the consequences which might result from an ultimate detection. . . .

"I ask, what is it? Why, sir, it is a bill for arresting the flow of our prosperity — for subverting the fundamental principles of our republic — a bill for laying the corner-stone of despotism. How do those in power recommend it to us? What arguments do they urge in favor of its adoption? 'Oh,' they say, 'it is no new scheme. It exists in France; it flourishes in Prussia and Austria — it has grown into full and vigorous perfection in Russia. It prevails in Turkey, and in every despotism of the new and old world.'

"My heart shudders, my blood curdles at their recommendations. In every country under heaven where such a system prevails, the people are trampled on and plundered of their rights; ground down to the very dust by the awful despotism of their rulers; bought and sold like cattle with the

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washer's brush, but in his anger and zeal he overshot the mark further than any one else. Clay declared the president's project unconstitutional, and its execution simply impossible.[1]

earth, persecuted by power, plundered by these very sub-treasurers, 'chained to the brutes and fettered to the soil.' . . .

"Where am I? Is it possible that here, in this mighty capital of the only free republic on earth, with the deeds of our gallant fathers still green in our memories, with here and there one of their lingering associates now gazing upon our deliberations, and the thunders of Yorktown yet ringing in our ears — is it possible, I say, under these circumstances, that we can calmly listen to a proposition to abandon the settled policy of our government from its beginning to this day, despise and denounce the wisdom of its immortal founder, reject a course which has secured an unexampled prosperity to our country, and the utmost stretch of liberty to ourselves, and turn back and affectionately embrace — hug to our bosoms, as jewels above all price, the barbarous institutions of the dark and benighted despotisms of the old world! Are we to turn a deaf ear to the counsels of our revolutionary sages, and receive for our guide the arbitrary decrees of autocrats and tyrants? Sir, is the republican seed, scattered far and wide by our immortal sires, to be eradicated with our own hands — and are we to transplant into our fertile soil the sickly shoots of despotism, and nurse, and water, and cherish them into health and vigor, and fructification? Heaven forbid." Deb. of Congr., XIII, pp. 539, 540.

[1] "We are told that it is necessary to separate, divorce the government from the banks. Let us not be deluded by sounds. Senators might as well talk of separating the government from the states, or from the people, or from the country. We are all — people — states — Union — banks, bound up and interwoven together, united in fortune and destiny, and all, all entitled to the protecting care of a parental government. You may as well attempt to make the government breathe a different air, drink a different water, be lit and warmed by a different sun from the people! A government, an official corps — the servants of the people — glittering in gold, and the people themselves — their masters—buried in ruin and surrounded with rags. . . . Having, I think, Mr. President, shown that the project of the administration is neither desirable nor practicable, nor within the constitutional power of the general government, nor just; and that it is contrary to the habits of the people of the United States, and is dangerous to their liberties, I might here close my remarks." Clay's Speeches, II, pp. 328, 333, 334.

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The declamatory part of the speeches naturally entered at one ear and went out at the other, and the argument, to say the least, did not compel conviction. In the senate, the administration did not succeed in keeping its party together entirely; but the so-called sub-treasury bill was, notwithstanding, passed by twenty-six against twenty votes.[1] In the house of representatives, the defection was great enough to defeat the bill for this session. The so-called conservatives, who separated themselves from the administration on the question, by no means joined in the wild cry of the opposition. They thus far avoided a formal decision. Clark, of New York, made a motion to lay the bill on the table, and based his proposition on his desire to learn what the views of his constituents on it were. This motion was adopted by a vote of one hundred and nineteen against one hundred and seven.[2]

The decision was formally postponed, but, as a matter of fact, the president had suffered a defeat, and everything seemed to point to the conclusion that the future had still harder blows in store for him. The fall elections of 1837 showed what a great political influence the crash had had. Above all, a complete change had taken place in the most powerful state in the Union. New York, whose politicians had demanded as a right that one of her sons should be elevated to the presidential chair, now turned her back on that very son. The party organs admitted that, in a general election, the party could not have stood the storm which was raging over the country.[3]

[1] Deb. of Congr., XIII, p. 448.

[2] Deb. of Congr., XIII, p. 542.

[3] "In the late convulsion, it is not to be denied, nor have we ever denied, that the democratic party was shaken to its center. Had a presidential election fallen upon that period, it would probably have been overthrown. No party could ever successfully, in a general election, face such a tempest as then swept, raging and howling, over the land." The "Democratic Re-

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The twenty-fifth congress was under the fresh influence of these elections when it met in its first regular session on the 4th of December. It was manifest, notwithstanding, that the administration had not lost ground, at least in relation to the independent treasury. If the speeches of the opposition were still far from being strictly moderate and *ad rem*, they no longer endeavored to brand the president with the mark of Cain. The result was the same. The bill was again passed in the senate, and the house again laid it on the table.[1] Nothing was done to put an end to the provisional condition of the administration of the public moneys, and just as little progress was made in the general financial question. The president was obliged, on the 10th of May, 1838, to make the confession, less disgraceful to himself than to the country, before congress, that the government threatened to become insolvent, although it had deposited over $28,000,000 with the states, and had claims against banks and individuals of over $15,000,000.[2] Resort was had again to the palliative of treasury-notes for help in the immediate need of the government; and as to the rest, the government held fast to its policy of "hard money" in relation to the public income.

If we were to form our judgment only from what the collection of the laws of the time affords us, it would seem that the controversy on the economic questions in July, 1838, remained precisely where it was left at the close of the extraordinary session in October, 1837. But the situation had, nevertheless, greatly changed. The crutches proposed by the administration carried the government through the hard times. Afterwards as well as before, the officers of the

view," Sept., 1838, p. 5. In the December number, p. 294, the same thing is said in almost stronger terms.

[1] By a vote of one hundred and six against ninety-eight. Deb. of Congr., XIII, p. 655.

[2] Statesm.'s Man., II, p. 1200.

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treasury had to be governed by the provisions of the circular of July 11th, 1836; and so far as the main question was concerned, no legally regulated relations were attained, but the actual provisional situation was, at bottom, Van Buren's independent treasury. In no particular had the opposition been able to gain a step, and in the one main question, it could place obstacles in the way of the president only in as much as the people learned by experience to look upon its prophecies as illusions. If, during the first moments of excitement, they had not attained better results, what could they expect when dejection began to take the place of an over-strained confidence? And this revolution of feeling took place almost as rapidly as the coming of the crash. Even in the fall of 1837 everything was life and activity.[1] The elasticity of the people did not forsake them, and rich crops reminded even the most pusillanimous that, considering the boundless resources of the country, discouragement was a sin. But the president committed a serious error, when, in his annual message of the 4th of December, 1838, he said he saw in the vigorous action of the people only the return of the country to its normal condition.[2] The lesson which lay in the crisis of 1837 was not entirely lost on

[1] "Sir, the country is recovering fast from the violent and sudden convulsion into which it has been lately thrown. It cannot otherwise be, when we consider the immense resources of this vast continent, wielded, as they are, by a people whose industry and enterprise acknowledge no other limit than the very bounds of the earth." Mason, of Virginia, in the House of Representatives, Oct. 11, 1837. Deb. of Congr., XIII, p. 531.

[2] "Nor is it less gratifying to find that the general business of the community, deeply affected as it has been, is reviving with additional vigor, chastened by the lessons of the past, and animated by the hopes of the future. By the curtailment of paper issues; by curbing the sanguine and adventurous spirit of speculation; and by the honorable application of all available means to the fulfillment of obligations, confidence has been restored both at home and abroad, and ease and facility secured to all operations of trade." Ibid., p. 1207.

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the people, but it was just as far from having come home to them as completely as it should have.

The excitement of speculation did not reach the same height as before the crash, but the extent and intensity of the crisis would be entirely inexplicable if the economic situation from the summer of 1838 to the summer of 1839 bore witness only to the fact of returning health. The imports during the fiscal year (September) 1839 were still twenty-four millions less than those of 1836; but they had increased forty-three millions as compared with the previous year.[1] Money was again as plenty as immediately before the crisis.[2] The banks knew how to reap advantage directly from the crisis. Only the New York banks, which were required by a state law to resume payments in specie on the 10th of May, 1838, began to contract immediately, and to such an extent that the contraction corresponded really to the over-speculation which had preceded. The amount of bank credits fell, in 1837–8, from $525,000,000 to $485,500,000, but the number of banks rose from six hundred and thirty-four to six hundred and sixty-three, and their capital from $290,000,000 to $317,000,000.[3] The invitation of New York to a general bank convention, to fix a date for the resumption of specie payments for the whole country, was not accepted, because the United States bank of Pennsylvania, ostensibly out of consideration for the smaller banks, desired to continue the *status quo* longer. Not till August, 1838, was it forced to follow the example of New York and of the banks which the latter had immediately drawn after it. But it had not turned the past year to account in such a way as to limit itself now to the narrower roads of legitimate business.

[1] 1836, $168,233,675; 1837, $119,134,255; 1838, $101,264,609; 1839, $144,597,607.

[2] 1836, $205,000,000; 1837, $222,000,000; 1838, $203,000,000; 1839, $222,000,000. The numbers are taken from Grosvenor, p. 29.

[3] W. G. Sumner, p. 123.

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It preferred the game of the gambler; and its means, and especially its credit, were still great enough to bring on the calamity which was already threatening the country, within a year, in such magnitude, that, in certain localities, some branches of business felt it even more severely than the crisis of 1837.[1] But there were, on both sides of the ocean, only too many ready to join the set whose merry melodies the distressed bank played so charmingly. All kinds of American paper again found the best market in London. Neither the means nor the desire of apparently extensive speculation were wanting.[2] Even the proceeds from the public lands again increased from $3,000,000 to $7,000,000.[3]

[1] "The country was then (end of 1837) in a condition to resume the payment of specie through its banks. But the United States Bank of Pennsylvania, and some other great institutions, were not ready. During the years of high prices, they had lent their capital on paper which rested only on the exaggerated and unreal values of that period, and an immediate return to specie payments would have shown that their capital had been very seriously impaired. The United States Bank of Pennsylvania, therefore, at first opposed the resumption of specie payments, and subsequently, when compelled to come into the arrangement, it seems to have adopted the bold measure of attempting to bring back the unnatural state of things which had existed before May, 1837; hoping that, by means of high prices and unlimited credit, it might be able to gradually withdraw itself from its dangerous position. It entered largely into the purchase of state stocks, speculations in cotton, and other transactions. It was impossible, in the nature of things, that this scheme should succeed, but it had some effect. Many began to think that the reverses of 1837 were small affairs, and that they were already overcome. . . . Our foreign commercial debt had been paid with so much promptness that European capitalists formed a very high opinion both of our resources and our honor, and they took the stocks of states as freely as if they had been gold and silver." The "North American Review," Jan., 1844, pp. 120, 121. See, more in detail, Thirty Years' View, II, pp. 365–370.

[2] "Bonds of all kinds issued by the Bank of United States, by the various states in the Union, and by numerous private undertakings, were poured upon the English market and found eager purchasers." Gilbart, Banking, p. 218, cited in W. G. Sumner, p. 147.

[3] Grosvenor, p. 36. Adams writes on the 14th of June, 1838: "The thirst

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With the revival of trade, the democratic party also recovered from the blow which it had received from the crash. True, it was defeated in New York in the fall elections of 1838, but the majority of the whigs was reduced by from five thousand to six thousand, as compared with the previous year. In several states which the democrats had either lost, or in which they had been long in the minority, they obtained a preponderance, and their majority increased in others.[1] One of the principal organs of the party was of opinion, in 1838, that the whigs were "on the eve of total dissolution;"[2]

of a tiger for blood is the fittest emblem for the rapacity with which the members of all the new states fly at the public lands. The constituents upon whom they depend are all settlers, or tame and careless spectators of the pillage. They are themselves enormous speculators and land jobbers. It were a vain attempt to resist them here [in the house of representatives]. . . . Crary and Casey and the western members, whose tactics are to abuse the speculators without mercy in debate, and to oppose every possible expedient to guard against them." Mem. of J. Q. Adams, X, p. 19.

[1] The "Democratic Review" describes the result of the summer and fall elections of 1838 as follows: In New Jersey, the whig majority of 1837 was changed into a democratic majority; in Pennsylvania, the democrats, after a severe contest, carried off the victory from the ruling party with about ten thousand votes; Maryland, which had a federalist governor 'from time immemorial,' elected a man who had distinguished himself in the state legislature as an advocate of the independent treasuryship; Delaware, which had been hitherto decidedly federalist, sent a democrat to the house of representatives; in South Carolina there is scarcely any opposition; in Georgia the parties wrangle over local questions, but in general favor the independent treasury; in Illinois and Michigan the democrats are making progress; in Missouri and Arkansas, their majority is greatly increased; Ohio, where Van Buren was defeated in the presidential election, voted democratic with a majority of about six thousand.

[2] "Without indulging in the common inflated exaggeration of partisanship, we cannot avoid the conclusion to which our calmest reflection on the past progress and present aspect of our politics irresistibly leads our judgment, that the 'whig party' is, at this moment, on the eve of total dissolution . . . the defeat of the present year is an overthrow and a dissolution of the whig party which admits of no recovery and no hope." The "Democratic Review," Nov., 1838, pp. 279, 282.

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and in October, 1839, it was asked whether they could "pretend to maintain any longer even a show of regular opposition."[1]

But it was not, indeed, as bad as this. The twenty-sixth congress, which met on the 16th of December, 1839, in its first session, was far removed from considering that the whigs could only make themselves ridiculous if they did not simply surrender the field to their opponents. Not until the eleventh ballot was a speaker elected, and R. M. T. Hunter, of Virginia, a member of the opposition, but a friend of the independent treasury, was chosen.[2]

The result of this stubborn electoral campaign was all the more significant as, in the mean time, the second commercial catastrophe had occurred. The price of cotton, which had risen to sixteen cents, commenced at the beginning of the summer of 1839 to fall again. The United States bank of Pennsylvania, which had speculated largely in cotton, had to make extraordinary efforts not to suspend specie payments again. Considering the unsettled condition of the whole country, the comparatively weak blow had a fatal effect. In the west, which was poor in capital, especially in Michigan and Illinois, bankruptcies were very numerous. In Mississippi and Alabama, where the banks with their borrowed capital had

[1] The article is entitled "The Dissolution of the Whig Party," and begins with the following sentences: "Well, the summer and autumn elections are now for the most part over, and what have the whigs left to say for themselves, and their exhausted and exploded cause? Will they, can they pretend to maintain any longer even a show of regular opposition? Will they, can they attempt seriously to contest the coming presidential election? We find it difficult to imagine that they will or can." The "Democratic Review," Nov., 1839, p. 355.

[2] He says himself in his speech to the house: "Called as I have been to this high station, not so much from any merits of my own as from the independence of my position, I shall feel it as especially due from me to you to preside as the speaker, not of a party, but of the house." Deb. of Congr., XIV, p. 5.

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also, in great part, obtained control of the cotton trade, the situation was simply lamentable.[1] When, therefore, the United States bank of Pennsylvania was closed on the 10th of October, it dragged nearly all the banks in the south and west after it.[2]

The crisis was neither as general as in 1837, nor was the consternation of the people caused by it expressed with nearly as much violence. But the discouragement was greater, and its effects lasted longer.[3] People now saw more

[1] An account from New York, in the "London Bankers' Circular" of July 12, says: "The condition of the banks in the south is nowhere such as to enable them to grant increased accommodation; and, as you must have seen, those in Alabama and Mississippi (which together furnish more than half of our entire [cotton] crop by enumeration of bales, and fully two-thirds in actual weight, have yet to resume specie payment. In fact, the commercial credit of those two states may be said to be wholly annihilated for the present. To avoid execution, not less than two hundred plantations in Mississippi have been abandoned, and the negroes carried off to Texas! where, for any purpose they can serve in raising cotton for years to come, they might as well have been locked up by the creditors of those planters in jail, as hundreds and thousands of others have been at the time they ought to have been employed in preparation for the ensuing crop.

"Every one who has been in Mississippi says, the reports of distress are far short of the reality. On returning his writs unexecuted, the sheriff universally indorses them G. T., gone to Texas." Hazard, U. S. Commerc. and Statist. Reg., Aug., 1839, Vol. I., No. 10, p. 159.

[2] Statesm.'s Man., II, p. 1237. Of 850 banks, 343 closed entirely, and 62 in part. W. G. Sumner, p. 152.

[3] The "North American Review," Jan., 1844, p. 121, gives the following description: "All property seemed for a while to have lost its value. . . . In some of the new states, it was difficult even for the wealthy to obtain money for the daily uses of life. We have heard of farmers, owning large and well stocked farms, who could hardly get money enough to pay the postage on a letter. They had scarcely any currency, and most of that which they had was bad. In the commercial states, matters were but little better. Failures were almost innumerable. Trade had fallen off, and, when prosecuted, was hazardous. A deep gloom settled upon men's minds. Governments felt it as much as individuals. Their ordinary resources were diminished. Their means of obtaining extraordinary supplies

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clearly, and, moreover, the causes of the new misfortune were more apparent. It was no longer possible to make a scapegoat of the administration. The president, on the other hand, could, not without reason, use the new crisis as an *argumentum ad hominem*, in defense of his old principle, that if there were a connection of the finances with the banks, the interests of the states would always remain, to a greater or less extent, the plaything of private speculation. Even if it was somewhat strongly expressed, there was much truth in his assertion, that the banks did not now appeal to an actual necessity, but considered the suspension of specie payments sufficiently justified by its alleged expediency.[1]

It was evident that no reasoning and no experience was able to shake the faith of the whigs in the gospel of a national bank. On a question which is one of the most material differences in the constitution of parties, a whole party can never, from the very nature of the case, be set right. Only when the actual development of events has made it impossible to maintain the question any longer as a party question, can the right understanding of it become entirely general: resignation to the inevitable is in such case the condition precedent of knowledge. But in a democratic re-

were lessened in proportion to the general distress. The physical means of making payment for their debts were wanting in some states, for there was no money to be had. The people were amazed at the extent of their own disasters, and afraid to act in any way, lest they should run into new mistakes."

[1] "They are not driven to it by the exhibition of a loss of public confidence, or of a sudden pressure from their depositors or noteholders; but they excuse themselves by alleging that the current of business and exchange with foreign countries, which draws the precious metals from their vaults, would require, in order to meet it, a larger curtailment of their loans to a comparatively small portion of the community than it will be convenient for them to bear, or, perhaps, safe for the banks to exact. The plea has ceased to be one of necessity. Convenience and policy are now deemed sufficient to warrant these institutions in disregarding their solemn obligations." Statesm.'s Man., II, p. 1236.

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public, parties generally almost balance each other, so that the weight which turns the scales is the small minority of the undecided, that is, those in whom the formation of their judgment keeps pace with the development of facts. Hence, a change of opinion by a few is frequently sufficient to bring the laws into harmony with the actual development of things, and thus to make both the former and the latter irreversible. Whether this point had been really reached already, only the next years could show. The sequel proved that both parties were at the time wonderfully deceived as to the true situation of affairs. The whigs did not recognize that at the moment that this administration carried the independent treasury through, the old struggle was finally decided: whatever fate future congresses might have in store for the law of the 4th of July, 1840,[1] the finances and the banks could never again be yoked together after their virtual separation by the crisis of 1837 had, after the crisis of 1839, received the sanction of law. And the democrats did not understand that this question had been taken from the list of party questions proper, by the crisis of 1839, and had acquired a character entirely peculiar to itself. They, indeed,— and above all the president, — had good reason to rejoice and to congratulate themselves that the measure on which the administration had staked its reputation had been carried out; but any inference from this to the prospects of the party, and especially of the president, in the future, were baseless. Van Buren had won a brilliant victory, and placed his country under lasting obligations to him; but, even at the moment of triumph, his and his party's overthrow was beyond doubt when they declared that they would be satisfied in the next presidential election with nothing short of the complete destruction of their opponents.[2]

[1] Stat. at L., V, p. 385.

[2] "It will not be enough, in the approaching presidential contest, that the

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CHAPTER IV.

VAN BUREN'S ADMINISTRATION.

(Continued.)

II. The Slavery Question.

Van Buren, in his inaugural address, had not devoted a single word to the impending economic dangers. In broad and general terms, he drew a picture of the wonderful development of the Union during the half century which had elapsed since its origin. With a just pride, the president alluded to the many dangers happily surmounted, as a proof that the faith in a great future for the republic had a firm foundation in the character of the people and in their institutions. Only on one question did he enter more into detail, and the confidence with which he represented it as a problem already solved was qualified by a ponderous if. To abide blindly and inviolably by the compromise of the fathers was, in his opinion, the only possible guaranty that that question would never be able to endanger the Union; and this guaranty he considered entirely sufficient. The proof of this he

democratic party shall merely prevail by an ordinary majority. With such a result, we shall acknowledge ourselves dissatisfied, disappointed. We must teach our opponents such a lesson as they have never yet received. We must administer a rebuke, a punishment, not soon to be forgotten, for this great national insult by which they, as an organized party, have afforded their last and worst illustration of that old and profound contempt for the intelligence of the people which has always been, as it will continue to be, the invariable source of all their faults and all their follies. Our struggle, we repeat, must not be now for mere victory. Of that, indeed, . . . we cannot entertain a single possible doubt." The "Democratic Review," June, 1840, p. 475.

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found in the fact that it now, for the first time, disturbed the peace of the country.[1]

The man who, in the struggle for Missouri, had played a certain part, could not write such nonsense in good faith. No matter how small his historical information might be, he had himself helped make the history of his country, and he was too wise to imagine that the whole history of the slavery question could be wiped out by a silly assertion. He might, like so many others, be completely satisfied that the constitutional compromises on the slavery question could be a permanent arbitration of the matter. Hence he, perhaps, saw no serious danger to the country in the slavery question. But he evidently recognized how menacing a rock it was to all politicians, and the fear of striking against it himself dictated to him that absurd exaggeration. Decided as was his declaration that he wished to remain in the path hitherto followed, that is, to guide his bark by the compass of the slavocracy, yet he perceived, with solicitude, that the counter-current grew steadily stronger. It was precisely on this account that he asserted the contrary so emphatically.

[1] "The last, perhaps the greatest, of the prominent sources of discord and disaster supposed to lurk in our political condition, was the institution of domestic slavery. Our forefathers were deeply impressed with the delicacy of this subject, and they treated it with a forbearance so evidently wise, that, in spite of every sinister foreboding, it never, until the present period, disturbed the tranquillity of our common country. Such a result is sufficient evidence of the justice and of the patriotism of their course; it is evidence not to be mistaken, that an adherence to it can prevent all embarrassment from this, as well as every other anticipated cause of difficulty or danger. . . . If the agitation of this subject was intended to reach the stability of our institutions, enough has occurred to show that it has signally failed, and that in this, as in every other instance, the apprehensions of the timid and the hopes of the wicked for the destruction of our government, are again to be disappointed. . . . It will be ever thus. Such attempts at dangerous agitation may periodically return, but, with each, the object will be better understood." Statesm.'s Man., II, pp. 1157, 1158.

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If he could cause it to be believed that he was guiding the country under the favorable wind of an almost unanimous public opinion, public opinion which had been shaken might perhaps have been confirmed again; not only the actual but also the imagined cry of whole masses is contagious, and in numberless ears it sounds a great deal louder than it is in reality. But by his exaggeration, Van Buren himself unveiled his untruth. If every new contest had led to a better understanding of the question, and thereby to a diminution of danger, how was it to be explained that the peace of the country was now disturbed for the first time? If only this much was true, that the excitement of minds was now deeper and more general than in former times, the appeal to the tested sufficiency of the compromise was vain. And the arrow recoiled on the archer with all the greater force, since there was no controversy at the time which directly involved the relative power of the two sections, as, for instance, the admission of a state.

The excitement of minds had indeed become deeper and more general, although, as had already been said, the wild absence of restraint in the onset of the south and of the northern populace against the desperate agitators had begun to subside. The list of horrible excesses was indeed by no means closed. The first martyr blood flowed on the 7th of November, 1837, and this in a free state. Elijah P. Lovejoy paid his life for not ceasing the propagandism of his convictions spite of the destruction of his press.[1] On the 17th of May of the following year, Pennsylvania Hall, in Philadelphia, which the abolitionists had built for themselves because they could not but see that no appropriate locality would be allowed them, was burned down.[2] Not satisfied

[1] Edw. Beecher, Narrative of Riots at Alton; Alton, 1838. The official report of the mayor is printed in Niles, LIII, pp. 196, 197.

[2] Niles, LIV, p. 195.

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even with this, the anti-abolitionist mob set fire to an orphan asylum for colored children, with which the abolitionists had no connection whatever.[1] The authorities no where opposed this and similar disgraceful acts with energy, but there were, indeed, priests of love and servants of justice who spoke in favor of these acts. Lovejoy's murderers escaped unpunished. In Philadelphia, the mayor induced the abolitionists to surrender to him the keys of the hall in consideration of the assurance of his protection, assured the threatening masses that he expected to see them themselves perform the duties of the police, because "we never call out the military here;" and then went his way. And the attorney general of Massachusetts had the effrontery in Faneuil Hall to compare the heroes of Alton to the great patriots of the Revolution. But easily as it might still become dangerous in the highest degree to life or property to be an abolitionist, the battle with the "fanatics" rapidly assumed, on the whole, the form in which other political controversies are fought out. The abolitionists had become too numerous to be frightened back into nothingness by the excesses of the mob; but their numbers had increased so slowly that it was placed beyond question that they could not form an independent political party in the future, by that fact alone. The crystallization of political ideas is accomplished too rapidly in democratic republics to permit an idea which, spite of the most universal interest and of the most lively agitation, has won over only an evanescent fraction of the people, to form the nucleus for the building up of a great political party. In the present instance there was no need of indirect conclusions from the teachings of experience — the internal development of abolitionism was direct proof.

The programme with which the abolitionists appeared before the people at the time of the establishment of the

[1] Wilson, Rise and Fall of the Slave Power, I, p. 297.

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American Anti-Slavery Society in December, 1833, expressly announced that their action should be moral and political.[1] In January, 1837, in the fifth annual meeting of the Massachusetts Anti-Slavery Society, Robert B. Hall spoke against all active participation in politics, but did not find a single person who agreed with him in his opinion. Garrison expressed himself highly surprised to hear such an opinion from a subscriber of that programme.[2] But the process of fermentation which had once taken hold of Garrison's whole mind and soul at Baltimore, had not yet come to a close. Was not the incipient understanding of the real nature of slavery and of the duty of men as citizens and Christians in relation to it, perhaps only the first rent in a mist which extended far beyond the limits of this question? If the consciousness and judgment of the world were in this matter involved in so great darkness, and if he so thoughtlessly permitted himself to be urged onward in the turbid stream of this universal opinion, was it so improbable that, so far as the world and himself were concerned, the same might be the case in reference to other problems of life in which the truth was not so apparent? The question was raised with all the energy of his fiery temperament, and examined with the intense moral earnestness of his will; but with a mind capable of logical thinking neither by natural endowment nor from education, his judgment in the hand of his unbridled feeling was lost in a labyrinth of senseless abstractions. With his departure from the orthodox faith, his religious convictions were dissolved into a philosophy of feeling with a touch of theism, and the war to the knife against

[1] "We also maintain that there are, at the present time, the highest obligations resting upon the people of the free states to remove slavery by moral and political action, as prescribed in the constitution of the United States."

[2] Wilson, I, pp. 359, 360.

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the "crime" of slavery sanctioned by the supreme law of the land, carried him so far as to cause him to desire to wring the sword from the hands of all governments.[1] Clambering up on the ladder of his wonderful logic towards pure "principles," without looking to the right or to the left, he soon completely lost the ground of the real world under his feet. It was obvious then that active participation in politics should appear an error; and the error rapidly turned into moral aberration. The person who wished to operate with political means, had to take his point of departure from the existing condition of the law, and thus he became a participant in the guilt of the national crime. Even if personal interests and all the impurity that otherwise adheres to political life could be kept at a distance, yet, on this account, all political action should be rejected on principle, because it supposes a contradiction with the moral principle which is to be asserted. The objection that practical political results should be aimed at, and that such could be obtained only through political action, he repelled with the declaration, that the fulfillment of duty should not be qualified by the question of its consequences: his understanding of the *how* was completely lost in the *what*.

Abolitionism was no longer identified with the person of Garrison, and only the smaller portion of the sect adopted the conclusions which its founder drew from his premises. But even if some were at a standstill, while the others advanced, even the former were radicals; there was only a difference of degree between them. Intolerance, and the inclination to swell every difference of opinion into the dimensions of a question of principle, was therefore common to them all; for both faults are in the nature of radicalism.

[1] It is a strange fact that the authors of this political philosophy who wished to abolish war, the army, the death penalty, physical compulsion of all kind as a punishment, called themselves "non-resistants."

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The more moderate, even, got the start of the ultras here. Even before the contest on this chief question had begun, discord was sown among the abolitionists by these ultras, because they could not make their views on the woman question prevail. No one had anything to object to the fact that women had met and formed anti-slavery societies of their own; but that they should now be allowed full and equal rights in the other anti-slavery societies was sufficient provocation to produce the division and scattering of the forces already small enough.

The division of the abolitionists into two parties, in deadly enmity each with the other, took place only in the second and third years of Van Buren's presidency; but the differences on the woman question and some other heresies of Garrison, much farther removed from slavery, dated as far back as Jackson's administration. These differences and heresies were, so to speak, traded in open market from the very beginning, and Van Buren was a politician too deeply dyed in the wool not to recognize that these internal contentions destroyed all possibility of the political success of the abolitionists, if such a possibility had ever existed. It was certainly his honest conviction, that the "hopes of the wicked" were already wrecked; and, taken in this sense, the assertion was certainly correct. It was even apparent how disadvantageously the drawing of foreign questions into their programme operated on the progress of their propagandism. In part, these general radical tendencies really inspired distrust of their doctrines on slavery, even where there was an honest inclination towards these doctrines; but they were used chiefly as a convenient pretext to put an end, in moral indignation, to all agitation of the slavery question. The abolitionists generally were held responsible for every word uttered by Garrison, who, after all, was only the leader of the small extreme wing; and whoever opposed the slavocracy

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was branded as an abolitionist. It was only natural that the clergymen of all the sects were the first to seize on this pretext, and to make the most of it.

The principle of authority is one of the chief pillars of all positive religions, and, to a still greater extent, of most churches. Leaving out of consideration those sects which, in accordance with the mode of speech usual in Europe, cannot be considered churches at all, because they have, in that which is essential, renounced the dogmas of positive Christianity, abolitionism stood, therefore, in a certain natural opposition to all churches, because it meant, in its very essence, revolution. But, on the other hand, with the idea of religion is given the principle: Thou shalt obey God rather than men. With those who endeavored to live in direct accordance with this principle, the question necessarily took the following form: whether the teachings of the abolitionists were in conformity with the commands of God; and to what extent they were so conformable. The man who, in every word of the Bible, saw a command of God, to be literally accepted, and of obligation to the end of time, could easily find the seal of divine approbation for any answer for which he wished to find it; the man who examined the Bible, not for the confirmation of an answer already virtually given, but who, in simplicity of heart, endeavored to understand the teaching of Christ in "spirit and in truth," must have been powerfully attracted to adopt the abolitionist confession of faith. Hence, from the very beginning, we find the clergy very largely represented even among the leading abolitionists. But, on the other hand, it was clergymen who first and with greatest decision opposed the radical tendencies of the abolitionists. A pastoral letter of the Congregational preachers of Massachusetts turned the woman question into an apple of discord; and under the leadership of clergymen, the secession of those who, according to the words of the apostle,

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wished to keep women silent in the church, took place in New York.

If the naturally conservative disposition of the clergy asserted itself even in the case of declared abolitionists, when the revolutionary spirit of abolitionism began to grow active outside of the slavery question, it cannot be a matter of surprise that, with a great majority of the clergy of nearly all sects, it was in vain that that same revolutionary spirit endeavored to shake the principle of authority in respect to the slavery question also. The *Emancipator*, the organ of the American Anti-Slavery Society, thought, after the outbreak of the controversy on the woman question, that, a few months before, it looked as though the most of the clergy intended to go over to the camp of the decided opponents of slavery.[1] The hope was entirely vain. Even if the questions above referred to, and which were foreign to the programme of abolitionism, had never been made the subject of debate, this could certainly not have occurred as yet. The peculiar character of the American churches made this simply impossible from the first. They do not, like the churches in Europe, stand outside and above the people, as independent and peculiar organizations, the forms and laws of whose life were, in that which is essential, fixed centuries ago. The churches in the United States are not only saturated with the democratic spirit which fills the life of the people in all other respects, but they are a living emanation from that same spirit. This is true to a great extent, even of those among them whose external organization has, in the main, preserved the autonomic character inherited from Europe.[2] Hence their guid-

[1] Wilson, I, p. 411.

[2] This is obviously not applicable to the Roman Catholic church. It is in the United States what it is everywhere else in the world; only, there, it has to go its way, on the whole, unsupported, but, at the same time,

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ance in intellectual and spiritual matters bears an essentially different character from that which the clergy in the European churches are able to exercise over believers, and, in fact, do exercise in part. It covers much larger ground, because the church and the clergyman's home are, to an extent scarcely intelligible to the European, the center, not only of the religious, but also of the intellectual, social, congregational or parish life; and it is much stronger, because to belong to a religious community is a conscious act of the will, to a degree incomparably greater than in Europe, and because not only the law, but custom, leaves it entirely to the freedom of the individual to decide to which church he will attach himself. But the American clergyman can never address his congregation in a tone of authority, for the reason that he is not only in name, but also in truth, a preacher, and not a priest. And even if he could, he would still feel much less inclined to do it than his European colleagues. The self-activity of the congregations, exercised for generations, has developed in them an independence and a self-consciousness which render it impossible that they should be thus addressed; and in this spirit, which permeates the whole people,

unmolested by the temporal power. Of its attitude towards the slavery question, Th. Parker says: "Even the Catholic church in the United States forms no exception to the general rule. The late lamented Dr. England, the Catholic bishop of Charleston, South Carolina, undertook in public to prove that the Catholic church had always been the uncompromising friend of slaveholding, not defending the slave's right, but the usurped privilege of the masters." And in another place: "I am told there is not in all America a single Catholic newspaper hostile to slavery; not one opposed to tyranny in general; not one that takes sides with the oppressed in Europe." Th. Parker's Works, edit. Trübner, V, p. 57, and VI, p. 128. The person who needs an explanation of this will find it in the following confession by Brownson: "For us Catholics, the fugitive slave law presents no sort of difficulty. We are taught, as we have said, to respect and obey the government as the ordinance of God, in all things not declared by our church to be repugnant to the divine law." Brownson's Review, January, 1851, p. 94.

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the clergy, as well as all others, have grown up. They are Americans before they become clergymen; and when they have become clergymen, they find in the circumstances actually existing a lofty and powerful rampart against the arch-tempter, opportunity. Life within the several churches is in a more constant flow than in Europe, and if the clergy in general, more than any others, contribute to the production of the stream, their action is characterized more by this, that they move forward in the current at the head of all others, rather than that they produce the current. And this is all the more the case, since, as before remarked, life inside of the several churches, and especially inside the several congregations, is by no means limited to what constitutes in Europe the sphere of action of church parishes, but embraces more or less all ideal interests. The influence of the American clergy extends farther, and is frequently greater; but they are not so well adapted to taking the initiative; they are less adroit, and especially less vigorous, than their European companions in office in taking it.

That this general characterization must be qualified, in many ways, when we enter into particulars, is self-evident. The fact on which we have already laid stress, that a great part of the leading abolitionists belonged to the clerical order, is evidence that exceptions are not wanting. But here, too, the old saying, that the exception proves the rule, is true. We have seen with what determination and what indignation the immense majority of the people pronounced sentence of death on the abolitionists, and we may now measure the full folly of the hope that the mass of the clergy would, notwithstanding, join them. The assertion already made, that many grasped at the first pretext to turn the "fanatics" out of doors, will not be contested. The spirit of Christianity cried out too loudly against slavery not to allow the warning and threatening appeals of the abolitionists to find an echo

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in the inmost recesses of the hearts of a considerable number of the special servants of Christ, and yet the clergy have too much of the human in them to keep the flesh from sometimes lording it over the spirit. But the great majority went as the masses of the people went, not because the masses went in a certain way, but with the masses; that is, not against their own convictions, and not to do as the masses did. They acted as the masses acted, because they, in all things, belonged to the masses, belonged to them in their whole thought and feeling. And their subsequent wheeling about with public opinion is to be understood in the same way; entering the lists in the south more and more unconditionally, and more and more passionately for slavery, and in the north opposing it more and more decidedly. And as now in the north, the joining of the clergy in the cry against the abolitionists, and, further, against all agitation of the slavery question, contributed greatly to make that cry more general, more violent and more forcible; so, subsequently, their kicking against the goad did much to excite and extend the desire to break the chains of the slavocracy. The charge of the abolitionists that the churches were the "strongest bulwark of slavery,"[1] was entirely justified; but, after the abolitionists and the slave-barons, they did most for the internal emancipation of the northern population.[2] Partisanship has, thus far, always exposed only one side or the other to view, and thus transformed a phenomenon which has its root in the innermost nature of the people, and

[1] An essay of J. G. Birney, afterwards candidate for the presidency, which was read very widely, bore the title, "The American Churches the Bulwarks of American Slavery." The moderate Alb. Barnes writes: "It is probable that slavery could not be sustained in this land if it were not for the countenance, direct and indirect, of the churches." The Church and Slavery, p. 28.

[2] This is true, of course, only of native Americans and not of emigrants, especially the Germans.

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which is therefore highly instructive for the understanding of that very nature, into an enigma which obscures the entire subsequent development.

When the *Emancipator*, in the article mentioned, alleged that a great many of the clergy fought for slavery and against liberty, with full consciousness and reprobate determination, it was guilty of a wicked exaggeration.[1] The pro-slavery fanaticism was yet in so early a period of its infancy, that there were still, even in the southern churches, only very weak and entirely isolated traces of so extensive a corruption of judgment and sentiment to be found. The churches still, without exception, acknowledged slavery to be a great evil, and there is no ground for the assumption that they did not honestly entertain this opinion. But, with the making of this acknowledgment, they believed that they had done their share. They declined all responsibility, not only for the existence of the evil, but also for its continuance, and would not hear that there was any obligation on them to proceed against the slaveholders with the means which ecclesiastical discipline had put in their hands; or else they went so far as to deny that they had any right to so proceed against it. "We wash our hands in innocence," such is the fundamental idea of their numberless declarations during this period.[2]

[1] "They are settling down into a fixed hatred of the principles of liberty, and a fixed determination, at any hazard, to maintain the lawfulness of slavery, and the criminality of efforts for its removal. They are evincing a readiness to abandon any principle, to impugn any doctrine, to violate any obligation, to outrage any feeling, to sacrifice any interest, heretofore held dear or sacred, if it be found to afford countenance or strength to anti-slavery."

[2] Only one proof to show how great a change for the worse this involved. During the last years of the eighteenth century the preachers and yearly conferences of the Methodist Episcopal Church received the following instructions in relation to slavery: "The preachers and other members of our society are requested to consider the subject of negro slavery with deep attention, and that they impart to the general conference, through the

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But, considering the impetuous advance of the abolitionists, things could not stop here. The lamentations of resignation were changed into excuses, and the excuses, by degrees, came to bear a desperate resemblance to justifications. Man always very soon makes friends with a sin in the acknowledgment of which the will is consciously left completely passive or is kept passive from principle. Here the disciplinary penalties formerly in use were tacitly suspended or expressly repudiated; there the "sin" was diluted to an "evil;" and here, again, people would not permit the adjective "moral" to be placed before the "evil;" one church wiped out an emphatic declaration transmitted from an earlier time, and contended that it never had had the force of law; another referred the question to the lower grades of its hierarchy, and interposed when these proceeded aggressively against slavery; here one synod denied that the holding of slaves was, "in itself," a sin, and carefully enumerated all the circumstances in which the slaveholder was entirely guiltless; there, a conference admonished the people to pay less attention to the guilt of the slaveholders, and rather, in Christian, brotherly

medium of the yearly conferences, or otherwise, any important thoughts on the subjects, that the conference may have full light, in order to take further steps towards eradicating this enormous evil from that part of the Church of God with which they are connected. The annual conferences are directed to draw up addresses for the gradual emancipation of the slaves, to the legislatures of those states in which no general laws have been passed for that purpose. These addresses shall urge, in the most respectful but pointed manner, the necessity of a law for the gradual emancipation of slaves. Proper committees shall be appointed by the annual conferences out of the most respectable of our friends, for conducting the business; and presiding elders, elders, deacons and traveling preachers shall secure as many proper signatures as possible to the addresses, and give all the assistance in their power, in every respect, to aid the committees and to forward the blessed undertaking. Let this be continued from year to year till the desired end be accomplished."

In the year 1836 the general conference of the same church declared, on

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love, to bewail their misfortune; another conference, elsewhere, choked with its exclamations the first word of a brother who had caught the contagion of abolitionism, and who, instead of the torrent of phrases which meant everything and nothing, put forward concrete questions and demanded a plain yes or no; all confined themselves more and more to denouncing slavery *in abstracto*, and took greater and greater pains to wrap slavery in the United States around with a lying mist, and to screen it from observation; all were influenced by the dread of seeing their church divided into two parties by slavery; and many were found who began to produce proof that slavery was approved of, or at least not condemned, by the Bible.[1]

To be an abolitionist and, at the same time, a member of a church, became more and more difficult every day, and, in some cases, even impossible. But that the united opposition of nearly all the churches was alone more than sufficient to checkmate abolitionism to such an extent that the slightest danger to the peculiar institution could not grow out of it, no American could for a moment doubt. Not the slavery

the contrary, by a vote of 120 against 14, that it did "wholly disclaim any right, wish (!), or intention to interfere with the civil and political relation of master and slave, as it exists in the slaveholding states of this union." The reason for this declaration is given in the pastoral address. "The question of slavery in the United States, by the constitutional compact which binds us together as a nation, is left to be regulated by the several state legislatures themselves; and thereby is put beyond the control of the general government, as well as of all ecclesiastical bodies; it being manifest that in the slaveholding states themselves the entire (!) responsibility of its existence or non-existence rests with those state legislatures." Goodell, pp. 107, 145, 146.

[1] I would refer any one interested in the details of this development to the works already cited and Sunderland's Anti-Slavery Manual; to Matlack's History of American Slavery and Methodism; Facts for Baptist Churches; Pillsbury's The Church as it is, or The Forlorn Hope of Slavery; Stanton's The Church and the Rebellion against the Government of the United States.

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of the blacks, but its own servitude, which necessarily resulted therefrom, drove the unwilling north to a more determined and more general opposition to the slavocracy. The abolitionists had so far waked up the conscience of the people of the free states that it could not again be sunk entirely in sleep by menaces or sophistry; but it was the violence of the slavocracy, frightened into a suicidal propagandism, which first goaded them into real resistance. The protest of revolted consciences gave birth to the horrible presentiment, that, perhaps, a frightful struggle would become unavoidable; but that struggle was begun and carried on by the slavocracy to save their own skin. From the ethical side of the question, came the impulse which urged it into a new phase of development, but the struggle was concerned with a political question which had nothing to do with slavery. Slavery carried, in itself, the antidote against its poison. It forced the north to recognize that its highest interests called upon it to that, its duty and right of doing which, it was arguing away with increasing skill and zeal. A correct valuation of its interests finally outweighed the ignoring of the ethical element, and the better understanding of the latter, promoted by this means, began, in turn, to afford an incentive to a more vigorous advocacy of the former.

The churches in the north went through this process of development with the entire population, a process which lasted precisely one generation. What the clergy and the laity versed in the Scriptures had laboriously collected from the historical original documents of their religion, and stitched into a whole according to their wishes, they again, as self-conscious citizens of the republic, ripped up. The disgrace which they had to suffer as men and as members of the free commonwealth, tore away the veil they had made out of the dead letter to cover up the living spirit of their religion. When their flesh, which had smarted under the yoke of slavery, had

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taught them to listen once more to the voice of human reason and human feeling, and before they had rummaged the Concordance for an authorizing text, they became, in this question, as servants of Christ, servants also of humanity. The morals of politics are in bad repute with most men; but history acquaints us with many cases in which politics, with its furtherance of interests, has been a healthy preserving medium, and the religion of the churches, with its moral commands, salt which has lost its flavor.

It is not without importance for the understanding of the "irrepressible conflict," that the immediate material importance of the question which again brought the north and south into collision, was only slight.

It has already been remarked, that the abolitionists unconditionally acknowledged the want of power of the Federal government to do anything within the states against slavery. The situation in the District of Columbia was very different. There slavery existed only by virtue of the federal law of February 27, 1801, which left the laws of Maryland and Virginia in force there. Hence, here slavery could be abolished by law at any moment. Therefore, not only the abolitionists, but also many more moderate opponents of slavery, were convinced that it should be done without delay. The matter was frequently agitated in congress. On the 6th of January, 1829, Miner, of Pennsylvania, moved the appointment of a committee which, among other things, was to "inquire into the expediency of providing by law for the gradual abolition of slavery in the District."[1] The house rejected the cutting arguments advanced in favor of the motion by a vote of one hundred and forty-one against thirty-seven, but adopted the motion itself by a vote of one hundred and fourteen against sixty-six.[2] The charge that this result was a con-

[1] Deb. of Congr., X, pp. 299, 300.

[2] Ibid., p. 314. In the arguments advanced, it was said, among other

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sequence of the manner in which it had pleased the speaker to constitute the committee, was evidently unfounded. No matter who might have been chosen as a member of the committee, the house could not have been induced to conform its action, in anything, to the wishes of the maker of the motion. Even the decided opponents of slavery, with only very few exceptions, would have voted against it. On the 12th of December, 1831, John Quincy Adams handed to the house fifteen petitions praying for the abolition of slavery in the District, and at the same time expressed his convictions that, for reasons of expediency, the prayer should be refused.[1] The committee for the District of Columbia, to whom the petitions were referred, reported in conformity with this view.

The few indifferent words in which Adams mentions this matter in his diary are characteristic.[2] It was not until the next session, when Heister, of Pennsylvania (February 4, 1833), handed in a petition of the same tenor, that the first traces of disquietude on the part of the south over this agitation showed themselves.[3] Mason, of Virginia, said that thus a course had been entered on, the end of which would be the abolition of slavery in the United States.[4] Craig, of Virginia, however, reprehended his colleague for saying this, because "all the northern states were as much concerned in all matters relating to the District of Columbia as those of the southern

things, that the house of representatives of Pennsylvania had declared itself, "by an almost unanimous vote," in favor of the abolition of slavery in the District, and that at the last session of congress "numerous petitions" of the same tenor, among them one of more than a thousand inhabitants of the District, had been presented.

[1] Deb. of Congr., XI, p. 540.

[2] Mem. of J. Q. Adams, VIII, p. 434.

[3] Deb. of Congr., XII, p. 161.

[4] " . . though the gentleman from Pennsylvania disclaimed any wish that congress should abolish it [slavery] in the states, yet this was but the commencement of a series of measures which tended to that result."

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states." This petition also was referred to the committee for the District of Columbia, after the motion to lay it on the table had been rejected by a vote of ninety-eight against seventy-five. Two years later, this first position, the attack on which now was happily repelled, was lost; the motion of Chinn, of Virginia, to lay a petition of eight hundred women of New York, for the abolition of slavery in the District, on the table, was adopted by a vote of one hundred and seventeen against seventy-seven.[1] This was the signal for the beginning of the battle along the whole line. When, two weeks later, a number of similar petitions was presented to the house, McKinley, of Alabama, called special attention to the unanimity of view, that no action should be taken on the matter during the current session; but the motion to have the last memorial printed, led to an angry debate, in which most of the essential elements of the question were touched by both sides. Bouldin, of Virginia, was in favor of printing it, that the south might see what was thought at the north of slavery; for what was said of slavery, slaveholders and slave-markets in the District, was equally applicable to the morals, customs and legal rights of the population of the whole south. Millard Fillmore said that as a citizen of New York and as a member of the house, he was interested in the question how it stood in the District with the claim of being able to own human beings; that it was "a great national question." McKinley called the memorial barefaced and a fire-brand. Clement C. Clay, his colleague, demonstrated the rightfulness of these characterizations further by the question, what value the assurance of the representatives of the north that they did not desire to meddle with the internal affairs of the slave states, when they allowed publications which were threatened by nearly all the slave states with severe penalties to be spread over the whole country by congress, could

[1] February 2, 1835. Deb. of Congr., XII, p. 666.

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have. Henry A. Wise, of Virginia, closed his angry declamation with the declaration: Our northern brethren have to bear the effects of slavery as the consequence of our political system.[1] The only correct answer to this would have been: The war against slavery must be borne by our southern brethren as the consequence of our political system. These two simple sentences, equally incontestable and equally evident, contained the whole slavery question, and proved the impossibility of its peaceable constitutional settlement.

There was no one in the Union yet who had clearly conceived this double consequence of the existing actual and legal circumstances, and only few understood one phase of them in its full bearing. Even the radical wing of the abolitionists had not yet drawn the last conclusion, and when it did draw it, it took that saying of Wise above mentioned as its premise. Not the light but the dark side of the double nature of the Union was first recognized, and not the fanatics of freedom, but the fanatics of slavery, were the first to recognize it perfectly, and to summon all the acuteness of their thought, and all their warmth of feeling, to open the eyes of the whole people to it. They here met in their own camp, at first, with almost as much opposition as in the camp of their opponents.

Here, again, Calhoun towered above all others by more than a whole head. His motion (January 7, 1836) not to receive two petitions for the abolition of slavery in the District, brought on the debate which the senate had luckily avoided a few days before by the resolution to lay a similar petition on the table.[2] The war of words lasted until the

[1] "Sir, slavery is interwoven with our very political existence, is guarantied by our constitution, and its consequences must be borne by our northern brethren, as resulting from our system of government; and they cannot attack the institutions of slavery without attacking the institutions of the country, our safety and welfare." Deb. of Congr., XII, p. 679.

[2] Ibid., p. 709.

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11th of March. Nearly one-half of all the senators took part in it, and nearly all the speakers chastised Calhoun with their untiring tongues, because, as Brown, of North Carolina, expressed it, he had opened this box of Pandora and endangered the peace and quiet of the country to go on a Quixotic expedition in search of abstract constitutional questions. His colleagues from the slaveholding states asked him what necessity there was of raising the question of principle, which was a purely formal one, so long as complete unanimity as to the preservation of the material rights and interests of the south prevailed. The senators from the northern states cautioned him not to labor more successfully for the abolitionists than they were able to themselves by all their emissaries and publications, by his attack on the right of petition.[1] And from both sides came the old charge again that, in order to promote the purposes of his party, he was endeavoring intentionally to incense the north and the south against each other.

There was much truth in all this, but Calhoun's demand was nevertheless not only warranted, but, considered from the standpoint of the south, it was the only correct course, so long as what Calhoun had said when making his motion: that "the petitions were in themselves a foul slander on nearly one-half of the states of the Union," could not be refuted.[2] Whatever might be the law, there was no moral difference between slavery in the District and slavery in the southern states. What was said against the former was addressed also to all the slave states. If, as all the petitions alleged, the nature of slavery made its existence in the District a national disgrace and a national sin, the same disgrace and the same sin weighed down every southern state. Hence the petitions branded, even when they did not say a word

[1] Deb. of Congr., XII, pp. 717, 726.
[2] Ibid., p. 705.

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about them, both the slave states and the constitution — the former because they not only made no attempt to remove the inherited evil, but, with jealous care, made it every day more and more the formative principle of their whole being, and the latter because it not only tacitly recognized slavery as a fact which the states exclusively had power to deal with, but because it moreover served in many essential respects as its direct support or protection. Should the national legislature now, in any way, offer its assistance to brand such an institution of one-half of the constitutive members of the nation, one towards which the national constitution assumed such an attitude? It was not the inquisitorial meeting which morally lacerated the "great nullifier" on account of this new attempt on the peace and existence of the Union, but the fanatical states-righter who gave the only answer to the question which was in harmony with the nature of the national constitutional state. Calhoun was unquestionably right when he said that unless an undoubted provision of the constitution compelled them to receive such petitions, it was their duty to reject them at the very threshold.[1]

Calhoun showed that there was no such absolute compulsion by an undoubted constitutional provision,[2] and he proved that it was all over with slavery in the Union, if the attacks

[1] "As great as would be the advantage to the abolitionists, if we are bound to receive — if it would be a violation of the right of petition not to receive, we must acquiesce. On the other hand, if it shall be shown, not only that we are not bound to receive, but that to receive on the ground on which it has been placed, would sacrifice the constitutional rights of this body, would yield to the abolitionists all they could hope at this time, and would surrender all the outworks by which the slaveholding states can defend their rights and property here, then an unanimous rejection of these petitions ought of right to follow." Calh.'s Works, II, p. 466.

[2] We shall discuss the constitutional question below, when the reader will see in how narrow a sense of the word I consider the proof of this allegation of Calhoun produced.

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on it were not beaten back from the first. He did not suspect how sharp a weapon he placed in the hands of the abolitionists by the confession, that once the shell was broken the power of resistance was gone.[1] But it was true, and true for the reasons he gave. He cried out to the senators from the southern states who had pledged him their utmost assistance in case of an attack on slavery, in the states, that the time had already come to redeem their pledge. It was impossible to make the attack with more efficient or with other weapons than it was daily and hourly made: religious fanaticism had taken the field, and taken it to enlist the moral judgment of the world against slavery.[2] But, for the south, there was no choice. Highly as it, too, valued the Union, it was nothing as compared with this question, for this question involved the existence of the south. The last cent and the last drop of blood — such would be the "imperious necessity."[3]

[1] "Break through the shell — penetrate the crust — and there is no resistance within. In the present contest, the question on receiving constitutes our frontier. It is the first, the exterior question, that covers and protects all the others. Let it be penetrated by receiving this petition, and not a point of resistance can be found within, as far as this government is concerned. If we can not maintain ourselves there, we can not on any interior position." Calh.'s Works, II, p. 484.

[2] "But I announce to them that they are now called on to redeem their pledge. The attempt is now being made. The work is going on daily and hourly. The war is waged, not only in the most dangerous manner, but in the only manner that it can be waged. Do they expect that the abolitionists will resort to arms, and commence a crusade to liberate our slaves by force? Is this what they mean when they speak of the attempt to abolish slavery? If so, let me tell our friends of the south who differ from us, that the war which the abolitionists wage against us is of a very different character, and far more effective. It is a war of religious and political fanaticism, mingled, on the part of the leaders, with ambition and the love of notoriety — and waged, not against our lives, but our character. The object is to debase and humble us in our own estimation, and that of the world in general." Calh.'s Works, II, pp. 483, 484.

[3] "We love and cherish the Union; we remember with the kindest feel-

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Calhoun spoke to deaf ears. It was resolved, on the 9th of March, to accept the petition, by a vote of thirty-six against ten; and two days later, after a short and unimportant debate, the request which it contained was refused by a vote of thirty-four against six,[1] after the south had been repeatedly and emphatically assured by the house that thus a precedent was to be established for the rejection of all similar petitions, without any discussion, directly after their reception. Buchanan was the worthy father of the great thought, in this manner, with an obliging compliment to both sides, to slip through between the hammer and the anvil. It was a new trial of the old art by empty formulas to lie away the contradiction of principles and the collision of facts. It was scarcely to be expected that the petitioners would recognize a material difference between a refusal to receive and a rejection on principle, without any discussion; and the principle, on the unconditional maintenance of which alone, in Calhoun's opinion, the safety of slavery was to be hoped for, was surrendered. The defect in Calhoun's reasoning was not, as was claimed on all sides, that it widely overshot the mark, but that it did not, by any means, go far enough, although

ings our common origin, with pride our common achievements, and fondly anticipate the common greatness and glory that seem to await us; but origin, achievements, and anticipation of common greatness, are to us as nothing, compared to this question. It is to us a vital question. It involves not only our liberty, but, what is greater (if to freemen any thing can be), existence itself. The relation which now exists between the two races in the slaveholding states has existed for two centuries. It has grown with our growth, and strengthened with our strength. It has entered into and modified all our institutions, civil and political. None other can be substituted. We will not, can not, permit it to be destroyed. . . . Come what will, should it cost every drop of blood, and every cent of property, we must defend ourselves: . . . we would act under an imperious necessity. There would be to us but one alternative — to triumph or perish as a people." Ibid., II, pp. 488, 489.

[1] Deb. of Congr., II, pp. 741, 742.

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1. Did not go far enough
2. Thought exclusion from Congress settled the matter

it went precisely as far as any reasoning could go, which was based on the supposition of the preservation of *this* Union. Calhoun's assertion, that the continuance of slavery in the Union would be impossible as soon as the unqualified condemnation of it by the abolitionists became the moral conviction of the majority of the people, and of the civilized world, was unassailable. But could this be prevented by making the thresholds of the halls of congress magic lines which the abolitionist confession of faith would not be able to pass? The last conclusion from his own irrefutable premises was not to the effect that the attack should be met at the very border if it were to be beaten back, but that the attack itself should be rendered impossible. This thought may be read as plainly as if written in capitals, between the lines of Calhoun's speech of the 9th of March. He does not express it, because the demand would have been an evident absurdity. And more, he does not admit it to himself, because he neither will nor can abandon the hope that it was possible to save both the Union and slavery. Such were the conclusions which this slave of his own logic, who, it was alleged, labored systematically for years for the destruction of the Union, drew from the desired exclusion of the abolitionist agitation from congress, as if its exclusion from congress was identical with its destruction. So long as resolutions of congress and laws could not destroy the moral consciousness of the people, so long did the day keep approaching uninterruptedly on which, under the influence of that consciousness, either slavery would have to collapse or the Union to be shattered. And so long as the moral consciousness of the people was not really dead, it was necessarily roused to vigorous action by every effort to attain this end, and, moreover, every effort in this direction was an attempt against the Union.

That he completely overlooked this last point, was the

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second radical defect in Calhoun's reasoning. If it was, under the circumstances created by the constitution, against the nature of the national state, that the national legislature should, in any way, offer its assistance to put a brand on slavery, it was, in a still higher degree, under the circumstances created by the constitution, against the nature of the national state, that the national legislature should, in any way, oppose the fight against slavery, so long as it was carried on only with the weapons of the intellect. Calhoun rightly said that congress should close its doors to the abolitionist petitions, unless an undoubted provision of the constitution compelled it to receive them; but it was just as unquestionable, that congress was in duty bound to receive and to consider them conscientiously, unless it were prohibited to do so by an undoubted provision of the constitution. The constitution rested on two opposed premises, and Calhoun's reasoning proceeded from only one of them, in a straight line. The Protestant principle of the right of self-determination had been the great colonizer of New England, and all the English colonies reposed on the broad basis of the English common law, with its spirit of moderate legal freedom. From these germs, under the favoring influence of natural circumstances, the tree of American republican freedom had grown, the most striking proof of the strength of which is furnished by the fact that the poisonous branch of slavery which had been engrafted on it could not destroy it, deep as it had carried disease even into the roots. Every word of the constitution, with the sole exception of the provisions relating to slavery, was in harmony with this course of historic development. The action of this course of development, in itself, was a steady labor to expel the foreign poison, and the slave states were constantly participating in this labor, and not only as members of the Union; but the same tendency permeated their own political institutions, so far as they were

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not the direct product of slavery. If Calhoun wished to put a limit to the uninterrupted and progressive undermining of slavery, even the destruction of the moral consciousness of the people would not have been sufficient; he would have been obliged to have a constitution adopted which proceeded logically, in all its parts, from the principle of slavery; he would have been obliged to change the institutions of the states, the slave states included, from their very foundation; he would have had to wipe out the country's past, from the day when the first English settlers set foot on the soil of the new world; he would have had to do away with all contact with the rest of the civilized world, the thought and action of which were not restricted by any obligations to the constitution of the republic. These were the reasons which made his entering the lists for slavery in reality a heavier blow against it than all the attacks of the abolitionists. The verification by facts followed on the heels of the warnings of his opponents.

On the 26th of May, 1836, the house of representatives, by a vote of one hundred and seventeen against sixty-eight, adopted the following resolution, which was introduced by Henry L. Pinckney, of South Carolina, in the name of a special committee: "Resolved, that all petitions, memorials, resolutions, propositions or papers relating in any way, or to any extent whatever, to the subject of slavery, or the abolition of slavery, shall, without being either printed or referred, be laid upon the table, and that no further action whatever shall be had thereon."[1] When John Quincy Adams was called, he answered neither aye nor nay, but exclaimed, his voice rising above the cries of order which came from all sides, "I hold the resolution to be a direct violation of the constitution of the United States, the rules of this house, and the rights of my constituents."

[1] Deb. of Congr., XIII, p. 28.

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This was the first of the so called gag-resolutions, and before it had been adopted, the man, almost a septuagenarian, who had been forty-two years in his country's service, and its president for four years, declared a relentless war against it. This 26th of May is one of the most memorable days in the history of the Union. The slavocracy tied the rope which the abolitionists had twisted, in a noose about its neck. Calhoun's principle was as little perceived by the house as by the senate, but the resolution of the house drew down on the slavocracy all the evil which the maintenance of that principle would have had, as a sequel. And what that was, the south had already been informed in warning tones, by a man who had truly shown himself a devoted servant of the slavocracy. "Let it be once understood," said Buchanan, "that the sacred right of petition and the cause of the abolitionists must rise or must fall together, and the consequences may be fatal."[1] Ready as the great majority of the northern population might be to support the slave states against the abolitionists, after the resolution of the 26th of May, there was question, in the first place, neither of the latter nor of slavery in the District of Columbia, nor of slavery in general, but of the right of petition in which every member of the nation had a direct interest, and of the more important right of being able to make the greatest problem with which the nation was confronted, the subject of the discussion in one branch of the national legislature. Not because, but spite of, the fact, that the Pinckney resolution was occasioned by the abolitionist agitation, was the gauntlet which had been flung into the face of the north taken up; but the contest caused the north to make a great stride towards recognizing that such attacks upon the pillars of the republic, and on the ultimate bases of freedom, were the inevitable consequences of the fact of the existence of slavery itself.

[1] Deb. of Congr., XII, p. 733.

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The legal question which most directly concerned the right of petition, was not so simple as seems to be generally assumed even now at the north. The provision of the constitution in question reads: "Congress shall make no law . . . abridging . . . the rights of the people . . . to petition the government for a redress of grievances." The right construction of the clause obviously requires that stress should be laid on the words "law" and "abridging." Now, the resolution of the 26th of May was not a law, and so far, therefore, not in contradiction with the wording of this provision. But congress ought obviously to make no such law, for the simple reason that that should not happen which would be produced by means of such a law. Hence, of course, it should still less do by a simple resolution what it should not do by a law, since in the passing of a resolution all the barriers are wanting which the constitution has established against the making of an unconstitutional, injurious or foolish law. Hence the appeal to the word "law" was completely useless. A fundamental rule in the construction of all law is, that the legislator should be supposed to have had a reasonable intention; and if we make such an assumption in this case, the provision should not be understood to mean that congress should not do this thing or that thing *only* by a law, but that it should not do it *even* by means of a law. Hence, the question amounted simply to this: whether the resolution was an abridgment of the right of petition. To decide this question, it was necessary to fix the limits of that right. The constitution says nothing of these limits. Since it only prohibited an abridgment of the right, it must have recognized the right itself as a pre-existing right of the people, and as one independent of its own provisions. Hence, the answer to the question could not but be vague, even in the best of cases. It was not even possible to determine beyond question what was the source

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from which the judgment should be drawn. The prevailing opinion was now, as it had been before the adoption of the constitution, that the provision was superfluous, since the general government had only those rights which were granted to it in the constitution,[1] and since the right of petition was implied in the nature of the republican state.[2] It now became manifest what a variety of things might be brought to the light out of this dark source. That this happened was all the more natural since no one ventured to claim that congress stood confronted, its hands tied, with an unlimited right of the people. Hence, too, the necessity of not stopping at the "nature of the republican state" was felt. People asked what was the practice and the legal course of procedure in the parliament of England. This was entirely natural and justifiable, since the so-called "bill of rights" of the constitution, and especially the first amendment, were adopted from the political ideas of the colonial period. But it was plain that English usage and English law were not legally binding. And even if they had been legally binding, it would still have been necessary to go back to the "nature of the republican state;" that is, it could not be said with certainty what the law was. It was necessary to be satisfied with the answer to the question what should and must be law.

To the right of petition of the people, it was necessary

[1] In opposition to this view P. Henry said, in the ratification convention of Virginia: "The necessity of a bill of rights appears to me to be greater in this government than ever it was in any government before." Elliott, Deb., III, p. 445. The adoption of the first amendment was the work especially of Massachusetts, New York, North Carolina and Rhode Island. Ibid., IV, p. 595.

[2] "This would seem unnecessary to be expressly provided for in a republican government, since it results from the very nature of its structure and institutions." Story, Comm., § 1894 (II, p. 619, 4th ed.). It is noteworthy that Story does not devote even a page to the right of petition.

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that there should be a corresponding duty of the government; and from the nature of the thing, it is necessary that the duty should consist in receiving, hearing and considering the petition. That, however, this duty is not an absolute one, either of the English parliament or of the congress of the United States, appears from the fact, that in both, the putting of the question, and a vote on it, have always been required before receiving the petition.[1] Further, parliament and congress have always been the sole judges, in what cases they might, with propriety, dispense themselves from the general obligation; their responsibility for an abuse of this power is not a legal, but only a political one. According to the parliamentary rules of congress, objection may be made to even the presentation of a petition without giving any reason for the objection, and so there is no absolute requirement that there should be any ground assigned for refusing to receive it.[2] Reasons of expediency have, both in England and in the United States, led to the rule, that petitions shall be read only after their reception has been resolved upon.[3] In both countries, usage excludes two great categories of petitions from being received: those that are couched in unbecoming language, and those that are evidently outside of the competence of parliament or congress.[4] But the refusal to accept has not remained limited

[1] In December, 1640, the house of commons appointed a committee on petitions, one of the duties of which it was "to see what petitions are fit to be received." L. St. Cushing, Elements of the Law and Practice of Legislative Assemblies in the United States of America, p. 454. Jefferson says in his Manual of Parliamentary Practice: "Regularly a motion for receiving it must be made and seconded, and a question put, Whether it shall be received? But a cry from the house of 'received,' or even its silence, dispenses with the formality of this question." Jeff.'s Works, IX, p. 31.

[2] Cushing, p. 460.

[3] Ibid., pp. 455, 461.

[4] The member who presents the petition with a short recital of its con-

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to these two categories in parliament, and the further exceptions have been, by no means, based simply on formal defects[1] in the petitions.[2] If it was at all competent for parliament and congress to reject petitions for material reasons before they had come into their possession, it is not, indeed, apparent why this competence in the premises should, in and of itself, be exhausted by these two cases. Both parliament and congress had established these two exceptions, of which the constitution of both countries said as little as of any others, of their own motion. If these were justifiable, there were others to which the same reasons, or reasons equally pertinent, might be made to apply.

Hence Calhoun's claim, that congress was not absolutely obliged by the first amendment to the constitution to accept the petitions of the abolitionists, simply because they were petitions, was unquestionably warranted. And if, for this reason alone, there was no absolute necessity why it should accept them, still less could there be any absolute necessity why it should take any further action in relation to them. The resolution of the house of representatives of May 26, did not, however, refuse to accept them, but only prohibited any action after they were received.

The practical consequences of this prohibition, and of the refusal to accept the petitions, were the same. As in the case

tents. is responsible to the house that in both these respects there is nothing objectionable in it. If the case seems to him a doubtful one, it is his duty to say so on presenting the petition, and to state the reasons therefor.

[1] In relation to these, see Cushing, pp. 439–447.

[2] Among the examples cited by Calhoun, we find the following: "On the 21st December, 1706, Resolved, that this house will receive no petition for any sum of money relating to public service but what is recommended from the crown. Upon the 11th of June, 1713, this is declared to be a standing order of the house." Works, II, p. 476. The refusals to receive petitions against pending bills are numerous. The whole series of cases cited in Cushing, pp. 451, 452 (§ 1105), is not concerned with at least purely formal defects.

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of a refusal to accept, so also in the case of prohibition, the question of constitutionality had to be decided according to this — whether the reasons assigned for the step could stand the test not only of one definite constitutional provision or another, but the test also of the genius of the constitution in its entirety.

It was not pretended that the unbecoming language of the petitions or the incompetency of congress [1] made the Pinckney resolution necessary, nor was it left to the people to discover what the presumptive reasons were. While the relation of congress to slavery in the states and to slavery in the District of Columbia was precisely defined in two bald resolutions, the makers of the motion thought it incumbent on them to preface the gag-resolution by a formal statement of the reasons which dictated it. This statement was as follows: "And whereas, it is extremely important and desirable that the agitation of this subject should be finally arrested for the purpose of restoring tranquillity to the public mind, your committee respectfully recommend," etc. The statement of reasons was accepted with the resolution, and hence it is to be considered that of the house and not that of the committee only. The house, therefore, notified the people that it deprived the right of petition, so far as slavery was concerned, of all practical value; that is, that the house practically abolished it, because it expected by so doing to restore the calm of public feeling which seemed desirable to it. If it were authorized to do this, it might, of course, practically abolish the right of petition in relation to every other question the discussion of which would, in its opinion, disturb the calm of public feeling; that is, it was

[1] The second of the three resolutions was as follows: "That congress ought (!) not to interfere in any way with slavery in the District of Columbia." It was adopted by a vote of one hundred and thirty-two against forty-five.

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left absolutely to congress to decide in respect to what questions it would allow the people so to petition that their petitioning might come to have a meaning through the possibility of its having practical consequences: the right of petition had ceased to be a right. Hence, by the statement of reasons by which it pleased the house to preface the resolution of the 26th of May, that resolution came in direct conflict with the first amendment to the constitution.

But there was no need of this statement of reasons to demonstrate the unconstitutionality of the resolution. The nature of the republican state postulates the right of petition. The government of a republic does not exist in its own right. The source of all its powers is the people. So long as the state is a republic, not only in name but in reality, there must be some means to bring the wishes of the people before the government, in such a way as to make it the duty of the latter to consider them. Hence, it was entirely correct that the constitution represented the right of petition as a right independent of and existing before it; for the constitution did not make the state a republic, but the republican people had given themselves this constitution, and the right of petition is the only possible means corresponding to that end. The people, indeed, is sovereign; but the people is not the aggregate of all individuals as such, to say nothing of a group of individuals constituted at pleasure, and of any desirable magnitude, but the population in its political organization. The governing will of the people has obtained its fixed expression in the constitution, and it further continually asserts itself in the manner in which the different factors of the government, according to the provisions of the constitution, proceed from the population. Beyond this, it should not go, if the government is really to remain a government. If the government places itself in permanent conflict with the views of a preponderant majority of the people,

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it perishes of itself through the regular process which creates it. But if, while it is a government, another will stands above its will with the binding force of law, there can be no such thing as the state, for the idea of the state requires that the government should be the highest organ of the will of the state.[1] It should not be commanded, but it is its duty to listen to the wishes of the people, for the self-determination of the people remains the fundamental principle of the republic, and both the views and wants of the people are always in course of development. With this development the government must, as is its duty, remain in official contact, and this it can do only by means of the right of petition.[2] The government alone has to decide the fulfillment

[1] The word "government" is evidently not to be understood here in the narrow sense attached to it by the ordinary usage of speech in Europe.

[2] I believe that I have said enough to refute the sophistry with which, later, a part of the northern standard-bearers of the south sought to prove that in a democratic republic the right of petition is almost meaningless. A specimen of this kind of reason, however, may not be uninteresting to the reader: "But this 'right of petition,' about which we have lately heard so much, is one of a very inferior order, and one to the construction and application of which every American democrat must bring a different spirit.

"It seems, indeed, to argue a strange misapprehension of the true genius of our institutions, to insist upon this as one of the cardinal principles of American liberty. . . .

"The right of petition is no longer to him (the American citizen) one of those dear and sacred privileges to which should attach the inestimable value now claimed for it by those who use it avowedly as an engine for the indirect accomplishment of an ulterior object beyond the conceded scope of constitutional power of congress. He possesses a higher right, in which the inferior is overshadowed and reduced to insignificance, the right of dictation. Prayer, in affairs of human government, is not the appropriate language for his lip; nor can he who enjoys the right to utter the accents of command, attach any peculiar value to the poor privilege of supplication. The American citizen possesses the freedom of speech, of the press, and of the ballot box. Every newly proposed reform has free scope and play through these instruments, to work out that conviction in the public mind

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of what wishes is legally proper and expedient, but it is not authorized to prohibit the expression of any wish whatever as inopportune, or — which amounts to the same thing — to recognize a duty of the government corresponding to the right of petition of the people only to the extent that the petitions seem opportune to it. A right the limits of which are to be determined arbitrarily by the obligated party, is no right whatever. That the time of the government belonging to the state may not be made the plaything of fools and knaves, the government should be allowed a discretion in respect to the opportuneness of petitions so extensive, that, in any given case, it might act as if it actually had the powers above mentioned. If the house of representatives had been satisfied to do this, it would have been hard to produce the

requisite to make it practically effectual. The privilege of addressing prayer to the temporary depositaries of governmental authority delegated from the individual citizen himself, constitutes no enlarging or strengthening addition to these means of influence. What cares he for this privilege? If desirous of carrying out any particular reform, can he not write freely for it in newspapers and reviews — can he not speak freely for it at the street corners, from the house tops, in the frequent popular assemblages?

"We hold, then, that we are in no respect bound to construe the terms of the constitution to which appeal is made, in the same large and liberal spirit which we would apply to the other rights which are enumerated in the same clause, nor to extend them beyond the limited sense fixed by a strict construction of them. And in the present case all those who entertain a different view from that of the petitioners, as to the effect of the movement of which these petitions have been made the principal instrument, are perfectly justifiable in obeying the motives which dictate to them the duty of quieting the agitation of this exciting and dangerous topic in congress, provided they are borne out by the plain terms of the constitution, fairly and closely construed. If, therefore, 'congress' refrain from passing any 'law' abridging 'the right of the people peaceably to assemble, and to petition for a redress of grievances,' the requisition of the constitution is sufficiently satisfied." The "Democratic Review," April, 1840, pp. 336, 337, 338, 339. Calhoun had already developed the same views on the 13th of February, 1840, in the senate. Works, III, pp. 440, 444.

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proof of a violation of the constitution. But it was an easy matter to do this now, since the house had laid down a principle. Concrete cases had to be dealt with no longer; all that was needed was to produce proof against this principle. But the house had laid down a principle precisely because it did not decide a concrete case, but because it had lifted a large part, in its entirety, out of the aggregate of the national life, and had dispensed itself in relation thereto from the duty corresponding to the people's right of petition.

But the resolution of the 26th of May affected by no means only the right of petition; it entirely banished the slavery question from the house. The house was to take "no action whatever" on any "propositions" or "papers" relating "in any way" to slavery. If this resolve were conscientiously adhered to, the door was henceforth closed even against the declaration of independence and against the constitution. But even leaving such consequences as this of its absurdity out of consideration, it was as flagrant a violation of the constitution as can well be imagined. Either the nation had an interest in slavery, or it had none. In the latter case, the philosophers' stone, the man in the moon, or any other substantive whatever, might have been substituted with propriety for the word slavery in the resolution. If the house did not proceed on the assumption that the nation had an interest in slavery, the resolution was simply senseless. But if it had such an interest, it was evidently the duty of all the factors of government to concern themselves with it within the limits of their constitutional authority. Inasmuch as the house forbade itself to do this, under any circumstances whatever, in any way whatever, it, in this respect, abdicated as a factor of government. If it had the right to act in this way in one question, it had the right in all; it was left to the pleasure of the house of representatives to say when and in what the people should have the national

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legislature created by the constitution, or get along without it.

On the details of the question of right, many erroneous views might, as we have said, prevail, but the political feeling of the people was too well developed not to correctly understand its most material points from the very first moment. Where this was not the case in the north, it was generally because people would not listen to their better conviction, or because they would not allow themselves to form a better conviction, for the blow was directed only against the abolitionists,[1] and no peace-loving citizen and upright patriot could desire anything better than that the tomahawk of slavery should be finally buried, even if Right should not get all that belonged to it. In many quarters, at first, there was a reluctance to apply the touchstone of right to the question, because there was a wish not to lose the good practical consequences which were anticipated from the successful *coup de main*. It is unquestionable that the majority of the house itself were determined mainly by this reason. But grave as their sin against Right was, it was light in comparison with the blow which they had dealt against their own interests.

The very wish to stifle the discussion of the slavery question bore eloquent testimony to how actively it engaged the thought and feeling of the people. And if the endeavor to compel silence on such a question is always attended by the opposite result, it is naturally thus attended in a democratic republic to a much greater extent. It is certainly ridiculous in such a commonwealth to force a subject out of the halls of the legislative power, which so stirs the whole people that the mere mention of it sends the blood in quicker pulsations

[1] Adams writes in April, 1837: "The passions of the populace are all engaged against them." Mem. of J. Q. Adams, IX, p. 350.

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to the heart and the head.[1] What Story rightly says of the right of petition is applicable to an incomparably greater extent here: such an attempt could not be successful until nothing was left of the republic but the name.[2] Even if it were possible to be permanently silent in the legislative body of a democratic republic on the vital interests of the people, the passions of the people would have had to find expression in it. Supposing even that the wit of the minority was so blunted that they did not, spite of the gag, know enough, in season and out of season, to shout out the forbidden word, the majority would have made it the order of the day whenever they had an opportunity to do so. The steel strikes sparks from the flint. Before it could have occurred to the majority to put the gag in operation, their irritability must have been so great that they involuntarily reacted against the slightest touch as if it were a heavy blow; and by means of the gag, they brought things to such a pass that the club was now used where hitherto there had been but the slightest, most considerate intimation of opposition. And how could it be otherwise than that the majority themselves should trample the gag under their feet more frequently and more violently than any others? Who has not heard the amusing story of the Irishman who had to defend himself every week before the court because, in his untamable passion for the blessed peace, he was forever giving his neighbors the worst kind of a dressing to compel them to keep it. The

[1] Adams writes, April 19, 1837: "In the south it [slavery] is a perpetual agony of conscious guilt and terror attempting to disguise itself under sophistical argumentation and braggart menaces. In the north, the people favor the whites and fear the blacks of the south." Mem. of J. Q. Adams, p. 349.

[2] "It is impossible that it could be practically denied until the spirit of liberty had wholly disappeared, and the people had become so servile and debased as to be unfit to exercise any of the privileges of freemen." Story, Comm., § 1894. (II, p. 619).

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representatives of the south in congress and the northern crowd that followed them imitated this, their prototype, with the most admirable consistency and in the bitterest earnestness, up to the time of secession and after it. The slavocracy had always had fits of this battle-mad passion for peace, but it was in the gag-resolutions that it, for the first time, introduced method into its madness, and consciously gave it the fullest rein. In its relation to slavery, congress henceforth presented the picture of a popular assembly which, to preserve the peace, raised a tumult when any one coughed or sneezed, and soon made tumult the standing order of the day in order to keep cries from without from leading any one within into the temptation to open his mouth. The rage for quiet became more and more general and more and more violent, and on that account, precisely, a convincing proof, which became more and more convincing every day, that the restoration of quiet was impossible. And the wider the circle of those who reached this conviction was, the wider grew the circle of those who saw clearly that the gag-resolutions undermined the foundation of the republic.

The blows dealt by both sides now followed one another in quick succession. The resolution of the 26th of May ceased, of course, to have any validity with the close of the session. But on the 18th of January, 1837, on the motion of Hawes, a resolution of the same tenor was passed by a majority of more than two-thirds. But Adams did not allow this to mislead him. When the presentation of petitions was the order of the day, it could be counted on with certainty that he would hand in some in relation to the abolition of slavery in the District of Columbia. The vials of wrath of his southern colleagues were full, when, on the 6th of February, he gave them a blow which upset them and poured out on him the last drop of their contents. After he had handed in a petition for the abolition of slavery in the

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District, he called on the speaker for a decision before he should present the paper he held in his hand to the house. He did not know, he said, whether it fell within the meaning of the resolution of the 18th of January, as it was alleged to come from twenty-two slaves.

This announcement surprised the house so much that a few moments were left to Adams and the speaker to discuss questions of form. But when these had elapsed a storm broke out such as the house had not, perhaps, ever experienced before. One motion to punish the audacious man followed quickly on the heels of another. All demanded, at least, that he should be censured by the speaker before the bar of the house. The resolution of Lewis, of Alabama, declared that by his course of action he had "directly" incited "the slave population to insurrection."[1] Thompson, of South Carolina, reminded him that there were grand juries in the District, and intimated, in a manner which could not be misunderstood, that the defiler of the house should find in the penitentiary the punishment he deserved for the attempt to incite uprisings of the slaves.[2]

[1] Deb. of Congr., XIII, p 269.

[2] Thus, according to the "corrected" version which Thompson, following the prevailing bad custom, substituted for what he had really said in the debate. According to the "National Intelligencer," the sentence was as follows: "Does that gentleman know that there are laws in all the slave states, and here, for the punishment of those who excite insurrection? I can tell him that there are such things as grand juries; and if, sir, the juries of this district have, as I doubt not they have, proper intelligence and spirit, he may yet be made amenable to another tribunal, and we yet see an incendiary brought to condign punishment." He did say verbally: "It is a violation of the criminal law of this district. What is the difference between presenting the petitions of slaves to be emancipated and aiding them to escape? My life on it, if the gentleman has the courage to carry it thus far, and will present that petition — my life on it, we shall see him within the walls of a penitentiary!" Speech of J. Q. Adams in the House of Representatives, February 9, 1837, appended to the Letters from J. Q. Adams to His Constituents, Boston, 1837, p. 55.

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Adams had weathered too many storms without turning the helm one hair's breadth from the line which the compass of duty seemed to point out to him, to blink now that he was on the verge of the grave, at the cracking of the slave-whip.[1] But his heart might well swell with bitterness and unspeakable sorrow that he, with his white hairs, who had served his country so long and so faithfully, and who had been so highly honored by his country, should now be treated in the halls of his country's legislature like a rogue and an outcast, because he had dared to take in his hand a document which bore the signature of slaves, and to open his mouth concerning it. In this struggle it was often called to mind how even the good thief dared to petition Christ on the cross. This may to-day seem insipid to many. But if we endeavor to really live those times over again with the people, we shall be able to understand the feeling which involuntarily directed their looks to the appalling picture on Calvary. It is something overpoweringly tragical to see, in the nineteenth century, a great, civilized people, who, in many respects, rightly boasted that they were the freest people on earth, treating the belief that to those from whom all had been taken, it might be that the right of petition still remained, as a crime which deprived one of his honor. The endeavor to have Adams censured before the bar of the house is one of the darkest of the many dark pages of the history of slavery in the United States.

[1] Unfortunately, there is a break in Adams' diary from January 4 to April 2. But he writes later, in reference to this procedure: "The exposure through which I passed at the late session of congress was greater than I could have imagined possible; and, having escaped from that fiery furnace, it behooves me well to consider my ways before I put myself in the way of being cast into it again.

"On the other hand, may God preserve me from the craven spirit of shrinking from danger in the discharge of my duty! Between these two errors let me pursue the path of rectitude unmoved, and put my trust in God." Mem. of J. Q. Adams, IX, p. 350.

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And yet, had not the representatives of the south to look upon the vindication of the right of petition of the slaves as a dreadful attempt? It would be hard to prove that the answer should be a negative one.

The tragic in this procedure was not exhausted when the comic also began to assert its rights to the fullest extent. After Adams had allowed the storm to rage for a time, he, with the utmost mildness, requested his accusers to permit him to propose a small alteration of their motions. They might punish him as severely as they thought proper. But they should first correct an error which had crept into all the argument in favor of their different propositions: The petition did not pray for the abolition of slavery, but for the very opposite. And this was not the only error into which the gentlemen had fallen. He had not presented the petition at all. Rather had he expressly declared that he would not present it until the speaker had decided whether a petition from slaves was covered by the resolution of the 18th of January.

One must read the entire debates to appreciate the scenes which occupied the rest of that day and the 7th and 9th of February. Abijah Mann, of New York, was the first to take the floor after these surprising communications. The most essential thing in his unctuous speech was the not very figurative reminder that Adams was far gone in the years of his second childhood. Thompson followed with the declaration that Adams had only injured his case, since he had "irritated almost to madness" the representatives of the slave states, for his amusement.[1] Still, from this point of

[1] "What, sir, is it a mere trifle to hoax, to trifle with the members from the south in this way and on this subject? Is it a light thing, for the amusement of others, to irritate, almost to madness, the whole delegation from the slave states? Sir, it is an aggravation. It is intimated that the petition does not pray for the abolition of slavery, but a very different object. It makes not the slightest difference; it is the attempt to introduce

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view, an effort was made to subject Adams to censure. Adams had to be punished, not for what he had done, but for what he had wished to do; or — as they were soon compelled to say — because he had not corrected the erroneous assumptions of the house as to his intentions. The gigantic and angry spirit of the slavocracy had to dwindle to smaller and smaller proportions, until it was again inclosed in the vessel the seals of which the bold old man had broken, and the majority had enough of the feeling of decency to leave him the possibility of the satisfaction of putting the cover on it himself. Vanderpoel, of New York, had, indeed, the effrontery to move the previous question, the adoption of which would not have allowed Adams to speak. Seventy-eight other members lent a hand in this childish prank, but one hundred refused to agree to it. In this way Abijah Mann was afforded an opportunity to learn what power there still was in those withered arms. Adams unmercifully lacerated with the scourge of his moral indignation the pack of hounds that had hung on his heels, and into every scar he poured a full measure of the corrosive acid of his sarcasm.[1] Resolution after resolution was rejected, and the house was glad when the "old man eloquent" was finally "exculpated."

On the 8th of February the debate on Adams' crime had to be interrupted because the official counting of the electoral vote took place. Not quite four weeks later, Van Buren

a petition from slaves for any object; as insolent if it be for one purpose as for another. It is the naked fact of the presentation of a petition from slaves." Deb. of Congr., XIII, p. 271.

[1] Thompson fared worst of all. Adams reminded him of the provision of the constitution that no member of either of the two houses of congress should be made responsible anywhere else for anything said in them, and exhorted him, when he returned to his "slaveholding constituents," "to study a little of the first principles of civil liberty." Speech of J. Q. Adams in the House of Representatives, February 9, 1837, p. 56. Although Benton, in his Debates of Congress, gives an unusually long account of this debate, he omits the biting "to his slaveholding constituents."

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assumed the presidency. He had reason enough, therefore, for the fear expressed indirectly in his inaugural address, that his term of office would be visited by very severe storms on the slavery question.

The attention of the extraordinary session of congress was entirely claimed by the commercial crisis.[1] But as soon as it was possible to turn to other things, the dance was resumed to the sound of livelier music. The twenty-fifth congress met, in its first regular session, on the 4th of December, 1837, and, on the 20th, a scene occurred in the house of representatives more dreary and more pregnant with consequences than that which had occurred in February. William Slade, of Vermont, joined to the presentation of some abolitionist petitions the motion that they should be referred to an extraordinary committee, with instructions to bring in a bill for the abolition of slavery and the slave trade in the District of Columbia. This motion went a great deal farther than all the motions which had ever been made before in relation to slavery in the District. There was, of course, no question of a possibility that it would be adopted. But the naked fact that the word was spoken threw the entire representation of the south into a paroxysm of rage. Slade's speech was again calculated to drive them "almost to madness." "What is slavery?" — such was the simple question which it wished to find an answer to from the slave laws and the views of the great patriots of the republic. But this simple question involved the fate of the south and of the

[1] Petitions, however, came in in great numbers during this session. Adams writes on the 15th of September: "I have been for some time occupied day and night, when at home, in assorting and recording the petitions and remonstrances against the annexation of Texas, and other anti-slavery petitions, which flow upon me in torrents." And on September 26th: "I presented petitions and memorials for the abolition of slavery; and multitudes were presented by other members." Mem. of J. Q. Adams, IX, pp. 377, 380; see also, pp. 387, 397.

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Union. The moment that the majority gave themselves a correct and exhaustive answer to this question, was the decisive moment. If it could only be suppressed, the struggle about the rights of the slave states might be carried on to the end of time. Hence the convulsive efforts to make it appear that the slavery question was completely covered by the question of the rights of the slave states. If it were in the power of nations to put their pleasure in the place of the laws of national life, founded in the nature of things, this might have been right. But as this is not the case, the question of law could cover the whole question, that is, the political question, only so long as, and to the extent that, positive law and the action of those laws did not conflict with one another.

One call to order after another interrupted Slade's speech. He was not permitted to read a judicial decision nor a memorial of Franklin. To recall what was thought of slavery fifty years before in Virginia, and what the continental congress had done in relation to it, was out of order. Since the motion had relation only to the District, every word about slavery anywhere else and at any previous time was improper. Although, in this way, all argument in favor of the motion was rendered impossible, the speaker, John White, of Kentucky, did not refrain from granting the desired call to order. After a sturdy, manful resistance, Slade was obliged to sit down without having completed even the interrupted sentence.

But even before his mouth had been closed by the twenty-second rule, which had scarcely ever before been enforced, Wise, of Virginia, had called upon his colleagues to leave the hall with him. His example was followed by Halsey, of Georgia, and Rhett announced in a stentorian voice, that the representatives of South Carolina had resolved to meet in consultation in the committee-room for

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the District of Columbia. None of them had, according to the rules of the house, the right to take the floor, but for them the speaker had no call to order.

After Slade had been finally compelled to be silent, the motion of Rencher, of North Carolina, to adjourn was adopted, the names having been called, by a vote of one hundred and six against sixty-three.[1] While the resolution was announced, Campbell, of South Carolina, jumped on his chair and invited all the representatives of the slave states to the consultation in the committee room of the District already announced.

The southern gentlemen wished to have it considered that this invitation had been given before the adjournment had been really made. They liked to speak of the "memorable SECESSION of the southern members from the hall of the house of representatives." Now that the ominous word was for the first time rightly put in circulation, it was undoubted that the people would become gradually familiar with the idea, under certain circumstances, of changing the word into the deed. Beyond this, the wishes of the people nowhere went; but those of the radicals went thus far. Rhett, of South Carolina, had intended to introduce an amendment to Slade's motion, to the effect that an extraordinary committee should be charged to report on the best means towards a peaceful dissolution of the Union, for the reason that the constitution did not protect the south in the peaceable possession and enjoyment of its peculiar institutions: the south should have its course pointed out to it.[2]

[1] Benton, Thirty Years' View, II, p. 152. In the Deb. of Congr., XIII, p. 565, Benton gives one hundred and sixty-six against sixty-three. It is not possible to reconcile with this the statement that fifty or sixty had previously left the hall.

[2] Rhett says, in a report to his constituents: "In a private and friendly letter to the editor of the 'Charleston Mercury,' amongst other events accompanying the memorable secession of the southern members from the

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The great majority of the southern delegates did not wish to go so far in their demonstrations, nor to confine themselves to idle demonstrations. They had confidence still in the efficacy of the gag. The following day Patton, of Virginia, asked leave of the house to recommend another gag, after the model of the one previously put in operation.[1] As Adams raised an objection, the rules had to be suspended. This was done by a vote of one hundred and thirty-five against sixty. This vote really showed the attitude of the house to the question. That afterwards, in the vote on the resolution itself, the nays increased to seventy-four, and the ayes decreased to one hundred and twenty-two, was only, as Benton says, because some of the members from the northern states did not wish uselessly to create trouble for themselves with their constituents, after they had helped the south in what was most material by their first vote.[2]

hall of the house of representatives, I stated to him that I had prepared two resolutions, drawn as amendments to the motion from the member of Vermont, whilst he was discussing the institution of slavery in the south, 'declaring that, the constitution having failed to protect the south in the peaceable possession and enjoyment of their rights and peculiar institutions, it was expedient that the Union should be dissolved; and the other, appointing a committee of two members from each state, to report upon the best means of peaceably dissolving it.' . . . I expected them to share the fate which inevitably awaited the original motion, so soon as the floor could have been obtained, viz., to be laid upon the table. My design in presenting them was, to place before congress and the people what, in my opinion, was the true issue upon this great and vital question; and to point out the course of policy by which it should be met by the southern states." Benton, Thirty Years' View, II, p. 152.

[1] "*Resolved*, That all petitions, memorials and papers touching the abolition of slavery, or the buying, selling or transferring of slaves, in any state, district or territory of the United States, be laid on the table without being debated, printed, read or referred, and that no further action whatever shall be had thereon." Deb. of Congr., XIII, p. 566. It deserves to be called attention to that here the territories are expressly mentioned.

[2] Thirty Years' View, II, p. 154. To suspend the rules, a majority of two-thirds was necessary; to adopt the resolution, on the other hand, a simple majority.

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That the experiment to decree away the existence of the slavery question, was repeated, could not be a matter of surprise. More unexpected was Patton's declaration that the gag was a "concession" made by the south "for the sake of peace, harmony and union." "In that spirit" he closed his remarks by moving the previous question. Adams' protests were howled down, the previous question resolved upon, the resolution adopted, and even before a champion of freedom and of the constitution could open his mouth, the magnanimous south had graciously put a patent lock on the lips of the north.

Adams subsequently called the circumlocutions of the constitution for the words slave and slavery, the fig-leaves which covered the nakedness of the republic.[1] Of what advantage these coverings of shame were, the history of the Union under the constitution for fifty years showed. Something might have been learned from this experience for the question now treated. The proceedings in the senate were the commentatorial marginal notes to the endeavors of the house of representatives. While in the latter, the south sought to hide the slavery question from the whole world in the dungeons of its resolutions, in the former its most distinguished representative, with violent hand, tore one covering after another from its ulcerated members, and — to crown the dreadful irony — to reach the same end.

The day after Adams had been threatened by Thompson with the penitentiary, Calhoun vented himself in the senate again in a long speech on the subject of the abolitionist petitions. He did not repeat the futile attempt to have their acceptance refused, and he touched only lightly on the question of

[1] "The words slave and slavery are studiously excluded from the constitution. Circumlocutions are the fig-leaves under which these parts of the body politic are decently concealed." Argument of J. Q. Adams in the Amistad Case, p. 39.

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right, although he asserted the principle in sharper accents that congress should not discuss the question at all.[1] The speech is eminently political, and he again, keeping pace with events, took a great stride beyond his last position. How ill understood has this remarkable man been even up to the present time! Almost without exception, he is spoken of as if, like Minerva from the head of Jupiter, he had sprung from the flanks of slavery clad in the complete armor of his doctrines. What is precisely most remarkable in him is, that this rigid doctrinarian is the only person whose thought kept fully equal pace with the development of the actual condition of affairs.

The position now assumed by Calhoun was that the spirit of abolitionism would not die out of itself nor without a violent shock. The proof of the correctness of this assertion was that it had insinuated itself into the pulpit, the schools and the press. "However sound the great body of the non-slaveholding states are at present, in the course of a few years they will be succeeded by those who will have been taught to hate the people and institutions of nearly one-half of this Union with a hatred more deadly than one hostile nation ever entertained towards another."[2] But a state alliance "under the same political system," was entirely impossible and unthinkable when that on which "the very existence" of the one-half "depends" is considered "sinful and odious in the sight of God and man" by the other half.

How well did this fanatical champion of slavery understand the moral nature of the state, and how clearly he recognized that no clamp of positive law could resist the wedge

[1] "The most unquestionable right may be rendered doubtful, if once admitted to be a subject of controversy, and that would be the case in the present instance. The subject is beyond the jurisdiction of congress — they have no right to touch it in any shape or form, or to make it the subject of deliberation or discussion." Works, II, p. 627.

[2] Works, II, p. 629.

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of an ethical principle. Hence he now, for the first time, asserted, in the most pointed manner, the decisive principle which he had always hitherto only allowed to be the unexpressed consequence of his doctrines: the north and the south are not placed in irreconcilable opposition to each other by a moral principle. The question the discussion of which the house of representatives avoided above all things, Calhoun boldly raised, and he answered it in a manner which certainly absolutely forbade the introduction of the slave code as a witness, or the caring what Virginia had thought upon the subject fifty years before. Slavery is a "good," "a positive good," and the safest foundation of free institutions[1] — such was his position from this time forward, one to which he rapidly drew after him the largest part of the south.

The fundamental defect of this reasoning again, was the assumption that everything depended on the action of congress. It was certain that it would necessarily operate either to promote or restrict slavery; but that the final de-

[1] "We of the south will not, cannot surrender our institutions. To maintain the existing relations between the two races inhabiting that section of the Union, is indispensable to the peace and happiness of both. It cannot be subverted without drenching the country in blood, and extirpating one or the other of the races. Be it good or bad, it has grown up with our society and institutions, and is so interwoven with them, that to destroy it would be to destroy us as a people. But let me not be understood as admitting, even by implication, that the existing relations between the two races in the slaveholding states is an evil — far otherwise; I hold it to be a good, as it has thus far proved itself to be to both, and will continue to prove so if not disturbed by the fell spirit of abolition. . . . I hold that in the present state of civilization, where two races of different origin, and distinguished by color, and other physical differences, as well as intellectual, are brought together, the relation now existing in the slaveholding states between the two, is, instead of an evil, a good — a positive good. . . . I fearlessly assert that the existing relation between the two races in the south, against which these blind fanatics are waging war, forms the most solid and durable foundation on which to rear free and stable political institutions." Ibid., pp. 630, 631, 632.

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cision could never be given by congress, Calhoun himself had irrefutably proved. The moral convictions of the people, which he had rightly designated as the decisive force, lay outside the sphere of congressional power not only constitutionally, but in fact. If the day were never to come when another generation should take the place of the present "sound" generation, grown up under the influence of the spirit which had taken possession of the pulpit, the schools, and the press, it was evident that this spirit should be expelled, or at least its further spread be prevented. And what power was there to do this? Calhoun himself gave the undoubtedly correct answer to this question. He ridiculed the attempt of the house of representatives to "reason down" the spirit of abolitionism. This only made the evil worse.[1] What means are there but reasons to change convictions? If there are any others, they are certainly inapplicable in a democratic republic. Calhoun, therefore, did not presume to change the conviction according to which slavery was "sinful and odious in the sight of God and man," nor even to prevent its further spread. All he wished was to repress its manifestations, and even this only to the extent that they appeared before the forum of congress. Did not this powerful thinker see with how frail a straw he was running against the windmill's wings? Even supposing that slavery was a positive good and the safest basis of free institutions, of what use was this so long as he could not convince the north, at least, that it was not sinful and odious. If it were impossible now, and to remain impossible in the future, to make way for this conviction, it was, so far as the practical consequences were

[1] "We are told that the most effectual mode of arresting the progress of abolition is, to reason it down; and with this view it is urged that the petitions ought to be referred to a committee. That is the very ground which was taken at the last session in the other house, but instead of arresting its progress it has since advanced more rapidly than ever." Works, II, p. 627.

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concerned, a matter of indifference whether the north and the south were placed in irreconcilable opposition to one another by a moral principle, or whether it was only the short-sightedness and fanaticism of the north which saw the matter in that light. The convictions of men make a moral principle a working power among them, and what they consider a moral principle works as a moral principle among them. So long as the north harbored that foolish conviction about slavery, and to the extent that it harbored it, Calhoun's opposite allegation, that slavery was a positive good, must have operated as a powerful impulse to intensify the opposition.

Did Calhoun really not recognize this? It has been repeatedly shown that his thinking always proceeded from one of the two opposite premises which lay at the foundation of the constitution and of the actual state of things. The more logical his thinking was, therefore, the farther must it have led him from the consequences which followed from the other. While he, with unhypocritical indignation, repelled the charge that his endeavors to quench the fire only served to fan the flames, he announced, in a really prophetic spirit, how broad a chasm would one day yawn between the two convictions. So dense was the darkness still before the eyes of his hearers, that they considered it only the thrust of a ruthless agitator, or as the feverish dream of a madman, when he declared that the "fell spirit of abolitionism" could not be satisfied even with the emancipation of the slaves; but that their emancipation would be followed by their political and social equality, and this, in turn, by a complete revolution in the present relations of the two races to one another.[1]

Forcing Political Equality.

[1] "Be assured that emancipation itself would not satisfy these fanatics — that gained, the next step would be to raise the negroes to a social and political equality with the whites; and that being effected, we would soon find the present condition of the two races reversed. They and their northern allies would be the masters and we the slaves." Works, II, p. 633.

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Calhoun himself, least of all, considered it possible that it could ever come to this. His Cassandra warnings were introduced always by a two-fold If. If the federal powers did not acquit themselves of their duty, and if the south did not know how to insist on its rights, these monstrous events would come to pass. Based only on these two assumptions, his thought kept pace with the state of affairs. He had not made shipwreck of his faith in the constitution; in his opinion everything depended on its being lived up to conscientiously. Hence, for the present, the all-important matter with him was to determine accurately what the positive law was, and to enforce it absolutely. It was not, therefore, surprising to see him again ride the old hobby of doctrinarianism, and hunt after constitutional theories with as fiery a zeal as ever.

On the 27th of December, one week after the stormy proceedings in the house of representatives just described, Calhoun introduced six resolutions into the senate, the adoption or rejection of which was to be the "test question" by which the south might recognize how honest was the assurance given by all the senators, that they condemned the fanatical doctrines of the abolitionists. The proud planter called it to account, and the senate of the United States spent two weeks answering his interrogatories and putting the desired confession of faith in relation to slavery on paper.

"The only remedy is the state-rights doctrines"— such was the short and significant principle, the acknowledgment of which, on all sides, the resolution wished to secure.[1] Hence, the series was very logically opened with the statement how, according to this theory, the Union came into existence under the federal constitution.[2] From the alleged con-

[1] Works, III, p. 155.

[2] The expressions are selected with care, after the wording of the resolution. It is said that every state "entered into the Union." This reso-

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federate nature of the Union was deduced the second reso- II.
lution, that the intermeddling of states or of a "combination of their citizens in the internal affairs of another state — on any ground or under any pretext whatever, political, moral or religious — with a view to their alteration or subversion," is not warranted by the constitution. The resolution, with a few immaterial alterations, was adopted, by a vote of thirty-one against nine.[1] Allen, of Ohio, expressed a desire that the word "religious" should be stricken out. Calhoun refused to accede to it, because "the whole spirit of the resolution hinged on that word."[2] Morris, Allen's colleague, did not, however, allow himself to be deterred thereby from moving that the words "moral and religious" should be stricken out, but out of forty-five votes only fourteen were in favor of his motion. Significant as this was, it was of no real importance. Whether the words remained or were stricken out, the resolution was, and remained, a source of constitutional law, even in the hands of the most skillful jurist. Webster pointed out how difficult it would be to mention the domestic institutions which really lay outside of the sphere of action and power of the Federal government, and demonstrated that slavery certainly was not one of them. And even if this difficulty could be overcome, who was there able to give a definition, judicially or even politically serviceable, of "intermeddling?" What was the meaning of "with a view to their alteration?" What was the meaning of "not warranted by the constitution?" If all this was to have so

lution was adopted, with two completely unimportant verbal alterations, by a vote of 31 against 13. (Deb. of Congr., XIII, p. 571.) Hence, by a majority of more than two-thirds, the senate assumed that the Union had ceased to exist before the adoption of the constitution. When and by what means, then, did the articles of confederation go out of force?

[1] Deb. of Congr., XIII, p. 572.

[2] Calhoun's Works, III, p. 148.

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precise a meaning that the doctrines of rights should and could be fixed in laws, and their observance secured by legal compulsory measures — and it was, obviously, only on this supposition that they could serve the purpose intended — everything which had relation to the domestic institutions of other states would become a punishable violation of the constitution. The existence of slavery had to vanish from the consciousness of the free states, for, until this happened, their thought would have to be occupied with it, the thought to manifest itself, and every manifestation of the thought had, in and of itself, a tendency to operate an "alteration" of the existing state of things.

The next resolution which passed from negation to affirmation was as pointedly framed as could well be wished.[1] It declared it to be the duty of the Federal government to use the powers granted it in such a manner as "to give . . . increased stability and security to the domestic institutions of the states that compose the Union." The senate did not permit itself to be pushed thus far yet. It reduced this resolution to the same level as the preceding one. It was again not said what the federal powers had to do, but only what they should not do, or allow to be done; their sacred duty was not to allow themselves to be used to weaken the institutions over which the states had reserved control.

[1] It begins with the words: "Resolved, that this government was instituted by the several states of this Union." Bayard, of Delaware, moved to substitute for the "several states," "the people of the United States." (Deb. of Congr., XIII, p. 593.) Calhoun opposed the change because, thus framed, the resolution would be ambiguous. Bayard's amendment was rejected by a vote of thirty-four against eight. The senate devoted two whole weeks to the bootless task of giving expression to its views on certain constitutional questions, and by a majority of more than four to one, excluded the first word of the constitution as ambiguous. The persons who are "more royal than the king" are proverbial the world over. The history of the United States has presented an incomparably greater anomaly in the state-rights and "strict-constructionists," who were so frequently more faithful to the constitution than the constitution itself.

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Smith, of Indiana, had moved, as an addition, an express recognition of the rights of man enumerated in the first lines of the Declaration of Independence, the right of the freedom of the press, and the right of petition.[1] Allen changed this proposition into the declaration that the resolutions in question did not intend to recognize "the right of congress to impair, in any manner, the freedom of speech or of the press, or the right of petition, as secured by the constitution to the citizens of the several states, within their states respectively."[2] This amendment was adopted by a vote of thirty-two against fourteen, a falsification of the constitution which left all the gag-resolutions of the house far behind it. The constitution curtly and concisely prohibited congress by law to abridge the rights named. There is not a trace to be found in it of the many lies with which the resolution sought to blind the eyes of freedom. But even if the rights of freedom of speech, of the press and of petition had belonged to the individuals constituting the people only as citizens of the several states, and not as citizens of the United States, and, therefore, only "within their states respectively," the federal powers would have had no means to prevent the violations of the constitution mentioned in the second resolution. Hence, either the allegations which it contained were incorrect, or the constitution had not granted the federal powers the authority necessary to the performance of their duties, or the constitution itself could not be carried out. The second of these three possible assumptions was excluded by article I, section 8, par. 18 of the constitution, and in respect to the practical end which Calhoun pursued, it was a matter of indifference which of the other two was decided on. From the rightness of the resolution followed, as a direct consequence, the impossibility of carrying out the constitution, because it is folly to prohibit the operation of the "political, moral and religi-

[1] Deb. of Congr., XIII, p. 582. [2] Ibid., p. 583.

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ous convictions" of the people on anything whatever relating to their political life.

IV. The fourth resolution declared slavery to be "an important part of their domestic institutions," and applied to it the doctrines previously laid down in general, without any express mention of them. Every "attack" on slavery was now called "a manifest breach of faith, and a violation of the most solemn obligations." The senate did not agree, in accordance with Calhoun's motion, to designate these obligations "moral and religious."

V. The next resolution read: "Resolved, That the intermeddling of any state or states, or their citizens, to abolish slavery in this district, or in any of the territories, on the ground or under the pretext that it is immoral or sinful, or the passage of any act or measure of congress with that view, would be a direct and dangerous attack on the institutions of the slaveholding states." Instead of this, the following substitute was adopted on Clay's motion: "Resolved, That the interference by the citizens of any of the states, with the view to the abolition of slavery in this District, is endangering the rights and security of the people of the District, and that any act or measure of congress designed to abolish slavery in this District, would be a violation of the faith implied in the cessions by the states of Virginia and Maryland, a just cause of alarm to the people of the slaveholding states, and have a direct and inevitable tendency to disturb and endanger the Union."

As, according to the preceding resolutions, every attack on slavery was a violation of the constitution, so evidently were all the acts enumerated in Calhoun's fifth resolution; since they were denounced as "a direct and dangerous attack on the institutions of all the slaveholding states." Calhoun overlooked this consequence. He declared, in the course of debate, that he considered the abolition of slavery in the

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District of Columbia to be, indeed, unconstitutional, but that, for reasons of expediency, he preferred not to rely thereon in this case.[1]

The claim that the power of congress over the District did not extend to the abolition of slavery, was not entirely new. As early as January, 1836, Leigh, of Virginia, had asserted this principle in the senate, and endeavored to prove it.[2] He went so far as to make the singular claim that the District was not ceded to the United States but to congress,[3] and from this he inferred that the cession was made by the legislatures of Virginia and Maryland; and that the authority of congress could not exceed the rights which had before belonged to these two legislatures. The premise was false, and even if it were right, the inference drawn from it could not but be rejected because it led to an erroneous consequence. The "ten square miles" were ceded by the states of Virginia and Maryland, and not by their legislatures; for the former and not the latter were the owners, and it was not the rights of the legislatures acting in the name of the states that were ceded, but the rights of the owners. But even independently of this, it would have been senseless to measure the authority of congress by the powers once possessed by the two legislatures, since as these were not equal to one another the former

[1] Works, III, p. 168. The appeal to the eighth amendment is evidently a mistake, for that amendment reads: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

[2] Deb. of Congr., XII, pp. 714, 715. I do not find any older case mentioned in my notes, but I cannot say definitely that this was really the first. In May of the same year, Wise and Robertson, of Virginia, and Thompson and Pinckney, of South Carolina, confessed to the same view in the house of representatives (Deb. of Congr., XIII, pp. 24, 25).

[3] This is indeed in harmony with the wording of the cession-document, but neither with the facts nor the constitution. It seems to me that it would be a waste of time to prove that the United States and not congress are the proprietors of the District of Columbia.

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also would have been different in the two original parts of the District. And even if this had been overlooked, and Leigh's further claim had been granted, that the legislature of Virginia did not have the right to emancipate the slaves without the consent of the several owners,[1] there would have been no power whatever which could have abolished slavery in the District of Columbia, unless every single slaveholder in it acceded to it. And thus it might have happened that, after slavery had ceased to exist in the entire Union, a few slaveholders might have burthened the seat of the national legislature with this disgrace for an unlimited time.

But there is no need for all this argumentation. The extent of the authority of congress in this, as in all other questions, was determined by the constitution. Whatever the ceding states and congress might have stipulated with one another, had no validity except to the extent that it was not in conflict with the constitution.[2] What was true of every sentence of the constitution was true of this clause also: "This constitution . . . shall be the supreme law of the land, and the judges of every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding."[3] In accordance with this, the records of the session declared, and entirely correctly, that the cession was made as the provisions of the constitutional clause

[1] "I can venture to say that the great body of the jurists of Virginia, as well as of the people, have always denied, and do yet deny, the constitutional power of the ordinary legislature to abolish the rights of slave property without the consent of the individual owners."

[2] Hence, in my opinion, the following assertion made by Madison in the Virginia ratification convention is entirely wrong: "Let me remark . . . that there must be a cession, by particular states, of the District to congress, and that the states may settle the terms of the cession. The states may make what stipulation they please in it." Elliot, Deb. III, p. 433. The constitution says not only that congress shall have "exclusive legislation" in the District, but adds, "in all cases whatsoever."

[3] Art. VI, sec. 2.

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required.[1] But the wording of the clause so frequently cited called, with all the clearness of which the English language is at all capable, for an unlimited power; that is, of course, so far only as other provisions of the constitution did not restrict it. Thus, too, had the states-righters understood it when there was question of the adoption or rejection of the constitution;[2] and the history of congress afforded, as we have seen, a whole series of resolutions and measures, in which the representatives of the south, by a majority frequently bordering on unanimity, had indirectly acknowledged that congress had a right to abolish slavery in the District.[3]

How great was the majority which still adhered to the old view is best shown by Calhoun's confession, that he did not, for reasons of expediency, wish to rely on the constitution. With all his doctrinarianism, he was practical enough to be satisfied under the circumstances, provided a large majority, with the president, should give the assurance to the south that slavery in the district should be made as

[1] The tract of land "is forever ceded and relinquished to congress and to the government of the United States, in full and absolute right and exclusive jurisdiction, as well of soil as of persons residing or to reside therein, pursuant to the tenor and effect of the eighth section of the first article of the constitution of the United States." Webst.'s Works, IV, p. 372; Niles, LXI, p. 138.

[2] G. Mason said in the Virginia ratification convention: "Implication . . . was capable of an extension, and would probably be extended to augment the congressional powers. But here there was no need of implication. This clause gave them an unlimited authority, in every possible case, within that district." Elliot, Deb. III, p. 431. Still more pointedly did P. Henry express himself: "Is there any act, however atrocious, which they can not do by virtue of this clause? . . . What could the most extravagant and boundless imagination ask, but power to do everything?" Ibid., pp. 433, 437.

[3] Any one who desires to see the list in a more complete form may consult Slade's speech of the 18th and 20th of January, 1840. Niles, LXI. pp. 135, 136.

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secure by other walls and ramparts as it could have been by the most unambiguous provision of the constitution. The faith of Clay's substitute, tacitly pledged, was a protection of this kind, and it was voted to the south by the senate by a vote of thirty-six against nine.[1]

This claim of an obligation of honor is distinguished from the direct denial of constitutional power, as a modern sneak-thief from a medieval robber-knight. The proof of the untenableness of the claim, it was as easy to produce in the one case as in the other. Clay's principle could have a basis in facts only in case that, essentially, slavery had been thought of in Maryland and Virginia fifty years before, and that an almost equal interest had been taken in it then as now. But this was demonstrably not the case. Nearly the whole south, and most of all Virginia, had, together with the north, been cradled in the illusion that slavery, by the early prohibition of slave-importation, would gradually die out of itself; and almost the entire south was, by the pressure of revolutionary memories, still sunk in the self-deception, that it longingly wished to be freed from this "curse." The possibility that the abolition of slavery in the District might one day become one of the greatest questions of national politics was as little kept in view at that time in the north, as it was thought in Virginia and Maryland, that the unrestricted power of congress over the District would threaten slavery with mortal danger. That provision awakened the most exaggerated fears, but this possibility was never thought of. The sentiment of the time, both at the north and the south, found its most pointed expression in the undebated resolutions to leave the laws of the ceding states in force in the District. There were very few points in the slavery question on which thought had as yet begun to be expended. For the most part by far, people

[1] Deb. of Congr., XIII, p. 605.

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helped themselves with the feelings which lay pretty near the surface. Hot as was the contest over the question where the seat of government should be situated, no one suspected that the decision would have so immense a significance for the slavery question as it in fact had.

In the house of representatives, Slade's mouth was closed by the inquiry: what mattered it what views Virginia had fifty years before on slavery? Clay could not make use of this telling argument for his doctrine of the pledged honor of congress, but his historical proof, nevertheless, supposed complete abstraction to be made of the historical facts. But even if people wished to let him play the juggler with this rock, he suffered shipwreck on the other, which Leigh had run foul of. But the sole object of his substitute was to obtain an actual decision of the question of right without taking any notice of the right whatever.

Congress was not obliged to do really all that it might do. So long as it considered the abolition of slavery in the District inexpedient, it was entirely justified by the constitutional law of the country to permit it to continue. But the constitution had left it to each successive congress to decide what measures were expedient for the District, and had not given to any one congress the right to make a decision binding on all subsequent congresses. If one congress assumed such a right to itself, the subsequent congresses were not only neither legally nor morally bound by its decision, but it was their plain constitutional duty to reject it the moment they considered its rejection required by the interests of the District or of the Union. Not to admit this, is to ascribe to each congress the power to alter the provision of the constitution in relation to the authority of congress over the District according to its good will and pleasure. And if congress could not do this by a law, it is obvious that it could still less do it by an obligation tacitly entered into.

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This theory of the pledged honor of congress which asserted itself until, and during a long part of, the civil war, is the strongest illustration given by the slavocracy of the character of the Union as an unarbitrary law-respecting state *(Rechtsstaat)*, with written fundamental rights.

Yet Clay and the majority of the senate cannot be let go with this. With their cheap and cowardly cunning, they were shamefully disgraced in a third way.

The only argument which was adduced or could be adduced for the alleged pledging of the honor of congress, was the great interest which Virginia and Maryland had in the continued existence of slavery in the District. If the argument was a valid one, the abolition of slavery would be, under all circumstances, a breach of faith so long as that interest continued. And the consent and even the unanimous wish of the slave-owners of the District could alter nothing of this. Congress — if it were to conceive and fulfil the moral obligations entered into, not according to their paraphrased letter, but to their spirit — might find itself in a situation, like so many slave states, to put the greatest legal difficulties in the way of the voluntary emancipation of slaves by their masters. It would have had to go much farther than this. If it were self-evident that it had entered into an obligation to let the interests of the former owners of the District be the controlling consideration in its legislative action in relation to slavery in the District, it was just as self-evident that it had undertaken the same obligation in regard to all other interests which seemed important enough to them to wish the recognition of such an obligation. The improbability that they would ever extend the claim farther did not change the principle. This principle put the interests of the ceding states, as understood by the states themselves, in the place of the unlimited power of congress provided by the constitution.

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Clay had lodged against Calhoun the accusation that his resolutions had heightened the excitement in the north, and intensified its bitterness.[1] He was himself met with the great reproach that, by his compromise opiates, he sought to stupefy the thought and especially the moral feeling of the people. These efforts of his were only too successful, but where they were fruitless they operated after the manner of a thorn in the scourge which the radicals of the south swung. Clay's substitute played a very material part in making the resolutions of the senate[2] a more dangerous attempt against the constitution and against freedom than the gag-resolutions of the house. That they were "abstractions" which did not culminate directly in any practical measure, made them only all the more dangerous. Whoever avoided the battle — and the immense majority of the population of the northern states belonged to this class — might pass over them to the order of the day as soon as the debate in the senate was ended, for their practical consequences lay in an indefinite future. But in regard to the house of representatives, there was question not of future possibilities. There the north was made to feel, day after day, what the new doctrine of the moral obligations towards slavery meant to it. Here it had to act without delay, that the usurpation might not gradually gain more and more the appearance of a prescriptive right; and as it had to act, the "abstractions" of the senate sounded like a shrill alarm in its ears. The gentlemen who understood so well to read unwritten words, had to see that all the answers to its gag-resolutions which came to the house bore the address of the senate also. And the

[1] Deb. of Congr., XIII, p. 596.

[2] The Calhoun resolutions are to be found in full in his works (III, pp. 140, 141), and besides in the Deb. of Congr., XIII, pp. 567, 568; the whole series of resolutions introduced by Clay, in the same place, p. 598; and the resolutions as they were adopted by the senate, at p. 578.

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answers were numerous and plain enough to be intelligible to every one, but at first not so numerous and plain as not to make the obdurate still more obdurate.

In the session of 1835–36, one hundred and seventy-six petitions, with thirty-four thousand signatures, relating to slavery in the District of Columbia were received.[1] The Pinckney gag caused the number of signatures in the next session to increase to one hundred and ten thousand, and Patton's resolution, 1837–38, swelled them to three hundred thousand.[2] And the matter did not end with these and similar demonstrations of private persons. Even at the beginning of 1836, the representatives of the Massachusetts Anti-Slavery society experienced a really scandalous treatment at the hands of a committee of the state legislature, and especially of its chairman, George Lunt.[3] A year later, both houses of the legislature voted resolutions, by a large majority, in which it was declared that the gag-resolutions were violations of the constitution, and the right claimed for congress to abolish slavery in the District of Columbia. The legislature of Vermont passed similar resolutions. In January, 1838, the hall of the house of representatives was placed at the disposal of the Massachusetts Anti-Slavery society for its annual meeting. In May, the legislature of Connecticut followed the example of the legislatures of her two sister states, and repealed the "black law" which was passed in 1833, for the suppression of Miss Prudence Crandall's school.

The south did not underestimate these manifestations of

[1] Deb. of Congr., XIII, p. 26.

[2] Jay, Misc. Writ., p. 349.

[3] On these proceedings, and the attitude of the governor, Edward Everett, to the slavery question, see Wilson, Rise and Fall, etc., I, pp. 328–338; Lunt's own work, The Origin of the Late War, 100, 101, 107–110, 471–480; S. J. May, Some Recollections of our Anti-Slavery Conflict, pp. 187–202; W. Goodell, A full Statement of the Reasons which were in Part offered to the Committee, etc.

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a new spirit, but, instead of restraining itself, it rushed onward on the path it had hitherto followed, with redoubled violence. A week after the coming together again of congress, and before any exciting debate on the slavery question had taken place, new gag-resolutions were moved in the house of representatives, and adopted by a very respectable majority[1] (11th and 12th of December, 1838). This gag earned a peculiarly sad celebrity, because a northern representative turned Judas. To this one deed, Atherton, of New Hampshire, owes it that his name shall always assert for itself a place in the history of the United States.

Atherton had a claim on the recognition of the south, because he measured out its "right" to it neither anxiously nor pettily. He not only denied congress the right to make any "attempt" to abolish slavery in the District of Columbia or "in the territories,"[2] or "to discriminate between the institutions of one portion of the states and another, with a view of abolishing the one and promoting the other," but he also denied its power to prevent "the removal of slaves from one state to another."[3] And yet he did not satisfy all. Not only

[1] The constitutional doctrines with which Atherton prefaces the real gag-resolution, have a peculiar coloring which makes it seem improbable to me that Calhoun — as was surmised at the time — was the real originator of the resolutions. They impress me as a coarse mixture of Calhoun's radicalism, and of the intricate slyness of Clay, which covered up every definite, plain term with the "fig-leaves" of circumlocution, and modifying clauses. A constitutional criticism could not leave even a single sentence unquestioned. But it does not seem to me proper to devote to them the space necessary to refute them, although they in part go beyond all their predecessors. The general character of this sophistry appears from the criticism on Calhoun's speeches and resolutions, and this, from an historical standpoint, should suffice. The resolutions are in the Deb. of Congr., XIII, pp. 702, 703.

[2] In the resolutions of the senate of the 12th of January, 1838, "in which slavery exists" is added, and the attempt is called only a "violation of good faith."

[3] It is to be remarked that it does not say from slave state to slave state.

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did the grumbling continue, but he had to listen to the most violent reproaches. Wise, of Virginia, refused to vote on the last resolution, because the words "with the views aforesaid" had "sold the south."[1] The slavocracy could not be compared to Cerberus: the more was cast to it, the wider did it open its insatiable throat.

Atherton, however, received undivided and lively recognition from his party associates. His resolutions were claimed, in the north especially, as a great victory, and a still greater merit of the democratic party. That the northern democrats were the more devoted friends and servants of the slavocracy, was certainly incontestable. But the charges made against the whigs, on this occasion, were justified only to a very small extent. Wise, about this time, had a very close connection with the whigs, and yet it could not be claimed that he yielded to any democrat in his zeal for the "rights" of the south. Besides, the democratic speaker of the twenty-fifth congress (James K. Polk) was chosen by a majority of only thirteen, and the Atherton gag was voted by a majority of ninety-four and forty-eight respectively.[2] The victory was not too great, and the merit was still more doubtful. One did not need to be peculiarly sharp-sighted to see the flames of the slavery question continue burning "in the halls of congress."

[1] Deb. of Congr., XIII, p. 707. The clause is so placed that it has, according to the rules of legal construction which obtain in the United States, reference, not to the abolition of slavery in the District of Columbia and in the territories, and of the transfer of slaves from state to state, but only to the discrimination between the institutions of the different parts of the Union.

[2] The votes were divided on the balloting on the last resolution. One hundred and forty-six against fifty-two declared for the constitutional doctrines, and one hundred and twenty-six against seventy-eight for the course to be observed by the house in relation to all propositions and papers regarding slavery. The number seventy-three, in Deb. of Congr., XIII, p. 707, is a misprint.

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The extinguisher, therefore, could not have been entirely air-tight.[1] It was something serious, that the opportunity to rejoice over its complete stifling was so frequently afforded to the democrats and to the south.[2]

On the 28th of January, 1840, the house of representatives of the twenty-sixth congress decreed its own gagging. It not only followed the example of its predecessor, but outdid it. The resolution was adopted among the standing rules of the house (twenty-first rule), and recognized Calhoun's view as the correct one: the abolitionist petitions were henceforth not to be received at all.[3] The mover, William Cost Johnson, of Maryland, was a whig. Was this completer victory of the south owing to the fact that this party bethought itself, and desired henceforth to walk in better ways?[4] No.

[1] "By one of the most skillful, prompt and energetic parliamentary movements that we have ever witnessed, the democratic party in the house blighted in the bud every hope that might have been cherished of weakening the daily growing strength of the administration at the south, by the agitation of this [the slavery] question. By the famous 'Atherton resolutions,' not only was this long-vexed question, as a political one, placed at last, fully and distinctly, on its true ground of the state-rights principle, so as to be able to combine the free support of all the democracy of the north, of which many had before had but an imperfect understanding of it, but, moreover, a sudden and total extinguisher was put upon the very possibility of making it a means of party agitation within the halls of congress. This movement set the matter at rest. The whigs themselves evinced their consciousness of it, by the desperate efforts which they made to evade or counteract it, when it was too late." The "Democratic Review," April, 1839.

[2] Benton says of the Patton resolutions: "Thus was stifled, and in future prevented in the house, the inflammatory debates on these disturbing petitions." Thirty Years' View, I, p. 154.

[3] "No petition, memorial, resolution, or other paper, praying the abolition of slavery in the District of Columbia, or any state or territory, or the slave trade between the states and the territories of the United States in which it now exists, shall be received by this house, or entertained in any way whatever."

[4] On the 25th of January, Bynum, of North Carolina, had delivered a

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On the whole, it filled the south with satisfaction, that in December, 1838, a man from the north closed the damper which was to keep the draft from the furnace; that it was now done by a southern whig was ground for exasperation. The complete victory of the 28th of January looked very much like an ominous defeat. By the adoption of Patton's resolution, the debate was from the outset cut off by the previous question. The passage of Atherton's resolution had cost two days' time, and now a whole month intervened between the first motion of a gag-resolution and its adoption.[1] And during the whole time the fire of debate burned in a manner which must have awakened very peculiar reflections on the efficiency of the extinguisher of the south. In a speech which lasted two days, Slade was able to read a lecture to the south, with an emphasis compared with which the bitter truths that, a little less than two years before, had led to the "secession" of the southern representatives, were very mild.[2]

speech, of which Adams said: "The point of his whole speech was to prove that the whig party, north and south, was identified with the abolitionists." Mem. of J. Q. Adams, X, p. 203. Harrison Gray Otis writes on the 11th of January, 1839: "It is clear that the efforts of the administration are directed to the identifying whigism and abolitionism, and the whig party has not sense enough to keep free from the coils of the black snake." Clay's Priv. Corresp., p. 438. But Clay himself writes, on the 3d of November, 1838: "In Ohio, the abolitionists are alleged to have gone against us, almost to a man. . . . My own position touching slavery, at the present time, is singular enough. The abolitionists are denouncing me as a slaveholder, and slaveholders as an abolitionist, while they both unite on Mr. Van Buren. Ibid., pp. 430, 431.

[1] On the 30th of December, 1839, Wise endeavored in vain to obtain a suspension of the rules to introduce a motion of this kind. He repeated the attempt next day, and at the same time announced "he would make the same motion every day throughout the session." Mem. of J. Q. Adams, X, p. 180.

[2] Adams writes in his diary: "Slade delivered himself of the burden that has been four years swelling in his bosom." Mem. of J. Q. Adams, X, p. 198.

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He was followed by Adams with a speech which lasted several hours, and which Holmes, of South Carolina, characterized as "very able, very powerful, and very dangerous." One motion followed quickly after another, and among them there were some by representatives of the south which disclaimed all attempts at gagging, and which demanded the reference of the petitions to a committee. Patton's and Atherton's resolutions had received a majority of forty-eight votes; Johnson's was barely passed by a majority of six votes. Of the representatives of the north, sixty-two had voted for Pinckney's gag, fifty-two for Patton's, forty-nine for Atherton's, and twenty-eight for Johnson's. Truly Calhoun had, indeed, reason to congratulate himself and the country on "the progress of truth on the subject of abolition."[1] But far more significant than all these signs of the time was it that not only the defensive became more powerful, but also that a new principle was carried into the offensive.

Hitherto the programme proposed to themselves by the abolitionists in 1833, when establishing the American Anti-Slavery society, had not been carried out, so far as it contemplated political action. The latter had been confined thus far to the "questioning" of the candidates which, for the most part, had shown itself completely worthless. Either no answers whatever were given, or when answers were given, they were, as a rule, unsatisfactory; or else the candidates, after the election, forgot promises they had made before it. In the meantime, the revolution in opinion before mentioned was completed in the case of the greater part of the abolitionists; all political action was rejected and condemned. With the minority, however, the idea to which Garrison was the first to give expression as far back as 1834, to organize a political party of their own, had shot deeper roots. It found favor more and more, especially among the

[1] February 13, 1840. Works, III, p. 439.

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abolitionists of New York. W. Goodell, G. Smith, Alvan Stewart and Myron Holley were its most distinguished representatives. The state convention of the abolitionists of New York, which met at Arcade in January, 1840, called a national convention to meet at Albany, to consult and determine whether a political party of their own should be established.[1] The executive committee of the American Anti-Slavery society assumed towards the summons an attitude of cool, retiring passiveness, and the Massachusetts Anti-Slavery society issued an address in which it strongly advised against the acceptance of the invitation.[2] Besides the one hundred and four delegates from New York there appeared only seventeen others; and altogether six states were represented. Spite of this, a new political party was founded, and the name Liberty Party adopted. It was certain enough that this handful of men would move neither slavery nor the Union; but whether the principle which they asserted would not do so some day,

[1] According to G. Smith, the founding of such a party was already definitely resolved upon at Arcade: "January 29, 1840, it was solemnly resolved, after a two days' discussion of the subject in a large convention held in Arcade, Wyoming county (then Genesee county), state of New York, to organize a new political party." Speech of Gerrit Smith, October 21, 1847 (in Buffalo, in the national convention of the Liberty party), p. 3. It is not, however, easy to reconcile this with the invitation to the national convention quoted verbatim in Goodell, Slavery and Anti-Slavery, p. 471.

[2] I have not seen the address; it is, however, permissible to infer its tone and the character of its reasoning from the following sentences from the 10th (1842) yearly report of that same society: "But, whatever may be the motives which actuate those who are in favor of a distinct political anti-slavery organization, whether patriotic or selfish, it is still the firm conviction of the board, that such an organization is unnecessary, and in its tendency detrimental to the highest welfare of the anti-slavery cause. . . . To use the language of the American Anti-Slavery society in 1837, 'we deprecate the organization of any abolition political party,' because it changes the moral aspect of our cause, and is the substitution of a human device for a moral instrumentality to extirpate the system and the spirit of slavery from the land." p. 13.

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was another question. The abolitionist radicals wanted, like Moses, to strike water from the rock; their scorned brothers went to work with hammer and drill to accomplish the same task. There was no longer any need of a miracle. Patience, energy and fidelity to principle, in conjunction with the inexorable logic of facts, would surely do the work sooner or later.

These were the answers which came from all sides to the declarations and resolutions of the majority of congress, that the slavery question should be buried in thoughtless and unfeeling silence, because, both legally and equitably, slavery was a domestic institution of the states, and subject to their exclusive control. Every day the conviction became more general, that, according to both law and equity, the demand should be rejected; every day afforded new and more convincing proofs that its fulfillment was entirely impossible; each day the slavocracy gave the lie more boldly and more completely to its own doctrines. "Let us alone" it cried more and more violently and more and more threateningly; more and more violently and immoderately did it call on the national powers and on the national strength to protect and to promote slavery. From the constitutional equality of rights of slavery and freedom, it proved that not only its interests, but its feeling, should be the compass according to which the national politics should be steered; and from the same constitutional equality of rights it proved that the north should have no feeling, to say nothing of interests, in opposition to slavery. The more it reduced the rights of the nation in relation to slavery to zero, the more did it raise its duties to slavery up to the point where every wish of the south was of itself a proof of the existence of the corresponding national duty. But the north was, by its former concessions, entangled in a net which it only drew more firmly about it, by every attempt to tear it.

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Many claims were raised and many concessions made, without there being on either side any idea of their bearing, or the possibility of forming any such idea. It not unfrequently happened that the disastrous consequences appeared in such an amalgamation with questions which had no connection whatever with slavery, that the national honor and national interest were irrevocably engaged before there was the least suspicion that the demon of slavery had a hand in the game.

"Private cruelty and vengeance" were for a long time universally considered the causes of the most protracted, costly and bloody Indian war which the United States had to carry on.[1] In reality, its germs lay in the treaty with the Creeks, of the 7th of August, 1790, before mentioned. The real Creeks met their obligations after a few years;[2] but the Seminoles of Florida did not surrender the slaves who had fled to them. For this reason, the United States undertook, in a new treaty with the Creeks, at Indian Spring, of January 8, 1821, the liquidation of Georgia's claims for damages for "property" which had been robbed or destroyed by the Creeks before the 30th of March, 1802, provided the aggregate amount did not exceed $250,000.[3]

[1] Niles, LI, p. 145.

[2] Giddings, Speeches, p. 167.

[3] Stat. at L., VII, pp. 215, 216. Giddings (Sp., p. 4) says: "In 1821, by treaty at Indian Spring, they (the Creeks) surrendered to the United States a large tract of land, for which we stipulated to pay them four hundred and fifty thousand dollars. Of this sum, two hundred and fifty thousand dollars was retained as a trust fund, from which the president was to pay the slaveholders of Georgia for their slaves," etc. In the first place, Georgia by no means demanded compensation only for fugitive slaves; and in the second place, the United States did not promise the Creeks $450,000 for the land, of which sum $250,000 were to be reserved for the purpose named. The treaty fixes the payment at $200,000, and then provides further, as is stated in the text. If Georgia's claims for damages, found to be well grounded, did not reach the sum of $250,000, the Creeks, ac-

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Slaves, horses, hogs, and whatever else had been lost, were estimated at about twice their real value.[1] Spite of this, however, the $250,000 were not by any means exhausted. The good opportunity this afforded for a "job" was, of course, not allowed to remain unused. Interest was claimed. Wirt, the attorney general, showed, in two official opinions, that not only according to all previous treaties which came into consideration here, the claim was entirely baseless, but that also the treaty of Indian Spring expressly excluded the allowing of interest.[2] Only persevere! — such, in all cases like this, is the motto of the "log-rollers" and "lobbyists." Twelve years later, six per cent. interest was allowed by congress.[3]

The Creeks, too, had claimed the money. They had as little right to it as the slaveholders of Georgia. But if the government thought of paying it out at all, equity unques-

cording to the treaty, did not have the slightest claim to the rest of the sum, but of course, Georgia had just as little claim to it.

The many similar inaccuracies of Giddings, both in his speeches and in his book, "The Exiles of Florida, Col., 1858," I shall not pay any attention to. I have only desired by this example to show how cautiously he must be used, because of the tendency and coloring of his representations. Wilson, who had nothing whatever of the critical faculty, simply copies what he finds in Giddings.

[1] Op. of the Att. Gen., I, p. 551.

[2] Op. of the Att. Gen., I, pp. 550–562, June 11 and July 20, 1822.

[3] Law of June 30, 1834, Stat. at L., IV, p. 721. Giddings (Sp., p. 5) says: "But the slaveholders also claimed it [the rest of the $250,000]. They sent their petitions to this body asking for it. These petitions were referred to a select committee, at the head of whom was Mr. Gilmer, a distinguished member from Georgia. That committee, after the most mature deliberation, reported to this body that the money 'justly belonged to the owners of those fugitive slaves, as a compensation for the offspring which they would have borne to their masters, had they remained in servitude.' And it was paid to them by act of congress." As in the Stat. at L. I find only the law cited, I think I may assume that Giddings has reference to this. Gilmer's report I overlooked in the study of the so-called congressional documents, and now I have not access to the reports of the committees.

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tionably demanded that it should be given to them, since, in the stipulations of the treaty of Indian Spring, the value of the ceded land was estimated at $450,000.[1] As congress decided against them, they thought that they might claim the slaves of the Seminoles as compensation. The Seminoles repelled the claim with all the more decision, because the slaves had grown by intermarriage to be a part of the tribe, and had obtained great influence. If the Indian policy hitherto followed had been pursued in relation to the Seminoles, they would have been quietly left in Florida until the density of the white population made their removal necessary, and the law of June 30, 1834, would, presumably, have had no further practical consequences. But to the slaveholders of Georgia and Florida, they were a thorn in the flesh, for the reason that fugitive slaves could always count on being readily received by them.[2] Hence, the adminis-

[1] Congress itself recognized this later, inasmuch as it, by the law of the 11th of August, 1848, granted another payment of $141,055.91 to the Creeks. The United States, therefore, paid for the land conveyed by the Creeks not $450,000, but $591,055.91. In the assignment of reasons for the subsequent grant we read: "And inasmuch as it is a matter of doubt whether the obligation of the United States under said article extended further than to pay the state of Georgia whatever balance might be found due to her citizens from the Creek nation." It was not precisely a happy thought to wish to cover up with so bold an untruth the fact that the former congress had prostituted itself. Stat. at L., IX, p. 301.

[2] In an address of prominent citizens of Florida to the president we read: "While this indomitable people continue where they now are, the owners of slaves in our territory, and even in the states contiguous, cannot, for a moment, in anything like security, enjoy this kind of property." Giddings, Sp., p. 8. In a similar letter to the secretary of war, dated the 18th of March, 1837, it is said: "Many slaves were induced or encouraged by the Indians, before the commencement of hostilities, to abscond from their owners and take shelter in the Indian country, where they now are." Exec. Doc., 25th Congr., 3d Sess., No. 225, p. 56. Art. VII, of the treaty of Camp Moultrie, Sept. 18, 1823, obligated the Seminoles "to use all necessary exertions to apprehend and deliver the same [absconding slaves, or fugitives from justice] to the agent." Stat. at L., VII, p. 225.

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tration had been long urged to remove them from the territory. That in matters of this kind Jackson's good will could be counted on, Georgia had already had sufficient experience. Nor did he now refuse his kind services.

On the 9th of May, 1832, a treaty was closed[1] at Payne's Landing, with fifteen chiefs of the Seminoles, according to the terms of which they were to send a commission to examine the land west of the Mississippi which had been allotted to the Seminoles. If the commission liked the land, and if they found the Creeks ready to reunite with the Seminoles, the latter were to begin their emigration thither as early in the year 1833 as possible, and to have completely vacated Florida before the end of the year 1835. The commission expressed themselves satisfied with what they had found, and the members of it signed, on the 28th of March, 1833, a supplementary treaty at Fort Gibson, in which they promised to begin their emigration "as soon as the government will make arrangements for their emigration satisfactory to the Seminole nation."[2]

The slaves, for fear of the Creeks, exerted all their influence to frustrate the carrying out of these treaties. As early as the 20th and 26th of January, 1834, Governor Duval gave official expression to his conviction that the removal of the Indians would not be possible until the slaves had been

[1] Stat. at L., VII, pp. 368–370. It has often been asserted of this treaty, as of so many other treaties with the Indians, that it was obtained in an underhanded manner through the agencies of bribery and whisky. In a letter of the 18th of June, 1839, from Garey's Ferry, East Florida, we read: "It has doubtless been suggested to your mind, on perusing General Macomb's 'order' of the 18th of May, announcing the termination of hostilities, that his arrangement is a tacit but free avowal of the fraudulence of the Payne's Landing Treaty, which produced this atrocious and expensive war." Niles, LVI, p. 289. Adams writes on the 28th of March, 1838, in his diary: "But it is in vain to plead for justice in any case concerning Indians." Mem. of J. Q. Adams, IX, p. 518.

[2] Stat. at L., VII, pp. 423, 424.

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mastered. But what was disagreeable in the treaties to the Seminoles determined Jackson to insist on them to the utmost, and without any regard for consequences. His order was, that in case the complaints of the slaveholders proved to be well founded, the Seminoles should be informed that they should keep themselves in readiness to emigrate without delay. The Seminoles did not obey, and the president prepared to coerce the "breakers of the treaty."

The administration and its party in congress endeavored later to justify their policy by this breach of the treaty. But if we examine the matter somewhat more closely, it becomes apparent that the charge had a very frail foundation. Article 7 of the Payne's Landing treaty provided: "The Seminole Indians will remove within three years after the ratification of this agreement." It may be possible to raise a question as to what is meant by the ratification of an agreement made with Indians; yet it was plain that that provision meant that the three years were to be reckoned from the day on which the agreement was perfected. But, according to the constitution, no treaty is perfected until it has received the assent of the senate. Jackson had allowed nearly two years to elapse without procuring this. The proclamation of the treaty was not made until the 12th of April, 1834. Even if the manner in which the two treaties were obtained gave the Seminoles no well-grounded reason to question their binding force, the administration did not have the right to compel their emigration by force of arms before the end of Jackson's presidency.

But whatever the law might be, policy certainly required that the utmost possible should be done to come to a satisfactory understanding with the Seminoles. If it were not possible to estimate correctly the immense difficulties which had later to be overcome, yet a little reflection would have shown even now that a harder stand would have to be

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made here than in any previous Indian war.[1] But instead of proceeding with caution and moderation, the whites were allowed to do unpunished the very thing which it was already known would, more than any other, excite the Seminoles to resistance and vengeance. The federal officers soon drove the administration to the point where it did not lag behind individual citizens in this matter.[2] The Indian agent, General Thompson, sent information on the 28th of October, 1834, to Washington, that some whites expressed a great desire to get control of the negroes of the Seminoles; and he at the same time expressed the conviction, that there were already negroes, who had been brought up by the Indians, in the hands of the whites. And on the 9th of January, 1835, he advised the sending of an expedition to drive the Indians within their limits, and "to capture negroes, many

[1] The secretary of war, Poinsett, writes, in his official report of November 30, 1839: "Heretofore the Indian population of our states and territories has been expelled by the gradual increase and advance of a superior race. Whereas, in Florida, the attempt has been made, for the first time, to drive the aborigines from the unsettled wilderness, or, what is still more difficult, to catch them for the purpose of transporting them beyond its limits. If the Indians of Florida had a country to retire to, they would have been driven out of the territory long ago; but they are hemmed in by the sea, and must defend themselves to the uttermost, or surrender to be transported beyond it. To reduce them to that extremity, spread, as they are, over a space of at least forty-five thousand square miles of country abounding in provisions suited to their habits, defended by a climate benign to them, but deadly to the whites, and presenting difficulties to the march of armies that have been often described and cannot be exaggerated, will require great exertions, and, probably, other means than those hitherto tried." Niles, LVII, p. 314.

[2] The "New York Star," 1838, in its report of Osceola's death, says: "Had his [Osceola's] counsels been strictly adhered to by the greedy, grasping government agents sent into Florida before the war broke out, all would have been well; but they had their selfish views, and were punished for it with ignominious death; and many is the stream and the everglade there, that for these mercenary men has since drunk deeply of the blood of our best chivalry." Niles, LIII, p. 383.

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of whom it is believed are runaway slaves." Thus, during the year preceding the war, an influential federal officer calls officially on the administration to employ the Union army in the slave-chase. The same Thompson soon after lent his official aid to the act which was destined to become the immediate cause of the war.

The wife of the Seminole chief Osceola,[1] a half-breed Indian, was seized, when on a visit at Fort King, as the daughter of a slave, and delivered to the owner of the mother as a slave. Osceola thereupon broke forth in threats. Thompson had him put in chains, but set him free after six days, when the chief had apparently resigned himself to his fate. With genuine Indian patience, Osceola lay in wait weeks and months for the opportunity of revenge. The opportunity finally presented itself on the 28th of December, 1835. As Thompson was sitting down to table with some of his associates in his house, hard by the fort, a volley was fired through the open door into the company. Thompson was pierced by fifteen balls, and four others of the company fell dead.[2] On the same day, a body of one hundred and eleven soldiers, under the command of Major Dade, fell into an ambush and were butchered, all but three men.[3]

The second Seminole war commenced with these deeds of blood. Even leaving the slavery question out of consideration, it is one of the most comfortless chapters in the history of the United States, although the leaders showed circumspection and boldness, and although the troops in many cases gave evidence of wonderful endurance, fidelity to duty, and

[1] The name is often written Oceola also. His white father's name was Powell, and this name also is frequently added to that of the celebrated chief.

[2] Niles, XLIX, pp. 368, 395. See a description varying from this by Lieutenant Harris, in Benton, Thirty Years' View, II, p. 75.

[3] Niles, XLIX, p. 367. The accurate report of the last survivor, Ransom Clark, is to be found in LII, pp. 254, 255.

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bravery. The number of the red and black warriors who for several years bade defiance to the first great power of the new world, was ridiculously small. But it mattered not with how many generals the thing was attempted, not one of them succeeded. If the endeavor to bring the enemy to bay was successful, the whites were, as a rule, the victors; but for the most part, the results obtained were out of all proportion with the hardships and dangers of the expeditions. And while here the troops waded in mud up to their hips, that they might finally capture a number of men which might be counted on one's ten fingers, the plantations right and left were burned, and the inhabitants murdered in the cruelest manner. It was fully experienced what it meant to inaugurate a chase of desperate Indians in a tropical wilderness, with which only a few unreliable slaves and deserters were acquainted. If the rainy season began, the continuation of operations was impossible; but the burning and murdering of the Indians went on the whole year. In a word, the administration had, with awkward grasp, caught a viper which it could not now drop, for every day brought new and terrible proof in support of the presumption that the property and life of the inhabitants of the territory would now not be safe for a single moment until the work which had been begun was really finished. This, therefore, was resolved upon; but a long time elapsed before the administration or the generals had formed even an approximately correct judgment as to the expenditure of force which it would require. In the first place, it is certainly to be ascribed to the difficulties — and they can scarcely be over-estimated — which the natural conditions offered, that the subjection of this small handful of savages cost so much blood, and especially such large sums of money.[1] But the transactions of the military court of

[1] It would be scarcely possible to determine the cost of the war, and would certainly require great labor, which would bring no remuneration. Kapp's

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investigation at Frederick, Maryland,[1] the extremely bitter and violent expressions of the generals against one another and the administration, and the debates in congress, show both that the end could have been attained earlier, if the proper energy had been displayed from the first, and that neither the administration nor the generals had acted with the energy with which they might have acted.[2] This, however, is

estimate in his Aus und über Amerika, II, p. 85, of two to three hundred millions, is, in my opinion, much too high, even if we consider the war to have ended with the emigration of Billy Bowlegs and his companions in the year 1848. Giddings, Sp., p. 172, estimates the cost in 1846 at forty millions. Benton, Thirty Years' View, II, p. 70, says: "Some thirty millions." Downing, the delegate of the territory in congress, gives, on the 13th of July, 1840, the average annual cost at five millions. Niles, LVIII, p. 319. From the 1st of January, 1836, to October 1, 1837, $10,120,000 were appropriated by congress "for the suppression of Indian hostilities" throughout the entire Union. Mem. of J. Q. Adams, IX, p. 402.

[1] November, 1836, to March, 1837.

[2] Colonel White relates in a letter of the 15th of February, 1837, that Jackson, in a conversation, had said to him: "'Let the damned cowards defend their country;' that he could take fifty women, and whip every Indian that had ever crossed the Suwanee, and that the people of Florida had done less to put down the war, or to defend themselves, than any other people in the United States. He said they ought to have crushed it at once, if they had been men of spirit and character. . . . He said the men had better run off, or let the Indians shoot them, that the women might get husbands of courage, and breed up men who would defend the country. He maintains that there never was six hundred Indians." Niles, LII, p. 98. The "Globe" (ibid., p. 134) contested, indeed, the truth of the story, but in such a manner that it becomes only more probable. In moments of calm, Jackson did not certainly pass so severe a judgment on the inhabitants of the territory, but on this account it would not have been, considering his character, by any means surprising, if, in a paroxysm of rage, he had given utterance to such invective. Moreover, the reproaches do not seem to have been entirely groundless. When, in 1840, the project of conquering Florida by settlers, to each of whom three hundred and twenty acres of land were to be given after the complete removal of the Seminoles was debated, Preston, of South Carolina, said in the senate: "Ours is a slaveholding population, of rich and extensive planters, and Florida will be cultivated only by slaves. And is it expected that

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the smallest reproach which must be made against a part of those who, either in the council or in the field, were primarily responsible for the conduct of the war.

Osceola, by far the most important, and at the same time the most poetical figure of the war, died of quinsy on the 26th of January, 1838, in Fort Moultrie, in the harbor of Charleston. The friends of the administration broke out in loud cries of triumph and jubilation, on the news of his capture, on the 21st of October, 1837. They had little reason for this, although he might have been worth as much as some hundreds of warriors. The name of Osceola has an ugly sound in the ears of every American patriot, for the bold warrior was not overcome in honorable battle; he fell into the snares of dishonorable treachery. He had come for a parley to the neighborhood of Fort Peyton, and while he was speaking, under the protection of the white flag, the troops of General Hernandez, by order of General Jesup,[1] fell upon him and his comrades, disarmed them, and carried them away as prisoners. Jesup justified this disgraceful breach of faith by the plea that "their [the Indians'] answers were evasive and unsatisfactory," and that the same chiefs had caused the breach of the agreement entered into half a year previous. As if one piece of knavery could justify another, and as if the word of an Indian chief and that of a Union general should be measured by the same measure! If Jesup estimated his own honor so cheap, he should not have forgotten that he wore the uniform of the United States, and that not only his own honor but the honor of the United

slaveholders will, for a bounty, fight the Indians and free negroes? The supposition is preposterous. . . . And what is now demanded, is to put the country in a condition to be settled by southern men. And we have the right, having stipulated for the land, to say to the government, you shall give us the land and prepare it for that kind of population by whom alone it can be cultivated." Deb. of Congr., XIV, p. 36.

[1] See Jesup's own account and his orders. Niles, LIII, pp. 262, 263.

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States was pledged by the white flag which he disgraced. Voices from among the people were, indeed, raised, which gave expression to this feeling with indignation loud and deep, but those who were called primarily to watch over the honor of the starry banner spoke not one word of blame.

But it was, moreover, a question not only of morals but of politics. If men were convinced that the Indian problem could be solved only by cunning and force, it was as unwise as it was unworthy to carry on the idle play with conventions and treaties. If the unfaithfulness of the Indians was so great that a treaty with them had no value, every treaty must have had the great disadvantage that it would lead the United States into the temptation, if not the necessity, to break it also. But, as a matter of course, the Indians found, in the slightest breach of faith on the part of the United States, a justification for the greatest breach of faith on theirs. What right henceforth did the United States have to complain, if every transaction, treaty and convention were to the Seminoles only a means to collect their weakened forces, and to practice all kinds of treachery? The Indian problem has certainly always been one of so great difficulty that scarcely any nation could have solved it without committing many faults, and the making of great mistakes; but it is just as certain that its difficulties were very frequently increased tenfold by completely inexcusable knavery.[1]

The first question to which Osceola and the other chiefs gave an "evasive and unsatisfactory answer" was, according to Jesup's instructions to Hernandez: "Are they prepared to deliver all the negroes taken from the citizens, at once?" And as here, so also in all the important turning points we find the red, or rather the black thread of the specific

[1] Even in the Seminole war, Osceola's betrayal is not an isolated one. See, for instance, the trick played by Lieutenant Hanson, on the 3d of August, 1839. Niles, LVI, p. 385.

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slave-interest plainly visible. Jesup had succeeded, on the 6th of March, 1837, in concluding an agreement at Camp Dade,[1] from which he confidently expected the end of the war. He considered the Indians tired of the war, and his dread that, notwithstanding this, it would break out again, was based simply on the fear that "unprincipled whites" would put no restraint on their greed for the slaves.[2] He, therefore, on the 5th of April, issued an army order (No. 79), providing that no white not engaged in the service of the United States should enter the territory between the Saint John and the Gulf of Mexico, south of Fort Drane.[3] A meeting of citizens of Saint Augustin, and "other inhabitants of East Florida," "protested solemnly" against this order, because it violated the rights and interests of the slaveholders.[4]

[1] Exec. Doc., 25th Congr., 3d Sess., Vol. V, No. 225, pp. 52, 53.

[2] Jesup to Colonel J. Warren, March, 1837. "There is no disposition on the part of the great body of the Indians to renew hostilities; and they will, I am sure, faithfully fulfill their engagements if the inhabitants of the territory be prudent; but any attempt to seize their negroes or other property would be followed by an instant resort to arms. I have some hopes of inducing both the Indians and Indian negroes to unite in bringing in the negroes taken from the citizens during the war." Ibid., p. 9.

[3] The reasons for the order read: "The commanding general has reason to believe that the interference of unprincipled white men with the negro property of the Seminole Indians, if not immediately checked, will prevent their emigration, and lead to a renewal of the war." Ibid., p. 2. See also pp. 8, 9, 11. A letter dated Black Creek, April 27, 1837, says: "The order of the 5th instant, which appears to have caused some excitement, was highly necessary; and of this I was enabled to judge from being on the spot." Niles, LII, p. 163.

[4] In the protest (without date), we read: "They [the undersigned] persuade themselves that the preservation of the negro property belonging to the inhabitants of this desolated country must be seen by him [Jesup] to be an object of scarcely less moment [as a pacification]. . . . They cannot but feel that the particular rights and interests of the slaveholders of east Florida are made somewhat too palpably by the order referred to,

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That Jesup's order must have greatly grieved the slaveholders is self-evident. But even if the general did not attend to their interests to the extent that they desired, they could not reproach him with having left them entirely unconsidered. On the 8th of April he announced that he had engaged the chiefs to surrender all the negroes who belonged to whites,[1] and although in his own opinion he had the right only in relation to the negroes taken during the war, he promised, on the 27th of April, not to allow those who had absconded before it, to leave the country.[2] The fear which he had expressed in the order of April 5 had, however, been already confirmed. The impatient haste with which the whites had endeavored to get hold of the negroes, frightened both Indians and negroes back into the wilderness.[3] It should have been expected that Jesup would have placed a still severer check on the whites. Instead of this, he now asked for the giving up of all negroes who belonged to whites,[4] and had Osceola notified by Colonel Harney that he (Jesup)

and, as the undersigned venture to think, unnecessarily, a sacrifice to that end." Exec. Doc., 25th Congr., 3d Sess., No. 225, pp. 108, 109.

[1] "I have made an arrangement with the chiefs to-day, to surrender the negroes of white men, particularly those taken during the war." Exec. Doc., 25th Congr., 3d Sess., No. 225, p. 10.

[2] "I shall require the chiefs, before they depart, to surrender all negroes taken during the war. Those who absconded previous to the war shall not leave the country, though I have no right to require the Indians to surrender them." Ibid, p. 13.

[3] "The negroes have generally taken the alarm, and but few of them come in, and those who remain out prevent the Indians from coming. But for the premature attempt of some of the citizens of Florida to obtain possession of their slaves, the majority of those taken by the Indians during the war, as well as those who had absconded previous to it, would have been secured before this time. More than thirty of the Indian negro men were in and near my camp, when some of the citizens who had lost negroes came to demand them. The Indian negroes immediately disappeared, and have not since been heard of." Ibid., pp. 12, 13.

[4] Order to Colonel Harney of May 28, 1837. Ibid., p. 16.

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would have them tracked by flying parties with blood-hounds from Cuba, and that it was his intention to hang every one who did not give himself up.[1]

This was before the breach of the convention of March 6, on the part of the Indians, by means of which Jesup wished to justify his treachery towards Osceola. Not until the 2d of June was the camp of the Indians who had come to emigrate to the west, broken up by the Micausaukies,[2] partly by persuasion and partly by force.[3]

Jesup was not the man to fold his arms idly with the complaint: "All is lost!"[4] He appealed to the covetousness of his soldiers to urge them to do their best in the war, the resumption of which had now become unavoidable: the property of the Seminoles which fell into their hands was to be theirs, and the negroes were named first in this connection.[5] The same bait was held out to their Indian allies.[6] Besides, the general promised them a reward of twenty dollars per head for the negroes captured alive who belonged to whites; which sum was paid not by the

[1] May 25, 1837. Ibid., p. 16.

[2] The name is spelled in different ways.

[3] Niles, LII, p. 261.

[4] "All is lost, and principally, I fear, by the influence of the negroes and of the people who were the subject of our correspondence." Jesup to Colonel Gadsden, June 14, 1837. Exec. Doc., 25th Congr., 3d Sess., No. 225, p. 18. The earlier correspondence between Jesup and Gadsden here mentioned is not to be found in the records.

[5] "There is now no obligation to spare the property of the Indians — they have not spared that of the citizens; their negroes, cattle and horses, as well as other property which they possess, will belong to the corps by which they may be captured." Jesup to Colonel Warren, July 7, 1837. Ibid., p. 19. The army order in question, No. 160, is dated August 3. Ibid., p. 4.

[6] "In addition to the inducements held out to the Indians who may enter the service, is that of the Seminole property. Their negroes, horses and cattle (and they are rich in that description of property) will be given

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owners but from the resources of the state.[1] At the same time, the negroes belonging to the Seminoles, and who had been captured by the troops, were taken by the general "on account of the government," and this "purchase" received the sanction of the administration.[2]

The consequence of this policy was that in a few months the costly game, in form of man, was almost completely captured.[3] But what had become of the honor and of the constitution of the United States in consequence? With the aid of the basest passion of man, the troops were trained to the lowest of all businesses — from the national treasury the

to the captors; the Creek warriors, who captured but a small portion of the Seminole property, received for their captures between fourteen and fifteen thousand dollars." Jesup to Captain Armstrong, September 17, 1837. Ibid., p. 20. Likewise to Captain Bonnerville, p. 21.

[1] "To induce the Creek Indians to take alive, and not destroy the negroes of citizens who had been captured by the Seminoles, a reward was promised them for all they should secure; they captured and secured thirty-five, who had been returned to their owners; the owners have paid nothing, but the promise to the Indians must be fulfilled. The sum of twenty dollars will be allowed to them for each, from the public funds." Army order No. 175 of September 6, 1837. Ibid., p. 4.

[2] "In September last General Jesup advised the [War] Department that he had purchased from the Creek warriors all the negroes (about 80 in number) captured by them, for $8,000, and this purchase was approved on the 7th of October." C. A. Harris, Commissioner, to Captain S. Cooper, Acting Secretary of War, May 1, 1838. Ibid., p. 43. The letter of Jesup in question to the minister of war, Poinsett, is on p. 70.

[3] Jesup writes on the 5th of March, 1838, to Governor Gilmer, of Georgia: "The Indian negroes captured, and separated from the Indians by the several detachments of the army, during the present campaign, amount to about two hundred and forty; besides which, nearly all the negroes taken from citizens have been recaptured, and restored to their owners." Ibid., p. 25. And on the 15th of March Lieutenant Freeman informs Commissioner Harris: "From the best information I can obtain, there are not more than fifty negroes, of all ages and both sexes, remaining in the nation, of whom not more than five or six are the property of white people." Ibid., p. 80.

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premiums were taken which helped the slaveholders to their slaves again — the administration became a slaveholder by wholesale, and made its payments with the means of the nation. Where was the law or the constitutional provision which authorized this? The administration even bought negroes whom it had not the least right to consider slaves. Where in the constitution is there a word about slaves of the Indians? It knows only of persons who are kept "for work or service in a state." Or were the United States, perhaps, obliged by art. 4, sec. 2, par. 3 of the constitution to see to it their absconded slaves should be surrendered to the Indians also, on demand? Slavery existed only by virtue of municipal law, and the laws and the constitution knew nothing of a municipal law of the Indians binding on the United States.[1]

[1] Hurd, The Law of Freedom and Bondage in the United States, I, § 508, p. 561, draws an accurate and correct distinction between "rights supported by a law of national authority, and rights supported by a law having national extent." The municipal law, also, of the states, on which slavery was based, had "national extent" only so far as the slave was in the state in question, or a fugitive from the state. In the territories, slavery, indeed, was based on "national authority," since the territories have no legislative power whatever in their own right. And in relation to the territories it is evidently true to the same extent as in relation to the District of Columbia, that congress acts, not as a local legislature, but as the legislature of the Union. But the slave law of the territories had "national extent" only just as far as the municipal law of the states had, because the constitution authorized, and at the same time obligated, the Federal government to give the slave law "national extent" only that far. It deserves to be mentioned that the administration, or rather Jesup, was not satisfied with purchasing slaves on the account of the United States, who, in relation to the United States, were not slaves at all. Jesup writes on the 24th of September, 1837, to Commissioner Harris: "The Seminole negro prisoners are now all the property of the public. I have promised Abraham the freedom of his family if he be faithful to us." And Harris writes to the secretary of war on the 9th of May, 1838: "He [the attorney of the Creeks] will, of course, hold them (the negroes captured by the Creek warriors in Florida) subject to the lawful claims of all white persons. Abraham and his family should be ex-

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The negroes and a good many redskins were captured, but the end of the war could not, on that account, be discerned. Jesup, who had achieved these feats, and who loudly boasted of them, had, notwithstanding, come to the conviction that the war would last years longer unless the demand for the immediate emigration of the Seminoles was desisted from. Hence he advised that they should be left in Florida for a time, but that they should be confined to a definite district; that is, in his opinion, the government should give up that to obtain which it had resorted to force.[1] The secretary of war unconditionally rejected the proposition,[2] and Jesup's prophecies were fulfilled.

Another year of sad experience brought somewhat more

cepted in consequence of a promise made by General Jesup." Exec. Doc., 25th Congr., 3d Sess., No. 225, pp. 21, 29. I have never found this precedent mentioned in the civil war.

[1] "In regard to the Seminoles, we have committed the error of attempting to remove them when their lands were not required for agricultural purposes; when they were not in the way of the white inhabitants; and when the greater portion of their country was an unexplored wilderness, of the interior of which we were as ignorant as of the interior of China. We exhibit, in our present contest, the first instance, perhaps, since the commencement of authentic history, of a nation employing an army to explore a country (for we can do little more than explore it), or attempting to remove a band of savages from one unexplored wilderness to another. . . the prospect of terminating the war in any reasonable time is anything but flattering. My decided opinion is, that unless *immediate* emigration be abandoned, the war will be continued for years to come, and at constantly accumulating expense. Is it not then well worthy the serious consideration of an enlightened government, whether, even if the wilderness we are traversing could be inhabited by the white man (which is not the fact), the object we are contending for would be worth the cost? I certainly do not think it would; indeed, I do not consider the country south of Chickasa Hatchee worth the medicines we shall expend in driving the Indians from it." Jesup to Poinsett, February 11th, 1838. Niles, LIV, p. 51.

[2] "The acts of the executive and the laws of congress evince a determination to carry out the measure (the removal of the Seminoles to the west), and it is to be regarded as the settled policy of the country. . . . They

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wisdom. A law of March 3, 1839, appropriated five thousand dollars to conclude a treaty with the Seminoles.[1] The president acceded to the wishes of congress expressed in this law, so far as to send General Macomb, the chief of the whole federal army, to Florida, in order to endeavor to bring about peace. He hoped that this choice would have an imposing effect on the Seminoles, and make them more inclined to negotiation. The results of Macomb's mission, however, were exceedingly dubious. The reconciliation which he effected was accomplished only with a few Seminoles of insufficient influence, was not put in the form of a written treaty, and was ambiguously indefinite on the decisive question.[2] Not only the Seminoles, but the white inhabitants of the territory understood the agreement to mean that the Indians were promised to be allowed to remain in it for an indefinite length of time. The citizens of Leon county protested against the "treaty" which granted the Seminoles all that they wanted. The whites and Seminoles could not dwell together in peace, and Florida was the "last place" in the United States in which the Indians should be suffered, since every foreign enemy would find an ally in them, all fugitive slaves find a warm reception among them, and Florida, and through Florida all the slave states, be endangered, in case of a war, by the emancipated negroes of the West

ought to be captured or destroyed." Poinsett to Jesup, March 1, 1838. Niles, LIV, p. 52.

[1] Stat. at L., V, p. 358. Report of the Secretary of War of Nov. 30, 1839. Niles, LVII, p. 313.

[2] "Nor did I think it politic, at this time, to say anything about their emigration, leaving that subject open to such future arrangements as the government may think proper to make with them. No restriction upon the pleasure of the government in this respect has been imposed, nor has any encouragement been given to the Indians that they would be permitted permanently to remain in Florida." Macomb's report to the secretary of war, May 22, 1839. Niles, LVI, p. 249.

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Indies.[1] In other quarters, it was, indeed, claimed that the great majority of the population was entirely satisfied with the agreement,[2] and the secretary of war also now expressed the hope that it would lead to peace much earlier than forced emigration.[3] But new deeds of blood on the part of the Indians, treachery on both sides, and the wild greed with which men of every stamp endeavored to get possession of the captured negroes,[4] caused the war to break out again after a few weeks, and fed it continually.

The war in Florida had long been a pet theme with the opposition, and became so more and more every day, but not until the beginning of 1841 did Giddings, of Ohio, begin to produce the documentary proof of the share which slavery had in this robe of Penelope. It is apparent even from this that the abolitionists were guilty of exaggeration when

[1] "3d. Resolved, That it is insulting to the feeling of the people of the United States, and degrading to our character, to send the commander-in-chief of the army of the United States to sue for peace to a few Indians, after a war of four years, and in fact yielding up to the Indians all they have ever required. . . .

"5th. Resolved, That the peninsula of Florida is the last place in the limits of the United States, wherein the Indians should be permitted to remain, for obvious reasons: . . .

"3d. If located in Florida, all the runaway slaves will find refuge and protection with them.

"4th. The contiguity of the emancipated colored population of the West Indies, would, in a war with some foreign power, place Florida, and in fact the whole of our southern states, in jeopardy. There is no position in which these Indians could be located, so dangerous to the peace and happiness of the southern, and interests of the United States, as the peninsula of Florida." Niles, LVI, pp. 265, 266.

[2] See a letter of Colonel J. Warren and W. J. Wills to Macomb, June 15, 1839. Niles, LVI, p. 289.

[3] l. c.

[4] On this see Exec. Doc., 25th Congr., 3d Sess., No, 225, pp. 30–39, 42–50, 81, 91, 92, 97, 98, 100–108, 110–126. From these documents it is evident that there were not wanting officers who energetically opposed these disgraceful doings.

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they now endeavored more and more to make it seem that the specific interests of the slaveholders were the only cause of the war and of its continual renewal. We have had proof enough that if this were really the case, the numbers, vigilance and courage of the foes of slavery was great enough, both in congress and out of it, to discover it and denounce it sooner. Not only Jackson but Van Buren did not, in this case, play a secret game with such refinement of skill that the whole people allowed themselves to be deceived as to its character and its aim. It must have awakened the greatest anxiety and apprehension that all that the administration and its subordinates had done here in the service of the slaveholders had been looked upon by them entirely as a matter of course, and that more than a sufficient portion of the documents in question could have been exposed to the eyes of the whole people several years before there was even one person to be found who read them with a proper understanding of their meaning. This makes the Florida war, in a certain respect, the extreme point which the demoralizing influence of slavery reached. It is the strongest but also the last illustration of the truth that, under the pressure of custom, even the instincts of the people towards slavery had begun to be blunted. The slavocracy had dragged the Union for long years into much greater humiliations and much more grievous sins, but never again was it able to move even a finger of its unholy hand, without drawing down on it immediately the most energetic denunciations of the minority of the north.

If Van Buren is not to be looked upon as the tool of the slavocracy in relation to the Seminole war, and in the sense alleged by the abolitionists, the cause is not to be sought for in the uprightness of his intentions. Wherever an opportunity offered, he, with full consciousness, never hesitated to degrade the Union to its service.

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Negotiations with England in relation to claims for damages by some slaveholders, had been pending since the year 1830. On the 25th of January, 1840, a message of the president announced that England had declared herself prepared to pay £23,500.[1] The satisfaction which this news must have afforded the south was more than balanced by the communication made at the same time that that sum was granted to cover two or three claims only, and that in the future all such claims would be refused.

The history of these claims is briefly as follows: The ship Comet, during a voyage from the District of Columbia to New Orleans, in 1830, was wrecked on the Bahama Islands. Wreckers brought, together with the other persons, the slaves who were found on board into the harbor of Nassau, where the English authorities declared the slaves free. A case similar in all essential respects happened at the same place to the ship Encomium, in 1834. During the following year, the authorities of Port Hamilton acted in the same way with the slaves on the ship Enterprise, which was compelled to run into the harbor by stress of weather. England finally allowed some compensation to be wrung from her in the first two cases, but refused it absolutely in the third. The controlling difference between them was that the latter had happened after, and the former before, the emancipation of slaves in her West Indian possessions had taken place. Calhoun endeavored, in a long speech in the senate, to prove that England had thus not only contradicted herself, but had also become guilty of a crying violation of international law.[2] Not a single vote was cast against the resolutions in which he had laid down his own views on the provisions of the law of nations which came into consideration here.[3] The south

[1] Deb. of Congr., XIV, p. 50.

[2] Calh.'s Works, III, pp. 462 seq.

[3] The resolutions were altered somewhat by the committee on foreign

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endeavored, on many occasions afterwards, to make capital out of this unanimity.[1] As a symptom of how wanting the representatives of the north were in backbone, this unanimity was certainly of importance, but otherwise by no means as imposing as the south wished to have believed. Clay showed how Palmerston's language did not even permit the resumption of negotiations; that the resolutions were therefore aimless, unless it was desired to compel the recognition of the principles expressed in them by war, but that prudence required that the world should not be too frequently importuned with the slavery question.[2] Calhoun avoided giving a direct answer to this argument, although he foresaw the worst consequences, unless England came to a better judgment.[3] Porter, of Louisiana, went still farther than Clay. He contested not only the expediency of the resolutions, but also doubted their justness. He, indeed, found no support, but there was evidently no lack of those who shared his opinion, for of fifty-two senators only thirty-three voted.[4]

affairs, but not in the point most material here. Deb. of Congr., XIV, p. 113.

[1] Benton says: "This was one of the occasions on which the mind loves to dwell, when, on a question purely sectional and southern, and wholly in the interest of slave property, there was no division of sentiment in the American senate." Thirty Years' View, II, p. 183.

[2] Deb. of Congr., XIV, pp. 114, 115.

[3] "I also believe that justice has been withheld on grounds utterly untenable, and which, if persisted in, must lead, in the end, to the avowal of a principle, on the part of Great Britain, that must strike a fatal blow at the peace of the two countries; and, in its reaction, on the social and political condition of Great Britain and the rest of Europe." Calh.'s Works, III, p. 486.

[4] Deb. of Congr., XIV, p. 118. When Ingersoll, of Pennsylvania, laid stress on the unanimity of the vote in the house of representatives, some years later, Giddings called attention to the fact that nineteen senators had not voted. Ingersoll answered: "They were all present." Giddings replied: "I feel humbled under the allusion of the gentleman." Giddings, Sp., p. 88.

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Clay was unquestionably right: Calhoun did his own cause a poor service. It must have awakened peculiar reflections to see such resolutions "unanimously" adopted, because over a third of the senators sat with closed mouths, while England roundly rejected the claims of the slavocracy. It must have awakened peculiar reflections to see this slavocracy which had really, hitherto, not shown itself weak of anxious, opposing idle words to England's revolting injustice, back of which there was absolutely nothing. If England's decision "interdicted nearly as effectually the intercourse by sea between one-half of this Union and the other, as to the greatest and most valuable portion of the property of the south, as if she was to send out cruisers against it" — if there was question of a "vital principle" for the south,[1] was this enough?[2] Either this was a serious exaggeration, or the right was not very certain. Both might be the case; but the very fact that compensation for, and not the surrender of, the slaves was demanded, must have awakened doubt as to the justice of the claim. It was unquestionably certain that England would never have acceded to such a demand. But if the United States thought that they must look on the moral convictions of the English people as such a power, that they renounced such a demand from the start, how important did not Clay's warning against the indiscreet importuning of the rest of the world with the slavery question seem? And if the right was not so undoubted, that those most nearly interested had ventured to express only the wish that further steps should be taken to enforce their claim; and if the moral convictions of the western world in relation to slavery were recognized, even by the slavocrats, as a power to such an extent; in what light did the stubborn, emphatic insisting of the administration on compensation appear?

[1] Deb. of Congr., XIV, p. 115. [2] Calh.'s Works, III, p. 486.

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Calhoun did not reproach the president in the slightest, and it could not be said of him nor of any other federal officer who had carried on the negotiations, that he had not done his best to satisfy the south. Even when secretary of state, Van Buren had designated this affair as "the most immediately pressing" business of the embassy at London.[1] Later, the ambassador, Andrew Stevenson, of Virginia, adduced — either from *mala fides* or culpable ignorance — obvious untruths, which were, perhaps, not without their influence in causing England finally to grant compensation for the slaves on the Comet and Encomium.[2]

We have not here to inquire whether this assumption is of importance in relation to the objection raised by Calhoun, that England was inconsistent with herself, nor whether this reproach had any foundation. Neither have we to examine the general maxims of international law. The only question which has any importance for us is, whether the principles

[1] Giddings, Speeches, p. 41.

[2] He writes, in December, 1836, to Palmerston: "The undersigned feels assured that it will only be necessary to refer Lord Palmerston to the provisions of the constitution of the United States, and the laws of many of the states, to satisfy him of the existence of slavery, and that slaves are regarded and protected as property; that by these laws there is, in fact, no distinction in principle between property in persons and property in things; and that the government have more than once, in the most solemn manner, determined that slaves killed in the service of the United States, even in a state of war, were to be regarded as property and not as persons, and the government held responsible for their value." Giddings remarked in answer thereto, in 1843, in the house of representatives, that he, as chairman of the committee on claims, had to subject the assertion to a close examination, and that he found it to be wholly untrue. "These records [of this body and the treasury department] show that, in every instance where application for such payment was made, the claim has been refused." Sp., p. 42. The correctness of this assertion was questioned by no one. Slade had already, in his great speech of the 18th and 20th of January, 1840, called attention to the fact, and gave an exhaustive exposition of its history. Niles, LXI, pp. 137, 138.

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of international law, applicable, under such circumstances, to other property, were also to be applied to slaves.

One would think that it scarcely needed to be now expressly said, for the first time, that when the claim to a right is to be established by the law of nations, the international law in force at the time, and not that of some former period, should be kept in view.[1] But this very thing both Calhoun and the senate overlooked.[2]

We may properly raise the question whether, at the time,

[1] "This law is mutable, as every other rule resting on human authority. And a tribunal determining to-day what is property by the law of nations, is bound to take the law of nations of to-day, not that of some previous generation or previous century. It is a rule which depends for its judicial force, or for its acceptance as a judicial rule, not on the opinion of by-gone nations and states, however powerful, or however wide their dominion or the fame of their arts, their arms, or their jurisprudence, but on the presently continuing assent of legislating nations." Hurd, The Law of Freedom and Bondage, I, p. 568, § 517.

[2] Calhoun contemplated the possibility that England might declare slavery to be against the law of nations, and admitted that in such case the "act of abolishing slavery [in her West Indian possessions] can have the force she attributes to it." On this possibility he expresses himself in the following manner: "It would require, in the first place, no small share of effrontery for a nation which has been the greatest slave dealer on earth; a nation which has dragged a greater number of Africans from their native shores to people her possessions and to sell to others, and which forced our ancestors to purchase slaves from her against their remonstrance, while colonies. . . . It would, I repeat, require no small effrontery to turn around and declare that she neither had nor could have the right to the property she sold us, nor could we, without deep crime, retain possession. We all know what such conduct would be called among individuals, unless, indeed, followed by a tender back of the purchase money, with an ample compensation for damages; and there is no good reason why it should be called by a less harsh epithet when applied to the conduct of nations." Calh.'s Works, III, pp. 476, 477. According to this, England would be compelled to recognize slavery as an institution standing under the protection of the law of nations, as long as it existed anywhere. This is a strong illustration of how slavery endeavored to oppose on principle the advances of progressive development.

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there was any international law relating to slavery. This much is unquestionable, that for several decades it was in process of far-reaching transformation.[1] Numerous treaties had overthrown the principles which applied universally in the eighteenth century to the importation of slaves from Africa, and the United States boasted of the important part which they claimed in this advance. Even the dullest mind

[1] The celebrated decision of the supreme court of the United States (1825) in the case of the Antelope: "That trade [the slave trade] could not be considered as contrary to the law of nations which was [! not is] authorized and protected by the laws of all commercial nations," is not in conflict with the view expressed in the text. Rather do the further declarations of the court confirm it. We read: "That the course of opinion on the slave trade should be unsettled, ought to excite no surprise. . . . The course of unexamined opinion which was founded on this inveterate usage, received its first check in America . . . the general sentiment (in England) was at length roused against it, and the feelings of justice and humanity, regaining their long lost ascendancy, prevailed so far in the British parliament as to obtain an act for its abolition. The utmost efforts of the British government, as well as that of the United States, have since been assiduously employed in its suppression. It has been denounced by both in terms of great severity, and those concerned in it are subjected to the severest penalties which law can inflict. In addition to these measures operating on their own people, they have used all their influence to bring other nations into the same system, and to interdict this trade by the consent of all.

"Public sentiment has, in both countries, kept pace with the measures of government; and the opinion is extensively, if not universally entertained, that this unnatural traffic ought to be suppressed. While its illegality is asserted by some governments, but not admitted by all, while the detestation in which it is held is growing daily, and even those nations who tolerate it in fact, almost disavow their own conduct, and rather connive at than legalize the acts of their subjects, it is not wonderful that public feeling should march somewhat in advance of strict law, and that opposite opinions should be entertained on the precise cases in which our own laws may control and limit the practice of others. Indeed, we ought not to be surprised, if, on this novel series of cases, even courts of justice should, in some instances, have carried the principle of suppression further than a more deliberate consideration of the subject would justify." Wheaton's Rep., X, pp. 114–116; Curtis, VI, pp. 340, 341.

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must have seen that a principle was thus asserted by the controlling states of the western civilized world, the consistent following of which would necessarily lead to the complete abolition of slavery. We have heard how unconditionally this was recognized precisely in the United States. The south even wished, up to and during the third decade of this century, to have it believed that it hoped for and expected the gradual extinction of slavery with much greater confidence from the prohibition of the importation of slaves, than was ever really the case. And although, in the United States also, a counter-current of immense force had set in, yet the agitation against slavery steadily increased, that is, a growing minority there pursued energetically the course entered upon by the prohibition of the African slave trade. England, of all the nations directly interested to a great extent in the question, proceeded most rapidly on this road. When Calhoun held before her the condition of things in Malabar and Hindoostan, he only showed that the goal was yet far distant, but did not prove that she had no right to allow the great step in advance which she had taken in the West Indies to have a determining influence on what she would henceforth recognize as the law of nations in this matter. A transition stage had been reached, one which could not be permanently continued in, and England began to advance farther in the direction of the tendency already universally adopted. As she had the most extensive colonial possessions, distributed over the whole earth, and was the greatest maritime power, and as, further, many of the great powers had no material interest not to accede immediately and readily to the principle which she had asserted, there was no doubt that she would, in time, draw all the other nations after her. It might be a long time before that principle would be so generally recognized that it would be looked upon as a principle of international law; but it was certain

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that the claim raised by Calhoun and the senate would never again be considered an international obligation after England had contested its character as such. The clear recognition of this was the reason why even Calhoun could oppose to England's absolute refusal nothing but a few impotent resolutions. The necessary preservation of the principle by which he justified their introduction could have only one result — to open the eyes of the north gradually to the truth that the specific interests of the slavocracy threatened to keep the Union in the "law of nations" of ages irrevocably gone, while, under the influence of the moral consciousness of the time, a new law of nations was being developed for the rest of the western civilized world.

Calhoun had admitted that England would not have been obliged to make any compensation, were it not that the Enterprise was driven by necessity into a place where England had jurisdiction.[1] The resolutions claimed only that a ship driven by "unavoidable cause" into the harbor of a friendly power, preserved all the rights to which it was entitled on the high seas; that, in such a case, the personal legal relation established "by the laws" between the persons on board, were under the protection of the friendly power. This might be right or not, but evidently it was not a foundation for the claim raised. The "exclusive jurisdiction" under which the Enterprise was on the high seas, was unquestionably that of the United States, for she sailed under the flag of the United States; since the individual states in relation to all foreign countries have no flag. Hence, according to Calhoun's principle and the senate's, England had to

[1] On the side of England the principle was asserted: "The negroes on board the Enterprise had, by entering within the English jurisdiction, acquired rights which the local courts were bound to protect." In answer to this, Calhoun remarks: "Such certainly would have been the case if they had been brought in, or entered voluntarily." Works, III, p. 469.

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protect only the personal relations "established" by the federal laws between the persons on board. But slavery was not "established" by the Union, but by the several states. The constitution of the Union only recognized this "peculiar" institution of a part of the states as legally binding throughout the Union. The federal constitution made it the obligation of the Union to look upon the slaves as slaves, only so long as they were found in a part of the Union by the municipal law of which they were slaves, or when they had fled from a slave state into other states and their surrender was demanded. It is another question whether the rights of the Federal government in this respect exceeded its constitutional obligations. Congress had permitted the transportation of slaves by sea in ships of not less than forty tons' capacity, from one harbor of the United States to another. It might have been said — and it was frequently said on other occasions — that the Federal government had thus undertaken the obligation to defend the rights of the owners of the slaves when such a ship was driven by stress of weather out of the jurisdiction of the United States. This conclusion is, in my opinion, indisputable. I mean only that one should not stop at it, but from this conclusion draw the further one, that congress not only had the right, but that it was its duty, to prohibit the transportation of slaves by sea. The assuming of that obligation led, as the case in controversy showed, to this, that the United States had, as regards foreign powers, to declare certain persons slaves under conditions in which the constitution did not bind them to consider them slaves; that is, by the assumption of that obligation the slave territory was, by a federal law, extended to the ships in question. But the south has not only never been able to name a provision of the constitution in which congress was granted the right thus to extend the slave territory, but it even wished, in the struggle over the territorial

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question, to prove the want of power in congress to prohibit slavery in the territories, by the argument that this right would draw after it, as a consequence, the opposed right which unquestionably did not belong to it, to introduce and order the existence of slavery in the territories or anywhere else. Hence, the equitable consideration that the whole Union would be compelled continually to expect to see itself entangled in painful, and perhaps threatening, complications and proceedings, did not need to be even suggested.

But, however, the matter was not so simple that it would be difficult to understand how even to-day one could, in good faith, come to a different conclusion in regard to the constitutional question. And if this be true now, it was incomparably truer then, as, in the very nature of the case, it was simply impossible for any American to examine such a question free from preconceived opinions and entirely independent of personal feeling. Hence, we should not, without any more ado, question that Van Buren and the northern senators who agreed with Calhoun were honestly convinced that they had only done their duty in this case. But, so far as the administration is concerned, it may be definitely said that it did not go beyond what it assumed to be its duty, only because no practical possibility was afforded it to go further. At the same time, it strained its influence to the utmost in the service of the slavocracy in a case in which only the boldest sophistry could discover the shadow of an obligation, and in which there was no question whatever of a direct material interest of persons belonging to the United States.

On the 26th of August, 1839, Lieutenant Gedney, commander of the United States brig Washington, observed a "suspicious" ship not far from Culloden Point, Long Island.[1] The boat which he dispatched after it found the ship in the

[1] See the official report, Niles, LVII, p. 28.

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possession of negroes. Besides the latter, there were two whites on board, Jose Ruiz and Pedro Montez, from whose account the following facts were gleaned: On the 27th of June, the schooner L'Amistad had left the harbor of Havana, with the intention of sailing for Guanaja, Puerto Principe. After some days, the negroes, who were designated, in a passport signed by the governor of Cuba, as the slaves of Ruiz and Montez, revolted, killed the captain and three other whites, and directed Ruiz and Montez to steer the ship in the direction of Africa. The latter had succeeded in deceiving the negroes during the night about the course of the ship, and in this way in bringing it gradually to the coast of Long Island. On hearing this account, Lieutenant Gedney took possession, as a "prize," not only of the ship and of the negroes on board it, but also of the negroes who had gone on land, and who were therefore within the jurisdiction of the state of New York, and brought the L'Amistad, with its whole "cargo," to New London, Connecticut. The case which was here carried on before the federal courts was extremely complicated: Gedney and his associates claimed salvage money, Ruiz and Montez demanded the negroes, the negroes brought action against the Spaniards, the administration urged the surrender of the ship, together with the negroes, to the Spanish ambassador, etc. We are here concerned only with the course pursued in the matter by the administration.

The district attorney of Connecticut informed the secretary of state, Forsyth, of Georgia, that the Spanish representative had demanded the giving up of "the ship, the cargo and the blacks," and was directed to take care that they should not be placed beyond the control of the executive by the court.[1] On the 24th of September, the attorney general,

[1] The district attorney writes, on the 9th of September: "I would respectfully inquire, sir, whether there are no treaty stipulations with the

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Felix Grundy, of Tennessee, received an order to give his official opinion on the case,[1] whereas the trial had been begun as early as the 17th, in Hartford,[2] and a first decision had been rendered by Judge Thompson on the 23d.[3] Grundy did not obey the order until November. His opinion was to the effect that the ship, cargo and negroes should be surrendered without subjecting the question whether they were the property of Spanish subjects to a judicial decision, since the United States had not the right to examine into the correctness of the facts stated in Spanish documents;[4] that the pres-

government of Spain that would authorize (!) our government to deliver them up to the Spanish authorities, and if so, whether it could be done before our court sits?" Forsyth answered, on the 11th of September: "Mr. Calderon's application will be immediately transmitted to the president, for his decision upon it. . . . In the meantime, you will take care that no proceeding of your circuit court, or of any other judicial tribunal, places the vessel, cargo or slaves beyond the control of the federal executive." Argument of J. Q. Adams, pp. 11, 12. The secretary of state, therefore, evidently shares the desire of the district attorney that a treaty-provision might be discovered which would justify the immediate surrender of the negroes without any judicial decree, and he looks upon it from the very first as a fact that the negroes are slaves.

[1] Op. of the Att. Gen., III, p. 484.

[2] Niles, LVII, p. 29.

[3] Ibid., p. 75.

[4] "In the intercourse and transactions between nations, it has been found indispensable that due faith and credit should be given by each to the official acts of the public functionaries of others. Hence the sentences of prize courts under the law of nations, or admiralty and exchequer, or other revenue courts under the municipal law, are considered as conclusive, as to the proprietary interest in, and title to, the thing in question; nor can the same be examined into in the judicial tribunals of another country. Nor is this confined to judicial proceedings. The acts of other officers of a foreign nation, in the discharge of their ordinary duties, are entitled to the like respect. . . . I cannot see any legal principle upon which the government of the United States would be authorized to go into an investigation for the purpose of ascertaining whether the facts stated in those papers by the Spanish officers are true or not." Op. of the Att. Gen., III, pp. 485, 486.

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ident should advise the marshal, in whose care the ship and cargo were, to give them over to the persons authorized by the Spanish ambassador to receive them, in accordance with the ninth article of the treaty with Spain of the 27th of October, 1795.

This article nine of the treaty of the 27th of October, 1795, treated only of ships and goods which had been rescued on the high seas from "pirates."[1] Hence the attorney general of the United States, in unison with the Spanish ambassador, who had also appealed to this article, looked upon the negroes both as pirates and as part of the cargo. Both, therefore, considered the proof required by the treaty, that the negroes were the "legitimate property" of Ruiz and Montez, produced in the passport of the governor of Cuba, already referred to. But both knew that the passport had been surreptitiously obtained, and the negroes, according to the laws of Spain, were free. In accordance with a treaty concluded with England, the Spanish government issued a decree in December, 1817, which prohibited the importation of slaves from Africa after the 30th of May, 1820. Negroes imported in contravention of the terms of this decree were to be set free without delay, and the ships in ques-

[1] "Todos los buques y mercaderias de qualquiera naturaleza que sean, que se hubiesen quitado à algunos piratas en alta mar y se traxesen á algun puerto, de una de las dos potencias, se entegrarán alli á los oficiales ó empleados en dicho puerto á fin de que los guarden y restituyan integramente á su verdadero proprietario luego que hiciese constar debida y plenamente que era su legitima propriedad." Stat. at L., VIII, p. 143. In the English version, the words "or robbers" is added to the word "pirate," "plenamente" is rendered by "sufficient," and "property" simply is made to take the place of "legitima propriedad." Of course of themselves, the English version and the Spanish version had entirely equal force. But in accordance with the principle that wherever life or liberty is involved, the person in jeopardy of life or liberty must get the benefit of every doubt in the law, the stricter Spanish version should be here preferred.

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tion confiscated. Ruiz and Montez, indeed, swore that when they had "purchased" the negroes they did not know that they were fresh from Africa.[1] But it required a great deal to attach faith to this oath, for the blacks had been shipped only two months before from Africa, and did not understand a word of any European tongue.[2] Moreover, this could have been of importance only as regards the penalty incurred under the laws of Spain. According to these laws, the blacks were evidently free; the butchery of the captain and the crew was an act of justifiable necessary self-defense, and did not make "pirates" of them, much less a "commodity."

The administration had become a party in the case, not only before it had received the opinion of the attorney general, but even before it had asked for it. Yet it did not question the jurisdiction of the court, but left it to it, according to the decision it might reach, to grant the demand of the Spanish ambassador, or to provide for the transfer of the negroes to Africa. It gave, as the reason for its course, the demand of the Spanish ambassador; and the latter repeatedly protested that no court of the United States had jurisdiction in the case.[3] In consequence of this protest, the administration, on the 19th of November, caused the

[1] Niles, LVII, p. 206.

[2] The supreme court says in its decision: "Ruiz and Montez are proved to have made the pretended purchase of these negroes with a full knowledge of all the circumstances. And so cogent and irresistible is the evidence in this respect, that the district attorney has admitted in open court, upon the record, that these negroes were native Africans, and recently imported into Cuba." Peters' Rep., XV, p. 593; Curtis, XIV, p. 162.

[3] "Here [in a letter from d'Argaiz of the 5th of November, 1839, to Forsyth] is also a renewal of the protest, which has uniformly been maintained by the [Spanish] legation, against the right of any court in this country to exercise jurisdiction in the case. And yet this suit is carried on by the executive, as in pursuance of a demand by the Spanish minister." Argument of J. Q. Adams, p. 36.

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district attorney to file a second indictment, differing from the first in this, that there was no longer any question of the alternative of ordering the carrying of the negroes over to Africa. The explanation of the motive of this change is furnished by the correspondence between the secretary of state and the Spanish ambassador. In tones of injured innocence and unappreciated virtue, Forsyth reminds the ambassador that the executive and the courts had taken sides with Ruiz and Montez from the beginning.[1] That these gentlemen had had to endure some unpleasantness, because of a civil suit instituted against them, could not have been prevented. How greatly the administration lamented this, appeared clearly enough from the fact that it had appointed the district attorney legal counsel to Ruiz.[2] The magnanimity of the administration, however, went farther yet. Spite of the ingratitude which it had received from the Spanish ambassador, it continued to labor with increased energy to deliver the unfortunate black game into the hands of their enemies. A United States ship was kept in readiness to take the negroes to Cuba, as soon as the "an-

[1] "The undersigned cannot conclude this communication without calling the attention of the Chevalier d'Argaiz to the fact, that with the single exception of the vexatious detention to which Messrs. Montez and Ruiz have been subjected in consequence of the civil suit instituted against them, all the proceedings in the matter, on the part both of the executive and the judicial branches of the government, have had their foundation in the assumption (!) that these persons alone (!) were the parties aggrieved; and that their claims to the surrender of the property was founded in fact and in justice." Forsyth to D Argaiz, December 13, 1839; Ibid., pp. 29, 30.

[2] Forsyth to D'Argaiz: "The offer made to that person (Ruiz) of the advice and assistance of the district attorney, was a favor — an entirely gratuitous one — since it was not the province of the United States (!) to interfere in a private litigation between subjects of a foreign state." Ibid., p. 50. The order was doubtless very agreeable to Holabird, for he writes on the 21st of September, 1839: "I should extremely regret that the rascally blacks should fall into the hands of the abolitionists, with whom Hartford is filled." Mem. of J. Q. Adams, X, p. 398.

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ticipated" order of the court made it possible.[1] The naval officers who had seized the Amistad were to go with them as witnesses. Profound silence was commanded to be observed on these orders, to the end that no one might find time to interfere with their execution.[2] The district attorney was instructed not to delay it out of regard for a possible appeal.[3]

The district court did not meet the expectations of the administration, and the district attorney appealed to the circuit court. Failing here, also, the administration brought the matter before the supreme court of the United States.[4]

[1] "The Spanish minister having applied to this [state] department for the use of a vessel of the United States, in the event of the decision of the circuit court in the case of the Amistad being favorable to his former application, to convey the negroes to Cuba, for the purpose of being delivered over to the authorities of that island, the president has, agreeably to your suggestion, taken in connection with the request of the Spanish minister, ordered a vessel to be in readiness to receive the negroes from the custody of the marshal as soon as their delivery shall have been ordered by the court." Forsyth to the District Attorney, January 6, 1840; Argument of J. Q. Adams, p. 65.

[2] "The vessel destined to convey the negroes of the Amistad to Cuba, to be ordered to anchor off the port of New Haven, Connecticut, as early as the 10th of January next, and be in readiness to receive said negroes from the marshal of the U. S. . . . Lieutenants Gedney and Meade to be ordered to hold themselves in readiness to proceed in the same vessel, for the purpose of affording their testimony in any proceedings that may be ordered by the authorities of Cuba in the matter. These orders should be given with special instructions that they are not to be communicated to any one." Memorandum of the Secretary of State to the Secretary of the Navy, January 2, 1840. Ibid., p. 76.

[3] ". . . if the decision of the court be such as is anticipated, the order of the president is to be carried into execution, unless an appeal is actually interposed," and he is "not to take it for granted that it will be interposed." Ibid., p. 79.

[4] "I inquired of Richard Peters, the reporter [of the supreme court], if there had ever been a case in which the executive of the United States had made them parties to a suit against individuals at the instigation of a foreign minister. He knew but of one case, and that was one affecting the

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The eyes of the whole country were now directed with intense gaze to that body. Every reader of the newspapers was acquainted with the case of the Amistad negroes, even in the smallest details. The organs of the administration treated the matter as a political party question, in which all the orthodox were bound to blindly follow their leaders through thick and thin, but they met with decided opposition in the party itself.[1] The opponents of slavery summoned their entire strength to save the country from the disgrace of a triumph of the administration. Despite the burthen of uninterrupted contests in the house of representatives, under which the old man groaned, Adams was induced to defend the cause of the blacks. Imposing are the timidity and anxiety with which he approached his responsible task,[2] and imposing the holy anger with which the much-ignored and much-contemned ex-president accused the then possessor of the presidential chair of having voluntarily prostituted himself as a passionate advocate of a piece of enormous injustice, which would be a spot on the honor of the nation that could not be wiped out. His speech, which lasted eight hours, was not, by any means, a masterpiece of forensic eloquence, but it was more. The patriot tried numberless times in the furnace of party

personal privilege of the minister himself." Mem. of J. Q. Adams, X, p. 404.

[1] "The pamphlet review of the Amistad case . . . was published with a blown-bladder puff in the 'Globe' of the — instant. It is known to have been written by Pickens, the member of the house from South Carolina. In the 'New York Evening Post,' an administration paper, there was published an answer to it, ably written, by Theodore Sedgwick, Jr. I had spoken to Mr. Seth M. Gates to get up applications to the editors of the 'National Intelligencer' and the 'Globe' to republish the article in the 'Evening Post' in their papers. Mr. Leavitt told me he had requested its publication in both papers, and had been refused. I advised him to get the refusal in writing." Ibid., X, p. 403.

[2] "O how shall I do justice to this case and to these men?" Ibid., X, p. 383.

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calumny, and always found genuine, the last great representative of the period of the war of independence, implored the court which, in accordance with the will of the fathers, should be the rampart of justice and therefore of freedom, in the free republic, not to surrender itself to the unholy spirit of the day. And his hope was not deceived. The court pronounced its judgment on the 9th of March, 1841; the negroes of the Amistad were free.[1]

Five days before, Van Buren's presidency and the supremacy of the democratic party had come to a close. Adams' speech and the judgment in the Amistad case were the parting salutations which accompanied the only too well experienced "log-roller" into private life. All his endeavors to come forth from it again and enter upon the great stage of political life were destined to remain fruitless.[2]

[1] But this was not the last that the people heard of the Amistad negroes. Ingersoll, of Pennsylvania (!), the chairman of the committee on foreign affairs, introduced a bill, in 1844, into the house of representatives, according Ruiz and Montez a compensation of $70,000. Giddings placed the unexampled audacity and baseness of this motion in so clear a light, that both bill and report were laid on the table, and no one dared to call them up again. Giddings, Sp., pp. 73–96.

[2] I have endeavored in this chapter to relate the documentary history of the slavery question during Van Buren's administration. The reader may compare the judgment on this subject of an influential fellow-actor. Benton writes: "His [Van Buren's] administration was auspicious to the general harmony, and presents a period of remarkable exemption from the sectional bitterness which had so much afflicted the Union for some years before — and so much more sorely since. Faithful to the sentiments expressed in his inaugural address, he held a firm and even course between sections and parties, and passed through his term without offense to the north or the south on the subject of slavery." Thirty Years' View, II, pp. 207, 208.

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CHAPTER V.

VAN BUREN'S PRESIDENCY.

III. The Presidential Election of 1840.

The impression made by the slavery question, during the last preceding years, was great enough to permit it to play some part in the presidential election of 1840. But it had no influence on the defeat of Van Buren and of the democratic party. Often as the president had been called in contempt "the northern man with southern principles," the catalogue of sins in the campaign speeches of the leading whigs have nothing to say of his serviceableness to the slavocracy.

What the opposition trumpeted abroad was the financial mismanagement. If we were to attach faith to the charges of the most zealous party organs, this mismanagement was certainly unparalleled. They asserted that Van Buren had heaped on the nation a debt of $31,310,014, which now had to be funded.[1] The situation appears in a very different light in the statements of the men who would not, as they should not, have arranged their data to produce an effect for the moment. As "national debt," Webster designated, at the end of 1840, only the $4,500,000 in treasury notes,[2]

[1] "This is the national debt — the legacy of Van Burenism. Mr. Ewing calls it so rightly. He recommends that it be funded." "We wish to confine the thoughts of all readers to one great point, this week — the condition of the United States treasury, and the amount of Mr. Van Buren's national debt, his legacy to the people — more than thirty-one millions." This and several other almost like-sounding declarations cited by Woodbury in his speech of the 16th of June, 1841. Writings, I, pp. 134, 135.

[2] Statesm.'s Man., II, p. 1252.

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which, according to the message of the 5th of December, were still outstanding. His charges culminated in the reproach, that the administration had expended yearly nearly eight millions over and above its regular receipts. The excess of expenses over and above income was covered by the capital previously accumulated; but now this was consumed.[1] Hence, as yet, he knew nothing of a "vast debt" which had to be borne even now, but was only of opinion that evidently the country was on the eve of being burthened with such a debt in case it continued to act as it had hitherto.[2] And, in addition, he declared that he wished to confine himself entirely to figures, and not to inquire whether the expenses which had been made were "reasonable or unreasonable, necessary or unnecessary."[3]

The defenders of the administration were undoubtedly right in calling this course of procedure improper. But in what did its guilt consist, if the outlay was reasonable or necessary? Yet, on account of these expenses, the administration was placed in the criminal's dock, and the expenses were

[1] Even in a speech of the 30th of March, 1840, he had given more minute expression to this: "The six millions reserved under the deposit law, the nine millions afterwards withheld from the states, the five millions received from the bank — all these were funds previously acquired, and none of them any part of the regular income of 1837, 1838 or 1839. All the income and revenue of those years have been expended, and these twenty millions more. This general state of the treasury, and the history of revenue and expenditure for the last three years, may well awaken attention. We have no twenty millions more in crib to go to. Our capital is expended. There will be two millions and a half due from the Bank of the United States in September, and there is a small balance still due from the deposit banks, both together not exceeding three millions and a half; and for the rest we are to rely on the usual sources, the custom house and the land offices." Webst.'s Works, IV, p. 543.

[2] "What state of things is that? Suppose it should go on. Does not every man see that we have a vast debt immediately before us?"

[3] Webst.'s Works, V, pp. 42, 43.

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used to serve as proof that the president was unworthy of a reëlection.

The answer which the spokesmen of the administration gave to the question which Webster had failed to discuss, transformed the crown of thorns into a halo of glory. When the opposition contrasted the regular income of the government with its aggregate expenses, Benton deducted from the latter eighteen different classes of expenses, as extraordinary expenses, and, in this way, estimated that the "real expenses"[1] would have amounted not to $37,000,000 or $39,000,000, but to only $13,500,000; that is, to $1,500,000 less than was required according to the opposition, on the hypothesis of economic administration.[2] This, indeed, changed nothing in the fact that twenty and odd millions of the capital previously accumulated had been consumed. But, in opposition to this, Woodbury, Van Buren's secretary of the treasury, showed that the compromise tariff had caused a falling off in the customs receipts of from $40,000,000 to $50,000,000.[3]

What could the masses of the people do with these contradictory accounts which differed from each other like day and night? In Benton's eighteen classes figured the public buildings, indemnities, pensions, fortifications, purchases of arms, coast-surveys, the paying back of illegally collected duties, increase of the fleet, the building of harbors, bridges, roads, etc. What practically valuable meaning had the claim that the "real" yearly expense amounted to only $13,500,000? And in what way was the reduction of the custom receipts

[1] Another time he, more correctly, calls them "ordinary and permanent expenses."

[2] Deb. of Congr., XIV, pp. 128–133.

[3] "Over forty millions of revenue which would otherwise have accrued had also been relinquished and reduced by the alteration in the tariff of 1832 and 1833." Writ., I, p. 138; p. 177, he says: "Forty or fifty millions."

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of from $40,000,000 to $50,000,000 to be placed before the great forum of citizens having the right of suffrage? The opposition could certainly not be made responsible for this reduction, since the compromise tariff was wrung from it only amid its loud complaints under the high pressure of the nullification of South Carolina; and the administration would have called down fire and brimstone from heaven, if the compromise tariff was to be again exchanged for the tariff-laws existing before it.[1] But, on the other hand, what means had the administration to meet its expenses if congress did not take care to procure more income, and yet were not to use the capital on hand? How could the administration be called to account, because the appropriations made by congress so much exceeded the regular receipts? In the year 1837 alone, the appropriations made by congress exceeded the estimates submitted by the administration[2] by $17,000,000. It was evident that, at most, it was the party and not Van Buren personally, that was responsible because the regular receipts and expenses were so far from being in equilibrium. But to make the democrats alone responsible therefor had its difficulties. Benton and Woodbury asked what appro-

[1] It, however, desired some considerable changes in the tariff. Benton carried on an active agitation for specific instead of *ad valorem* duties. According to the report of the secretary of the treasury, the different interpretation given to the legal provisions on the *ad valorem* duties by the judges and the officers of custom, caused the government a loss of over $5,000,000 between 1835 and 1838. Thirty Years' View, II, p. 189. The want of clearness of the tariff-laws is to this hour a standing and well-grounded complaint of American merchants.

Another evil was that the old provisions on drawbacks on certain articles of import continued, while the duties themselves underwent a large reduction by the compromise tariff. The consequence was that, for instance, in the case of imported sugar the drawbacks in 1837 amounted to $861.71; in 1838, to $12,690; and in 1839, to $20,154.37, more than the duties themselves amounted to. Thirty Years' View, II, p. 191.

[2] Woodbury's Writ., I, p. 137.

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priation the opposition had opposed, what one it wished to oppose now, which one it would not vote over again. And no answer was given to the inquiry.

Any one who takes the trouble to look through the endless debates on the finances and the documents relating to the matter, must become convinced that in this respect was a declivitous path gone over at a rapid rate, during Van Buren's administration; and the president, as well as his cabinet, was, by no means, free from all guilt in the premises. The truth lay between the charges of the opposition and the self-laudation of the administration and its partisans, but the former, however, were a greater and bolder exaggeration than the latter. And it was not only inequitable but unwise to pitch the battle song in a key altogether too high. It was not before the door of the executive alone that there was need of sweeping. Weighty voices, in both parties, intimated that the dirt was highest before the door of congress. It was precisely the most bold-fronted partisans of the administration who disturbed this heap,[1] and the opposition

[1] Cambreleng, the leader of the administration party in the house, made a report as chairman of the committee on ways and means, on the 24th of January, 1839, in which we read: "The legislative expenses of the Federal government for the first ten years were annually, on an average, about $171,000; the appropriations for the year 1838 were $982,000. A part of this has arisen from the increase in the number of members of congress; but the most extravagant increase has occurred in the contingent expenses of both houses. In the first ten years these did not amount to more than $10,000 annually; while the appropriations for the past year were $373,960. Although under the immediate observation and exclusive control of congress, there is no branch of the public service where there has been more abuse and extravagance." Deb. of Congr., XIII, p. 733. The house of representatives, which had two hundred and forty-two members, consumed from 1837 to 1839 $69,514.78 for stationery; that is, $287.25 per member. It is said that fifteen barrels of ink were consumed in writing. Four inkstands *per capita* were consumed; and one thousand two hundred and seventy-two penknives, or 5.62 by each person. Letter paper to the amount of $80, and sealing wax to the amount of $16 per member,

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did not even attempt to cast the blame of it on the reigning party alone. The person who gave the subject any reflection could, therefore, soon say to himself that the injury necessarily lay deeper than in the lax government of Van Buren and his ministers. But it would seem that no one, at the time, thought long enough to reach the conclusion that both parties, by the whole manner in which they handled the financial question, emulated each other in promoting the most luxuriant development of the fundamental cause of the evil. The more boldly men went to extremes in opposite directions, the more difficult did they make it, not only for the people to come to a rational and well-founded judgment on the situation, but also the more impossible did they make it to fix the responsibility on definite personages. The country groaned under the applause and the hissing, but neither the applause nor the hissing was directed towards a tangible object; and hence, whether the former or the latter prevailed, the growth of the mischief necessarily continued uninterruptedly in both cases. Not only was there not the slightest impulse given from any quarter to a criticism which might benefit the system, and of the principles on which it was based, but both parties did their best, by agitating an untested sentimental policy, to take the question entirely out of the field of view of the people. Even the most distinguished men approached the subject, not as statesmen, but as party politicians. The difference based on principle in the programme of the economic policy of the two parties had been weakened rather than intensified. While more and more rein was given to criticism, as time went on, and this especially in the ranks of the opposition, people became more and more reserved in insisting on their own positive

were consumed. Summer's Report of the Committee on Retrenchment, 2d Sess. 27th Congr., House Doc. No. 30; Colton, H. Clay, II, p. 396. Compare also the data in Calhoun, Works, IV, pp. 52, 53.

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principles. They gave too much proof of the unworthiness of their opponents, and too little of their own worthiness. The strongest emphasis was laid not on the future, but on the past. Of the passion into which men had talked themselves, on the one side and the other, neither head nor heart really knew much. This enabled the leaders to make the masses utter an unnecessarily loud cry of war, but of the real heat of battle there was surprisingly little to be found. On the one side and the other, the struggle was, in the first place, for supremacy, and in the second, for a principle.

We shall see, later, that this was the case with the whigs in a still higher degree than with the democrats. And yet, of all the reproaches made by the whigs to the democrats, the most serious and best founded was that, since Jackson's presidency, they had sacrificed to the principles of the party their own convictions, all equity towards the opposition, and even external decency, in a manner really revolting, and that it was, in this respect, worse during the administration of Van Buren than during the worst days of Jackson's.

One of the largest pieces in the coarse artillery of the whigs, in the electoral agitation, was the history of the organization of the house of representatives of the twenty-sixth congress. Law and right had, indeed, never yet been made so subservient to party interest in a more impudent manner.[1]

[1] "I never knew a case in which justice was set at such open and shameless defiance as in this." Mem. of J. Q. Adams, X, p. 238. All that Benton says on this matter is contained in the following sentence: "This is the session in which a double return of members from New Jersey prevented the organization of the house, and gave rise to lengthened proceeding not necessary to be related here, as not pertaining to the legislative duties of congress." Deb. of Congr., XIV, p. 3. His Abridgment of the Debates of Congress remains, notwithstanding, a meritorious work, but its value is very much lessened by the fact that it is performed throughout in this bold-fronted party spirit. He never directly falsifies history, but he falsifies it indirectly at every step, inasmuch as he leaves what does not suit him entirely untouched, or disposes of it in a few words expressive of

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The introductory step towards the organization of the house is the calling, by the clerk, of the names of the persons who have brought with them the legal certificate of their election. When this has been done, if the requisite number be present, the organization is perfected by the choice of the speaker. Fourteen days (from the 2d to the 16th of December, 1839) elapsed before the house of the twenty-sixth congress had effected this organization. After the six New England states, New York and J. M. Randolph, of New Jersey, had been called, the clerk, Garland, paused and conveyed the information that the elections for the five other seats of the last named state were contested; that, as he did not feel justified in deciding between the parties, he would, with the consent of the house, pass over these five names, and go on with the calling until the house was formed; that until the house, who alone were entitled to give a decision in the matter, was constituted, he could bring no question to a vote. The organization of the house in the regular way was thus rendered impossible. The debate grew hotter and hotter, but it was impossible to get one step farther. At last, on the fourth day, Adams took the initiative, and called upon his "fellow citizens, members-elect of the twenty-sixth congress," to take their organization, as the house, into their own hands without any further coöperation of the clerk. He was himself chosen chairman of the "meeting."

The difficulty which was to be overcome was not an honest difference of opinion as to what was right. What was right was as clear as the noonday sun, but what was right was wrong in this, that it was opposed to the interests of the democratic party. The parties were so equally divided, that

indifference, while he gives the discussions which are acceptable to him at a length which is entirely useless. The little that Benton, in his Thirty Years' View, II, pp. 159, 160, says on this matter is calculated only to obscure the true state of the legal question.

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which of them should have the majority depended on the filling of those five seats of New Jersey. If at first they were accorded to no one, the democrats would have a small majority, and hence might hope to effect an organization of the house which would accord with their wishes; that is, to elect their candidate speaker, and thus to insure the composition of all the committees in their interest. In accordance with this, both delegations were refused the right to participate in the organization. The proximate end of this decision was not, however, attained. A small group, believed to be in close connection with Calhoun, severed themselves from the great body of the democratic party, and on the eleventh ballot, in alliance with the whigs, chose Hunter, of Viginia, speaker, who, as we have seen, had declared himself "independent."

According to art. I, sec. 5, par. 1, of the constitution, the decision as to which of the two delegations the five contested seats belonged devolved on the house alone.[1] But up to this point, the question had been materially different. The "house," which was to be the "judge of the elections . . . of its own members," did not exist at all when the two delegations were excluded from participation in the organization. The only rightful title to a participation in that organization was the legal certificate of election, and the five whigs only had this to show. The clerk of the house not only had no right to decide the controversy between the two delegations, but in his official capacity he should not even have recognized that there was a contest over the five seats in question. And

[1] The protest of the excluded whigs questions even the "this body not being organized according to the constitution?" The constitution, however, contains no provision as to how the house has to organize itself. If the claims of the protesting whigs were right, all the acts of this congress would have been unconstitutional, and, therefore, null and void. The protest also states the details of the illegalities which occurred at the elections in New Jersey. Niles, LVII, pp. 345, 346.

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the rights of the members "elect of the house of representatives" did not extend farther in this respect than those of the clerk. They, also, had nothing to legitimatize their action but the certificate of election, and no other rights but those which flowed directly from that certificate.

It is worthy of remark, that the party which claimed a monopoly of the jealous guardianship of state rights was guilty of this usurpation, which was a despicable trampling under foot both of the rights and of the honor of the states.[1] Both law and right were again forced to yield to the "democratic principle;"[2] and to the extent that this yielding was in harmony with the interest of the party, it received the joyful acquiescence of the people.[3] Political conscience was brought into complete subjection to party spirit, and this at a time that party passion by no means ran very high.[4]

[1] In a democratic demonstration in the state of New York, a banner was adorned with the device: "The Democracy scorns the broad seal of New Jersey." Webster's Works, II, p. 101.

[2] ". . . a resolution to proceed with the organization of the house was adopted after an arduous and protracted struggle, in which every variety of parliamentary motion was exhausted by each side to accomplish its purpose; and at the end of three months it was referred to the committee to report which five of the ten contestants had received the greatest number of legal (!) votes. This was putting the issue on the rights of the voters — on the broad and popular ground of choice by the people; and was equivalent to deciding the question in favor of the democratic contestants, who held the certificate of the secretary of state that the majority of [why is the little word 'legal' wanting here?] votes returned to his office was in their favor — counting the votes of some precincts which the governor and council had rejected for illegality in holding the elections. As the constitutional judge of the election, qualifications and returns of its own members, the house disregarded the decision of the governor and council; and, deferring to the representative principle, made the decision turn, not upon the conduct of the officers holding the election, but upon the rights of the voters." Benton, Thirty Years' View, II, pp. 159, 160.

[3] "In the New Jersey case, the popular interest is all on our side of the question, and the popular favor is for the other." Mem. of J. Q. Adams, X, p. 176.

[4] I do not think myself called on to follow the course of the struggle any

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The great importance of this contest over the five New Jersey seats is not to be sought for in the fact that the decision helped the party, contrary to law and right, to a majority when it should have been in a minority in the house of representatives, but in this, that it was only the symptomatic manifestation of a state of general disease. It was not in contradiction with the course of congress otherwise, but was in keeping with it throughout. During the first three decades of the existence of the constitution, such a course would have been hardly possible, but now it was to be expected that congress, or at least the house of representatives, would unhesitatingly prostitute itself when the opportunity required it with any urgency, in the interest of party. In the senate, there yet shone a splendid array of names whose fame

farther in detail. The following account from Adams' diary of the 14th of March, 1840, suffices for a characterization: "Neither the report of the committee, nor their journal, nor one particle of the testimony, has yet been printed. Not a word of the testimony against the illegal returns rejected by the governor and council of New Jersey was even considered by the committee. They gave the parties time to take their testimony till the second week in April. Six weeks before that time, the house pass a resolution instructing them to report forthwith which set of the candidates had a majority of the lawful votes of the people of New Jersey; and they report forthwith that the non-commissioned claimants have a majority of the lawful votes; with an argument proving that whether the majority was of lawful votes or not depends entirely upon evidence yet to come, and for the procurement of which the committee had given the parties time till the second week in April. In this state of things, evidence is received by the house proving the illegality of the South Amboy election; in the face of which, under the screw of the previous question, the house pass a resolution directing the speaker to swear in the non-commissioned members as having the majority of the lawful votes, without waiting for further evidence, and without ever having heard the parties. Jenifer has probed this state of the proceedings till the majority of the committee writhed in agony." Mem. of J. Q. Adams, X, pp. 236, 237. He writes the day before: "The subterfuges and evasions to suppress the testimony which falsifies the conclusion of the report are heart-sickening." Ibid., p. 235. See also pp. 230, 335, 336.

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had, for a long series of years, made its way across the ocean. True, the corrupting tendencies which permeated the political life of the nation had not been without effect on it, but it had not, for all that, yet lost the dignity and the conservative character which, according to the opinion of the Philadelphia convention, should distinguish the upper house of the United States. The physiognomy of the house of representatives, on the other hand, had experienced a change noticeable at the first glance. Not only had the thermometer of political ethics fallen several degrees here, but the intellectual calibre of the members showed a diminution which called for the most serious reflections;[1] men of an essentially different stamp had taken possession of one-half of the capitol. The task of legislation became more difficult and of a more responsible character from year to year, but the weight, both moral and intellectual, of the members became continually less. The state, with alarming rapidity, grew to ever mightier proportions, and the problem how to promote its national growth without curtailing the rightful and even necessary independence of its constitutive parts, became more and more complicated, but its leaders shrank to a crowd of nameless ones, who, in great part, were not even local magnates. The population grew denser, the development of the process of social classification went on, the economic life of the country assumed greater and greater proportions, developing new organs every day, the apparatus of administration extended almost without limit, and the demands made on it become more and more manifold, but the legislators not only

[1] "And, indeed, when I look upon the composition of these two bodies, the senate and house of representatives of the United States — the cream of the land, the culled darlings of fifteen millions, scattered over two millions of square miles — the remarkable phenomenon that they present is the level of intellect and of morals upon which they stand; and this universal mediocrity is the basis upon which the liberties of this nation reposes." Mem. of J. Q. Adams, X, p. 78.

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came to have actually less and less understanding for the laws of political life, but they were wanting more and more in the conditions precedent to the possibility of acquiring such an understanding, and they lost more and more all interest in it, as well as the recognition of the value of understanding it. It became more doubtful every day, whether, in the slavery question, healthy morals and fidelity to one's convictions could be united with the demands of political sagacity and of positive law; and with every successive legislative term, the number grew of those who owed their election to congress only to their success in the arts of agitation in the interest of party.

The deterioration of the average character of the representatives was, however, neither the most surprising nor the most important change which had been accomplished in the house. The character of its leaders had sunk much more rapidly and deeply. Even in the house of representatives, there were men yet to be found who would have been an ornament to the legislative assembly of any country. They were not without influence, but they did not have the command. This was in the hands of the most artful and most unscrupulous parliamentary tacticians. One might write a book on the part played by the "rules of the house," in the legislative history of the country. But the shortest and emptiest chapter in it would treat of the use made of these rules for the fulfillment of their legitimate end. This complicated machinery was gradually made a weapon offensive and defensive, always of great importance and often decisive. The man who knew how to manipulate it qualified himself as a leader, for success was more essential than the weight of reasons. The better men willingly subordinated themselves to the more able drill-masters, and it became customary for them thoughtlessly to fall into line at the word of command.[1] Novices entered into the artfully

[1] Adams writes, on the 19th of July, 1840: "Indeed, the race has not

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contrived system, and became, for the most part, completely involved in its meshes before they could obtain a view of the labyrinthically twisted threads.[1] It indeed still happened that the number of intellectually, morally and tactically independent men was great enough to be the scale-turning weight between the parties operating with soldier-like discipline; but this was the exception. Neither fidelity to conviction, political judgment nor true patriotism had vanished from the house of representatives, but, on the whole, the impression made by its transactions suggests more and more a struggle between two crowds led, driven and abused by a few pettifoggers dyed in the wool.[2] And yet, it was incontestable that the majority of its members came up to the average stature of their constituents; that no small number of them towered above it, and that the American people had no reason to shun a comparison of their average stature, intellectual and moral, with that of any other people.

Power was more and more completely wrung from the statesmen by the politicians, who stood out from the mass of the people, a special group, which became more defined every day. The distance between the latter and the former increased steadily and rapidly, to the disadvantage of these, but under the deceptive appearance of an externally active political life, the actual political passiveness of the masses developed still more rapidly. People began to pronounce the word politician in a peculiar tone, but the progressive

been, during this session, to the swift, nor the battle to the strong. The most important and the worst measures of the administration have been carried through the house by the most contemptible men in it." Mem. of J. Q. Adams, X, p. 338.

[1] Legaré says: "A few leaders dictate, no one knows how, to multitudes of dissenting, dissatisfied, and yet complying followers — the whole body doing what almost every member of it disapproves." Niles, LVII, p. 110.

[2] "The daily practices in the house have degraded it into a meeting of sharpers." Mem. of J. Q. Adams, X, p. 303.

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monopolizing of politics by the politicians drove the statesmen, too, farther and farther in their devious ways and the practice of their dubious arts. The old man Adams looked with deep solicitude on the "revolution in the habits and manners of the people," which he saw in the agitation of the itinerant political preachers. It can only provoke a smile to-day that he considered it particularly alarming that the most distinguished members of congress engaged in this action with extraordinary zeal, and that he was of opinion even that this fermentation tended towards a civil war.[1] The great meetings and the discussion of the political questions of the day before them by the best political ability, were in complete harmony with the political institutions of the country, and, in themselves, an entirely legitimate and loyal mode of party propagandism. But it must have excited well-grounded alarm that officials of the Federal government, occupying high positions, participated in the agitation,[2] and that even the two candidates for the presidency — and one of them spite of the fact that he was president of the United States — endeavored directly to promote their own election.[3] Even this would have been of

[1] "Not a week has passed within the last four months without a convocation of thousands of people to hear inflammatory harangues against Martin Van Buren and his administration, by Henry Clay, Daniel Webster, and all the principal opposition orators in or out of congress. . . . Here is a revolution in the habits and manners of the people. Where will it end? These are party movements, and must, in the natural progress of things, become antagonistical. These meetings cannot be multiplied in numbers and frequency without resulting in yet deeper tragedies. Their manifest tendency is to civil war." Mem. of J. Q. Adams, X, p. 352.

[2] This was evidently contrary to the spirit of the constitution, since, according to art. II, sec. 1, § 3, it was not permissible to choose senators, representatives or federal officers electors. Compare Story, Comm., II, pp. 305, 306, 1473.

[3] "Electioneering for the presidency has spread its contagion to the president himself, to his now only competitor, to his immediate predeces-

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no very great importance, if there were question here of only a personal want of tact. But it was the natural culmination of a system carefully perfected.

We have already met the complaint that officials, both federal and state, put themselves forward too much in the electoral campaigns, and played too great a part in the nominating conventions. A bill for the prevention of this was debated in the senate at the beginning of 1839,[1] but no

sor, to one at least of his cabinet councillors, the secretary of war, to the ex-candidates Henry Clay and Daniel Webster, and to many of the most distinguished members of both houses of congress." Mem. of J. Q. Adams, X, pp. 352, 353. "Webster and Clay, W. C. Rives, Silas Wright, and James Buchanan are among the first and foremost in this canvassing oratory, while Andrew Jackson and Martin Van Buren, with his heads of departments, are harping upon another string of the political accordion by writing controversial electioneering letters." Ibid., p. 356.

[1] See Calhoun's interesting speech of the 22d of February, 1839, Works, III, pp. 382–403. The legislature of Tennessee passed, on the 14th of November, 1839, a series of resolutions (Niles, LVII, pp. 203, 204) which, among other things, "unqualifiedly condemned" Judge White's vote for the bill, because the bill would have "abridged the freedom of speech." White resigned in consequence of this resolution. (See the reasons for his resignation, ibid., LVII, pp. 360–363.) These over-zealous democrats should have expressed their "unqualified condemnation" of Jefferson also, "the apostle of the American democracy." He writes, on the 2d of February, 1801, to Governor McKean: "One thing I will say, that as to the future, interferences with elections, whether of the state or general government, by officers of the latter, should be deemed cause of removal; because the constitutional remedy by the elective principle becomes nothing, if it may be smothered by the enormous patronage of the general government." Jeff.'s Works, IV, p. 350. The details of the history of Crittenden's bill may be gleaned from a speech of Rives of the 7th of September, 1839. Niles, LVII, p. 109. The following passage deserves to be quoted: "The bill was referred to the judiciary committee of the senate, of which Mr. Wall, of New Jersey, was chairman. The committee, after holding the bill under their consideration for several weeks, at length made a very elaborate report, discussing very much at large the general question of the rights and duties of federal officeholders in regard to popular elections. . . . It boldly contended that it was not merely the right but the duty of officeholders to busy themselves in elections, to shape public

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law was passed on the subject. Now the complaints not only grew louder, but came from men above the suspicion of wishing to make capital for a party.[1]

What was to be expected from Van Buren in this respect, may be inferred from what has been already said on his efficiency as chief of the Albany Regency and the part it

opinion, and to influence and direct the people in the choice of their representatives. In its whole spirit and reasoning, it was not only a justification, but it was plainly an incitement to the whole corps of official dependents to exert their electioneering activity in the political contests, on the fate of which their employers depended. They were told, in so many words, that if they 'withdrew themselves from this high responsibility' they would deserve to be declared infamous' and to be stigmatized as 'idiots and mutes.' Now, such monstrous doctrines as these, and the bold and unblushing avowal of them, received, as they were, with the most marked approbation by the whole administration party in the senate, in an order instantaneously moved and adopted for the printing 10,000 copies of the report, seemed to me," etc.

[1] "Besides the prime leaders of the parties, numerous subaltern officers of the administration are summoned to the same service, and, instead of attending to the duties of their offices, rave, recite and madden round the land." Mem. of J. Q. Adams, X, p. 356.

The stories told by partisans are incredible. Thus, for instance, Clay, in his speech of the 10th of July, 1840, at Taylorsville, said: "Accordingly, the process of converting them [the army and the navy] into executive instruments has commenced in a court martial assembled at Baltimore. Two officers of the army of the United States have been there put upon their solemn trial, on the charge of prejudicing the democratic party by making purchases for the supply of the army from members of the whig party. It is not pretended that the United States were prejudiced by those purchases. On the contrary, it was, I believe, established that they were cheaper than could have been made from the supporters of the administration. But the charge was, that to purchase at all from the opponents, instead of the friends of the administration, was an injury to the democratic party which required that the offenders should be put upon their trial before a court martial! And this trial was commenced at the instance of a committee of a democratic convention, and conducted and prosecuted by them." Sp., II, p. 429. I am acquainted with nothing else on this subject, which is also referred to shortly in an "address to the democratic republican electors of the state of New York." Niles, LIX, p. 142.

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played in Jackson's first election. Even in 1820, immediately before an election, he had demanded the removal, without delay, of four postmasters, as an "act of justice," in order to help the organs of his party's fraction to a better circulation.[1] That now, when there was question of his own election as president, he was not more timid in the employment of such means is self-evident. The person who lends himself to such practices sinks ever deeper in the mire. This is in the very nature of the case. Things had for years come to such a pass that the press did not blush directly to menace those officials who voted with the opposition, or who only showed themselves too negligent in working for the administration.[2] The next step in advance was the introduction of assessments for party purposes, graduated according to the

[1] M. Van Buren to Henry Meigs, General Postoffice, Washington, April 4, 1820.—"My Dear Sir: Our sufferings, owing to the rascality of deputy postmasters, is intolerable, and cries aloud for relief. We find it absolutely impossible to penetrate the interior with our papers, and unless we can attain them by two or three prompt removals, there is no limiting the injurious consequences that may result from it; let me, therefore, entreat the postmaster-general to do an act of justice, and render us a partial service, by the removal of Holt, of Herkimer, and the appointment of Jabez Fox, Esq.; also of Howell, of Bath, and the appointment of an excellent friend, W. B. Rochester, Esq., a young man of the first respectability and worth in the state, and the removal of Smith, at Little Falls, and the appointment of Hollister, and the removal of Chamberlin, in Oxford, and the appointment of Lot Clark, Esq. I am in extreme haste, and can, therefore, add no more. Use the inclosed papers according to your discretion; and if anything is done, let it be quickly done, and you may rely upon it much good will result from it." The letter was written three weeks before the state elections. The four postmasters whose dismissal was called for were republicans, but they had supported Clinton's candidacy for the governorship, while Van Buren was the leader of the Tompkins party. Van Buren's wish was realized. Mackenzie, Life and Times of M. Van Buren, p. 30.

[2] The organ of the administration in New York wrote, in 1838, in relation to some officials of the custom house there who had given reason for suspicion in this respect: "We would just remark to those gentlemen, that a vigilant eye is upon them, and that their proceedings on the three

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salaries of the officials.[1] As a matter of course, no one was obliged to pay these assessments. All handed them in willingly, but had, at the same time, the small interest in doing so not to lose their office. Especially in the New York cus-

days of November next [the day of election] will not escape scrutiny." On the 17th of September, 1838, the following notice appeared: "The officers of the revenue department, residing in the fifth ward, are requested to meet at Riley's Hotel, Tuesday, 25th of September, at half-past seven o'clock. By order of Ichabod Prall, chairman." Concerning which the "Evening Star" remarked: "Above we have a call for a meeting of the officers of our custom house, in order to interfere with the coming elections, and the apathy of our citizens in regard to such proceedings is calculated to alarm every friend of the republic." R. Mayo, Political Sketches of Eight Years in Washington, p. 38.

[1] In the investigation on the Swartwout case, of which we shall treat more in detail immediately, the witness A. S. DePeyster says: "The weighers [of the custom house of New York] were called on to pay fifteen dollars each for the support of the election; and when I declined, Mr. Vanderpoel, the deputy surveyor, observed, that I ought to consider whether my $1,500 per annum was not worth paying fifteen dollars for. Under the impression that it was the price of my situation, I paid it. . . . He (Mr. Vanderpoel) had a list of the names of the officers from whom he collected the tax." The witness D. S. Lyon says: "I have frequently been called on to contribute to political objects while I was deputy collector, as an officer of the custom house. The amount was from twenty to one hundred dollars. The tax was *pro rata*, according to salary. It bore a proportion of from one to six per cent. . . . It was assessed by the general committee of Tammany Hall, and for the support of the party denominated the Tammany Hall party. If the individual did not pay the amount he was taxed with, the collector would remark, you will be reported to the general committee — and everybody well understood that proscription would follow. The collector of the general committee has an alphabetical book, which contains the names of persons taxed, and the amount each individual is required to pay." The witness J. Becker refused to answer the question whether, to his knowledge, the district attorney, W. M. Price, had made payments for party purposes. To the question, whose "confidence" he would "violate" by furnishing information on this point, he answered: "The confidence of the finance committee of the general democratic republican committee." Report (of the majority) of the Committee of Investigation. Niles, LVI, p. 183.

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tom house, where all abuses were carried farthest,[1] this danger was by no means small, for, according to a decision of the attorney general, the collector was not obliged even to give any information as to the grounds of the removal of his subordinates.[2] The heads of departments were obviously responsible to no one in this matter, in relation to the officers appointed by them. What immense power was thus put in their hands may be inferred from this one fact, that there were 13,028 postoffices on the 30th of November, 1839.[3]

What was to become, what necessarily would become of officials who owed their appointment more and more to

[1] Benton, too, calls "the custom house of New York, the terror of the honest, and the hope of the corrupt." Thirty Years' View, II, p. 208. The significance of this fact appears for the first time in its right light, when it is kept in view that "the customs collected in New York equal nearly two-thirds of the whole amount in all the United States." Special Report of the Secretary of the Treasury on Mr. Swartwout's Defalcations, House Doc., 25th Congr., 3d Sess., No. 13, p. 6.

[2] "The approbation of the head of the treasury department is necessary to the employment of the officers in question, by the express provisions of the acts of 1799 and 1815; but nothing is said of their removal. By necessary implication, however, and in analogy to the constitutional power of removal exercised by the president, the collector has the like power; and as the law does not require him to state the cause of removal, nor even require it to be done with the approbation of the secretary of the treasury, I do not see that the latter has any legal authority to call for the reasons on which the collector proceeds. Where a new appointment is to follow, the reasons of the removal may be useful to the secretary in deciding whether or not the new appointment shall be approved; and, in ordinary cases, a due regard to the harmony of the public service, and the respect due to the superior officer, would seem to dictate a compliance with such a call. On the other hand, cases may easily be imagined where the public interest may strongly demand a removal, and where yet the collector, without any violation of official comity, may very properly withhold the reasons of his action. But, whatever may be the motive or character of the refusal to assign such reasons, his legal right to withhold them appears to me to be very clear." April 30, 1838. Opin. of the Att. Gen., III, p. 326.

[3] Van Buren's third annual message; Statesm.'s Man., II, p. 1232.

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their services in the interest of a party — who must have considered it almost certain that a change in the presidency would put an end to their official existence — who even, during this short period, were entirely at the caprice of their chiefs, and who knew that the latter would use their shears of the Fates, if they did not abuse their official position to promote the cause of the party?

Complaints were not wanting even during the administration of Jackson, but now for the first time disclosures were made which afforded a sufficiently large number of palpable, proven facts to enable one to form an approximately correct idea as to how far the evil had already spread, and how deeply it had eaten its way. The president, on the 7th of December, 1838, transmitted to congress a report of the secretary of the treasury on the defalcations, "recently discovered," of Samuel Swartwout, the ex-collector of New York.[1] The house of representatives thereupon, on the 17th of January, 1839, chose a committee of nine members to investigate the defalcations "of the custom house at New York and other places."[2]

Swartwout's debit amounted to $1,225,705. Enormous as this sum was, it was not so much its magnitude as the circumstances attending the swindle which made the case a national question of eminent importance.

Swartwout was part of the legacy left by Jackson. His "first misuse of the public money" dated, according to Woodbury's account, back into the year 1830.[3] The report of the committee argued long and vigorously against this allegation, and showed that the accounts of the collector were entirely correct up to the 1st of December, 1837. There was

[1] Deb. of Congr., XIII, p. 702.

[2] The resolutions were printed before the report of the committee. Niles, LVI, p. 87. Here it is said, that the message of the president was of the 8th of December.

[3] House Doc., 25th Congr., 3d Sess., No. 13, p. 4.

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only an apparent contradiction between the two allegations. The secretary of the treasury adhered to the fact, while the committee affected, on this point, to be able to see nothing but the lines of figures in the opposite columns. This was a waste of much powder, to no purpose. Whichever of the two standpoints was adopted, the administration appeared in an equally bad light. In the one case, a swindle of grand proportions was able to be carried on eight years without being discovered; and, in the other, the administration had been satisfied for seven years, because Swartwout had charged himself in the books with the correct amount, but had actually failed to pay over immense sums. On the other hand, it had to be confessed that, in both cases, so far as the president and the secretary of the treasury could rightly be held personally responsible for the transfer of so important an office to the care of a cheat, the indictment should have been drawn up in the first place against Jackson and Ingham. It was plain that these could not be exculpated of personal guilt, since it appeared from the examination of witnesses that Swartwout, at the time of his first appointment to the place, was a notorious speculator on 'Change, and deeply involved in debt.[1] But the responsibility extended further. The nomination of the collector required the confirmation of the senate, which, according to custom, referred Swartwout's nomination, in 1834, to a committee to report on, after they had considered it. This committee conceived a suspicion, and instituted an examination of witnesses, but finally sent in a favorable report, although the majority of the members belonged to the opposition. One of the witnesses, the auditor of customs, knew that Swartwout had not adjusted an item of $30,000 which was due, but he did not give any information of the fact. When taken to task for this afterwards, he said that he had not considered it his duty to do so. When asked

[1] Majority Report, Niles, LVI, pp. 92-94.

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why he did not so consider it, he answered: "Because we clerks of the custom house consider ourselves in the service of the collector, and not in the service of the United States."[1] Even before Van Buren had entered the White House, the number of those who might, with the best of reason, have been held personally responsible for the appointment of such a man or for his continuance in office, was great enough, over and over again, not to permit any one to be held responsible, for the simple reason that their number was too large.

Notwithstanding all this, there yet remained enough of the Swartwout case to make out a bill against Van Buren's administration — a bill which, with reason, played a very great part in the electoral campaign. The foregoing administration had allowed seven years to elapse without having the collector's legal bonds in the comptroller's office at Washington,[2] and Woodbury delayed seven months compelling the collector to close and settle his account with the government.[3] But no one was guilty. The secretary of the treas-

[1] Minority Report, ibid., p. 186.

[2] Minority Report, ibid., p. 187.

[3] "But again the department fell into a dead slumber relative to Mr. Swartwout's accounts, from which it was not awakened until in the early part of November, over seven months after Mr. Swartwout had retired from office, and over four months after the return day of Mr. Swartwout's last quarter's account had expired without having been returned, and two months after his sureties had been notified (through Comptroller Barker) of his neglect to return and settle his accounts. From April until the 31st of August, a period of four months, Mr. Swartwout, though known to be holding a large amount of public money, and no longer an officer of government, was not disturbed by even a call from the comptroller to settle, or explain his neglect to settle his accounts. Yet, on the adjustment of this collector's accounts in the mean time, viz., June 21, 1838, for the quarter preceding his last quarter, the comptroller knew the balance of bonds, cash and unsettled accounts against the collector, was nine millions six hundred thousand dollars and upwards. On the 1st of July the comptroller knew, or should have known, but for extraordinary inattention and neglect of duty, that the time for rendering and settling Mr. Swartwout's

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ury threw the disgusting parcel to the comptroller, who, in the questions in point, was independent; the comptroller in like manner sent it further, and thus it was kept briskly moving on and on, like bricks in the hands of workmen when a house is putting up — only it did not go upwards, but downwards, until it reached the bed of sickness, to be at last safely interred in the grave. Of three of the comptroller's books, two were no longer kept at all, and the third, according to the unanimous testimony of the witnesses, not a soul in the treasury department understood. The pertinent excuse for this was the sickness of one clerk and the death of two others.[1]

The report of the minority insisted repeatedly, in tones of excuse, that it could never have come to such a pass, if Swartwout had not had a large number of accomplices.[2] The fact was correct enough, and it was all the more significant because the accomplices did not consist entirely of the collector's subordinates. Among them were, especially, the district attorney, Price, who had cheated the government out of $72,124.[3] Yet the fact does not appear in a completely right

accounts had expired; and that by the act of March 3, 1795, it had become his express duty to cause Mr. Swartwout's accounts to be stated, and to issue a warrant against him and his sureties." Maj. Rep., ibid., p. 108.

[1] Majority Report, ibid., 119, and Minority Report, p. 157.

[2] "The eighth cause, and one of the principal, was a combination of unprincipled men, officers in the custom house, to defraud the government and plunder the people. Without this combination, Swartwout could not have concealed his frauds a day, certainly not a week. . . . No calm and dispassionate man can read the evidence taken by the committee in the progress of this investigation, but will come to the conclusion that the cashier and assistant cashier and the deputies of the custom house being indebted to Swartwout for their offices, and subject to be removed by him, was one of the great causes of peculation, and of its concealment." Ibid., pp. 188, 191.

[3] "Subject, however, in all probability, to some off-sets for legal services not yet rendered in the charges of Mr. Price." Report of the majority, Ibid., p. 123.

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light until one goes beyond this investigation and sees how this peculiar kind of business afterwards flourished. The custom house office of New York, under Hoyt, bore a very strong resemblance to that under Swartwout.[1]

The minority of the investigating committee seems, without giving direct expression to it, to have desired to make everybody believe that no secretary of the treasury would have been able to protect the state against the serried ranks of the custom house office. The conclusion that so many of the custom house officials were in the same boat was warranted to a certain extent, and was of some importance, even if it were not the only conclusion, nor the most material one, which could have been drawn from the above premises. But it mattered not how much this might excuse the administration, it stood under a similar accusation in quarters in which there could be no suspicions of "combinations of unprincipled men." In the land offices, the mismanagement was as great as in the custom houses, even if the sums lost by the government in them were much smaller.[2] Here, too, not the slightest suspicion rested on Woodbury's personal honor. His hands were entirely clean, but the rascals carried on their trade under him with as much unconcern as they possibly could under a chief who insisted on receiving from them a regular percentage of their unlawful gains. But this does not, by any means, signify that he was indifferent to their intrigues. His voluminous correspondence with them is an uninterrupted series of admonitions, prayers and threats, all of which remained equally

[1] Under Hoyt, every official in the custom house in New York consumed stationery on an average per annum of $275–276. The gross of steel pens was charged to the government at the rate of $22, while it might be had for $1.50. The "peck" of sand which cost twelve and one-half cents was put on the account at $3.50, and the ream of paper worth $15, at $80. Colton, H. Clay, II, p. 398.

[2] See the list, Niles, LVI, pp. 140, 141.

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fruitless. One can scarcely ward off the impression that the gentlemen even grew merry at his expense. He continued to be consideration and deference themselves even when his Job-like patience was at length exhausted, and he cast an altogether too hardened sinner overboard. But even then he allowed these gentlemen ample time to put their affairs in order, and lauded their honesty when they promised to put their property at the disposal of the government to guard against loss. But even with this he could not satisfy all. His investigating commissioner advised him to leave those in office who had already feathered their nests, since new officials would begin the business over again.[1] But

[1] A short extract from Woodbury's correspondence with Boyd, the receiver at Columbus, in Mississippi, will suffice to characterize both the persons and the situation. On the 24th of July, 1837, the collector writes to the secretary of the treasury: "I was anxious to obtain (for a second security) the names of those who were on my first bond (to whom I have made an explanation of my affairs) in preference to any others, in order to show to the department that my friends here, and those who knew my business best, still have confidence. The truth is, I am in default, a circumstance which has originated from my reposing too great confidence in others. I am, however, prepared and determined to secure the government against loss, not only by a sufficient bond, but also to secure it and my friends by an unconditional surrender of the whole of my property, whenever it may be required. . . . It is also my intention, as soon as I can properly arrange these things, to forward my resignation." To this, Woodbury answers on the 8th of August: "I am happy to hear of the frank and honorable course proposed in your letter of the 24th ult. It would be convenient to have the bond and resignation arrive here by the early part of September." These letters would perhaps not excite special attention, were it not that in the following letter of the investigating commissioner, Gareshe, to Woodbury of the 14th of June, that is, six weeks before the above letter of Boyd, the right commentary to it is preserved: "The account of the receiver which I have made out, and transmit herewith, presents against him a balance of $55,965.54. His own account makes it $53,272.73; it is also annexed. . . . The man seems really penitent; and I am inclined to think, in common with his friends, that he is honest, and has been led away from his duty by the example of his predecessor,

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Woodbury himself subsequently boasted that he had, however, without following the example of European despots, removed all convicted swindlers unless they had previously resigned of themselves; but how long a time was left them to resign "honorably," he does not say.[1]

This certainly was a condition of things which called urgently for a reform. And it was just as certain that this reform was not to be expected of the reigning party. To ask a political party to abolish the abuses which it industriously cultivated and brought to maturity, and on which its power was, in great part, based, is to ask the impossible. Such an internal reform is an absurdity, for the party, from the very fact that it proceeded to effect the reform honestly and with a proper understanding of its meaning, would have

and a certain looseness in the code of morality, which here does not move in so limited a circle as it does with us at home. Another receiver would probably follow in the footsteps of the two. You will not, therefore, be surprised, if I recommend his being retained in preference to another appointment; for he has his hands full now, and will not be disposed to speculate any more. . . . He has, moreover, pledged his word, that if retained, he will strictly obey the law. . . . Lenity towards him, therefore, might stimulate him to exertions which severity might, perhaps, paralyze." Niles, LVI, p. 156.

[1] "It seems that I committed a heinous sin in writing and urging on receivers too often a careful discharge of their duties. He [Senator Evans, of Maine] probably thinks that the more modern military style of the present administration should have been adopted; and whether sufficient cause existed or not, I should have said to the president, at once, 'off with their heads.' Let me caution that gentleman against too suddenly introducing into our civil system of equal rights and privileges either military, drum head, court-martial codes, or precedents from the worst eras of European despotism. . . . In every instance, also, in all the recent correspondence to which the gentleman refers, not a case can be found of a warrant on a receiver being protested or unpaid, unless explained by some accident, and the receiver was not forthwith (?!) suspended or removed. So no case exists of a pecuniary default or embezzlement, clearly ascertained on our own books, when the offending receiver was not dismissed, if, in the mean time, he had not resigned." Woodbury's Writings, I, pp. 178, 179.

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ceased to be the party. The attacks of the whigs were, therefore, incisive to the extreme, and the democrats had nothing to oppose to them but empty declamation and base subterfuge. But it was a very different question what guaranties the whigs offered that, under their rule, the conduct of affairs would be different. In all their criticism, there was but one positive point — the demand that removals from office should not be made without a statement of the reasons therefor. Yet scarcely had they taken hold of the helm than they trembled as if in a fever-chill at the remembrance of that same positive element.[1] No other reason for the evil could be discovered in their speeches than the unworthiness of the democrats, and they offered no other security that it should be done away with than that of their own worthiness. A weaker and more objectionable argument could not have been found. The people were divided among the two parties in almost equal parts. A nation which, from a moral standpoint, is divided into two equal parts, goats and sheep, and which is also politically grouped according to such a division, has never existed and never can exist. If the whigs had nothing more forcible to say for themselves, the people might properly have inquired with Woodbury's investigating commissioner, whether it would not have been more practicable to leave those in office whose hands were already "full."

We need not wonder that this worthless contrasting of the

[1] In the house of representatives, June 17, 1841: "Watterson offered resolutions to call upon the president and heads of departments for a list of removals, with the reasons for them. He had a long preamble of whereases, quoting from the stump speeches of Webster, Clay, Bell and Crittenden, last summer — declarations that no removals ought ever to be made without assignment of reasons for the removal. The whigs were all in commotion at this movement. Watterson's motion to suspend the rules was rejected — fifty-seven to one hundred and thirty." Mem. of J. Q. Adams, X, p. 481.

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two parties according to their attitude towards the commands of civic morality, seemed to the people to be entirely in order. No people has ever yet been so highly developed that the immense majority of the nation has not, even when the temptation to do so was weakest, judged parties from the standpoint of the good or the bad, instead of from the standpoint of the right or the wrong; or that, at least, they have not confounded the one point of view with the other. It would be folly to wish to reproach the people greatly because a certain faith in the alleged greater virtue of the whigs was found among them, so long as this virtue had not been put to the test. The growth of political knowledge keeps pace with the growth of experience. But the experience hitherto had was one-sided. Not until some experience had been had of the opposition hitherto, could any hope be harbored to see the conclusion force itself on wider circles of men that, guilty as these individuals or those might be, the ultimate cause of the evil was not to be sought for in the turpitude of certain persons, but in a defect in the system. No one yet knew anything as to how the whigs would demean themselves when they became the ruling party. But, on the other hand, it was entirely beyond doubt that, under democratic rule, much, and that essential, had grown rotten, and was growing rottener steadily. And the present administration had nothing to show which would have appeared to the judgment or feeling of the people as a counterpoise to this, worthy of their regard. Its only really great merit, the "independent treasury," could not, at the time, be at all rightly appreciated. But, on the other hand, there was altogether too strong an inclination, most inequitably, to lay at its door all the bad that had happened during its period of office.[1] On its side, it had

[1] I do not consider it necessary to review Poinsett's militia project, which played a great part in the electoral campaign. In my opinion, the whigs were right in declaring it unconstitutional. But it was ridiculous to swell

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nothing but a well disciplined party spirit; against it, it had a feeling hard to circumscribe, but at high tension. If it were the case of an individual, we might perhaps say that he did not know whether to laugh or cry. It would be a great mistake to suppose that a storm of whig enthusiasm had swept over the country. And it would be scarcely less wrong to believe that people had turned away in deep disgust from the possessors of power at the moment, or from the distinguishing principles of the democratic party programme. On only one point were the masses clear, as the whigs themselves acknowledged with great ingenuousness — that they wanted a change.[1]

it to the dimensions of a deeply laid plan of the president and secretary of war against the freedom of the country. I feel convinced that Clay was guilty of demagogical agitation, and that he was not fully satisfied of the truth of his own words when he solemnly warned his hearers at Taylorsville: "Indefensible as this project is, fellow citizens, do not be deceived by supposing that it has been or will be abandoned. It is a principle of those who are now in power, that an election or re-election of the president, implies the sanction of the people to all the measures which he had proposed, and all the opinions which he had expressed, on public affairs prior to that event. . . . Let Mr. Van Buren be re-elected in November next, and it will be claimed that the people have thereby approved of this plan of the secretary of war." Speeches, p. 430. I have not either made mention in the text of the variances with England, produced by some things which occurred on the Canadian boundary. Important as they were at the time, they exercised no influence on the internal history of the United States, and even during the electoral campaign they fell into the background in a manner which almost excites surprise.

[1] Webster writes on the 11th of June, 1840, to Mr. Coffin: "And the first thing to change this condition for the better will be a general belief that there is to be a change of administration; because men will look to a change of administration and nothing else, for a change of measures. They expect relief from no other quarter. All that keeps things now from growing still worse is the hope that a change of administration is approaching." Priv. Corresp., II, p. 84. In his speech before the whig convention at Richmond, on the 5th of October, 1840, he exclaims at the close: "Yes, a change. I said when I was in Baltimore, in May last, and I repeat it

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This explains in great part why the scale vacillated so long between the two parties, and then sank with unusual weight to the advantage of the whigs. In strange contrast with their brilliant victory, therefore, we see them feel their way uncertain in all the preparatory stages of the electoral campaign, and jeopardize their success by a quiet but hot contest among themselves. They were so far from being certain of their triumph, that they became alarmingly anxious to give offense to no one, in order that they might unite all the dissatisfied elements, whatever might be the reason of their dissatisfaction. And first, in the choice of persons, the fitness of candidates was subordinated to this purpose. And this was done all the more unhesitatingly, as in this way a veil was obtained to cover the intrigues which were plotted by the leaders against one another from personal jealousy. The real head of the party, unquestionably, was Henry Clay. But if, on this account, it was at first looked upon as almost self-evident that he would be chosen leader, the last presidential election, on the other hand, recalled the fact that the party by no means considered it necessary to select its real head under all circumstances as its leader. Much as Clay's sanguine temperament inclined him to take his wishes for probabilities, he did not ignore how doubtful it was whether the realization of his wishes was probable. When, in the summer of 1837, the first formal inquiries were made of him, he affected to long greatly to spend his days in the quiet of retirement. If he

here, the cry, the universal cry, is for a change. However well many may think of the motives and designs of the existing administration, they see that it has not succeeded in securing the well-being of the country, and they are for a change." Works, II, p. 102. Clay says in Taylorsville: "They [the people] feel the absolute necessity of a change, that no change can render their condition worse, and that any change must better it. This is the judgment to which they have come; this the brief and compendious logic which we daily hear." Speeches, II, p. 422.

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had really talked himself into this position, it was obviously under the pressure of the well founded doubt as to what attitude the party would assume towards him now that it had a prospect of success.[1] But, at the same time, he could not, from the very first, conceal the hope that the good will of the masses would triumph over the manœvers of his rivals. He thought he would be — no matter what his personal wishes were — "forced into the presidential arena," and relates, with scarcely dissembled satisfaction, how his friends in New York had begun to organize, notwithstanding the agitation in favor of Webster.[2]

Clay's next two years were a continual oscillation between hope and fear. In April, 1838, he was entirely confident;[3] in November, he drooped;[4] in January, 1839, he was in

[1] "I have not, for several years, looked to the event of my being placed in the chair of chief magistrate, as one that was probable. My feelings and intentions have taken a different direction. While I am not insensible to the exalted honor of filling the highest office within the gift of this great people, I have desired retirement from the cares of public life; and although I have not been able fully to gratify this wish, I am in the enjoyment of comparative repose, and looking anxiously forward to more. I should be extremely unwilling, without very strong reasons, to be thrown into the turmoil of a presidential canvass. Above all, I am most desirous not to seem, as I in truth am not, importunate for any public office whatever. If I were persuaded that a majority of my fellow-citizens desired to place me in their highest executive office, that sense of duty by which I have been ever guided would exact obedience to their will. Candor obliges me, however, to say that I have not seen sufficient evidence that they entertain such a desire." Mr. Clay to a committee of gentlemen in New York, Aug. 6, 1837, Priv. Corresp., p. 417.

[2] August 14, 1837, to G. D. Prentice. Ibid, p. 418.

[3] On the 14th of April, 1838, he writes to Fr. Brooke: "In regard to the presidential question, everything is going on as well as my most zealous friends could desire. Public opinion everywhere, even in Indiana and Ohio, is rapidly concentrating as you could wish. The movement at Harrisburg for a separate nomination of General Harrison, is rebuked and discountenanced." Ibid., p. 426.

[4] "I should be extremely happy to visit Richmond and see you and the

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good spirits once more.[1] But he was by no means sure of his case. Uninterrupted excitement seemed to have brought him gradually into the condition of the gambler who sees the moment approach when he must stake all that is left to him. On the 7th of February, 1839, he made a great effort, in his own cause, in a speech against the abolitionists. Naturally enough, it is not possible to prove that he intended this speech as a sop to the south.[2] The allegation of his unconditional followers that he was a man of such scrupulous honor that he only wished to dissipate all doubt as to his attitude towards this question, is evidence of only too ingenuous a way of looking at things. While it was conceded that there was no occasion for the making of this confession of faith, which would, necessarily, have a considerable influence on his prospects, the speech, notwithstanding its glaringly slavocratic coloring, shows very plainly the endeavor to say

many other friends I have there, but I can not do it while I remain a *quasi* candidate for the presidency. A candidate in fact I can not say, and have not said to any human being I would be. I am strongly inclined to promulgate that I will not be under any circumstances. How would it do? The principal objection which I perceive is, that they would say that I saw the grapes were sour. But then, what need I care for anything they may say?" Nov. 3, 1839, to Fr. Brooke; ibid., p. 431.

[1] To the same, Jan. 23, 1839: "The spirits of my friends are again revived, and they think that they see, in various quarters, indications of the final result which their partiality prompts them to desire. I believe myself that the current in my favor, which for the moment appeared to be impeded, will again burst forward, with accumulated strength." Ibid., p. 439.

[2] "I said I supposed he [Clay] expected to propitiate southern votes by it. He [Colonel Thomas] said he would not get them; that his only prominent supporter at the south now was Mr. Preston, but yesterday the most furious champion of nullification. It is, indeed, curious that Preston has avowed in a speech at a whig meeting, and in a published letter, that he was one of a small party of friends to whom Clay read his anti-abolition speech before he delivered it in the senate." Mem. of J. Q. Adams, X, p. 116.

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something pleasant to all parties, and not to be guilty of an unpardonable offense towards any. Clay's true position was that of a mediator between the extremes. But with his search after a sure seat between the different stools, every step of his seemed too carefully measured not to awaken strong doubts as to his complete freedom from personal secondary aims. The only class which he handled unmercifully was that of the abolitionists in the strict sense of the term, whose number was evanescently small. On the other hand, he called attention to the fact how many highly estimable people and real philanthropists were to be found among those who went too far in their opposition to slavery, and did not forget to recall how he had himself worked at one time for gradual emancipation in Kentucky, while he assured the plantation states that, in their place, he would think just as they did.[1]

The man who wishes to please too many people always runs the risk of displeasing all. Clay's flowery language about the evil of slavery and its meddling enemies at the north poorly pleased the south; and all of his speech which those enemies had ears for was, that recently he was a decided opponent of a gradual abolition of slavery in Kentucky,[2] and that so far as the plantation states were concerned he would remain an opponent of any plan which contemplated that end. He had scarcely materially increased

[1] "But if I had been then, or were now, a citizen of any of the planting states — the southern or southwestern states — I should have opposed, and would continue to oppose, any scheme whatever of emancipation, gradual or immediate, because of the danger of an ultimate ascendancy of the black race, or of a civil contest which might terminate in the extinction of one race or the other." Clay's Sp., II, p. 412.

[2] ". . . But for the agitation of the question of abolition in states whose population had no right, in the opinion of the people of Kentucky, to interfere in the matter, the vote for a convention (1837-38) would have been much larger, if it had not been carried. I felt myself constrained to take immediate, bold, and decided ground against it." Clay's Sp., II, p. 412.

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his following in the south. In the north, he considerably diminished it.[1]

The real significance of this speech of Clay of the 7th of February, 1839, with its motives and its consequences, must be sought for in this, that we here see the slavery question exert a marked direct influence on a presidential election for the first time. But that Clay, even if he had not delivered it, would have been put to one side, may be definitely asserted. This was the work of the intrigues of his enemies within the party, which dated far back of this speech. To what extent Webster had, in the matter of these intrigues, a hand directly in the game, cannot be determined,[2] but it is incontestable that the rivalry between him and Clay was one of the principal causes of these intrigues. Both had the most ardent longing for the presidency, and each wished to see it fall to the lot of a political cipher rather than bestow it on his rival.[3] Clay

[1] "He [Colonel Thomas] says that Mr. Clay himself got up, and, he believes, wrote the anti-abolition petition from this district upon which he made his anti-abolition speech at the last session of congress, and that its effect has been to demolish his last possible chance for the presidency." Mem. of J. Q. Adams, X, p. 116. "It cannot be concealed, however, that the position taken by Mr. Clay on a recent occasion has created in this branch of the whig party [who entertain peculiar views on the subject of slavery] a prejudice which cannot be overcome." Address of the Democratic Anti-Van Buren Convention of Pennsylvania, Niles, LVII, p. 191. Adams had written on the 25th of December, 1838, and, therefore, before the delivery of this speech of Clay's, in his diary: "The governor of Kentucky and the members of the delegation from that state in the house are now so deeply committed upon all the slavery questions that it is impossible to get the vote of Massachusetts for Mr. Clay; and his only chance of election is by the southern and slave-holding interest." Mem., X, p. 77.

[2] The only expression which has reference to this, that I find in Webster's correspondence, is the following: "Our whig prospects are none of the best, owing to our irreconcilable difference as to men. My opinion at present is, that our only chance is with General Harrison, and that that is not a very good one." Mr. Webster to Mr. Jaudon, March 29, 1839. Webster's Priv. Corresp., II, p. 45.

[3] Harrison Gray Otis writes, on the 11th of January, 1839, to Clay: "Mr.

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had the advantage here to this extent, that he was exposed to no temptation to intrigue. Webster, on the other hand, could hurt Clay sensibly without injuring himself. There was no prospect of his own nomination. But if he could succeed in diverting a considerable part of the party to a fourth candidate with a still smaller prospect, the latter might, perhaps, by uniting at the decisive moment with Webster's own party, turn the scales in favor of the third candidate, General Harrison. Whether Webster or only Webster's friends are to be made responsible for it, certain it is that this was the shrewdly laid plan; and it was successfully carried out.

New York, where the great majority of the whigs were unquestionably in favor of Clay, was selected as the base of operations. Henry A. Wise, of Virginia, calls the base cunning with the aid of which the project was executed, the "triangular correspondence." Three pretended friends of Clay, C. of Rochester, S. of Utica, and T. of the city of New York, exhorted each other by letters to do all that was possible for Clay, because, in their part of the state, there was no hope for him. Relying on these letters then each demonstrated, in his own section, that all efforts in Clay's favor would be to no purpose, because he had no prospect whatever in the two others. The result was that districts which had

Webster has again disclaimed his privity to or approbation of 'The Atlas' (which was regarded as his organ) heresy, and said he thought it unlucky. . . . . I also apprehend that he thinks you did him ill offices by favoring Harrison at his expense, in 1836, and that you would still promote his (H.'s) interest next. You will judge whether it is worth while to attempt, through friends, to have any *éclaircissement* on that point. I am also certain that he has no idea at present of saying *nolo episcopari*, though it seems unimaginable that he expects any important support." Clay's Priv. Corresp., p. 437. Webster's attitude to Clay is here very well described, and it is certain that Clay assumed a like one towards him. Adams says, laconically and pointedly: "There is no good will lost between Mr. Clay and Mr. Webster." Mem. of J. Q. Adams, X, p. 77.

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a decided preference for Clay put up General Scott as their candidate.[1] As Wise relates, Judge White, of Tennessee, and other friends of Clay, intimated to him that the plot, the execution of which required much time, might be frustrated, if the primary nominations were to be held early in the summer of 1838; but he added, at the same time, that the warning would be useless, because Clay had too much confidence in his false friends.[2]

The whig national convention met at Harrisburg on the 4th of December, 1839,[3] to choose party candidates for the presidency and vice-presidency. Here the game begun so successfully in New York had to be brought to a close. The end was entirely worthy of the beginning. Was it a mere matter of chance that a delegate from Massachusetts (Sprague) made the motion with which the intrigue of the "triangular correspondence" was continued? The convention should not vote, but the delegations of the several states; the result of this vote should not be communicated to the convention, but to the assembled committees of the state delegations; these were to report to the convention, not when a majority of the delegates, but when a majority of the states, had declared in favor of a certain candidate. This motion was supplemented by a proposition of Penrose, of Pennsylvania, to the effect

[1] Mr. Clay to General Combs, Washington, Dec. 3, 1839: "You have found a most extraordinary state of things in respect to the convention at Harrisburg and General Scott. I understand it to be conceded, by the delegates and members of congress from New York, a majority of whom have waited on the general, that eight or nine tenths of the whigs of that state prefer me. Nevertheless they prefer to make a nomination in conformity to the wishes of the one or two tenths." Clay's Priv. Corresp., p. 442.

[2] H. A. Wise, Seven Decades of the Union, pp. 165, 166.

[3] This is the usual but not the entirely justifiable designation. The impulse to the calling of the convention had been given by the "opposition members of congress, without distinction of party." Niles, LVII, p. 47.

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that the vote of the majority of each delegation should be considered the vote of the state; and that every state, without any regard to the number of the delegates who had put in an appearance, should cast its entire electoral vote.[1] The motions, indeed, met with some opposition, but they were finally pushed through. With what profound moral indignation had not the whigs, in season and out of season, declaimed against the fact that Van Buren had owed his nomination to a crowd of creatures dependent on the executive. But the democrats had never been guilty of so bold a mockery of the most fundamental democratic principles. With acts so base and shameless, no faction had as yet made a fool of its own party.

The convention entirely consumed the 6th day of December in completely aimless speeches and debates, while the factious ones labored hard in the committee room to help the *tertium quid*, as Wise, with biting sarcasm, expressed himself, to an election. Late in the evening, it was finally possible to inform the convention that, by means of the fraudulent mode of counting, one hundred and forty-eight out of two hundred and fifty-four votes had been cast for Harrison; that Clay had received ninety and Scott sixteen.[2] On the following day, Tyler was in the same manner nominated vice-president, and the convention, in accordance with usage, made the nomination of both candidates unanimous. The rest of the day was consumed in the making of a great

[1] The wording of the resolution is to be found in Niles, LVII, 249, 250. ". . . A process . . . which is a study for the complication of its machinery — a model contrivance of the few to govern many — a secure way to produce an intended result without showing a design, and without leaving a trace behind to show what was done: and of which none but itself can be its own delineator." Benton, Thirty Years' View, II, p. 204. Penrose's supplemental motion, of course, modified the third point in Sprague's motion, but completely secured the practical result aimed at by him.

[2] Niles, LVII, p. 250.

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number of speeches, each more disgusting than the preceding. These were the loud Judas-kiss by means of which it was attempted to conceal how dirty the work accomplished was. Clay's honest friends exposed only their weakness, inasmuch as they had nothing to speak of but the self-sacrificing disposition and the readiness with which they subordinated their personal wishes to the unanimity of the party; but they did not have a word expressive of hearty contempt for the triumphant sneaks. These same, on the other hand, who, behind closed doors, had frustrated Clay's further advance unseen, prostituted themselves entirely, for they sounded Clay's praise louder than any others.[1] With this

[1] Adams writes in his diary on the 8th of December, 1839, the day on which he received the news of the result of the Harrisburg convention: "He [Gales] told me that the nomination of Harrison at Harrisburg was the triumph of anti-masonry, and was entirely the work of W. H. Seward, the present governor of New York." Mem. of J. Q. Adams, X, p. 152. This view is certainly not entirely without actual foundation. Clay writes, December 20, 1838: "In consequence of the anti-masonic and other movements, since the last session of congress, at the commencement of this my friends were a little discouraged." Priv. Corresp. p. 432. And even on the 12th of September, 1837, Adams reports of an anti-freemason convention in Washington: "I found them in debate upon resolutions honorary to W. H. Harrison, as past and future candidate for the office of president of the United States. . . . It was a convocation invited by the anti-masonic committee of Pennsylvania to consult about a nomination of a candidate for the presidency at the next election." Mem., IX, p. 372. "This portion of the whig party [the anti-masons], particularly in Pennsylvania, although unwilling to support Mr. Clay, have, nevertheless, discovered a decided willingness to make concessions to their whig brethren by evincing a determination to support another distinguished whig, General Harrison, and have not insisted on a candidate who had adopted their peculiar views on the subject of masonry." Address of the democratic anti-Van Buren convention of Pennsylvania. Niles, LVII, p. 191. I recall seeing a full communication as to how the anti-freemasons of Pennsylvania had submitted the whigs before the convention at Harrisburg, but I have not been able to find it again, and the details have escaped my memory. Probably, also, it is not to be considered a matter of chance entirely that a delegate from Pennsylvania proposed the supplement to

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discordant flourish of trumpets the convention dissolved, without having sent forth a single word which might suggest a political programme to one's mind.[1]

According to Wise's account, Clay was intoxicated when the bad news was brought to him from Harrisburg, and he gave vent to his wrath over the "diabolical intrigue" in a storm of wild imprecations.[2] If the description be not ex-

Sprague's motion. This side-play of the anti-freemasons is, however, unquestionably to be looked upon rather as an auxiliary than as the real cause; and it is certain that it was not the chief cause of the result at Harrisburg. The chief cause was already patent in the last presidential election. Adams writes on the 11th of November, 1836: "The opposition, divided between three talented aspirants, neither of whom would yield subordination to either of the others, have been driven in mere desperation to set up men of straw in their places, and they have taken up Hugh Lawson White and William Henry Harrison, as the Israelites set up a calf, and as the Egyptians worshiped oxen and monkeys." Mem., IX, p. 312. And in November, 1838, the "Democratic Review" writes: "Their [the whigs] two prominent presidential candidates, though unquestionably perfect representatives of their party principles, and men of a high order of intellect, are already well ascertained to be worse than 'unavailable,' and will probably both be dropped — *ex necessitate rei* — when they will certainly only serve to make the confusion worse confounded by the dissensions which will spring out of their mortified ambition."

[1] Anderson, of Tennessee, said later in the senate: "There [at Harrisburg] they solemnly resolved that they would make no formal declaration of their opinions — no, sir, none. The thing was to be left to the individual skill and judgment of their partisans." Deb. of Congr., XIV, p. 163. In the report of the "Harrisburg Chronicle" of the convention, to be found in Niles, LVII, pp. 248–252, I do not find any such solemn resolve, from which, however, it does not follow that it was not formally adopted. In Niles, LVII, p. 219, I find the following: "Mr. Allen had read 'an extract from a Harrisburg committee, in which they represented as unnecessary and inexpedient for the convention or General Harrison to make a formal expose of their sentiments, since they were already well known throughout the country.'" The whigs of New York discovered a ground of justification which was still better: "It was not for the whigs, while in opposition, to propose specific measures." Address of the Syracuse Whig State Convention, October 7, 1841. Niles, LXI, 126. (In English party life this is a current saying.)

[2] Seven Decades, pp. 171, 172.

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aggerated, Clay's demeanor was undignified in a high degree. He had the amplest reason to be angry, but he should have turned his anger not only against his false friends but also against himself. The man and the patriot should have had self-control enough not to lose sight entirely, even in the first moment of disappointment, of the fact that the personal question in itself should be considered of comparatively little importance. But the matter of most consequence was that the party had pronounced sentence of death upon itself, and Clay had his full share of the blame that it had done so. He had labored more zealously than any one else to bring all the opposition elements together, and to reconcile their different opinions, ill as they went together. What was it but the extension of the same principle to the question of persons, when the man was selected as the party candidate who had the fewest opponents? But a party which makes this principle its foothold disclaims its own right to existence. A party which is not held together by enthusiasm for an eminent personage, and which has no positive programme, because it dares not offer one to the heterogeneous elements which compose it, is no longer a party at all, for opposition to the prevailing party can never of itself furnish a basis for a party. It may, indeed, suffice to overthrow the reigning party, but the victory itself is, in such a case, the beginning of the disruption of the victorious crowds.[1]

[1] The following judgment on the Harrisburg convention and its consequences to the whigs, although coming from the opposite side, hits the nail on the head in every word: "To have been the presidential candidate of his party — to have been the one high object of its devotion, its gratitude, its pride, and its hope — to have fought the battle manfully as its acknowledged head, even though he might be forced to sink beneath the overpowering weight of numbers — this would have been the 'honorable discharge' which Mr. Clay had proclaimed to be all that he now desired before retiring from the service of his country, a toil-worn political veteran, bowed down with years, and covered with brave scars. And this was due to him from his party; and we cannot dissemble an indignant contempt —

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Harrison was a man of honor, who had inscribed his name in the history of his country by the hard and able work of many years, both in the council and in the field. Although the son of one of the most distinguished patriots of the Revolutionary period,[1] his fame and the consideration in which he was held were not his easy possession by hered-

not the less sincere that we have but few political sympathies in common — for the mean ingratitude which has thus so basely betrayed him in the last hours of his public life, to sacrifice him, his feelings, his rights, and his fame, to a cunning intrigue, and to a cold calculation of party expediency, which we verily believe to have been as shallow and impolitic as it was heartless and false. In the words of Fouché, it was worse than a crime — it was a blunder. . . . It is in vain to seek a palliation of this ungrateful abandonment of their long recognized head and chief, in the consideration by which it is attempted to be defended, that another candidate, notwithstanding that personal insignificance which is alike his single and singular recommendation, would afford a prospect of success hopeless under the nomination of Mr. Clay. . . . The strength of a popular party consists in its fidelity to its principles; and the moment it yields them to the pressure of an apparent expediency, and confesses, at the same time, its weakness and its insincerity, by sacrificing the man who is the one real and rightful representative of itself, to such shallow calculations of 'availability' as have avowedly dictated the nomination of poor old General Harrison, that moment it inflicts a more fatal stab on its own vitals than any of the assaults of its opponents." "The Democratic Review," February, 1840, pp. 103, 104. For further interesting admissions as to the exclusiveness with which "availability" was made the basis of operations, see the report of the convention of "anti-Van Buren citizens," made up of "whigs, anti-free masons and conservatives," held at Harrisburg on the 4th of September, 1839. Niles, LVII, pp. 46, 47. In this convention, Harrison was nominated, and in the resolutions it was declared: "This convention, entertaining towards him [Clay] the highest regard, are nevertheless constrained to say, that they have the most conclusive evidence, that this period [to set Clay up successfully as a presidential candidate] has not arrived; and that to use his name now as a candidate for the presidency, would be as unjust to him as it will be fatal to the hopes of patriotism." See also the address of the democratic anti-Van Buren convention of Pennsylvania, ibid., pp. 190, 191.

[1] Governor Benjamin Harrison, of Virginia, repeatedly speaker of the continental congress, and one of the signers of the Declaration of Independence.

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itary title, but the well earned fruit of his own labor. The Indian war which caused Washington so many hours of hardship during his presidency, determined the youth of nineteen to drop the study of medicine, and to don the soldier's uniform. He was afforded ample opportunity to show himself not only a brave and talented officer, but also to give evidence of the sober practical judgment, the moderate and yet energetic temperament, and the calm firmness which are the most essential qualifications to guide the growth of a great civilized commonwealth in its first stages with success. These are qualities from which higher statesmanlike endowments cannot be inferred without any more ado, but they give one the power to solve an entirely peculiar and great political problem, which would be tried in vain by men possessed of much statesmanlike force. Harrison, who at the end of the war (1797) left the service, was appointed governor of the newly constituted territory of Indiana,[1] by John Adams, after he had been for a short time secretary of the northwestern territory and its delegate to congress. His elevation to these three positions was all the more honorable to him as he was, unlike the majority of the population of the territory, a disciple of Jefferson's political school. And, as his political heterodoxy had kept neither Adams nor the territory from giving him important political offices, Jefferson and Madison accorded him their confidence, although he had accepted office and dignity from their political opponent: he continued to be governor of the territory for thirteen years. These facts prove that, even in his young years, he was not a violent partisan, and that he knew how to subordinate party interests to the duties of his office. He deserves all the more credit for this, because, with an ingenuousness from which the leaders of the party were very

[1] The territory embraced the present states of Indiana, Illinois, Michigan and Wisconsin.

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far removed, he accepted one of the most radical of the party dogmas in an entirely literal sense. Thus, for instance, he limited the right legally belonging to him of appointing to office, by the principle which he never violated, that only those competitors should be considered who could show themselves to be the preferred candidates of the population. This, in the primitive condition of a territory, might be attended by the best results; but whether such a child-like idealistic democratic way of viewing things fitted one to stand at the head of a great and very peculiarly constituted civilized state, was another question.

The war with Tecumseh and his brother the Prophet led Harrison once more into the field, and made the whole nation acquainted with his name. On the 9th of November, 1811, he victoriously repulsed a nightly attack on his camp at Tippecanoe, after a long and severe struggle. The war with England then gave him an opportunity as commander of the northwestern army to measure himself with European soldiers also. In the spring of 1813, he repulsed the attack of the English and their Indian allies on Fort Meigs with great bloodshed, and on the 5th of October, he defeated them on the Thames, which defeat, in conjunction with Perry's victory over the English fleet on the 18th of August, brought the border warfare in the northwest to a close. It was an exaggeration when it was subsequently sought to vindicate for Harrison the reputation of a great general on account of these successes, but the efforts of his opponents to deny him all merit for them, and even to brand him as a poltroon, were low and contemptible. He accomplished what could be accomplished under the circumstances, and if his warlike achievements in what relates to the number of the killed and wounded, measured according to the standard of European wars, could be called only victorious skirmishes, they were attended, nevertheless, by the results of great battles,

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inasmuch as they had insured peace to a territory of enormous extent.

Harrison remained about twelve years more, with some interruptions, on the stage of public life as a member of the United States house of representatives from Ohio, as United States senator, and finally, as minister to Columbia; but he played no important part, in any way, in any of these positions. Jackson removed him from the last named position, and the deserving patriot, now fifty-six years old, became a small farmer in his adopted state, Ohio, where, to earn his daily bread, he had also to perform the duties of a clerk of the court. In the electoral campaign of 1840, his opponents did not blush to charge him with hideous things of every description, but no one dared to say that, in the many high official positions which he had filled, so much as an atom of dishonest gold had cleaved to his fingers.

One of the crutches by means of which Van Buren had limped into the vice-presidency, the senate had furnished him with by its refusal to confirm his nomination as ambassador to England. The shameful calumnies in relation to Harrison's political career, and the insipid witticisms aimed at his honorable poverty, now contributed a great deal to make him president. Louder than the musketry-fire of that November night in 1811, echoed the battle cry, "Tippecanoe!" from a thousand throats in all parts of the Union; and the log-cabin and hard cider of the farmer were the inspiring signs under which the people marched forth for him to battle and to victory. It is wrong that in this cause only for ridicule and blame was frequently found. It cannot be ignored that, under the cover of this disguise, frequently an unworthy one, lay the warmly felt and honest protest of the people against the belittling and defiling of real merit by shameless party spirit. Yet neither Tippecanoe, nor the "log cabin," nor hard cider pointed to any political idea. Harri-

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son was a name that sounded well, but it had no political meaning. Certain it is, that sublime personal honor, raised above all suspicion, should be the obvious condition precedent to bringing a name into connection with the presidency in any manner. But was it seriously believed that this was a sufficient guaranty that "Harrison and reform" would, in reality, prove to be so entirely identical as it was sought to make the people believe by the election cry? Fate waited only a few weeks to obtain the right answer from the facts, and yet no blame can be imputed to it if the short time did not suffice to destroy the ominous illusion.

How honest the illusion of the professional politicians was, that the doing away with inconsiderate party management, with the loafer and corruption in the office-system, was insured, provided a conscientious man was placed in the White House, events will show us hereafter. But even the professional politicians never pretended that this reform was the only object of the absolutely necessary change. It was not on this account that no formal programme was drawn up at Harrisburg, but because it was too well known that such a programme was unnecessary. Leaving the party out of consideration, this claim, in what concerns the candidates for the presidency, was a bold untruth. Of Harrison, as a politician or party man, the people knew so little that it was possible to debate to the last, the question to what party he had belonged. His opponents, indeed, told a shameless campaign lie when they represented him as a federalist and abolitionist; but that they could venture to tell this lie, and persevere in it to the end, shows plainly enough in what rank the "statesman" Harrison had thus far really stood.

Whether the man, now sixty-seven years old, had been, when a youth, a federalist or an anti-federalist, was, at bottom, a matter of real indifference, provided only it could at the time be said, with some certainty, what he in fact was.

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But on this very point, it was exceedingly difficult to ascertain anything further than that he was a candidate for the presidency. His letters to Sherrod Williams[1] and Harmar Denny,[2] to which he always referred those who made any inquiries of him, were made up essentially of general maxims, which might very readily have found an appropriate place in a constitutional essay. In the main, these maxims were not only correct, but they deserved, in the very highest sense of the term, to be taken to heart just at this moment. That the president should not belong to a party, but to the whole people; that one's attitude towards a political party should not act as a proscription in the matter of the appointment to federal office, and that such proscription should be brought to a close; that the president, in conflict with the spirit and the letter of the constitution, should not be elevated to the dignity of a "constituent branch of the legislature;" that the veto-power should not be used as a weapon in a stubborn and self-seeking struggle with the legislature, but only employed from honest constitutional considerations to protect a minority tyrannized over — and to guard against obviously hasty legislative action,[3] these were principles which the people could not be too frequently expressly reminded of, and up to which it was, before all things, important that they should live with the most scrupulous conscientiousness. And precisely on this account it was only praiseworthy that Harrison firmly refused to enter into any binding obligations in respect to certain individual questions; for both the position assigned to the president by the constitution and political reason

[1] Niles, LI, p. 23.

[2] Ibid., LV, pp. 360, 361.

[3] Besides the letters cited above, see his letter of the 23d of May, 1840, to C. G. Verplanck and others, and that of the 4th of November, 1836, to J. M. Berrien. Niles, LVIII, pp. 294, 295.

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required that every case which needed consideration should be considered when the moment for action had really come. However, if the character, simply, of the personage in question were the only guaranty offered, and his past, as an independently acting statesman, resembled a large sheet of paper on which only few lines were to be found, the contents of which were neither very significant nor particularly characteristic, then these generalities were not sufficient to justify unconditional confidence in his capacity. To state a political maxim correctly and to apply it rightly are very different things. But the moment Harrison dropped the academic tone and his principles assumed a half-way tangible form, they produced serious doubt as to how his theory and practice would agree with one another. The observation of the person who saw in the reëligibility of the president the only roots of all the evils of the country, could not have extended beyond that which was most external, nor his thought ever gone beyond the mere surface of things. And to the man who endeavored to recommend himself to be president by the promise that he would use all his influence to decrease the power of the executive, "the system of mutual checks" which, it was said, had found its most classical expression in the constitution, was a seven-sealed book.[1] A thing more

[1] "It has been said, that if I ever should arrive at the dignified station occupied by my opponent, I would be glad and eager to retain the power enjoyed by the president of the United States. Never, never! (Tremendous cheering.) Though averse from pledges of every sort, I here openly and before the world declare that I will use all the power and influence vested in the office of president of the Union to abridge the power and influence of the national executive! (It is impossible to describe the sensation produced by this declaration.) Is this federalism? (Cries of no, no, for several seconds.) In the constitution, that glorious charter of our liberties, there is a defect, and that defect is, the term of service of the president is not limited. This omission is the source of all the evil under which the country is laboring. If the privilege of being president of the United States had been limited to one term, the incumbent would devote all his

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serious than the usurpations of Jackson and Van Buren, was the setting up of a correction of the constitution in a direction opposed to these usurpations, as a programme in a presidential election. Usurpations by the executive were always sure of meeting with successful opposition before too long a time had elapsed; but it would have been exceedingly difficult to restore the executive to his proper constitutional place as a perfectly coördinate power, once a president himself had lent a hand to cast him down from that eminence. Harrison was right in calling himself a democrat; but the apostles of American democracy had not yet gone so far in their radical doctrinarianism. And this might be attended by consequences all the more unsalutary as Harrison's argument on his worthiness and fitness for the presidency proved that he occupied the very place on which Jackson had reared the structure of his autocratic government.[1]

The question whether a few general maxims could properly be considered sufficient to recommend Harrison with a good conscience to be president, demanded the most careful examination from yet another point of view. Were those who gave him their votes really agreed, in good faith, that

time to the public interest, and there would be no cause to misrule the country. . . . I pledge myself before heaven and earth, if elected president of these United States, to lay down at the end of the term faithfully that high trust at the feet of the people." Speech at Dayton, September 10, 1840. Niles, LIX, p. 70.

[1] "It was the voice of the people which induced him (1836) to change the peaceful and, to him, most delightful occupation of the husbandman for the troubles and mortifications incident to the situation in which they placed him. It was the same voice which had again elevated him to an equality in claims for the most exalted office not only in this nation but in the world, with the two most distinguished citizens of our country [Clay and Webster]. And however willing he might be as an individual to acknowledge their superior attainments in the science of government, he could not and would not bring himself to a level below that upon which so many honest, intelligent and patriotic citizens had placed him." Speech at a dinner at Massillon. Niles, LIV, p. 398.

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he should, in the fullest sense of the word, be president of the Union and not the head of a party? Did the opposition wish to be considered a party only in reference to the presidential election, and to commit all else to the future? Were people so bold as to wish to convince others, or so foolish as to desire to convince themselves, that the questions on which the battles of parties had turned for years and decades, could now be treated as open questions? No one made himself so ridiculous as to give a plain affirmative answer to this interrogatory. No one dared to assert that the opposition could now obtain a sufficient preponderance in congress to be able to effect a change of the nation's politics in relation to these questions, without the coöperation of the president — questions which continued the order of the day after the election as they had been before. Hence, before the election, it must have been determined, to a certain extent, how far the views of the opposition and of their candidate agreed, or else it was supposed that the people, with a confidence exceedingly unrepublican, would leave all to chance.

Much as Harrison struggled against the making of any promises whatever, he could not, therefore, help expressing himself, to a certain extent, on the most important party questions. But he, at one time, spoke in oracles which no priest could explain, and, at another, he gave expression to opinions which it would not have at all done to have allowed to reach the ears of one-half of his enthusiastic adherents. His views on the bank question might have served as a good exercise in the guessing of riddles. In 1822 he declared the charter of the bank to be absolutely unconstitutional;[1] in 1836 he promised to sign a bank bill, provided public opinion was in favor of it, and that without a bank "the

[1] In an address to his constituents, published in the "Cincinnati Inquisitor" of the 17th of September, 1822, and cited in a letter of the 15th of February, 1840, of W. C. Rives. Niles, LVIII, p. 9.

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collection and disbursement of the revenue would materially suffer;"[1] in 1840 he declared the establishment of a bank unconstitutional, unless the powers granted to the government could not be exercised without one, an opinion which he immediately explained by a reference to the declaration of 1836, which now, however, seemed changed to this, "that it was plain that the revenues of the Union could only be collected and disbursed in the most effectual way by means of a bank."[2] The only thing clear in all these expressions was

[1] In the letter to Sherrod Williams above mentioned, we read: "I would (sign a bill, with proper modifications and restrictions, for chartering a bank of the United States), if it were clearly ascertained that the public interest in relation to the collection and disbursement of the revenue would materially suffer without one, and there were unequivocal manifestations of public opinion in its favor. I think, however, the experiment should be fairly tried to ascertain whether the financial operations of the government cannot be as well carried on without the aid of a national bank. If it is not necessary for that purpose, it does not appear to me that one can be constitutionally chartered. There is no construction which I can give to the constitution which would authorize it, on the ground of affording facilities to commerce."

[2] "I am not a bank man. . . . My opinion of the power of congress to charter a national bank remains unchanged. There is not in the constitution any express grant of power for such purpose, and it could never be constitutional to exercise that power, save in the event the powers granted to congress could not be carried into effect without resorting to such an institution. (Applause.) . . . I said in my letter to Sherrod Williams that, if it was plain that the revenues of the Union could only be collected and disbursed in the most effectual way by means of a bank, and if I was clearly of opinion that the majority of the people of the United States desired such an institution, then, and then only, would I sign a bill going to charter a bank. (Shouts of applause.) I have never regarded the office of chief magistrate as conferring upon the incumbent the power of mastery over the popular will, but as granting the power to execute the properly expressed will of the people, and not to resist it. . . . The people are the best guardians of their own rights [applause], and it is the duty of their executive to abstain from interfering in or thwarting the sacred exercise of the law-making functions of their government." Speech at Dayton. Niles, LIX, p. 71.

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that Harrison like Jackson intended to consider the wishes of the "people" as his guide in the correct interpretation of the constitution, and even as the source of constitutional authority. As to the rest, every one could discover in them what best suited him, as Harrison himself was afterwards able to find in them whatever seemed good to him. The former actually happened also. Where the opposition was in favor of a bank, it was self-evident that Harrison would sign a bank bill. Where the opposition would hear nothing of a bank, it was a slander to call him the friend of a bank.[1]

In relation to the tariff, Harrison, as far back as 1836, had frankly declared that he was inviolably committed to the compromise act, although he had once been a warm defender of protective duties.[2] This, however, did not keep the specially zealous adherents of the "American system" in the north from insinuating, with great clearness, that its restoration was one of the questions the decision of which depended on the issue of the electoral campaign.[3]

[1] W. C. Rives writes: "In regard to this last allegation [that Harrison was in favor of a national bank], I think I shall be able to show you presently that it is wholly gratuitous." Niles, LVIII, p. 9. What the real whigs thought on the pledging of candidates in this respect, we shall see in the next chapter.

[2] Harrison to Messrs. Doster, Taylor and others, Zanesville, 2d of November, 1836: "I regret that my remarks of yesterday were misunderstood in relation to the tariff system. What I mean *(sic)* to convey was, that I had been a warm advocate for that system, upon its first adoption, that I still believed in the benefits it had conferred upon the country. But I certainly never had, nor never (sic) could have any idea of reviving it. What I said was, that I would not agree to the repeal as it now stands. In other words, I am for supporting the compromise act, and never will agree to its being altered or repealed." Niles, LI, p. 189.

[3] At the Bunker Hill monster convention of the 10th of November, 1840, one of the white banners of the cavalcade of Boston bore the device: "A protective tariff!" Niles, LIX, p. 44. In the description of the "whig celebration at Erie," in the "Buffalo Commercial Advertiser" of the 12th of September, 1840, we read: "Another [device] gave a strong indication

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These two examples are sufficient to justify the charge of the democrats that it was the programme of the opposition to have no programme and every programme. The elements of which the opposition was composed had, both as regards their opponents and one another, consciously and calculatingly, laid aside all political honor for the period of the electoral campaign, while the country virtually trembled under the weight of their moral pathos. But we must do them the credit of saying, even when we look closer at their candidate for the vice-presidency, that, with the skill of artists, they played the part of the chameleon, which always has the color of the spot on which it is found.[1]

of the state of feeling in the Keystone — that state which relies so strongly upon her manufactures, and which is beginning to learn something of the true American policy. It was — 'A protective tariff.'" Niles, LIX, p. 72.

[1] The "Democratic Review," August, 1842, p. 206, says: "They [the whigs] took up candidates whose 'availability' consisted chiefly in the fact that they were not thus identified with any one distinct set of political opinions, the fact to which their success was mainly due. It was in vain that we might argue against a national bank, and impute to them the design of reviving the dead policy of such an institution — in a section of the Union possessing a climate uncongenial to that idea, we are met by vehement protestations that the imputation is a falsehood and a calumny; as it was declared by no less eminent a person than General Harrison's secretary of the navy, Mr. Badger, in a public address to a state convention in North Carolina. It was in vain that we might impute to them a probability of the revival of a high-tariff policy, when their candidate for the vice-presidency was a man who had stood next door to Mr. Calhoun himself in the day of nullification. How could even the charge of an intended distribution of the proceeds of the public lands be sustained in all parts of the country, in the face of Harrison's letter, pledging himself emphatically against a disturbance of the compromise act? — evident as it was that without the revenue derived from that source the rate of duties of that act could not support the government; so that the promised maintenance of that measure necessarily involved the retention of the land fund. And where could we lay our fingers on the real responsible opinions of a party, which at the south, and at particular quarters of the north, was able to exhibit the most satisfactory evidences of diametrically opposite sentiments on such a subject as that of abolition?"

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People told how Tyler owed his nomination chiefly to the tears which pain and indignation over the issue of the intrigues in relation to the presidential candidates had drawn from his eyes;[1] that the enviers and opponents of Clay had wished to throw a sweet, enticing morsel to his embittered friends by selecting for the vice-presidency a man who had given so touching a proof of his warm friendship for the great Kentuckian.[2] This anecdote has found a lasting place in tradition as a significant historical fact, and is one of the choicest illustrations from American history of the fact that small causes sometimes produce great effects.

It is not precisely a characteristic trait of the nominating conventions to allow themselves to be influenced by sentimentality of this nature, and the rest of the action of the Harrisburg convention betrays no particular susceptibility to such impressions. Besides, there was no lack of political magnates, either in the convention or among the rest of the people, who did not need to prove now, for the first time, by tear-shedding, that they were Clay's warmest and most upright friends. And yet the names of only two or three men[3] of whom it was known, or of whom it must have been

[1] See, for instance, the article in the "New York Courier and Enquirer," in Niles, LXI, p. 232.

[2] A member of the New York convention writes to the "Courier and Enquirer:" "These efforts[to carry the nomination of Crittenden, Bell or Owen — in most cases we read Mangum]— to secure the nomination of some tried, staunch, distinguished whig, came from the delegates who had opposed the nomination of Mr. Clay for president. Their object, after the selection of a whig worthy of the vice-presidency, was to harmonize and strengthen the party. But failing to unite in convention upon some distinguished friend of Mr. Clay as vice-president, the question was referred to the 'Grand Committee.'" Niles, LXI, p. 233.

[3] Crittenden of Kentucky, Bell of Tennessee, and Mangum of North Carolina. Niles, LXI, p. 232. The "Richmond Whig" asserted that the convention had Leigh chiefly in mind. The latter contested this, and showed that, as far as his own person was concerned, the assertion was entirely baseless. l. c.

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presumed, that they would decline the honor, were mentioned, when, to the surprise of friends and enemies alike, Tyler was hit upon. It is doubtful whether this could have been accomplished so easily, and certain that the public would not have allowed themselves to be so easily satisfied with the story of Tyler's tears, were it not that, in the convention as well as out of it, the question of the vice-presidency as compared with that of presidency was looked upon as a pure bagatelle. If this had not been the case, very many whigs would have strongly opposed this choice, no matter how long or how bitterly Tyler might have wept over the treachery practiced on Clay. They now professed themselves satisfied, not, however, on Clay's account, but simply because the allies had to be paid a price for their alliance, and because their price did not seem to them too large, to say nothing of its appearing dangerous.

Tyler had been twenty-eight years in political life, and had repeatedly played so peculiar a part that his name and his views, on the most material questions, were well enough known to the whole nation. Even as a member of the house of delegates of the legislature of Virginia, he had frequently found an opportunity to acknowledge that he belonged to the more extreme advocates of the states-rights theory. When he was in the house of representatives (1816–1821), the investigation set on foot against the bank directors, and the Missouri controversy, gave him occasion to break a strong lance in defense of that doctrine in two very important questions. In the electoral campaign of 1824–25, he belonged to the Crawford party. When it was no longer doubtful that the caucus candidate could not be elected, Tyler expressed his acknowledgments to Clay that he had preferred Adams to Jackson.[1] But scarcely had Adams entered on the presidency than Tyler became one of his most decided

[1] Clay's Priv. Corresp., pp. 119, 120; also, Niles, XXXII, pp. 42, 43.

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opponents, because, in his very first message, he saw the cloven foot of Federalism show itself with such frightful distinctness. His election to the senate afforded him the opportunity to battle for his opposing views in a more efficient manner, and if he did it, no dishonorable reproach could be made him on that account, although he owed his election to the alliance of a dissatisfied portion of the reigning party with the friends of the administration.[1] He had not only given assurance that he did not by any means desire to exchange the governorship of Virginia for a seat in the senate, but he had laid great stress on the fact that, in all material points, he shared the political convictions of his fellow candidate.[2]

Tyler's perversion from being a conditional friend into a violent enemy of Adams should not, however, be construed as a transformation into an unconditional partisan of Jackson. In the three great economic questions of the bank,[3] the tariff,[4] and of internal improvements,[5] he supported his administration to the extent that it remained true to what was to be considered the orthodox democratic confession of faith according to the school of Virginia. When the president remodeled that confession to suit his own ideas, the

[1] "We understand that the friends of the administration and others will support you for the senate in opposition to Mr. Randolph." L. Banks, A. Smyth etc., to J. Tyler. Niles, XXXI, p. 341.

[2] Ibid., 341, 342.

[3] Deb. of Congr., XI, p. 483.

[4] Ibid., XI, p. 392.

[5] "I was in that congress which was the first to enter gravely into the discussion of the constitutional power of this government to make roads and canals. I then attentively weighed all that was urged by the advocates of the system — if system that may be called which is none — and my decision was against them. Every subsequent reflection has confirmed the opinion then expressed; and the experience of the last six years has satisfied me, that, in its exercise, all that is dear and should be considered sacred in our institutions is put to hazard." Deb. of Congr., X, p. 567.

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rigid doctrinarian believer from Virginia did not follow him, but opposed him with a decision which took no account of consequences. Whatever judgment we may pass on Tyler's political views and on his later action as president, the courage with which he opposed the elevation of Jackson's will to the dignity of a party programme deserves full recognition. He neither lent his hand "to make the press the prominent subject of executive favor, as of executive displeasure;"[1] nor did he now admit — simply because he had to do, not with Adams and the Panama congress, but with Jackson and a treaty with Turkey — that the president had the right, without the previous consent of the senate, to create and employ diplomatic agents.[2] In the nullification controversy, he took a bold stand against the proclamation of the president and against the "Force-Bill."[3] Even if he did not, for reasons of expediency, approve the course of South Carolina entirely, he was, in principle, unconditionally on its side.[4] To satisfy the "just" demands of the state, and to abolish the "unconstitutional" protective tariff, that

[1] Deb. of Congr., XI, p. 231.

[2] Ibid., pp. 227 seq.

[3] Ibid., XII, pp. 65–69.

[4] "No escape from tyranny is left us, for the act of resistance is treason, and the effort to secede or withdraw from a political association, which threatens to rivet upon us and our posterity the chains of despotism, is rebellion to be put down by force of arms. What then remains to the states of this Union of all their sovereignty? I will tell you: the right to petition, and on bended knees to ask for mercy; the privilege of the slave under the lash of his task master: this is all that remains. No logical mind will deny but that those are the consequences of this pernicious doctrine (which claims for the Federal government the exclusive [!?] allegiance of the citizen). The equal to this was never advanced in the highest and most palmy days of federalism." Speech made at a dinner given in Gloucester county on the 20th of March, 1833. Niles, XLIV, p. 123. T. M. Sewell proposed the following toast at this dinner: "Nullification: The rightful and, as it has proved to be, the efficient remedy." Ibid., p. 124.

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is the course finally adopted, was the only one, he was convinced, which the government of the Union could or should take.[1]

The doctrine of nullification was indeed a heresy, but no moral stain attached to its disciples in the eyes of the party. What made a scabby sheep of Tyler, in the pure democratic flock, was his resistance to the new doctrines introduced into the world by Jackson's supreme pleasure. He complained, in 1831, that he had been reviled as an opponent of the administration, and that even ordinary courtesy had been refused him; and the full vials of party anger were poured upon his head when, in the question of the deposits, he made bold to appear against the president,[2] and as the reporter of the finance committee to absolve the bank from

[1] "I thought I knew the southern man: that he was to be won more by gentleness and conciliation than by threats of violence; that he might be led, but could not be driven. I felt, too, that he was demanding but his rights, and that however impolitic or censurable South Carolina might have been in her course, yet that she demanded nothing but justice — sheer justice. The line of my conduct as the representative of a state that had twice pronounced, in solemn form, the tariff laws to be unconstitutional, was, according to my conception, clearly marked out. To the demand for swords and bayonets and cannon and muskets and armed men, to collect an unjust and unconstitutional tax, I had but one reply: do justice; repeal or modify your obnoxious laws; yield to the wishes of the whole south; do that for South Carolina and the other southern states which England has refused to do for Ireland; repeal your tithe system, imposed, not for the benefit of the parson, but the manufacturer; by a great and noble act of retribution, set a proud example to the governments of the earth." Niles, XLIV, p. 122.

[2] " . . . Can any man find his apology for ratifying the late proceedings of the executive department, in the mere fact that the bank of the United States is a great evil; that it ought never to have been created, and that it should not be rechartered? For one, I say, if it is to die, let it die by law. It is a corporate existence created by law, and, while it exists, entitled to the protection which the law throws around private rights. This, sir, is the aspect in which I regard this question." Statesm.'s Man., II, p. 1329.

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the dishonorable charges which the former had made against it, in his official utterances, and represented as demonstrated facts.[1] The turning of the party scales in Virginia finally brought about his downfall. He did not obey the instruction of the legislature to vote for Benton's "expunging resolution," but true to the states-rights democratic interpretation of the right of instruction which he always represented, he resigned his place.[2] To the last, he held inviolably to that which, up to the time of Jackson's administration, had passed as the distinctive principle of the democratic party, but in opposition to numberless others, he had never denied[3] entirely his original judgment on Jackson, and, as years passed away, he reverted to it more and more.

If the Harrisburg convention was justified in speaking of a sufficiently well known programme of the party, it was plain that Tyler had no place in that body, to say nothing of his having a place on its list of candidates. He had, indeed, after he left the senate of the legislature of Virginia, considered himself, as people liked to express themselves, a whig; but all that this really meant was, that he had acted with the opposition. Either the only programme had was, as has been already remarked, to have no programme, or the convention and Tyler played against each other, and, with the

[1] Niles, XLVII, pp. 366–368. Neither had he changed his standpoint yet in the constitutional question. To Benton's reproach that the committee had permitted itself to be made a tool of the bank, he replied: "I am opposed — have always been opposed — to the bank. In its creation I regard the constitution as having been violated, and I desire to see it expire. But the senate appointed me, with others, to inquire whether it was guilty of certain charges, and I should regard myself as the basest of mankind were I to charge it falsely." Statesm.'s Man., II, p. 1331.

[2] Feb. 29, 1836. Deb. of Congr., XII, p. 729. See the causes alleged for his resignation in Niles, L, pp. 25–27.

[3] In the letter to Clay, mentioned above, he calls him "a mere soldier — one acknowledged on all hands to be of little value as a civilian."

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people, a false game.[1] The final result would necessarily have been the same, in case they were compelled mutually to acknowledge their colors. Whether they would even then have changed their colors to any extent, in case the possibility had been contemplated, that this might become necessary on Tyler's part, cannot be definitely ascertained; but if it had been done, it would have been done only because there was room for a hope of victory only on this supposition.

Wise[2] assures us that Tyler's nomination was a compromise arranged, about one year before the convention, between Clay and the democratic opposition in Virginia.[3] He produces no original documentary evidence for the assertion, but there is external as well as internal evidence of the fact which makes it appear, so far as the chief thing is concerned,

[1] Even during Tyler's presidency, Wise, in a communication to his constituents, made the following disclosures: Between the convention at Harrisburg and the election, and while congress was in session, it was found necessary to discover with certainty what Tyler's opinions were in relation to the bank question. He, Wise, was chosen for this task. Tyler's answer "stated distinctly that his views in relation to such an institution remained unchanged, and that were he president he could never sign a charter for any such incorporation while the constitution remained in its present form." Wise showed this letter to Biddle, of Pittsburg, and to other distinguished whigs in congress, and to them it was left to say whether it should be made public. "They decided that Mr. Tyler's letter should not go before the public." The "Democratic Review," Nov., 1842, p. 504. In a note on p. 558, the "Review" changes the story to the effect that Tyler's letter "was addressed to some citizens of Alleghany county, Pennsylvania, in reply to a communication received from them, but was forwarded to Mr. Wise in the manner and for the object stated in the sketch." In the Seven Decades, p. 177, Wise repeats the story, but without mentioning the part he played in it himself.

[2] Seven Decades, pp. 157–161.

[3] Tyler had been a candidate for the vice-presidency at the previous election, and he was supported not by the White division of the democratic party only. A convention of the whigs of Maryland at Baltimore put up the "ticket" Harrison and Tyler, on the 22d of December, 1835. Niles, XLIX, pp. 283, 426.

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entirely probable. No party had an absolute majority in the legislature of Virginia, so that where such a majority was required, the independent democrats decided the issue. They made use of this favorable combination of circumstances to hold the scales in suspense, with the utmost stubbornness, in the election of a senator, because, to their great surprise and indignation, the whigs voted for Rives, Tyler's successor. As Wise relates, they then, for the first time, allowed his election to be effected, by not voting when Clay had promised to use all his influence to secure Tyler's nomination as vice-president. That they would not have surrendered their unassailable position without some consideration, may be assumed with certainty; and what far-reaching concessions Clay was now ready to make, from reasons of expediency, his correspondence informs us.[1] That he recommended

[1] He writes, December 20, 1838: "On the subject of his [Rives] reëlection, to the senate, it would be highly improper for me to interfere; but I may to you say that those with whom I have conversed out of Virginia, think that it would be attended with very good effect. . . . My own opinion is, that with a view to arrest the unfortunate divisions which exist among us, to check the progress of intrigues, and to secure concentration, action at Richmond, by the whig portion of the legislature (including, if possible, the conservatives), is highly expedient." Priv. Corresp., p. 432. More comprehensive and plainer is a letter dated December 26: "Those out of your state are struck by the fact that a coöperation between the whigs and conservatives will secure a majority against the administration; and that without it the majority may be the other way. The object, therefore, to be accomplished, if it be practicable, is to secure that majority coöperation; and to those at a distance Mr. Rives' reëlection appears to be a probable means. If it be not; if a hearty coöperation can not be produced by it; if nothing is to be gained but Mr. Rives himself, quite a different view of the question would be entertained. Mr. Rives has himself no claim upon the whigs but those which arise from his recent course; and confining the question to him alone, his expunging vote and former course would more than neutralize his recent claims. But a more extended view should be taken of the matter. If he can be used as an instrument to acquire an accession of strength that would array Virginia against the administration, the inquiry then would be, whether sound policy does not

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Rives's election is a fact, and it is unquestionable that Tyler and Clay, arm in arm, presented a better picture than Rives and Clay. Rives had placed himself in opposition to the administration neither as early nor as decidedly as Tyler, and, above all, he had allowed himself to be elected to the senate to cast the vote that Tyler had refused to cast, for the "expunging resolution" which the whigs abhorred from the bottom of their heart. Clay was certainly right when he said that the whigs would always have to remain in a hopeless minority if they wished to repel all Jackson's former partisans. In this, also, he did not entirely lose sight of the necessity that opinions should have undergone a change not in relation to persons alone. But it was not from facts, but from his wishes, that he desired to obtain an answer to the question, how far those who were converted from being opponents of the administration had advanced towards those party dogmas of the whigs which would have to be made the order of the day, as soon as the whigs began to rule. But this was the deciding point. It was, in itself, perfectly justifiable that he advocated even simple "alliances." The

demand that we should sacrifice all feelings excited by a highly exceptionable vote, in consideration of a great object to be gained for the good of our country. . . . It is manifest that, if we repel the advances of all the former members of the Jackson party to unite with us, under whatever name they may adopt, we must remain in a perpetual and hopeless minority. Should we not extend to the repentant in politics the same forgiveness which the Christian religion promises to the contrite, even in the eleventh hour? The difference between Mr. Rives and some others now incorporated in our party is, that their watches did not run together. . . . It was obvious that their [the conservatives] position was temporary, and could not be maintained for any length of time. It was at a half-way house. They must, therefore, fall back into the ranks of their old associates, or be absorbed by us. And it seems to be a prevailing opinion here, to be expedient to avail the country of the services of so many of them as we can get, either as allies or as part of our consolidated force. I should add that it is feared, if he be not reëlected, the event will operate badly out of, as well as in, Virginia." Priv. Corresp., pp. 435, 436.

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blameworthy dishonesty and gross mistake lay in this, that, in establishing conditions of these alliances, it was industriously avoided to advance one step from the question of persons to the question of things, and at the same time the question of persons was settled in such a way that sooner or later it was inevitable that men should have to come into severe collision with one another, on account of the question of things.

This internal untruth in the attitude of the united opposition determined the very peculiar character which distinguished the electoral campaign of 1840 from all others. "Down with the Tarquins — away with the spoilers"[1] — in these words we find the substance of the entire electoral campaign on the side of the whigs. But by an expenditure of time, money, invention, and exceedingly superficial enthusiasm, such as had never before been made in equal measure, this small piece of metal was drawn out into an indescribably long and exceedingly brilliant thread. It was the electoral campaign of monster meetings, of carnival pomp and doggerel verse. "Every breeze says change,"[2] said Webster, triumphantly. "The time for discussion has passed," exclaimed Clay, certain of victory.[3] Men did not try to awaken thought, to form and obtain well-grounded convictions. They argued through the senses, and made proselytes by the contagious influence exercised by the jubilation of compact masses. A journal like *Niles' Register* gave a report of twenty-three closely printed columns of the convention at Baltimore, and of these, fifteen were devoted to a description of the procession. And this is not an isolated

[1] Exclamation of the committee for the convention on the battle-field of Tippecanoe. Niles, LVIII, p. 282.

[2] "The time has come when the cry is change. Every breeze says change." Ibid., p. 158.

[3] "This is no time to argue — the time for discussion has passed — the nation has already pronounced its sentence." l. c.

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exception, but an example illustrative of the rule. Little was said of the speeches, and there was little to be said of them; but the inkstand was emptied from writing before the description of the processions on foot, on horseback, in carriages, with their banners and devices, pictures, log-cabins, hard cider-barrels, canoes, miniature steamships, giant balls, etc., was closed.[1] And what arguments, leaving the

[1] Many readers may like to see a quotation here which will make it possible for them to form a vivid idea of these doings: "Allegany, the frontier county of the state, was numerously represented, her delegation was attired in the hunting dress of her wild and extensive range of uncultivated mountains, and they were preceded by a flag of great length bearing the inscription 'Allegany' in huge letters; then followed an immense ball ten or twelve feet in diameter, rolled forward by these hardy sons of the mountains, under the direction of Capt. Shriver. The novelty of the affair, and the neat mode adopted for propelling it, constituted it an object of peculiar interest and attraction. It was pronounced, we learn, even by Mr. Clay, to be the 'lion of the day,' and permission, we further learn, has been asked by the New York delegation for its use at their celebration of the battle of Fort Meigs on the 8th of this month; and on that day it commenced rolling in that city.

"Upon the ends of the ball, on blue ground, were stars corresponding in number with the states of the Union, and throughout its wide dimensions red and white stripes were thrown, upon which various inscriptions were made; from among them we caught the following:

"OLD ALLEGANY.

"With heart and soul
This ball we roll.
May times improve
As on we move.

"This democratic ball,
Set rolling first by Benton,
Is on another track
From that it first was set on.

"Farewell, dear Van,
You're not our man:
To guide the ship,
We'll try old Tip."

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performance of the "Down with the Tarquins" out of consideration, besides these political processions, could or should have been brought forward, since as Wise rightly said,[1] the

"Tippecanoe!
And Tyler too!"

was by no means as senseless a verse as it was barbarous. What it meant, another doggerel verse told plainly enough:

"National Republicans in Tippecanoe,
And Democratic Republicans in Tyler too."

And what was the use of other arguments, since these were

"Ye officeholders, fed with pap,
Have very saucy grown;
We tell ye, sirs, we don't like that,
And mean to make it known.

"With promises we've long been fed,
But do not like the treat;
We'd rather have a little bread,
A something else to eat;
Old Allegany sent us here
To bid you all 'be of good cheer.'

"TIPPECANOE AND TYLER.

"As rolls the ball
Van's reign does fall;
And he may look
To Kinderhook;
His former friends
To other ends.

"Take care your toes
Ye loco-fo's;
As ye're in trouble
Ye may see double;
Having no bell
We roll your knell.

"STOP THAT BALL.

"The gathering ball is rolling still,
And still gathering as it rolls." Niles, LVIII, p. 155.

[1] Seven Decades, p. 175.

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attended with the best success? Was it not only the desire which so frequently clings to old age to find fault, which caused Adams to pass so acrimonious a judgment on these manifestations of universal "enthusiasm?"[1] And it certainly was not pleasant to be obliged to make so much capital now out of Harrison's military merits, after people had, for so many years, violently declaimed against the fact that Jackson, a man destitute of statesmanlike education and capacity, had been made president on account of the victory of New Orleans. If men had to accommodate themselves to this, for the sake of success, why should they not be overjoyed at the feeling which prevailed here and there, that it was not entirely worthy of a great nation to achieve victory by such means, if people really believed in their own assertion, that the continuance of the rule of the Tarquins would be the complete ruin of the republic.

What had the democrats to oppose to the unexampled enthusiasm of the opposition, which, like a fire on the parched prairie, swept everything before it? True, there was nothing lasting in this enthusiasm, but, for the moment, its flames rose high, while the democratic camp lay in the oppressive atmosphere of a cloudy November day. Van Buren had been unanimously renominated by the national convention

[1] "The members of the Baltimore whig convention are flocking to this city [Washington] by hundreds. The convention itself consisted of thousands; an immense unwieldy mass of political machinery to accomplish nothing — to form a procession polluted by a foul and unpunished murder of one of their own marshals, and by the loss of several other lives. I am assured that the number of delegates in attendance from the single state of Massachusetts, was not less than twelve hundred. And in the midst of this throng, Henry Clay, Daniel Webster, William C. Preston, senators of the United States, and four times the number of members of the house of representatives, have been two days straining their lungs and cracking their voices, to fill this multitude with windy sound, for the glorification of William Henry Harrison, and the vituperation of Martin Van Buren." Mem. of J. Q. Adams, X, p. 282.

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at Baltimore,[1] but the enthusiasm and assurances of victory paraded, were so obviously artificial that they made one shiver. What enthusiasm it possessed, the party had exhausted on Jackson, and it was utterly impossible for it to grow warm towards the smooth, cool chief engineer of the party machine. And no attempt even was made at least to put at his side a person whose name might exercise a charm over the fancy or the feelings of the masses. The last time, even, the election of the vice-president had devolved on the senate, and now the convention resolved — because of an *embarras de richesse*, it said — to make no nomination whatever. This would hardly have happened, were it not that the democrats, like the whigs, had entirely lost sight of the possibility that the vice-president might become president. But it also shows to what extent the democratic party was now held together only by the strong but brittle bonds of party discipline.

Even during Jackson's administration, another portion besides the "conservatives" had separated from the great party. The equal-rights party was built up from the ruins of an ephemeral "workingmen's party"[2] in the city of New York, under the leadership of G. H. Evans, publisher of the *Workingman's Advocate and the Man*, and W. Leggett, publisher of the *Evening Post*. So tightly were the reins

[1] See the account of this convention, Niles, LVIII, pp. 147–152.

[2] "It is but the truth to state in this place that the workingmen's party, which arose in 1828, and dissolved about two years afterwards, was the progenitor, to some extent, of the equal rights party." Byrdsall, The History of the Loco-Foco, or Equal Rights Party, p. 13. It is plain that Byrdsall will not at all admit that, as is generally said, the emancipated Fanny Wright was the real nucleus about which the party was formed, or that at least she gave the impulse to its formation. He takes no notice whatever of this assertion, but cites the designation, "Fanny Wright men," among the "contemptuous terms" in which the "sentiment of aristocracy" of their opponents found expression. Ibid., p. 29.

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of party discipline drawn that the reformers thought it necessary, at first, like conspirators, continually to change the place of their secret rendezvous, and yet they repelled the charge that they wished to establish a new faith, as a hateful calumny. According to their own statement, all they sought was to lead the democracy back to the teachings of Jefferson in their original purity, and to conform their practice to theory. This last was their unpardonable crime against the orthodox democratic church. That church would have looked away from the extravagance of their theories with a shrug of the shoulders, if they had not rebelled against the iron rule of Tammany Hall. On this point, a formal breach occurred between them. On the 29th of October, 1835, they succeeded, by a well planned surprise, in defeating Tammany Hall completely in a nominating meeting. After a long and disorderly scuffle with them, Tammany Hall recognized the impossibility of carrying the nomination of candidates chosen in secret conclave, left the hall and turned off the gas. But even for this, their opponents were prepared. The candles they had taken with them were soon lighted, and illuminated the hall well enough to lead the meeting to a satisfactory close. The saving matches (loco-foco matches) gave the party the name of the loco-focos; but their victory had no further practical consequence but their excommunication. The new party was arrayed in the habiliments of a real bugbear. "Agrarians" was the accursed name to be fastened on them, and to make them an abomination in the eyes of all those who took any interest in law or social order.[1]

[1] "Led by the same necessity, or pushing the same principles still farther, and with a kind of revolutionary rapidity, we have seen the rights of property not only assailed, but denied; the boldest agrarian notions put forth; the power of transmission from father to son openly denounced; the right of one to participate in the earnings of another, to the rejection of the natural claims of his own children, asserted as a fundamental principle

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Care was naturally taken not to define the horrible idea too accurately;[1] it was sufficient that it signified, beyond a doubt, a monstrous socialistic-communistic something. But this was doing altogether too much honor to the loco-focos. They were honest radical doctrinarians, with an admixture of ambitious and hungry companions, who endeavored to attain to power and get to the crib in an irregular way, because they did not succeed in doing so in the regular manner. They did not think of reorganizing society on newly discovered principles, even if the literal carrying out of their theories would, in many respects, have turned the world upside down. But even force would not have been able to carry out their theories thus literally for a single moment, and they never harbored the wish to attempt to carry them out by force. They were, indeed, from the very first, an entirely genuine branch of the tree of the democractic party, and not a poisonous sprig engrafted on it. Their doctrines were nothing but exaggerations of the dogmas of the party. The party opposed the national bank, and the loco-focos would hear nothing of any kind of a bank or of any "monopoly." The democratic party opposed the protective tariff, and the loco-focos demanded complete freedom of trade. When the former struggled for a reform of the currency, the latter favored only hard money. If with the former, the equality of all men had become a lying form behind which the despotism of the wire-pullers lay hid, the latter soothed themselves with the pious illusion

of the new democracy: and all this by those who are in the pay of government, receiving large salaries, and whose offices would be nearly sinecures, but for the labor performed in the attempt to give currency to these principles and these opinions." Webst.'s Works, II, p. 46.

[1] It is an interesting fact that subsequently the abolitionists and republicans were branded by the slavocrats as "agrarians." See especially the article signed "Python," in "De Bow's Review," which the editor praises in a ridiculous manner.

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that the principle of "natural equal rights" in all things could be enforced in the life of a great civilized state actually and with patriarchal simplicity.[1] Under these circumstances, it was impossible that they should continue long to have the proud distinction of a separate existence as a party. The loco-focos voted down their high pretensions in relation to the consonance of theory and practice, and stood aloof from the temptation to lift the "regular" organization from off its hinges; and the universal democratic church learned not only to tolerate the loco-foco heresies, but permitted itself to be inoculated with its poison, somewhat diluted, without offering any great resistance. After a few years, loco-foco meant only a shading in the party, with very indistinct limits, and at last it came to be nothing but a pithy expression used by their opponents, which they flung at those democrats also who, like Van Buren himself, had at one time been severely and unmercifully censured by the real loco-focos.[2] And although we meet with the name on every

[1] See the resolutions and "declarations of principles" in Byrdsall, pp. 27, 39-42, 57, 58, etc.

[2] In June, 1836, the democratic candidates, Van Buren and R. M. Johnson, were called upon to express their views on the principles of the loco-focos. A convention of the latter said of the answers received: "The letter of R: M. Johnson is amply satisfactory, while that of Mr. Van Buren is not so, to any true democrat." And, therefore, it resolved "that the party would adopt no presidential ticket." Byrdsall, pp. 60, 61. The whigs, on the other hand, represented Van Buren as an arch-loco-foco. The "Democratic Review," writes in October, 1838, p. 111: "It must have struck every one, that as soon as the opposition succeeded in propagating extensively the belief that the administration was hostile to the rights of property, it was left in a minority, and it can only recover its predominance by dint of disproving the accusation." Still these charges played a part even in the electoral campaign of 1840. Thus, for instance, we read in the resolutions of an opposition meeting in Washington, of the 15th of February, 1840: "The purpose of the executive to array one portion of the community in hostility to another, by official invocations of an agrarian and anarchical spirit," etc. Niles, LVIII, p. 20.

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page of the history of the period, the whole movement was of but very small importance. The chief interest to which it can lay claim is, that it was the first reminder that even the unsurpassable party discipline of the democrats and the selfish interests of professional politicians alone could not suffice to hold the party lastingly together. The deeper cause of the nerveless halting position it assumed in the electoral campaign of 1840, was that these were almost the only bands that held it together. A party whose programme is limited only to the preservation of that which has been already obtained, is at the beginning of its end. But the democratic party had no longer any aim the prosecution of which would have given it a right to further existence. It perhaps succeeded, at times, in proposing to itself a new aim in which an idea found expression that might, and even must, have furnished a basis for a division of the nation into parties. At present it had nothing to offer to the people but more or less unhappy attempts at a refutation of the charges made against it, just as the opposition had nothing to offer but these charges.[1]

[1] It made a great many promises, but said nothing of the measures by which these promises were to be fulfilled. "The fact of his [Harrison's] election alone, without reference to the measures of his administration, will powerfully contribute to the security and happiness of the people. It will bring assurance of the cessation of that long series of disastrous experiments which have so greatly afflicted the people. Confidence will immediately revive, credit will be restored, active business will return, prices of products will rise; and the people will feel and know that, instead of their servants being occupied in devising measures of their ruin and destruction, they will be assiduously employed in promoting their welfare and prosperity." Clay's speech at Hanover, July 10, 1840. Woodbury's Writ., I, pp. 153, 154. "Carrying out the idea that the reëlection of Mr. Van Buren would be the signal for the downfall of all prices, the ruin of all industry, and the destruction of all labor, the newspapers in all the trading districts began to abound with such advertisements as these: 'The subscriber will pay six dollars a barrel for flour if Harrison is elected, and three dollars if Van Buren is.' 'The subscriber will pay five dollars

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There was no doubt, long before the election, that the opposition would win the day; but even the most extravagant expectations fell far short of the triumph it was destined to celebrate. Van Buren received only sixty of the two hundred and ninety-four electoral votes.[1] But nothing could be inferred from these figures as to the real state of party affairs. The popular vote stood, one million two hundred and sixty-nine thousand seven hundred and sixty-three, against one million one hundred and twenty-six thousand one hundred and thirty-seven.[2] A majority of one hundred and forty-three thousand six hundred and twenty-six was certainly very considerable, but no one could reason himself into the belief that the regular democratic party was crushed. It had all the less reason to give up all hope, as three hundred and sixty-one thousand three hundred and ninety more votes were now cast than had been for the Van Buren electors in 1836. When the democrats wanted to prove from this that the opposition could have won only by fraud,[3] the attempt

a hundred for pork if Harrison is elected, and two and a half if Van Buren is.' And so on through the whole catalogue of marketable articles, and through the different kinds of labor; and these advertisements were signed by respectable men, large dealers in the articles mentioned, and well able to fix the market price for them." Benton, Thirty Years' View, II, p. 205.

[1] Deb. of Congr., XIV, p. 250.

[2] Niles, LIX, p. 273.

[3] The "Democratic Review," November, 1840, pp. 390, 391, says: "On the subject of the actual frauds in the election, to which the whole result is almost solely ascribed by no inconsiderable opinion among our party — and by not a few of those whom we cannot deny to be better capable than we can claim to be ourselves, of forming an intelligent judgment in relation to it — we have here nothing to say. We have indeed but slender faith in the political integrity of a very large proportion of the party leaders and active managers and manœuvres, among our opponents . . . and when, moreover, we cast an eye over the long enumeration which has been given in the columns of the democratic press, uncontradicted by their opponents, so far as we have been able to observe, of the counties in different states in which the number of votes polled has actually exceeded by two, three, four,

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was not only ridiculous, but they could not themselves even believe in the truth of the statement.[1] That election frauds occurred on both sides is very probable. This was a charge which the parties had for years laid at each other's door,[2]

five, six, seven, eight, nine, hundreds, the whole number of males above the age of twenty-one, as ascertained by the census of the same year . . . we cannot but confess the force of the opinion to which we have referred, which ascribes the general result to simple fraud in the election, as singly sufficient, and as alone adequate, to explain all the incomprehensible mystery attaching to it." Similarly C. C. Clay, of Alabama, in his letter of resignation of the 12th of November, 1841. Niles, LXI, p. 219.

[1] Benton writes: "He [Van Buren] seemed to have been abandoned by the people! On the contrary, he had been unprecedently supported by them — had received a larger popular vote than ever had been given to any president before! and three hundred and sixty-four thousand votes more than he himself had received at the previous presidential election when he beat the same General Harrison fourteen thousand votes. Here was a startling fact, and one to excite inquiry in the public mind. How could there be such overwhelming defeat with such an enormous increase of strength on the democratic side? This question pressed itself upon every thinking mind; and it was impossible to give it a solution consistent with the honor and purity of the elective franchise. For, after making all allowance for the greater number of voters brought out on this occasion than at the previous election by the extraordinary exertions now made to bring them out, yet there would still be required a great number to make up the five hundred and sixty thousand votes which General Harrison received over and above his vote of four years before. The belief of false and fraudulent votes was deep-seated, and, in fact, susceptible of proof in many instances." Thirty Years' View, II, p. 207. Here not a word is said of the fact that in 1836 Van Buren and Harrison were only two of five candidates, and that White, Webster and Mangum received, together, no fewer than sixty-one electoral votes. Benton could not have forgotten this. His exposition must make on the not accurately instructed reader the impression that this silence looks very much like a conscious and intentional falsification of history.

[2] "I will state, in brief, that the returning officers and judges of elections, friendly to the administration, have been publicly accused (1838), upon ample testimony, of making false returns, and of otherwise showing foul play in the late elections in New Jersey, Pennsylvania and Maryland. And doubtless the same practices exist elsewhere, under the same vicious

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and men who were not actuated by party spirit considered it only too well founded.[1] But to wish to charge that the opposition in this election had cast one hundred and forty-four thousand fraudulent votes more than the democrats was evidently absurd. The opposition had no reason, on this account, to fear that the scales would turn again the next time, because it would be better understood how to watch them closely. The "revolution" in public opinion of which it had had so much to say, was not of great importance, spite of the enthusiasm and the large majorities. It now, in the first moment of intoxication, forgot everything, but during the electoral campaign its leaders had whispered into each other's ears that the people were being "humbugged;"[2] and now, too, that all the opponents of

patronage announced by Mr. Buchanan." R. Mayo, Political Sketches of Eight Years in Washington, p. 38. "Although I know of no instance of any individual coming from another state into ours to vote, yet I have been informed, from sources in which I place the utmost reliance, that extensive arrangements were concerted among a portion of the citizens of another state to come into Illinois for that purpose at our recent election for president and vice-president. . . . The startling frauds which have recently been perpetrated in New York and other places for the destruction of these sacred rights," etc. Message of Governor Carlin, of Illinois. Hazard's U. S. Commercial and Statistical Register, December, 1840, III, p. 429.

[1] Adams writes on the 19th of December, 1838: "Charges of gross fraud and corruption in the election returns of Philadelphia were made by both parties against each other, *neuter falso* — both true. . . . Fraud and violence have thus been introduced into our elections and have signally triumphed." Mem. of J. Q. Adams, X, pp. 69, 70.

[2] "We shall choose General Harrison, if no untoward event occurs between this time and November. But we are to have bad times, whoever may be in or whoever out. The people have been cajoled and humbugged. All parties have played off so many poor popular contrivances against each other, that I am afraid the public mind has become in a lamentable degree warped from correct principles, and turned away to the contemplation merely of momentary expedients, not only in regard to men, but to things

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the Jackson-Van Buren regime gave themselves up to unbounded jubilation, the old man Adams shook his head sorrowfully, and asked how long it would be before this great soap bubble, with the varying splendor of its colors, would burst.[1]

"No one knows what is coming." Such was the label of the time. In the case of both parties, symptoms of incipient dissolution increased. If their programmes had not as yet seen their day entirely, it was not from them that the binding cement in the first place came. Parties struggled for supremacy for supremacy's sake. The electoral campaign of 1840 was more excited than any that had preceded it,[2] but in what concerns principles and great political ideas it presents, as compared with all previous campaigns, the picture of a desolate waste. And yet how different was the time from the "era of good understanding" which had followed the dissolution of the federalist party! The politicians were concerned only to rule, but the political life of the nation was not wanting in questions deserving of as warm, tense and devoted a struggle as any question about which the battles of parties had ever been fought. Clay's attitude towards the slavery question had cost him the last prospect of success in the New England states, and the bold

also." Mr. Webster to Mr. Everett, Feb. 16, 1840. Priv. Corresp. of D. Webster, II, p. 76.

[1] "Mutual gratulation at the downfall of the Jackson-Van Buren administration is the universal theme of conversation. One can hardly imagine the degree of detestation in which they are both held. No one knows what is to come. In four years from this time the successor may be equally detested. He is not the choice of three-fourths of those who have elected him. His present popularity is all artificial. There is little confidence in his talents or his firmness." Mem. of J. Q. Adams, X, p. 366.

[2] "The whole country throughout the Union is in a state of agitation upon the approaching presidential election such as was never before witnessed." Mem. of J. Q. Adams, X, p. 351.

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invention that Harrison was an abolitionist[1] stood, more than anything else, in his way, in the south. The person who wished to read the future of the country, from the numbers of the presidential election of 1840, should not have stopped at the electoral vote and at the numbers which went beyond a million. Weightier than these were the not quite seven thousand votes[2] cast for Birney and Earle, the candidates of the liberty party.

[1] "Among the numerous charges which have been put in circulation against you by the presses and partisans of Mr. Van Buren, the two most relied upon and deemed most potent in the south, are — that you are a federalist and an abolitionist." J. Lyons to Gen. Harrison. Niles, LVIII, p. 247.

[2] Goodell, Slavery and Anti-Slavery, p. 471.

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CHAPTER VI.

TYLER'S ADMINISTRATION.

The six months' jubilee with which the whigs had celebrated the promised redemption of the state in advance,[1] was brought to a worthy close by the inauguration of Harrison.[2] Yet a glimpse behind the curtain showed that, from the moment of victory, the rosy light began to turn into the deeper tints which announce to the seaman the coming of a sharp wind on the morrow. Many things suggested the fear that the icy north-east wind which blew during the festivities of the inauguration, was an evil omen.

The chiefs of departments were instructed, in the name of the president, through a circular written by Webster, who, as secretary of state, stood at the head of the cabinet, to inform their subordinates, that, henceforth, any abuse of their official positions for purposes of political agitation would be considered a cause for dismissal.[3] Harrison, therefore, seemed disposed to remember the promises of reform made by the party longer than did Jackson the good advice he had

[1] "If one could imagine a whole nation declaring a holiday or season of rollicking for a period of six or eight months, and giving themselves up during the whole time to the wildest freaks of fun and frolic, caring nothing for business, singing, dancing, and carousing night and day, he might have some faint notion of the extraordinary scenes of 1840." N. Sargent, Public Men and Events, II, pp. 107, 108.

[2] "The inauguration of William Henry Harrison as president of the United States was celebrated with demonstrations of popular feeling unexampled since that of Washington in 1789. . . . The coup-d'oeil of this day was showy-shabby. . . . General Harrison was on a mean-looking white horse." Mem. of J. Q. Adams, X, p. 439.

[3] March 20, 1841. Niles, LX, pp. 51, 52.

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given Monroe. The character of the president was such as to permit no doubt that he honestly entertained the desire to live up to the principles expressed in the circular. But if the circular announced an irrevocable resolution, and if he remained really true to it, he was, to say the least, equal to Jackson in iron energy. While Jackson had struggled only with his opponents, Harrison would have thus begun as hot a contest with his own adherents. But the log-rollers and lobbyists did not allow the leaders of the party to doubt, for a single day, that to them "change," in and of itself, meant the reform which was demanded and promised. It was as if they could not demonstrate quickly and thoroughly enough that it was not the personal turpitude of the democrats which was the cause of the evil, but that the system itself was based on a wrong principle and suffered therefrom. Seven weeks before the inauguration, John Bell, of Tennessee, who had been chosen to be secretary of war, admitted that the cry for office convinced him that the politicians thought only of power and plunder.[1] Clay, for personal reasons, refused to recommend any one for office, but said that even if there were forty-eight hours to the day, he would not have had time enough to give attention to all applications.[2] Crittenden, the designated attorney-general, did not see the matter in so bad a light — probably because he was ready to admit that many had "just claims."[3] Ten days in office, however,

[1] "I am growing pretty sick already of this thing of office in my own case, and the increasing tide of application from new quarters that daily beats against my ears, gives me spasms. In truth, I begin to fear that we are at last, or rather that our leading politicians are in the several states, chiefly swayed by the thirst for power and plunder. Would you think that Senator Talmadge is willing to descend from the senate to the New York custom-house? This is yet a secret, but it is true!" J. Bell to Gov. Letcher, Washington, Jan. 13, 1841. Coleman, Life of J. J. Crittenden, I, p. 136.

[2] Clay to Fr. Brooke, Feb. 5, 1841; Priv. Corresp., p. 451.

[3] "I begin already to perceive that even he who has power to dispose of

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sufficed to wring from him the confession that the hungry swarm could be satisfied only by a miracle.[1] The crowd of political beggars was so wild that they were charged with causing the death of the president.[2]

Therefore, before the whigs could begin to carry out their programme, they had ceased, in respect to one of its most essential points, to form a compact party. And this was not the only point at which their internal dissolution began, before a prank of fate, by an unexpected event, gave an external impulse thereto.

Clay had not sat in a pouting-place during the electoral campaign. He had, however, by no means, gotten over the mortification he had endured. The imputation that he would enter the cabinet of his more fortunate but unequal rival, he unconditionally repelled. Harrison approached him with a great deal of tact, but yet with a certain reserve which betrayed an uncomfortable doubt, bordering on distrust, as to the attitude which the man who had been so many years the head of the party would assume towards him.[3] Clay took

all the offices, is only made to feel more sensibly the poverty of his means to satisfy the just claims of his friends. Although, as yet, it does not seem to me that any extraordinary avidity for office has been disclosed, yet I must confess that the number of claimants far surpasses my expectation." Crittenden to Gov. Letcher, Jan. 25, 1841; Coleman, l. c., I, p. 140.

[1] "We are laboring along and endeavoring to keep the peace among the office-seekers; but nothing less than a miracle could so multiply our offices and patronage as to enable us to feed the hungry crowd that are pressed upon us." Crittenden to Gov. Letcher, March 14, 1841; Coleman, I, p. 149.

[2] Sargent, Public Men and Events, II, p. 121, mentions this charge, and with comical gravity proves its groundlessness. Woodbury said in the senate in June, 1841: "They [the vandal hordes of office-seekers] are represented as more voracious for office than the most famished harpies, and to have helped destroy already one president, and, if not made of iron, will embitter the life of his successor." Woodb.'s Writ., I, p. 128.

[3] In a letter of the 15th of November, 1840, Harrison leaves it to Clay to decide whether they would not do best to exchange views through the me-

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the hand that was tendered him, with an equal degree of reserve. He assured Harrison of his honest support, and promised, always to let him know first what attitude he thought of assuming on important questions. But he warned him, at the same time, against lending his ear to the intriguers who were already endeavoring to force them apart, and who would, in the future, strive still harder to incense them against each other.

There was good reason for the warning. In a letter to the president, of the 15th of March, 1841, Clay complained, in a bitter and angry tone, that the latter had, a few days before, intimated to him that people were afraid that he (Clay) wanted to play the part of mentor to the new administration.[1] Harrison, on the contrary, as Sargent relates, requested Clay to avoid frequent interviews with him, and rather to deal with him in writing.[2]

Clay was wrong in attributing his differences with the president entirely to tale-bearers, busy as these, in all probability, were. Little as Harrison was free from over-estimating himself, he sufficiently appreciated Clay's intellectual superiority, and the advantage which experience and his well-earned position in the party gave him, not to be able to divest himself of the fear that the ambitious and hot-blooded Kentuckian would feel tempted to make him play the part of a figurant. That Clay could not and would not entirely forget his own personality, in the interest of the country or of party, he had shown by his refusal to enter the administration. And if he, notwithstanding, remained in the senate, he certainly did not think of surrendering the leadership

diation of a mutual friend, since their "personal meeting might give rise to speculations, and even jealousies, which it might be well to avoid." Clay, Priv. Corresp., p. 446.

[1] Clay, Priv. Corresp., pp. 452, 453.

[2] Public Men and Events, II, p. 116.

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there. This was all the less to be expected, as his only equal rival now held the helm. Public opinion was certainly correct in the conviction that Clay and Webster would very eagerly strive for the presidency, now as well as before. And between them stood the fortunate possessor with the secret, gnawing feeling that he was indebted for his triumph over the two "giants" to his harmless mediocrity.[1] This situation was created by the Harrisburg convention, and it necessarily involved strife, or at least a quiet but earnest underhand game of chess. Now, Clay's greatest weakness in political tactics was always that he did not know how to hold himself back when it was his duty to do so. Why should he now have left the field entirely, from the first, to the allied opponents?[2] Even if calm deliberation should have made him doubtful whether such was not, after all, the wisest course, his temperament would never have allowed the thought to be acted on. The moment he became certain that the next four years belonged to the whigs, his temperament misled him to proclaim, with imprudent warmth and offensive bluntness, what a clean sweep was to be made, and that he intended to handle the broom himself.

"Clay crows too much over a fallen foe," writes Adams in his diary.[3] On the 14th of December, 1840, he moved that the law relating to the independent treasury should be abolished "immediately."[4] That this congress would not accede

[1] According to Sargent, II, p. 114, Harrison intended to offer no place in his cabinet to Webster, after Clay had declined his call, but that the latter had made him change his mind. Clay also, Priv. Corresp., p. 447, intimates the same, but does not clearly express it.

[2] That Clay now announced that he intended to remain only a short time in the senate, is not, in my opinion, of importance. He often made such assertions without considering himself bound by them in any way. And if, as a matter of fact, he soon retired to private life, the fact proves nothing, since the situation had then entirely changed.

[3] Mem. of J. Q. Adams, X, p. 387.

[4] Deb. of Congr., XIV, p. 158.

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to the proposal, there was so little doubt, that it was looked upon only as a scornful cry of victory. Considering the absence of tact and the evidence of bad taste it displayed, it might have been dismissed with a shrug of the shoulders. But Clay grounded his proposition on the claim, that the people had declared, in the election, by an immense majority, against the independent treasury.[1] Calhoun entered his most energetic protest against this mode of argument, to which the whigs had fully committed themselves, and against which they had fiercely fought, during Jackson's administration.[2] As if because the whigs were now in command, the whirlpools in the sea of public affairs had grown less violent or its rocks had become less dangerous. The interpretation to put on Clay's course was that, so far as it depended on him, moderation and self-control were not to be expected from the next congress. So far as Harrison was true to his promise to be the president not of a party but of the nation, the inevitableness of a conflict between the official and the actual head of the whigs was a foregone conclusion, and this irrespective of personal relations.

What attitude the people would assume in such a conflict could not be accurately told in advance, for the people, in

[1] " . . . but on one point it was impossible there could be diversity of opinion, either here or elsewhere, and that is, that this nation, by one of the most tremendous majorities ever given in our nation's annals, whatever else it may have decided, has decided against this sub-treasury measure." l. c.

[2] "The election decided nothing but that General Harrison should be elected president for the next term; and he entered his solemn protest against the attempt to make any other inference the basis of our official action; and, in doing so, he but took the ground taken by the senator [Clay] and those with whom he acted, when it was attempted to construe in a similar manner a former election to have decided against the renewal of the charter of the United States bank, and in favor of certain measures to which he was opposed. He regarded every attempt at such inference to be dangerous and unconstitutional." Ibid., p. 161.

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fact, had only decided that there should be a change, and had effected the change, in accordance with the dictates of the politicians, under the ægis of Harrison.[1] Harrison's death, after a short illness, and precisely one month after his inauguration, therefore, made, at bottom, no difference in the real decision of the people. Spite of this, his death made a very deep impression throughout the entire country, one out of all proportion to the estimation in which he was personally held. No president had ever before died in office. Hence the provisions of the constitution which, in such case, transferred the functions of the president to the vice-president, were for the first time subjected to a practical test. From the most various quarters people hastened to say how completely they had lost sight of the possibility of such a contingency.[2] No one questioned the fact, but the fact was no excuse. Yet, of itself, it does not suffice to explain the intense excitement with which both parties looked into the near future. This feeling can be accounted for only by the peculiarities of the man on whom fortune now bestowed the doubtful favor of unexpected preferment.

The masses might, in great part, as Kennedy claims, have found a satisfactory proof that Tyler was a genuine whig in the fact that he was a member of the Harrisburg convention, and was nominated by it. The politicians were better informed. When they afterwards acted as if they considered it self-evident that Tyler would zealously coöperate in

[1] Sargent, the rigid whig, and a fellow-actor, as a dreaded publicist, under the pseudonym of Oliver Oldschool, writes: "General Harrison was but the figure-head. . . . Few had ever heard of him. . . . As to his fitness for the presidency, the people knew nothing and cared nothing. A change in the government was what they desired and were determined to have." Sargent, l. c., II, p. 110.

[2] Mem. of J. Q. Adams, X, p. 457; Kennedy, Defence of the Whigs; Statesm.'s Man., II, p. 1522; the "Richmond Whig," Niles, LXI, p. 232; B W. Leigh, ibid., p. 233, etc.

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carrying out the strict whig programme, they boldly deceived the masses, who did not know what was done before the convention or during it, behind the scenes. There is no lack of documentary evidence to prove how perfectly well the initiated knew that, with Tyler, the executive power had come into the possession of the minority of the whig-tinctured democratic opposition, whose alliance was paid for with the honorable but not very important position of the vice-presidency. From the very first, they anxiously asked themselves how far he was now ready to act as the representative of the majority of the coalition.

Adams, who, in all great economic controversies, was a decided whig, expressed his conviction, in his diary, on the very day of Harrison's death, that no promotion of the interests of the country was to be expected from Tyler.[1] Cushing, who was soon one of the most prominent members of Tyler's "corporal's guard," was very reserved, the following day, on the probable policy of the new administration.[2] Dickinson, one of the most influential New York politicians, came to Washington and endeavored to ascertain what was

[1] "Tyler is a political sectarian, of the slave-driving, Virginian, Jeffersonian school, principled against all improvement, with all the interests and passions and vices of slavery rooted in his moral and political constitution; with talents not above mediocrity, and a spirit incapable of expansion to the dimensions of the station upon which he has been cast by the hand of Providence, unseen through the apparent agency of chance." Mem. of J. Q. Adams, April 4, 1841, X, p. 457. On the 6th of April, he adds: "Slavery, temperance, land-jobbing, bankruptcy, and sundry controversies with Great Britain, constitute the material for the history of John Tyler's administration. But the improvement of the condition of man will form no part of his policy, and the improvement of his country will be an object of his most inveterate and inflexible opposition." Ibid., p. 459.

[2] "Conversing with him [Cushing] on various political topics, I found him doubting what will now be the principles of the administration substituted for that of General Harrison, and very reserved in the expression of his own opinions." Ibid., p. 458.

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to be expected in relation to the economic questions, from the president.[1] Clay wrote to his friend Brooke that he started for Washington with great hopes, but that doubts concerning the attitude of the executive did not allow him to be free from fear.[2]

Tyler had as yet said nothing publicly or officially from which any conclusion as to his intentions could be drawn with certainty. What he had said was so studiedly vague that it could only be assumed, either that he desired to keep the people in the dark concerning his plans, or that he had not yet come to any decision as to what his programme should be. In my opinion, both assumptions were true, but the fact that he had not decided on his programme was, at first, the preponderating cause.

From the very first sentences of the address which Tyler issued to the people, on the 9th of April, it was plain enough that he, no less than the whigs, contemplated from the beginning the probability of a conflict.[3] But at what definite

[1] ". . . He [Dickinson] manifested great anxiety to know what were the intentions and the expectations of the administration with regard to a national bank, a tariff, and the distribution among the states of the proceeds of the public lands. I told him I knew nothing more upon these subjects than was to be gathered from the newspapers." April 13, ibid., p. 461.

[2] "I repair to my post in the senate with strong hopes, not, however, unmixed with fears. If the executive will cordially coöperate in carrying out the whig measures, all will be well. Otherwise, everything is at hazard." May 14, 1841. Clay, Priv. Corresp., p. 454. Hence, what Clay said in his speech on the first bank-veto was simply not true: "It [the address of the 9th of April] was emphatically a whig address, from beginning to end; every inch of it was whig, and was patriotic. . . . Entertaining this opinion of the address, I came to Washington, at the commencement of the session, with the most confident and buoyant hopes that the whigs would be able to carry all their prominent measures, and especially a bank of the United States, by far that one of the greatest immediate importance. I anticipated nothing but cordial coöperation between the two departments of government." Sp., II, pp. 493, 494.

[3] "The spirit of faction which is directly opposed to the spirit of a lofty

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point he expected the conflict to break out was not apparent from the smooth generalities of the address. It is, indeed, true that the eyes of both parties remained involuntarily fastened on the passage which treated of "the restoration of a sound circulating medium."[1] But both parties found in their comprehension of it, sufficient support for the interpretation which suited them best. That there were democrats afterwards who, in hearty agreement with the whigs, claimed that it was understood as an unconditional engagement to follow a purely whig policy, and that it could not have been understood in any other way,[2] was a subsequent distortion of the facts, with a purpose. The democrats

patriotism, may find in this [that he was the first vice-president who had attained to the presidency] occasion for assaults upon my administration. And in succeeding, under circumstances so sudden and unexpected, and to responsibilities so greatly augmented, to the administration of public affairs, I shall place in the intelligence and patriotism of the people my only sure reliance." Statesm.'s Man., II, p. 1337.

[1] "I shall promptly give my sanction to any constitutional measure which, originating in congress, shall have for its object the restoration of a sound circulating medium. . . . In deciding upon the adaptation of any such measure to the end proposed, as well as its conformity to the constitution, I shall resort to the fathers of the great republican school for advice and instruction, to be drawn from their sage views of our system of government, and the light of their ever glorious example." Statesm.'s Man., II, p. 1339.

[2] "The concluding part of this paragraph, in which the new president declares that, in looking to the constitutionality and expediency of a national bank, he should look for advice and instruction to the example of the fathers of the republic, he was understood as declaring that he would not be governed by his own former opinions against a national bank, but by the example of Washington, a signer of the constitution (who signed the charter of the first national bank); and by the example of Mr. Madison, another signer of the constitution, who, yielding to precedent and the authority of judicial decisions, had signed the charter for the second bank, notwithstanding his early constitutional objections to it." Benton, Thirty Years' View, II, p. 213. It will not escape the reader that Benton puts Tyler's declarations in an entirely different light by substituting "the fathers of the republic" for "the fathers of the great republican school."

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rejoiced over the services which Tyler had done them; but when they were called upon to give proofs of their gratitude for the same, there were many of them who did not at all care to purge him from the reproach of being a traitor.[1]

On the 31st of May, the extraordinary session of congress called by Harrison convened. The message of the president went one step farther than the address, but it, too, was very far from clearly stating his position. The hopes of the democrats were raised by the formal declaration that Jackson's and Van Buren's bank policy, so far as it was a negative one, had undoubtedly been approved by the people. But, spite of this admission, it was possible to put any meaning one wished on the message. An equal number of ayes and nays were placed in the box, thoroughly mingled and thrown on the table in a motley pile, to be freely chosen from. Every

[1] Adams says: "The feud between the president and the two houses of congress, festering ever since a special providence placed John Tyler in the presidential chair." Mem. of J. Q. Adams, X, p. 531. Botts, of Virginia, indeed, relates all kinds of things concerning very definite promises of Tyler in regard to the bank question. He tells how, on the night of the 2d of March, they had, as bed-fellows, a long conversation on political subjects, in which Tyler declared that if the passage of a bank bill should depend on his vote, he would be found at the height of a representative of the nation and sacrifice the views he had fought for as the representative of Virginia. The vice-president, he said, had repeated this declaration the following day in presence of several gentlemen. But it should not be forgotten that Botts was not only one of the most enraged whigs, but that when he made these revelations he was a bitter personal enemy of Tyler, and that he could not name any of these several gentlemen. Besides, Botts himself said that Tyler had expressed the hope that he would not be placed in such a situation as to have to cast his vote on a bank bill, and that he had further said to him, before these gentlemen: "Don't you commit me too far on that subject." It appears from this statement that, on the one hand, the whigs felt by no means sure of Tyler, and, on the other, that Tyler had not yet formed any firm resolution as to what he would do, if circumstances compelled him to come to a decision. Jno. M. Botts, to the Editors of the "Whig," May 8, 1843. Niles, LXIV, p. 216.

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experiment hitherto made, said the president, had been passed on, one after the other, by the people, and the last election gave no clue to what the people now desired. He would leave the entire matter to congress, and reserve to himself only the privilege of rejecting the decisions of congress on constitutional grounds, or grounds of expediency.[1]

Only this much could be said with certainty, that the president, like the whigs, wished the repeal of the law relating to the independent treasury, and that he considered the creation of an institution on which should be devolved certain functions which had belonged to the duties of the former national bank necessary. The whigs, however, were entitled to assume that Tyler was prepared to leave the character of this latter institution pretty nearly like that of a national bank. One could not but suppose that the president and secretary of the treasury would act in unison on this important question, and Ewing's report of the second of June, 1841, expressly advocated a bank.[2] At the close, Ewing,

[1] "Thus, in the short period of eight years, the popular voice may be regarded as having successively condemned each of the three schemes of finance to which I have adverted. . . . What is now to be regarded as the judgment of the American people on this whole subject, I have no accurate means of determining but by appealing to their more immediate representatives. The late contest, which terminated in the election of General Harrison to the presidency, was decided on principles well known and openly declared; and while the sub-treasury received in the result the most decided condemnation, yet no other scheme of finance seemed to have been concurred in. To you, then, who have come more directly from the body of our common constituents, I submit the entire question, as best qualified to give a full exposition of their wishes and opinions. I shall be ready to concur with you in the adoption of such a system as you may propose, reserving to myself the ultimate power of rejecting any measure which may, in my view of it, conflict with the constitution, or otherwise jeopard the prosperity of the country — a power which I could not part with even if I would, but which I will not believe any act of yours will call into requisition." Statesm.'s Man., II, pp. 1345, 1346.

[2] ". . . experience has demonstrated the superior utility of a bank

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however, suggested that it was necessary to take the old constitutional misgivings, and the question of the expediency of the institution, into consideration, if the end was to be attained.[1]

Had the whigs only the material interests of the country in view, and had they been capable of sober deliberation, they could not but have taken this warning intimation to heart. Even if the president were morally bound to support their policy to the extent which they claimed, it would have been to their best interest to have made it as easy for him as possible to do so. Even if Tyler had been a second Washington, it would have cost him a hard struggle to act, as president, directly in opposition to the views which he had battled for, for years, in congress. But the demeanor of the leading whigs by no means evinced any anxious desire to meet him half way, and to facilitate the further development of his metamorphosis out of a radical democrat into a presentable whig. Even the unusual manner in which Clay announced to congress what his task for the session was, awakened the suspicion that he considered himself the rightful possessor of the supreme command.[2] This suspicion was not weakened by the report which he now made as chairman

constituted and adopted by congress as a fiscal agent. . . . In whatever point of light the undersigned is able to view this subject, he is irresistibly led to the conclusion that such fiscal agent, so framed as to possess those important functions, is alike essential to the wants of the treasury and of the community. . . . The undersigned has no doubt of the power of congress to create such an institution." Niles, LX, p. 234. Ewing's bank plan is printed in Deb. of Congr., XIV, pp. 296, 297.

[1] "If such an institution can be so conceived in principle and guarded in its details as to remove all scruples touching the question of constitutional power, and thus avoid the objections which have been urged against those heretofore created by congress, it will, in the opinion of the undersigned, produce the happiest results." Niles, l. c.

[2] See his "programme resolutions" of June 7. Deb. of Congr., XIV, pp. 291, 292.

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of the senate committee on the bank question. The committee declared all further discussion on the constitutionality or expediency of a bank to be superfluous, and this not only because all that could be said on the subject had been said already, many a time, but also because it was unquestionable that a great majority of the people answered both questions in the affirmative.[1] In accordance with the known wishes of the president, he chose Washington as the seat of the bank. On the much more important question of the right of the bank to establish branch banks, the committee, on the other hand, declared it to be irreconcilable with its duty to make the establishment of such banks, according to the proposition of the secretary of the treasury, dependent on the consent of the several states.

The president and the committee of the senate, therefore, had very different views as to what might be inferred from the presidential election of the previous year, concerning the attitude of the people towards the bank question. We have already seen, from the history of the electoral campaign, that Tyler's view was unquestionably the correct one. It suffices, therefore, to bring forward only two other direct witnesses in proof of this, who are of importance for the proper understanding of the following events. Ewing had, in July, 1840, declared it to be a shameless and absurd piece of democratic trickery, to make the people believe that there was question of the bank controversy in the election.[2] And

[1] "On both, it is the deliberate conviction of the committee that a vast majority of the people of the United States concur; and that they are now looking, with anxious solicitude, to the deliberations of congress, under the confident hope that a bank of the United States will be established at the present extraordinary session of congress." Niles, LX, p. 258.

[2] T. Ewing to L. D. Barker, Lancaster, July 18, 1840: "My Dear Sir: On my return from Columbus this evening, I received your letter informing me that it was asserted at a public meeting in Washington county, that, in a speech at Philadelphia, I had said the true question between the

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Wise — like Tyler, a political hybrid, but preponderantly whig — had, in January, 1841, strongly inveighed against the calling of congress, in extraordinary session, and the forcing of the bank question prematurely, that is, before the people had taken any decided position in regard to it, to a decision.[1]

The success attending the bill of the committee in the senate afforded no proof of the "immense majority of the people" who, it was alleged, were waiting with anxious impatience for the establishment of a bank. The bill was passed by a vote of only twenty-six against twenty-three,[2] and two senators abstained from voting, because, although, speaking generally, they wanted a bank, they considered the consent of the states necessary to the establishment of branch banks, while two other senators would vote for the bill only on condition that this power was granted to the bank absolutely.[3] In the house several whigs voted against the bill, and Proffit, of Indiana, assures us that no one was satisfied with it.[4]

parties was a bank of the United States, and that you, from a knowledge of the real question and of me, had contradicted the assertion. In this, of course, you were perfectly safe. I made no such statement, but the very contrary. I avowed that the true question was and is the restriction or extension of the executive power. .. . . I said that our opponents were attempting to make the question of a bank the issue between the two parties. I spoke of the impudence and absurdity of the attempt. That a bank was not, and never had been, considered by us anything more than a mere matter of convenience — a useful article of furniture in our noble edifice." Niles, LXI, p. 95.

[1] "Sir, I yield to no man in friendship to a properly organized, properly located, and well managed national bank. And, as a friend to that measure, I inveigh especially against urging it prematurely, and in the midst of pressure. If you press it too eagerly, too hastily, at the wrong time, you will lose the question for twenty years to come." Niles, LX, p. 407.

[2] Deb. of Congr., XIV, p. 324.

[3] Wise's speech of the 6th of August, 1841, in the house of representatives. Niles, LX, p. 407. On reconsideration, the bill received only twenty-five against twenty-four votes. Deb. of Congr., XIV, p. 359.

[4] "The first bill that passed all acknowledged to be a most contemptible affair. I voted for it reluctantly. Several of the most prominent whigs

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It was tacitly admitted that the bill had, in fact, met the wishes of no portion of any party. The principal cause of this was, obviously, the contested fact, that the wishes and views of the people, in relation to this whole question, were in a state of dissolution, and that, therefore, there was nothing to be said of definitely ascertaining what the popular will demanded. But this alone was not a sufficient explanation, since Clay, at first, manifested so little zeal to seek a mediating understanding from the side which came most into consideration. It may be that the essential difficulties would have proved too great in any case; but no attempt had been made, with the proper earnestness and in the proper spirit, to overcome them. Under the pressure of entirely personal motives, people, on both sides, had fallen into the malignant currents of the politics of moods. The controlling whigs were now concerned, above all things, with pushing a bank law through: its provisions were a matter of secondary consideration.

Proffit made the charge that all the work of the session tended, in the first place, towards "president-making." As he belonged to the president's political body-guard, the charge should have been directed only against the president's opponents. But the arrow rebounded against the archer. Adams, with almost exaggerated care, kept his hands clean of all president-making, and yet, long before the meeting of congress, he had come to the conviction that the great aim of all Tyler's policy would be to effect his reëlection.[1] Others

in this house voted against it. Not a single one approved of the bill. I can well understand, sir, how unwilling its framers were to make an issue on the fate of that bill." Niles, LXI, p. 93.

[1] He writes on the 20th of April: "In my conversation with Mr. Bell last evening, I had reason to conclude that the policy of Mr. Tyler will look exclusively to his own election for the next four years' term as president, and that of Webster will be to secure it for him; that Mr. Clay will be left to fight his own battles with the land bill, without aid or support

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shared this opinion, and immediately endeavored to use the peculiar position of the president between the parties, to build up a third party, in which they might play the principal part. Benton relates that Gilmer, of Virginia, made overtures tending in this direction to one of the whigs in the house of representatives, as early as in the first week of the session.[1] The history of Tyler's administration and the part played in it by Gilmer make the correctness of the allegation seem entirely probable. That the hot-headed ex-governor of Virginia should have been so incautious in his zeal as to apply to the wrong man gives no ground for doubt. Tyler himself was so preoccupied with his ambitious plans, that he was not able to bridle his tongue, and he, also, immediately opened his heart to the wrong man. The account given by Botts[2] of his conversation with the president, on the third day of the session, enters into details to such an extent, and bears so much the impress of the complete honesty of the teller, that one cannot help considering it essentially faithful to the truth, although the coloring is presumably too strong, and, of course, to Tyler's disadvantage. In this conversation, it was said, Tyler raised the question, why he should confine himself to a four years' presidency, and not contemplate one of twelve. The first four years were only Harrison's term of office, and might very well be followed by two other terms of office in his own right, so to speak. Into the discussion of this question, it was said, the president

from the admininistration; and that between Tyler and Webster there will be a concert of mutual concession between the north and the south. Clay will soon be in unequivocal opposition, and the administration will waddle along, living from hand to mouth, for as to any great, commanding and compact system, Webster is 'a great baby,' and Ewing is another. Of course, this administration will be a failure, and a general bankruptcy is impending." Mem. of J. Q. Adams, X, p. 465.

[1] Thirty Years' View, II, p. 342.

[2] Niles, LXIV, pp. 214, 215.

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had caused to creep the further suggestion, that Botts might coöperate to make Webster the "strong man" in the south, and thus pave the way for him to the White House.

Whatever truth this compromising testimony may have contained, the accusation was universally looked upon as entirely well founded. But Clay was firmly resolved not to allow himself to be forced out of the whig candidacy, in 1844, by any one, and least of all, by the accidental president. His partisans stood by him firmly. Their acrimony over the defeat at Harrisburg, which seemed cured by the brilliant electoral victory, was awakened anew by Harrison's death. The first faint signs, therefore, that Tyler entertained the thought of employing the power accidentally obtained in order to maintain himself in it, produced among Clay's partisans a feeling of irritation which promised nothing good. And, added to this, was the well founded fear that the party would see after so long a struggle, the fruits of the victory finally obtained spoiled. Before the work of legislation was taken up, men on both sides had gotten into such a state of mind as made dispassionate consideration impossible. There was an uninterrupted grumbling and vexation, not on both sides only, but on all three sides. Tyler had as yet done no official act to bring himself in open conflict with the whigs, and yet there was already a broad gap between them, scarcely bridged over by a few unsafe planks. As early as the 2d of June, Botts reproached Tyler because he had surrendered himself to a "back-stairs influence."[1] On the 4th of July, Clay expressed a fear that Tyler's heresies would endanger the existence of the whig party.[2] The *Rich-*

[1] Niles, LXIV, p. 215.

[2] "Mr. Tyler's opinions about a bank are giving us great trouble. Indeed, they not only threaten a defeat on that measure, but endanger the permanency and the ascendency of the whig cause." Priv. Corresp., p. 454.

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mond Enquirer, on the other hand, endeavored to prove to Tyler that every imaginable consideration should determine him to go with the democrats,[1] and on the 27th of July, Gilmer complained, in the house of representatives, that both Tyler and himself had been proscribed by the whigs.[2]

It was considered almost a foregone conclusion that the bank bill would be sent back with the president's veto. Ewing admitted that he had not, from the first, expected its approval.[3] Yet the charge that Clay's party sought a controversy with Tyler is probably exaggerated.[4] But they certainly did not get out of his way, for they must have been informed how the attitude of the president was judged by the members of the cabinet. At the risk of a complete rupture, they ventured to put him to a test which, in the opinion of the secretary of the treasury, would be found too severe. They did, however, believe in the possibility of success. But if there were really such a possibility, one of their own leaders was responsible for its destruction.

In a letter of the 10th of August, Botts implored the president to reconsider his supposed resolve, and to sign the

[1] "Mr. Tyler's principles, duties, policy, interests, are all with us, if he can only see them. But will he see them? We hope and trust he will not throw himself into the arms of the federal whigs." Statesm.'s Man., II, p. 1522.

[2] "Then came Gilmer, of Virginia, with what was called his valedictory to the whig party. He did not know what the whig party was, and complained of being proscribed himself, and of the president's being proscribed, by the whigs." Mem. of J. Q. Adams, X, p. 515.

[3] "I . . . rather hoped than expected your approval. I knew the extent to which you were committed on the question. I knew the pertinacity with which you adhered to your expressed opinions, and I dreaded from the first the most disastrous consequences, when the project of compromise which I presented at an early day was rejected." Ewing's letter of resignation of the 11th of September, 1841. Niles, LXI, p. 33.

[4] Proffit says: "And I repeat that, from the first meeting of congress up to this hour, there has been a determination on the part of some gentlemen to create an issue with the president." Ibid., p. 93.

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bill. He based his petition on the claim that a veto would be followed by the resignation of the present cabinet, and that the formation of a new whig cabinet or of a democratic cabinet would be impossible; that Tyler would have to fall back upon "the fragment of seceders," and, as these could never win the confidence of the country, be finally compelled to resign himself.[1]

Tyler had too little firmness of character and too much vanity to be able to face the reproach, that he had become unfaithful to his earlier convictions, because he did not dare to defy the whigs. But it was with him as with a great many others: he admired himself most for those qualities in which he was lacking — strength of character and unselfish devotion to the cause. The fact that the knife was now aimed so directly at his breast made him obstinate. It not unfrequently happens that vanity rushes with impatient zeal into resolves before which the lack of moral courage had long hesitated. The thought of looking at himself as the unflinching martyr to firmness of conviction and fidelity to duty was, to a great extent, compensation for the unpleasantness and dangers of the coming storm.

On the 16th of August, the senate received the returned bill with the veto assigning the reasons for its return.[2] The

[1] "You would be thrown back then on the fragment of seceders, 'the republican portion of the whig party,' as they style themselves. Now, let me ask you, could you rally around you a cabinet of such men from that party, so distributed through or selected from the different sections of the country, as would command the confidence or respect of the country? If not, in what condition would you be placed? But, if you could, what measure could be adopted for carrying on the financial operations of the government? The sub-treasury is repealed; and the deposit system of 1836 is also repealed in one house, and will pass the other; congress will not consent to take the plan suggested by the secretary of the treasury. Will you not find it impossible to carry on the government, and will not a resignation be forced upon you?" Ibid., p. 79.

[2] Statesm.'s Man., II, pp. 1352–1356.

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president compressed his constitutional objections to it, into the one sentence, that, according to the bill, the bank should operate, in a direct manner, over the whole Union.[1] What he meant by this not very clear criticism may be inferred with considerable definitiveness from the commentary on the sixteenth section, in which the opposing views on the right to establish branch banks were, in a very strange manner, tangled together. Ewing, indeed, asserted later, that Tyler, in his conversations with him, had entirely approved this very section.[2] Be this as it may, the reasoning of the veto message against it was irrefutable, and Tyler's chief alarm was evidently that, in regard to this question of the branch banks, the right of the sovereign states seemed to him to be infringed.

As the veto surprised no one, and the negotiations for a new bill were begun on the same day, the whigs held their tongues pretty severely in check. Clay, who had wanted to speak on the veto, on the 18th of August, postponed his speech, to the following day, that he might not exert a disturbing influence on the transactions carried on in the cabinet, on a compromise between the president and congress. He did not, however, keep himself from certain sallies, which must have not only wounded Tyler personally, but which betrayed the fact that he (Clay) at bottom shared the opinions developed by Botts in his letter of the 10th of August. According to him, also, there was only one possibility for the president: submission to the will of the majority of congress. Tyler, Clay said, might have allowed the bill to become a law without his signature,[3] and he reminded him of the good example he (Tyler) had given when he resigned his seat in the senate because he would not obey the instruc-

[1] To operate *per se* over the Union.
[2] Niles, LXI, p. 33.
[3] Clay's Sp., II, p. 500.

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tions of Virginia which were contrary to his own convictions.[1]

But without the consent of the president, no bank could be established. Unless the establishment of one were renounced, therefore, it was necessary to make advances to him. He seemed to desire to make this easy. Before he had sent the first veto to the senate, he told the two secretaries, Ewing and Bell, that congress might, in a short space of time, obtain his signature to a bank bill.[2] On the evening of the same day, he agreed with Alexander A. Stuart, of Virginia, on the essential conditions on which he would fulfill this promise.[3] On the 18th of August, and after Tyler had had a long consultation with Berrien and Sergeant as representatives of the whigs of both houses of congress, there was a cabinet meeting. In the cabinet, the demands of the president were discussed in detail, and Ewing and Webster were commissioned by him to treat with Berrien and Sergeant on the basis of these demands. The whigs claimed that the new bill had been made by them to conform entirely to the wishes of the president, which had been made known to them in this way, and they acted, therefore, as if there could be no doubt of its approval.

The investigation of the question, whether and to what extent that claim was justified, would require a great deal of space, and, considering the nature of the testimony before us, would lead to no certain result. From a historical point of view, however, it is not of much importance, since any result could only place the one or the other element which might be established without it, in a stronger light. In my opinion, the bill did not fully and honestly fulfill the condi-

[1] Clay's Sp., II., p. 503.

[2] See Ewing's letter of resignation and the "Statement" which Bell added to his letter to Gates and Seaton. Niles, LXI, pp 33, 53.

[3] See Stuart's Statement; Benton, Thirty Years' View, II, p. 344.

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tions made by Tyler, but the latter swelled up the differences in an improper measure, because he regretted his promise. But if we would place ourselves entirely in the position of the one party or the other to this hotly contested controversy, we would have to admit that both parties were to blame for the failure of the attempt at a compromise, and that, from the first, the successful issue of that attempt was improbable in the highest degree.

On the very day that the bill passed the senate,[1] Adams said it was a "certainty" that it would be vetoed a second time.[2] There were not many able to see so clearly, but every member of congress must have been perfectly well informed, that, from the very first moment, its approval was exceedingly doubtful if not improbable. If the whigs made a show of the opposite conviction, their doing so was demonstrably a lying mask. On their side, as well as on Tyler's, the transaction was saturated with mistrust, recklessness, insincerity, and intrigue which feared the light.

Every day had brought new evidence that Tyler's resolutions were no steadier than the direction of the weather-vane. On the morning of the 17th of August, he had asked Bell for some information in relation to the anticipated advantage that the bank contemplated by him would be to the war department. When Bell, that evening, handed him the desired information, the president gave him to understand that he had become doubtful whether he would sign any bank-bill.[3] In the cabinet meeting of the 18th of August, he expressed the wish that the whole matter might be postponed to the next session of congress,[4] and then fixed the basis on which Webster

[1] Sept. 3, Deb. of Congr., XIV, p. 367.

[2] "The senate this day passed the fiscal corporation bill — twenty-seven to twenty-two — with a certainty that it will be vetoed by President Tyler." Mem. of J. Q. Adams, XI, p. 4.

[3] Bell's Statement, Niles, LXI, p. 54.

[4] Ewing's Letter, ibid., p. 33.

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and Ewing were to treat with Berrien and Sergeant. When the bill had passed the house, he demanded from both secretaries just named a written discussion of its constitutionality. Before he had obtained it, he told certain members of the house that he would rather cut off his right hand than sign the bill.[1] He urged the cabinet more strongly to effect the postponement of the question, but refused to bind himself for the future by any promise.

What kind of an engine it was that threw this imaginary Cato hither and thither like a ball was well enough known. It was well known how firmly the kitchen cabinet had established itself in the White House,[2] and how easy, to that kitchen cabinet, the reception which the first veto message had met with from the great crowd of the democrats had made the task of conjuring up before the vain ambition of the president, the most alluring pictures.[3] And even if the wind could be taken out of the sails of these tale-bearers, it

[1] Ewing's letter, Niles, LXI, p. 34.

[2] "There is a rumor abroad that a cabal exists — a new sort of kitchen cabinet, whose object is the dissolution of the regular cabinet — the dissolution of the whig party — the dispersion of congress, without accomplishing any of the great purposes of the extra session, and a total change, in fact, in the whole face of our political affairs." Clay's Sp., II, p. 512.

[3] Even before the first veto, a speaker in a democratic mass meeting in New York said: "He hoped that John Tyler would listen to the respectful remonstrance of 30,000 of his fellow citizens in New York, and veto the bank bill if it passed both houses. (Uproarious cheering.) And, if he did, he, for one, whig though he believed him to be, would vote for him for the next president of the United States. (Loud and continued cheering.) If John Tyler stood by the people without respect to party, the people would stand by him. (Cheers on cheers, and some dissenting.) And he would be elected president by the most tremendous majority ever given in this country. (Loud cheering.)" And another speaker exclaimed: "I have always been a democrat — always voted with my party — but if John Tyler stands by the people of Israel and leads them out of the land of Egypt, and out of the house of bondage, so help us God, I will vote for him for the next president, party or no party." Niles, LX, pp. 361, 362

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was plainly necessary that Tyler should have time to grow sober. The personal relations between him and the leading whigs were not yet broken off, and another effort might, therefore, be made cautiously and quietly to open his eyes to the fact that the following of the advice of those bad friends would infallibly be his political death. But as the whigs would not at all have it, that they had laid the cuckoo's egg in their own nest themselves, they looked upon it as an outrageous and unheard of imputation, that they should teach the political bastard, with an expenditure of so much patience and forbearance, to play the right tune. They not only declined peremptorily to postpone the question, but with unexampled disregard of consequences, they urged it on to a decision, a second time. By this means, they not only gave the lie themselves to their pretended participation in the wishes of the president, but they also proved that they wished to force him to come to a final decision on the question, whether he would be directed by them in his economic policy, or whether he wished to have nothing more to do with them.

On Saturday, the 21st of August, after twelve o'clock in the day, Sergeant, in the house, moved the new bill as an amendment to the old. Why this form was chosen appeared from the further motion to close the debates at four o'clock, "in committee of the whole," to proceed to a vote and lay the adopted amendments before the house. This wild chase would not have been possible with an independent bill, since, by the rules of the house, each bill has to be read three times, and each reading to be had on a different day. When Roosevelt, of New York, pilloried this party tyranny by the motion to substitute the word "immediately" for "four o'clock," Sergeant extended the time to Monday at four o'clock. The scandal was thus modified somewhat, but nothing changed in the matter.[1] Rhett, of South Carolina,

[1] Ch. Brown, of Pennsylvania, said: "The bill . . . was only laid

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therefore, asked leave to abstain from voting, and based his request on the declaration that, in the case of a bill of the greatest importance, thirty-eight pages long, this mode of procedure was a virtual destruction of the constitutional right of discussion. But the majority did not permit themselves to be misled. They closed the debate on Monday as the clock struck four, after the greater part of the short space of time had been taken up by speakers from among themselves.

The senate did not lag behind the house. The house bill would have been referred to the committee who had projected the first bank bill, were it not that it pleased Clay better to take things easily on the pouting-stool. The president of the senate, Southard, of New Jersey, was, therefore, instructed to appoint another committee, and he composed it exclusively of friends of the bank-law — a course for which more than fifty years' history of the senate afforded but one single precedent.[1]

The democrats had never done anything worse than this

upon their desks about half an hour before — not ten minutes preceding the resolution prescribing the time when it was to be voted upon; and this bill contained thirty-eight pages. It was said to be a new measure — the creation of a new species of institution, a fiscal corporation, hitherto entirely unknown in this country, either in state legislation or that of this government. How, then, can any member now, before he reads it, before he knows what it is, or what it is not, say that he will be fully prepared to give his final vote upon it in one or two days? Why should he be made to say, before the discussion has been begun, before the first word is spoken, or even the bill itself brought under the consideration of the house, that he will, at a particular hour and minute, vote upon it? . . . They might as well have been asked to vote on the bill yesterday, before they saw it, or on any other bill that the majority might introduce, at any time before they were seen or known. . . . It might turn out to be a war between the administration proper, at the other end of the avenue, and the administration improper, at this end of the avenue; and there was abundant evidence that this was the only object of the bill." Deb. of Congr., XIV, p. 363.

[1] Benton, Thirty Years' View, II, p. 337.

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in the days of their power. But this brutal waste of power had, presumably, no further influence on the issue of the struggle. The bottom had been knocked out of the barrel even before this, and once more it was Botts, the hot-headed and indiscreet, who wielded the lash. On the 16th of August, but before the veto message had been handed in, he had written a letter to Richmond, in which he spoke of the president as a good-for-nothing school-boy, who would be made to feel the lash of the strict whigs, according to his deserts. With great self-assurance, he announced that the matter would be settled that same evening.[1]

An officious hand sent Tyler a copy of this letter, which immediately found its way to the press. The effect which it had on the president was obvious. Ewing relates that Tyler's intimations that he would veto the second bill also, had been first made after the letter had reached him,[2] and Webster directly expresses the conviction that the veto was to be ascribed to it.[3]

[1] "He has turned, and twisted, and changed his ground so often in his conversations, that it is difficult to conjecture which of the absurdities he will rest his veto upon. . . . Our Captain Tyler is making a desperate effort to set himself up with the loco-focos, but he'll be headed yet, and I regret to say, it will end badly for him. He will be an object of execration with both parties; with the one, for vetoing our bill, which was bad enough — with the other, for signing a worse one; but he is hardly entitled to sympathy. . . . The veto will be received without a word, laid on the table, and ordered to be printed. To-night we must and will settle matters, as quietly as possible, but they must be settled. You'll get a bank bill, I think, but one that will serve only to fasten him, and to which no stock will be subscribed; and when he finds out that he is not wiser in banking than all the rest of the world, we may get a better. The excitement here is tremendous, but it will be smothered for the present." Statesm.'s Man. II, pp. 1516, 1517.

[2] Niles, LXI, p. 34.

[3] Mem. of J. Q. Adams, XI, p. 14. In a letter of the 25th of August, 1841, to the two senators from Massachusetts, Webster had urgently advised that the bank question should be adjourned to the next session, in consequence of the letter of Botts. "From that moment, I felt that it was the duty of

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Ewing was certainly right when he said that Botts's arrogant boorishness had nothing to do with the constitutional grounds on which the veto of the 9th of September was based.[1] If that letter was really the occasion of the veto, Tyler unquestionably deserved the severest blame. Notwithstanding this, Tyler was perfectly justified, as president, in feeling himself greatly insulted by the letter, and in giving expression to this feeling in his action, provided he did so only in the proper place and in the proper manner. It was incontestable that the letter, both in tone and contents, was entirely in harmony with the manner in which the majority had treated the president in reference to the bank question, and both the tone and substance of the letter clearly manifested an intention to force the president from his constitutional position as a power coördinate with congress. But, on the other hand, as a man, the president had scarcely any ground of complaint; for, so far as insulting absence of tact, undignified agitation through the press, and contemptible trickery, from a safe place of ambush, were concerned, he had himself sinned much more grievously. For weeks, the *New York Herald* regaled the scandal-seekers with reports from Washington, which exhibited the president in a halo of glory, and dragged the cabinet around in the dust. The reports showed so accurate a knowledge of the most private matters, that they must have proceeded from Tyler's immediate environment;[2]

the whigs to forbear from pressing the bank bill further, at the present time. . . . A decisive rebuke ought, in my judgment, to be given to the intimation, from whatever quarter, of a disposition among the whigs to embarrass the president. This is the main ground of my opinion; and such a rebuke, I think, would be found in the general resolution of the party to postpone further proceedings on the subject to the next session, now only a little more than three months off." Niles, LXI, p. 55.

[1] Statesm.'s Man., II, pp. 1356–1359.

[2] Ewing writes: "During this season of deep feeling and earnest exertion upon our part, while we were zealously devoting our talents and influence to serve and sustain you, the very secrets of our cabinet councils

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and Webster asserted that Tyler's sons were the probable culprits.[1]

On the 11th of September, four members of the cabinet which Tyler had inherited from Harrison — Ewing, Bell, Badger and Crittenden — handed in their resignation. Crittenden contented himself with sending a letter couched in few and general terms. The others, on the contrary, expressly said, in their exhaustive statement of reasons,[2] that they would not have considered a difference of opinion with the president on the constitutionality or expediency of a bank, of itself, a sufficient ground for their withdrawal. They based their resignation entirely on the want of uprightness which Tyler had shown during all these transactions, and on the want of consideration with which he had treated them personally, while they were pending. Notwithstanding this, Webster claimed that this simultaneous resignation would force the people to choose between Clay and Tyler.[3] Webster himself declared to the representatives of Massachusetts in congress that, in his opinion, there was no reason why he should resign,[4] but asked their advice before he came to a final decision. They unanimously called on him to remain in office.[5] Adams based his advice — as Webster subsequently did his resolve — on the controversies pending with England, to settle which he was peculiarly well adapted.[6]

made their appearance in an infamous paper, printed in a neighboring city, the columns of which were daily charged with flattery of yourself and foul abuse of your cabinet."

[1] Mem. of J. Q. Adams, XI, p. 14. See, also, p. 16.

[2] These were, in part, not contained in the letters of resignation, but were sent to the press after a few days.

[3] "It was a Clay movement to make up an issue before the people against Tyler." Mem. of J. Q. Adams, XI, p. 14.

[4] Benton said it was "entirely certain" that Webster at first declared himself ready to withdraw with his colleagues, but does not produce a single witness for the statement. Thirty Years' View, II, pp. 354, 356.

[5] Mem. of J. Q. Adams, XI, p. 14.

[6] "He [Cushing] knew that my advice to Mr. Webster to retain his

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Webster's resolve determined a portion of the northern whigs to comport themselves with a certain reserve and moderation. The rest of the whigs, on the other hand, and especially those from the west, now gave full rein to their wrath.[1] They were not satisfied with venting all their gall during the last hours of the session on Tyler's "perfidy" and "treason." Immediately after the adjournment of congress, there appeared an address of the "whig representatives in the two houses of congress" to the people.[2] Only about fifty members had attended the caucus[3] which had resolved on this "manifesto." As no objection was raised to it,[4] it had to be taken as a declaration of the party's position, which was thus determined by the more extreme portion of it.

place last September . . . was founded exclusively on the belief that Mr. Webster's signally conciliatory temper and disposition towards England was indispensably necessary to save us from a most disastrous and calamitous war upon that wretched question about the state right of New York to hang McLeod." Ibid., p. 36. The result confirmed the view of Adams and his colleagues. The negotiations with England, carried on by Webster, are the most brilliant side of Tyler's administration. Neither the McLeod matter nor the northeastern boundary question is without its interest from the point of view of constitutional law. But as they exercised no influence on the political development of the Union, it seems proper to pass them over here, and to treat of them in the part which shall contain the systematic exposition of the constitutional law of the Union. The other controversies with England we shall meet later in connection with other events.

[1] J. J. Crittenden to R. P. Letcher, Washington, Sept. 11, 1841: "There is great firmness and great excitement among the whigs in congress, and a more resolute union among them, except, perhaps, as to a portion of the northern whigs, who are held in a sort of neutrality and suspense by the course of Mr. Webster. The whig members from the great west are, to a man, united, fierce and denunciatory towards Mr. Tyler." Coleman, Life of Crittenden, I. I have forgotten to note the page.

[2] Niles, LXI, pp. 35 and 36.

[3] Mem. of J. Q. Adams, XI, p. 35.

[4] The Cushing's counter manifesto cannot be looked upon as such, as he had previously gone over entirely to the "corporal's guard."

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This fact could not be covered up by the unctuous assurance that, now as well as previously, the measures of the administration were weighed without prejudice, and should meet with opposition only when "a high sense of public duty" demanded it.[1] The address did not assume the position to which the retiring members of the cabinet had committed themselves. Every word of it breathed war, and a war in which, as in the contests with Jackson, the fundamental principles of the constitution were in issue. Of course, the address also severely and unreservedly censured Tyler's indirect, reserved course, in befooling congress and the nation, for over three months, holding them in suspense between yes and no. But it did not stop here. It announced the formal and complete separation of the whig party from the president,[2] for the reason that he had opposed the bank policy of congress. And the address saw in this not only a betrayal of the party to whose policy, it claimed, Tyler had unconditionally pledged himself, but declared it to be an attempt also by the executive on the legislative power, if not in contravention of the letter, in contravention of the spirit of the constitution. It not only complained that the president had made use of his veto power in this instance, but condemned the fact that he could make use of the veto power in such cases. It declared war not only against the existing

[1] "And it will be the duty of the whigs, in and out of congress, to give to his official acts and measures fair and full consideration, approving them and coöperating in their support where they can, and differing from and opposing any of them only from a high sense of public duty."

[2] " . . . We are constrained to say, that the president . . has voluntarily separated himself from those by whose exertions and suffrages he was elevated to that office through which he reached his present exalted station. . . . The first consequence is, that those who brought the president into power can be no longer, in any manner or degree, justly held responsible or blamed for the administration of the executive branch of the government; and that the president and his advisers should be exclusively hereafter deemed accountable."

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veto power,[1] but it represented it to be the duty of the party to bring about its lasting curtailment on principle, so as henceforth to secure the "obedience" of the executive to the "public will" as it found expression in congress.[2]

Half a year had passed since the whigs had taken hold of the helm, and the unprincipled policy which had selected "change" for its programme, in order to bring all the elements of the opposition under one captain, had reaped a very rich harvest. The breach between the party and the president had taken place; the action of the president as well as of the party was in great part crippled before it had rightly begun, and the condition of the party had received a blow, the after-effects of which escaped all calculation. On the left were the democrats, full of contempt for the two-fold half-renegadism of the president, but making the very most of it; without the moral responsibility of the governing majority, but exercising a greater influence on legislation than a minority ever did before; in the centre, the chief of the republic, surrounded by a little crowd of unscrupulous aspirants, vainly wearing himself out in the endeavor with the help of the spoils-cement to form a compound of both party programmes as the basis of a third party, a Tyler party; to the right, the

[1] "We grieve to say to you that by the exercise of that power in the constitution which has ever been regarded with suspicion, and often with odium, by the people — a power which we had hoped was never to be exhibited on this subject — we have been defeated in two attempts to create a fiscal agent. . . . The brazen-faced assertion is then made: "Twice have we, with the utmost diligence and *deliberation*, matured a plan for the collection," etc., etc.

[2] "At the head of the duties which remain for the whigs to perform towards their country, stands conspicuously and preëminently above all others: First, a reduction of the executive power, by a further limitation of the veto, so as to secure obedience to the public will, as that shall be expressed by the immediate representatives of the people and the states, with no other control than that which is indispensable to avert hasty or unconstitutional legislation."

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whigs, blindly embittered at their own powerless supremacy, grasping at the radical democratic thunder of their opponents, and perverting the principle of resistance to the usurpations of the executive into the principle of the establishment of the omnipotence of congress.

If this mad entangled set of dancers continued to move with the same rapidity for over three years more, they would dance pretty close to party anarchy. But this was provided for. Back of the politicians stood the people, and the people by no means shared the excitement of the politicians. And this very fact contributed materially to drive the excitement of the politicians to fever heat. The whigs not only saw themselves deprived of the hoped-for fruits of the last victory, but they also feared for the existence of their party.[1] If this fear were not an empty phantom, there was only one imaginable reason for it: the whigs acknowledged in their hearts that there was not an "immense majority of the people" who wanted a bank, but that rather an indifference had begun to prevail in relation to it which did not seem to permit a coming together anew of the party, at least on the ground of this question, unless the possibility afforded by the last elections could be turned to account. So far as it depended on the bank question, another and more violent final catastrophe in party affairs was not probable, but it was to be expected that the whig party would be attacked by consumption. But if the whigs perished from the absence of a programme, the days of the old democratic party also were necessarily numbered, for then and on that account, their programme also would have lost its capacity to

[1] Adams writes, a few days after the first veto: "The veto message and its inevitable consequences will utterly prostrate the administration and the party by which it was brought in." Mem. of J. Q. Adams, X, p. 533. And he closes his report of the Webster consultation with the representatives of Massachusetts with the words: "We all felt that the hour for the requiem of the whig party was at hand." Ibid., XI, p. 14.

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live. The next political autumn had to ripen the fruits of the seed scattered in the trenches during the breaking of the ground. This it is which makes the extraordinary session of congress in the summer of 1841 the beginning of the end of the third great period in the internal course of development of the Union.

Clay did not want to admit now that the whigs were severely injured by the conflict with the president, or he, at least, endeavored to convince his friends of the contrary, that they might not be disheartened. He claimed, immediately after the adjournment of congress, that the cause of the whigs was stronger than ever.[1] The results of the fall elections badly accorded with this hopeful, joyous view of the situation. Of seven states which had voted for Harrison in the presidential election, the democrats now gained five.[2] They rejoiced at the "overwhelming reaction."[3] But Clay tried to console himself and others by saying that their opponents had not become stronger, but that only the whigs had remained away from the ballot-boxes.[4]

It was not a matter of indifference in what way the whigs accounted to themselves for this defeat, for on this it must have in great part depended whether they would use greater moderation henceforth towards the president, or become more sturdy in their opposition to him. There was no lack

[1] "I am, gentlemen, greatly deceived, notwithstanding the astounding developments recently made, if the whig cause is not stronger than it ever was." Answer to a letter of invitation to Baltimore, September 14, 1841. Niles, LXI, p. 67.

[2] Badger's speech at Raleigh, Nov. 13. Niles, LXI, p. 219. Indiana, Vermont, Tennessee, Alabama, Maine. Ibid., p. 152.

[3] "They [the people] have arisen in the majesty of their strength, and the reaction has been overwhelming from one end of the Union to the other." C. C. Clay, of Alabama. Ibid., p. 219.

[4] He explains this by the following: "An army which believes itself betrayed by its commander-in-chief will never fight well under him or while he remains in authority." Priv. Corresp., p. 455.

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of causes for new collisions. There was a bad prospect of the fulfillment of the dazzling promises which the party had made in the electoral campaign of 1840. The financial condition of the country was a sad one, and grew sadder every day. The message of June 1, 1841, informed the people that the year would probably close with a deficit of over eleven million dollars.[1] It did not, however, speak of the promised retrenchment and saving. Rather were the demands of the administration largely increased. To satisfy these "wants," "some temporary provision" was declared to be necessary until the excess of receipts which was certainly expected had actually set in. Congress had, in what was essential, adopted the views of the administration on these questions, and authorized a loan of twelve millions.[2]

Whether it was justifiable, or even necessary, under the circumstances, to increase the budget of expenses and to procure in this way the means of meeting the increased demands, need not be examined here. Certain it is that the people had not expected this, when they were promised a reduction of millions and millions, and they could scarcely find words to express their moral indignation at the dissolute prodigality of Van Buren's administration. Much as was made of these assumed obligations, it was not possible to shift everything on to them. If the whigs had not given themselves up to the belief that the masses would soon reproach them with having led the people out of the frying-pan into the fire, they must have been, with the president, very firmly convinced that they had to do with only a very transitory difficulty. They really seemed to be of this opinion, since they did not hesitate to give away even what they still had, without any external compulsory necessity. A law of September 4, 1841, ordered the division of the net product

[1] Statesm.'s Man., II, p. 1313.

[2] Law of July 21, 1841; Stat. at L., V, p. 438.

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of the proceeds of the sales of the public lands among the states.[1]

People had been divided for years on the question, whether the government of the Union had the right to make such a disposition of these proceeds. The whigs, who took the affirmative of the question, relied on the principle that the public lands were the property in common of the states, and they claimed besides that the supreme court of the United States, in the case of *Jackson vs. Clark*, had decided the controversy in their favor. This last, however, they would scarcely have literally understood. This question was not before the court at all, and in the opinion there occurred only one sentence which seemed to recognize the view of the whigs in relation to the lands ceded by Virginia as the correct one.[2] What was true of these was by no means necessarily true of the territory ceded by the other states, since the words of the Virginia ceding original document, on which the supreme court of the United States relied, was not to be found in the others. Moreover, the Union had not, by any means, acquired all the public lands by cessions of the separate states, but the greater part of them had been purchased. There was, therefore, not

[1] Stat. at L., V, pp. 453–458.

[2] "The residue of the lands are ceded to the United States, for the benefit of the said states, 'to be considered as a common fund for the use and benefit of such of the United States as have become, or shall become members of the confederation or federal alliance of the said states, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure; and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatever.' The government of the United States then received this territory in trust, not only for the Virginia troops on the continental establishment, but also for the use and benefit of the members of the confederation." Peters' Rep., I, pp. 634, 635; Curtis, VII, pp. 738, 739. Calhoun, in opposition to this view, emphasized the words "common fund," and called attention also to the fact that the cession took place under the articles of confederation, and that, therefore, not a division but only a wiping out of the quota of the taxation of the states was contemplated. Works, III, pp. 562-565.

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even a judicial dictum, to say nothing of a judicial decision, in opposition to the democratic view, that the public lands were the property of the states in the aggregate. But, on the other hand, the unconstitutionality of the law of the 4th of September did not at all follow directly from this assumption. When the democrats said that the Federal government was not empowered to impose taxes on the people, in order to divide their proceeds among the states, they may have been right; but the sale of the public lands was no tax. If what they brought in was divided, the taxes would certainly have to be higher, by the same amount, than would have been otherwise necessary. The division was, therefore, perhaps impolitic and unwarranted, but that did not prove its unconstitutionality. The old principle, that the Federal government could not do indirectly what it had no authority to do directly, thus absolutely stated, was, in this case, as little applicable as in most other cases. This was a thing of every day occurrence, and it could not be otherwise than that it should occur constantly. If congress could pass only such laws as could not possibly draw after them indirectly any consequence to produce which directly it had no right, congress could make no laws whatever.

No certain answer to the above legal question could be found in the constitution, for the reason that the framers of the constitution had not contemplated the possibility that such a question could ever arise. Recourse had, therefore, to be had to a long series of more or less assailable deductions, and the result depended on the starting point, for which any clause of the constitution might be chosen at pleasure. It is no wonder, therefore, that equally acute and equally honest men came to directly opposite conclusions. But, on the other hand, it is surprising to see the states-righters defend the national principle in this controversy. But the explanation of this it is not hard to find.

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The old contrast between the economic policy of the two parties had found a new expression here. Revenue tariff and protective duties were confronted, one with the other,[1] for the *minus* caused by the distribution of the net proceeds from the public lands had to be covered by a corresponding *plus* in the proceeds of the taxes. These, however, were not the only considerations. Precisely at this moment, forces appeared in the foreground which were indeed calculated to make the patriot with alarm, and the statesman with anxious doubt, weigh the reasons for and against, with the utmost care.

The after-effects of the crisis of 1837 and 1839 had not yet disappeared, and, in one respect, they had now only reached their culminating point. Several of the states were on the verge of bankruptcy, or were already bankrupt, and some of them were preparing to wipe out the scores against them with the sponge.[2] Mississippi could boast of having led the way in this direction.[3] The word "repudiation" was first used by Governor McNutt in his message of January, 1841. The legal pretext for his recommendation, he found in the fact that the commissioners of the Mississippi Union Bank had sold five millions worth of bonds, without reckoning the accrued interest, to Nicholas Biddle, on the 18th of August, 1838, while they were authorized to sell them only at par.[4] The legislature did not share the governor's

[1] See Calhoun's speech of the 5th of February, 1840, Works, III, pp. 407-439.

[2] Wm. Cost Johnson estimated, according to the sources accessible to him, the amount of the state debts on the 25th of June, 1842, at $185,292,379. But he himself produces proof that the real amount was considerably higher still. Niles, LXIV, p. 199.

[3] The figures in the text are, where other sources are not cited, taken from the excellent article in the January, 1846, number of the North American Review.

[4] See McNutt's justification of his standpoint as against Hope & Co., of Amsterdam, Hazard U. St. Commercial and Statistical Register, August, 1841, vol. V, pp. 97, 98.

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views. But the state constitution provided that a loan for the payment of debts should be made only when it was resolved on by two legislatures in succession. McNutt, therefore, renewed his demand in his message of January, 1842,[1] and this time the legislature agreed with him.[2]

Next to Mississippi, it fared worst with Michigan, which also repudiated a portion of its debt when the Bank of Pennsylvania and the Morris Canal and Banking Company collapsed. Louisiana also allowed itself to pass somewhat dubious laws in relation to a part of its debt. In Pennsylvania, the laws were, perhaps, a little less objectionable, but the state did not pay. Indiana and Illinois could allege, as an excuse, that, in the real sense of the word, they could not pay.[3]

The significance of these facts for the whole Union was not ignored. A greater public calamity had never before fallen on the country. How great the check which its economic development would have to suffer would be, if it were henceforth to be deprived of the money of Europe, it was impossible to calculate. And had not European capitalists to begin now to look upon the United States as the lion's den out of which no track was to be found? And this was by far the smallest matter. The honor of the nation was at stake, and if it were lost, not a fig leaf could have been found anywhere which would have covered its nakedness, even where it was most urgently needed. How loudly had it

[1] Niles, LXI, p. 336.

[2] The Union Bank itself had asked Charles Scott for a professional opinion. See that opinion in Hazard, l. c., Sept., 1841, V, pp. 129–134. It closes with the words: "In every aspect in which I am capable of viewing this grave and important question, I am fully convinced that the state is morally, politically and legally bound to discharge her bonds and redeem her plighted faith."

[3] Indiana had 700,000 inhabitants and a debt of $13,000,000; Illinois had a population of only 500,000, and a burthen of debt just as great as Indiana.

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been always boasted that no country on earth had been more richly blessed by nature, and what dazzling proof of the correctness of this assertion each day had produced! To talk of a permanent inability, therefore, to redeem the obligations entered into, was to add bold insult to injury. And what besides the old saying of Washington could the United States adduce in their behalf: "We are one nation to-day and to-morrow thirteen." Did not the nation, therefore, constantly run the risk that European states might, on every occasion, inquire, whether the representatives of the Union were accredited "only" by the government of the Union, or by all the separate states. The creditors demanded of the Federal government that it should help them to get their rights. As early as the summer of 1839, Webster, during his sojourn in England, was asked what was to be expected in this regard. Men like Adams were of the conviction that the Federal government would be not only justified in compelling the states through the courts to meet their obligations, but that it would be its duty to do so. Others asked themselves whether, in accordance with the wishes of the creditors, it should not be resolved that the Union should assume the debts of the states. There were only a few, however, who considered this possible. In this way, not only would the opposition of those who preferred dishonor to payment and of those who had always considered that great political feat of Hamilton an ominous breach of the constitution be aroused. Many who entertained no doubt of the authority, and who perfectly appreciated the salutary consequences of the funding act and assumption bill, were decidedly opposed to cutting the knot in this way now. They looked upon it as the offering of a premium for the most careless and most unscrupulous management by the states which were entirely removed from the control of the Federal government, and which no one wished to bring under the control of the federal authorities. A

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constantly increasing majority of the people became entirely clear in their own minds of this one thing, that the honor of the nation had to be saved, and it came to be more and more confidently expected that the force of public opinion would prove strong enough to lead the guilty states back to the path of duty. But this confidence was not to be a downy pillow of rest. Men bethought themselves of means to facilitate the return, and many believed they had found such a means in the public lands. There were some all the more in favor of seeing them thus applied, because they considered a return to a healthy management of the finances scarcely possible so long as this item which varied between such wide limits was not taken out of the federal budget. The creditors gave it to be understood in the most undoubted manner that they would look upon it with lively satisfaction if their cause was supported in this indirect way, far as it was removed from a real guaranty.[1] But precisely their strenuous efforts to carry the measure afforded the opponents of the distribution a new ground for opposition. Benton and others declaimed with forced pathos against the disgraceful scene of foreigners in the galleries exercising an influence on the legislation of the country. That these foreigners had come after their clear rights was forgotten by the severely moral Missourian, who liked to say of himself: "I am as proud as

[1] Benton, in the senate, read the following sentences from a newspaper article: "At the commencement of the session almost every foreign house had a representative here. Wilson, Palmer, Cryder, Bates, Willinck, Hope, Jaudon, and a host of others, came over on various pretenses; all were in attendance at Washington, and all seeking to forward the proposed measures. The land bill was to give them three millions per annum from the public treasury, or thirty millions in ten years, and to raise the value of the stock at least thirty millions more. The revenue bill was to have supplied the deficiency in the treasury. The loan bill was to have been the basis of an increase of importations and of exchange operations; and the new bank was the instrument of putting the whole in operation." Thirty Years' View, II, p. 243.

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a Roman Senator." But there were people enough who lent an ear to every reason advanced. The old constitutional scruples[1] still preponderated with those who needed assistance most. Others were of opinion that the Federal government should not rush to the assistance of the states so long as it could not provide better for its own wants. Lastly, there were others who thought that this assistance would operate like a weak jet of water, which only adds to the glowing heat of a great fire; that the means offered the states to lighten their burthens were not worth talking about,[2] and the fact that the general government rushed to their assistance in the case of need brought on them by their own fault, might very easily make them only all the more hardened in their sins. All these different elements, taken together, were powerful enough to prevent the passage of the "distribution bill." If it were to be carried, it was necessary to find some compensation which might help a sufficient number of members of congress out of their fears. The parliamentary Jew's traffic with which a beginning that promised much had been made,[3] attained, in consequence of this, to an extraordinarily flourishing state, during the summer session of 1841.

[1] Benton may serve as an example to show how far these were carried. He exclaims: "It is not a case of misunderstanding the constitution, but of assault and battery — of maim and murder — of homicide and assassination — committed upon it." Ibid., II, p. 244.

[2] See Woodbury's Writ., I, p. 207.

[3] Proffit claimed that it was at first contemplated to have the bill on the abolition of the "independent treasury" signed by the president on the 4th of July, because Van Buren had signed the bill establishing it on that day. But, in consequence of the report that the bill would not be approved, its passage was delayed in order by all means to bring a pressure to bear on Tyler. It was said that it was pushed through at the right moment by means of the "previous question," "and then we heard the exulting cry, 'we have the president fastened now; he cannot veto the bank bill and sign the repeal of the sub-treasury; that will leave the public money under his control, and we will charge him with having in view

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Benton relates that there were in the United States at the time 100,000 bankrupt business men whose engaging in trade once more was possible only on condition that a law was passed freeing them from their burthen of debt. Not only, as he said, did the number of these unfortunates make them a power,[1] but a calamity, which, in the public interest, should be relieved if possible. It suggested itself readily to endeavor to accomplish this by having congress make use of the power it possessed to pass a general bankrupt law. Webster was determined, in the first place, by this consideration of the public interest in relation to the extraordinary necessity, when he introduced a bankrupt bill in the senate on the first of April, 1840.[2] In quick succession, a large

that object.' Well, sir, the bank bill has been vetoed, and the result is as anticipated. You now talk about 'union of purse and sword,' declaim about monarchical powers, and accuse the president of being the cause of a state of things which your legislation produced and purposely aimed at." Niles, LXI, pp. 94, 95.

[1] Thirty Years' View, II, p. 234.

[2] "I am free to confess my leading object to be, to relieve those who are at present bankrupts, hopeless bankrupts, and who cannot be discharged or set free but by a bankrupt act passed by congress. I confess that their case forms the great motive of my conduct. It is their case which has created the general cry for the measure. Not that their interest is opposed to the interest of creditors; still less that it is opposed to the general good of the country. On the contrary, I believe that the interest of creditors would be greatly benefited even by a system of voluntary bankruptcy alone, and I am quite confident that the public good would be eminently promoted. In my judgment, all interests concur." Webst.'s Works, V, p. 18. "And between this want of power in the states and want of will in congress, unfortunate insolvents are left to hopeless bondage. There are probably one or two hundred thousand debtors, honest, sober and industrious, who drag out lives useless to themselves, useless to their families, and useless to their country, for no reason but that they cannot be legally discharged from debts in which misfortunes have involved them, and which there is no possibility of their ever paying. . . . Their power of earning is, in truth, taken away, their faculty of useful employment is paralyzed, and hope itself extinguished." Ibid., p. 20.

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number of other bills on the same subject was introduced, and for some time this question occupied a very prominent place, both in congress and out of it. But the longer it was discussed, the more improbable it seemed that it would be settled in the manner desired by Webster. Narrow-hearted individual interest and constitutional doctrinarianism combined in bitter opposition. Calhoun admitted that he was at first in favor of the contemplated measure,[1] but that closer consideration had convinced him of its unconstitutionality, because, in the constitutional clause in question, the word "bankrupt" should not be understood in the broader sense of every day language, but in the narrower technical sense. This conclusion he naturally found in the general state's-rights principle, which in every case of doubtful interpretation required the one least favorable to the federal power to be preferred.[2] Others, like Benton, adopted the view that the word "bankrupt" did not mean simple insolvency, and trembled with indignation at the proposition to wipe out the entire debt, under any circumstances whatever, without the free consent of the creditors, if the debtor surrendered all his property to them.[3] The capitalists of the eastern states did not want to allow their western debtors to be taken out of their hands, while the hard-pressed western banks violently opposed the law which would have been very acceptable to the firmer and safer banks of the eastern states.[4]

[1] Calh.'s Works, III, p. 506.

[2] Ibid., III, p. 510.

[3] "Our bill . . . committed the most daring legislative outrage upon the rights of property which the world ever beheld." Thirty Years' View, II, p. 240.

[4] Of the five hundred and thirty-eight banks in the New England states and New York, only seven had suspended payments after the banks of Rhode Island had resumed them again. Of the four hundred and twenty-one western and southern banks, on the other hand, three hundred and sixty-eight had either entirely or in part suspended payment. Calh.'s Works, III, p. 522.

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Against this opposition, brought together by so many different motives, a coalition of the friends of the bankrupt bill and the distribution bill, under the leadership of Senator Walker, of Mississippi, was formed. In the senate, there was a majority in favor of the bankrupt bill, but not of the distribution bill, and in the house the very reverse was the case. Mississippi had the greatest interest in the former, and its opposition to the latter was caused, not by its interest, but by the constitutional doctrines of the party. Walker was, therefore, ready to support the distribution bill, provided he got the bankrupt bill in consideration of his support, and the proposition met with sufficient favor in both houses of congress to close the trade.[1]

Thus, then, the whigs had happily carried all their great measures, in the extraordinary session. Nothing had collapsed but the crowning dome of the whole structure — the bank bill. To this circumstance they ascribed the fact that the economic condition of the country, and especially its financial condition, had not become better, but worse, when congress met again at the close of the year. All the business life of the country was prostrated.[2] It frequently happened that the treasury could not pay the federal officers, nor even the army and navy.[3] The federal debt had increased from the 1st of January, 1841, to the 1st of January, 1842, from

[1] For the details, see Thirty Years' View, II, pp. 231–233.

[2] "All the great interests of the country are now in an extremely depressed condition — every branch of industry is paralyzed." Report of the House Committee on Manufactures, March 31, 1842. Niles, LXII, p. 107.

[3] "Since that period [the extraordinary session], the pay of the army, the navy and the civil list, have been frequently suspended, from the utter destitution of the treasury. . . . Treasury notes of government have depreciated, and been returned by the needy public creditor under protest. Every device to sustain the sinking credit of the government, short of a direct tax, has failed, and this at a period when our foreign relations were eminently precarious." Gilmer's Majority Report. Ibid., p. 410.

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$6,737,398 to $15,028,486.[1] The credit of the Union was shaken to such an extent that of the small loan of twelve millions authorized by the law of the 21st of July, 1841, not quite one-half could be effected up to the close of the year.[2] But the administration did not feel called upon even to endeavor to effect a reduction of expenses.[3] It estimated the available receipts for the year 1842 at $18,572,440, and the expenses at $32,791,010, so that a deficit of $14,218,570 had to be provided for.[4] But in the near future, no increase, but, on the contrary, a considerable decrease of the revenues was expected, since, according to the compromise law of the 2d of March, 1833, the last reduction of duties had to be effected, and the "horizontal tariff" of twenty per cent. to come into force.

It was, therefore, evidently high time to put a stop to this sinking deeper and deeper in the slough. All were agreed that recourse should not be had to a direct tax. All other means had failed, or were only palliatives, by means of which the country had been enabled to live along from day to day, dragging out a miserable existence. There seemed, therefore, to be only one means which promised redemption — the throwing overboard of the compromise law of March 2, 1833. If the duties were not lowered, but increased, it was thought that not only the necessary income might be provided for the administration, but that new life might be infused into the stagnant industries of the country.

Tyler had, in his first message of the 1st of June, 1841, contested the assertion that the circumstances would warrant

[1] Sumner, History of American Currency, p. 165.

[2] Report of the Secretary of the Treasury of the 20th of December, 1841. Niles, LXI, p. 275.

[3] In the Report of the Secretary of the Treasury, of May 9, 1842, we read: "The supposition of diminished expenses has not been entertained." Ibid., LXII, p. 166.

[4] Report of December 20, 1841. Ibid., LXI, p. 275.

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a disturbance of the compromise act.[1] He now took a step towards meeting the wishes of the whigs. The message of the 7th of December, 1841, declared, in contradiction to the uniform *ad valorem* duties of the compromise act, in favor of "discriminating duties," but at the same time expressed the hope that it would not become necessary to exceed the limit of twenty per cent. fixed by that law.[2] But this was all talk. The report of the secretary of the treasury dated December 20, made use, in the discussion of this question, of very cautious and moderate language, but in the end amounted only to this, that the compromise act was a failure.[3]

Congress was by no means in a hurry to settle this question, universally as its importance and urgency were recognized. A message of the president of the 25th of March, 1842, counselled it to hasten, and again laid stress on the necessity of taking vigorous measures to put an end to the financial wretchedness of the country. Without any modifying clauses, Tyler now declared that to be possible only in case the compromise act were in part abandoned.[4] Not-

[1] "The act of the 2d of March, 1833, commonly called the compromise act, should not be altered, except under urgent necessities, which are not believed at this time to exist." Statesm.'s Man., II, p. 1343.

[2] Ibid., p. 1367.

[3] "The great principle of that act was moderation and conciliation, and this should never be lost sight of. But the measures proper and necessary to carry out that principle may be changed, if the altered circumstances of the country call for such change, without any departure from the principle itself." He unconditionally maintains that duties should be imposed only to obtain a revenue, and admits that "in many cases" twenty per cent. would be sufficient for that purpose, but concludes: "But he the [undersigned] still supposes that there are several descriptions of imported manufactures and produce which would well bear a higher duty than twenty per cent. upon the home value, and thus yield a greater revenue to the government, while, in regard to some of them, it will be found that, without such increased duty, the labor of large classes, engaged in producing similar articles, will be greatly depressed if not entirely supplanted." Niles, LXI, p. 276.

[4] Statesm.'s Man, II, p. 1380.

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withstanding this, two more months elapsed before the house began to take action on the tariff question. That was, indeed, a subject the previous consultation on which in the committee required, under all circumstances, a great deal of time, and the condition of things at the moment materially increased the difficulties of the task. It was, however, very surprising that the committee on ways and means did not introduce a bill until the 3d of June. The committee itself considered it impossible that it could become a law until the end of the month, and therefore, on the 7th of June, introduced a "provisional tariff bill." This bill, therefore, had to pass both houses of congress and receive the sanction of the president in twenty-three days, if the day fixed by the compromise act were not to find the country entirely unprepared to carry out the far-reaching changes in relation to the imposition and levying of taxes.[1] This looked very much as if the majority wished to put thumb-screws on the president. And this must have seemed all the more probable because the opinion was very prevalent, that, according to the provisions of the compromise act of June 30, no duties whatever could be levied any longer unless authorized by a new law,[2] and because the secretary of the treasury had committed himself to this view.[3] But congress had reason to put the president under high pressure, because it had adopted in its provisional tariff bill a provision which Tyler

[1] The compromise act introduced the valuation of goods at the port of entry, abolished all credit, and required payment of duties "in ready money."

[2] Adams's Report of the 16th August, 1842. Niles, LXII, p. 396. The clause of the compromise act on which this view was based, was as follows: "And from and after the day last aforesaid, the duties required to be paid by law on goods, wares and merchandise, shall be assessed upon the value thereof, at the port where the same shall be entered, under such regulations as may be provided by law."

[3] " . . . if congress shall not at this session prescribe regulations for assessing duties upon a valuation to be made at the port of entry, or

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had repeatedly and expressly declared in his official utterances to be unacceptable.

According to the law of the 4th of September, 1841, the distribution of the net proceeds of the sales of the public lands was to be suspended as soon as the duties were raised above the maximum fixed by the compromise act, and the suspension was to continue until the reason for it was done away with.[1] This clause was adopted in the bill because it was known that, without it, it would neither pass the senate nor receive the approval of the president. Although Tyler had held emphatically fast to this standpoint,[2] in the messages of the 7th of December, 1841, and of March 25, 1842, congress now demanded that he should surrender it, and esteemed it a great merit that it had spun out the cobwebs of sophistry to cover the retreat. The bill on the provisional tariff exceeded the maximum of the compromise tariff,[3] and suspended the distribution for the month of July; but it was to be resumed on the 1st of August, although the reduction of duties to that maximum was not promised for the same term,[4] and was not at all contemplated by the permanent tariff.

Not till the 27th of June, three days before the going into force of the last provisions of the compromise act, did the bill pass the house. On the 29th of June, Tyler returned it with his veto.[5] Before it was sent back, he had had an opinion given by the attorney general, whether, without a new law,

pass some law modifying the act of 1833, it may well be questioned whether any *ad valorem* duties can be collected after the 30th of June. The language of the law seems explicit." Niles, LXI, p. 275.

[1] Stat. at L., V, p. 454, sec. VI.

[2] Statesm.'s Man., II, pp. 1367, 1380.

[3] It did not allow the last reductions of the compromise act to come into force, but ordered the continuance of the existing tariff laws for a month.

[4] Deb. of Congr., XIV, p. 443.

[5] Statesm.'s Man., II, pp. 1388–1391.

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the duties might be levied according to the provisions of the compromise act, and Legaré had given an answer in the affirmative.[1]

There was something artificial in the overflowing passion with which the house received the veto message, since no one could contest the assertion made by Proffit, that every member of the house had certainly expected the veto. Whether Tyler should not have yielded is a question which might have divided people; but it was ridiculous, after the experience had, to appear astonished that he went into the fight after congress had, with full consciousness, thrown down the gauntlet to him. It was demonstrably not only the intention of congress to carry this measure which it considered expedient, but it carried on a battle based on prin-

[1] His reasoning on the clause above mentioned of the compromise act seems to me entirely valid: "I do not think that in a fair legal construction this amounts to anything more than what so frequently happens in all statute law — an expression of what would be supplied by the common law, were it not expressed — *expressio eorum quæ tacite insunt*, and which, therefore, according to a maxim of the law, *nihil operatur*. If the legislature retain its usual powers, it may, of course, if it see fit, prescribe new regulations in any branch of the service. I hold, therefore, that 'such regulations as may be prescribed by law,' is equivalent to such regulations as may be from time to time prescribed; in other words, to any regulations prescribed by law." He comes to the conclusion: "On the whole, I think the act binding on all, without any statutory regulations connected with it, and susceptible of complete execution under the existing state of the law." Opin. of the Att. Gen., IV, pp. 60, 63.

Adams says, in the report quoted above: "Not only was this most conciliatory measure contemptuously rejected, but, in total disregard of the avowed opinions of his own secretary of the treasury, concurring with those, nearly unanimous, of all the most eminent lawyers of the land, in solitary reliance upon the hesitating opinion of the attorney general, he has undertaken not only to levy taxes to the amount of millions upon the people, but to prescribe regulations for its collection, and for ascertaining the value of imported merchandise, which the law had, in express terms, reserved for the legislative action of congress." I do not know what justified Adams to speak of Legare's "hesitating opinion," but that the as-

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ciple: it wanted to bend the executive under the will of the majority of the legislature. When Proffit asked whether any one in the house doubted what would be the fate of the bill on the definitive tariff, in case the distribution clause was appended to it, he was met with the exclamation, "We'll give it him."[1] Bend or break, was, therefore, the watchword of congress. And it was not its watchword from yesterday only, nor did the more decided whigs want to express themselves satisfied with a victory in this particular case or only with their permanent triumph with this particular president. The rhetorical effusions against the veto for the most part failed entirely to take notice of the ground on which Tyler had based it. They were very general unbridled declamations against the veto power. That was the point against which, even long before the outbreak of this last controversy, the storming columns had been directed.

In his speech of August 19, 1841, Clay had already given it clearly to be understood that a really satisfactory decision of the conflict was to be found there, and there only.[2] He then, in a letter of the 14th of September, had made the definite proposition to so change the constitution that a majority vote of congress might suffice to overrule the president's veto.[3] And he had, on the 29th of December, introduced

sertion that the most eminent jurists of the country were almost unanimously of the opposite opinion, was a great exaggeration, the facts proved in a striking manner. A Baltimore firm sued the collector for reimbursement of the duties levied on the commodities imported by it. The case was carried to the supreme court, and the latter decided in favor of the administration, basing its opinion essentially on the grounds adduced by Legare. Aldrige vs. Williams, Howard's Rep., III, pp. 1–32; Curtis, XV, pp. 268-270.

[1] Deb. of Congr.. XIV, p. 449.

[2] Clay's Sp., II, p. 511.

[3] "Let us, by a suitable amendment to that instrument, declare that the veto — that parent and fruitful source of all our ills — shall itself be overruled by majorities in the two houses of congress. They would persuade

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into the senate a formal motion to this effect, adding to it the further proposition that henceforth the secretary of finance and the treasurer of the United States should be appointed yearly by congress, and that they should not be subject to removal by the president.[1]

The proposal of a constitutional amendment requires, according to the constitution, a vote of two-thirds of both houses of congress. That such a majority could not be had, in either of the two houses, there was no doubt. Hence, Clay's resolutions were not so much intended for congress as for the people. For this general purpose of agitation, it was, therefore, sufficient that the house was satisfied with some declamation in order to bring the tariff question to a decision without any unnecessary delay. On the 16th of July, the bill was passed by the house by a vote of one hundred and sixteen against one hundred and twelve;[2] and in the senate it received, on the 5th of August, twenty-five votes against twenty-three.[3] The distribution clause was retained after a hard struggle.

It was too well known what illusions Tyler indulged in relation to the views of the people,[4] to permit it to be believed that his courage would forsake him at the last moment. The bill came back to the house with the veto on the 9th of August.[5] The storm now began to rage in earnest. The house

us that it is harmless, because its office is preventive or conservative! As if a nation might not be as much injured by the arrest of the enactment of good laws as by the promulgation of bad ones!" Niles, LXI, p. 67.

[1] See the terms of his resolutions in Niles, LXI, p. 299.

[2] Deb. of Congr., XIV, pp. 456, 457.

[3] Ibid., p. 478.

[4] "The toadies flatter him [Tyler] with the belief that whilst the politicians are deadly hostile to him, from jealousy of his rising fortunes, the people are everywhere rising *en masse* and coming to his rescue." J. Buchanan to R. P. Letcher, Wash., April 17, 1842; Coleman, Life of Crittenden, I, p. 176.

[5] Statesm.'s Man., II, pp. 1392–1393.

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referred the message to a committee, and placed Adams at its head. What this committee did, came with all the enormous weight of the grey-haired statesman. And with unrelenting severity, the ex-president proceeded to judgment with Tyler, who looked upon himself as greater than a laboring mountain.[1] When Botts, on the 10th of July, had expressed the intention to introduce a motion for impeachment,[2] his action was universally looked upon as a want of moderation, as unwise as it was ridiculous. The committee now declared that it would make such a motion were it not that it was foreseen it would remain without result.[3] For this reason, the committee limited itself to seeking a remedy for the future, but it even now demanded that it should be a radical one. The report closed with a proposition to have a constitutional amendment passed, providing that a simple majority of all the members of both houses of congress should suffice to pass a law over the veto of the president. This proposition received ninety-eight votes against ninety.[4]

The report went through Tyler's whole table of sins from the beginning, and found sufficient reason to indict him, in the fact that, as president, he so frequently had crippled the legislative action of congress, in reference to the most im-

[1] Crittenden writes to Letcher on the 1st of May, 1842: "Tyler has produced the strangest sort of distraction and inaction that was ever seen. He sits in the midst of it, mighty busy and bustling — the Tom Thumb of the scene — thinking himself the admiration of the world and the favorite child of Providence. Take it altogether, it is the most severe burlesque on all human ambition and government that was ever witnessed." Coleman, Life of Crittenden, I, p. 178.

[2] Niles, LXII, p. 314.

[3] "The majority of the committee believe that the case has occurred in the annals of our Union, contemplated by the founders of the constitution by the grant to the house of representatives of the power to impeach the president of the United States; but they are aware that a resort to that expedient might, in the present condition of public affairs, prove abortive." Ibid., p. 397.

[4] Deb. of Congr., XIV, p. 505.

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portant interests by his veto.[1] But there was a special reason why the committee and the majority of the house were of opinion that they should, precisely at this moment, look upon the measure of his guilt as full. The last veto related to a sphere which, according to the traditional views of Anglo-Saxon political life, was the real domain of the popular house of the legislative body. The object of the tariff bill was to provide the government with a revenue, and Archer, of Virginia, said in the senate, that in England not even the Tudors had dared to put their veto on such a bill.[2] It was this definite character of the bill which caused Stuart, of Virginia, to declare in the house that the honor of the house was at stake, and that if it yielded, congress would be entirely purposeless.[3] And it could not be denied that the constitution, on this

[1] "They [the house] perceive that the legislative power of the Union has been for the last fifteen months, with regard to the action of congress upon measures of vital importance, in a state of suspended animation, strangled by the five times repeated stricture of the executive cord. They observe that, under these unexampled obstructions to the exercise of their high and legitimate duties, they have hitherto preserved the most respectful forbearance towards the executive chief; that while he has, time after time, annulled, by the mere act of his will, their commission from the people to enact laws for the common welfare, they have forborne even the expression of their resentment for these multiplied insults and injuries — they believed they had a high destiny to fulfill, by administering to the people in the form of law, remedies for the sufferings which they had too long endured. The will of one man has frustrated all their labors and prostrated all their powers." Here follows directly the place already cited concerning impeachment.

[2] "Never, in the mother country, had an instance been known of a bill of supply being vetoed — not even by the Tudors. . . . If there were men of any party ready to succumb to such dictation, and to go home made by their own act slaves, he would not be found among such men. If it was necessary, he would not only say perish commerce, perish credit, but let the government fall to pieces, and the Union be dissolved, sooner than he should sanction, by his act, any measure which would abrogate the independence of the people's representatives." Deb. of Congr., XIV, p. 470.

[3] Deb. of Congr., XIV, p. 449.

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question, had strictly followed the traditions of the mother country. It had expressly reserved the exclusive taking of the initiative in the matter of "all bills for raising revenue" to the house.[1] True, the view had been frequently expressed, that the people had allowed themselves to be misled by false analogies, into the baseless fear which had taken the house of lords as its model in measuring out the rights of the senate in this respect. But there was only one opinion among the people — that the executive would greatly violate the spirit of the constitution, if, to carry out his views on questions of expediency, he should, in such questions, oppose his veto to the discretion of congress. But had Tyler really done this?

In the first place, the whigs were not now justified in acting as if the question of distribution were to be put on a level with any question of pure expediency of subordinate importance. It was most intimately connected with the compromise act, and that the latter bore a special character was acknowledged even by the supreme court of the United States.[2] Much might be alleged in favor of what Clay said, that it was only by ignoble trickery and a gross violation of good faith that the principle of the distribution of the proceeds of the sale of the public lands was kept from becoming a part of the compromise of 1833; but that did not alter the fact that it had not become so. It was indeed now universally acknowledged that the setting aside of the compromise act could be justified only by extreme necessity. And that a greater deviation from it would be called for in case the distribution were allowed to proceed than if it were suspended, was self-evident. Hence it was that the senate and the president had made the passage of the law of September 4, 1841, dependent on that clause. The senate had been, indeed, prepared to permit

[1] Art. I, sec. 7, par. 1.

[2] In the decision already cited in Aldridge v. Williams.

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that condition to be dropped. But this, of itself, did not put the president under any obligations to do the same thing. And when he weighed the question with himself whether he was morally, and according to the spirit of the constitution, warranted, in this important question, in maintaining his position, he was certainly entitled to take into account, as a material element, the circumstance that the majority for the bill had amounted in the house to only four, and in the senate to only two votes. But, above all things, he could unconditionally repel the reproach that he had, in any way, infringed the prerogative of the house or of congress in respect to the raising of revenue. The veto was occasioned by the distribution clause, and the distribution clause contained nothing on the raising of revenue, but, on the contrary, provided that the government of the Union should, for the benefit of the states, renounce certain revenue. To compel the president to yield in the distribution question by means of the tariff question, congress had coupled the two questions together in one bill, and it had done so at the risk of seeing the distribution question draw the tariff after it, and not the tariff the question of distribution. There was nothing to compel Tyler, either legally or morally, to surrender his judgment on the question of distribution, and congress, therefore, had no reason to complain if the president, on his side, made use of the means legally belonging to him to compel it to separate the two questions. Tyler had unquestionably made such a use of the veto power as the first six presidents of the republic would never have thought of making. But the majorities opposed to him were not so great, nor was the nature of the last question at issue such that they could, from any point of view whatever, seem to make the attempt to substitute the radical for the moderate democracy, in this cardinal question, justifiable. And, indeed, scarcely any excuse for the attempt can be found when we

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take the manner in which congress, from the first, carried on the fight, into consideration. If, notwithstanding this, we see a man like Adams playing a leading part in the matter, the only possible explanation of the fact is that passion, to a great extent, prevailed over calm judgment. Tyler's sins against the spirit of the constitution were seen in so bad a light, because he had committed the deadly offense against the party of breaking its power before it had begun to carry its programme into execution. Such an offense must always greatly embitter any party honestly convinced of the correctness of its views, and the consciousness of not being without blame for it itself, must always intensify this animosity, and can never weaken it. And the animosity here must have been especially great, because the whigs had never before had the possibility of realizing and practically testing their entire programme, and because the circumstances had offered a peculiarly favorable opportunity by the brilliant contrast of their success, to deal a fatal blow at their opponents.

Satisfaction was vouchsafed to the house, but it had no practical value. Tyler sent it a protest against the Adams report.[1] The document was drawn up after the model of Jackson's celebrated protest against the resolutions of the senate. But unfortunately for Tyler he had then voted, as senator, for the resolutions with which the senate had rejected the protest. The house now answered his protest by sending him a verbatim copy of those resolutions.[2]

Tyler could bear this thrust with pretty good grace, since he had won the victory in the main question. When Fillmore had moved, on the 18th of August, the adoption of the former tariff bill without the distribution clause, the motion had been rejected by a vote of one hundred and fourteen against

[1] Statesm.'s Man., II, pp. 1405–1408.
[2] Deb. of Congr., XIV, pp. 528, 529.

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eighty-six.[1] But by degrees, minds began to grow calm. Whether the whigs would be able, in the next congress, to get such a tariff as they desired, was, to say the least, not sure, and yet to most such a tariff was more important than the wrangle with the president. There were some who did not want to bear the responsibility for the continuance of the condition of things at the moment, which not only afforded an entirely insufficient income, but which left it doubtful whether a judicial decision would not compel the payment back of all duties collected after the 30th of June. And, at last, so much assistance was afforded by the democrats, that the bitter resolution could be carried. On the 22d of August, the engrossing of the bill was ordered by one hundred and three against one hundred and two votes; by a subsequent vote the majority grew to one hundred and five, and finally, the bill was adopted by one hundred and five votes against one hundred and three.[2] After a struggle just as severe, it was passed by the senate on the 27th of August, by twenty-four votes against twenty-three, and on the 30th of August it was signed by the president.[3]

The great question of the session of 1841–42 was settled, but the vote showed a significant confusion of parties. A considerable portion of the democratic party had deserted their flag in this prominent "party question." And of the whigs, a powerful minority had turned their backs on this child of pain[4] rather than yield in the quarrel with the president, although they did not conceal from themselves how ruinous it was to them.

[1] Deb. of Cong., XIV, p. 506.

[2] Ibid., pp. 510, 511.

[3] Stat. at L., V, pp. 548–567.

[4] "It is not true that a majority, composed of whigs, could be found, in either house, in favor of the tariff bill. More than thirty whigs, many of them gentlemen of lead and influence, voted against the law, from beginning to end, on all questions, direct and indirect; and it is not pleasant to

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Their fears were confirmed. The party fared so badly in the fall elections that Webster doubted whether its sundered ranks would ever be reunited again.[1] And the weaker the party became, the more time and strength did it devote to its internal wrangles. So long as the negotiations with England continued, Webster's remaining in the cabinet was reluctantly connived at. But as soon as the Ashburton treaty (August 9, 1842) was closed, petitions poured in from all quarters not to afford assistance a day longer to the "traitor." But Webster was so far beneath the moral height of the party that he believed he could remain some time still in Tyler's company without prejudice to the salvation of his soul, and he was bold enough to decide himself whether his remaining in office could be still of advantage to the country. Highly as his gifts were esteemed, and much as his power was appreciated, this moral obliquity was so great that the complete repudiation of the man whom his ambition had misled, seemed scarcely avoidable. If he would not hear, he had to feel.

As early as January, 1842, an attempt had been made to repeal the bankrupt law again. Although it was certain from the first, that its opponents would not submit to defeat, personal ill-will and personal jealousy also operated here as an

consider what would have been the state of the country, the treasury, and the government itself, at this moment, if the law actually passed, for revenue and for protection, had depended on whig votes alone. After all, it passed the house of representatives by a single vote. . . . And how was it in the senate? It passed by one vote again there, and could not have passed at all without the assistance of the two senators from Pennsylvania, of Mr. Williams of Maine, and of Mr. Wright of New York. Let us then admit the truth, . . . that it was necessary that a large portion of the other party should come to the assistance of the whigs to enable them to carry the tariff, and that, if this assistance had not been rendered, the tariff must have failed." Webst.'s Works, II, pp. 130, 131.

[1] "The recent elections show that the whig party is broken up, and perhaps can never be reunited." November 8, 1842. Priv. Corresp., II, p. 152.

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incentive to action.[1] Webster had now formally challenged the keepers of his conscience, his enviers and rivals; and besides, one half of the contract to which the bankrupt law had owed its passage was destroyed by the issue of the struggle over the distribution clause in the tariff bill. With redoubled energy they returned to the attack and won a brilliant victory.[2]

And this was the most material acquisition of the session of 1842–43. There was no lack of great speeches, but little was done. Men talked themselves hoarse on Oregon and the assumption of the debts of the states, and delighted themselves with interminable speeches of doubtful morality on the refunding of a money-fine imposed upon Jackson nearly thirty years before on account of his violence while in chief command at New Orleans; but of creative progress in any direction there was nothing to be seen anywhere. Even the struggle between Tyler and congress had reached that comfortless stage which may be compared to the sea when the waves, lashed by the storm, rise high, but when the dormant wind has not power enough left to swell the sails. No veto came to fan the expiring embers into a blaze, and when Botts, at last, on the 10th of January, 1843,[3] delivered himself of

[1] Adams writes: "Its first object is the prostration, ruin and dismissal of Webster." Mem. of J. Q. Adams, XI, p. 55. A few days later he adds: "The new coalition is thus consummated. Clay, Calhoun, Tyler, and Van Buren, upon their Maelzel chess-board, have checkmated the north and the free, leaving the division of the spoils between the matadores to be settled hereafter. The joke is that Clay and Tyler protest as gravely and indignantly against this movement as if they were sincere." Ibid., pp. 62, 63. This first attempt failed in the senate.

[2] The bill was adopted in the house by a vote of one hundred and forty against seventy-one, and in the senate by thirty-two against thirteen. (Deb. of Congr., XIV, pp. 661, 716.) It was signed by Tyler on the 3d of March, 1843. Stat. at L., V, p. 614.

[3] Deb. of Congr., XIV, p. 643. The resolutions were rejected by a vote of one hundred and twenty-seven against eighty-three. Ibid., p. 645.

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the impeachment resolutions with which he had been big so long, the impression made was rather comic than tragic. The most brilliant period of the session, in this respect, was the rejection of the Exchequer Bill, which Tyler had previously, during the session, caused to be offered as a substitute for the two rejected bank bills, by a vote of one hundred and ninety-three against eighteen.[1] Whatever satisfaction there might be in this annihilating criticism of Tyler's financial wisdom was to be accorded to the whigs, since the people, in the elections to the new congress, passed a still severer judgment on it. In the new house of representatives, the democrats had a majority of two-thirds;[2] the democratic candate, J. W. Jones, of Virginia, was chosen speaker by a vote of one hundred and twenty-eight against fifty-nine, which were given to J. White, the speaker of the last legislature.[3] The semi-whig or pseudo-whig period of Tyler's administration had come to a close.

What were the lasting results to the political development of the republic of this two years' acrimonious contention between the executive and legislative branches of the government? It is in vain that we look for them. It is, indeed, true that important principles were involved in the struggle, but the collision of the opposing forces just at this moment, and with so much violence, was by no means made necessary by the general condition of affairs, but was produced by party passion and one-sided party interest. The pinnacles of the great and permanent interests of the nation towered high above the storm which broke with so much violence over the transitory interests of parties and their leaders. Great as were the consequences which that storm had here in the valley of political life, it left not a trace on the heights be-

[1] Deb. of Congr., XIV, p. 682.
[2] Mem. of J. Q. Adams, XI, p. 449.
[3] Thirty Years' View, II, p. 565.

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yond. The differences about the material interests of the nation's life and the differences of parties were no longer coincident. The lightning struck many a time during these two years also, but not even externally or apparently did it have any connection with this storm. And yet there was not one who, for the moment, had either eye or ear for the scene in the depths, when the clouds of the slavery question were suddenly rent by a stroke of lightning. This was all the more significant for the reason that the sensibly increasing sensitiveness of the opposition between freedom and the slavocracy could not possibly be ascribed to the prevalence of the fanaticism of abolition. Since the breach on the woman question, and on the justifiableness and rightfulness of political action, abolitionism, in the narrower sense of the term, had been retrograding. The principal societies were indeed still flourishing, and manifested great activity, but the aggregate number of societies and of members was decreasing.[1]

The efforts of the abolitionists were in the first place directed against slavery itself. But the points about which the parliamentary struggle turned were now, as well as previously, the right of petition and freedom of speech; that is, in congress, the matter in debate was still its *own* rights. The better this came to be understood on both sides, the more was the south concerned to achieve a decided victory here, although its declamations were directed principally against the abolitionists. By remaining constantly on guard and keeping up the battle, abolitionism was still of great importance, but it suffered a great loss when, in course of time, people began to get used to its doctrinarian radicalism. The south abhorred, hated and despised Garrison and his companions with all the intensity of which its hot blood was capable; but with the rage of the wounded blood-hound, it hung on the heels of those who — heedless alike of soph-

[1] See Wilson, Rise and Fall, etc., I, pp. 566, 567.

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istry and threats — directed their shots always towards the spot which the dragon-blood of constitutional compromise had not covered over with the impenetrable armor of positive law. If they were not now made to bite the dust, the future belonged to them; for the abolitionists would be sooner or later able to achieve what now was impossible: they could carry the masses along with them. The knowledge of this fact was the fury which goaded the south during Tyler's administration to the last desperate attempts at gagging.

Not any longer alone, but still before all others, Adams stood a battler for the absolute recognition of those two fundamental rights of the free popular state. It is easy to understand why it was that the slavocrats would have liked, above all things, to effect his ruin. There was no one his equal in the authority of age, of experience, of knowledge, or of merit. Alone he stood in his severe independence, and in the unassailable purity of his character. It was impossible to impute personal ambition to him as a motive any longer. Who could have defended himself from the razor, if a man like Adams had been compelled to let drop the ornament of the free man under the shears of the slavocracy? The calculation was a false one, hard as the blow dealt would have injured the cause of liberty. True, the masses had not yet gone so far, that Adams, like Sampson, could have torn down the pillars of the house. And it was certain that no one man could fill his place. But it was certain also that the masses would have streamed in and filled the void which his fall would have made. The very thing which the south wished to prevent would have taken place all the sooner and all the more emphatically. The calculation was, indeed, a mistaken one, but it is no wonder that the south calculated in that way.

The general onslaught against the grim old combatant was immediately preceded by a skirmish which bore witness

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how far the hatred and fear of him had already driven the extremists. There is something in human nature which puts a bridle on the furious tongue even in respect to the lowest pariah when he stands under the protection of snow-white hairs. Those in whose veins the "chivalrous" blood of the slavocracy beat fullest, frequently knew nothing of this feeling towards the old man, up to whose knee they came in no respect whatever. It was to the bearers of the brightest names among the representatives of the south, in the house of representatives, to whom Adams might have more than once cried out, like Gloster to the furious Regan:

> "These hairs which thou dost ravish from my chin,
> Will quicken and accuse thee."

Like Regan, they found in the whiteness of the hairs only a further justification of their action, and exclaimed, full of moral indignation:

> "So white, and such a traitor!"

On the 21st of January, 1842, Adams laid before the house a petition alleged to come from Georgia, praying for his removal from the chairmanship of the committee on foreign affairs, and moved its reference to this committee with instruction to chose another chairman if it seemed good to them.[1] Haversham, of Georgia, declared that he had already intimated to the gentlemen from Massachusetts that the petition was presumably a "hoax." Adams did not think that this made the matter any better, and asked that he might be permitted to defend himself against the charges made against him in the petition. The matter came up for discussion on the following day, but Adams was soon silenced, and when he wished to proceed with his speech on the 24th of January, the house refused to permit him to do so by a vote of ninety-one against seventy-six. Hopkins, of Vir-

[1] Niles, LXI, p. 349.

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ginia, had wished to modify Adams's motion so that the committee should be instructed to comply with the wish of the petition; and Gilmer, himself a member of the committee, inquired whether it could not do so without any instruction from the house. Rayner, of North Carolina, however, carried off the palm; he deserved well of his country inasmuch as he saved its honor from the "harlequin" from Massachusetts.[1]

Adams was resolved not to permit the matter to be put to one side in an ambiguous manner, but to bring it to a decision. When he brought it up for discussion in the committee, Gilmer declared himself ready to take it up in a formal way, and that he would vote for Adams's removal.[2] He thus injured himself greatly. As he could no longer hold out the hand of peace, and as Adams showed himself too strong for him and his companions, he, Hunter of Virginia, Rhett of South Carolina, and Proffit sent in their resignation. In their stead, Cooper of Virginia, Chapman of Alabama, and Holmes of South Carolina, were at first appointed members of the committee, but at their request, were without difficulty excused by the house. The fact that six slaveholders and one knight of the slavocracy declared it irreconcilable with their honor to sit in the same committee with Adams could not grieve him, but only add to his triumph.

It was not, as in this case, an easy matter with the slave barons, once they had compelled their opponents to cross weapons with them, to sheathe their swords and give up the field without a blow. But, indeed, nothing else now re-

[1] ". . . he now demanded of the speaker to put an end to this disgraceful proceeding, and to arrest the gentleman from Massachusetts in disgracing himself, and by doing this, in disgracing the country, and playing off the harlequin here in this grand inquest of the nation, and he called on the chair, by the honor of the nation, to arrest this proceeding." Niles, LXI, p. 351.

[2] Ibid., p. 390.

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mained for them to do if they did not want to make themselves completely ridiculous. During the days from the 24th of January to the 5th of February, the great decisive battle between Adams and the slavocracy was fought, and the slavocracy met with an ignominious defeat.

After the debate on the Georgia petition had been cut off, Adams presented a petition to the house from citizens of Haverhill, Massachusetts, requesting congress, without delay, to take steps toward the peaceable dissolution of the Union. The ground of the petition was the difference between the north and south growing out of slavery, but the word slavery was avoided. Adams moved the reference of the petition to a committee, with instructions to set forth the reasons demanding the rejection of the petition. Hopkins inquired whether it would be in order to move the burning of the petition in the presence of the house? But his colleagues, Wise and Gilmer, did not wish to permit the bold man who had dared to think that the terrible word which the south made on every occasion the theme of its declamation, should be even spoken in the north. They demanded, at the same time, that he should be formally censured.[1] But the opportunity was too good a one not to create some fear that too great haste might prevent its full utilization. The gallows had to be erected according to all the rules of the art, in order that the altogether too skillful criminal might be finally hoisted up.

In the evening, a numerously attended caucus of the southern representatives was held. A formal resolution was not drawn up, but the feeling was evidently in favor of the resolutions which Marshall, of Kentucky, read, with the re-

[1] Rayner's laurels excited Gilmer's envy; and he endeavored to surpass the coarseness of the latter by the following quotation: "He . . . but was endeavoring to prevent the music of him who, in the space of one revolving moon, was statesman, poet, fiddler and buffoon." Niles, LXI, p. 351.

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mark that he would certainly move them the next day in the house. According to his own admission, he had intended, at first,[1] to ask the expulsion of Adams, but as he would have in all probability been reëlected by his constituents, he refrained from doing so on the advice of friends. The resolutions contented themselves with saying that his expulsion was fully deserved, and representing the administration of the "severest censure" as an "act of grace and mercy." The reasons given in support of this step were a masterpiece of the peculiar logic which distinguished the knights of the "peculiar institution." That with which on all other days congress was threatened suddenly became a "direct proposition" to "commit perjury," because it came in the form of a petition. But not for this reason alone was the presentation of the petition to be considered the greatest insult to the house and to the people of the United States, but because the carrying out of the proposition would involve the "crime of high treason."[2] The circumstance of

[1] Niles, LXI, p. 393.

[2] The resolutions are given entire in Niles, LXI, p. 359. Here only the two principal places are cited verbatim: " . . . a proposition, therefore, to the representatives of the people to dissolve the organic laws framed by their constituents, and to support which they are commanded by those constituents to be sworn before they can enter into the execution of the political powers created by it and entrusted to them, is a high breach of privilege, a contempt offered to this house, a direct proposition to the legislature, and each member of it, to commit perjury, and involving necessarily in its execution and its consequences, the destruction of our country and the crime of high treason. . . . Resolved, further, That the aforesaid John Q. Adams, for this insult, the first of the kind ever offered to the government, and for the wound which he has permitted to be aimed, through his instrumentality, at the constitution and existence of his country, the peace, the security and liberty of the people of these states, might well be held to merit expulsion from the national councils, and the house deem it an act of grace and mercy when they only inflict upon him their severest censure for conduct so utterly unworthy of his past relations to the state and his present position. This they hereby do for the

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secondary consideration that Adams had moved the refusal of the petition was forgotten by Marshall in his haste.

Adams at first answered only shortly. He caused the first paragraphs of the Declaration of Independence to be read to call to the mind of the house that the United States began their life with the confession of faith that a people had the right to alter their government, to change it or destroy it, if its continued existence became irreconcilable with their welfare. He reminded the south of a series of events which had happened in very recent times, and which afforded most frightful evidence how systematically it had gone to work to undermine all the liberties of the people and the most essential rights of the citizens, so that there really was no lack of material for the discussion of the question, whether the case contemplated by the Declaration of Independence had occurred or might not very easily occur in the near future. "If you had not violated the right of petition you would never have seen this petition," he cried out to it. He reminded Marshall personally that the constitution itself defined the crime of high treason, and had not left that task to "his puny mind."

These slight intimations should have warned the pack of hounds that their game would make a hard stand, even if their cowardly desire were realized and Adams were compelled, without any time for consideration, to bring forward what he had to say in his defense or his excuse. But the debate proceeded and took a course which compelled the old man to stretch his intellectual powers to their point of greatest energy, even if the decaying covering of his fiery spirit should be torn to shreds. If it ever was, it was now, a sacred duty to himself and to his people to redeem his vow

maintenance of their own purity and dignity; for the rest, they turn him over to his own conscience and the indignation of all true American citizens."

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to die upon the breach.[1] Wise took the floor and erected a monument to the demoralizing influence of slavery, to which few of the many unwilling self-condemnations of the south are equal. To those who had opposed a court-martial execution, he defiantly and with the certainty of victory sent the challenge: "Come on, Macduff, and damn'd be he who first cries, hold, enough!"[2]

The slave-mad dog tore to pieces the crown of this life of five and seventy years, sparing not a single sprig of green nor a single bright blossom which the confidence and the reverent recognition of the people had woven into it. The white-haired hypocrite, who, from the earliest years of his manhood, had not shunned desecrating even the ashes of the dead in order, parasite-like, to creep around the tables of all the influential, stood unmasked at last. Henry A. Wise, of Virginia, declared himself filled with "loathing" and "contempt" for John Quincy Adams.[3] Henry A. Wise stood like the angel of judgment with the flaming sword in his hand, and cried out to all the world that John Quincy Adams was as politically dead as Burr and Arnold, and that the people turned shuddering away from him.[4] This would have

[1] He has written in his diary on the 29th of March, 1841: "The world, the flesh, and all the devils in hell are arrayed against any man who now in this North American Union shall dare to join the standard of Almighty God to put down the African slave-trade; and what can I, upon the verge of my seventy-fourth birthday, with a shaking hand, a darkening eye, a drowsy brain, and with all my faculties dropping from me one by one, as the teeth are dropping from my head — what can I do for the cause of God and man, for the progress of human emancipation, for the suppression of the African slave-trade? Yet my conscience presses me on; let me but die upon the breach." Mem., X, p. 454.

[2] Niles, LXI, p. 361.

[3] "The reason [for the request that the house might permit him to abstain from voting on the resolution] is the personal loathing, dread and contempt I feel for the man." Ibid., p. 366.

[4] "The gentleman was politically dead; dead as Burr — dead as Ar-

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been infinitely comical were it not that it afforded terrible evidence whither slavery was driving the south.

Adams did not consider it time yet to begin to justify himself. He had to do with a legal question the decision of which had a bearing of inestimable extent. Hence he could not have permitted his feelings to make him surrender his first position without a struggle. He did not abstain from giving Wise and Marshall a few hard side-blows. To the latter, he gave the fatherly advice, if he would accomplish what his talents fitted him for, to go to a law school to learn the alphabet of the rights of citizens and of members of the house.[1] Without, however, entering more in detail into the subject itself, he first asked the house for a formal resolution on the question whether it would take the resolutions into consideration at all. The house answered this question in the affirmative, by a vote of one hundred and eighteen against seventy-five, that is, it claimed, according to Adams's view, the right to "try him."[2]

Before Adams took the floor again after this decision, three southern representatives entered the lists for him, and not

nold. The people would look upon him with wonder, would shudder, and retire." Ibid, p. 364.

[1] Where did the gentleman get his law. Assuredly not from his uncle [from Chief Justice Marshall] . . . He has talents to make himself the ornament and the glory of his country; but if he means to do so, let him go home — let him go to some law school, and learn a little of the rights of the citizens of these states and of the members of this house — let him learn that if there is a disgrace in this house it is the presentation of such resolutions as these which he has offered against one of its members, charging him with crimes, ready to admit them as proofs of crimes, and offering them as if the party implicated had been tried and found guilty. That is the foundation of his resolution: nor can the house adopt them without deciding that the person is guilty of those crimes." Ibid., p. 365.

[2] Adams looked upon the resolutions as a criminal complaint, and hence claimed all the weapons of defense guaranteed by the sixth amendment of the constitution to a person criminally prosecuted.

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with blades of straw instead of lances. Underwood, of Kentucky, proudly wore the black feather of the slavocracy, but he revolted at the attempt to punish Adams "for an imputed motive." He saw more clearly, too, than the great majority of the slave-holders. Dissolve the Union, he said, and it is all over with slavery in the border states; your gag-laws are a suicidal folly.[1] Botts catechised his southern colleagues with the similitude of the mote and the beam, and reminded them, among other things, that the secretary of the navy, Upshur, of Virginia, was a decided advocate of the immediate dissolution of the Union. And Arnold, of Tennessee, called on them to reflect that Wise and Marshall, by their want of moderation, had fought a great battle for the abolitionists, and gave them some good instruction as to the demeanor which was to be expected of "boys" towards old men.

It is questionable whether Wise would still have exclaimed: "damn'd be he who first cries, hold, enough." Marshall's speech of the 28th of January, against Adams, showed that his certainty of victory was already greatly diminished. And now Adams began his defense. He demanded a great number of documents which he said were necessary to his defense. Although the house acceded only in small part to his demand, it soon became apparent that he was not lacking in material. He had repeatedly offered to leave the time of the house to its legitimate legislative tasks if an end were put to his trial for heresy in a manner which he could accept. As his offer had not been accepted, he now declared himself freed from all responsibility as to how many days or even weeks he might need for his defense. And it might be weeks if not months, for his defense was to be the whole dark history of the slavocracy. What Gilmer, Wise and Marshall wanted of this man, with his powerful mind, his incisive

[1] "If we cannot bear the discussion of this question we are already gone — gone beyond all hope of redemption." Niles, LXI, p. 367.

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logic, his unsurpassed knowledge, his biting sarcasm and high moral nobility, was not that he should follow this history into its minutest details and expose its deepest and most secret folds to the eyes of the people. But Adams was not willing to give them any quarter. He felt, indeed, that the battle was consuming the remnants of his life, but his brain unceasingly, through the long nights, forged new weapons out of the materials collected for that purpose by his friends. The criminal was transformed into the judge, and in the whole Union there was not a man who could go to judgment with the slavocracy with such destructive results to it as Adams. The "boys" had wished to hit him over the knuckles, but the scourge in his hands cut bloody streaks in their flesh. Their pledged "honor" made the scourged knights keep their word, but the entire slavocracy breathed heavily when he was ready to stop, and the whole matter was laid on the table by a vote of one hundred and six against ninety-three, on the 5th of February.[1]

This "trial" of John Quincy Adams was far removed from being, as had been repeatedly claimed in the debate, a fruitless vexation. It was one of the most decisive battles for one of the most important principles, a battle pregnant with the greatest consequences. Adams was entirely right when he said that all the attempts hitherto made against the right of petition were thrown far into the shade by the Marshall resolutions. If the house could declare one petition to be so monstrous, that the simple presentation of it made a representative liable to be severely punished,[2] it might do

[1] Niles, LXI, p. 383.

[2] Adams never had anything to say against the responsibility which the representative bears, according to English parliamentary usage, for every petition presented by him. But not a word of blame was uttered by any one as to the form of the Haverhill petition, and its contents did not violate any principle of the general moral law, but was concerned with a purely political question.

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the same in regard to every petition which it might desire to qualify in the same manner.[1] The gag-rules were the application of an objectionable and unconstitutional principle to a very definite question. Marshall's resolutions, on the other hand, contained the general recognition of this principle, involved the right of applying it to every case, at pleasure, and pushed its consequences to the extreme. Marshall's resolutions were a forward movement, along the whole line, from the position of the gag-rules. But such forward movements in politics never end in the simple restoration of the *status ante*. Adams had not only repelled the attack, but by this means of itself greatly promoted the winning back what had been previously lost: he had taken the gag out of the mouth of the people for all time. On the 2d of March, Giddings presented a petition from Austinburg, in Ohio, to the house, praying for a dissolution of the Union. Not a word was now heard of censure, of the disgrace of the house, of a proposition to commit perjury or high treason. Without any pomp or flourish of trumpets, the acceptance of the petition was refused by a vote of one hundred and sixteen against twenty-four.[2]

The victory was a great one, but there was still much to

[1] "Where is his law for charging a constituent with high crimes and misdemeanors for exercising the constitutional right of petition? Where in law is one such word to be found? But if the house do assume such a power — if they claim such an authority in this case — they assume it in reference to every petition presented here. They assert a discretionary power in this house to punish a constituent for presenting any petition. If you can punish him for presenting a petition peaceably to dissolve this Union, then you can punish for the presentation of every abolition petition. If the alleged right shall ever once be exercised, that will come next. . . . I have called on the gentleman again and again for his law. He cannot show any. And I say he falsifies my purposes by assuming that I am in favor of the object of the petition." Niles, LXI, p. 410.

[2] Niles, LXII, p. 150. See also Mem. of J. Q. Adams, XI, p. 109.

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do. The mouth of the representatives of the people was still closed, and might have remained closed a considerable time longer, if the slavocracy had not allowed itself to be carried away, by its rage over the defeat just suffered, to a course of violence entirely unparalleled even in its own annals. If Adams had torn their rope in pieces, it was perhaps still strong enough for a Giddings, especially if the noose were drawn without leaving him time even to open his mouth.

On the 27th of October, 1841, the brig "Creole," with a cargo of over a hundred slaves, had set sail from Hampton for New Orleans. On the 7th of November, a part of the slaves had revolted and overpowered the crew. One of the slave-owners was killed in the struggle. Two days later the brig ran into the harbor of Nassau. The English authorities of the island acted with the mass of the slaves, as they had always done in such cases. Those charged with the revolt and with the murder were imprisoned to await examination, but their surrender without the command of the government to the American consul was refused. Webster hastened to state the grievances of this mode of procedure, in a dispatch to the minister in London.[1] The reasons on which the dispatch was based, started out with the assumption that the flag of the United States caused the blacks to remain slaves even on the high seas, because the voyage of the "Creole" from Virginia to Louisiana, with slaves on board, was "perfectly lawful," and because the slaves were "recognized as property by the constitution of the United States in those states (!) in which slavery exists." He accordingly looked upon the negroes as guilty of "mutiny and murder," and declared that the law of nations made it the duty of England to surrender them. The argument was based so entirely on the resolutions of Calhoun of the 4th of March, 1840, already mentioned, that he took

[1] Niles, LXI, pp. 403, 404; January 29, 1842.

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occasion, in the senate, to express his entire satisfaction with them.[1]

Giddings, in the house, met this view of the administration, on the 21st of March, 1842, with a series of resolutions, the essential contents of which was briefly the following: since slavery abridges the natural rights of man, it can exist only by virtue of a positive municipal law, and is necessarily confined to the jurisdiction-territory of the power which makes it; that the jurisdiction of the separate states of the Union did not extend over the high seas; that the negroes on board the "Creole" had violated no law of the United States, since they had, on the high seas, placed themselves again in possession of their natural right to liberty, and had, therefore, incurred no legal punishment; that any attempt to obtain control over them again, or to make slaves of them again, was not warranted by the constitution or the laws of the United States, and was irreconcilable with the national honor.[2]

That was more than the nerves of the slaveholders could bear. Botts, who had just striven for the right of petition, demanded the administration of a severe censure, and based his motion on the following considerations: 1. That no

[1] "The letter which had been read was drawn up with great ability, and covered the ground which had been assumed on this subject by all parties in the senate. He hoped that it would have a beneficial effect, not only upon the United States, but Great Britain. Coming from the quarter it did, this document would do more good than in coming from any other quarter." Thirty Years' View, II, p. 413. It deserves to be mentioned, that Adams, as early as March, 1841, speaks of Webster's "extreme solicitude to conciliate the south." Mem. of J. Q. Adams, X, p. 448. In June, 1843, he calls him "a heartless traitor to the cause of human freedom." Ibid, XI, p. 384.

[2] Giddings, Hist. of the Rebellion, p. 180. On this occasion, Adams declared against the principle hitherto universally recognized, that the constitution had left "exclusive jurisdiction" over slavery to the states within their respective limits, and made the assertion which seemed insane to the south, that, in case of invasion or of insurrection, the government of the Union might even go so far as to abolish slavery.

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good citizen, and especially no representative, should excite dissatisfaction or provoke a division of views in respect to a question on which diplomatic negotiations were pending, and which might precipitate England and the United States, and perhaps the "whole civilized world," into a war; and 2. That Giddings's resolutions countenanced sedition and murder.[1] As Botts at the moment was not entitled to introduce a resolution, he asked for a suspension of the rules. As a few votes were wanting to make up the two-thirds majority[2] required for the adoption of this motion, a representative from the northern states, and a special colleague of Giddings, Weller, of Ohio, prostituted himself so far as not only to adopt the Botts resolution, but also to move the previous question demanded by Botts.[3] If this were granted, not only would all debate have been cut off, but all opportunity for Giddings to defend himself. If he wished to say anything in his justification, he had to do it under the name of a "privileged question," before the taking of the vote. He asked a postponement for a few days in vain. The house adjourned without having come to a vote. On the following day, the debate was continued a while on all kinds of questions of order, but the result of all the talk was that the previous question was resolved upon by ninety-five against ninety-one votes; that Giddings had no opportunity to speak, and that the Botts-Weller resolutions were adopted by a vote of one hundred and twenty-five against sixty-nine. As soon as the vote was announced, Giddings resigned his position, took formal leave of the speaker, and left the hall.

Of the representatives of the northern states, forty-seven

[1] See the wording of Botts's motion. Niles, LXII, p. 62.

[2] One hundred and twenty-eight against sixty-eight.

[3] Adams calls Weller "the rankest Five-Points democrat in the house." Mem., XI, 192. At that time, the Five-Points were the criminal portion of the city of New York, which had become proverbial.

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had voted with the majority, and twenty-five had refrained from voting, or were absent. Only about one-half had had the courage to oppose this attempt on the freedom of speech and of conviction of the representative, an attempt as cowardly as it was bold; and over one-third had participated in it.[1] But there was a higher court to which an appeal from congress might be taken. Was it expected that the northern population would approve the branding of the cheeks of their representatives for the reason that these representatives dared be of the conviction that no power had been granted to the federal authorities to turn the constitution and the laws of the Union into handcuffs and a lash for the use of the slave-bailiffs, and because they considered their approval of the slave trade between state and state as a blot on the national honor? The vote on the Botts-Weller resolution is one of the acts of lowest debasement of the politicians of the northern states under their masters, the slaveholders, and one of the acts of lowest debasement of the slave barons under their mistress, slavery. Never did Henry Clay do himself so much honor as at the moment when he thanked Giddings for the firmness with which he had opposed that violence which cried to heaven.[2] The slaveholder, Henry Clay, declared it to be a monstrous thing, that a representative should be punished for the exposition of his views against the slave trade from state to state under the national flag, while the executive and the senate were occupied with the task of engaging the nation to protect that trade to an extent which could not yet be calculated. Was it believed that the population of the northern states would quietly accommodate themselves to the fact that the slavocrats should

[1] Only two representatives from the southern states, Pope and Underwood, of Kentucky, voted against the resolution. See the list of votes by states in Giddings's Hist. of the Rebellion, pp. 186–188.

[2] Hist. of the Rebellion, p. 189.

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determine the limits beyond which, under penalty of defamatory censure, the constitutional convictions of no representative should presume to be unfavorable to their exclusive interests? There were places left in the Union in which such an imputation called forth the most violent indignation.

When Giddings reached out his hand to take leave of Adams, the old man's emotion was so deep that he could only say: "I hope we shall soon have you back again."[1] Giddings was reëlected by an overwhelming majority, and with instructions to introduce his resolutions once more. This was a plain answer to the audacious venture of the slavocracy. Only by all sorts of parliamentary stratagem could the proud masters protect themselves from the humiliation of being obliged to listen to the resolutions once more, and to dispose of them in some decent manner. Many of them finally recognized that the entire gag-policy had been, indeed, a suicidal folly. The potion was a bitter one, nor was it sweetened by the fact that the slavocracy would soon have to be satisfied, if only the peace of the "correct" doctrines were not disturbed in the records. What was obtained from England in the negotiations with Lord Ashburton amounted to the general promise that, in these complicated cases, in future, it would take pains to be formally as considerate as possible. Even Calhoun enveloped himself henceforth in dignified silence on this question.[2] It was the sorry consolation of the boy worsted in the scuffle, that others had assured him the south had, by no means, given up its claims, but only waited for a more opportune time to assert them once more against England.

The defeat of the slavocracy in the case of Giddings, how-

[1] Mem. of J. Q. Adams, XI, p. 114.

[2] Giddings says, that so far as he was informed, Calhoun himself never again touched upon the question in private conversation. Hist. of the Rebellion, p. 192.

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ever, was of importance not in relation to the gag-policy only. Giddings's resolutions were based on one general fundamental thought of the greatest scope. This thought had been frequently expressed by others before him, and the right consequences in regard to the one and the other concrete question had been already drawn. But to Giddings more than to any other person belongs the credit of having, with full consciousness, made it the constitutional basis of his entire warfare against the slavocracy, and of having applied it with a consistency never before attained to all questions to which it was pertinent. He adopted entirely the principle of his opponents: slavery is exclusively a matter of the slave states; and with them he drew the logically correct conclusion: let us alone! This was, at every step, a bad stumbling block in the way of the south, over which it might, indeed, easily jump, but which it was never able to remove. This was a process of reasoning which was clear to the plain and simple, with too little culture, and, perhaps, too much sound common sense, to be influenced, to any considerable extent, by the hair-splitting deductions from every jot and tittle of the constitution. Here was found the formula of a letter of excuse addressed to the slavocracy, which seemed completely reconcilable with the keeping sacred of all the obligations of positive law.

This was, indeed, no more than a pretence. The constitution contained provisions such that there was no need of the arts of the lawyer to demonstrate the untenableness of this "let us alone" on the one side and the other. And interests were so interlaced that they were considered of far more importance than any constitutional justification and obligation. But the more strongly the one side of the legal relation created by the constitution was emphasized in the camps of the two armies — and it was the same side in both — the more apparent became the impossibility

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of harmonizing theory and practice. The opposing forces mutually forced each other more and more emphatically on to the ground of pure facts, by the manner in which they rode their theories. If the south, under the leadership of the arch-doctrinarian, Calhoun, had been greatly in advance of its opponents here, the latter now began the more rugged development of another side of their doctrinarianism, which necessarily brought them, after a few bounds, shoulder to shoulder with their antipodes. The appeal to the Declaration of Independence, as a secondary constitution, which demanded more consideration than the constitution inasmuch as it preceded the latter and formed the real basis of the republic, becomes more and more frequent.[1] It was sought to find in it not only the real sentiments of the fathers of the republic in order to make use of the moral weight of their authority, but people began to treat it as a binding legal instrument. This was the first conscious step beyond the constitution, and on to the ground of a "higher law." It was the incipient breaking through of a revolutionary spirit with certain northern politicians — a spirit which, like that of the abolitionists, sought a foothold in absolute ethical principles, but which, in contrast with the abolitionists, maintained a base of operations for practical politics, inasmuch as it ascribed to the general politico-philosophical principles of a revolutionary manifesto the binding force of principles of law.

The more consistently this ingenuous view was developed by individuals, the more probable it became that many would adopt it without reserve. That, in the course of years, it

[1] Giddings complains that even in 1831, "no public man [now] maintained the principles enunciated in the declaration of independence. No one raised his voice in support of those 'self-evident truths' which constituted the foundation of our republican edifice." Hist. of the Rebellion, p. 98.

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would obtain great influence over the mode of thought of the masses in the free states was altogether probable. In the feeling of the people, the declaration of independence was equal in rank to the constitution. Hence, where the utterances of the latter were not entirely clear, the principles of the former could be carried into the battle as heavy artillery, with a success greater in proportion as both the demands of their own interests and the moral feeling and convictions of the entire civilized world, not a party to the controversy, were in harmony with them.

The most recent experience had furnished new proof how rapidly the slavocracy's absence of moderation carried the conviction into circles which grew wider every day, that that absence of moderation endangered the highest interests and goods not only of the free states, but of the whole republic, in the extreme. Adams's trial was followed with intense excitement as a great national affair, and the inquisitorial proceedings against Giddings were succeeded by indignation meetings in the most different portions of the north. Condemnatory judgments which should have caused the south to reflect,[1] were expressed even by democrats, and another lesson followed on the heels of these which bore eloquent testimony to the vain folly of the attempt to place the United States on an insulating stool in the interest of the slavocracy in the face of the moral convictions of all the rest of the civilized world.

On the 20th of December, 1841, England, France, Russia, Prussia and Austria had concluded in London,[2] the so-called quintuple treaty for the suppression of the slave trade. On

[1] William Cullen Bryant, the publisher of the "New York Evening Post," said that he would use all his influence to secure the reëlection of Giddings, if he lived in the same district. Ibid., p. 191.

[2] The full text of the treaty and of the instructions to the cruisers of the treaty powers is printed in Niles, LXII, pp. 89–91.

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the 1st of February, 1842, there appeared in Paris an anonymous pamphlet from the pen of the American ambassador in France, Lewis Cass, on the question pending between the United States and the English government, on the right of search.[1] The expressed object of the pamphlet was to open the eyes of the treaty powers to the fact that they were on the point of falling into the philanthropic snare of ambitious England, and sacrifice to her the freedom of the sea by guarantying to each other for certain seas the mutual right of the search of merchantmen carrying their flag, and suspected of being engaged in the slave trade. The pamphlet was followed, on the 13th of February, by a protest of Cass, directed to Guizot, the minister of foreign affairs, against the ratification of the quintuple treaty by France,[2] which the chamber of deputies then actually prevented. The protest, which Adams called "absurd,"[3] was, as Cass expressly stated, put forth on his own responsibility entirely, but was approved in a dispatch of the secretary of state dated the 5th of April, 1842, in the name of the president.[4] To my knowledge, there is no proof that Webster had maintained another view against Tyler, and had only accommodated himself to the judgment of the president. But there is very direct evidence that he charged Cass with courting popularity throughout his whole course,[5] and passed a very

[1] The pamphlet is printed in full in Niles, LXII, pp. 54–60.

[2] Ibid., pp. 229, 230.

[3] Mem. of J. Q. Adams, XI, p. 337. On the next day Adams expresses himself on the protest in his diary, in the following manner: "Cass's protest . . . is a compound of Yankee cunning, of Italian perfidy, and of French légèreté, cemented by shameless profligacy, unparalleled in American diplomacy. Tyler's approval of it is at once dishonest, mean, insincere, and hollow-hearted." Ibid., p. 338.

[4] "The president directs me to say that he approves your letter, and warmly commends the motives which animated you in presenting it." Niles, LXIV, p. 71.

[5] "He [Webster] spoke with great severity of the conduct both of Cass

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unfavorable judgment on the deductions of law of the pamphlet, which constituted the real substratum of the protest.[1]

The pamphlet and the protest caused a great sensation in the United States. Cass's name was, for a time, one of the most celebrated in the nation. England could not complain of this feeling, for it was the entirely legitimate fruit of the ruthlessness, frequently amounting to brutality, with which it had forcibly exercised the right of search on the ocean, which it claimed, and employed it in the pressing of sailors. Cass's feeling on the great injustice which his country had had to endure in this respect for many years, was unquestionably not assumed. But he either purposely colored the picture too highly, or he was better adapted to represent this delicate question before an excited popular meeting than in a council of diplomats. There were a great many important questions to be settled between England and the United States, and the feeling between the two countries, at times, ran very high. But when Cass represented England's attitude in this very question to be so threatening that he endeavored to drive his government into the making of vigorous preparations for an offensive and defensive war,[2] he was

and of Stevenson upon this subject, and said they thought to make great political headway upon a popular gale." Mem. of J. Q. Adams, XI, p. 243.

[1] Mr. Webster to Mr. Everett, April 26, 1842: "I must say, between ourselves, that General Cass's pamphlet, however distinguished for ardent American feeling, is, nevertheless, as a piece of law logic, quite inconclusive. I think, as might be said of other compositions on the same subject, that it contains passages which yield all that is contended for on the other side." Curtis, Life of D. Webster, II, p. 118. This interesting passage is omitted in the copy of the letter in the Priv. Corresp. of D. Webster, II, p. 124, and nothing said of an omission.

[2] "If England pushes her purpose into action, we shall have a severe struggle to encounter, and the sooner and the more vigorously we prepare for it the better. If she does not, we shall gain by our exhibition of firmness, and the very state of preparations may lead her to recede. But per-

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either guilty of gross exaggeration, or the blood rushed to his head so easily that he was completely unfitted for a diplomatic position of any importance. A third assumption is possible, and it is, indeed, the right one. The scheming political "log-roller," with a high aim at the object of his own personal ambition, and the hot temperament of the would-be-great man of mediocre endowments and mediocre education, coöperated to give such a form to the effusions of the ardent patriot that Adams's hard judgment upon them seems scarcely exaggerated.

The moral pathos of the pamphlet accorded badly with its inconsistent, dishonest statement of the facts. Any one not better informed would have obtained from the whole exposition the impression that the United States had, from the first and uninterruptedly, had its hand on the hilt of the sword, ready to appear with all the rigorism paraded by the writer, in defense of the position which they now thought well to assume. This impression must have made the conviction expressed at the close, that there was not the least hope of seeing the United States agree to any compromise, seem entirely well founded.[1] But the facts did not in any way justify this claim to uninterrupted consistency and readiness to defend the principle at all hazards. England alleged — and not without reason — that there were all sorts of things before the door of the United States for them to sweep, before it would be becoming in them to pass so harsh a judg-

mit me to press upon you the necessity of instant and extensive arrangements for offensive and defensive war. All other questions, personal, local and political, should give way before this paramount duty." Dispatch of the 15th of February, 1842. Niles, LXIV, p. 70.

[1] "Most sincerely do we hope that Lord Ashburton carries out to the American government some modified proposition it can accept. But we freely confess, looking to the pretensions of both parties and knowing the feelings of our countrymen, that we do not see upon what middle ground they can meet."

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ment on the pretensions of others.[1] But, be this as it might, it was certain that there was a time when they had considered the principles of the quintuple treaty to be very well reconcilable with national honor and national interest; and the stipulations of the quintuple treaty went far beyond what England now wished to receive from them. When, during Monroe's administration, England had negotiated a convention with the United States for the suppression of the slave trade, Adams was the only member of the cabinet who was of opinion that not the slightest concession in relation to the right of search should be made.[2] The fact was well known at the time, and a Virginian endeavored to turn it to account in the presidential election of 1824, against Adams, by accusing him of being an opponent of the suppression of the slave trade. Another Virginian, Charles Fenton Mercer, was the chief agitator in the house for the granting of the right of search, and saw his view prevail in 1823: only nine votes were cast against his resolution.[3] As the senate also agreed to it, Adams was obliged to give up his opposition in the cabinet, and Rush, the American minister in London, received instructions which accorded with the resolutions of congress. Canning left it to Rush to make the draught of the convention, and signed it without the slightest change.[4]

[1] ". . . The undersigned can at once refer to the avowed and constant practice of the United States, whose cruisers, especially in the Gulf of Mexico, by the admission of their public journals, are notoriously in the habit of examining all suspicious vessels, whether sailing under the English flag or any other." Lord Aberdeen to Mr. Everett, Niles, LXII, p. 119.

[2] "I resisted and opposed it in the cabinet with all my power, and, though not a slaveholder myself, I had to resist the slaveholding members of the cabinet, as well as Mr. Monroe himself, for they were all inclined to concede the right." Adams's speech of the 14th of April, 1842, in the house of representatives. Niles, LXII, p. 120.

[3] l. c.

[4] "When he made his proposal to Mr. Canning, Mr. Canning's reply was, 'Draw up your convention, and I will sign it.' Mr. Rush did so; and

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When the convention came to Washington to be ratified, a revolution in party affairs had taken place there. The house was in opposition to the administration, and was now opposed to the convention which had been made on its motion. The senate, on the other hand, ratified it by a vote of twenty-nine against thirteen; and the leaders of the democratic party and of the slavocracy,[1] who, to the extent that they still stood on the political stage, now cried loudest against England's unheard-of presumption, voted with the majority. The alterations which the senate had proposed were not immaterial, but they did not touch the principle of the convention. The convention finally fell through, because the senate would not permit the right of search to be extended to the coasts "of America;" but it had unconditionally granted it in respect to the coasts of Africa and the West Indies.[2]

In the face of these facts, it required, indeed, a very bold-fronted man to protest against the ratification of the quintuple treaty. The protest against the adoption of a new and important provision into international maritime law, without the previous assent of the United States, was entirely empty, since not a syllable of the treaty intimated such a purpose. And even Cass himself asserted, in the same breath, that he

Mr. Canning, without the slightest alteration whatever, without varying the dot of an *i*, or the crossing of a *t*, did affix to it his signature; thus assenting to our terms, in our own language." l. c.

[1] Branch and Brown of North Carolina, Benton, Andrew Jackson, Johnson of Kentucky, King of Alabama, Holmes of Mississippi, Hayne of South Carolina.

[2] The cruisers of the contracting powers on the coasts mentioned were authorized "to detain, examine, capture, and deliver over for trial and adjudication, by some competent tribunal, of whichever of the two countries it shall be found to belong to, any ship or vessel concerned in the illicit traffic of slaves, and carrying the flag of the other, or owned by any subjects or citizens of either of the two contracting parties, except when in the presence of a ship of war of its own nation." See the convention of the 13th of March, 1824. Niles, LXIV, pp. 104, 105.

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could not consider such an extension possible. In order to get a pretext to say something on the treaty against the French government, he had to cite the correspondence between the United States and England, with which the other treaty powers had evidently not had the least thing to do. He arbitrarily dragged two short sentences out of this voluminous correspondence, pointed them nicely for his purpose by the interpretation he put on them, and in this way reached the conclusion that the ratification of the treaty might place France in danger of a conflict with the United States. A diplomatic note of protest, showing in the background war to the knife, painted in proud words, was never based on anything more aerial, not to say more frivolous. But besides this, Cass was here guilty of the same want of uprightness which had characterized his sketch of the history of the question. Firmly as he might personally be convinced that England was not to be trusted out of sight, when he undertook to enlighten France, from the records, on the disposition and the intentions of England, he should not have passed over in complete silence the fact that England had now given the supplemental assurance that the disposition and intentions ascribed to her were far removed from her. Cass might not know the wording of the documents which the two governments, in the meantime, had exchanged with one another, but their general character must have been known to him. But while Cass repeatedly asserted in his protest that the right to "search"[1] American vessels even in times of peace was claimed by England, Lord Aberdeen declared the contrary to be the case in the most express terms: she claimed only the "right of visitation" — a right which she also conceded — to enable her to ascertain whether

[1] "Lord Aberdeen thus states the ground upon which rests this pretension to search American vessels in time of peace." "This claim of search," etc.

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suspicious ships carrying the American flag were really entitled to carry it. In the latter case, England would abstain from all molestation, even if the ships were slave vessels; and if an American ship suffered in any way from the exercise of the right of visitation, England would make full compensation.[1]

Adams, who still lamented[2] the concessions of the convention of 1824, now firmly maintained that, absolutely, the question was not of the right of visitation; in his opinion, there was only one question that presented itself: that of "the support and perpetuation of the African slave trade."[3]

[1] "The undersigned again renounces, as he has already done in the most explicit terms, any right on the part of the British government to search American vessels in time of peace. The right of search, except when specially conceded by treaty, is a purely belligerent right, and can have no existence on the high seas during peace. The undersigned apprehends, however, that the right of search is not confined to the verification of the nationality of the vessel, but also extends to the object of the voyage and the nature of the cargo. The sole purpose of the British cruisers is to ascertain whether the vessels they meet with are really American or not. The right asserted has, in truth, no resemblance to the right of search either in principle or practice. It is simply a right to satisfy the party who has a legitimate interest in knowing the truth, that the vessel actually is what her colors announce. This right we concede as freely as we exercise. The British cruisers are not instructed to detain American vessels under any circumstances whatever; on the contrary, they are ordered to abstain from all interference with them, be they slavers or otherwise . . . if, in spite of the utmost caution, an error should be committed, and any American vessel should suffer loss and injury, it would be followed by prompt and ample reparation." Lord Aberdeen to Mr. Everett, Dec. 20, 1841. Niles, LXIV, p. 27.

[2] "But, as to the right of search, in the bitterness of my soul, I say it was conceded by all the authorities of this nation."

[3] "She [Great Britain] has never claimed to search American vessels, no such thing; on the contrary, she has explicitly disclaimed any such pretension, and that to the whole extent we can possibly demand. What is it we do demand? Not that Great Britain should disclaim the right to search American vessels, but we deny to her the right to visit and to board pirates who hoist the American flag; yes, and to search British vessels, too,

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This was not a saying which escaped him inadvertently in the heat of the moment. As early as the 25th of January, he had preferred the double charge that it was desired to increase the fleet for the better protection of the slave traders, and to precipitate the Union into a war with England in order to defend the slave trade.[1]

Adams easily saw things in too glaring a light, and frequently clothed his thought in the very strongest expressions. But in the background of these words coming from such a mouth, the reasoning of the Cass pamphlet appeared in a very peculiar light. Yet there was no need even of this. One only needed to look at the reasoning of the pamphlet in its own light, to be convinced that the writer took offense at the end contemplated by the treaty, and did not simply consider the means absolutely objectionable, spite of the laudable end. Cass, indeed, declared himself an opponent "in principle" of slavery; but his "prayer" for its abolition was interlarded in a very marked manner with modifying clauses. His conditions were that its abolition should be effected not only justly and peaceably,

that have been declared to be pirates by the laws of nations — pirates by the laws of Great Britain — pirates by the laws of the United States. Now, it happens that behind all this exceeding great zeal against the right of search is a question which the gentleman took care not to bring into view — and that is the support and perpetuation of the African slave trade. That is the real question between the ministers of America and Great Britain — whether slave-traders, pirates, by merely hoisting the American flag, shall be saved from capture." Niles, LXII, p. 120.

[1] "It was time for them [the population of the free states] to take the alarm, or they would find themselves smuggled into a war for the protection of the slave trade, and that the most absurd and false principles of the laws of nations had been asserted by our minister in England [Stevenson], all for the purpose of smuggling this country into a war with that government under pretense of defense against her aggressions. . . . He had read the report of the secretary of the navy, and seen what was the object of this home squadron — that it was for furnishing a convoy for slave-trading vessels!" Ibid., LXI, p. 360.

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but easily. He was not one of the fanatics who would not recoil from any horror to reach the end which was praiseworthy in itself.[1] He, therefore, lauded the wisdom of the fathers of the republic who had not required the states to grant any power in this question to the government of the Union. But what in the wide world had all this to do with the controversy over the right of search, and with the quintuple treaty? Who was there that thought of attempting the emancipation of the slaves in the United States by "fire and murder?" If any sense could be made out of his talk in this place, Cass must have considered slavery in the United States imperilled by the quintuple treaty. Nay, more, such an imperilling of slavery in the United States must have seemed to him to be a great injustice. This explains why his laudation of what the Union had done and was still doing for the suppression of slavery, was followed by the emphatic recalling of the fact that the slave trade could be traced back to the times of the patriarch Jacob. Hence it was that the emphatic concession that the African slave trade was illegal, according to the law of nations, was accompanied by the still more emphatic protest against the allegation, that it was piracy by the law of nations; while a prudent silence was maintained on the fact that, at least, the United States in unison with England, had declared it to be such. For this reason Cass lost himself in a general critical examination of slavery, declared the lot of the American slaves to be better than that of the lowest strata of society in Europe, and asserted that it was steadily getting better, under the influence of the patriarchal character of slavery in the United States.[2]

[1] "But we would not carry fire and devastation, and murder and ruin into a peaceful community, to push on the accomplishment of the object."

[2] "A general disposition is gaining ground to improve the situation of this unfortunate class of society. . . . But after having visited the three quarters of the old continent, we say before God and the world, that we

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The commentary to these last assertions was the unanimous declaration of the southern politicians, and of the southern press, that the agitation of the abolitionists had made a great intensification of the severity of the slave-code unavoidable; the prohibition of emancipation just issued by South Carolina;[1] the new laws of Mississippi, which decreed the sale of free negroes for the most frivolous reasons;[2] the debates and propositions of the Maryland convention of slaveholders at Annapolis, which should have covered the face of every American patriot with the blush of shame to the roots of his hair,[3] etc. But it was a matter of comparative indif-

have seen far more, and more frightful misery, since we landed in Europe, and we have not visited Ireland yet, than we have ever seen among this class of people in the United States. Whatever may be said, there is much of the patriarchal relation between the southern planter and the slave."

[1] "Among the acts passed by the legislature at its late session was one to prevent emancipation of slaves. Any will or bequest, etc., to that effect will hereafter be null and void." Niles, XLI, p. 320.

[2] "By an act which was passed at the last session of the Mississippi legislature, every justice in the state is authorized, at the request of a freeholder, to cause every free negro to give security in the sum of one hundred dollars for his good behavior, or to commit him to jail, and, after public notice, the sheriff of the county shall sell him. Every free negro is forbidden to enter the state; and if one such is found having emigrated into the state under any pretense whatever, any white citizen may cause him to be punished by the sheriff, with thirty-nine lashes; and if he does not immediately thereafter remove, he is to be sold." Ibid., LXII, p. 112.

[3] The following examples will suffice as a characterization: "That all free negroes shall be obliged to register themselves on or before the 15th of July next, and every twelve months hereafter, in the office of the clerk of the county, and no certificate of freedom of an older date shall be good. . . . It shall be the duty of the orphans' court of the several counties in the state and city of Baltimore, from and after the 1st of January, 1844, to bind out, at the age of eight years, the children of all free negroes then in the state, to serve until they arrive at the age of twenty-one for males, and eighteen for females. . . . That if any free negro who may have a license from any Christian denomination, either to preach or exhort, shall hold or attend any meeting prohibited by law, he shall for the first offense be subject to a fine and imprisonment, and for the second offense be sold out of the state."

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ference how thickly or thinly Cass covered over the dark picture with his rouge. The most material thing was the fact itself that an ambassador of the United States, belonging to the free north, of his own accord, in respect to a great international question, and in opposition to the humanitarian efforts of the European powers, set himself up as the defender, if not directly of slavery, of the slavocracy, and measured the value of personal liberty by the quantity and the pleasantness of the taste of the broth in the soup-pot.

The administration had subsequently approved the protest and extolled the patriotism of the ambassador, but his argument did not, by any means, seem cogent enough to permit the American flag, in defiance of the civilized world, to remain a free passport for the slave trade. Cass, indeed, said that the English cruisers were not prevented from stopping such ships as unrightfully carried the American flag. Certainly not; they were simply deprived of the only means by which it could be discovered whether this was the case or not. Even slaveholders were ashamed to make use of such sophistry. The weightiest authority among them, Calhoun, admitted that the slaveholders did not draw this fine distinction, but, in accordance with the English view, considered the latter a protection quite as ample as the former.[1]

The administration admitted not only these facts tacitly,

In addition to this, the following was moved and adopted: "With a provision that after the period of banishment or sale has expired, the said negro shall not be permitted to return to this state, and that in case of doing so, such negroes shall be liable to be sold as slaves for life, beyond the limits of this state." See ibid., LXI, pp. 322, 323, 356–358.

[1] "The influence and efforts of the civilized world were directed against it [the slave trade] — and that, too, under our lead at the commencement; and with such success as to compel vessels engaged in it to take shelter, almost exclusively, under the fraudulent use of our flag. To permit such a state of things to continue, could not but deeply impeach our honor, and turn the sympathy of the world against us." Deb. of Congr., XIV, p. 583.

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but also showed by its action that, in its opinion, according to the moral convictions of European countries, some kind of satisfaction could no longer be refused. But, at the same time, it wished to avoid defining its position on the question of maritime law in any way, because its growth from a medium power to a great power might make the surrender, to a greater or less extent, of the point of view hitherto represented by the Union, desirable. It seemed to attain both ends at the same time by the mediating proposition, that the question of principle should be practically dropped at that time, and that the two powers, England and the United States, should obligate themselves by treaty to maintain a squadron of a certain strength on the African coast for the purpose — independently of one another, indeed, but with vigor and harmony — of accomplishing the task of suppressing the slave trade.[1] These propositions constituted the material contents of the provisional settlement agreed upon in relation to this question in the treaty made at Washington on the 9th of August, 1842.[2]

[1] Mr. Webster to Mr. Everett, April 26, 1842: "Our position in respect to these maritime questions is peculiar. Hitherto, we have been on the side of the neutral, and the minor naval powers, always most forward in contending for the freedom of the seas, in the utmost latitude of that freedom. But we are in the progress of change. We are no longer a minor commercial power, nor do we know that we have any particular exemption from war, if war should again break out. We see no necessity, then, of being in haste to do that which our political men sometimes call 'defining our position.' To avoid all this, and to escape the necessity of mingling ourselves, at present, in the discussions now so rife in Europe, I have proposed to Lord Ashburton, to come to an agreement, that England and the United States shall maintain, for a limited time, each an independent squadron on the coast of Africa, comprising such a number of vessels and of such force as may be agreed on, with instructions to their commanders respectively to act in concert, so far as may be necessary, in order that no slave-ship, under whatever flag she may sail, shall be free from visitation and search." Webst.'s Priv. Corresp., II, pp. 124, 125.

[2] Stat. at L., VIII, p. 576; V, art. VIII and IX.

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The senate ratified the treaty, but the doctors who so skillfully plastered the rupture instead of trying to heal it, were compelled to permit themselves to be told many a bitter truth. If, as Adams expressed himself, Calhoun advocated the "ticklish truce,"[1] he did so certainly only because he recognized that such a truce was the utmost that could be attained. But once such a step was retraced, the lost ground could never be regained; and further retrogression was inevitable. Cass had in vain thrown himself into the breach for the south. The public opinion of Europe and of the free states of the Union had again badly defeated the slavocracy. The Union had entered into a treaty obligation in relation to a European power, by which it condemned its own course of action at home in the severest manner. Was it not plain mockery to be obliged to keep a fleet on the coast of Africa for the suppression of the slave trade, while the slavocracy declared the Union to be warranted and, under certain circumstances, bound in duty to wage a war against the same England for the reason that it recognized no sort of obligation to the unfortunate American slave-owners whose slaves it had set at liberty when wind and weather, or even a successful uprising of the slaves themselves, had brought such a "legal" cargo of human flesh into

[1] "On the subject of slavery and the slave-trade, the negotiation itself was a scapinade, a struggle between the plenipotentiaries to outwit each other, and to circumvent both countries by a slippery compromise between freedom and slavery. Calhoun crows about his success in imposing his own bastard law of nations upon the senate by his preposterous resolutions (the enterprise resolutions of the 4th of March, 1840), and chuckles at Webster's appealing to those resolutions now, after dodging from the duty of refuting and confounding them then. Calhoun concludes, upon the whole, to put up with the ticklish truce patched up between the treaty and the correspondence; and this was what, in fact, reconciled him to the ratification. There is a temperance in his manner obviously aiming to conciliate the northern political sopranos, who abhor slavery and help to forge fetters for the slave." Mem. of J. Q. Adams, XI, p. 285.

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one of her harbors? Was it not plain mockery to be obliged to do anything at all for the suppression of the African slave trade, while the slavocracy unanimously spoke of the blessings which had fallen to the lot of the "benighted sons of Africa" by their transfer into the Christian west? There was no need of the "fanatics" of the north to awaken men to an understanding of this side of the Ashburton treaty. Benton's rage and pain were too overpowering to permit him to follow Calhoun's example and look on the wicked game with as pleasant a face as possible. No abolitionist would have been able to show the slavocracy how ridiculous a figure it cut as effectually as did the furious slaveholder.[1]

The history of the slavery question during Tyler's administration, so far as we have followed it up to this time, shows us the power of the slavocracy on the decline. Hence the

[1] "What if the emperor of Brazil, boy as he is; or the queen of Spain, child as she is; or the queen of Portugal, lady as she is, should give our minister advice to return home and free his own country from slaves before he went about to close the markets of the world against them? True, there is a difference between purchasing and the purchased. The intellect can detect the difference. But still, it is a case for a sarcasm and for an insult; and the American minister who should go upon these expeditions should look out for answers very different from what may be given to the representative of Great Britain. She, having liberated her own slaves, may stand up and speak. But how will it be with the American minister, when he commences rehearsing his remonstrance? This business of remonstrating is a delicate operation between individuals; more so when a sovereign is in the case; and becomes exceedingly critical when the remonstrant is about in the condition himself which he attacks in others. Among all the strange features in the comedy of errors which has ended in this treaty, that of sending American ministers abroad to close the markets of the world against the slave-trade is the most striking. Not content with the expenses, loss of life and political entanglements of this alliance, we must electioneer for insults, and send ministers abroad to receive, pocket and bring them home. . . . What madness and folly! Has Don Quixote come to life and placed himself at the head of our government, and taken the negroes of Africa, instead of the damsels of Spain, for the objects of his chivalrous protection?" Deb. of Congr., XIV, p. 551.

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view which originated, under the pressure of later events, that its supremacy was advancing rapidly and steadily, needs correction greatly. This view is not entirely wrong, but it sees only one side of things. A great part of the northern politicians bow lower under the yoke, but between them and the best portion of the northern population, a split has been made, which grows considerably larger. The number of those politicians was large enough to give the south, as a rule, the majority in congress when the slaveholding interest bridged over the party-gap between its representatives. But, on the other hand, a part of the population of the northern states who emancipated themselves from the slavocracy and from their own politicians, was strong enough already not only to exercise a compelling pressure in some questions on a sufficient number of the northern serviles in congress, but also to drive a wedge here and there into the representation of the south. Moreover the number of districts in the free states which adopted the let-us-alone programme of the south grew slowly. But lamentably small as was the group of those in congress who, on every occasion, dared to call the child by the right name, who contemptuously declined the challenges of the southern brawlers to fight a duel, and who did not wince when, in the course of debate, hands were seen to grasp the bowie-knife, and revolvers were cocked — it still was growing. In a word, the proof that the union with slavery had not been able to emasculate the north, and that it awakened more and more to the recognition of its rights and duties, kept accumulating.

The south contributed its share to this. About ten years had elapsed since Harrison Grey Otis had written: The tide is all in one direction. Now the waters were streaming back. If they attained the same power with which they had then struck against rising abolitionism, all was over with the rule of the slavocracy. The slavocracy felt this, and with

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convulsive efforts, it sought to turn back the rudder in the old direction. The violent brutality of its appearance in congress reached its zenith during these years. Provoking thumps, fist-blows, the flourishing of weapons bade fair to become the inevitable spice of legislative action. Again and again, Adams repeated in his diary, the prayer for peace and calmness in battle. The granting of the prayer would have been almost a miracle, even if he had been a lamb by nature. The provocations must have been insupportable to all those in whom the feeling of individual dignity and of the dignity of human nature was not entirely drowned in the "milk of pious thought." The southern extremists now scarcely spoke except in the tone of the master, and of a master such as was necessarily formed in a slavocracy according to Jefferson's masterly delineation, from his nursery years up. Their passion could not bear the least provocation, and they began to consider the art of persuasion unworthy of them; imperious demands, audacious threats, wild abuse, the tone of the voice, the glance of the eye, every motion of the arm — all were only variations of the one theme: sirrah, do not forget your place, and your damned duty and obligation!

How, under these circumstances, could the isolated defeats of the slavocracy have made, on contemporaries and especially on fellow-actors, the impression of great victories of the principles of liberty? We are able to understand their meaning, but to them they must have seemed only as the repulse of an attack at a few points, while the enemy, everywhere else, was advancing. In this point or in that, the south became more cautious and wise by the defeats which it had suffered, but these had not made it grow faint-hearted. It was perfectly conscious of the power it still possessed, and its defeats had only strengthened its resolution to assert that power at all hazards, and made it clearer to it, that to assert that

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power was necessary to increase it, in the real sense of the word. And this it could now do if it understood how to turn the moment to advantage.

We have already referred to the attempt to discredit the whigs in the south as abolitionists. Absurd as the exaggeration was, it was, after all, only an exaggeration. On the whole, the slavocracy could not, by any means, count on them to the extent that it could on the democrats. Even Jefferson had called "the democracy of the north the natural ally of the south," and the south now emphatically reminded the northern democrats of the prophetic saying,[1] which it had, from the first, known how to fulfill. This alliance lay in the nature of the party. Even the democrats' fundamental view of the political *(staatlich)* nature of the Union directed the slavocracy towards them chiefly. The more pointedly, in theory, the confederate character of the Union was brought into view, the more difficult did it become, in practice, to resist the pretensions of the south. If it demanded that anything should be done, it could almost always appeal with success to the national feeling, because the national intergrowth of material interests had advanced so far that the Union seemed in the direct feeling of the whole people, and especially of the northern population, not as a confederation, but as a rather compact federal state. If, on the other hand, it contested the power of the government of the Union, it could draw the democrats after it mostly by the rope of state-sovereignty. In addition to this, there was the peculiar inclination of these antitheses to one another. Those democrats of the north who, with all the honesty of incapacity for political thought, demanded, most unconditionally, the carrying into practice of the democratic principle, agreed also, in the most absolute and honest conviction, with the slaveholders, that it was obvious that none of their

[1] Niles, LXII, p. 219.

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"self-evident principles" had any application to negroes. The radical democrat is, as a rule, an aristocrat so arrogant and so intolerant that only the slaveholder can be considered his peer in this respect. Democrats of the first water of this kind are, indeed, a rarity even to-day, in the United States; but they had, at that early day, a large class which furnished almost as good material for demagogues of every degree and rank. Its very name drew the greatest part of the naturalized citizens to the democratic party. How were these Europeans to attain to a half-way correct understanding of the nature and meaning of the slavery question? The number of those among them who had the education necessary to do this was evanescently small. Scarcely one of them knew how and why the state of things had come to be what it was. All were engaged, to the fullest, by the unavoidable necessity of making a livelihood. What tune is there to which a skillful musician might not have made these people dance? The ideas and prejudices brought over by them from Europe were harped on, and a watchword was thrown in here and there, as an always effective trumpet-blast; a cheap compliment was whispered before election day into the ear of the really despised pariah, and the herd leaped as happy and thoughtless as a flock of sheep. Many a revolutionist of 1848 whom the reaction had driven to America, distinctly remembers yet with what stark, almost dreadful astonishment, his wise German countrymen looked at him when he declared that he preferred the whigs to the democrats. And then there were the compact crowds of the much more numerous Irish, whom the tyranny of England, extending over several centuries, had kneaded into clay softer and more plastic than had ever before fallen into the hands of the demagogue. Only the church could have kept these hot-blooded, willing and devoted children, with their utter absence of education, and

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their coarseness, which often amounted to brutalization, from being used by the dregs of the native politicians as a battering ram against the foundations of the healthy American democracy. But what attitude the Catholic church assumed towards the slavery question, we have already heard from the mouth of Brownson, the greatest Catholic publicist of the Union. It had not escaped the sharp eye of Van Buren of what value it would be to the political "machine" to control, here and there, in the larger cities of the Union, a blindly devoted bodyguard[1] made up of such elements; and the lessons of its successes have never been forgotten by the democratic politicians.

The democrats had now again a preponderance in congress, and they immediately showed, in the most striking manner, how little their defeat in 1840 had taught them to have a little more regard for law, right and decency, where these came into collision with the interest of the party. A law of the 25th of June, 1842, had provided that all states which sent more than one representative to the house of representatives should be divided into as many districts as they had representatives in the house of representatives, and that each district should choose a representative.[2] New

[1] J. A. Hamilton to President Harrison, March 9, 1841: "I know that it was from the beginning a part of Mr. Van Buren's policy to draw to his support the Catholics of this country through their priests here, who were to be operated upon by the head of the church abroad. I say this with perfect confidence; and most striking events of the last election proved how successful he had been. This was in truth the last card upon which his friends in this state relied, . . . and but for the great changes among the people of the country, it would have been successfully played. You will recollect that the first diplomatic communication ever made to the papal see was by Mr. Van Buren as secretary of state; and that our consul at Rome, Signor Chicinani, who had been such for a great number of years, was removed to give place to a young American who had married an Italian woman. This change was not made to promote the interests of the person appointed." Reminiscences of J. A. Hamilton, p. 314.

[2] Stat. at L., V, p. 491.

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Hampshire, Georgia, Mississippi and Missouri did not consider themselves obliged to pay any attention to this law, and, according to their old custom, elected all their representatives in a general election. These elections were contested and referred to the committee on elections to report on. The question of law was so simple that it was scarcely possible that there should be two opinions on it. The constitution left it to the state legislatures to provide for the time, place and manner of the election of senators and representatives, but gave congress the right to alter these provisions by law, and even to establish such provisions itself except in relation to the place of the election of senators.[1] Yet the majority of the committee was not able to discover any authorization for the law of the 25th of June. The writer of the report, Stephen A. Douglas, of Illinois, who, on this occasion, made the brilliant debut of his grand demagogical career on the national stage, endeavored to prove its invalidity, for the reason that congress had not also prescribed when and how the division into districts was to be made.[2] Congress, he claimed, was obliged either to let the power granted to it rest entirely or to exercise it to its fullest extent. People permitted such absurdities to be served up to them, with the appearance of deep wisdom, as constitutional law.[3]

The other part of Douglas's reasoning was apparently not without weight. He claimed that the right in question was granted to congress only conditionally, and sought to demonstrate this from the intention of the legislator. He appealed here to the declarations made in the convention at Philadelphia and by the *Federalist*, that the granting of the right was

[1] Art. I, sec. 4, par. 1.

[2] See his report of the 22d of January, 1844, Niles, LXV., pp. 393–395.

[3] The "Democratic Review," August, 1842, p. 208, calls the law "a measure of high-handed federal usurpation."

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necessary because the means necessary to its self-preservation had to be given to every government. How this was to be understood, appeared from the demand made by seven states[1] at the time of ratification, that an amendment should be passed declaring that this power was granted to congress only when the states refused to make, or were kept from making, the necessary provisions. But such an amendment had not been adopted, and in the wording of the constitutional provision, not the least intimation was to be found of a conditional grant. Spite of these historical facts, therefore, congress was not under the least moral obligation to consider that the intention of the legislator was any more than that it should not make use of this right without good reasons. But there were the best of reasons for it now, and if congress could be rightly blamed for anything, it could only be for not having used its power before. That the virtue of parties was not sufficient to resist the temptation to support their supremacy by amending the election laws according to the wants of the moment, had been frequently observed already.[2] Moreover, the general introduction of district elections was absolutely necessary, if the principle of the constitution, in relation to the difference between the composition of the senate and of the house of representatives should be preserved unabridged. To the extent that the members of the house of representatives were chosen at general elections, to that extent the house acquired the character, in this respect, of a states-house *(Staatenhaus)* which

[1] Virginia, Massachusetts, New Hampshire, New York, Rhode Island and the two Carolinas.

[2] "But the state legislatures might [as many of them have] abuse this power. The general ticket has often been resorted to; districts to elect two, three, and four members, have been frequently formed; and even the constituent parts of a single district have been changed — and all to give an undue advantage to the dominant faction in different legislatures." Report of the minority of the committee. Niles, LXV, p. 412.

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according to the view of the constitution, only the senate, in contradistinction to the popular house, the house of the representatives of the population, should possess. And besides, general elections were in conflict with the fundamental democratic principle of the rule of the majority. Inasmuch as that principle was applied to the population of the several states, not divided into groups, but in their entirety, it afforded the tempting possibility of playing the supremacy of the Union into the hands of a small minority.[1]

All this was not denied, but it could alter the decisive question in nothing, that all the representatives elected by the states named except two were democrats. The majority of the committee moved that the provision in question of the law of the 25th of June, should be declared not a constitutionally binding law, and that the elections should be recognized as valid. To whom the house should assign the right to a seat on its floor, was a matter which belonged entirely to it; but it was plain that the right of the house of representatives to decide concerning the binding force and the constitutionality of the existing laws was entirely new. If one branch of the legislative power itself treated the laws in this way, the respect for them must, indeed, have become part of the flesh and blood of the people, if the supremacy of law re-

[1] "It could be demonstrated . . . that, by the general ticket, six of the largest states would elect one hundred and nineteen members, and seven of the free state one hundred and thirteen members of the present house, and thus but little more than one-half of their votes, forming about one-fourth of the freemen of the United States, would wield the popular branch of the government; that the general ticket would give the selection of candidates and thus the election, in fact, into the hands of a few active, forward and bold spirits, and the people would only have the privilege of ratifying their caucus decrees; that this mode in truth does not give a representation of the people, but only of state majorities, and silences the voice of all minorities, though in number barely distinguishable from the dominant majority." l. c.

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mained more than a name. But the democracts had the power, and no other argument availed in the face of this one. The house not only recognized the elections, but struck the protest of the whigs against them from its journal.[1]

If the democratic politicians did not recoil from prostituting the legislative power, and with it themselves, to this extent, the worst had to be expected in those respects in which the people had long been accustomed to the greatest party-terrorism. But they had no power over the most efficient means to attain again to the complete possession of the supremacy, spite of their majority in congress: the "patronage" of the government was in the hands of the president who was sitting between the two stools. But if they had no control over the fodder-box, it was for them to say whether they would order all others away from it. Tyler would have done this most cheerfully, but they were too wise to enter into the unequal trade. They were willing to have patience yet a little longer, provided only, the real whigs were shown to the door. The offices were a dangerous weapon only in the hands of an organized party; and a purely personal following of the president was not such as to inspire fear, even by the possession of power. But Tyler, of his own motion, proceeded to thin out the whigs as thoroughly as any democrat could wish.

Tyler, in his inaugural address, had spoken exhaustively on the wild management of government patronage and its evil consequences to the whole political life of the nation, and declared "a permanent and radical change" to be necessary. No faithful and honest official should be removed by him unless he made use of his office for party purposes. This last offense he had promised to punish in those appointed by himself just as severely by dismissal, as he would in those whom he had found in office.[2] This was Harrison's

[1] Niles, LXVI, p. 136. [2] Statesm.'s Man., II, p. 1338.

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programme, only more pointedly framed. And if we can attach full faith to the words of the president, the quarrel with the whigs had not shaken his good resolutions in the least. The first annual message repeated the promises made, in the most emphatic manner. If, despite this, the number of dismissals was from the first not small, it did not follow from that, of itself, that Tyler did not intend to keep his word. He had expressly called attention to the fact that many officials did not fulfill the condition made, and that was an incontestable fact. Yes, it was a fact to such an extent that the question very readily suggested itself, whether the practical value of the promises of the president were not reduced to a minimum. If the principle set up were rigorously carried out, people would, presumably, not have remained far behind the practice hitherto, and then scarcely anything would have been accomplished, and the appeal to the goodness of their motives would have been answered by loud laughter. But, after all, no one really believed in the seriousness of the promises, and not at all because John Tyler had made them. The condition precedent to "a permanent and radical change" was evidently a wide-spread conviction of its necessity. But this was so far from existing, that not so much as a single politician or journalist had made even a half-way serious endeavor to fathom the question, how such a change could be brought about. But, indeed, the complaints grew louder and louder that, with both parties, the mischief had reached such a magnitude, that, in the several states, the whole of legislative activity was attacked by it most severely.[1] The democrats might sink

[1] The "Democratic Review," January, 1842, p. 47, writes: "One of the causes which lost us [the democrats] the control of affairs in this state [New York] is now obvious to every one. It was that system of log-rolling by which the support of every local interest was bargained for by our legislature, at the expense of the general good. It became so universally the groundwork of every practice in legislation, not only in New York, but in

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deeper in the mire, but there was truly no lack of proof that the whigs also were wading through very thick slime.[1] A

every internal improvement state, that it would seem to have been the only system adapted to the habits and circumstances of the time. Allied as it was to the extension of a vast paper-money engine, then in the zenith of its power, it was impossible to withstand it, and both parties for a time vied with each other in the encouragement of the practice." That in many other states things were almost as bad as in New York, may be shown by the description which the same journal in March, 1847, gives of the state of things in Ohio during the last preceding years: "It is not an absurd judicial organization alone that affects Ohio; she has, perhaps, more than any other state, suffered from the overabundance of private legislation, of charter-mongering, contract-letting, and debt-creating. Corruption has, through unstable and hasty legislation, burdened the people with debts and taxation to a most deplorable extent. No state has greater reasons than Ohio to complain of the iniquity of the lobby. For years, the business of lobbying for counties and towns and city charters was a lucrative one, and private emolument has been the basis of five-sixths of the legislation in Ohio as well as of other states. At the session of 1844–45, the number of laws passed to promote the general welfare was eighty-nine, and the number of those that concerned individuals only, passed to benefit them at the expense of the public, was four hundred and seventy. For every law passed of a legitimate nature, five were enacted for private profit, including all descriptions of corporations. The state legislature has come to be regarded more as the means of exacting something from the public, than as the meeting of the delegates of the people assembled to transact public business under written instructions." A democrat from Illinois writes, on the 11th of July, 1843, to the "Charleston Mercury:" "The nomination of all candidates among us is announced by county, district or state conventions; but the delegates to those conventions are virtually appointed by vigilance, corresponding and central committees, composed, for the most part, of office-holders, office-seekers, and newspaper editors, who are seeking office and patronage. The nucleus around which these committees were first formed, were the federal officers, consisting of attorneys, marshals, receivers and registers of land offices, surveyors general, and postmasters." Niles, LXIV, p. 393.

[1] The New York state convention of whigs, in October, 1841, called the "to the victors belong the spoils" of the democrats, "abominable doctrine;" but added "it is its [of the party at the helm] right and its duty to conduct these [the administrative] operations mainly by the hands of its friends. We respectfully commend this just and necessary rule to the notice of the presi-

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permanent and radical change, therefore, would have to be obtained by force against the serried opposition of the politicians of both parties, and that, at the time, was simply impossible, because the people did not support the president with the necessary resolution nor with the necessary intelligence. The abrupt descent was continued, nor was the ground yet, by any means, reached from which the slow and difficult ascent might be begun. People were not yet convinced of the necessity of a change, but they now, for the first time, entered into that phase of development in which they began to accommodate themselves to the mischief as an evil, great, indeed, but unavoidable.[1]

Nothing that Tyler was able to do could have altered this; but, on the other hand, he could, indeed, promote this development, and he took care to do so. He was not defeated in a hopeless but honorable struggle with the politicians. In this very respect he proved himself the worst

dent for a more efficient observance and enforcement than it has yet received at his hands." Niles, LXI, p. 127. Granger, the postmaster-general in Tyler's first cabinet, said in the young men's whig convention in western New York: "The revolution of last year was not accomplished merely for the purpose of placing the executive officers at Washington in snug and comfortable places, while the horde of office-holders throughout the country remained undisturbed. Their removal was as much desired by the people as was the change in the highest officers of the government. So perfectly was this understood, that it was due to our adversaries to say, that they did not complain when removed, and justly laughed at us when permitted to remain." Hence he points to it as one of the most material charges against Tyler, that he left so many persons in office. Ibid., p. 231.

[1] People had already come to look upon a person's character as suspicious, simply because he filled a public office. In a letter from Danville, Illinois, of the 5th of June, 1843, we read: "Time was when it was an honor to be an officer, for few but honorable men could get there. Now it is in and of itself rather a disgrace; as it is difficult to avoid the suspicion that a man must have been the mean, cowardly, cringing, servile tool of a party, a mere cat's-paw, in order to get into office; and unless we know his character from some other source, we can hardly help despising him from the fact that he is in office." Niles, LXIV, p. 351.

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among all the politicians. The more the number of his adherents melted away, the more intent upon reëlection did he become,[1] and the more violently did he poke the fire under the boiler of the patronage-machine. His little soul thought his people so small that he believed he had, in the bestowal of offices, the sure key to the White House, and the nearer his term of office approached its end, the more regardlessly did he dispose of them as if they were his private property. It was not only the whigs who accused him of this.[2] The democrats, among whom chiefly he went about peddling his stock in trade, did not undervalue the advantage which a policy of this kind, as unwise as it was shameless, brought to them. They were satisfied to see the whigs cast out and people put in their place who would, for the most part, cling to them the moment they became convinced of Tyler's political bankruptcy. But they repelled the attempt to buy the party with office-trumpery as an insult, the baseness of which was surpassed only by its stupidity.[3]

[1] Even Wise, the enthusiastic admirer of Tyler, writes: "His only failure was to aspire to office, and to succeed to a succession." Seven Decades, p. 232.

[2] In a letter dated as far back as May 1, 1842, Crittenden makes mention of the rumor that Tyler would deprive all "Clay whigs and ultra democrats of office, and replace them by 'moderate men, alias Tyler men.' He, however, considered it improbable that the president would venture to do this." Coleman, Life of Crittenden, I, p. 176. Winfield Scott writes to Crittenden, April 3, 1843: "Removals and putting in relatives and corrupt hacks are the order of the day." Ibid., I, p. 202.

[3] "His [Tyler's] recent course in the particular above alluded to — this systematized application of all the enginery of official power at his command toward the futile absurdity of his hope for a democratic nomination — this meretricious boldness with which the smiles and more substantial favors of office are not only granted, but tendered to any democrat of decent party standing, who can be found willing to contaminate himself with the disgustfulness of such political prostitution — this wholesale and retail venality of patronage, not only bestowed at the central depot in the higher diplomatic bribes for congressional support and devotion, but peddled

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The whigs, on the other hand, did not manifest the least depression of spirits because they were robbed of the offices. The animosity of those who had been expelled from office was, in this case, probably a still sharper spur than the desire to maintain possession would have been. And important as the question of the spoils was, the decision did not depend upon it. The whigs expected the decision from very different forces, and they were not wrong in thinking that they had a better prospect of success than their opponents. Above all, they had a great advantage in being entirely united in respect to the person of their candidate. In Massachusetts and New Hampshire, indeed, an agitation in favor

around the country wherever a little village postmaster can be found suspected of being suspicious as to the zeal and sincerity of his attachment to the administration — all this, we say, following so closely as it did on the heels of Mr. Tyler's own recent professions on these very identical points of political principle, not only necessarily inspires us with an utter disgust for his present course of administration, and distrust for anything that can come out of it within the period for which the country has yet to tolerate it; but also, reflecting back upon the past the light of its illustration of the political character of the man who could be capable of it, exhibits him in an aspect which compels us to assent to the justice of the least flattering of the portraits recently drawn of him by all the orators and editors of his own quondam party. . . . The celebrated impeachment farce of Botts was only ridiculous; but we do confess that if such a punishment for presidential malfeasance were practicable, we should rejoice to see it applied, in the present case, for the vice-president's outrageous abuse and misuse of the patronage power of his office. . . . Abandon this worse than idle attempt to bribe our favor." "The Democratic Review," July, 1843, pp. 98, 99. There was, however, no lack of journals which urged Tyler on, with the hope that he might still win the favor of the democrats if he would surrender the whole plunder to them. Thus, for instance, the "American Sentinel" says in the summer of 1843: "It is a duty which President Tyler owes to himself, to his friends, to the democratic party, and to the country at large, thoroughly to democraticize his adminstration — to remove from office, without hesitation, all secret enemies and lukewarm friends, and to fill their places with men from the democratic ranks." Niles, LXIV, p. 315.

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of Webster,[1] who had resigned the secretaryship of state on the 8th of May, 1843, was tried. But it was so evident that he would completely undermine[2] his position with the whigs, if he insisted on his hopeless candidacy, that, from the first, the question was simply when he would formally renounce it in favor of Clay. From the time of Harrison's death, it was as good as certain, that Clay would be the "banner-bearer" of the whigs in the next electoral campaign. His resignation as senator (16th of February or 31st of March, 1842) was considered by Adams as a preparation for official candidacy,[3] and, indeed, this was not delayed more than a few weeks. North Carolina nominated him on the 4th of April, and in the following months, Georgia, Maine and Maryland followed the example.[4] Animosity at seeing the fruits of the victory of 1840 lost, and the recognition of the great mistake which had then been made, produced an energetic summoning of all forces, while the fact that, spite of this mistake, a brilliant victory was then won, seemed to justify the hope of a still more brilliant victory now that the right man had been placed at the head. Clay himself was entirely confident.[5] His sanguine temperament, indeed, made him one of the worst prophets of the country in such things, just as immediately before his defeat he thought that the prize was as surely his as if he had it in his pocket.[6] But Webster, in May, 1844, had declared undeceiving to be

[1] Niles, LXIV, p. 236.

[2] Adams attributed it to the intrigues of Webster that the democrats obtained the preponderance in Massachusetts. Mem. of J. Q. Adams, XI, p. 381.

[3] Mem. of J. Q. Adams, p. 103.

[4] Niles, LXII, pp. 112, 117, 259, 304, 403.

[5] March 17, 1844, Priv. Corresp. of Henry Clay, pp. 485, 486.

[6] " . . . if I am to credit the confident assurances which I receive from all quarters, there is no doubt of a triumphant result." Oct. 26, 1844. Ibid., p. 495.

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very nearly impossible,[1] and the whole party was, this time, to the last, in high spirits, and rejoiced over the anticipated victory.

The same could not be said, at least during the first stages of the electoral campaign, of the democrats. Tyler cut a ridiculous figure when he took the field himself, with his little body of federal officials; but the small crowd that would follow him had to be taken in greatest part from the democrats, and might very readily be sufficient to decide the issue. And Tyler was not a man who could be easily convinced of the folly of his hopes. His organ, the *Aurora*, formally set him up as a candidate at the beginning of July, 1843.[2] The *Madisonian*, which was nearest to the White House, then indeed declared, on the 6th of January, 1844: "We maintain an armed neutrality between Mr. Clay and Mr. Van Buren."[3] But this was not at all intended to proclaim that the president had taken leave of his sweet dreams. He, now, as well as previously, listened greedily to the stories he was told of the might with which the masses had risen up for him.[4] And when a national convention at Baltimore — the sorriest meeting of this name in the history of the United States — nominated him on the 27th of May, he willingly accepted the candidacy.[5]

Yet the hope that Tyler would come to his senses somewhat, before it was too late, was not given up. The divisions

[1] "As I have said, we can elect both our candidates. It is not in the chapter of probabilities, hardly in that of accidents, that they can be beaten." Speech of May 10, at Faneuil Hall. Niles, LXVI, p. 204.

[2] Niles, LXIV, p. 314.

[3] Ibid., LXV, p. 328.

[4] This spontaneous uprising of the masses which, it was alleged, threw down everything that opposed its well nigh irresistible force, served both parties a long time as a great subject for the exercise of their humor. A Tyler mass meeting of this kind which, it is said, consisted of the one man who called it, attained a special celebrity.

[5] Niles, LXVI, pp. 233, 234.

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which otherwise prevailed in the party in relation to the question of persons, caused greater alarm. It seemed at first as if the same unanimity would obtain among the democrats as among the whigs. And yet they neither had a personage who even approximately occupied among them a position like that of Clay among the former; nor had the masses or the leaders, from the first, decided upon a definite man. Only the dominant portion of the party had acted, from the beginning, as if it were self-evident that he was the candidate who, as they alleged, had been deprived in 1840, by direct and indirect intrigue, of election. This was to be considered self-evident, because this satisfaction was due to Van Buren personally — a claim which evidently could not stand the least criticism. At first glance, it must have seemed very much of a question whether the party — leaving his worth or worthlessness as a statesman, and his character, entirely out of consideration — would be served by his candidacy. Defeated candidates had been put forward a second time by both parties, and had come off victorious the second time; but never before had this been attempted in the case of a presidential candidate. The higher the weight of patronage was estimated, the more pertinent was the question, whether a man could regain supremacy who, when in the possession of power, did not known how to maintain it. Moreover it could not be ignored that a certain feeling of the people was opposed to seeing ex-presidents appear again on the stage of national politics. These two elements were perfectly sufficient to cause this confident "self-evident" not to be accepted without any more ado, the moment the people began to think of a real resolve. In Van Buren's own state, a portion of the party pointed with caustic incisiveness to the fact that his importance was not based on his endowments and merits as a statesman, but that it was altogether artificial,[1] and that

[1] "Search in your minds for all you know about him [Van Buren], and

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his candidacy meant the submission to the people of the question, whether they desired to call the pack which they had dismissed the service with such deep and just loathing in 1840, back to rule.[1] This was all so true, and was so universally recognized as true, and felt to be true, that there would have been no need whatever of a serious fight against Van Buren's candidacy, if the party had had any leader at all. It mattered not whom they might choose to be their candidate, in one part of the Union or an-

you shall find you know what offices he has held, and that you do not very well know how he came to be selected for them. He has never dealt with you directly, but always at one remove, always, as it were, at second-hand. He has not stood out, a man of free speech and action, in bold relief, like Mr. Calhoun, before the people, but he has practised apart with their servants. By those the people trusted he had been trusted, but not by them. He is a man of calculation, and one who makes no mistakes, and his strength lies in his knowledge of every pivot and pinion of the political system. Such knowledge in political life is eminently valuable and useful, and the man who had a genius for acquiring it and turning it into account became indispensable in public bodies. Not in political clubs and committees and conventions only, but also in legislatures and cabinet councils, and to all in turn he did good service, and from all he collected his wages in advancement. But he has no personal popularity; he never had any; and the deliberate approbation, half negative, that we bestow on his public career, is a thing as different from the genial feelings of friendship with which men speak of Jackson or Calhoun, as a certificate of good character is different from a cordial embrace." Address of the committee appointed by a meeting of democratic voters of the city of New York, held in the Park, 4th of Sept., 1843. Niles, LXV, p. 55.

[1] "He [Van Buren] comes not alone, but as the chief of a band, which the country had devoutly hoped was dispersed, never to be collected again. He comes as the representative of the same old corrupt and corrupting system of party tactics, followed by the same swarm of greedy spoilsmen, with their appetite for plunder sharpened by the few years' abstinence they have been forced, through the remains of the original virtue and patriotism of the country, to practice. Gratify his wishes, restore him to the place he is personally soliciting, and we lose all that was good in the defeat of the republican party in 1840, and retain all the evil." Brownson's Review, Jan., 1844, p. 98.

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other, his name would be a word without meaning. And this was the most favorable case. Under all circumstances, party discipline had a good half of the work to do, and for the one who was really among the great men of the nation it would have had to be stretched even to the point of breaking. Van Buren alone had everywhere a powerful following — even if this were due to artificial causes — and was therefore, in a certain sense, without rivals. On the other hand, there was no lack of men who had a greater reserve force than he in one section of the country, or at least in one state, and who thought themselves strong enough to put their fortune to the test. The tournament of the national parties was preceded by a *jeu de rose* in the democratic camp, in which the "little magician" was close pressed by four rivals at once.

The two opponents from whom Van Buren had least to fear remained longest in the lists. Richard M. Johnson, of Kentucky, who had formerly been vice-president, was a third class personage. Were it not that he had distinguished himself in the "battle" on the Thames, and — as he claimed himself at least — slain the chief, Tecumseh, with his own hand, he would scarcely have considered himself justified in permitting his ambition to aim so high. General Lewis Cass, whom indignation at the treaty of Washington had driven to the resignation of his ambassadorship, was no statesman, but a man of some talent, and of about as much character as could be expected from a northern democratic politician of the genuine stamp, who, with the help of the slavocracy, endeavored to reach the White House. He had been eighteen years governor of the territory of Michigan, and secretary of war under Jackson. The regard in which he was held by the party was great enough to permit him to hope that he would sooner or later become their chosen one. But presumably, his time had not yet come. As he had

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never been a member of congress, and it was impossible even for the pens of American journalists to swell his merits in the war of 1812 into the dimensions of those of the career of a great marshal, there was need of some time to make him appear a real national, instead of a more specifically northwestern, magnate. For the present, the most important meaning of his candidacy consisted probably in this, that the northwest gave it to be understood, in this formal manner, that it was high time to take the president from that part of the country. James Buchanan, the third candidate, was a dangerous rival, for the reason more particularly that he was the favorite son of the state of Pennsylvania, whose voice was so weighty in national affairs. Yet his personal qualities gave occasion to fear him more than Johnson and Cass. He was just as little of a statesman as these, but he was an entirely equal rival of Van Buren in his own very peculiar sphere; a politician as sly, smooth, weak and empty as can well be imagined; in high-sounding phrases always making a show of great moral courage where there was no need of it; an entirely reliable party man, unless he was obliged to separate himself from the party in order not to undermine his position in Pennsylvania; moving over the surface of every question with a fluent and ready tongue; a master in the art of so arranging words that he might not be understood by any party, when he wished not to be understood; great in the use of all small means, but too wise to engage easily in dangerous intrigues, or to underestimate the value of the bearing of the man of honor; closely observing the smallest variations in the political atmosphere, but insensible to the great currents of the time; entirely clear only on one point — that the slavocracy was the star which guided the course to the White House; hungry for regard, influence and honor, but too diminutive in intellect and character to feel the glow of true ambition; a man made, so to speak, to be neither

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loved nor hated, esteemed nor despised, slighted nor admired, intended to play an influential part in the agitation of parties, and by history to be silently numbered with the dead, because in all his doings there was not a single deed; a man to whom fate could do nothing worse than place him at the helm in an eventful period.

Van Buren's partisans, however, did not underestimate Buchanan's prudence when they hoped that he would come to a timely recognition of the fact that neither had his time come yet. As far as could now be seen, no really serious danger threatened — not Van Buren alone but the party also — to grow out of any candidacy but the fourth. Calhoun still believed he saw one possibility more of being able, at last, to grasp the prize so long and so ardently coveted. It can scarcely be claimed that the possibility existed even for a single moment. But if he persevered in that faith, a division was unavoidable, and any division made defeat certain. And both he and his adherents seemed to be firmly resolved not to leave the field, whatever might be the consequences. The controversy between the two divisions was carried on for a long time with such bitterness and acrimony that the fight against the whigs fell entirely into the back-ground. South Carolina came forward this time for its greatest son, with all the inconsiderate energy with which it was wont to develop in all highly critical moments, and in many other states also, it made itself decidedly felt, that none of the other competitors for the presidency came up even approximately to Calhoun in fame, intellect, character or will.

Precisely in New York, where Van Buren must have been best known, the Calhounites developed great strength. The lower strata of the population of the city, especially the Irish, furnished the principal contingent here.[1] The younger

[1] To the "Charleston Mercury," on the 18th of June, 1843, was written from New York: "Nearly all the more able and enthusiastic democratic

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men wanted a person for whom they could themselves feel some enthusiasm, and this the trim little man with the cool, reserved smile could not excite; and with the Irish, Calhoun's pedigree was unquestionably of great weight. The largest group among the Catholics, who, according to Hamilton's statement, had been carried so skillfully *in corpore* by Van Buren into the political camp of the democracy, now turned away from him. The clergy had nothing to do with this. Not only was the question of persons indifferent to them, but at first they had taken no position whatever in party politics, and to the extent that they had done so in most recent years, they did it not of their own initiative, but in self-defense.[1] The whigs drove the Catholics as Catholics, into the ranks of their opponents. The whigs were not precisely identified with the native Americans,[2] but these had proceeded from the whigs,[3] and they now, as well as previously,

young men, the great body of the Irish population, and the most respectable classes of mechanics, I think I may say, are warm and uncompromising friends of the champion of free trade." Niles, LXIV, p. 316.

[1] "Am I unjust in saying that the whig party is unwilling to be just to foreigners? You know that I have been no more than just to them. Am I not struck by cowardly hands for that justice? . . . From one end of the state to the other, the complaint rings that Bishop Hughes and his clergy have excited the Catholics against us. I know this to be untrue, totally untrue. Who corrects the error?. Who disavows the unjust charge? On the contrary, do we not hear of the organization of a party against Catholics, and this false charge made the justification of it. Is not 'proscription of immigrants,' openly avowed as the policy of the whig party?" W. H. Seward to B. S., Esq., New York; Albany, Nov. 15, 1840. Seward's Works, III, p. 389.

[2] Thus, for instance, the native Americans appeared in the state elections of New York in November, 1843, as an independent group, and cast 8,265 votes. Niles, LXV, p. 192.

[3] We may say this, although the first external impulse to the formation of the party is said to have been given in the following manner: The democratic party leaders of an election district near Philadelphia struck an Irish candidate by the name of Clark from the party list. Embittered by this, the Irish, three years later, voted with the whigs and decided the

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were recruited preponderantly from the whigs.[1] That such a party of nativists had been formed, and assumed a particularly severe attitude towards the Catholic immigrants, was not only very intelligible, but certainly excusable. The formation of the nativist party had begun in the preceding decade, that is, at the time when immigration, especially from Ireland, began to assume very large dimensions, and when everything pointed to the fact that the deluge was only coming.[2] Much experience was soon acquired showing how easily and to how great an extent it was possible to misuse the immi-

election in their favor. This led to nativist manifestations, which caused tumults by the Irish in Kensington. See the speech of Dixon, of Connecticut, in the house of representatives, December 30, 1845. Congr. Globe, 29th Congr., 1st Sess., p. 116.

[1] "But you will say that a portion of the naturalized citizens who had heretofore belonged to the whig party, now voted for our opponents. Granted; and for what reason did they so vote? Because in an election excited beyond any ever known, they were induced to believe that the illiberality so often, and I am obliged to say so generally, expressed by the whigs, was a principle of the whig party, and that in Mr. Van Buren's defeat they should lose a protector; in General Harrison's election, they would find a persecutor, an oppressor. Remember what taunts, injuries, insults, they have suffered, and reflect whether they must not necessarily be jealous and suspicious. . . . Remember the perverseness of our friends on that subject. Even in your letter now before me, you quote an observation of General Harrison. 'The people' (not as you have quoted it 'Americans') must do their own voting as well as fighting, as expressing his determination to deprive adopted citizens of their civil rights. . . . But if I were to say with whom lies the fault of Irishmen voting in mass against the candidates of the whig party, I should say that the fault was with my countrymen." W. H. Seward to B. S., Esq., November 12, 1840. Seward's Works, III, pp. 386, 387.

[2] "The number of passengers of foreign birth landed in the harbors of the United States was, from September 30, 1819, to September 30, 1829, 128,502; from the 1st of October, 1829, to the 31st of December, 1839, 538,381; from the 1st of January, 1840, to the 30th of September, 1849, 1,427,337. Of the 538,381 during the decade 1829–1839, 283,191 were from Great Britain and Ireland." Knapp, Immigration and the Commissioners of Emigration, pp. 228, 230.

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grants for party purposes, and everything conspired to cause the Catholics to be looked upon more than others with alarm and mistrust. The no-popery traditions inherited from England had not yet lost their power entirely, the Irish were in a very low stage of culture, and the history of the Catholic church showed how disposed and skillful the clergy were to possess themselves of political supremacy. But the effort to deprive the immigrants, and especially the Catholics, of their political rights could not be justified, and the whigs were greatly in error when they saw an element of strength in their connection with the nativists; and this whether they went hand in hand with them or brought about a complete blending of them with themselves.[1] The proscription of the Catholics was in conflict with the spirit of the constitution,[2] and the political disfranchisement of the immigrants was irreconcilable with the development which was prescribed to the United states in the most forcible way by the actual condition of things. The economic interests of the country imperatively demanded the promotion to the utmost of European immigration, and it would be greatly curtailed in case

[1] "There is a great tendency among the whigs to unfurl the banner of the native American party. Whilst I own I have a great sympathy with that party, I do not perceive the wisdom, at present, either of the whigs absorbing it, or being absorbed by it. If either of these contingencies were to happen, our adversaries would charge that it was the same old party, with a new name, or with a new article added to its creed. In the mean time they would retain all the foreign vote, which they have consolidated, make constant further accessions, and perhaps regain their members who have joined the native American party. I am disposed to think that it is best for each party, the whigs and the natives, to retain their respective organizations distinct from each other, and to cultivate friendly relations together." H. Clay to J. J. Crittenden, Nov. 28, 1844; Coleman, Life of Crittenden, I, p. 224.

[2] Art. VI, sec. 3: "No religious test shall ever be required as a qualification to any office or public trust under the United States." Amendment I: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

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the attempt were made to make the immigrants, in bold contrast with the fundamental character of the institutions of the country, remain political pariahs. It was certainly exceedingly difficult to assimilate such a mass of foreign elements very different from one another, without any political training and from monarchical states in which the principle of guardianship was still in full force, in a short space of time. It would have been unnatural if it did not frequently happen, that a feeling made up of bitterness and pain at the dark sides, which could not be wanting in this process of assimilation, overpowered the patriots. But the problem had to be solved in the way in which it has been actually solved and is solved every day.

The Irish preferred Calhoun to Van Buren, but they did not oppose the latter. As Catholics, they were opposed only to the whigs.[1] Under all circumstances they belonged to the "regular" democratic candidate. Hence, violently as the two factions in New York waged war against each other, the question substantially was how strong the Calhounites would be in the south. They still hoped to gain much ground there in the very near future. For this reason, they asked that the national convention for the election of party candidates might not take place till the spring of 1844, while Van Buren's adherents wished to see it fixed for as early a date as November, 1843. The session of congress during which, presumably, every one would have to show his colors in reference to all kinds of important questions, was to meet between these

[1] "Our opponents, by pointing to the native Americans and to Mr. Frelinghuysen [the candidate of the whigs for the vice-presidency], drove the foreign Catholics from us and defeated us in this state" [New York]. M. Fillmore to Mr. Clay, Nov. 11, 1844; Priv. Corresp. of H. Clay, p. 498. In May, 1844, it came to a disgraceful, petty war between the natives and the Catholics in Pennsylvania, in which considerable blood was spilt, and the incendiary's torch played a prominent part. See Niles, LXVI, p. 344; Sargent, II, p. 228, seq.

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two dates, and the Calhounites were of the conviction that many of the Van Buren people would not be able to prove their orthodoxy. The presumption was well founded. Only the Calhounites did not recognize to what extent the voting of the "regular ticket" had already become the principal article in the creed of the democratic party. Van Buren and his political kinsmen knew this better, and, on this account, finally yielded in this point, only to insist all the more absolutely on their view in the other controverted previous question. The Calhounites wanted the delegates to the national convention elected by districts, while their opponents would have the decision, as to the mode of the election, left to the separate states. Both groups were naturally determined, first of all, by the interests of their respective candidates. But the controversy had also a general and permanent meaning. Otherwise framed the question was: Shall the national conventions, so far as such an end is at all attainable, give expression to the wishes of the party, or shall they, as far as possible, be only an instrument in the hands of political "log-rollers?" It is patent how easily the majority of the delegates might represent the minority of the party in case they were elected by states, even if the party had participated in the election of delegates as actively as in the elections proper. But if, as was actually the case, its participation in the election of delegates was very small, it could easily happen that the national conventions might represent only a little pack of political wire-pullers. The politicians of New York showed, at this moment, with what blood-curdling audacity they already dared to put the "voting cattle" entirely to one side, and with what patriotic self-sacrifice they undertook the ungrateful task of being the "party" themselves, and themselves alone. Of the one hundred and twenty-eight members of the democratic state convention at Syracuse, the great majority were either self-com-

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missioned or had received their commission from no one knew whom. And yet they not only established the confession of faith of the party in an authoritative manner, but they immediately named even the delegates to the national convention.[1] One would have thought that such an unheard of mockery of the principle on which democracy is based would have caused the reasoning of the Calhounites to get a hearing. But say what they might, they spoke in vain. The great majority of the party newspapers favored Van Buren;[2] and yet the time had not come when the sound sense and moral indignation of the people opportunely broke through the lines of party, with such force that even the all-powerful press had to bow humbly down. The Calhounites were

[1] Taylor, of the city of New York, said in the convention: "The old artful battle armory has been set in motion to secure his [Van Buren's] renomination. Here, before me, stands the undeniable proof. A convention numbering one hundred and twenty-eight members, appearing here to throw the lasso over the 250,000 democratic votes of the state of New York. By what authority? Why, by their own confession, they appear here by an authority not exceeding nine thousand people. And yet we are told they speak the sentiment of nine-tenths of the whole democracy of the state. This in the very face of discord, such as was never before witnessed in the Union." Niles, LXV, p. 42. To the "Charleston Mercury" was written from New York: "Of the whole delegates, numbering one hundred and twenty-eight, not over thirty of them had anything to show for their appointment, except public report. Even old Rockland county, with her 1,000 democratic majority, did not feel interested sufficiently for New York's favorite son to even have any person to represent her.

"Another circumstance is worthy of note; upwards of fifty of the delegates were members of the last legislature — the very persons who there, in their legislative capacity, indorsed Mr. Van Buren. No doubt they felt a desire, as no one else did, to attend the convention and confirm their former act." Niles, LXV, p. 53. Nineteen members of the convention protested against the nomination of the delegates by it.

[2] "... 'Tis true the democratic press throughout the Union is in the hands of Mr. Van Buren's old friends. It was from his administration they last received succor, and to him they cleave for a renewal." Taylor, in the speech cited.

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jeered at because they — who, indeed, believed themselves to have a monopoly of the pure states-rights doctrine — ventured to wish to give prescriptions to the "states." What ever might be thought of their candidates, in the question of the election of delegates they had everything in their favor, except the interests of the bread-and-butter politicians, and against these nothing availed. Buchanan had withdrawn as a candidate as early as the 14th of December, 1843.[1] Not many weeks afterwards, Calhoun became convinced that all fighting against these modern pretorians of the pure democracy was in vain. He also quitted the field on the 20th of January, 1844.[2] Van Buren's triumph seemed complete. Even those who did not want to hear anything at all of him, now declared his nomination to be undoubted.[3]

Yet such was not the case. It was too well known how it stood with his alleged popularity,[4] to permit the hope of throwing an obstacle in his way to be easily given up. On the 1st of May, 1844, a public declaration of the democratic members of Ohio in the house of representatives of congress, denounced an intrigue which had been carried on "for weeks" in Washington, to frustrate Van Buren's nomination spite of his victory in the election of delegates.[5] In this, indeed, the question of persons was no longer the determining element; this had, in the mean time, been completely driven into the background.

[1] Niles, LXV, p. 280.

[2] Ibid., p. 372.

[3] " . . There can be no doubt that Mr. Van Buren will be nominated. We had hoped it would be otherwise; but we can hope no longer." Brownson's Review, April, 1844, p. 261.

[4] " . . When he [Van Buren] was elected governor of this state he ran two thousand behind the popular vote, and in every state in the Union, in 1840, he ran greatly behind his ticket and the admitted strength of the party." Niles, LXV, p. 42.

[5] Ibid., LXVI, p. 162.

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Differences on the questions which were still considered officially the most essential dividing lines of the parties, had existed from the first, side by side with the contest over the question of persons. In the first place, there was the tariff. The democrats now had it in their power to throw the protective tariff of 1842 again immediately overboard. They did not do so. During the first days of January, 1844, the south obtained proof that, spite of the great democratic majority, it was now, as well as before, in the minority in this respect. Black, of Georgia, made a motion that the committee on ways and means should be instructed to introduce a bill fixing the entrance duties only with relation to the revenue. This motion was rejected by a vote of eighty-four against eighty-three, and the majority consisted of the whig minority and thirty-seven democrats.[1] Hence, much more than one-third of the total number of democratic members were not only untrue to the official party principle in relation to individual economic interests, but lent the whigs their coöperation to reject the principle of the pure revenue tariff. The *Globe*, indeed, claimed that the rejection of this and other resolutions which had been introduced by the southern representatives, warranted no conclusions as to the views of the house on the question proper. It only did not want to anticipate its committee. But the consolation did not last long. The new tariff bill was laid on the table by a vote of one hundred and five against ninety-nine; that is, it was practically rejected.[2]

The national convention at Baltimore took to heart the lesson which this vote conveyed. The platform only denied the government of the Union the right to give the preference to one interest, and to raise more revenue than was necessary;

[1] Niles, LXV, p. 311.
[2] Deb. of Congr., XV, p. 140.

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even the word tariff had been avoided.[1] These phrases every one could interpret as he wished. And this was intended. Yet it did not suffice. The presidential candidate, James K. Polk, of Tennessee, was a decided free-trader. As a member of the house of representatives, he had always been an opponent of all protective duties, and as a candidate for the governorship of Tennessee, in the year 1843, he had always demanded a return to the stipulations of the compromise act.[2] The southern free-traders were, therefore, satisfied with his candidacy. The democratic protectionists of the north, on the other hand, were all the more concerned, and it was an unquestioned fact that without their coöperation, the victory of the party was impossible.[3] Polk, however, was a man who could laugh with one side of his face and weep with the other. After his nomination, on the 19th of June, 1844, he wrote his notorious letter to John K. Kane, of Philadelphia. He had not, it is plain, changed his views to the extent of a

[1] Niles, LXVI, p. 227.

[2] "He was opposed to direct taxes, and to prohibitory and protective duties, and in favor of such moderate duties as would not cut off importations. In other words, he was in favor of reducing the duties to the rates of the compromise act, where the whig congress found them on the 30th of June, 1842." Speech of April 3, 1843, at Jackson. Niles, LXVI, p. 234. "I had steadily, during the period I was a representative in congress, been opposed to a protective policy, as my recorded votes and published speeches prove. Since I retired from congress I had held the same opinion. In the present canvass for governor I had avowed my opposition to the tariff act of the late whig congress, as being highly protective in its character, and not designed by its authors as a revenue measure. I had avowed my opinion in my public speeches that the interests of the country, and especially of the producing and exporting states, required its repeal, and the restoration of the principles of the compromise tariff act of 1833." To the people of Tennessee, May 29, 1843. Ibid., p. 343.

[3] Cameron, of Pennsylvania, said, 1846, in the senate: "Much as we disliked Mr. Clay, and sincerely attached as we were to the democratic party, all would have gone before we would have relinquished the tariff of 1842." "Congr. Globe," 29th Congr., 1st Sess., p. 1112.

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single iota. This, in and of itself, was not only almost unthinkable in the case of a staunch democrat, but it would also have driven away the southern free-traders, while the question was, how both they and the northern protectionists might be won over at the same time. Polk, therefore, was now, as he had been before, a decided free-trader. Only, for the south, there was a period and a dash calling for a suspension of thought, after the word "free-trader," while for the north, it was followed by the sentence: who considers the imposition of protective duties to be not only a right but a duty of the government of the Union.[1]

The Calhounites were roused to indignation. The *Charleston Mercury* directly declared that Polk had gone over, bag and baggage, to the camp of the protectionists. As early as December, 1842, the legislature of South Carolina had reviled all further hope in congress as folly and disgraceful weakness. It now seemed as if the spirit of 1831 and 1832 would spring into life again. The *Charleston Mercury*, which was wont to be considered the exponent of the opinion which prevailed in the state, and which, for the most part, exerted a determining influence on that opinion, and in a very high degree, was not even satisfied with what had been done that time.[2] As nullification had once been tried with considerable but not complete success, it had nothing

[1] "In adjusting the details of a revenue tariff, I have heretofore sanctioned such moderate discriminating duties as would produce the amount of revenue needed, and at the same time afford reasonable incidental protection to our home industry. I am opposed to a tariff for protection merely and not for revenue. . . . In my judgment, it is the duty of the government to extend, as far as it may be practicable (!) to do so, by its revenue laws and all other means within its power, fair and just protection to all the great interests of the whole Union, embracing agriculture, manufactures, the mechanic arts, commerce, and navigation." Niles, LXVI, p. 295.

[2] See the leading article printed in Niles' Register, under the title "Manifesto," and designated "semi-official." LXVI, pp. 406–408.

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to say in opposition to another experiment, this time with "legislative nullification;" only the people should devise further measures in case that measure proved inadequate.[1] It did not want to quarrel about the details of the how. On one thing only was it necessary to be clear, that South Carolina had to help herself, and that she should not make her resolves dependent on others; but that to wait for a convention of the southern states and its measures would be to wait till the end of time. And this language was temperate in comparison with what was to be heard at all kinds of meetings and at political dinners. But the author of the most skillfully worded, pointed and defiant threat, was the hero of the day.[2]

The Calhounites wasted their wit and their breath in overspiced speeches, resolutions and toasts against the tariff policy of the Union. The threats frightened nobody. It was considered scarcely worth the trouble to make political capital out of them, and they were looked upon only as curiosities. It was "Hamlet with Hamlet left out." At the head of the agitation stood Holmes, but more especially Rhett; Calhoun did not take part in it and disapproved its violence. A thing unheard of, that of the numberless toasts on the occasion of political festivities, not a single one was to Calhoun, was now a frequent fact. For the first time, a large number of his disciples went much further than their master. This was a fact pregnant with meaning, but no one now had time to reflect on it. It was rightly considered a thing unthinkable that South Carolina would, on account of

[1] " . . . the legislature has a right to try it; while the people are meditating ulterior measures to be adopted in convention, in case legislative nullification should prove inadequate."

[2] Two specimens will suffice to characterize the tone of the toasts: "The southern states: they will not consent to be pillaged and plundered much longer, for the benefit of their worst enemies." "Disunion — startle not at the sound! 'to this complexion it must come at last.'" Ibid., p. 346.

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the tariff question, go from words to deeds in opposition to Calhoun. But it was utterly unthinkable that South Carolina, in a scuffle over a sparrow, would hold the arm of the slavocracy at the moment when it wanted to aim its master-shot at the eagle. The evil letter to Kane did not keep the nine electoral votes of South Carolina from being cast for Polk.

On the other hand, the twenty-six electoral votes of Pennsylvania were won for Polk only by the letter to Kane.[1] There were, of course, among the democrats of Pennsylvania, people who were wise enough to perceive how heartily Polk might turn them into ridicule, if they thought he had surrendered himself into their hands, by that letter, the two halves of which were in evident contradiction with each other, and said things diametrically opposed, unless it be assumed that the whole was only a series of words without sense. Hence, some of the democrats called for more definite declarations. But the politicians wrote to Polk to remain as silent as the grave, because the Kane letter was doing excellent work.[2] And he did remain silent.

[1] Cameron said in the senate: "You [Vice-President Dallas] and I, Mr. President, remember the scenes of 1844 in our state, the anxiety that pervaded the democratic party until the Kane letter made its appearance. That letter was seized upon by the political leaders, was used upon the stump, was translated into German, and published in all our party papers, English and German. It is not too much to say that that letter turned the scale and decided the presidential election. But for it you would not now be sitting where you are, nor would Mr. Polk be occupying the presidential chair." Sargent, Public Men and Events, II, p. 238. See, also, Pollock's speech in the house of representatives. Congr. Globe, 29th Congr., 1st Sess., Appendix, pp. 716, 717.

[2] Clay relates in a letter dated August 4, 1847, in relation to "the fraud practiced on Pennsylvania by the Kane letter": "In further support of this fraud I learned yesterday from the honorable Reverdy Johnson, that during the canvass of 1844, when some interrogatories were addressed from your state to Polk, requesting a more explicit avowal of his opinion in regard to the tariff of 1842, Mr. Buchanan wrote to Tennessee

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"Polk, Dallas, Shunk [1] and the democratic tariff of 1842" — such was the device under which protective-tariff Pennsylvania was led into the field for Polk, the freetrader. Not only was the whig paternity of this tariff of 1842 contested, but the whigs were even obliged to listen to the accusation that they desired to lay hands upon it. And even this was not enough.[2] The last appeal of the leading democratic committee of Philadelphia, furnished the interesting proof, that Clay had always opposed the protection of American industry by high duties.[3]

The history of the Union can not show a second fraud of equal clumsiness and shamelessness. The deception would scarcely have been so entirely successful, if parties had not really come pretty near to one another, so that the extremists on both sides constituted only a small minority of their party. There certainly was a political calculation in the fact that the whigs too again formulated their confession of faith in such a manner as to enable as many as possible from the border regions of their opponents to join them.[4] Yet what Clay said in his tour through the south, that American industry no longer needed protection to the same extent as formerly, was in harmony with the facts and the real convictions of most

that the Kane letter was working well, and begging that those interrogatories might not be answered, and Mr. Polk accordingly remained silent." Priv. Corresp., p. 544. Buchanan was made secretary of state by Polk, Kane judge of the United States court in Philadelphia, and McCandless, the third in the alliance, judge of the United States court in Pittsburg.

[1] The candidate for the governorship.

[2] "We dare the whigs to repeal it."

[3] The appeal is printed in Sargent, Public Men and Events, II, p. 237. See, also, McIlvaine's speech of June 18, 1846, in the house of representatives. Congr. Globe, 29th Congr., 1st Sess., p. 994.

[4] The platform demands: "A tariff for revenue to defray the necessary expenses of the government, and discriminating with special reference to the protection of the domestic labor of the country." Niles, LXVI, p. 148.

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of the whigs, even if the assurance he gave that the requisite protection could be afforded within the limits of a revenue tariff went a step beyond his real convictions.[1] The Kane letter, without any embellishing additions and nonsensical exaggerations, could, therefore, be turned to best account wherever Polk's past in relation to the tariff question gave umbrage to the democrats. The *Albany Argus* thought that the protectionist democrats should surely be satisfied, since Polk had taken the same attitude as Clay.[2] Not only the *Albany Argus*, but every politician, well knew, that different as the views of Clay and Polk on the best tariff policy were, the formulas under which they entered the electoral campaign were in fact nearly identical. The future unquestionably brought with it many a hard contest between protectionists and freetraders. But this opposition, which had been so thoroughly stifled as early as 1840, was found of almost no use in this presidential election, because the parties would not allow it to divide them entirely.

The second great economic question had become unavailable for the purposes of the electoral campaign in a still higher degree. The democrats could not be reproached with any ambiguity in respect to it. Their platform roundly declared a national bank to be unconstitutional and pernicious in the highest degree. Their opponents, indeed, sought to cast suspicion on their honesty because they had selected Dallas, who had, so to speak, stood godfather[3] to the old bank, as their candidate for the vice-presidency. Dallas, however, gave his definite promise not to assist in any way in the establishment of a new bank. Greatly as promises made by candidates had fallen into discredit, there was certainly

[1] Niles, LXVI, pp. 105, 106.

[2] "On the tariff, Messrs. Polk and Clay occupy the same platform." Ibid., p. 407.

[3] Compare Niles, LXVI, pp. 265–267.

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no reason for distrust this time, for even the whigs no longer dared to ask for a bank. In a speech at Raleigh, Clay, indeed, expressed the conviction that the demand would be again made by the people. He might not yet have completely given up hope, but it was evident that with this he did not so much desire to announce the near resumption of the old battle, as to defend himself and his party. This declaration was preceded by the assurance that he would urge the establishment of a bank only when it was imperatively demanded by the people.[1] The platform of the whigs did not go even as far as Clay. It avoided the word "bank" entirely.[2] This was a severe humiliation. It was the virtual admission that the politicians of the party, in their fight against Tyler and the bank, had become guilty of unworthy exaggerations and conscious untruth. They had placed the president in the pillory because, spite of the obligations assumed by his acceptance of the candidacy, he insolently opposed the wish of the people emphatically expressed by Harrison's and his own election, for a bank; and now they were obliged to confess: the less we say to the people about a bank the better for ourselves. A bank in the old sense of the word was a thing settled forever.[3]

[1] "Such are my views of the question of establishing a bank of the United States, . . . but I do not seek to enforce them on any others. Above all, I do not desire any bank of the United States attempted or established, unless and until it is imperatively demanded, as I believe demanded it will be, by the opinion of the people." Ibid., p. 299. It deserves to be mentioned that, according to Wise's account, Clay, in 1838, is said to have promised Judge White to let the bank question rest during the next presidential term (1841–1845). Seven Decades, pp. 168, 169.

[2] It only asserts the principle: "A well regulated national currency." Niles, LXVI, p. 148.

[3] Webster says, as early as September 30, 1842, in a speech at Boston: "A bank of the United States founded on a private subscription is out of the question. That is an obsolete idea. The country and the condition of things have changed. Suppose that a bank were chartered with a capital

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In what then did the essential difference between the parties consist? The fundamental direction of their political views had remained the same; but there was an absence of concrete problems in respect to which the more confederate-like and the more federal-like views might assert themselves. If we keep only the old parties and the old programme with which they had come into existence, and which they had thus far represented, in view, the question as to the persons of the candidates appears, on closer examination, to be unquestionably the most material turning point of the battle. But if we look beyond this striving for supremacy, simply for supremacy's sake, we perceive on all sides a rapidly progressing intensification of differences, not, however, on the ground of the party programme hitherto, but on that of the slavery question. For the first time, now, the extreme abolitionists drew the last logical inferences from their premises. In May, 1844, the American Anti-Slavery Society, in its yearly meeting, proclaimed the principle: "No community with slaveholders," and rejected the constitution as "a covenant with death, and an agreement with hell."[1] And even during the previous year, the moderate portion of the political abolitionists had taken a step in advance which seemed to drag them also into an entirely revolutionary course. In

of fifty millions to be raised by private subscription. Would it not be out of all possibility to find the money? Who would subscribe? What would you get for shares? . . . People who are waiting for power to make a bank of the United States may as well postpone all attempts to benefit the country to the incoming of the Jews." Works, II, pp. 135, 136. Curtis gives us a manuscript of Webster's of the year 1843, discovered by him, in which we read: "Who cares anything now about the bank bills which were vetoed in 1841? Or who thinks now that, if there were no such a thing as a veto in the world, a bank of the United States, upon the old models, could be established?" Life of D. Webster, II, p. 208.

[1] "A covenant with death, and an agreement with hell." Goodell, who did not belong to this group of abolitionists, says: "This was a memorable revolution in the society and its policy." Slavery and Anti-Slavery, p. 527,

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August, 1843, the liberty party had held a "national convention" in Buffalo, in which all the free states, with the exception of New Hampshire, were represented. In the committee on resolutions, the clergyman, John Pierpont, of Massachusetts, moved that they should formally absolve themselves from obedience to the provision of the constitution in relation to the surrender of fugitive slaves.[1] Chase, of Ohio, effected the rejection of the resolution in the committee; but during his absence, Pierpont laid it before the convention itself, and the convention adopted it without discussion.[2]

These were signs of the times which spoke with a terrible plainness. But the time was long since passed when only the signs of the rapid approach of the inevitable collision increased. Conflicts had begun to take place years before, between the legal authorities of the north and of the south. Virginia, in 1839, had demanded of New York the surrender of three colored sailors who were charged with having "stolen" a slave, that is, with having helped him to flee. Governor Seward refused the request, for the reason that the provision of the constitution in question had to be so understood, that the states would have to surrender fugitives accused of an offense considered a "crime" not only in the state asking for the surrender, but also in the state called upon to make the surrender. This condition was not found in the case in hand. The laws of New York were indeed acquainted with the crime of kidnapping, but, according to them, it was impossible that a person could be stolen by another in the sense in which the word was employed by Virginia, because, according to them, no human being could own another. The executive of Virginia contested absolutely the

[1] "To regard and treat the third clause of the constitution, whenever applied to the case of a fugitive slave, as utterly null and void; and consequently as forming no part of the constitution of the United States whenever we are called upon or sworn to support it."

[2] Warden, The Private Life and Public Services of S. P. Chase, p. 300.

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correctness of this view, and represented it as a monstrosity. The controversy was carried on in different forms for over two years,[1] and attracted a vast deal of attention. Adams declared it to be more important than all other questions in dispute taken together,[2] and blamed Seward for the tameness of his tone.[3] Seward certainly was studiously very temperate in his language, did not permit himself to be provoked to passion by the challenging sallies of his opponents, avoided all general, moral and politico-philosophical considerations, and kept strictly to the discussion of the question of law — but he did not yield in the matter. Virginia made attempts at retaliation, and refused to surrender a forger at the request of New York; it passed a law insulting to the citizens of New York,[4] yet did not allow it to go into force immediately, but fixed a last day for New York up to which its *pater peccavi* should be accepted and pardon granted it. It was all in vain; Seward and New York remained firm. And the blow dealt the slavocracy was doubly heavy, because it had been dealt with its own weapons. With the principles of state sovereignty, by means of which it had obtained supremacy over the Union, it was now driven from the ground[5] which

[1] Seward's Works, II, pp. 449–518. Niles, passim.

[2] "I said there was another subject which I deemed of more vital importance to the Union than the bank, the tariff, the currency, or the land and state debts question, or than all of them together; and that was the controversy between the states of New York and Virginia, and the slavery question generally." Mem. of J. Q. Adams, X, p. 461.

[3] "The correspondence between the governors of New York and Virginia . . . is of awful import. Its most alarming feature is the tameness of tone on the part of W. H. Seward, the governor of New York, and the insolence of Hopkins, the lieutenant-governor, and of Gilmer, the governor of Virginia, throughout the whole correspondence." Ibid., X, p. 401.

[4] "An act to prevent the citizens of New York from carrying slaves out of the commonwealth of Virginia, and to prevent the escape of persons charged with any crime."

[5] ". . . No person can maintain more firmly than I do the principle

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it had become accustomed to consider won and secured to it forever. For there was question not of a single case but of a principle, and the repugnance to do bailiff-service for the slave-holders threatened to seize upon the whole north. About the same time Maine had an entirely similar controversy with Georgia, which appealed in vain from the decisive answer of governors Dunlap and Kent to the legislature.[1]

Massachusetts did not lag behind New York and Maine. On the 23d of March, 1843, the legislature resolved to move through the representatives of the state in congress, an amendment to the constitution, basing the representation in congress on the free population only of the states.[2] The complaints on the compromise of the constitution, in respect to the fixing of the quota of representation,[3] were as old as the constitution itself, and had been frequently repeated. But by degrees this compromise acquired, in the consciousness of the people, the character almost of an unchangeable law of nature, so that the motion of Massachusetts now appeared as an aggressive demonstration of the boldest kind. Adams calls the debates

that the states are sovereign and independent in regard to all matters, except those in relation to which sovereignty has been expressly, or by necessary implication, transferred to the Federal government by the constitution of the United States. I have at least believed that my non-compliance with the requisition made upon me, in the present case, would be regarded as maintaining the equal sovereignty and independence of this state, and by necessary consequence those of all the other states." Seward's letter of the 24th of October, 1839.

[1] How embittered the slavocrats were, the following passage from the message of the governor of Georgia to the legislature shows: "For this purpose [to secure slave-ownership] you will be justified in declaring, by law, that all citizens of Maine who may come within the jurisdiction of this state, on board of any vessels, as owners, officers, or mariners, shall be considered as doing so with the intent to commit the crime of seducing negro slaves from their owners, and be dealt with accordingly by the officers of justice." Hazard, U. S. Com. and Stat. Reg., Feb., 1840, Vol. II, p. 101.

[2] The resolution is printed in Deb. of Congr., XV, p. 58.

[3] See Vol. 1.

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which the resolution called forth in the house of representatives the most memorable which had ever taken place there.[1] No one of course expected a practical result, but a sharp, shrill stroke of the file had been given the chains which the slavocracy had imposed on the Union. The speeches of the southern representatives on the resolution were pitched on an entirely different key. As if seized with pain and shaken with horror, they discussed the theme: the hideous has come to pass; on your heads rests the responsibility! There was much comedy in this, but also much honest seriousness. In the north, as well as in the south, people said to one another, with eyes wide open and significant nodding of the head: "Yes, and in the two houses of the legislature of Massachusetts, the democrats have the majority!"

The south could no longer calculate with full confidence on the support of the democrats of the north — a fact of immense importance. As in the legislature of Massachusetts, so also now in the house of representatives, the democrats had the majority, and now the hour of the gag-rule had come. On the 15th of April, 1842, Adams had painfully exclaimed that it drove the Union rapidly towards dissolution.[2] At that time, Campbell, of South Carolina, had declared that the whole constitution would have to bend before it.[3] And yet Adams was certain of victory. If the

[1] "And now sprung up the most memorable debate ever entertained in the house. . . . The crisis now requires of me coolness, firmness, prudence, moderation and fortitude, beyond all former example. I came home in such a state of agitation that I could do nothing but pace my chamber." Mem. of J. Q. Adams, XI, p. 455.

[2] Niles, LXII, p. 137.

[3] "This is a question to us of self-preservation, that rises above all written or constitutional law. The assassin's dagger is aimed at our hearts. Shall we bare our bosoms to receive the stroke, or shall we manfully resist? Do not, gentlemen, allow the rights of your constitutents to hold their property to be discussed on this floor. If you do, their bloody hearthstones

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south still, for a while, found a loop-hole, at the very last moment, the voting even now was repeatedly in Adams's favor. In March, 1844, Clingman, of North Carolina, was able to refute the allegation that he and the southern whigs, who, like him, condemned the gag-rule, had killed it, by the simple reference to the fact that of eighty northern democrats only thirteen had voted for its continuance.[1] Spite of this, Adams's hopes were once more deceived, but deceived for the last time. The *Richmond Enquirer*, the fieriest and most influential battler for Van Buren in the south, threatened the democrats of New York that it would drop him if they would not advocate the gag-rule, and the threat was of avail.[2] This lasted until the convention in Baltimore, but

may hereafter tell the tale of your folly and their misfortune." Ibid., p. 171.

[1] "The leading speech against the twenty-first rule, as it is commonly called, was made by a gentleman from New York (Mr. Beardsley), generally understood all over the north to be high in the confidence of Mr. Van Buren, and supposed to represent his views; and the democratic papers in New York and elsewhere claim great credit on this account for their party, saying that this democratic congress is opposed to the gag-rule of the whig congress. Though our opponents have two to one on this floor, yet, when we get them to a direct vote, the rule is defeated by a large majority. Out of near eighty democratic members from the free states, with all possible coaxing, they can get only thirteen to vote in favor of the rule." Niles, LXVI, p. 135.

[2] January 2, 1844: "I told Beardsley that the action of the house upon the gag would depend entirely upon the perseverance of the twenty-seven members of the New York delegation, and that I was told the "Richmond Enquirer" had threatened that if they did persevere, Van Buren's claim to the presidency would be forfeited.

"He admitted the fact, and said that he hoped the members would not be moved by any such consideration; two or three weak-minded men might be."

February 7, 1844: "The New York democrats have been whipped in by the threat that the south will desert Van Buren if his friends join to rescind the rule, with a promise of Calhoun and his party to support Van Buren if the rule is retained and the tariff broken down." Mem. of J. Q. Adams, XI, pp. 468, 505.

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no longer. The northern democrats took the bit between their teeth, and could no longer be controlled. On the 3d of December, 1844, the 25th (at the beginning the 21st, and later the 23d) rule was repealed by a vote of one hundred and eight against eighty.

While the political parties, with their otherwise very loose coherency, threatened to fall completely asunder under the weight of the slavery question, the threads which held the north and the south together began to break even in non-political life. If it were fated that the Union should be broken up in case the political parties became geographically consolidated, its continued existence became doubly impossible if, simultaneously, the same geographical line was to become a partition in the ethico-religious life of the people. It could never become such a partition entirely, because the people, from a religious point of view, were divided into too many small groups. This diversity of church organizations did not permit the manifestation of opposition in this sphere, in many places, to become too strongly developed, and in others it was covered up to such an extent that it remained unconscious, or, at least, did not find expression outwardly. The very organization of those churches which had taken the strongest stand against slavery, such as the Unitarian and Congregational, were so firmly based on the principle of local independence, that they could not properly be held responsible in their solidarity for the views and actions of the separate congregations. Only a few churches, such especially as the Presbyterian, Methodist and Episcopal, had, in this sense, a national character. In the case of the latter, therefore, the separative power of slavery asserted itself.[1]

The Presbyterian church divided, in 1838, into the old school and the new school. The ostensible ground of sepa-

[1] In the Episcopal church, however, no formal separation took place, to my knowledge, even during the civil war.

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ration was, indeed, divergent views as to certain doctrines of the church, and hence the division was not strictly geographical. But every one knew that actually the slavery question was one of the principal causes of the quarrel. The new school, which was only weakly represented in the south, took the position which favored freedom most. But even it kept very much aloof from all very radical opinions. The more intense the general conflict became, the more cautious did the attitude of its general assembly become, and the greater emphasis did it place on the necessity of Christian love and forbearance. Yet it never ceased to bear testimony to the sinfulness of slavery.[1] The general assembly of the old school, on the other hand, adopted the policy of the ostrich: when the slavery question was mentioned it shut its eyes and stuck its head in the sand. If it did not precisely plead for slavery, it thought that it could not be a sin under all circumstances, since, otherwise, the apostles would have to be accused of having winked at this sin.[2] This position was surely chosen as cautiously and with as much policy as was possible. And yet the old school was, for a time, in danger of seeing its bark break to pieces on this rock. But finally their pastors were able to pitch their song of praise of the "moral sublimity," with which they had happily oiled the church through between the two millstones, in the highest key.[3]

It caused an incomparably greater sensation when, after the general assembly of 1844, the Methodist Episcopal Church divided into a northern and a southern. These two organizations did not actually correspond entirely as to territory with the free and the slaveholding states; but that this

[1] See Alb. Barnes, The Church and Slavery, pp. 147, 148.

[2] Goodell, Slavery and Anti-Slavery, p. 166. See the principles of the old school, laid down in 1845 by the general assembly, in Stanton, The Church and the Rebellion, pp. 382–384.

[3] See J. Robinson, The Testimony and Practice of the Presbyterian Church in reference to American Slavery, pp. 114–117.

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was nearly the case is evident from the very names. Moreover, this division was brought about very directly and confessedly by the slavery question. And here also there was no question of radicalism. The northern portion did not want to prohibit all preachers but only the bishops holding slaves, and it was not the northern but the southern portion which caused the separation.[1] But the essential matter was not on what definite points opinions differed. The important thing was the fact itself that a difference on the slavery question tore the church asunder. Adams is reported to have said that the strength of the anti-slavery movement was proved more convincingly by this act, than by any previous event.[2] The south, on its side, declared later that the slavocracy, by the happy emancipation of the southern churches from the north, had, for the first time, made it possible for itself to carry the struggle for its interest to the point of breaking up the Union.[3] And Clay, who was ready to sacrifice everything for the one great end, the preservation of the Union, now most anxiously asked himself whether this disruption of the Methodist church was not, after all, the precursor of the disruption of the Union.[4]

[1] According to the description of the "True Wesleyan," cited by Goodell, Slavery and anti-Slavery, pp. 149, 150.

[2] " . . . he [Adams] is said to have assured his son, at the time the Methodist Church broke asunder, that other men might be more startled by the éclat of political success, but nothing, in his opinion, promised more good, or showed more clearly the real strength of the antislavery movement, than that momentous event." W. Phillips, Speeches, Lectures, and Letters, p. 123.

[3] The "Southern Presbyterian' writes: "Much as is due to many of our sagacious and gifted politicians, they could effect nothing until the religious union of the north and south was dissolved, nor until they received the moral support and coöperation of southern Christians." Stanton, The Church and the Rebellion, p. 198.

[4] H. Clay to Dr. Booth, April 7, 1845: "It was, therefore, with the deepest regret that I heard, in the course of the past year, of the danger of a

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With the Kentuckian, to whom his own nature and even the geographical situation of his state pointed out as his real life task, the role of the mediator, hope still preponderated over fear. What was the real foundation of this hope, if the prophecy of Silas Wright and Daniel Dickinson was verified, and the victory of the democrats in this presidential election led to a fusion of the whigs and abolitionists as a liberty party, which played "white" against "black"?[1] And when the course and the state of the process of dissolution of the national parties was as accurately known as it was to the two politicians of New York, was there any need of divine inspiration, or was political acumen sufficient to recognize that the development of things tended powerfully in that direction?

The prophecy was not, indeed, fulfilled to the very letter. The new constellation required as many years yet for its formation as Wright and Dickinson had given it months, and the initiative to it was taken by the very opposite side. Not by the whigs was white played against black, but black

division of the church, in consequence of a difference of opinion existing on the delicate and unhappy subject of slavery. A division, for such a cause, would be an event greatly to be deplored, both on account of the church itself and its political tendency. Indeed scarcely any public occurence has happened for a long time that gave me so much real concern and pain as the menaced separation of the church, by a line throwing all the free states on one side, and all the slave states on the other.

"I will not say that such a separation would necessarily produce a dissolution of the political union of these states; but the example would be fraught with imminent danger, and, in coöperation with other causes unfortunately existing, its tendency on the stability of the confederacy would be perilous and alarming." Clay, Priv. Corresp. p. 525. See, also, the report on "Interview with Rev. Dr. Hill of Louisville, Ky.," "Anti-slavery Standard," July 14, 1860.

[1] Mr. Wright to Mr. Dickinson, October 9, 1844: "You are doubtless right that the next phase of federalism is to be, to drop the names of 'Whig' and 'Abolitionist,' and adopt that of 'Liberty Party,' and try us under a banner of black and white, that is, if we beat them now." Speeches, Correspondence, etc., of the late Dan. S. Dickinson, II, p. 372.

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against white by the democrats, as the adherents of the slavocracy. The slavery question continued uninterruptedly and in dreadfully accelerated time to make the rent in the national life wider, and to extend it on every side; but the powerful new impulse which it received, in this direction, put, at the same time, a check to the breaking up of the democratic party, and surrounded it firmly with a new band. Its old programme had become a historical recollection; it henceforth wore the cockade of the slavocracy.

On the 28th of February, 1844, the cannon Peacemaker burst on the ship Princeton, and scattered death among the crew and the invited guests. Among the dead were two members of Tyler's cabinet, Upshur and Gilmer. The southern members of the "kitchen cabinet" and the "corporal's guard" now urged the president to place Calhoun, as secretary of state, at the head of the cabinet. Wise, however, had had the unparalleled shamelessness behind the president's back, but as if acting under his orders, to invite Calhoun immediately, through a confidential person, to accept the secretaryship of state. Tyler submitted.[1] Calhoun accepted, declaring that he would resign the office as soon as the one object which had determined him to accept it, the annexation of Texas, was attained.

[1] See the report at length, by Wise himself. Seven Decades, pp. 221-225.

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CHAPTER VII.

TEXAS.

The treaty of April 30, 1803, by which the United States acquired the Louisiana territory by purchase from France, said nothing of its extent, except that it was the territory which Spain had ceded to France in the treaty of San Ildefonso (October 1, 1800).[1] The consequence of this was a long and bitter controversy between Spain and the Union, concerning the limits of the territory ceded. The controversy could not be decided like an academic question. Each party was able to adduce numberless arguments for its own view of the case, but neither the one nor the other could produce any proof of the correctness of its view. France's views, even if not without weight, could not be the governing ones, if for no other reason, because these views had been formed while it, too, was an interested power.[2] What the parties

[1] The provision in question is taken up in so many words in the treaty of April 30. It reads: "Sa Majesté Catholique promit et s'engage de son côté, à rétrocéder à la Republique Française . . . la Colonie ou Province de la Louisiane, avec la même étendue qu'elle a actuellement entre les mains de l'Espagne, et qu'elle avait lorsque la France la possédoit, et telle qu'elle doit être d'après les traités passés subséquemment entre l'Espagne et d'autres Etats." Stat. at L., VIII, p. 203.

[2] ". . . that [the provision cited in the treaty of Ildefonso] was a designation not geographical, but political and possessory — as actually possessed by Spain at the cession, as *formerly* (without reference to date) possessed by France, and as subsequently modified by treaties with other powers. I have no doubt that the article was drawn with the express intention on the part of France to take possession of the whole original colony of Louisiana, as granted in Crozat's charter. Whether Spain meant the same thing, or understood the article as importing so much, may be ques-

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were confronted with was not the original documents, but actual circumstances. Spain was exhausted to the extreme by the French wars, and all the strength that was left her was claimed by her colonies in revolt. This it was that determined the course of the struggle in which the dull monotony of argument was occasionally interrupted by blows. The United States were the stronger party, and the stronger party was right.

The Union, however, was not the stronger to such an extent that it could have completely asserted its claims; but the Union moved forward and Spain receded. The treaty of February 22, 1819,[1] decided the angry controversy about the Floridas in favor of the United States, and extended their northwestern boundary below the forty-second degree, north latitude, to the Pacific ocean.[2] The administration believed,

tioned. But both parties knew that if a question of construction upon the article should arise between them, the effective construction would be that of France. It appears even from these publications in the 'City Gazette' that Marbois, the man who concluded the treaty with our plenipotentiaries, had once said that Mobile was part of Louisiana; and at the time when the Louisiana convention was ratified by the senate, in 1803, Jonathan Dayton stated in his place, that Laussat had told him at New Orleans that when the troops then expected out of France . . . should arrive, they would take possession to the Perdido, without asking any questions of Spain. But when France had sold her bargain to us, and wanted to sell it to us a second time, she changed her tone — first equivocated and evaded, and finally declared herself point-blank against us upon the eastern limit, and more feebly and ambiguously, upon the western." Mem. of J. Q. Adams, IV, pp. 220, 221.

[1] Stat. at L., VIII, p. 252 seq.

[2] "The acknowledgment of a definite line of boundary to the South Sea forms a great epocha in our history. The first proposal of it in this negotiation was my own, and I trust it is now secured beyond the reach of revocation. It was not even among our claims by the treaty of independence with Great Britain. It was not among our pretensions under the purchase of Louisiana — for that gave us only the range of the Mississippi and its waters. I first introduced it in the written proposal of the 31st October last [1818], after having discussed it verbally both with Onis and De Neu-

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and rightly, that it had achieved a great victory. The senate emphatically agreed in this view, inasmuch as it unanimously ratified the treaty.[1]

Yet entire satisfaction was not given. The United States pretended that they had, by the treaty of April 30, 1803, obtained the Rio Grande del Norte as their boundary in the southwest. On the 10th of July, 1818, Adams, the secretary of state, answered to the proposition of the mediating French ambassador, Hyde de Neuville, to establish the Sabine as the boundary: "impossible!"[2] President Monroe and all the other members of the cabinet, however, announced themselves finally ready to agree to Neuville's proposition, and Adams had to yield.[3] As the president, the secretary of the treasury, the secretary of war, and the attorney general[4] all belonged to the slave states, Benton was right when, in May, 1844, he complained that "southern men" had given away Texas.[5] But, at that time, no one seems to have inquired whether the slave states, as such, had any particular interest in the question. Jackson, who received information from Adams of the proposed boundary line before the treaty was closed, and who approved it, said only that the opposition, as an opposition, would find fault, and his own alarm was confined to this, that new hostilities would have to be feared

ville. . . . I record the first assertion of this claim for the United States as my own." Mem. of J. Q. Adams, IV, p. 275.

[1] Calh.'s Works, IV, pp. 366, 367; Mem. of J. Q. Adams, IV, p. 277.

[2] Mem. of J. Q. Adams, IV, p. 106.

[3] "I had, myself, in the negotiation of our treaty with Spain, labored to get the Rio del Norte as our boundary, and I adhered to the demand till Mr. Monroe and all his cabinet directed me to forego it, and to assent to take the Sabine." Adams's Speech of April 15, 1842, in the House of Representatives. Niles, LXII, p. 138.

[4] Monroe, Crawford, Calhoun, Wirt.

[5] "Southern men deprived us of Texas, and made it non-slaveholding in 1819." Niles, LXVI, p. 401.

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from the Indians removed from the western shore of the Mississippi.[1] And Benton himself, who first and most emphatically came forward in opposition to yielding on this point, leaving the "right" out of consideration, contended only for the necessity of claiming every inch of land of the valley of the Mississippi, and of its tributary streams.[2]

The veil soon began to be torn from the eyes of the south. Even while the transactions between Adams and the Spanish ambassador, Onis, on the Florida treaty were pending, events were preparing which would, sooner or later, necessarily make the acquisition of Texas a vital question to the slavocracy. The Missouri compromise had been an immense victory for the south, but it was far from having, as yet, given it one-half of the territorial land of the Union. In a comparatively short time the parts which had fallen to the lot of slavery would have to be transformed into states, while the free states had yet immeasurable tracts at their disposal. It was precisely the struggle over the Missouri question which paved the way, in the south, for the recognition of the fact, that it would have to break through the southwest boundary, drawn by the Florida treaty, if it would maintain as strong a representation in the senate as the north. It was no mere accident, that the first senseless plan made by one James Long, not many months after the close of the treaty, to transform Texas, with its population of about 5,000 inhabitants, into an independent republic, was hatched in Mississippi, whose fanaticism for slavery was not inferior even to that of South Carolina.[3]

But the great prize could not be won so quickly nor with so little trouble. The proclamation which Long, as "president of the supreme council of Texas," issued, on the 23d of

[1] Mem. of J. Q. Adams, IV, pp. 238, 239.
[2] Niles, LXVI, p. 401.
[3] See Jay, Review of the Mexican War, pp. 11, 12.

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June, 1819,[1] gave the assurance that "the citizens of Texas" had always hoped that when the boundary line between the Spanish possessions and the United States was fixed that they would be added to the latter. This was, to say the least, improbable, since there were yet no settlers from the Union in Texas. But what now was bold assertion, might soon become a fact, since now the colonization of the country from the United States began. To promote its settlement, Mexico endeavored to attract foreign emigrants by the granting of extremely favorable conditions. It does not seem to have feared that it could run any risk by opening its doors as wide to persons belonging to the United States as to other colonists. And if it entertained any alarm in this respect it was outweighed by the friendly attitude which the Union had assumed towards its revolution, and by the expectation that those who came would be preponderantly, or even exclusively, Catholics. Moses Austin, of Missouri, effected a large land grant to himself for the founding of a colony, and after his death, a little later, the franchise

[1] The most essential part of the proclamation is printed in a speech of the representative D. S. Kaufmann, of Texas; Congr. Globe, 29th Cong., 1st Sess., App., p. 803. Severance, of Maine, says, in a speech of February 4, 1847: "Long and his party of about seventy-five men left Natchez, in Mississippi, on the 17th of June, and declared the independence of all Texas, at Nacogdoches, on the 24th of the same month. The oppressions of the Spanish government could not have operated so severely upon them as they represent, for they could not have been in Texas more than a day or two when they organized their 'Supreme Council.' They had left Natchez only six days before, a mere band of lawless adventurers. . . . Not a man of them had any sort of title to a foot of land in Texas, and, so far as appears, none of them had ever been in Texas before; and these are the men who so earnestly remonstrate against being ceded to Spain without their consent." Congr. Globe, 29th Congr., 2d Sess., App., p. 288. Long afterwards entered into an alliance with John Lafitte, a notorious pirate in the Gulf of Mexico, and was, after various adventures, shot in the streets of Mexico by a soldier.

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was made over to his son, Stephen F. Austin. The latter took hold of the difficult task with circumspection and energy. His companions came principally from Tennessee, Mississippi and Louisiana. He, of course, permitted them to take their slaves with them. But he did more yet: a premium of eighty acres was offered for each slave. Texas belonged to Mexico, but from the year 1823, it became actually a colony of the slave-holding interest of the United States.

It was more than time for the slavocracy to get a foothold in the country. A decree of the Mexican congress of the 13th of July, 1824, prohibited the importation of slaves from foreign countries, and the constitution adopted in the same year declared all children thereafter born of slaves free. But Texas was a great way off, and the arm of the Mexican government was not long. Now, as before, settlers came with their slaves from the slave states to Texas. In this, the heads of the individual persons may have been haunted by far-reaching projects; but I can find no support for the assertion, that back of it there was a definite plan of the "south." The desire to come into the possession of a country so extremely blessed by nature may be said to have suffered no interruption, spite of the Florida treaty. The first serious steps taken towards its acquisition after the treaty did not, however, proceed from the slavocracy.

Scarcely had Adams taken the presidential chair when he made an effort to supply what, in his opinion, had been overlooked in the Florida treaty. On the 26th of March, 1825, he caused his ambassador to Mexico, Poinsett, of South Carolina, to be instructed to prevail on Mexico to give up the Sabine line. A whole series of boundary lines was proposed, of which the Rio del Norte was the most westerly.[1] Although

[1] Speech of J. Q. Adams, delivered in the house of representatives in fragments from the 15th of June to the 7th of July, 1838. Wash., 1838. p. 106.

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these propositions were very badly received by Mexico, Adams wished to have them renewed two years later in the form of a contract of purchase.[1] Poinsett was to offer half a million or a million dollars, according to which of the boundaries contemplated Mexico would prefer.

The United States had become sufficiently acquainted with Spanish pride to know with what violence it would rise up against such a job. Poinsett considered it best to leave the task committed to him unexecuted.[2] But it was hoped that bitter need would teach Mexico humility. The proofs that Mexico had, in the settlers from the United States, laid a cuckoo's egg in its nest had not to be waited for.[3] Adams told it so to its face, in 1827, in words which were rather blunt. He, indeed, clothed what he said in the form, that Mexico did not seem to attach much importance to the possession of this region since it had invited the settlers. But the form changed nothing in the bitter truth that the settlers had brought with them "our principles of law, freedom and religion," which had already involved them in a conflict with Mexico, and would surely involve them still more with her in the future, so that very serious differences between the two republics might easily grow out of them.

But these, after all, were facts, and Adams could properly refer to them, since the United States had done nothing to

[1] Ibid., p. 108; Mem. of J. Q. Adams, VII, pp. 239, 240.

[2] ". . . He forbore even to make an overture for that purpose [a repurchase]. Upon his return to the United States, he informed me, at New Orleans, that his reason for not making it was, that he knew the purchase was wholly impracticable, and that he was persuaded that, if he made the overture, it would have no other effect than to aggravate irritations, already existing, upon matters of difference between the two countries." Clay, April 17, 1844. Niles, LXVI, p. 152.

[3] A second attempt had been made in 1826, by some disappointed applicants for land grants, in conjunction with the Cherokees on the Red river, to separate Texas from Mexico by force. See Foote, Texas and the Texans, I, p. 254.

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bring them about. It was something entirely different when the Union made use of Mexico's embarrassment to exert an influence, by means of these circumstances. That Jackson did. He waited for the moment when Spain set an expedition on foot in Cuba against Mexico, to renew the propositions for purchase. He, at the same time, recalled the fact that revolutions had become the order of the day in Texas, and that its complete disseverance from Mexico had been attempted once already.[1] He did not express himself with the same regardlessness of consequences entirely on the reasons which made the purchase seem so urgent on the other side. In this respect, the condition of affairs had changed very much during the last two years.

The constitution of 1827 of the provinces of Coahuila and Texas, united into one state, had prohibited the importation of slaves, and declared all the children of slaves born thereafter free. Not many weeks after Poinsett had been charged with the renewal of the negotiations for purchase, Mexico completed the work of emancipation. A decree of the 15th of September, 1829, gave all slaves their freedom.

[1] "It is the wish of the president that you should, without delay, open a negotiation with the Mexican government for the purchase of so much of the province of Texas as is hereinafter described, or for such a part thereof as they can be induced to cede to us, if the same be conformable to either of the locations with which you are herewith furnished. The president is aware of the difficulties which may be interposed to the accomplishment of the object in view; but he confidently believes that the views of the matter which it will be in your power to submit, and the pecuniary consideration which you will be authorized to propose, will enable you to effect it. He is induced, by a deep conviction of the real necessity of the proposed acquisition, not only as a guard for our western frontier, and the protection of New Orleans, but also to secure forever to the inhabitants of the valley of the Mississippi the undisputed and undisturbed possession of the navigation of that river, together with the belief that the present moment is particularly favorable for the purpose, to request your early and unremitting attention to the subject.

". . . The want of confidence and reciprocal attachment between the

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The American settlers in Texas yielded no obedience to these laws, and the government was so powerless against them that an attempt was made to prevent another revolution by spreading the rumor that it was intended to except Texas.[1]

This hostile attitude of Mexico towards slavery had alarmed the south. Before general emancipation had been decreed, the slavocracy believed that danger was approaching. The *Pennsylvania Gazette* advised that for the present the project of purchase should be desisted from, for the reason that the territory to be acquired might easily become the prey of the slavocracy.[2] The *Genius of Universal Emancipation*

government and the present inhabitants of Texas [not Spanish], from whatever cause arising, is too notorious to require elucidation. It has, in the short space of five years, displayed itself in not less than four revolts, one of them having for its avowed object the independence of the country." Van Buren's Instructions to Poinsett, August 25, 1829.

[1] The secretary of state, Alaman, informed the Mexican congress, in 1830: "The independence of the North Americans in Texas is such, and their superiority has arrived at such a point, that, notwithstanding the abolition of slavery decreed on the 15th September last, by virtue of the extraordinary powers, the commandant on the frontier of that state has stated that he had no hope of ever seeing that decree obeyed, unless enforced by greater means than he had under his command. This resistance has brought things to such a pass, that it was thought to have been the cause of an insurrection; and, in order to avoid this, it was given out that this department was excepted from the operation of the decree, by authority, not of an express provision, but which is very extraordinary, by a private letter written by General Guerrero to General Teran, commandant general of the eastern states, authorizing him to inform the colonists that the decree in question did not embrace Texas." Exec. Doc., 25th Congr., 2d Sess., Vol. XII, No. 351, p. 315.

[2] "True, the majority of the people are opposed to the extension of slavery; but will that majority act efficiently at the present time? We have strong doubts of this; and are decidedly of the opinion that the wisest policy will be to defer the purchase until the public mind is fully prepared to restrict the extension of slavery beyond the limits of its present existence." The war in Texas . . . a crusade against Mexico, set on foot and supported by slaveholders, land speculators, etc., 1836. I have used the

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called attention to the fact that there was question of acquiring the material for five or six new slave states,[1] and in saying so, said only what had been repeatedly and openly said before by the southern spokesmen. Benton, at the time senator, had already set himself up under the name of "Americanus," in the *St. Louis Beacon*, as a skirmisher for the slavocracy. He accused Adams of having abandoned Texas in the Florida treaty, from enmity to the interests of the south, and without any necessity. In view of the danger, which could not be estimated too highly, of having a foreign free state so close, he characterized the magnitude of the loss suffered by saying, that the territory would have been sufficient to form half a dozen or more very respectable slave states.

The southern press joined in the melody with a loud flourish of trumpets.[2] But Mexico not only rejected the offered

second edition, Philadelphia, 1837. Benjamin Lundi is the author of the document. Channing, Works, II, p. 186.

[1] "We cannot longer disguise the fact, that the advocates of slavery are resolved, at all hazards, to obtain the territory in question, if possible, for the avowed purpose of adding five or six more slaveholding states to this Union." 16th of September, 1829.

[2] The "Edgefield Carolinian," which was considered the organ of McDuffie, said in a review of Benton's article: "This large fragment of the Mississippi valley, affording sufficient territory for four or five slaveholding states, was unceremoniously sacrificed with scarcely a pretext of a demand for it on the part of Spain. The time of the negotiation was during the heat of the debate on the Missouri question — the place was Washington, whither the negotiation had been unnecessarily removed, while it was proceeding prosperously at Madrid, and where the restrictionists were then assembled in all their strength, and the negotiator was Mr. Adams, the friend and associate of the most thoroughgoing among those restrictionists. 'Americanus' exposes the evils to the United States of this surrender, under twelve distinct heads. Two of them of particular interest to this section of the country are, that it brings a non-slaveholding empire in juxtaposition with the slaveholding southwest, and diminishes the outlet for the Indians inhabiting the states of Georgia, Alabama, Mississippi and

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five millions, but took measures to keep the friends who thanked her for her generosity by endeavoring to tear the whole country from her, from her throat in future.[1] But neither the administration nor the slavocracy permitted itself to be disturbed by this. The American *chargé d'affaires* in Mexico was indeed of opinion that an immediate uprising in Texas, which would have made it drop of itself into the lap of the United States, should be calculated on no longer. He, however, thought that the revolution was postponed only for a year or two, and expressed the conviction that a bargain would be more easily wrung from Mexico, in proportion as such was demanded of her.[2]

Tennessee." The War in Texas, p. 15. Several similar utterances by other journals are printed in Jay, Review of the Mexican War, pp. 13, 14.

[1] "In less than ten years after the commencement of the settlement of Texas, the law of the 6th of April, 1830, was passed by the Mexican congress, forbidding the further settlement of the citizens of the United States in the country, and forbidding their entering the country without passports from the proper authorities; while, at the same time, the people of all other countries were not only permitted to come, but invited to settle in the country. . . . This was all the work of British influence." To the Hon. J. Q. Adams and the other twenty members of congress . . . remonstrating against the annexation of Texas, p. 2.

[2] Anthony Butler to Van Buren, March 9, 1830: "Had his [Alaman's] project been adopted, as recommended, I am confident that a revolution in that province would immediately have followed, and Texas become ours, by a movement among the people themselves, without costing the government of the United States a dollar; but the modification of the plan suggested on the part of congress will leave the population but little to complain of, and tranquillity may, therefore, continue for a year or two longer. . . . You will perceive that the secretary himself [Alaman] suggests a probability of our claiming territory as far west as the Rio Grande, and I have so managed as to strengthen that impression on his mind (without committing myself or the government), as one means of facilitating the retrocession when we come to negotiate for the country; and the failure to ratify the treaty of limits has been in connection with that subject, a most fortunate event for us, that may be turned to good account. I have ascertained, very satisfactorily, that the Mexican government are becoming anxious on the question of limits and boundary between the United States

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Butler's view on the first point was shared by others also,[1] and others yet spoke little, but were all the more industrious to make that a fact which the former prophesied. The agitators were determined by very different motives, and hence the agitation also assumed very different forms. The west, as on so many other occasions, was moved by its passion for territorial magnitude. This was the governing motive even with Benton, and it caused Clay, who had no inclination toward the propagandism of slavery, to coöperate with Benton in this question.[2] That was, after all, a passion in which there was a certain soaring elevation, and which even was not wanting entirely in idealism. When the press and the politicians, in their declamations, sent the "young eagle" of the Union winging his way proudly in his flight from ocean to

and Mexico; and I have been more than once approached on that subject, but always found means to evade it, leaving them under the influence of whatever their imagination might create to awaken suspicion or alarm their fears. If instructions were given me to urge our claim to the territory as far west as the Rio Grande del Norte, or permission to use the pretension as an auxiliary, there is no doubt of its being made to operate very favorably on the expected negotiation for Texas; and the claim could be employed to remove objections which, without some aid of this character, might seriously embarrass the proceeding." Exec. Doc., 25th Congr., 2d Sess., Vol. XII, No. 351, pp. 311, 312.

[1] The "Arkansas Gazette" at the same time wrote: "No hope need . . . be entertained of our acquiring Texas until some other party more friendly to the United States than the present shall predominate in Texas, and perhaps not until the people of Texas shall throw off the yoke of allegiance to that government, which they will do, no doubt, so soon as they shall have a reasonable pretext (!) for doing so." Speech of J. Q. Adams . . . from the 16th of June to the 7th of July, p. 125.

[2] "The appetite for Texas was from the first a western passion, stimulated by no one more greedily than by Henry Clay. He had denounced the Florida treaty for fixing the boundary at the Sabine, and held and preached the doctrine that we should have insisted upon our shadow of a claim to the Rio del Norte. President Monroe actually preferred the line of the Sabine, thinking that the extension of the boundary would weaken us for defense." Mem. of J. Q. Adams, XI, p. 348.

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ocean, the picture was one which might well awaken the enthusiasm of the masses. But if the fires of this enthusiasm could be at all fanned to such an extent that they might go beyond a mere flare, they had to be energetically and continually stirred by a thousand hands, and these could be found only in case the cause was made their own by a material personal interest. This was done by means of three land companies established about the year 1830, in New York, — the Galveston Bay and Texas Land Company, the Arkansas and Texas Land Company, and the Rio Grande Company, which acquired the land grants made by the Mexican government to empresarios,[1] and made the lands the basis of stocks, which they managed to bring among the people in large quantities. It was a pure bubble, but the desire to grow rich in a night had begun to rage, and thousands were caught by the shining bait.[2] It was not to be

[1] See concerning this contract, more minutely in Kennedy, Texas, I, pp. 336–341.

[2] "These several companies created 'stocks' upon the basis of those 'grants,' and threw them into the market. They also issued 'scrip,' authorizing the holders of it to take possession of certain tracts of land within the lines marked out on the map as the boundaries of their respective grants. This 'scrip' embraced tracts of various dimensions, and was sold to any who could be induced to purchase, at such prices as could be obtained. To a *bona fide* settler (and none else could obtain land it pretended to convey), it could be of no advantage whatever, as the facilities and expenses of procuring his tract, according to law, would be the same whether he held the scrip or not. Every cent paid for it, therefore, was so much loss to the settler, and gain to the company. Although these companies could only hold their grants through the medium of the empresarios, for the limited period of six years, and on the express condition of settling a specified number of families, they dealt largely in their 'stock,' and sold immense quantities of 'scrip,' insomuch that an immense amount of money has no doubt been realized by them — while very few settlers (in many of the grants none) have been introduced. By obtaining from the government an extension of the time stipulated for the fulfilment of contracts made with the empresarios, they have been enabled to continue and increase their operations upon a grand scale. Thousands in various parts

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expected that Mexico would ever recognize the worthless land titles. Those who *bona fide* or *mala fide* had sought their fortune in them, could therefore never get back their money except in case Texas fell into the hands of people who were willing, by subsequent legalization of the swindle of the land companies, to give the "scrip" a real value.

But even before this large class of interested persons had come into existence, a bold adventurer had set to work to realize that which was so soon to become so important a matter to the money-bags of the former. Among Jackson's favorites, Samuel Houston occupied one of the most distinguished places. This friendship dated from the time of Jackson's Indian battles in 1814, in which the young lieutenant had attracted the attention of the general by his extraordinary bravery. Excitement was the atmosphere in which the man, who, even when a boy, had shared the roaming hunting life of the Indians for three years, lived. Personal annoyances determined him, in 1818, to quit the service and to try his hand at politics and law. At school, he had learned little more than reading, writing and arithmetic, and he now finished his legal studies in six months. He understood the arts of bold initiative better than the doctrine of rights, but notwithstanding this, he became, in a few years, an attorney who was much sought after, and an influential politician in Tennessee. After he had been a member of congress for four years, he was chosen, in 1827, governor of the state, by a large majority. He brought this successful career to a close in a manner which caused a great deal of talk. He suddenly turned his back on the civilized world, and went again among the Indians, taking pleasure, even, in wearing

of the United States have purchased the scrip issued by them, and are interested, of course, in the adoption of measures to legalize their claims. This can never be done, however, while the laws are in force, under which the colonization privileges were obtained." The War in Texas, p. 22.

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their costume. He turned up once more in Washington, in the beginning of 1830. The general public only knew that he was endeavoring to obtain a contract to supply the Indians, which would have cheated the government to the extent of about one hundred per cent., and that Jackson was intent on doing his old companion in arms the kindness of letting him have it. But Jackson himself was informed after a few months — if indeed he did not know it from the first — that Houston had had another iron in the fire. Doctor Mayo, a person well known in political circles, informed Jackson, by a letter of the 2d of December, 1830, that Houston had disclosed to him that he would within twelve months dissever Texas from Mexico; that volunteers were already secured throughout the Union for the revolutionary attempt which was to be executed with the assistance of the Indians of Arkansas, and which would bring boundless wealth to all the participants in it.[1] Athough these disclosures were confirmed and completed from other quarters, Jackson pre-

[1] See the details in Mayo, Political Sketches of Eight Years in Washington, pp. 117–129. We here cite only the most important passage from the letter of the 2d of December, 1830: "I learnt from him [Houston] these facts and speculations, viz.: That he was organizing an expedition against Texas; to afford a cloak to which, he had assumed the Indian costume, habits and associations, by settling among them, in the neighborhood of Texas. That nothing was more easy to accomplish than the conquest and possession of that extensive and fertile country, by the coöperation of the Indians in Arkansas, and recruits among the citizens of the United States. That, in his view, it would hardly be necessary to strike a blow to wrest Texas from Mexico. That it was ample for the establishment and maintenance of a separate and independent government from the United States. That the expedition would be got ready with all possible dispatch; that the demonstration would and must be made in about twelve months from that time [February]. That the event of success opened the most unbounded prospect of wealth to those who would embark in it, and that it was with a view to facilitate his recruits, he wished to elevate himself in the public confidence by the aid of my communications to the 'Richmond Enquirer.'"

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tended to attach no faith to the matter; and yet in a "strictly confidential" letter of the 10th of December, he told the secretary — not the governor — of the territory of Arkansas, to keep his eyes open.

The time fixed passed away, and nothing happened, yet the mole-like labor did not stop a moment. Only it became necessary to go to work with more circumspection and more systematically than Houston had thought there was any need of. One of those revolutions usual in Mexico afforded the opportunity for the preparatory steps. Texas could not carve its revolutionary desires into the forms which the weight of quasi-legal authority had given them, so long as it was united with Coahuila into one state, because its representatives constituted only a minority in the united legislature. Hence the next aim of the conspirators was the separation of Coahuila and the constituting of Texas a separate state. The convention called to meet at San Felipe in October, 1832, for this purpose was, however, not largely attended, and broke up without reaching any result. There was no reason why this should cause defeat. It was plain that the matter had again been thought too easy. Anthony Butler proposed to Jackson to use a loan desired by Mexico to promote the purchase in question more efficiently, and was of opinion that Texas should be given as a pledge. The president not only roundly refused the loan, but had an order given to Butler through Livingston to break off the negotiations for the purchase, because they would soon become objectless, for the reason that the American colonists of Coahuila intended to declare their independence in a convention on the 1st of April, 1833.[1] This expectation turned out to be pre-

[1] "This precise knowledge of Jackson, to a day, of the intended design of the colonists to declare their independence as early as April, 1833, was suppressed in the document communicated to the house in 1838." Mem. of J. Q. Adams, XI, p. 368.

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mature. The convention at San Felipe, in April, 1833, stood by the programme of the last fall, but came to a conclusion in relation to it Austin was sent to Mexico as a delegate to effect the separation of Texas and Coahuila. His efforts were fruitless. In the fall he wrote to Texas that there should be no longer delay, but that Texas should, of its own motion, constitute itself a separate state. This letter became known just after he had started on his journey home. Before he had reached Texas, he was arrested at Saltillo, and kept in prison till the 12th of June, 1834.[1]

Austin admitted his arrest to be entirely justifiable, and laid the disagreeable things he had to suffer to the charge of the colonists, and warned them to be quiet, since all equitable claims could be obtained from the government.[2] The government also showed itself ready to meet the colonists. Austin was released from imprisonment, and different measures which corresponded with the desires of the colonists were taken. But the latter did not care for satisfaction.[3] In addition to this, the revolutionary disturbances in Mexico proper drew Texas into sympathy with them, so that there

[1] Kennedy, Texas, II, pp. 18–27, 58.

[2] He writes on the 17th of January, 1834, from Monterey: "I do not in any manner blame the government for arresting me, and I particularly request that there may be no excitement about it. . . . The general government are disposed to do every thing for Texas that can be done to promote its prosperity and welfare that is consistent with the constitution and laws, and I have no doubt the state government will do the same if they are applied to in a proper manner." And on the 10th of May, 1834: "The good people of the colony precipitated me into these difficulties, by their excitements. I came here as the agent of excited and fevered constituents, and I represented them regardless of my personal safety or welfare." The War in Texas, pp. 20, 21.

[3] I find different statements as to the time of the dissolution of the decree of Bustamante, which closed Texas to settlers from the United States. According to some of them, it was now effected by Austin; according to others, it occurred in the year before.

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was no want of causes for well grounded complaints. The friction continued, and Santa Anna made preparations to reduce the refractory country to obedience by force of arms. The state legislature, which had become guilty of bribery on a large scale, was dispersed.[1] Texas was without a government, and the real revolution began with the formation of committees of safety.[2] The first armed collisions took place in the beginning of October, 1835, and on the 12th of November delegates of the committee of safety in San Felipe constituted themselves a "consultation" which established a provisional government. The Mexican troops were repeatedly beaten, and before the end of the year they were driven entirely outside the limits of Texas.

These events had again revived Jackson's endeavors to effect the purchase. Butler, himself a speculator in Texas

[1] Here too there was question of speculation in land which gave a new impetus to the business in "Texas scrip." The "North American Review," July, 1836, p. 216, writes on this matter: "In 1834, a company of land speculators, by means never distinctly known, induced the legislature of Coahuila and Texas to grant them, in consideration of twenty thousand dollars, the extent of four hundred square leagues of public lands. This transaction was disavowed, and the grant annulled by the Mexican government; and led to the dispersion of the legislature, and the imprisonment of the governor, Viesca. And yet this unauthorized and, perhaps, corrupt grant of public lands formed the basis of new speculation and fraud. A new scrip was formed; and, according to the best information we have been able to obtain, four hundred leagues became, in the hands of the speculators, as many thousands. The extent of these frauds is as yet to be ascertained; for such is the blindness of cupidity, that any thing which looks fair on paper passes without scrutiny for a land title in Texas.

"This interest in the soil of Texas, whether real or fictitious, so widely diffused among a speculating people, extending from Boston to New Orleans, could not fail to create a sympathy and a bias, which, in the event of another rupture between the colonists and the government of Santa Anna, might compromit the neutrality of the United States. Such a rupture was soon brought about, and the colonists flew to arms."

[2] The first committee of safety was appointed on the 17th of May, 1835, at Mina (later Bastrop).

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lands,[1] thought that he had at last found a sure means to reach his end. In a letter of the 17th of June, 1835, he proposed to bribe Ignacio Hernandez, the confessor of Santa Anna's sister, with a sum of half a million dollars.[2] Jackson would hear nothing of this, but in a note of the 25th of July, he expressed the thought that Butler might be instructed to offer half a million more in case Mexico would consent to grant the Rio del Norte from its mouth to the 37th degree of north latitude, and thence this latter parallel to the Pacific ocean as a boundary.[3] Even now the northern half of Upper California, inclusive of the harbor of San Francisco, was coveted. The proper instructions of the secretary of state were sent to Butler on the 6th of August.[4]

Butler thought altogether too highly of his diplomatic skill, and he, moreover, intentionally befooled the president a little. In order to maintain himself in office, he, against his own better knowledge, never allowed Jackson's hopes to fade entirely. But he did not accomplish the least thing. The realization of the wishes of both sides was possible only in the way on which Texas had entered. And the extension of the limits beyond the territory of Texas, had in view by Jackson, could very well be accomplished in this circuitous manner. Letters from Austin which got into Texas in January, 1836, advised that an eventual declaration of independence should not be accompanied by a precise defining of the limits.[5]

[1] Mem. of J. Q. Adams, XI, pp. 354, 359.

[2] Ibid., pp. 348–351. "Neither this letter nor that of W. A. Slocum of August 1st, 1835, was ever communicated to congress; but in them originated the project of enlarging the encroachment upon Mexico, from the mere acquisition of Texas, to embrace all New Mexico to the thirty-seventh parallel of latitude, and thence across the continent to the South Sea."

[3] Ibid., pp. 361, 362.

[4] See the speech of J. Q. Adams, . . . from the 16th of June to the 7th of July, 1838, p. 4; R. J. Walker, Letter relative to the annexation of Texas, Jan., 1844, p. 7.

[5] "Should a declaration of independence be made there ought to be no

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It depended on the fortune of arms in what direction the next step forwards in the development of the Texas question was made.

On the 2d of March, 1836, the declaration of independence of Texas was issued. It cannot be properly said that Texas declared herself independent on this day. Of the sixty signers of the declaration of independence, three were Mexicans by birth, forty-eight emigrants from the slave-holding, and five from the free states of the Union.[1] How many of these were citizens of Texas or real settlers, I do not know. Lundi assures us that the last class were mostly opposed to the disseverance of Texas.[2] This much is certain, that with here and there an exception, it was only a small handful of emigrants and adventurers from the slave states of the Union who endeavored to conquer Texas for the United States and the slavocracy. The declaration of independence very ingenuously alleged among the reasons for the separation, that Spanish was the language of the Mexican government.[3] The constitution of the 17th of March

limits prescribed, on the south, west, or northwest; the field should be left open for extending beyond the Rio Grande, and to Chihuahua and New Mexico." Kennedy, Texas, II, p. 170.

[1] The figures known to me do not quite agree. De Bow, Commercial Review, XXIII, p. 247, says in a note: "In 1850 nine-tenths of the Americans in Texas not born there were born in the slave states of the Union, only one-twentieth were born in the northern states, and one-tenth in the northern and northwestern. Of the sixty who signed the Texan declaration of independence, forty-eight were from the southern slave-holding states, and but five from the free states." Jay, Review of the Mexican War, p. 18, writes: "Of the fifty-seven signers to this declaration, fifty were emigrants from the slave states, and only three Mexicans by birth, and these, it is said, largely interested in Texan land speculation." A copy of the declaration before me has only fifty-two signatures, and of these three are Spanish names.

[2] The War in Texas, passim.

[3] "It [the government of Santa Ana (sic)] hath (sic) sacrificed our welfare to the state of Coahuila, by which our interests have been continually

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provided for the introduction of the common law; and for the chains of slavery, with which the new-born state was loaded, the extremest slave states were taken as a model by that constitution.[1] From the two opposite sides Texas showed itself a genuine off-shoot of the parent trunk. Instead of the Romanic republicanism which is based on pronunciamentos, the broad foundation of Anglo-Saxon freedom was laid; but at the same time the sons of the democratic republic tore the instrument containing the death sentence which the law of the Spanish Mexicans had pronounced against slavery. The wide country in which legally the principle of personal freedom had absolute force, these same sons transformed into one of the domains of slavery, and this transformation was the principal motive of their entire action.

They, therefore, rightly expected, in the first place, from the population of the slave states, that they would look upon the revolution in Texas as their own cause. Adams declared that Tennessee and Arkansas were the principal seats of the

depressed through a jealous and partial course of legislation, carried on at a far-distant seat of government, by a hostile majority, in an unknown tongue." Senate Doc., 24th Congr., 1st Sess., Vol. VI, No. 415, p. 4.

[1] Art. IV, Sec. 13. "The congress shall, as early as possible, introduce, by statute, the common law of England, with such modifications as our circumstances, in their judgment, may require; and in all criminal cases the common law shall be the rule of the decision."

General Provisions, Sec. 9. "Congress shall pass no laws to prohibit emigrants of the United States of America from bringing their slaves into the republic with them, and holding them by the same tenure by which such slaves were held in the United States, nor shall congress have power to emancipate slaves; nor shall any slaveholder be allowed to emancipate his or her slave or slaves, without the consent of congress, unless he or she shall send his or her slave or slaves without the limits of the republic. No free person of African descent, either in whole or in part, shall be permitted to reside permanently in the republic, without the consent of congress." Senate Doc., 24th Congr., 1st Sess., Vol. VI, No. 415, pp. 10, 14.

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"conspiracy" to sever Texas from Mexico;[1] yet several other slave states soon surpassed them in this, with vigorous and active friendship.[2] But even some of the free states scarcely lagged behind the latter.[3] Universal sympathy with their countrymen and a desire for more territory and "scrip" were the moving causes at the outset, but to these causes the frightful mode of warfare of the Mexicans added still another. Two horrible and bloody deeds following immediately the one on the other — the massacre of the brave defenders of Fort Alamo on the 6th of March, and the butchering of Colonel Fannin and his people at Goliad on the 27th of March, made still more despicable by a wicked breach of word[4] — produced the greatest indignation in all parts of the United States. If there had ever been any doubt as to what extent the population of the Union would give aid to the insurgents, they might now rely with certainty that they would be supported until they had reached their end. But

[1] Speech . . . from the 16th of June to the 7th of July, 1838, p. 126.

[2] "In Louisiana, Tennessee, Alabama, Georgia, and other states, money had been subscribed, and volunteer companies enrolled, to aid their cause. The sums contributed were not large, nor the number of auxiliaries considerable — [this is not correct, if they are not judged in themselves but according to their ratio to the surprisingly small aggregate means with which the independence of Texas was achieved] — but they arrived at a seasonable time, and were granted with an enthusiastic spirit." Kennedy, Texas, II, p. 165.

[3] Charles Hammond said at Cincinnati: "Am I not correct, when I say men and arms, for military purposes, have been furnished here? Has it not been boasted that the cannon used at San Jacinto was supplied by Cincinnati? Is it not a fact, that every stand of public arms deposited at this place, by the state, have been sent to Texas, with the connivance of those who had charge of them? And can any man seriously suppose that the real character of these things can be changed, by calling the men 'emigrants' and the arms 'hollow ware?'" "Cincinnati Daily Gazette." The War in Texas, p. 42.

[4] See the particulars in the article, Mexico and Texas, in the "Democratic Review," October, 1838, pp. 132–145.

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the revolutionists had never entertained any doubt whatever on this point. Houston, to whom the chief command was committed, openly said that without this aid victory was impossible.[1] And Samuel Carson, the secretary of state of the revolutionary government, advised the general, in a letter of the 14th of April, not to permit himself to come to a decisive war, but to fall back towards the Sabine, for the reason that he was able to assure him definitely of the early arrival of a considerable number of volunteers from the United States.[2]

There was no longer any time for delay, but yet the decision was given by citizens of the United States. It was given on the 21st of April, at San Jacinto. Santa Anna, who led the "battle" personally, is said to have had one thousand five hundred men, while the Texan "army" under Houston amounted to only eight hundred men, of whom it is said not more than fifty were citizens of Texas.[3] Spite of their enormously greater numbers the Mexicans were defeated,[4] and

[1] Houston to General Dunlap, of Nashville: "For a portion of this force we must look to the United States. It cannot reach us too soon. There is but one feeling in Texas, in my opinion, and that is to establish the independence of Texas, and to be attached to the United States." The War in Texas, p. 32.

[2] Yoakum, History of Texas, II, p. 169.

[3] "North American Review," July, 1836, p. 254. Wise, of Virginia, certainly a witness not to be thought too lightly of, said, in 1842, in the house of representatives: "It was they [the people of the great valley of the Mississippi] that conquered Santa Anna at San Jacinto; and three-fourths of them [!], after winning that glorious field, had peaceably returned to their homes" (that is, to the United States). Niles, LXIV, p. 174.

[4] Houston's report of the 25th of April, to the president, D. G. Burnet, is a masterpiece of vain-glorious braggardism. Santa Anna had one thousand five hundred men; of these there were, dead, six hundred and thirty; wounded, two hundred and eight; prisoners, seven hundred and thirty; a total of one thousand five hundred and sixty-eight, or sixty-eight more than the aggregate. On the other hand, the loss of the Texans is given,

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on the following day Santa Anna himself fell into the hands of the Texans.[1]

Santa Anna was granted his life, although he had forfeited it ten times over by the crime at Goliad. The Texans were not determined to spare him by magnanimity alone; Santa Anna was to help them towards obtaining the recognition of their independence. As long as he was in the hands of the enemy, he readily did all in his power to help accomplish this end. He closed an armistice, obligated himself to vacate Texas entirely, and commissioned General Filisola to bring about in Mexico the negotiations promised by him in relation to the independence of Texas. But congress declared all that the president should do, while imprisoned, to be not binding on the republic in any manner. Hence it was not, by any means, undoubted that the victory of San Jacinto had put an end to the supremacy of Mexico over Texas forever. Now, as well as before, the issue of the revolution might — if it be not more correct to say that it had to — depend on the attitude of the United States.

The United States have shown themselves, for the most part, not over-strict in the observance of their duties as neutrals. As a rule, the government has claimed a greater absence of responsibility in reference to the action of individual citizens than European states are wont to claim. Neutrality laws have been passed, but — to use a mild expression — the zeal in enforcing their observance has not been great. Whenever their sympathy or antipathy came into play they have always given evidence of a disposition to do only what they were absolutely obliged to do. Whenever complaint had been made, they willingly answered by asking for the proofs, or they carried on the investigation in such a manner that a

two dead, and twenty-three wounded. Sen. Doc., 24th Congr., 1st Sess., No. 415, pp. 20–22.

[1] See the particulars in the "Democratic Review," December, 1838, pp. 305–320.

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result was scarcely possible. Complaints, no matter how great and unquestionably justified they may have been, have been repeatedly met by the plea of the want of power of the federal authorities, a plea which has always been pushed to the extreme, and the complainants have been obliged to be satisfied with the simple consolation that not a finger would be raised if the guilty ones should receive the deserved chastisement from their hands; but whenever fate overtook the guilty and they were threatened with serious danger, the United States went as far in the other direction as seemed at all permissible, to avert the impending danger from them. Whether and when the United States went so far in this direction as to make it possible to convict them of a formal breach of neutrality, may remain undecided here. These are questions in which he will always have the last word who will not permit himself to be convinced. This much is incontestable, that the United States, on repeated occasions, have not performed their duties of neutrality in the manner in which it becomes a great power to perform them; that is, they have not honestly endeavored to meet their international obligations, not only according to their letter but their spirit; no loop-hole which the letter afforded them have they scrupled to use when it suited them to use it.

In the case before us also, great stress is laid on it by many, that the government of the Union cannot be shown to have been guilty of any international impropriety, much as it cannot be denied that the Texas revolution was the work of citizens of the United States.[1] This may remain unexamined. It is sufficient for the judgment of history, if it can be proved that the government of the Union did its best to throw obstacles in the way of the Mexicans, and to clear the road for the Texans. And the proof of this may be produced.

[1] "Thus the government of the United States did what it could to preserve its faith with Mexico, and the people did what they could to aid Texas." Yoakum, History of Texas, II, p. 160.

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Jackson, in his eighth annual message (December 6, 1836), gave expression to the conviction, that even the severest judge could find no ground for any reproach against the government of the Union.[1] And even one year previous, the senate committee on foreign affairs had borne witness for the government that it had, with blameless conscientiousness, been industrious in performing its duties as a neutral.[2] It certainly had seemed sufficient to these gentlemen that the observance of the old neutrality laws was commanded. The Mexican ambassador, Gorostiza, on the other hand, believed himself entitled to request that force should be given to this command. This wish was certainly not so entirely without foundation, when the American newspapers conveyed the information that bodies of volunteers numbering hundreds were marching through the cities to the sound of music, on their way to Texas.[3] Of what use to the Mexicans were all commands to observe the neutrality laws, when Texan recruiting officers carried on their business as openly and un-

[1] "I trust that it will be found, on the most severe scrutiny, that our acts have strictly corresponded with our professions." Statesm.'s Man., II, p. 1029.

[2] "The government of the United States has taken no part in the contest which has unhappily (!) existed between Texas and Mexico. It has avowed the intention, and taken measures to maintain a strict neutrality towards the belligerents. If individual citizens of the United States, impelled by sympathy for those who were believed to be struggling for liberty and independence against oppression and tyranny, have engaged in the contest, it has been without the authority (!) of their government. On the contrary, the laws which have been hitherto found necessary or expedient to prevent citizens of the United States from taking part in foreign wars have been directed to be enforced." Report of the Senate Committee on Foreign Relations, June 18, 1836. Sen. Doc., 24th Congr., 1st Sess., Vol. VI, No. 406, p. 2.

[3] "This morning more than two hundred men, commanded by Colonel Wilson, and on their way to Texas, passed this place in the Tuskina, with drums beating and fifes playing; they will be followed by three hundred more, all from old Kentucky." The Grand Gulf (Miss.) Advertiser.

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disturbed as only the recruiting officers of the government of the Union could have done, or when whole squadrons were fitted out in the harbors of the United States for the use of the Texans, and Texan vessels were saluted with cannon as ships of war?[1] This was bad for Mexico. But what more could the government of the Union do than lament it? Its officials wrote to it that the volunteers were "emigrants," and the Union could not prohibit emigration to please Mexico.[2]

Gorostiza, however, not only reproached the government of the Union with closing its eyes and ears; he charged it with direct sins of commission. As early as the 14th of May, 1836, he asked the secretary of state how he came to speak of a "Texan government."[3] If by this designation,

[1] ". . . pero por mas que se hace cargo de la exageracion y acaloriamento de la epoca presente, no puede con todo dejar de conocer que mucho que esta pasando con grave prejuicio de una nacion amiga se hubiera evitado quizas tan solo con que algunos de los agentes del Egecutios hubieran seguido las ordenes que tenian de este, y conformadose á su espiritu y letra. Como, entronces, sino, entre otros mil egemplos, se hubiera podido equipar en Natchez una flotilla de siete buques, dos de ellos de vapor, y embarcadose alli varios centenares de voluntarios? Como esta misma flotilla hubiera podido detenerse luego en Orleans un gran numero de dias hasta que completo sus apretos y pudo dirijirse libremente á Galveston bajo las ordenes del General Green? Como tampoco se hubiera permitido (à lo que dijeron los periodicos de Movila y Nueva Orleans) que la goleta Texana 'Independencia' cuando ultimamente condujo á los Señrs. Collingsworth y Grayson, hubiera entrado en aquel puerto como buque de guerra y saludado à fuer de tal? Como, en fin, las llamadas agencias Texanas engancharian diaria y publicamente en casi todas las ciutades de la Union reclutas para aquel desgraciado pais, y los armarian y los embarcarian por compañas? Se puede hacer acaso todo esto sin que lo sepan las autoridades federales y en particular los oficiales de las respectivas aduanas? Y si lo saben y lo toleran, no contravienen entonces à lo que su proprio Gobierno les tiene mandado, haciendo ineficiases las promesas de este, y ilusorios sus como promisos?" Gorostiza to Forsyth, 21st of July, 1836. Sen. Doc. 24th Congr., 2d Sess., Vol. I, No. 1, p. 39.

[2] Ibid., pp. 41, 53, 54.

[3] " De lo contrario, el infrascripto se creeira en la obligacion de declarar

Forsyth had in view only the actual condition of things, without thereby wishing to indicate in any way the position which the United States adopted on the question of law, it was, to say the least, correct. Yet he certainly should have spoken only of a revolutionary *de facto* government. The legal title of Mexico to Texas was still unconditionally recognized by the United States. The answer received by Gorostiza to the second and much more serious complaint of his letter of the 14th of May, involved this recognition, little as that answer might satisfy Mexico. Jackson had authorized General Gaines to pass the Texan boundary with the troops under his command, when he had reason to fear that the Indians intended to make an inroad into the territory of the United States. Gorostiza's complaint, on this point, was met by the ingenuous declaration that Gaines was ordered not to go beyond Nacogdoches; as if a boundary violation could take place only when the territory of a friendly state had been entered with armed force to the extent of a few hundred miles, and not to the extent of a dozen miles only.[1] This was not apparent to Gorostiza, nor could he be prevailed upon to think that the friendly intentions by which the United

que su Gobierno ni conoce tal Gobierno de Tejas; ni sabe que lo conosca tampoco el Gobierno Americano. Lo unico que el Gobierno de Mexico conoce de Tejas, es, que en esta provincia Mexicana habia unos colonos extrangeros que se habian comprometido á vivir bajo las leyes del pais, y que estos, ayudados por otros extrangeros, han levantado alli el estandarte de la revelion. Si Mexico puede ó no reprimir esta revelion, la experiencia lo dirá bien pronto; sobro todo si los que no son ni Mexicanos ni Tejanos cesan de intervenir ilegal é injustamente en una contienda puramente domestica." Sen. Doc. 24th Congr., 2d Sess., Vol. I, No. 1, p. 28.

[1] According to Forsyth, the United States could not themselves be guilty of a violation of the Mexican boundary by any means, provided they only cried "Indians!" He writes to Gorostiza on the 10th of May: "That to protect Mexico (!) from American Indians, and to protect our frontiers from Mexican Indians, our troops might, if necessary, be sent into the heart of Mexico." Jay, Review of the Mexican War, p. 26.

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States were moved, took away from him all ground for complaint.[1]

Moreover, the government of the Union itself did not ignore that it needed a better legitimation than its friendship.[2] Forsyth had written as early as the 10th of May to

[1] "Tampoco puede el infrascripto admitir la doctrina de que las tropas de un poder amigo estén autorizadas para entrar de motu proprio en el territorio de otro poder vecino por benovolo que sea el fin que se propongan en ello, y aun cuando resulte evidentemente un bien para el ultimo. Semejante principio destruira de hecho la base en que se funda la indepencia de las naciones; por que lo que hoy se hiciera con sano deseo de ayudar al amigo, mañana se podria intentar con objeto menos puro; el pretexte seria igualmente plausible." Sen. Doc., 24th Congr., 2d Sess., Vol. I, No. 1. p. 27.

[2] How rightly Mexico had long estimated the friendship of the United States, may be seen from the following sentences of a report of the secretary of state to congress: "The North Americans commence by introducing themselves into the territory which they covet, on pretense of commercial negotiations, or of the establishment of colonies, with or without the assent of the government to which it belongs. These colonies grow, multiply, become the predominant part in the population; and as soon as a support is found in this manner, they begin to set up rights which it is impossible to sustain in a serious discussion, and to bring forward ridiculous pretensions, founded upon historical facts which are admitted by nobody, such as La Salle's voyages, now known to be a falsehood, but which serve as a support, at this time, for their claim to Texas. These extravagant opinions are for the first time presented to the world by unknown writers; and the labor which is employed by others in offering proofs and reasonings is spent by them in repetitions and multiplied allegations, for the purpose of drawing the attention of their fellow citizens, not upon the justice of the proposition, but upon the advantages and interests to be obtained or subverted by their admission. Their machinations in the country they wish to acquire are then brought to light by the appearance of explorers, some of whom settle on the soil, alleging that their presence does not affect the question of the right of sovereignty or possession of the land. These pioneers excite by degrees movements which disturb the political state of the country in dispute; and then follow discontents and dissatisfaction calculated to fatigue the patience of the legitimate owner, and to diminish the usefulness of the administration and of the exercise of authority. When things have come to this pass, which is precisely the

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Gorostiza, that "perhaps there would be no necessity of the said advance of General Gaines." Now the general announced, on the 28th of June, that he had resolved to march into Texas. According to the account of Gorostiza, he had become convinced of the "necessity" of this step, by the news that some Caddo Indians in Texas, and at a distance of from sixty to seventy miles from the boundary of the United States, had murdered two white men. Yet neither Gaines nor any one else pretended that any Texan Indians had broken into the territory of the United States. The troops of the

present state of things in Texas, the diplomatic management commences. The inquietude they have excited in the territory in dispute, the interests of the colonists therein established, the insurrection of adventurers and savages instigated by them, and the pertinacity with which the opinion is set up as to their right of possession, become the subjects of notes full of expressions of justice and moderation, until, with the aid of other incidents, which are never wanting in the course of diplomatic relations, the desired end is attained of concluding an arrangement onerous for one party as it is advantageous to the other. It has been said further, that when the United States of the north have succeeded in giving the predominance to the colonists introduced in the countries they had in view, they set up rights and bring forward pretensions founded on disputed historical facts, availing themselves generally, for the purpose, of some critical conjuncture to which they suppose that the attention of government must be directed. This policy, which has produced good results to them, they have commenced carrying into effect with Texas. The public prints in those states, including those which are more immediately under the influence of their government, are engaged in discussing the right they imagine they have to the country as far as the Rio Bravo. Handbills are printed on the same subject and thrown into general circulation, whose object is to persuade and convince the people of the utility and expediency of the meditated project. Some of them have said that Providence had marked out the Rio Bravo as the natural boundary of those states, which has induced an English writer to reproach them with an attempt to make Providence the author of their usurpations; but what is most remarkable is, that they have commenced that discussion precisely at the same time they saw us engaged in repelling the Spanish invasion, believing that our attention would, for a long time, be thereby withdrawn from other things." Cited by Adams in his speech of June 16th to July 7th, 1838, pp. 116, 117.

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Union marched into Mexican territory because a general, for some reasons which seemed to him sufficient, believed that the Indians manifested hostile intentions. To draw authority for this from the law of nations was a monstrous absurdity; yet it was not so monstrous but that the committee of the senate on foreign affairs became guilty of it. And it was scarcely less absurd — as that same committee also did — to appeal to the right of self-defense.[1] Plainly, one can defend himself only when attacked; but no attack of any kind had been made. But if the United States could rely neither on the law of nations nor the right of self-defense, there remained nothing to them but the thirty-third article of the treaty of the 5th of April, 1831, in which both states mutually obligated themselves "to restrain by force all hostilities and incursions on the part of the Indian nations living within their respective boundaries."[2] That the powers had not thus mutually given each other the right to enter each other's home with armed force when they only feared Indian hostilities is entirely self-evident, and Gorostiza was evidently right when he said that the United States would make a very wry face if it should occur to a Mexican general to march into Natchitoches under the same pretext.[3]

[1] "If he [the president] entertained reasonable apprehensions that these savages meditated an attack from the Mexican territory against the defenceless citizens along our frontier, was he obliged to order our troops to stand upon the line and wait until the Indians, who know no rule of warfare but indiscriminate carnage and plunder, should actually invade our territory? To state the proposition is to answer the question. Under such circumstances, our forces had a right, both by the law of nations and the great and universal law of self-defense, to take a position in advance of our frontier." Report of the 18th of February, 1837. The reporter was Buchanan. Deb. of Congr., XIII, pp. 195, 196.

[2] Stat. at L., VIII, p. 424.

[3] Gorostiza to Dickins [acting secretary of state]. Philadelphia, August 4, 1836: "Pero la obligacion que alli contratan los dos Gobiernos ni es, ni puede ser, otra que la de impedir sobre su proprio terreno que sus respec-

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This comparison, indeed, was lame in a not immaterial point. The United States had, under no circumstances, the formal right to permit their troops to enter Mexican territory, because they simply assumed that their boundaries or their citizens were threatened with danger from Texan Indians, for the reason that Mexico would not or could not fulfill her treaty obligations; but there might, indeed, be circumstances which, spite of this, made it actually appear entirely justifiable. The government of the Union claimed that this was the case, since Mexico was not able to exercise any compulsion on the Indians, because the "army" of the insurgents stood between the latter and the Mexican troops. This was an incontestable fact, and if the Indians were engaged in hostile plots, an endangerment of the limits could be prevented in fact only in case the United States themselves took care to do so. Hence, the moral judgment to be passed on the course of procedure of the government of the Union depended only on whether it had pertinent reasons for fear.

In a conversation with Gorostiza, on the 23d of September, Forsyth promised to withdraw the troops of the Union from Texan territory whenever it was confirmed that, as the ambassador said, all the reports concerning the threatening attitude of the Indians were malicious inventions.[1] Hence, there was no pretense of perfect conviction that one had not to do here with a false alarm. Jackson, however, did not believe

tivos Indios hostilizen el territorio amigo. Do lo contrario se hubieran dado la facultad de invadirse mutualmente, so pretexto de socorrerse. Estipulacion, por cierto, que tendria el merito de la novedad. Estipulacion tambien que daria el dia de manna al primer General Mexicano que llegara al Sabina, la facultad, de tomar posicion en Natchidoches, ó mas aca, para escarmentar des de alli á las tribus de Indios que vagan al otro lado del Misisippi, y que pudieran manifestar la intencion de pasar a Mexico. Lo consentiria entonces el Gobierno de los Estados Unidos?" Sen. Doc., 24th Congr., 2d Sess., Vol. I, No. 1, p. 48.

[1] Ibid., p. 84.

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that he needed to be thus convinced in order to his justification. It was self-evident to him that he was entitled to occupy the territory of Mexico, although he did not hesitate to admit that altogether too much noise was made about the danger from Indians. Simultaneously with the information above mentioned conveyed to the general government, that he had resolved to march into Mexican territory, Gaines had called upon the governors of four states to furnish a military contingent. But Jackson had not approved this desire, for the reason that there was no occasion for serious apprehension.[1] Gaines himself admitted this view to be correct, and informed the governors that he was no longer in need of the militia.[2] The president admitted that the feeling of the population of the United States made it the duty of the Federal government to refrain from taking any measure not demanded by evident necessity,[3] and he conceded that the

[1] He wrote to Governor Cannon of Tennessee: "It is in reference to these obligations [complete neutrality] that the requisition of General Gaines in the present instance must be considered, and unless there is a stronger necessity for it, it should not be sanctioned. Should this necessity not be manifest, when it is well known that the disposition to befriend the Texans is a common feeling with the citizens of the United States, it is obvious that that requisition may furnish a reason to Mexico for supposing that the government of the United States may be induced by inadequate causes to overstep the lines of the neutrality which it professes to maintain. . . . There are no reasons set forth in the requisition which the general has since made upon you, to justify the belief that the force above enumerated will be insufficient, and I cannot, therefore, sanction it at the present time. To sanction that requisition for the reasons which accompany it, would warrant the belief that it was done to aid Texas, and not from a desire to prevent an infringement of our territorial and national rights. . . . There is . . . no information to justify the apprehension of hostilities to any serious extent from the Western Indians." Sen. Doc., 24th Congr., 2d Sess., Vol. I, No. 1, p. 61.

[2] Ibid., pp. 43, 44.

[3] The president writes to Gaines on the 4th of September: ". . . The troops of the United States must not occupy an advanced post in the Mexican territory, unless it be necessary, unless the peace of the frontier be

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general to whom he had given full discretion in relation to entering Mexican territory had wished to take a very important step without being pushed thereto by such a necessity. And, notwithstanding this, Jackson found it extremely noteworthy that Mexico complained of the incursion of the Union troops. Gorostiza was obliged to hear it said to him that it would, after all, be much "more reasonable" to assume that Gaines had been convinced of the necessity of the step, and was moved by the best motives, than that he had desired to give aid indirectly to the Texans.[1]

Could Jackson possibly believe that the entry was really necessary, or that even Gaines had *bona fide* considered it so? This seems unthinkable, even on the supposition that the president was not better informed than every reader of the newspapers. Immediately after the battle of San Jacinto, the public were informed by parties authorized to give the information, that the land speculators were endeavoring to conjure up the Indian spectre, in order that with its aid they might bring it to such a pass that the United States might fight out the cause of the Texans for them.[2] Hence

actually disturbed, or there be a moral certainty that the Indians are in hostile array for the purpose, and are obtaining the means of operation from the Mexican territory." In another letter of the same date we read: "Should Gen. Gaines find the statement respecting the Mexican general's agency in exciting the Indians to war against the United States to be untrue, and the Indians disposed to remain at peace, he will, of course, immediately withdraw his forces from Nacogdoches to his place of encampment on the Sabine." Ibid., pp. 85, 86. It therefore amounted to this, that the Union troops might enter Mexican territory for their information. No notice was taken of the fact that Gorostiza offered: "To guarantee that the fact of any movement of the Indians being solicited by Mexico or Mexicans was false."

[1] Sen. Doc., 24th Congr., 2d Sess., p. 46.

[2] General Macomb* writes, on the 26th of April: "He [the governor of Louisiana] is further impressed with the belief that it was a scheme of those interested in the Texan speculations, who had been instrumental in making Gen. Gaines believe that the Mexican authorities were tampering

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all remarks had to be received with redoubled caution. But Gaines not only lent them his ear altogether too easily, but every one knew how decidedly his sympathies were with the Texans.[1] Or did Jackson alone first have to learn through Gorostiza how confidential a correspondence had been carried on between the American and the Texan headquarters, and how the Indian alarm always followed on the heels of the advance of the Mexican troops?[2] Houston considered Texas

with the Indians within our boundaries, and at the same time exciting, by false expectations here, the sympathies of the people in favor of the Texans, with the view of inducing the authorities of the United States to lend their aid in raising, in this city, a force composed of interested persons, which force should move to the Texan frontiers under the call of Gen. Gaines; and afterwards, under false pretensions, actually march into Texas, and take part in the war now raging between the Texans and the government of Mexico; and all this at the expense of the United States, and, consequently, with the implied sanction of the government; thus giving to the people of Texas the hope of relying on the government of the United States for their protection and support; and to the government of Mexico a positive evidence that the United States were actually engaged, contrary to the treaty stipulations, in a war against that government." Globe, May 16, 1836. (*) I find the name written McComb, also.

[1] Gaines writes, as early as the 29th of March, 1836, to the secretary of war: "Should I find any disposition on the part of the Mexicans or their red brethren to menace our frontier, I cannot but deem it my duty, not only to hold the troops of my command in readiness for action in defense of our slender frontier, but to anticipate their lawless movements by crossing our supposed or imaginary (!) national boundary." Exec. Doc., 24th Congr., 1st Sess., Vol. VI.

[2] El infrascripto se abstendrá sin embargo por ahora de calificar este pretexto [the murdering of two whites by Caddo Indians, already mentioned], tampoco quiere entrar por ahora en el examen de ciertos pormenores que han transpirado acerca de una correspondencia que parece ha mediado entre dicho General y el comandate de las fuerzas Texanas, de naturaleza no muy neutral por cierto, si es que en ella se dice en efecto lo que algunos periodicos han indicado: tampoco llamará por ahora la atencion del Señor Dickins sobre una coincidencia bien singular, y es que solo cuando se adelantan las tropas Mexicanas en Tejas, es cuando se inventan ó se exageran alli los excesos de los Indios para que llegan sin duda á loss oidos del General Gaines." Sen. Doc., 24th Congr., 2d Sess., Vol. I, No. 1, p. 44.

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and the United States as perfectly and firmly united in interests. The hero of San Jacinto was so magnanimous as to wish to hold his powerful arm over the troops of the Union.[1] The Texan army which wished to grant its powerful protection to the imperilled Union against the Mexicans and Indians, consisted, indeed, no longer of citizens of the United States, but in part of troops of the Union. Gaines's soldiers kept on their uniforms, but preferred to go to the Texans, where there was something to do; and when the Union officers for shame's sake demanded their deserters back, their Texan colleagues answered with a pitying shrug of the shoulders.[2] A more shameless comedy of neutrality was never played.

Gorostiza asked for his passports on the 15th of October,[3] because Dickins had conveyed to him two days before the information that the Union troops could not be recalled from Texas. Spite of this, Jackson, in his message of the 6th of

[1] Gorostiza to Dickins, Oct. 1, 1836: "En este momento leo con indignacion en los periodicos de Nueva Orleans que acaban de llegar una proclama del General Houston que confirma todos mis recelos, y realiza todas mis predicciones. En ella el General Houston llamandose Presidente de Texas, y so pretexto que unos Indios le han dicho que otros Indios es union con los Mexicanos (que no se habian movido todavia de Matamoras) ivan á atacar á Nacogdoches, ordena que se pongan sobre las armas algunos melicianos de los condados in mediatos para sostenar las tropas de los Estados Unidos que guarnecen aquel punto, en tanto que el General Gaines los envia refuerzos: en ella tambien prerieno á los oficiales de dichos milicianos que á medida que lleguen á Nacogdoches, se presenten al comadante de las tropas de los Estados Unidos y que den á sus ordenes." Ibid., p. 90.

[2] The "Pensacola Gazette" writes: "About the middle of last month, General Gaines sent an officer of the United States army into Texas to reclaim some deserters. He found them already enlisted in the Texan service to the number of two hundred. They still wore the uniform of our army, but refused, of course, to return. The commander of the Texan forces was applied to, to enforce their return; but his only reply was, that the soldiers might go, but he had no authority to send them back. This is a new view of our Texan relations." The War in Texas, p. 29.

[3] Sen. Doc., 24th Congr., 2d Sess., Vol. I, No. 1, p. 100.

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December, declared it to be all the "more singular" that the ambassador had departed "on the sole ground" of this advance, since it was well known to him how much he, Jackson, had doubted whether there were pertinent reasons for it.[1] Gorostiza was certainly right in ascribing it to the deficiency of his power of comprehension *(quiza per felta de propria comprehension)*, that people could not at all understand one another in this way. It was, indeed, hard to understand why he was not "reasonable" enough to assume that the United States were guided only by the purest of intentions. He certainly was also one of those who, from their own want of principle, inferred that the government of the Union also knew nothing of morality.[2] Jackson, himself, indeed, acknowledged that the population of the United States was very partial to the Texans, and that the Union had a great interest in the issue of the controversy, since it was well known that Texas desired to become a part of the Union.[3] Should not that, per-

[1] "You will perceive by the accompanying documents, that the extraordinary mission from Mexico has been terminated, on the sole grounds that the obligations of this government to itself and to Mexico, under treaty stipulations, have compelled me to trust a discretionary authority to a high officer of our army to advance into territory claimed as part of Texas, if necessary, to protect our own or the neighboring (!) frontier from Indian depredation. . . . The departure of this minister was the more singular, as he was apprised that the sufficiency of the causes assigned for the advance of our troops by the commanding general had been seriously doubted by me," and that the troops were rightfully on Mexican soil, or that they would have been already withdrawn. Statesm.'s Man., II, p. 1030.

[2] "There are already those who, indifferent to principle themselves, and prone to suspect the want of it in others, charge us with ambitious designs and insidious policy." l. c.

[3] That the inhabitants of the United States should feel strong prepossessions for the one party is not surprising. But this circumstance should, of itself, teach us great caution, lest it lead us into the great error of suffering public policy to be regulated by partiality or prejudice; and there are considerations connected with the possible result of this contest between the two parties of so much delicacy and importance to the United States, that our character requires that we should neither anticipate events nor attempt

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haps, have been sufficient, without making any unjust claims on the president's intellect, to awaken him to an understanding of Gorostiza's view of the situation? It was not only a well-founded assumption, and one which dated farther back than December, but a fact of which there was documentary proof, that Texas did not only desire and labor for its incorporation into the Union, but that a powerful party in the Union also was striving for the same end.

As early as the 30th of May, 1836, President Burnett had sent James Collingsworth and Peter W. Grayson as commissioners to Washington to effect the recognition of the independence of Texas on the part of the United States, and, at the same time, to communicate the fact that Texas desired to be admitted into the Union.[1] One week previous, Calhoun had given expression in congress to his wish to see the recognition of the independence and the incorporation into the Union treated at the same time; that he was in favor of the former as well as of the latter, and that in any event it would soon be necessary to come to a decision in relation to both questions.[2] The agitation of these questions was car-

to control them. The known desire of the Texans to become a part of our system, although its gratification depends upon the reconcilement of various and conflicting interests, necessarily a work of time, and uncertain in itself, is calculated to expose our conduct to misconstruction in the eyes of the world." Ibid., p. 1029.

[1] Yoakum, History of Texas, II, p. 176.

[2] "He had made up his mind not only to recognize the independence of Texas, but for her admission into this Union; and if the Texans managed their affairs prudently, they would soon be called upon to decide that question. No man could suppose for a moment that that country could ever come again under the dominion of Mexico; and he was of opinion that it was not for our interests that there should be an independent community between us and Mexico. There were powerful reasons why Texas should be a part of this Union. The southern states, owning a slave population, were deeply interested in preventing that country from having the power to annoy them; and the navigating and manufacturing interests of the north and east were equally interested in making it a part of this Union. He thought they would soon be called on to decide these questions; and when

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ried on, both in the United States and Texas, during the whole summer, with energy, and the most complete publicity.[1] The first elections under the constitution of Texas took place in the fall. The voters were called upon, at the same time, to say what their attitude towards the question of annexation was. From all quarters affirmative answers were received, and the cabinet began to consult over the conditions on which incorporation into the Union should be looked for.[2]

The congress of the United States had, in the mean time, taken its position on the previous question of the recognition of the independence of Texas, on principle. The senate, on the 1st of July, unanimously resolved that the independence of Texas should be recognized as soon as it was ascertained that it was in a condition to fulfill the duties of an independent state. On the 4th of July, the last day of the session, the house adopted a like resolution by a vote of

they did act on it, he was for acting on both together — for recognizing the independence of Texas, and for admitting her into the Union." May 23, 1836. Deb. of Congr., XII, p. 764.

[1] The following resolutions of a meeting held at Nashville on the 27th of June, 1836, are characteristic: "It is useless to close our eyes to obvious facts. Texas, in spite of the utmost good faith in the execution of treaties, by which we hope this government will always be distinguished, will draw from these states the means of conquering her enemies. . . . Other reasons exist why the United States should recognize the independence of Texas before the rise of congress, and why further steps should be taken in reference to that country, not necessary to be stated here." Sen. Doc., 24th Congr., 1st Sess., No. 418, pp. 4, 6. Austin writes from New Orleans on the 16th of June, 1836: "I shall do all I can to procure the annexation of Texas to the United States, on just and fair principles. Yoakum, Hist. of Texas, II, p. 177.

[2] Report of the Agent of the United States, Morfit. Deb. of Congr., XIII, p. 327. According to Jay, Review of the Mexican War, p. 54, three thousand two hundred and seventy-nine votes were cast for annexation and ninety-one against it. "The result was, that, upon a full poll, but ninety-three votes were given against the annexation." Messrs. Van Zandt and Henderson to Mr. Calhoun, April 15, 1844. Calh.'s Works, V, p. 327.

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one hundred and twenty-eight against twenty.[1] Jackson, however, now showed greater cautiousness than should have been expected from his course hitherto. In a special message of the 21st of December, 1836, he plainly said that, in his opinion, it was necessary to act the part of a calm spectator a while longer; that since Mexico was fitting out a new expedition against Texas, it was unquestionable that selfish motives would be ascribed to the United States if, anticipating events, they should even now pass a judgment in this manner on the issue of the controversy between Mexico and its former province.[2] But the patience of congress was soon exhausted. The senate, by a vote of twenty-three against nineteen, adopted a formal resolution of recognition on the 1st of March, 1837.[3] The house did not want to go so far. It only adopted in the appropriation bill an item for a diplomatic agent at the Texan government, who, however, was to be sent thither only when the president should have satisfied himself of the actual independence of the country; but, on the other hand, the bill spoke again of the "republic of Texas."[4] From its wording, one might have read equally well either aye or nay; but as a matter of fact, this step was considered by all who took part in it as a recognition of the independence of Texas.

Jackson had said in the message of the 21st of December, that the recognition of the independence of Texas should

[1] Deb. of Congr., XII, p. 779, and XIII, p. 43.

[2] Statesm.'s Man., II, pp. 1051, 1052.

[3] Deb. of Congr., XIII, p. 202. Walker, of Mississippi, the maker of the motion, declared: He "had it from the president's own lips that, if he were a senator, he would vote for this resolution."

[4] " . . . for the outfit and salary of a diplomatic agent to be sent to the republic of Texas, whenever the president of the United States may receive satisfactory evidence that Texas is an independent power, and shall deem it expedient to appoint such minister." Stat. at L., V, p. 170. The wording may indeed be interpreted to the effect that the expression "Republic of Texas" was not intended to designate the actual Texas.

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be delayed at least until such time as Texas had demonstrated its ability to assert it in the most undoubted manner.[1] The senate had based its resolution of recognition of the 1st of March on the assumption that this had happened.[2] Could it entertain this view in good faith, and could the executive fully agree in this view, so that according to the provision of the appropriation law of March 3, 1837, it was altogether unquestionably authorized to send a diplomatic agent? It may be shown that the answer would have had to be an emphatic *no* in case the United States desired, in the future, industriously to assume the position which alone had any claim before the forum of healthy common sense to the name of neutrality.

A resolution of the Texan congress of the 22d of December, 1836, had authorized President Houston to enroll forty thousand volunteers into its service.[3] Considering the continually low state of its finances and the chronic revolutionary condition of Mexico, such an armed power was unquestionably more than sufficient to frustrate all attempts at another conquest. The congress, however, had not said where the volunteers were to come from. It could not possibly have thought of Texas alone nor even mainly, since it had been able to bring only 3,370 men to the ballot-boxes.

[1] "Prudence, therefore, seems to dictate that we should still stand aloof and maintain our present attitude, if not until Mexico itself, or one of the great foreign powers, shall recognize the independence of the new government, at least until the lapse of time or the course of events shall have proved, beyond cavil or dispute, the ability of the people of that country to maintain their separate sovereignty, and uphold the government constituted by them."

[2] "Resolved, That the state of Texas having established and maintained an independent government, capable of performing those duties, foreign and domestic, which appertain to independent governments, and it appearing that there is no longer any reasonable prospect of the successful prosecution of the war by Mexico against said state," etc.

[3] Gouge, The Fiscal History of Texas, p. 55.

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How large the population of the new-born state, which was on a par as to extent with the great powers of central and western Europe, was, cannot be said with even an approximation to definiteness; but, according to the highest estimation known to us, it did not exceed 100,000.[1] This figure, therefore, represented the armed force which, for the present, the settlers, in common with the pseudo-emigrants already arrived, were really able to put in the field. According to Morfit's report, the army proper of Texas numbered two thousand two hundred men, and by making a levy of the farmers the number of men in the field could, for a short time, be brought up to five thousand. The maritime force of the republic consisted of four small vessels, with an aggregate of twenty-nine cannon. In case, therefore, that the floodgates of the influx from the United States were closed, it was plain that the Texans would have

[1] The War in Texas, p. 9, gives the population in 1832–33 at 84,672. The mode of expression is, however, not clear. Lundy speaks later of 97,000 inhabitants, so that in the first figure the foreign settlers, estimated at 18,000 to 20,000, do not seem to be embraced. The government commissioner, Almonte, on the other hand, estimates the population of Texas proper in 1834, at only 36,300, of whom 15,300 were Indians. (Kennedy, Texas, II, p. 79.) Kennedy believes that "Anglo-Texans" alone must have amounted to 30,000; 2,000 negroes, *i. e.*, slaves not counted. (Ibid., p. 80.) Jackson's agent, Morfit, in 1836, estimates the aggregate population at 65,000, of whom 30,000 were Anglo-American settlers, and 3,500 Spanish Mexicans. "If I were to take my own judgment exclusively on this matter, and were to reason as to what I have not seen by that which I have, I should say the population, exclusive of Mexicans, Indians and negroes, has never exceeded 30,000." Deb. of Congr., XIII, p. 326. Lastly, Gouge, The Fiscal History of Texas, p. 43, speaks of a "nation of 20,000," in which he evidently has in view only the controlling element, the Anglo-American settlers. Channing, Letter to H. Clay, on the Annexation of Texas, writes: "It should also be remembered that the Texans were not only a drop of the bucket compared with the Mexican population, but they were a decided minority in the particular state to which they belonged." Channing's Works, II, p. 191. Here he must have in mind, Coahuila connected with Texas.

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to have Falstaff's unlimited capacity for multiplication, if the forty thousand men were to be levied. And if they had been levied, they would have had to put the Mexicans to flight by their yells, unless they obtained more efficient arms from the United States. Nay, hunger would soon have driven the five thousand and even the two thousand two hundred from the camp, were it not that the money necessary to procure them the means of subsistence had been sent them from the United States. In November, 1835, the board of revenue had resigned under the weight of a debt of thirty-six dollars.[1] Texas had subsequently made the most energetic efforts to put its finances on the footing of those of a great state, not, however, in what concerned the receipts, but only its debts. A law of the 20th of January authorized the emission of treasury notes to the amount of one hundred and fifty thousand dollars, and on the 17th of November, 1837, the state debt amounted to one million, ninety thousand nine hundred and eighty-four dollars, while the minister of finance was obliged to report that the government had neither money nor credit enough to purchase the necessary writing material.[2] Morfit had, at the end of 1836, expressed his wonder that the struggle for their independence had cost the Texans themselves so few men and so little money.[3] When, in spite of this, the government, after a year,

[1] "Our finances arising from the receipts for dues of lands . . . are fifty-eight dollars and thirty cents. This money has been exhausted, and an advance by the president of the council of thirty-six dollars." Report to the general consultation. Gouge, The Fiscal History of Texas, p. 18.

[2] Gouge, pp. 27, 72, 73.

[3] "The present resources of Texas are principally derived from the sympathies of their neighbors and friends in the United States, and by loans upon the credit of the state. The donations from the former quarter have been, and will no doubt continue to be, very liberal, and indeed munificent. Several individuals not interested in the success of the country further than their general attachment to the cause of independence and that of their old compatriots, have unostentatiously presented five thousand dollars,

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was no longer able to pay for the pens with which it wrote the powerful phrases which leveled miserable Mexico to the ground with their lightning, we may be allowed to say that assistance from the United States was the *conditio sine qua non* of the assertion of independence, still more than of the breaking of Mexican supremacy. That Texas itself did not consider Mexico absolutely powerless, spite of the disgraceful defeat at San Jacinto, was apparent from the fact that it believed that, under certain circumstances, an army of forty thousand men might be needed. But even if there had been no such country as Mexico in the world, could one hundred thousand men of entirely different nationalities, and of even entirely different races, scattered over a territory of unmeasured bounds, and not in a condition or not willing to provide their government with ink and paper — could they be looked upon as a state of which it could be assumed, with certainty, that it could perform all the duties of an independent state? Both the president and congress were well enough informed of these circumstances, for Morfit's report was appended to the message of the 21st of December, 1836.

The probability of the permanent success of the revolution of Texas and the endeavor of Jackson to preserve to the United States, so far as that was still possible, the appearance of neutrality, grew in the same proportion. That he was concerned only to save appearances is proved to a demonstration, by the attitude which he maintained towards Mexico in the controversies directly pending between

while numbers have contributed one thousand each, and small associations in the different states have thrown in their aid, until the aggregate has swelled to a large amount. I have been surprised to find that Texas has carried on a successful war thus far, with so little embarrassment to her own citizens or her treasury; and perhaps it is the first instance in the history of nations where a state has sustained itself by men and means drawn wholly (!) from a distance." Deb. of Congr., XIII, p. 326.

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the two countries. It is an exaggeration of the spirit of party to say that he sought the quarrel, but he made mountains out of mole-hills, and the way in which he did it allows the assumption of scarcely any motive but the desire to drive the two states, in their relations to each other, to such extremities that if there were need of it, the fate of Texas might be decided directly by the United States and by force of arms.

On the 20th of July, 1836, the secretary of state sent the *chargé d'affaires* in Mexico, Powhattan Ellis of Mississippi, a list of fifteen grievances of citizens of the United States against Mexico, for which he was to demand satisfaction. Although Forsyth admitted that he could not support all the complaints by proof, he instructed Ellis to threaten to take his departure in case he did not receive a satisfactory answer within three weeks; and if this threat had no effect, then to give Mexico a respite of two weeks more before he asked his passports. And this blunt course found favor, although none of the grievances contained a direct complaint against the government. A large part should not have been made the subject of diplomatic negotiations at all, but should have been settled by the Mexican courts.[1] Ellis, a fanatical slavocrat, who had the acquisition of Texas at heart, acquitted himself of the task to the fullest satisfaction of his masters. As early as the 20th of October he had proceeded so far as to be able to wait on Mexico with the first threat.

[1] When Mexico brought up a grievance in Washington, Forsyth repelled it on the 29th of January, 1836, with the saying: "That the courts of the United States are freely open to all persons in their jurisdiction, who may consider themselves to have been aggrieved in contravention of our laws and treaties." When Monasterio now asserted the same principle for Mexico, Ellis replied on the 15th of November: "The opinion expressed by the Hon. Mr. Monasterio which limits the citizens of the United States having certain claims against the government, to resort to the judicial tribunals of Mexico for indemnity, is wholly indefensible." Exec. Doc., 24th Congr., 2d Sess., Vol. III, No. 139.

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Monasterio answered the next day in an entirely worthy manner, that a short delay in answering a note was no ground for breaking off negotiations; and that the Mexican government would give its answer as soon as it was placed in a condition to give an answer by means of the documents already asked for.[1] But Ellis had not been instructed to take reasons into consideration. On the 4th of November he obeyed the second part of his instructions, and gave Mexico notice of the last two weeks' term of grace. Monasterio answered before the expiration of the term. Two grievances had been already settled, satisfaction was promised for others, some were referred to the courts, judgment was suspended in respect to some because a decision at the time was not possible, and some were rejected as unfounded.[2] The last

[1] Adams passed the following judgment on Jackson's course and this correspondence: "It is impossible to speak of the conduct of our government towards Mexico, with the gravity which the great principles and vital national interests involved in it would require. There are large and serious causes of complaint, and just claims of indemnity by citizens of the United States against the government abandoned and sacrificed by our own, upon the most frivolous pretenses of offended dignity, and repeated ruptures of negotiation without rhyme or reason. From the day of the battle of San Jacinto, every movement of the administration of this Union appears to have been made for the express purpose of breaking off negotiation and precipitating a war, or by frightening Mexico by menaces into cession not only of Texas, but the whole course of the Rio del Norte, and five degrees of latitude across the continent to the South Sea. The instruction of 21st July, 1836, from the secretary of state to Mr. Ellis, almost immediately after the battle, was evidently premeditated to produce a rupture, and was but too faithfully carried into execution. His [Ellis's] letter of 20th October, 1836, to Mr. Monasterio, was the premonitory symptom; and no true-hearted citizen of this Union can read it, and the answer to it on the next day by Mr. Monasterio, without blushing for his country." Speech of J. Q. Adams . . . from the 16th of June to the 7th of July, 1838, p. 128.

[2] The particulars are to be found in Jay, Review of the Mexican War, p. 37 seq. Jay (p. 45) thus sums up his judgment: "It is rare, indeed, that diplomatic history exhibits a series of natural complaints so trivial in

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disposition was made of some complaints which Ellis, of his own motion, had added to the list of his government. But it had been left to him to say what answer he would consider satisfactory. On the 7th of December he asked his passports, and the question of the Mexican government, what moved him thereto, he answered with silence.[1]

Immediately after Ellis's return the president sent a message to congress, in which he expressed the conviction, that the United States would be completely justified before the civilized world if they should instantly declare war against Mexico. But to perform an act of supererogation he proposed a last effort to obtain satisfaction amicably. In order to prevent all further delay, he even now demanded the authorization of the making of reprisals in case Mexico should continue headstrong.[2] Instead of the fifteen griev-

themselves, urged with so much spleen and arrogance on the one side, or met with so much fairness and good temper on the other."

[1] Sen. Doc., 24th Congr., 2d Sess., Vol. II, No. 160, p. 70. Clay's judgment was not too severe, but altogether too mild, when he said: "He must say in all candor and truth, that the departure of our representative from Mexico, under the circumstances, was harsh, abrupt, and unnecessary." Deb. of Congr, XIII, p. 198.

[2] "The length of time since some of the injuries have been committed, the repeated and unavailing applications for redress, the wanton character of some of the outrages upon the property and persons of our citizens, upon the officers and flag of the United States, independent of recent insults to this government and people by the late extraordinary Mexican minister (Gorostiza had published a pamphlet in which he branded the course of the United States in the Texan question), would justify, in the eyes of all nations, immediate war. That remedy, however, should not be used by just and generous nations, confiding in their strength for injuries committed, if it can be honorably avoided; and it has occurred to me, that, considering the present embarrassed condition of that country, we should act with both wisdom and moderation, by giving to Mexico one more opportunity to atone for the past, before we take redress into our own hands. To avoid all misconception on the part of Mexico, as well as protect our own national character from reproach, this opportunity should be given with the avowed design and full preparation to take immediate

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ances which Ellis had been obliged to present, the president now presented a list of forty-six grievances to congress. But if recourse was had to reprisals, or if war were immediately begun, it could obviously be done only on the ground of those older complaints, which, as we have seen, had been reduced to thirteen even before Ellis had made his demands. Jackson, too, knew very well that "just and magnanimous nations" are not wont to have recourse to blows before they have demanded satisfaction. And if he had not known this, he must have known that the United States were obligated thereto towards Mexico by a formal treaty stipulation.[1] But more yet! Of the thirty-three new grievances presented, thirty-two dated from the time of the friendly and commercial treaty which had been ratified on the 5th of April, 1832. And even if they had not been barred on that account, it was unquestionable that, for this very reason, all abrupt procedure in respect to them was prohibited. But may it not be that Jackson also really believed that the thirteen com-

satisfaction, if it should not be obtained on a repetition of the demand for it. To this end I recommend that an act be passed authorizing reprisals, and the use of the naval force of the United States by the executive against Mexico, to enforce them, in the event of a refusal by the Mexican government to come to an amicable adjustment of the matters in controversy between us, upon another demand thereof made from on board one of our vessels-of-war on the coast of Mexico." The 6th of February, 1837. Statesm.'s Man., II, pp. 1053, 1054. The 7th of February is most frequently given as the date of the message, and in a report of the senate committee we even read the 8th of February. Deb. of Congr., XIII, p. 308.

[1] "If [what indeed cannot be expected] any of the articles contained in the present treaty shall be violated or infracted in any manner whatever, it is stipulated that neither of the contracting parties will order or authorize any acts of reprisal, nor declare war against the other, on complaints of injuries or damages, until the said party considering itself offended, shall first have presented to the other a statement of such injuries and damages, verified by competent proofs, and demanded justice and satisfaction, and the same shall have been refused or unreasonably delayed." Treaty of April 5, 1831 (or April 5, 1832), Art. XXXIV, clause 3; Stat. at L., VIII, p. 426.

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plaints from the original list in the instructions of the 20th of July, 1836 — mark the date — sufficed to justify the course of procedure recommended by him? Ellis's letter of complaint of the 26th of September, which was based simply on these grievances, laid a load of charges at Mexico's door which would have certainly justified the most decisive measures.[1] But in Jackson's letter to Governor Cannon, of Tennessee, already cited, which had been written on the 5th of August, that is, more than two weeks later than the instructions to Ellis had been written, the president declared that the United States would know how to get satisfaction if Mexico should become guilty of such an offense; but that thus far — whether unfortunately, *quære*? — it could not be charged with any.[2] The assertions of the ambassador were, therefore, in the opinion of the president, an untruthful exaggeration,— he unconditionally approved the course of the ambassador and thus transformed the untruthful exaggeration into a conscious falsehood — and on that falsehood, as a basis, he asserted that a declaration of war was justifiable, and demanded from congress an authorization to make reprisals, which

[1] "The flag of the United States has been repeatedly insulted, and fired upon by the public armed vessels of this government; her consuls, in almost every port of the republic, have been maltreated and insulted by the public authorities; her citizens, while in the pursuit of a lawful trade, have been murdered on the high seas, by a licentious and unrestrained soldiery. Others have been arrested and scourged in the streets by the military, like malefactors; they have been seized and imprisoned under the most frivolous pretexts; their property has been condemned and confiscated in violation of existing treaties and the acknowledged law of nations, and large sums of money have been exacted of them, contrary to all law."

[2] "Should Mexico insult our national flag, invade our territory, or interrupt our citizens in the lawful pursuits which are guaranteed to them by treaty, then the government will promptly repel the insult, and take speedy reparation for the injury. But it does not seem that offenses of this character have been committed by Mexico."

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would have placed it completely in his power to bring on a war at any moment.

Neither in the senate nor in the house of representatives was the majority prepared to give the president *carte blanche* for his waylayer-policy. He received little support even from those who would perhaps have not made a case of conscience out of it, because they said to themselves that they would only spoil their game with the people if they endeavored to obtain Texas from Mexico by such brutal violence. But even if congress did not grant Jackson the wished for authority, it did not hesitate to approve the tendency of his policy. The committees of both houses agreed with the president that there was reason enough to have immediate recourse to force,[1] and both houses gave notice, by means of resolutions, that the United States would know how to obtain their rights, in case Mexico would not respond to a new — the last — friendly demand.

The committee of the senate had thought well to lay stress on the fact that the manner in which this last friendly demand was to be made should be left entirely to the president. This meant to turn the "magnanimous" attempt at a peaceable settlement into an unworthy hypocritical comedy. Powhattan Ellis was the man to whom Jackson confided the "twig of olive," and the senate confirmed his nomination without hesitation. Was the Mexican government or the population of the United States considered so weak-minded that they would think this new trampling under foot of the

[1] "If the government of the United States were disposed to exact strict and prompt redress from Mexico, your committee might, with justice, recommend an immediate resort to war, or reprisals." Report of the Committee of the Senate, Deb. of Congr., XIII, p. 195.

"They fully concur with the president, that ample cause exists for taking redress into our own hands, and believe that we should be justified in the opinion of other nations for taking such a step." Report of the Committee of the House, ibib., p. 309.

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defenceless weak one, by the land-hungry strong one, as an offer of peace honestly meant? Yet it was well known in Washington how much Mexico, conscious of its weakness, desired to avoid a breach, and hence it was feared that these insults might not be sufficient. The report of the committee of the house from which the resolutions in question were adopted by the house, had recommended that the negotiations should be carried on by an ambassador of the highest rank.[1] But the executive was pleased to insult Mexico by the nomination of Ellis, and then sent a simple courier in his place.[2] Van Buren, who had, in the meantime, become president, gave Mexico ten days to answer. The Mexican government answered immediately that it wished to do justice to the equitable demands of the United States in every respect and as fast as possible; but that several questions

[1] "It is their opinion that a diplomatic functionary of the highest grade should be appointed to bear this last appeal, whose rank would indicate at once the importance of his mission, and the respect in which the government to which he is accredited is held."

[2] "And who was this minister of peace, to be sent with the last drooping twig of olive, to be replanted and revivified in the genial soil of Mexico? It was no other than Powhatan (sic) Ellis, of Mississippi, famishing for Texas, and just returned in anger and resentment from an abortive and abruptly terminated mission to the same government, in the inferior capacity of chargé d'affaires. His very name must have tasted like wormwood to the Mexican palate; and his name alone seems to have been used for the single purpose of giving a relish to these last resources of pacific and conciliatory councils. His appointment seemed at least to harmonize with the recommendation of the committee of foreign affairs, for it was to a mission of the highest rank in our diplomatic dictionary. But though appointed, he was not permitted to proceed upon his embassy. He was kept at home, and in his stead was dispatched a courier of the department of state, with a budget of grievances, good and bad, new and old, stuffed with wrongs as full as Falstaff's buck basket with foul linen, to be turned over under the nose of the Mexican secretary of state, with an allowance of one week to examine, search out, and answer concerning them all." Speech of J. Q. Adams . . . from the 16th of June to the 7th of July, 1838, pp. 127, 128.

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demanded a close examination, which would require considerable time. As the four months from the end of July to the beginning of December had not been sufficient for that examination, Van Buren in his annual message of the 4th of December, 1837, referred the whole matter to congress, with the declaration that it had now to decide what further was to be done.[1]

In the meantime (4th of August, 1837) the Texan *chargé d'affaires* in Washington, General Hunt, had formally submitted the proposal for annexation to Van Buren. He did not spare the colors in his picture of the proffered gift.[2] He, notwithstanding, received on the 25th of August an answer declining the proposal, because the United States did not desire to give up their neutrality, and because the inevitable consequence of annexation would be a war with Mexico.[3]

At the first blush, we should conclude from this that the wish to acquire Texas was not able to influence Van Buren's policy towards Mexico. But Jackson had advised against

[1] Statesm.'s Man., II, pp. 1182–1184. "A Mr. Greenhow, a clerk in one of the public offices, was dispatched to Mexico with a large mass of documents, containing the claims of our citizens, which were to be examined and reported on within ten days, or Mr. Greenhow was to return. Now those at all acquainted with the manner of doing business in the public offices, must know that it would have been impossible to have carefully examined them in so many weeks. The minister of foreign affairs of Mexico proceeded to take up these documents, and examine them one by one, admitting the justice of some and rejecting others; and while these matters were still in progress, suddenly the whole subject is thrown upon congress, the president telling that body he had no further negotiations to make with Mexico." Clay, 11th of April, 1838. Deb. of Congr., XIII, pp. 660, 661.

[2] ". . . it is questioned whether even the possession of Cuba would bring with it those facilities of controlling and keeping in check the pretension of a rival power, which would accrue from the extension of the limits of the United States to the line of the Rio del Norte." Doc. of the House of Repr., 25th Congr., 1st Sess., No. 40, p. 10.

[3] Doc. of the House of Repr., 25th Congr., 1st Sess., No. 40, pp. 11–13.

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the recognition of Texas on entirely similar grounds, while he endeavored to provoke Mexico in every way. And it may be asked, did Van Buren's character exclude the assumption that his reserve was determined by secret motives not in the best of harmony with the pretended reasons? It is, indeed, not difficult to find another explanation for his attitude than the uprightness of his intentions. It must have been surprising that the administration was, by no means, in haste to let the public know how virtuously it had withstood the temptation. It was not until a direct inquiry caused by Adams, of the house of representatives, on the 13th of September,[1] that Hunt's proposition and its fate became more widely known. The president's discreetness was obviously dictated by consideration for those who desired the annexation, and not for those who, for one reason or another, did not want to hear anything about it. But the former were obliged, whether they were willing or not, to be satisfied with that consideration, for they knew as well as the president that there could be no thought of obtaining now the constitutional majority of the senate for a ratification of a treaty of annexation. It was still simply impossible to attain the end sought in a direct manner, and hence it was exceedingly easy to be virtuous. If Van Buren wanted to serve his southern patrons he could do it only by the carrying out of his general programme, that is, by following in Jackson's footsteps. Any president who judged the feeling of the people only half-way rightly, would now have looked upon himself as limited to the keeping of the quarrel between the United States and Mexico alive, and that Van Buren honestly tried to do.

Great as was Mexico's guilt in the eyes of the president, because four months had not sufficed to it for the settlement of the account presented by the United States, he considered

[1] Deb. of Congr., XIII, p. 463.

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himself, as a matter of course, entitled to allow himself almost as long a time before he communicated any answer whatever to Mexico's proposition to endeavor to come to an understanding in another way. The Mexican congress had resolved to propose a decision by arbitration to the United States. It is not entirely apparent why the official submission of this proposition was delayed until the 22d of December, 1837, although Mexico had again had a representative in Washington since October. It is said that the latter had believed that the proposal had been already directly made by his government; but Mexico's undeniable efforts to prolong the case to the extent of its power does not, indeed, entirely exclude the possibility of intentional misunderstanding. A simple notice that it was received was the only answer to this proposal. Forsyth found time, on three occasions, to draw up an additional list of new demands for the Mexican ambassador, but four months elapsed before he answered the proposal of the 22d of December. On the 21st of April, 1838, he declared that the president too ardently desired to avoid the most extreme measures to permit him to refuse the offer.

But had the fire been so small that it took four months for the president's wishes to cook? It, indeed, took a long time to burn properly, but the flames rose higher every hour, until now it began to become unbearably hot for the poor mongrel, the man from a northern state with southern principles. From both sides, from the north as well as from the south, greater and greater loads of fuel were shoved under the caldron, and the bellows handled with ever increasing energy. The piles of petitions against annexation and in favor of the acceptance of the Mexican offer, grew with alarming rapidity on the tables of the two houses of congress. Doubt was no longer possible: that offer dared not be rejected. This the south also perceived. But of course this

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did not mean that it would be, therefore, moved to resignation. On the contrary. If the indirect way were obstructed to it, it had for weal or woe to advance on the direct path. It never for a moment even thought of the possibility of any other consequence.

The agitation for and against the annexation of Texas had, for some time, assumed a new form in part. It was no longer carried on only by individual politicians and the more extreme party press; the state legislatures had taken the field. Even the year previous, the legislature of Mississippi had formally declared in favor of annexation. The report of the committee which was made the basis of the resolution, not only expressly advanced the slave-holding interest as an argument for the demand, but, moreover, sang a hymn of praise to slavery in a key higher than had almost ever before been heard even from individuals.[1] The legisla-

[1] "But we hasten to suggest the importance of the annexation of Texas to this republic, upon grounds somewhat local in their complexion, but of an import infinitely grave and interesting to the people who inhabit the southern portion of this confederacy, where it is known that a species of domestic slavery is tolerated and protected by law, whose existence is prohibited by the legal regulations of other states of this confederacy; which system of slavery is held by all who are familiarly acquainted with its practical effects, to be of highly beneficial influence to the country within whose limits it is permitted to exist.

"The committee feel authorized to say that this system is cherished by our constituents as the very palladium of their prosperity and happiness; and, whatever ignorant fanatics may elsewhere conjecture, the committee are fully assured, upon the most diligent observation and reflection on the subject, that the south does not possess within her limits a blessing with which the affections of her people are so closely entwined and so completely enfibred, and whose value is more highly appreciated, than that which we are now considering. . . . It may not be improper here to remark that, during the last session of congress, when a senator from Mississippi proposed the acknowledgment of Texan independence, it was found, with a few exceptions, the members of that body were ready to take ground upon it as upon the subject of slavery itself. . . . We sincerely hope there is enough of good sense and genuine love of country

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tures of Alabama and Tennessee now followed the example of Mississippi. The adoption of the proposition in relation to the court of arbitration was for congress the signal to proceed. Three days later, Preston, of South Carolina, moved in the senate that the annexation should be declared expedient. On the 14th of June, Thompson, of South Carolina, made a similar motion in the house of representatives.[1] The flood-gates were opened and the waters disembogued themselves in a broad stream. Adams introduced a counter resolution which absolutely denied the general government the right to annex an independent state, and therefore declared it to be the duty of the people, in case the usurpation was attempted, to "annul" the act of the general government.[2] And when he succeeded in getting the floor, he monopolized the morning during the last three weeks of the session in

among our fellow countrymen of the northern states to secure us final justice on this subject. . . . Your committee are fully persuaded that this protection to her best interest will be afforded by the annexation of Texas; an equipoise of influence in the halls of congress will be secured, which will furnish us a permanent guaranty of protection." Niles, LXIV, pp. 173, 174.

[1] The committee on foreign affairs was to be instructed "to report a joint resolution, directing the president to take the proper steps for the annexation of Texas to the United States, as soon as it can be done consistently with the treaty stipulations of this government." Howard, of Maryland, chairman of the committee, remarked on this clause: "The contingency contemplated by the amendment of the gentleman from South Carolina was, the recognition of the independence of Texas by Mexico; because, until that happened, no annexation could be made consistently with our treaty stipulations with Mexico." Speech of J. Q. Adams . . . from the 16th of June to the 7th of July, 1838, pp. 13, 15.

[2] "Resolved, That the power of annexing the people of any independent foreign state to this Union is a power not delegated by the constitution of the United States to their congress, or to any department of their government, but reserved by the people. That any attempt by act of congress or by treaty would be a usurpation of power, unlawful and void, and which it would be right and the duty of the free people of the Union to resist and annul." Ibid., p. 14.

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order to send the repeatedly cited speech in fragments as a hue and cry through the country, and to prevent all action for the present. "Texas!" became the cry of alarm which numberless voices echoed through the north. This much was certain, that it would not be an easy matter for the south to attain the end desired. The protests of the legislatures of eight states were a wall which could not be easily leaped over.[1]

The negotiations between Forsyth and the Mexican ambassador, Martinez, had finally come to a conclusion on the 10th of September, 1838.[2] Mexico, however, neglected the ratification of the convention at the right time, because, as it alleged, it had learned that the king of Prussia had refused to accept the office of arbitrator.[3] Martinez, however, was empowered to carry on further negotiations, which led to the conclusion of a new convention on the 11th of April, 1839.[4] A year elapsed before the ratifications were exchanged, and before Van Buren's proclamation (April 8,

[1] Rhode Island, Vermont, Ohio, Massachusetts, Maine, Connecticut, New York, Pennsylvania. Exec. Doc., 25th Congr., 2d Sess., Vol. II, No. 55; Vol. VII, No. 182; Vol. VIII, No. 211; Vol. X, No. 373, etc. Adams says in the speech frequently mentioned, p. 129: "It [duplicity] has been practiced by the long-protracted suppression of all debate in both houses, most especially in the house of representatives, concerning our relations with Mexico, and above all with regard to the annexation of Texas to this Union. The systematic smothering of all petitions against this measure, extended to the resolutions of seven state legislatures, could have no other intention than to disarm the resistance against it which was manifesting itself throughout all the slaveless states of the Union. It was distinctly seen that if a full, free and unshackled discussion of the question in the house of representatives should be permitted, its issue would show an overwhelming majority against the measure at this time."

[2] Exec. Doc., 25th Congr., 3d Sess., Vol. VI, No. 252, pp. 27–32.

[3] Jones, the American consul in Mexico, to Forsyth, 10th of January, 1839. Exec. Doc., 25th Congr., 3d Sess., Vol. VI, No. 252, pp. 21, 22. Statesm.'s Man., II, p. 1227.

[4] Stat. at L., VIII, pp. 526 et seq.

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1840) could follow. The commission, which consisted of two representatives of the two powers concerned and of the Prussian ambassador, Von Roenne, as arbitrator,[1] began their work at Washington on the 17th of August, 1840.

One might suppose that even the most suspicious could now breathe freely. But soon loud complaints were heard, not only from those who believed they had claims for damages against Mexico, or who, at least, alleged that they had; but even some who were personally entirely disinterested foresaw no good end. Even on the 24th of December Adams confided to his diary the suspicion that Van Buren, now, as well as before, was intent upon brooding a war-storm out of the wind-eggs of the claims for damages.[2] Whether, as Adams seems to assume, the commissioners can be personally reproached with anything, I am not able to say. But certainly the blame was not theirs alone that a considerable number of complaints remained undecided when their commissions expired in February, 1842. The complainants had had sixteen months from the closing of the convention to the meeting of the commission, to do all that was necessary for the assertion of their demands, and

[1] When at Easter, 1875, I was studying this point in Berlin, Dr. Kapp endeavored to obtain for me permission to look at the papers of Roenne in question, but was, unfortunately, refused by the foreign office.

[2] "The convention itself and all the proceedings of the commissioners are of so very extraordinary a character that I cannot resist a very strong suspicion that it was intended by the Van Buren administration, not to obtain indemnification for citizens of the United States upon Mexico, but to keep open the sore and breed a war with Mexico, as machinery for the annexation of Texas to the United States. There is not a step in the whole series of transactions which has a tendency to the satisfaction, or even to the adjustment, of the claims. The convention itself is a mockery, the commission under it an imposture." Mem. of J. Q. Adams, XI, p. 43. He writes again on the 15th of July, 1842: "The convention for the settlement of the claims was so wretchedly contrived that its real object must have been to multiply and aggravate the causes of war between the two countries." Ibid., p. 209.

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they had known that by virtue of the convention the commission had only eighteen months to meet in consultation. Notwithstanding this, claims to the amount of $3,336,837 remained unexamined, because they had been handed in too late; but the commission had decided upon all complaints brought before it with the necessary proofs, by the 26th of May, 1841, that is, by the expiration of the first nine months. What reason the arbitrator should have had to keep "the wound open," it is hard to perceive. But even he left claims referred to him to pass upon to the amount of $928,627 unsettled, because they had come to him so late that the requisite examination had become impossible. The aggregate amount of the claims was $11,850,578, on which final judgment had been passed to the extent of $7,595,114; and of the latter, claims to the extent of $2,026,236 had been recognized as justified either by the commissioners or the arbitrator. The assumption that the complaints not handed in at the right time were of a still more dubious nature than those that came to a decision, is not an unjust one.[1] If, as Jackson and congress had asserted, a declaration of war would have been justified even five years before, plainly the justification could, to say the least, not be found in the size of the sum which the United States could equitably claim.

About two months before the work of the commission was finished, the rumor that Tyler had again taken up the annexation project began to spread.[2] It soon became manifest

[1] Pendleton, of Virginia, mentions in a speech of the 22d of February, 1847, a demand of $1,690 for fifty-six dozen bottles of porter, the real value of which he estimates at, at most, $200. Interest for less than six years, to the amount of $6,570 was asked, so that Mexico had in all to pay $8,260, or almost $11 for each bottle. Pendleton adds: "I do not say that all these accounts are of that sort; but this I will say, that many of them are more unreasonable." Jay, Review of the Mexican War, p. 73.

[2] "This afternoon, Mr. Leavitt called on me, with Mr. Gates, member of the house from the state of New York. They are alarmed at numerous

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that the fears entertained still remained far behind the plots which were hatched in the White House, in Texas and in a part of the slave states. Texas had finally gotten into a condition which imperatively called for a decision. As early as June, 1839, Texan paper was almost worthless.[1] According to a report of the minister of finance of the 15th of October, 1840, a total of $903,052 had gone into the treasury from the founding of the state until the 30th of September, 1840, while the debt had grown to be $4,822,318.[2] The *Austin City Gazette* wrote, on the 21st of October, 1840, that Texas had reached the lowest round of the ladder.[3] That was a vain hope; it went a great deal deeper down. In the spring

indications of a design to revive the project of annexing Texas to the United States. They said there was a long article in the 'New York Courier and Enquirer,' recommending it by arguments addressed first to the abolitionists and then to others; and they asked if anything could now be done to counteract this movement. I know of nothing but to make it as soon and as extensively known as possible. There is apparently in this movement a concert of long standing between Andrew Jackson, Samuel Houston, recently elected for the second time president of Texas, and Santa Anna, now reinstated as president of the Mexican Confederation. . . . The developments of this project are not yet sufficiently clear and explicit to know how to meet and counteract it." December 18, 1841. Mem. of J. Q. Adams, XI, p. 41.

[1] "Our promissory notes are now so much depreciated that they are almost worthless. Every thing in the country is immensely high, and still the government goes on recklessly throwing out its pictured bits of paper, regardless of the fact that every one they put out depreciates the value of the rest. Were the expenditures necessary and beneficial, so much objection could not be made; but such is by no means the case." "Morning Star," June 24, 1839. Gouge, The Fiscal History of Texas, p. 97.

[2] Ibid., pp. 104, 105. Gouge considers this sum still too low, and says that the debt must have amounted to about $5,500,000.

[3] "Texas promissory notes are worth about fifteen cents upon the dollar — there is little prospect of a loan — the taxes are not promptly paid; and if they were, would only return to the treasury, at par, that which was issued for less than one-sixth of the amount. . . . We are at the lowest round of the ladder." Ibid., p. 102.

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of 1841, all paper rose largely because General James Hamilton had succeeded in effecting a loan from the house of Lafitte, of Paris. But the joy was short-lived. Exceedingly petty wrangling with the French *chargé d'affaires* in Texas finally prevented the loan,[1] and now the fall was very rapid. During the same year, even the government dared no longer to give full information concerning the state of the debt, and a formal declaration of bankruptcy was the anchor to which the eyes of the patriots turned.[2] On the 19th of January, 1842, the so-called Exchequer Bill, which provided that the old treasury notes should be taken by the government only for taxes and duties in arrears, was passed. The consequence was that they sank down to two per cent., and finally shared the fate of the French assignats. And the same fate seemed to threaten the new exchequer bills. With a crying violation of the conditions of their emission, it was determined on the 23d of July, 1842, that they should no longer be taken by the government treasury at their nominal value, but only at their market value; and at the end of the year, the latter amounted to twenty-five cents on the dollar.[3]

A few days before Texas had declared its bankruptcy by the Exchequer Bill, General Hamilton, returning from England, wrote on board the steamer Forth a letter to Santa Anna, in which he offered himself to buy the recognition of

[1] Gouge, The Fiscal History of Texas, pp. 109–111.

[2] In the report of the minister of finance we read: "To repudiate the public debt altogether, as suggested by many, would justly stigmatize us as a people in the eyes of all enlightened foreign nations. To meet all engagements fully and promptly, is entirely out of our power. Necessity compels, therefore, in some measure, to do violence to our sense of justice, as well as to the rights of our creditors, in adopting a compromise which shall guard their rights, as far as we can consistently with the successful administration of the government." Gouge, The Fiscal History of Texas, p. 113.

[3] Ibid., pp. 116–118.

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the independence of Texas from Mexico. The Texan government had, according to his own statement, sent him to Europe to effect the recognition of the European powers and to "transact certain fiscal operations." Whether he was empowered or commissioned to make this offer he does not say. On the other hand, in the first words, he presents himself to the president of Mexico as a citizen of the United States. He offers for a treaty of peace and a boundary treaty $5,000,000, and besides "$200,000 which will be secretly placed at the disposal of the agents of the Mexican government."[1] Santa Anna, who, during his imprisonment, had declared the relinquishment of Texas to be Mexico's best policy, rejected this proposition as insulting shamelessness. Hamilton, in a long letter of the 21st of March, 1842,[2] gave him ample proof that he had picked out the wrong man when he believed he might permit himself personal courtesies. The ex-governor of South Carolina prided himself that he could make use of the starry banner as a warm and stately cloak while he was managing the affairs of Texas.[3] He did not blush to reproach Santa Anna severely because he had made his (Hamilton's) letter public, although it was a "confidential" one; and he was bold-fronted enough to assert that the $200,000 were intended only to cover the costs growing out of the marking off of the limits, etc.

These two great gentlemen had about as much reason to hold themselves up to each other as mirrors of lofty morality as their respective states had occasion to boast mutually of their dreadful power. In this sphere Santa Anna measured himself with Houston, but was as far from being able to cope with his grandiloquence as with Hamilton's churlishness. While he only pledged himself to conquer the former province again, Houston swore that the latter would carry its

[1] Niles, LXII, p. 50. [2] Ibid., pp. 67, 68. [3] See Niles, LXVI, p. 326.

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banners into the heart of Mexico.[1] There was, indeed, something dreadfully serious in this threat, vastly as the material power of Mexico was superior to that of Texas. The rest of the world might not have very great respect for Arista's expedition which was to verify Santa Anna's saying, but it would have been a great danger to the Texans if they could not rightly claim that they were able to raise armies out of the dust. The cry of alarm in the slave states and in the capital of the Union resounded as loud and piercing at the approach of the Mexican cavalry as in the solitary farms of Texas.[2]

It is an interesting fact that those slave states which contributed most towards annexation were impelled thereto partly by directly opposing individual interests. As early as 1829, in the Virginia convention, Upshur called attention to the pleasing rise which was to be expected in the price

[1] "With these principles we will march across the Rio Grande; and, sir, believe me, ere the banner of Mexico shall triumphantly float on the banks of the Sabine, the Texan standard of the Lone Star, borne by the Anglo-Saxon race, shall display its bright folds in liberty's triumph on the Isthmus of Darien." Houston to Santa Anna, Niles, LXII, p. 98.

[2] In an appeal of Texan agents of the 16th of March, 1842, to the citizens of New Orleans and of the Mississippi valley, we read: "The people of Texas look with much of hope to the spirit of chivalry and liberality in the Valley of the Mississippi for assistance in their present exigency." At the same time the assurance is given: "They are fully resolved not again to lay down their arms until they extort the acknowledgment of their independence in the heart of the Mexican capital." Ibid., pp. 97, 98. In a letter of the 8th of May, 1843, from Galveston, we read: "We look upon New Orleans almost as our own: it is there we have received men, money and provisions, and, above all, where the deepest sympathy has been felt and exercised in our behalf. It is to that spot we look as a last hope, should all others fail us." Niles, LXIV, p. 231. And the "New Orleans Bee," of the 22d of April, 1843, says: "Many of the people of these states have impoverished themselves in raising supplies for Texas, and not a week has elapsed since her navy sailed from our port, freighted with the prayers of a whole people, and manned by the brawny and toil-hardened seamen of the states." Niles, LXII, p. 175.

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of slaves if a new and immense market were opened in Texas, and Gholson, in 1832, estimated this rise, in the legislature, at 50 per cent.[1] In Louisiana, on the other hand, there were murmurings over the exorbitant slave prices which the border states might extort with their monopoly of slave-raising. Here the agitation for the abolition of the prohibition of slave importation had its origin. Only on condition that Texas, by incorporation into the Union, should be deprived of the possibility of using the cheap slave market of Cuba, would this question be allowed to rest.[2] In the course of time, this opposition of interests between the slave-producing and slave-consuming states, might obtain considerable importance. It could not, however, as yet, assert itself, in view of the incomparably greater opposition

[1] "The price of slaves fell twenty-five per cent. within two hours after the news was received of the non-importation act which was passed by the legislature of Louisiana. Yet he believed the acquisition of Texas would raise their price fifty per cent. at least."

[2] "If such have been the results produced by the injudicious efforts by the English philanthropists, we may well doubt the policy of the law of congress which has prohibited the importation of slaves from Africa, a policy that, by all we can learn, has no other effect than to cause the planter of Louisiana to pay to the Virginia slaveholder one thousand dollars for a negro which now in Cuba, and by-and-by in Texas, may be bought for half the money. It is known to those acquainted with the character of the African, that he is more patient and less unruly than the Virginia or Maryland negro; his very ignorance of many things makes him less dangerous in a community like ours, and his constitution is better suited to our climate. In transporting him from his own country, his position too in civilization is bettered, not worsted.

"The more we examine and reflect on the policy the Texans are likely to pursue in this matter, openly or covertly, the more we are convinced that Texas should be annexed to the Union, or else congress should repeal the law prohibiting the importation of slaves from Africa. Otherwise the culture of sugar and cotton in Louisiana will suffer greatly by the cheaper labor which the planters of Cuba can and will employ." "The New Orleans Courier," May 21, 1839. Jay, Action of the Federal government in behalf of slavery; Misc. Writs., p. 298.

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between slavery and freedom. But if the representatives of opposing interests looked on one another with jealous eyes, they were not, on this account, any the less firmly united against the common enemy. The question of annexation was urged in congress from the standpoint of this general opposition, and in January, 1842, Wise — at once the mouth-piece and prompter of the administration — gave out in the house that, from this point of view, annexation was not only desirable but even necessary.[1]

Three months later, Wise laid bare the connection which Arista's march had with the resumption of, and the impatient endeavors to carry out, the plan of annexation. Tyler had nominated Waddy Thompson, of South Carolina, who, on the 14th of June, 1838, had made the motion in relation to the annexation already mentioned, ambassador to Mexico. Linn, of New York, moved, in the house, to strike out the appropriation for this post. This drew in April, 1842, a fiery speech from Wise, in which he babbled out the whole programme of the administration. He declared that not only the unsettled claims for damages of American citizens should be exacted from Mexico, but Mexico should be peremptorily prohibited to raise a hand against Texas.[2] Texas was too

[1] "True, if Iowa be admitted on the one side, Florida will be added on the other. But there the equation must stop. Let one more northern state be admitted and the equilibrium is gone — gone forever. The balance of interests is gone — the safeguard of American property — of the American constitution — of the American Union, vanished into thin air. This must be the inevitable result, unless, by a treaty with Mexico, the south can add more weight to her end of the lever! Let the south stop at the Sabine, while the north may spread unchecked beyond the Rocky Mountains, and the southern scale must kick the beam." Niles, LXIV, p. 174.

[2] "Sir, it is not only the duty of the government to demand the liquidation of our claims and the liberation of our citizens, but to go further, and demand the non-invasion of Texas. Shall we sit still here while the standard of insurrection is raised on our borders, and let a horde of slaves and Indians and Mexicans roll up the boundary line of Arkansas and Louisiana?

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weak to defend itself; but as as soon as the cry, On to Mexico! resounded — as soon as the boundless wealth of Mexico's mines and Mexico's churches were shown from afar as a prize, the population of the Mississippi valley would rise up in crowds and not rest until the banner of Texas waved over the walls of the city of Montezuma, nor until the way had been cleared for slavery as far as the Pacific ocean.[1]

No. It is our duty to say at once to Mexico, If you strike Texas, you strike us; and if England, standing by, should dare to intermeddle, and ask, Do you take part with Texas? his prompt answer should be, Yes, and against you. Such, he would let gentlemen know, was the spirit of the whole people of the great valley of the west."

[1] "Texas had but a sparse population, and neither men nor money of her own to raise and equip an army for her own defense; but let her once raise the flag of foreign conquest — let her once proclaim a crusade against the rich states to the south of her, and in a moment volunteers would flock to her standard in crowds from all the states in the great valley of the Mississippi — men of enterprise and hardy valor before whom no Mexican troops could stand an hour. They would leave their own towns, arm themselves and travel at their own cost, and would come up in thousands to plant the lone star of the Texan banner on the Mexican capital. They would drive Santa Anna to the south, and the boundless wealth of captured towns and rifled churches, and a lazy, vicious and luxurious priesthood would soon enable Texas to pay her soldiers and redeem her state debt, and push her victorious arms to the very shores of the Pacific. And would not all this extend slavery? Yes, the result would be that, before another quarter of a century, the extension of slavery would not stop short of the Western ocean. To talk of restraining the people of the great valley from emigrating to join her armies, was all in vain. . . . But once set before them the conquest of the rich Mexican provinces, and you might as well attempt to stop the wind. Let the work once begin, and he did not know that this house would hold him [Wise] very long. Give me five millions of dollars and I would undertake to do it myself. Although I don't know how to set a single squadron in the field, I could find men to do it; and, with five millions of dollars to begin with, I would undertake to pay every American claimant the full amount of his demand with interest, yea, four-fold. I would place California where all the powers of Great Britain would never be able to reach it. Slavery should pour itself abroad without restraint, and find no limit but the Southern ocean. The Comanches should no longer hold the richest mines of Mexico; but every golden image which had received the profanation of a false worship should

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Thompson's mission was intended to preserve peace, but all the better if it led to war. The slavocracy scraped the banner of Cortez out of the grave, and "gold, robbery!" was the watchword with which it called the entire rabble of the Union to flock about it.

This speech cast a glaring light on one place in Upshur's report of the 4th of December, 1841. Alluding to the growing number of settlers from the United States in Upper California, the secretary of the navy demanded a considerable increase of the ships stationed in the Pacific ocean; two small vessels were to be entirely occupied with the close examination of the Gulf of California.[1] When one recalled the manner in which the Texas question had arisen, the suspicion readily suggested itself that this passage in Upshur's report, and Wise's speech, might be eggs hatched in the same nest.[2]

soon be melted down, not into Spanish milled dollars, indeed, but into good American eagles. Yes, there should more hard money flow into the United States than any exchequer or subtreasury could ever circulate. I would cause as much gold to cross the Rio del Norte as the mules of Mexico could carry; aye, and make a better use of it than any lazy, bigoted priesthood under heaven. I am not quarrelling with the particular religion of these priests; but I say, that any priesthood that has accumulated and sequestered such immense stores of wealth, ought to disgorge; and it is a benefit to mankind to scatter their wealth abroad where it can do good. Texas had proclaimed a blockade against all the coast of Mexico; and though she had no fleet to enforce it, she would be able to make it good by hewing her way to the Mexican capital. Nor could all the vaunted power of England stop the chivalry of the west till they had planted the Texan star on the walls of the city of Montezuma. Nothing could keep these booted loafers from rushing on till they kicked the Spanish priests out of the temples they profaned. War was a curse; but it had its blessings too. He would vote for this mission as the means of preserving peace; but, if it must lead to war, he would vote it the more willingly."

[1] Niles, LXI, p. 263.

[2] The following memorandum of Adams on a conversation with Webster on the 25th of March, 1843, is interesting, especially on account of the suspicion that, in possible contingencies, the administration might obtain a support in France against England: "I considered all the questions about the right of search, the bill for the occupation of the Oregon Territory,

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And before the end of the year an event came to pass which was not precisely calculated to dissipate this suspicion.

Commodore Jones, who held the chief command over the ships stationed in the Pacific ocean, informed the secretary of the navy on the 13th of September,[1] that he had, on his own responsibility, left the harbor of Callao and the coast of Peru on the 7th to hasten, under full sail, towards Mexico and California.[2] The consul of the United States at Mazatlan had sent him the Mexican newspaper *El Cosmopolita*, in which a protest of the Mexican secretary of state, Bocanegra, addressed to Webster, against the violations of neutrality which citizens of the United States had become guilty of towards Texas, and a circular relating thereto to the diplomatic representatives in Mexico, were printed. These two diplomatic documents made it seem "quite probable"[3] to the commodore that the United States and Mexico were engaged in war with each other at the time, because he had

Captain Jones's movement on California, and all the movements for the annexation of Texas, were parts of one great system, looking to a war for conquest and plunder from Mexico, and a war with England and alliance with France. And I referred to Wise's speech of the 14th of April last, avowing this project of a war with Mexico for conquest and plunder, together with a war with Great Britain. I said Wise had babbled the whole project last April, and it could not pass without notice that that same Henry A. Wise had, in the last hours of the late session of congress, been three times nominated to the senate as minister to France. It was also not less remarkable that Wise had been the confidential correspondent of Commodore Jones, and had stated on the floor of the house that he had received from Jones himself a letter in justification of his occupation of Monterey." Mem. of J. Q. Adams, XI, p. 346.

[1] The records concerning this matter are to be found in Exec. Doc., 27th Congr., 3d Sess., Vol. V, No. 166. One part of them is printed in Niles, LXIV, pp. 170–173.

[2] "I am on my way to the coast of Mexico and California, there to be governed as circumstances may dictate when I shall have reached the scene of action (!) . . . we are now crowding all sail on the direct course for Mexico."

[3] Letter of September 8 to the commanders of the ships under him.

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no doubt that the former could not and would not accept the conditions made by the latter. He learned, at the same time, from a Boston newspaper, which cited a New Orleans newspaper as authority, that California had been purchased from Mexico by England for seven millions of dollars. The "corroboration" of this rumor was furnished him by the departure of the English admiral Richard Thomas with his squadron from the harbor of Callao, with sealed instructions which had just arrived from England. All these things taken together made it his "duty," "at once" to secure a proper place on the coast of California, for if the two states were really engaged in war,[1] the nation would necessarily expect the best utilization of its ships, and if England had really purchased California, it was of course necessary, according to the principles of the Monroe doctrine, to prevent the occupation.[2] So far as the law of nations was concerned, the commodore was all the more firmly convinced of the impregnability of his position because he had thoroughly discussed this side of the question with "the very discreet and capable representative of the United States in Lima." The

[1] " . . . it at once became my duty to secure some point on this coast." Letter of October 22, to W. Thompson.

[2] "And if the views of the late President Monroe, as expressed in his celebrated message to congress, December 2, 1823, are still received as the avowed and fixed policy of our country, as it undoubtedly is our interest, under the inherent attribute of self-preservation, which all independent nations have the indubitable right to exercise, we should consider the military occupation of the Californias by any European power, but more particularly by our great commercial rival England, and especially at this particular juncture, as a measure so decidedly hostile to the true interest of the United States, as not only to warrant but to make it our duty to forestall the design of Admiral Thomas, if possible, by supplanting the Mexican flag with that of the United States at Monterey, San Francisco, and any other tenable points within the territory said to have been recently ceded by secret treaty to Great Britain." The unanimous resolution of the council of war.

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administration needed not to fear getting into trouble, because he would try to act in the sense of the administration throughout.[1] To make entirely sure of this, he invited the commanders of the three ships to a council of war, which unconditionally approved his resolves.[2]

On the 19th of October, the squadron arrived before Monterey. The commander of a bark to whom the commodore spoke at the entrance of the harbor, and two Mexican officers who came on board his ship, answered to his inquiries, that they knew nothing of hostilities between the United States and Mexico. As, however, the captain of a ship declared that rumors of war had come from Mazatlan to the Sandwich Islands also, the commodore continued convinced of the correctness of his bold assumptions.[3] He had all the less hesitation to proceed to carry out his original programme because Mexico was obviously the aggressor, since it had conditionally declared war.[4] But after all these wonderful things, think what

[1] " . . . in all that I may do I shall confine myself strictly to what I may suppose would be your views and orders, had you the means of communicating them to me."

[2] It is indeed worthy of mention that all these four gentlemen were from the slave states.

[3] "The time for action had now arrived; whilst nothing had occurred to shake my belief in the certainty of hostilities with Mexico, the reiterated rumored cession of California to England was strengthened by what I have already related. Hence no time was to be lost." Report of October 24, 1842.

[4] ". . . but if I am right (and of which there can be but little doubt) in assigning to Mexico the attitude of a nation having declared conditional war, then, under all the circumstances of the case, Mexico is the aggressor, and as such is responsible for all evils and consequences resulting from the hostile and menacing position in which she placed herself on the 4th of June last." Report of October 24, 1842. As early as September 13th he had said in his report: "I beg to assure you that no precipitate steps will be taken by which aggression will be justly chargeable on me;" yet he had added: "at the same time I shall not shrink from any responsibility which, in my judgment, the honor and interest of our country may require."

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we may of the international law and the logic of the commodore, his precaution is worthy of all recognition. Simultaneously with the demand made on the commander to surrender the place, Jones sent a printed proclamation into the country which announced to the inhabitants the protection of the star-spangled banner for all time, and which offered the population of all California the blessings of the rights of citizenship of the United States.[1] Whether the law of nations or Mexico's "conditional" declaration of war gave the commodore the right to grant the rights of citizenship of the United States, according as it seemed good to him, he does not say. Certain it is, however, that this power is not granted to ship captains by the constitution. Whether the proclamation was printed in Callao, or whether the precaution — Jones's or that of some other people — dated still further back, cannot, unfortunately, be ascertained. The Mexicans did not trouble themselves about this point, nor did they put any questions whatever. They even refused the eighteen hours' time for consideration which the commodore had granted them. The conditions of capitulation were agreed upon during the night between the 19th and the 20th of October. Before they were subscribed, a merchant from the United States, long established in Monterey, came on board and assured Jones that they had much more recent news at that place, and that there was no talk of war. But as he could not immediately

[1] "Those stars and stripes, infallible emblems of civil liberty, of liberty of speech, freedom of the press, and above all, the freedom of conscience, with constitutional right and lawful security to worship the Great Deity in the way most congenial to each one's sense of duty to his Creator, now float triumphantly before you, and henceforth and forever, will give protection and security to you, to your children, and to unborn, countless thousands. . . . Such of the inhabitants of California, whether natives or foreigners, as may not be disposed to accept the high privilege of citizenship, and to live peaceably under the free government of the United States, will be allowed time to dispose of their property," etc.

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produce, on the spot, the newspapers he had mentioned, the commodore would not permit himself to be misled, and he hoisted the flag of the Union over the fort. The newspapers were brought immediately after. The commodore was convinced of the, to him, almost incredible fact that his shrewd calculations no more harmonized with facts than yes with no, and he again sailed out into the sea, with the pleasing consciousness that he had acted entirely correctly, and with the most scrupulous discretion.

The Mexican government did not share this view, and demanded satisfaction. A letter of excuse came from Washington. The Mexican ambassador, Almonte, however, allowed himself to call attention to the fact that that letter said nothing of punishing Jones for his "unheard-of attempt" *(inaudito atentado)*. This suggestion was rejected, with the remark that Jones had not at all desired to insult Mexico.[1] And the man who had the cool shamelessness to give such an answer, was neither a slave-holder nor a friend of the annexation of Texas; it was Daniel Webster. The house of representatives gave expression, indirectly, to its acquiescence. It refused, by a vote of eighty-three against seventy-four, to suspend the rules in order to make the discussion of

[1] "But General Almonte and his government must see that Commodore Jones intended no indignity to the government of Mexico, nor anything unlawful to her citizens. Unfortunately, he supposed, as he asserts, that a state of war actually existed, at the time, between the two countries. If this supposition had been well founded, all that he did would have been justifiable, so that, whatever of imprudence or impropriety he may be chargeable with, there is nothing to show that he intended any affront to the honor of the Mexican government, or to violate the relations of peace. . . . In the clearly manifest absence of all illegal and improper intent, some allowance may be properly extended towards an act of indiscretion in a quarter so very remote, and in which correct information of distant events is not soon or easily obtained." January 30, 1843. Compare the judgment on the case of the schooner Jefferson, in the report of the house committee on foreign affairs. Deb. of Congr., XIII, p. 308.

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a resolution introduced by Adams, and which called the action of the commodore by its right name, possible.[1]

The indiscreet heat of Commodore Jones was exceedingly vexatious to the administration. It seems to have made the annexation of Texas its order of the day at the moment when, by the Ashburton treaty (August 9, 1842), the danger that, in case of war, Mexico might easily obtain an ally in England against the United States, was materially diminished. But it needed time to mature its plans, and Jones had prematurely alarmed the opponents of them. If some happy accident had prevented the execution of his stupid *coup de main*, the twenty-seventh congress would presumably not have been called together by the storm bell. There were, indeed, at first, only thirteen members of that congress who, on the 3d of March, 1843, cried out to "the people of the free states" that the enemy was stealthily creeping to fall upon them, and was already before the gates.[2] But at their head stood John Quincy Adams, and their cry of warning was conveyed in such a tone that, coming from his mouth, it necessarily made a terribly forcible impression on hundreds of thousands. It gave expression to the firm conviction that the free states had not only the right not to submit to the annex-

[1] Adams's resolution read: "Resolved, That the invasion of the territory of a foreign nation, at peace with the United States, by any military or naval officer of the United States, is at once an aggravated offense against that foreign nation, against the peace of the world, and against the constitution and people of the United States, for the signal punishment of which further provision ought to be made by law." Niles, LXIV, p. 173.

[2] Ibid., pp. 173–175. ". . . We have not time . . . to enter upon a detailed statement of the reasons which force upon our minds the conviction that this project is by no means abandoned; that a large portion of the country interested in the continuance of domestic slavery and the slave trade in these United States have solemnly and unalterably determined that it shall be speedily carried into execution, and that, by this admission of a new slave territory and slave states, the undue ascendency of the slave-holding power in the government shall be secured and riveted beyond all redemption."

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ation, but that they would not submit to it, — that annexation and the dissolution of the Union were one and the same thing.[1]

During the four months which intervened between the occupation of Monterey and this appeal, a great deal was, indeed, done for annexation, yet it still, in great part, remained a deep secret. Texas had been sinking until it became a really pitiful picture of a state. The president's message of the 1st of December, 1842,[2] drew a picture of the condition of things, which, were it not known that it was the work of the pen of the hero of San Jacinto, one would be tempted to take it for the extravagant fancy of a malicious calumniator. Houston began with the general complaint that the decline had been a steady one, and at a rate almost unparalleled.[3] He complains that it had not

[1] "We hold that there is not only 'no political necessity' for it, 'no advantages to be derived from it,' but that there is no constitutional power delegated to any department of the national government to authorize it; that no act of congress or treaty for annexation can impose the least obligation upon the several states of this Union to submit to such an unwarrantable act, or to receive into their family and fraternity such misbegotten and illegitimate progeny.

"We hesitate not to say that annexation, effected by any act or proceeding of the Federal government, or any of its departments, would be identical with dissolution. It would be a violation of our national compact, its objects, designs, and the great elementary principles which entered into its formation, of a character so deep and fundamental, and would be an attempt to eternize an institution and a power of (a) nature so unjust in themselves, so injurious to the interests and abhorrent to the feelings of the people of the free states, as, in our opinion, not only inevitably to result in a dissolution of the Union, but fully to justify it; and we not only assert that the people of the free states 'ought not to submit to it,' but we say, with confidence, they would not submit to it."

[2] Niles, LXIV, pp. 18, 19.

[3] "Instead of deriving facilities and advantages from the lapse of time, its decline, since the year 1838, to its present point of depression, has been regular and more rapid than perhaps that of any other country on the globe possessing the same natural advantages. From possessing a currency

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been possible for him to secure the support of a standing corps of troops of from one hundred to two hundred men for the purpose of protecting the frontier,[1] and raises the great question, how the government could be continued without any money whatever.[2] The punishment of criminals had to be left to heaven or judge Lynch, because there were no jails,[3] and the laws remained unknown to the people because the postoffice disappeared when the money went,[4] and the crowd snapped its fingers in the face of the government unpunished.[5]

nearly at par, with a circulating medium but little more than half a million, and with a credit unparalleled for a country of its age, we find ourselves in a condition utterly destitute of credit, without a currency, without means, and millions in debt."

[1] "At the commencement of the present administration, it was the earnest desire of the executive to be enabled, by acts of congress, to maintain a force on the frontier amounting from one to two hundred men. Could this have been done, he remains satisfied and confirmed in the opinion that the recent calamities and annoyances upon our frontier would not have occurred. Unless something can be done to prevent the system of molestation practiced by the enemy, it will cause Texas to subdue herself."

[2] "For the want of means, every possible embarrassment has been presented to the administration. Texas, in truth, presents an anomaly in the history of nations, for no country has ever existed without a currency, nor has any government ever been administered without means."

[3] "There are not jails and prisons in the country for the confinement of the accused, nor are the several counties in a situation to pay a tax sufficient to insure the safe keeping of culprits."

[4] "Nothing is better calculated to present the deplorable financial condition of Texas than the situation of our postoffice and mail establishment. For the years 1840 and 1841, not less than $190,470 in promissory notes, besides $4,258 in exchequer bills, were appropriated to sustain the establishment. For the service of the present year, congress appropriated only $5,000 in exchequer bills, without making any allowance for their depreciation; nor did they leave any discretion with the executive to sustain this important branch of the government. Texas at this time furnishes the singular fact of a government without the means of conveying intelligence or distributing the laws throughout the republic."

[5] "In the month of March, last, during the incursion of the enemy,

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What was to be the upshot of all this? It had been feared from the first that European powers might look with covetous eyes on the rich prize.[1] England was, of course, first thought of in this connection; and if England desired the acquisition, obstacles could be placed in her way only by the United States. If matters continued with Texas as they had been thus far, it would soon have to cast itself into the arms of the first power which opened them to it. But England's past certainly suggested the question, whether she would not feel tempted to obtain a firm footing here. And if England's action gave any reason whatever for this suspicion, the United States certainly could not pay any attention to the fact that Mexico refused to relinquish its rightful title to Texas. To speak of "self-preservation" was an exaggeration; but the Union had unquestionably the greatest interest not to get in the south any more than in the north, its most powerful rival for a neighbor, and not to be compelled to share with it the supremacy over the Gulf of Mexico. I

under the provisions of the constitution, the president felt it to be his imperative duty to order a removal of the archives and heads of departments from the city of Austin to a place of safety. As to the propriety and necessity of the act no reasonable doubt could exist. Resistance, however, has been offered and continued up to the present time. Acts of the most seditious and unauthorized character have been perpetrated by persons styling themselves the 'Archive Committee,' positively refusing obedience to the orders of the executive and refusing to permit individuals to remove from that place with their effects, unless a passport was granted by some member of said committee. The executive felt a reluctance to have recourse to such measures as would have enabled him to carry out the provisions of the constitution. The reasons for the removal of the archives from the city of Austin still existing, it was deemed most proper to convene the congress at this point. The subject was laid before congress at the late extra session, and no definite action took place."

[1] As early as the 23d of May, 1836, Webster said in the senate: "He had no doubt that attempts would be made by some European government to obtain a cession of Texas from the government of Mexico." Deb. of Congr., XII, p. 763.

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know nothing which warrants the conclusion that England really had any such plans. But that, at the time, there were many in the Union who were convinced of this, it is too easy to understand to permit their fears to be called a comedy without any more ado.

As the south had the greater interest in the acquisition of Texas, the most unfeigned mistrust of England was, of course, to be found mainly there. And with the south, more especially, this mistrust was not entirely groundless. It looked upon itself as threatened not only in case England should aspire to possess the country, but there was danger to it in the very possibility that England might exercise an influence there. It is self-evident that this influence would necessarily have a tendency inimical to slavery. England had already concluded a treaty with Texas for the suppression of the slave trade, and now came the dreadful tidings that slavery was dragging out so wretched a life, that there was but little wanting to give it the last finishing stroke.[1]

Thus, everything conspired to force upon the farther-seeing leaders of the slavocracy the conviction, that there was danger in delay. Benton ascribes to Calhoun the paternity of the intrigue, the carrying out of which was planned with great skill, and which was destined to bring the south finally to the long wished for goal. Benton is, indeed, a very par-

[1] Ex-President Mirabeau B. Lamar wrote to his friends in Georgia: "The anti-slavery party in Texas will acquire the ascendency, and may not only abolish slavery by a constitutional vote, but may change the whole character of the constitution itself.

"At present the anti-slavery party is in the minority; but it would be dangerous, even now, to agitate the question with much violence, for the majority of the people of Texas are not owners of slaves. Texas, if left to stand alone, there is every probability that slavery will be abandoned in that country. The negroes are yet but few in number, and would be emancipated in the country without the slightest inconvenience, and indeed would continue to be useful in the capacity of hirelings." Jay, Review of the Mexican War, pp. 87, 88.

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tisan witness; but even if the proof cannot be produced, all that we know bears testimony to the correctness of the allegation. Calhoun was the first to declare the necessity of annexation in the senate. His master hand demonstrably wove the woof into the warp, and he prided himself on being the real originator of annexation.[1] That he at first carefully kept himself concealed in the back-ground, is satisfactorily explained by the fact that Jackson's influence had to be obtained beforehand.

In the beginning of 1843, a Baltimore newspaper published a letter of Gilmer, dated January 10, to "a friend" (Duff Green) in Maryland, on the necessity of the annexation of Texas. Benton says that the letter was like a flash of lightning from a clear sky.[2] But nothing further ensued, or rather what followed was played under cover, and the public did not have the slightest intimation of it. Gilmer's letter touched most strongly the two chords in Jackson's breast which were sure to find the loudest echo: preservation against England's ambitious desires and the strengthening of the Union. The name of Gilmer as well as Green, however, awakened the suspicion that Calhoun was seated in the prompter's box. That Jackson's old mistrust of the "honest nullificator," a mistrust intensified by personal hatred, might not be awakened, he was approached by a circuitous way. Gilmer's letter reached him enclosed in one of Aaron V. Brown's, of Tennessee, who, according to Ben-

[1] "I trust, Mr. President, there will be no dispute hereafter as to who is the real author of annexation. Less than twelve months since, I had many competitors for that honor. . . . But now, since the war [with Mexico] has become unpopular, they all seem to agree that I, in reality, am the author of annexation. I will not put the honor aside. I may now rightfully and indisputably claim to be the author of that great measure. . . . I take pride to myself as being the author of this great measure." Calh.'s Works, IV, pp. 362, 363.

[2] Thirty Years' View, II, p. 581.

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ton's representation, had no idea by whom and for what purpose he was used as a tool.[1] Jackson took fire immediately. As early as the 12th of February, he answered in the tone desired, and besides performed a work of supererogation in making some corrections of the story, which, in the subsequent agitation of the question, might perform excellent service.[2]

Although it had confessedly been sought to get this letter only for the purpose of working on the masses, it was, notwithstanding, now shown only to the initiated, and in the deepest confidence. The question of annexation was to be made the point about which the presidential election of 1844 was to turn. This made it necessary to put Van Buren's candidacy aside. But Jackson held so firmly to Van Buren, that everything would have been staked if he had been now

[1] Brown said himself, on the 12th of June, 1844, in the house of representatives: "Early in the winter of 1842–43, I became convinced that the affairs of Texas were coming rapidly to a crisis, and that she must find some strong support, or she could not sustain herself to any advantage among the independent nations of the earth. Hence it naturally occurred to me that the most favorable period would shortly arrive for its re-annexation to the United States. I saw the present administration peculiarly situated. A pr sident without a party — nay, worse than that, a president between two great parties, seldom sustained by either, and often warred upon by both. Under such circumstances, I apprehend it might be difficult to prevail on him, however anxious he might be personally to do so, to enter on any great measure such as the acquisition of Texas. Influenced by these opinions, in January (23), 1843, I addressed a letter to General Jackson, adverting to many or all of these circumstances, and expressing the belief that, if his opinions were still in favor of the measure, as I knew they formerly were, a clear and decided letter from him might be useful in rousing up or sustaining the administration in making such a movement. In the spirit of ardent affection and admiration, I expressed the desire that his name should be connected with a great achievement like that, and that it would be the crowning glory of his long and eventful life." Deb. of Congr., XV, p. 150.

[2] Niles, LXVI, p. 70. Benton, II, p. 584, erroneously dates the letter the 12th of March.

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allowed to suspect that the two questions could not be separated from one another. Hence, as a matter of course, the annexationists had to have recourse to the tactics, to first secure Jackson and the whole democratic party in the southern states for immediate annexation, to such an extent that they could no longer go backward, by any possibility, for the sake of a question of persons. This, however, required time, and hence, with the postponement of the nominating convention, the annexationists succeeded in effecting a second important move on the chess board, even if it proved to be a fruitless victory for the Calhounites.

In the mean time, the old question of claims for damages had been spun out by the administration in such a manner that there was no lack of a pretext for a breach with Mexico, which might serve as a last resource. Mexico had made this easy for it, since it had not been prompt in the making of the payments to which it had been obligated by the commission or arbitration-court of 1841–42. Through the negotiations on this matter, the possibility was afforded to Waddy Thompson to wring from it its acquiescence to a new convention on the claims for damages which had not been decided at that time. On the other hand, the concession was made to Mexico that "all claims of the government and citizens of Mexico against the United States" should be settled in this convention.[1]

Three months after the conclusion of this convention, on the 8th of May, 1843, Webster resigned. His unconditional admirers and defenders, like Cushing, ascribed his resignation entirely to the conviction, that, now, the problems which had determined him, in spite of the majority of his party, to remain so long in office, were solved. But according to the concordant declarations of all others, the president treated him with such studied coldness that his longer

[1] Convention of January 30, 1843, Art. 6, Stat. at L., VIII, p. 580.

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continuance in office had become entirely impossible. If Tyler wished to give him to understand that he did not want any more of him, by calling for his advice just as seldom as possible — and this view is, indeed, very probable — it is unquestionable, that the Texas question was one of the most material motives for this base ingratitude. But whatsoever judgment may be passed on the motives, there can be no difference of opinion as to the effect: with Webster's exit from the cabinet one of the greatest obstacles in the way of the annexationists was removed.

After the interregnum under Legaré, who died in Boston as early as the 20th of June, 1843, after a short illness, Upshur, as secretary of state, went to work with all his energy. Now the fear that England was laboring for the abolition of slavery in Texas assumed a definite form, and was used as a very powerful lever of agitation. Benton exaggerates when he represents the matter as if a little story had been fabricated.[1] A certain Andrews had actually been prosecuting for some time the project imposed on him as a task. He was now in England, and some abolitionists were not entirely without hope that his endeavors would be crowned with success. But Upshur made a mountain out of a mole hill. It was hardly unknown to him that the "private citizen" who was now sending the alarming news to the United States, and the "friend" to whom Gilmer had directed his letter of the 10th of January, were the same person. It is, therefore, very easy to consider this letter also a concerted affair, for Andrews' self-imposed mission was, by no means, a secret.[2] The secretary of state also

[1] "There was no evidence of any British domination or abolition plot in Texas, and time was wanted to import one from London." Thirty Years' View, II, p. 585.

[2] See more in detail in this matter, Ashbel Smith, Reminiscences of the Texas Republic, 1875, pp. 52–55. Smith was, at the time, the Texan ambassador in London. He expresses himself very bitterly on

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could entertain no doubt that Duff Green would not have spared the coloring. The brush was no longer enough for himself — he simply upset the color-pot. The United States were compelled all the more to summon all their strength to avert "a calamity so serious," since England "probably" intended, in the interest of her industries, to prepare the same sad fate for all America as for Texas.[1] The secretary of state, in no covert language, declared it to be

the British and Foreign Anti-Slavery Society, which had entered into a conspiracy with Mexico and the American abolitionists against Texas. He compares the abolitionists with the Spanish Inquisition, and goes so far as to say: "These wretched peddlers in humanity were plotting to crush out the Anglo-Saxon race in Texas." But the charge that the English ministry was in league with the abolitionists he rejects as entirely unfounded.

[1] Upshur to Mr. Murphy *[chargé d'affaires* of the United States in Texas], Washington, August 8, 1843. "A letter from a private citizen of Maryland, then in London, contains the following passage:

"I learn, from a source entitled to the fullest confidence, that there is now here a Mr. Andrews, deputed by the abolitionists of Texas to negotiate with the British government; that he has seen Lord Aberdeen, and submitted his project for the abolition of slavery in Texas; which is, that there shall be organized a company in England, who shall advance a sum sufficient for the slaves now in Texas, and receive in payment Texas lands; that the sum thus advanced shall be paid over as an indemnity for the abolition of slavery; and I am authorized by the Texan minister to say to you, that Lord Aberdeen has agreed that the British government will guaranty the payment of the interest on this loan upon condition that the Texan government will abolish slavery.

" . . . It [a movement of this sort] cannot be permitted to succeed without the most strenuous efforts on our part to arrest a calamity so serious to every part of our country.

" . . . We might probably consider this as part of a general plan by which England would seek to abolish domestic slavery throughout the entire continent and islands of America, in order to find or create new markets for the products of her home industry, and at the same time to destroy all competition with the industry of her colonies.

" . . . The establishment, in the very midst of our slaveholding states, of an independent government, forbidding the existence of slavery, and by a people born, for the most part, among us, reared up in our habits, and speaking our language, could not fail to produce the most unhappy

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the duty of the Union to watch with drawn sword, and see that its neighbors did not dare to get rid of the dragon-brood of slavery. This was something new illustrative of the "let us alone" of the slavocracy. The government of the controlling power of the new world took a stand, with bayonet fixed and with burning lunt, against nefarious England, whom it suspected of wishing to smuggle the spirit of the nineteenth century into Texas. The government did not allege it believed that Texas would, by that means, be thrown into convulsions, in comparison with which slavery was a small evil. It knew with how little danger, how playfully and easily emancipation could be effected there. It frankly admitted that the slavocracy of the United States would be compelled, in order to maintain itself, to force the standard of the holy war of the slavocracy into the hands of the Union. Was it so very difficult to understand how it was that the abolitionists came to curse the constitution as an "agreement with hell?"

effects upon both parties. If Texas were in that condition, her territory would afford a refuge for the fugitive slaves of Louisiana and Arkansas, and would hold out to them an encouragement to run away, which no municipal regulations of those states could possibly counteract. Even if this government should interpose for the protection of the slaveholder, it would be very difficult so to arrange the subject as to avoid disputes and collisions. The states immediately interested would be most likely to take the subject into their own hands. They would perceive that there could not be any security for that species of property, if the mere crossing of a geographical line could give freedom to the slave; they would perceive that the protection thus offered to the slave would remove from his mind that dread of consequences which restrains him from the commission of the worst crimes; they would feel that the safety of themselves and their families was endangered; they would live in continual uneasiness and alarm, and in the constant exercise of a painful and harassing watchfulness. . . . They would assume the right to reclaim their slaves by force, and for that purpose would invade the territory of Texas. It is not difficult to see that quarrels and war would soon grow out of this state of things." Sen. Doc., 28th Congr., 1st Sess., Vol. V, No. 341, pp. 18-22.

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Upshur's whole reasoning was plainly nothing but a long-winded circumlocution of the short sentence: the hour of annexation has come. In Mexico, it was recognized that the decisive time had arrived. Bocanegra, on the 23d of August, 1843, declared to Thompson that Mexico would look upon annexation as a declaration of war.[1] The next day, Thompson answered that it was an entirely unfounded rumor that the United States contemplated the annexation of Texas.[2] Upshur soon taught him better. On the 20th of October, he instructed the ambassador, in case the question should come up again for discussion, to say that he was not instructed as to the intentions of his government, but at the same time to intimate to Mexico that it had nothing to say in the matter.[3]

Four days previous, on the 16th of October, Upshur had proposed a treaty of annexation to the Texan agent.[4] The

[1] " . . . he [the president] has ordered the undersigned to declare to the Hon. Waddy Thompson, with the view that he may submit it to his government, that the Mexican government will consider equivalent to a declaration of war against the Mexican republic the passage of an act for the incorporation of Texas with the territory of the United States; the certainty of the fact being sufficient for the immediate proclamation of war." Sen. Doc., 28th Congr., 1st Sess., Vol. I, No. 1, p. 26.

[2] Ibid., p. 27.

[3] " Should the subject . . . be again brought to your attention in a proper manner, you will say that you are not in possession of the views of your government in relation to it. You may intimate, however, if the occasion should justify it, that, as the independence of Texas has been acknowledged, not only by the United States, but also by all the other principal powers of the world, . . . she is to be regarded as an independent and sovereign power, competent to treat for herself; and as she has shaken off the authority of Mexico, and successfully resisted her power for eight years, the United States will not feel themselves under any obligation to respect her former relation with that country." Ibid., p. 35. This last declaration he gave himself to the Mexican ambassador, Almonte, in a letter of December 1, 1843. Ibid., p. 48.

[4] Niles, LXVI, p. 169.

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answer of his own agent in Texas, dated the 24th of September, to his letters of alarm, must have been in his hands already. Murphy made merry over Andrews' project,[1] but he had much to relate of all kinds of possible and impossible operations, by means of which England was endeavoring to acquire Texas from Mexico. The minister took delight in putting this string also on his violin, without, however, stopping his confident fiddling on the first.[2] As he would not be convinced, it of course could make no impression on him, that Lord Aberdeen questioned, in the most decided manner, the truth of the disclosures which the Texan ambassador in London had "authorized" the "private citizen" from Maryland to make.[3] Lord Aberdeen greatly erred if he supposed that he could deceive this piercing mind by his mode of expression. That the Union would be strengthened by the annexation was unquestionable, and, therefore, the interest of the civilized world evidently demanded that slavery in Texas should be protected against the plots of England.[4]

Upshur was joyfully confident of having reached the goal,

[1] "The ridiculous transaction played off in London."

[2] Murphy had advised him: "Say nothing about abolition." And in another letter he said: "Do not offend our fanatical brethren of the north. Talk about civil and political and religious liberty. This will be found the safest issue to go before the world with." Jay, Review of the Mexican War, p. 90.

[3] Everett, the ambassador in London, 3d of November, 1843. Lord Aberdeen had answered to his interpellation: "That England had long been pledged to encourage the abolition of the slave trade and of slavery, as far as her influence extended, and in every proper way, but had no wish to interfere in the internal concerns of foreign governments. . . . In reference to Texas, the suggestion that England had made or intended to make the abolition of slavery the condition of any treaty arrangement with her was wholly without foundation. It had never been alluded to in that connection." Sen. Doc., 28th Congr., 1st Sess., Vol. V, No. 341, pp. 38, 39.

[4] Upshur to Murphy, November 21, 1843: "It is impossible to be too watchful or too diligent in a matter which involves such momentous consequences, not only to our country, but to the whole civilized world. The

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for he believed himself sure of the requisite majority in the senate,[1] and he considered hesitation on the part of Texas impossible. And yet what was supposed to be unthinkable came to pass.[2] Now that so much was doing in the White House about Texas, Texas began to show reserve. This audacity was so surprising that the secretary of state permitted himself to be carried so far away as to give utterance to certain expressions which afforded an interesting commentary to the unselfish good will with which the United States had observed the birth of this independent republic, and furnished a new proof as to how far from the administration the prosecution of "sectional interests" was. Upshur caused the Texans to be warned through Murphy not to transform the United States into their bitterest enemy, and at the same time make the continuation of slavery in Texas impossible.[3]

view which this government takes of it excludes every idea of mere sectional interest. We regard it as involving the security of the south, and the strength and prosperity of every part of the Union. Sincerely believing that the annexation of Texas to the United States will strengthen the bonds of union among ourselves; give encouragement and sustenance to our navigating, commercial and manufacturing interests; present a foundation for harmony with foreign countries, and afford us great security against their aggressions in case of war; we anxiously desire it, as a great blessing to every part of our country. We cannot anticipate any objection on the part of Texas." Ibid., p. 43.

[1] "Measures have been taken to ascertain the opinions and views of senators upon the subject, and it is found that a clear constitutional majority of two-thirds are in favor of the measure." Ibid., p. 47.

[2] Upshur to Murphy, January 16, 1844: "You are probably not aware that a proposition has been made to the Texan government for the annexation of the country to the United States. This, I learn from the Texan chargé, has been for the present declined." Sen. Doc., 28th Congr., 1st Sess., Vol. V, No. 341, p. 43. On the 2d of May, 1844, Calhoun informed the president that nothing written could be found concerning this refusal, in the department. Ibid., p. 69.

[3] "Instead of being, as we ought to be, the closest friends, it is inevitable we shall become the bitterest foes. . . . If Texas should not be attached to the United States, she cannot maintain that institution [slavery] ten years, and probably not half that time." Ibid., p. 46.

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Possibly it might now perform good service, that an avenue of escape had been left open for all cases, inasmuch as care was taken to have a permanent pretext for a contest with Mexico. Jay says that the subsequent rejection of the treaty of annexation suggests the supposition that Upshur had knowingly wished to deceive the Texans as to the disposition of the senate.[1] I have not been able to convince myself of the correctness of this conclusion. The very course which the senate allowed itself now against Mexico points to a disposition in that body which makes that error of the secretary of state seem easily explainable.

Waddy Thompson had succeeded in closing the treaty of the 20th of November contemplated in the convention of the 30th of January, 1843. His wishes were acceded to in every point. He had yielded only in one point, in the point that the commission should meet in Mexico. He declared this request of Mexico to be both equitable and in keeping with the state of affairs;[2] and besides, he laid stress on the fact that the denial of this concession would be the rejection of the whole treaty.[3] Spite of this, it pleased the senate to

[1] Review of the Mexican War, p. 91.

[2] "I succeeded, with difficulty, in obtaining every concession which I had been instructed to ask, and in some points more, with the single exception of the place of meeting of the new commission, which I agreed should be Mexico instead of Washington . . . the Mexican plenipotentiaries offered that if I would concede to them the point of the commission meeting at Mexico that I might name the umpire, to which I at once acceded. I could not see any great importance as to the place where the commission met, the more especially as nearly all of the seven claims which alone were to be submitted to this commission depended upon documentary evidence entirely, and all these documents were in the public archives of Mexico." W. Thompson, Recollections of Mexico, pp. 225, 226.

[3] In a letter to Upshur, he says: "The Mexican plenipotentiaries said that the last commission met in Washington, and that it was their right to insist that this one should meet in Mexico. The only reply that I could make was, that the claims presented to that commission were all against Mexico, and that nearly all the claimants resided in the United States; to

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put "Washington" in the place of "Mexico." Hence, according to Thompson's statement, we may, with the best of reason, assert, that the senate did not wish to permit the treaty to be closed. It felt a repugnance to reject it directly, since Mexico had granted everything material which had been demanded by the representative of the United States; but it amended it in such a manner that Mexico could no longer accept it. It cannot be said that the senators were wanting in foresight. As Mexico, after all, probably yielded in relation to the place, they contemplated a still further change: they struck out the stipulation in accordance with which the claims for damages of the one state against the other were to be finally decided by the commission, that is, by the arbitrator. The administration seems to have entirely agreed to this step of the senate, for Upshur expressed his sorrow to Thompson that a "strictly diplomatic" matter should be referred to a judicial tribunal. But the striking out of this clause was a very direct breach of the treaty of the 30th of January, 1843, since it was expressly stipulated in the latter that the claims of the "governments," also against each other, should be settled by the new convention. It was in perfect harmony with the spirit which the administration and the senate had manifested in this whole matter that Polk did not blush subsequently to charge Mexico with having prevented the execution of article 6 of the treaty of the 30th of January.[1]

which they replied that this commission will also be charged with the claims of the government and citizens of Mexico against the United States, and that they could not concede this point. I thought there was much reason in their demand; and, as it was matter of punctilio, and as with a Spaniard punctilio is everything, I was well satisfied it would be a *sine qua non*, and therefore yielded it, in consideration of their allowing me to name the arbiter — a much more important consideration." Jay, Review of the Mexican War, p. 77.

[1] "In January, 1844, this convention was ratified by the senate of the

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Concerning the motives of the senate for its two "reasonable" amendments, of course, nothing definite can be said, and it may be presumed that the senators, individually, were determined by different motives. How great the obstacle was which so unexpectedly checked the negotiations for annexation, the senate could not know. It might be that there were very few senators, who enjoyed in a peculiar manner the confidence of the administration, informed both how far the executive had already engaged himself, and that the negotiations had now come to a threatening standstill.

Thanks to the efforts of England and France, there was an armistice between Mexico and Texas,[1] and negotiations tending to a formal peace had been begun.[2] Texas had the greatest interest in their success, for although its reconquest by Mexico had become exceedingly improbable, there was, considering the continuance of the barbarous border warfare carried on, no seeing when it would be able to work itself out of its mournful condition. The great majority of its population demanded now, as they had before, most imploringly, incorporation with the United States, but the government was not so foolish and so inconsiderate as to sacrifice all that had been already gained by the mediation of the European powers, and would, presumably, be gained in the future, for the indefinite hope that the Union would now finally resolve upon annexation. Van Zandt, the Texan *chargé d'affaires*, in Washington, in a letter of the 17th of

United States, with two amendments, which were manifestly reasonable in their character. . . . Mexico has thus violated a second time the faith of treaties, by failing or refusing to carry into effect the sixth article of the convention of January, 1843." Message of Dec. 8, 1846. Statesm.'s Man., III, p. 1622.

[1] Houston's proclamation of the armistice, June 15, 1843. Niles, LXVI, p. 251.

[2] The documents on which the relation in the text is based are to be found, besides in the Senate Doc., in Niles, LXVI, pp. 230 seq., in full.

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January, 1844, called Upshur's attention to the fact that a treaty of annexation would drive Mexico to the immediate resumption of hostilities, and that it would besides cost Texas the friendship of the mediating powers. He, therefore, confidentially inquired whether, in case the proposal for annexation were accepted by the Texan executive, the president would, even before the ratification of the treaty, protect Texas by a sufficiently powerful land and maritime force against all attacks.[1] That was a question very full of meaning. Deprived of its diplomatic cloak, it meant simply: Is the president ready, in case of need, to cast as a burthen on the United States, on his own responsibility, as the price of Texas, the war of Texas against Mexico? Upshur left the letter unanswered: he had not the courage to say yes, and a no would necessarily have driven Texas completely into the arms of England.

Murphy was made of material too tough to permit conscience, uncalled for, to intermeddle with his policy. On the 14th of February, the Texan government directed to him the same question which Van Zandt had directed to Upshur, only making the demands more precise and pointed,[2]

[1] "Should the president of Texas accede to the proposition of annexation, would the president of the United States, after the signing of the treaty, and before it shall be ratified and receive the final action of the other branches of both governments, in case Texas should desire it, or with her consent, order such number of the military and naval forces of the United States to such necessary points or places upon the territory or borders of Texas or the Gulf of Mexico as shall be sufficient to protect her against foreign aggression?"

[2] "If, therefore, Gen. Murphy will, on the part of his government, give assurances to this that the United States shall assume the attitude of a defensive ally of Texas against Mexico — that the United States will maintain a naval force in the Gulf of Mexico, subject to his orders, able successfully to oppose the marine of Mexico, and also a disposable force on our eastern and northeastern frontier of five hundred dragoons, with one thousand infantry at some southern station of the United States, whence they may be conveniently transported to our shores in the event of neces-

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and, at the same time, expressing the conviction that the very fact of negotiations with the United States would, of itself, lead to a new breach with Mexico. On the very same day, Murphy gave the wished for assurances in the most binding form.[1] Only in relation to the demand that the United States should guarantee the independence of Texas in case the negotiations fell through, did he declare that he did not know what were the intentions of his government. He gave assurance, however, that Texas had, in no case, to fear a hasty withdrawal of the protecting troops.[2] This satisfied the Texan government also. The very following day (February 15) it informed Murphy that J. P. Henderson would be sent to Washington with unlimited power and without delay. The triumphant dispatch by which Murphy, on the same day, informed Upshur of this fact supplements the previous correspondence in two material points: that the demands of Texas were explained by its complete defenselessness, and that their actual fulfillment

sity, the president will have no hesitation in forthwith dispatching a minister, with ample powers, to the government of the United States, to coöperate with our minister now there in negotiating for the annexation of Texas. In the event of a failure of the treaty of annexation, it is also necessary that this government should have assurance or guaranty of its independence by the United States."

[1] "Sir: I have no hesitation in declaring, on the part of my government, that neither Mexico nor any other power will be permitted to invade Texas on account of any negotiation which may take place in relation to any subject upon which Texas is or may be invited by the United States to negotiate; that the United States, having invited that negotiation, will be a guaranty of their honor that no evil shall result to Texas from accepting the invitation, and that active measures will be immediately taken by the United States to prevent the evils you seem to anticipate from this source."

[2] "He therefore feels no reluctance in assuring Mr. Jones that the United States would not hastily withdraw her protection, even if the negotiation should fail of its object; and he conceives that the high honor of his country may well be relied upon for such protection to an extent that shall leave no just cause of complaint."

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appeared as a condition precedent to the beginning of the negotiations.[1] Although the ambassador admitted that he had taken a "great responsibility" on himself, he believed that he was able to bear a still greater one. On the 19th of February, he sent Lieut. J. A. Davis, the commander of the United States schooner "Flirt," the "secret order" to go to Vera Cruz without delay, and to remain there with his ship until he had made sure whether an expedition against Texas was contemplated. He was to let the United States men-of-war which might be there know that their presence on the route between the Gulf of Vera Cruz and Galveston was "very necessary;" that "soon, . . . in all probability," they would receive orders to this effect, if such orders had not already reached them; and that the United States fleet would "be required to prevent" a possible invasion of Texas. In the letter of the 22d of February, in which he notified Upshur of this new step, he expressed the utmost confidence, not only that he would see it approved, but also that he would see an order issued for the sending of a larger fleet to the gulf. He hoped that the land troops, which were to be posted on the border, would be placed at his discretion. All these steps were to be justified, according to his proposition, by the claim that England and the United States were obligated to protect Texas — if necessary, even by force — against a breach of the armistice; since it had proclaimed it because induced to do so by

[1] "But inasmuch as . . . it is clear to the president of Texas . . . that the president of Mexico will instantly commence active hostilities against Texas, which Texas is wholly unprepared, by sea or land, to resist, it is understood that the government of the United States, having invited Texas to this negotiation, will at once, and before any negotiation is set on foot, place a sufficient naval force in the gulf to protect the coast of Texas, and hold a sufficient force of cavalry, or other description of mounted troops, on the southwestern border of the United States, in readiness to protect or aid in the protection of Texas, pending the proposed negotiation for annexation."

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the two powers named.[1] Even Commodore Jones would have been able to learn many principles of the law of nations, which might have been turned to very great advantage, from this skillful diplomat.

Murphy had closed his letter of the 22d of February with an urgent admonition to make haste.[2] There was, indeed, no time to lose. On the same day on which the sending of Henderson to Washington was resolved upon, the Mexican and Texan commissioners in Sabinas had closed a formal armistice, which contemplated a peaceable settlement until the 1st of May, 1844. The Texan government refused to ratify this convention. Van Zandt and Henderson, in a letter to Calhoun, subsequently, gave as a reason for this, that Texas was described in it as a "department."[3]

[1] "You will perceive it to be our opinion that the appearance of an imposing force in the gulf will check any movement of Mexico against Texas, and it will be far better to check a movement of hostility than to oppose it, even successfully, after it has moved. The first check is not an act of open war. The second is. Besides, we can allege that the proclamation issued by the Texan government of a cessation of hostilities, without limit of time, having been induced, as understood, by the mediation of England and the United States, both are bound in good faith to take care that no violation of this proclamation be made by either party without the previous notice required by laws of nations, as well as by the principles of justice and common sense. No such notice has been given by Mexico to Texas, and until it is given, both England and the United States are bound in good faith to resist any sudden invasion of Texas by Mexico, opposing even force to force."

[2] "Dispatch will secure a peaceable acquisition of this almost invaluable country. Delay may bring on a war immensely expensive in blood and treasure, and result in the loss of all sought to be gained."

[3] Niles, LXVI, p. 252. The Sabinas convention is printed in full, ibid., pp. 96, 97. Art. I reads: "While the negotiations are being carried on in the capital of the republic respecting the pacification of the department of Texas, and which shall be altogether concluded by the first of May, 1844, there shall be an armistice between Mexico and Texas, which shall only be prolonged in case there may be a probability of terminating the affairs pacifically."

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This was, certainly, a justifiable criticism of great importance. But, as the European powers, in their whole mediation, had started out with the assumption, that Mexico would have to recognize the independence of Texas, it was not hard to look upon the objectionable expression as the emanation of foolish Spanish pride. But Texas, as we have seen, was not in a situation to jeopardize the essence for the sake of the appearance. The assertion is therefore warranted, that it would, with the assistance of England, have endeavored to set aside or to evade this difficulty in one way or another, if, in the meantime, it had not received Murphy's promises, which seemed to leave no more ground whatever for any fear of a breach with Mexico.

What influence was the catastrophe on board the Princeton on the 28th of February destined to exercise on the fate of these expectations? During the interregnum in the state department, after Upshur's death, an interregnum which lasted about a month, there was much less thorough-going energy still, in the Murphy sense, to be found in the White House. John Nelson, who, until Calhoun assumed the office, carried on its business, sent Murphy, on the 11th of March, an answer to his dispatch of the 22d of February, which entirely disappointed the calculations which had been so nicely made by himself and the Texan government. The ambassador was, indeed, credited with having, on the whole, rightly divined the manner in which the great question should be treated, but, as regards the definite obligations which he had assumed in the name of the government, he was roundly disavowed. The reason for this was very forcible: the constitutional want of power in the president to employ armed force against a state with which the Union was at peace. To Murphy and the Texans, however, the consolation was left, that the president was not "indisposed" to make the desired disposition of the troops in

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order that they might be able to protect Texas at the "proper time."[1]

When Calhoun, at the end of March, became the head of the cabinet, the question of annexation immediately took a new turn. Jackson's letter of the 12th of February, 1843, to A. V. Brown, was published in the *Richmond Enquirer* on the 22d of March, and dated 1844. It is not possible to say whether this was an intentional or an unintentional oversight. The impression, however, which the letter, in consequence of this, made on the masses was a much more powerful one, and was not much modified by the subsequent correction of the mistake. Public opinion was in the best of moods to allow itself to be placed in the desired state of intoxication by the declamation of the politicians. The representatives of Texas in Washington only did not allow themselves to be led by anything out of their condition of calculating sobriety. All Calhoun's general promises, after the manner of the Nelson letter, remained entirely without effect. Van Zandt and Henderson stood by their declaration that

[1] "Enteratining these views, the president is gratified to perceive, in the course you have pursued in your intercourse with the authorities of Texas, the evidences of a cordial coöperation in this cherished object of his policy; but instructs me to say, that whilst approving the general tone and tenor of that intercourse, he regrets to perceive in the pledges given by you in your communication to the Hon. Anson Jones of the 14th of February, that you have suffered your zeal to carry you beyond the line of your instructions, and to commit the president to measures for which he has no constitutional authority to stipulate.

"The employment of the army or navy against a foreign power with which the United States are at peace, is not within the competency of the president; and whilst he is not indisposed, as a measure of prudent precaution and as preliminary to the proposed negotiation, to concentrate in the Gulf of Mexico, and on the southern borders of the United States, a naval and military force to be directed to the defence of the inhabitants and territory of Texas, at a proper time, he cannot permit the authorities of that government or yourself to labor under the misapprehension that he has power to employ them at the period indicated by your stipulations."

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they could not agree to anything until they had a written, binding promise. Calhoun finally yielded with a heavy heart. On the 11th of April he wrote to the two plenipotentiaries, that an order had been issued to concentrate a powerful squadron in the Gulf of Mexico, and to bring troops together on the southwestern frontier to "meet any emergency." The only object he attained was that it was permitted him to evade the greatest difficulty by one word which left a possibility open to him, not, indeed, to justify the action of the administration, but, notwithstanding, to defend it by dialectic subtilties. The president, through Calhoun, declared it to be his duty to protect Texas against an invasion by all constitutional means so long as the treaty of annexation was pending.[1] The treaty was signed on the following day.[2]

Ten days elapsed before the treaty was sent to the senate to be ratified. Considering the impatient haste with which Calhoun pushed it to a conclusion, this must have been surprising. Benton[3] seeks the explanation of this in the intrigues carried on in relation to the Baltimore nominating convention in connection with the question of annexation. It is said especially that an article in the *Globe*, arguing in favor of annexation with fiery zeal, caused great consternation among the annexationists opposed to Van Buren, because the

[1] "I am directed by the president to say that the secretary of the navy has been instructed to order a strong naval force to concentrate in the Gulf of Mexico to meet any emergency; and that similar orders have been issued by the secretary of war to move the disposable forces on our southwestern frontier for the same purpose. Should the exigency arise to which you refer in your note to Mr. Upshur, I am further directed by the president to say that, during the pendency of the treaty of annexation, he would deem it his duty to use all the means placed within his power by the constitution to protect Texas from all foreign invasion."

[2] The full text of the treaty is printed in Calh.'s Works, V, pp. 322-327; Niles, LXVI, pp. 149, 150, and in many other places.

[3] Thirty Years' View, II, pp. 588 seq.

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publisher, Blair, was on intimate terms with Van Buren, whose own declaration on his attitude towards this question had not been yet made public. This incident, it was said, was the occasion of Calhoun's correspondence with Packenham, the representative of England in Washington. On account of the correspondence, the treaty lay ten days in the desk of the secretary of state; for it was carried on only for the purpose of being able to lay a copy of it before the senate simultaneously with the treaty.

Leaving the two allegations of the last sentence out of consideration, the view is evidently incorrect. Benton relies mainly on this, that it was a dispatch of Lord Aberdeen of the 26th of December, 1843, which Calhoun's first letter to Packenham answered. It is easy to explain, however, why the reply to the provocation was delayed so long. Benton himself mentions that Packenham did not transmit a copy of Aberdeen's letter until the 26th of February. Two days after this, Upshur died, and Nelson's provisional term lasted until the end of March. Calhoun, therefore, delayed the answer only about three weeks, and its contents evidently made it impossible for him to communicate it before the conclusion of the treaty of annexation.

More important is the coloring which Benton, with a certain purpose and against his better knowledge, gives to his representation of the material contents of the correspondence. He would make the reader believe that Aberdeen had, unconditionally, repelled the insinuation that England had wished to presume to exercise an influence on the United States or Texas, in any form, in relation to the slavery question. It was pure awkwardness in the noble lord to have added, in this connection, an entirely objectless abstract declaration concerning England's attitude towards slavery. This blunder, Calhoun, it was said, turned to account by dwelling, with all his power, on the abstraction, which had nothing to

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do with the matter, and leaving the real question entirely unconsidered.[1]

But such was not, by any means, the state of the affair. True, the annexationists looked at every thing that England did for the abolition of slavery in Texas through an immense magnifying glass; but that England did nothing for the abolition of slavery, and that she confined herself entirely to fruitless philanthropic wishes, is not true. Lord Brougham had, in an interpellation of the 18th of August, 1843, on the relations to Texas, expressed in a very emphatic manner the wish that England might do all in her power to effect the abolition of slavery in Texas. He, at the same time, pointed out that the recognition of its independence by Mexico might be used as a lever, and pointedly remarked that the abolition of slavery in Texas would necessarily lead ultimately to its abolition in the United States

[1] "It so happened that Lord Aberdeen — after the fullest contradiction of the imputed design, and the strongest assurances of non-interference with any slavery policy either of the United States or of Texas — did not stop there; but, like many able men who are not fully aware of the virtue of stopping when they are done, went on to add something more, of no necessary connection or practical application to the subject — a mere general abstract declaration on the subject of slavery; on which Mr. Calhoun took position, and erected a superstructure of alarm which did more to embarrass the opponents of the treaty and to inflame the country than all other matters put together. This cause for this new alarm was found in the superfluous declaration 'that Great Britain desires, and is constantly exerting herself to procure the general abolition of slavery throughout the world.' This general declaration, although preceded and followed by reiterated assurances of non-interference with slavery in the United States, and no desire for any dominant influence in Texas, were seized upon as an open avowal of a design to abolish slavery everywhere. These assurances were all disregarded. Our secretary established himself upon the naked declaration, stripped of all qualifications and denials. He saw in them the means of making to a northern man [Mr. Van Buren] just as perilous the support as the opposition of immediate annexation." Thirty Years' View, II, p. 589.

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also.[1] Lord Aberdeen had refused, in his answer, to enter into details, in any manner, but he had given the general assurance that the government was doing, and would do, everything to fulfill the wishes expressed.[2] When Everett interpelled him on the subject, by order of his government, he determinedly repelled only the supposition that England intended to operate through Texas indirectly against the slave-holding interest in the Union.[3] Whether his declaration

[1] "This made him irresistibly anxious for the abolition of slavery in Texas; for if it were abolished there, not only would that country be cultivated by free and white labor, but it would put a stop to the habit of breeding slaves for the Texan market; the consequence would be that they would solve this great question in the history of the United States, for it must ultimately end in the abolition of slavery in America. He therefore looked forward most anxiously to the abolition of slavery in Texas, as he was convinced that it would ultimately end in the abolition of slavery throughout the whole of America. He knew that the Texans would do much, as regarded the abolition of slavery, if Mexico could be induced to recognize their independence. If, therefore, by our good offices, we could get the Mexican government to acknowledge the independence of Texas, he would suggest a hope it might terminate in the abolition of slavery in Texas, and ultimately the whole of the southern states of America. . . . He trusted that the government would not lose any opportunity of pressing the subject, whenever they could do so with a hope or (? of) success." Upshur to Everett, September 28, 1843, after the report of the London "Morning Chronicle." Niles, LXVI, p. 167.

[2] "He was sure that he need hardly say that no one was more anxious than himself to see the abolition of slavery in Texas; and if he could not consent to produce papers, or to give further information, it did not arise from indifference, but from quite a contrary reason. . . . But he could assure his noble friend that by means of urging the negotiations, as well as by every other means in their power, her majesty's ministers would press this matter." l. c.

[3] Everett to Upshur, November 3, 1843: "I observed that it [the dialogue between him and Brougham] was capable of being interpreted as a declaration on his part that her majesty's government were engaged in negotiations with Mexico for the abolition of slavery in Texas, not so much for the sake of effecting that object in Texas as in the United States. Lord Aberdeen said that Lord Brougham, in avowing his entire satisfaction with his [Lord Aberdeen's] explanation, could only have referred to the matter

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that the United States had not the slightest cause for disquietude was of any value depended, of course, on the question, how sensitive the slave-holding interest was considered; and, on this question, his lordship and the slave-holders held very different opinions.

An oral witness had told the representative of Texas in London that the deputation of an abolitionist meeting had been promised by Lord Aberdeen that the interest of a loan which, according to Andrews's plan, was to be taken in behalf of the abolition of slavery in Texas, would be guaranteed. This assertion falls to the ground in view of the express declaration of the minister that he had not given the proposition the least encouragement.[1] Just as untenable are all the assertions to the effect that England had made the recognition of the independence of Texas, on the part of Mexico, dependent on the abolition of slavery; and the administration in Washington was informed of this by a dispatch of its ambassador of the 3d of November. England's action in this question was confined to the recommendation made to Mexico,[2] to employ the recognition of Texas' independence — on which it should be determined under all circumstances — to induce Texas to abolish slavery. England, therefore, did not

which was the direct object of inquiry, viz: The negotiations with Mexico for the recognition of the independence of Texas, and the earnest hope that the abolition of slavery might be effected by such an arrangement; . . . that I might be perfectly satisfied that England had nothing in view in reference to Texas, which ought, in the slightest degree, to cause uneasiness in the United States." Niles, LXVI, p. 169.

[1] " . . . that he had given them no countenance whatever; he had informed them that, by every proper means of influence, he would encourage the abolition of slavery, and that he had recommended the Mexican government to interest itself in the matter." l. c. It has already been said that Ashbel Smith himself, in 1875, declared the complaints of Calhoun against the English cabinet entirely groundless.

[2] "But Lord Aberdeen added, that he could not say that this recommendation had been listened to with any degree of favor." l. c.

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permit herself to be satisfied with pious wishes, but, as Lord Aberdeen unreservedly granted, in his letter of the 26th of December, she gave her advice and made use of her influence in the interest of universal emancipation; but she had exerted no pressure to attain this end, to say nothing of its having occurred to her to impose material burthens of any kind upon herself to see her wish realized in Texas.[1]

What now did Calhoun make out of this state of facts?

[1] " . . . we have put ourselves forward in pressing the government of Mexico to acknowledge Texas as independent. But in thus acting we have no occult design, either with reference to any peculiar influence which we might seek to establish in Mexico or in Texas, or even with reference to the slavery which now exists, and which we desire to see abolished in Texas.

" With regard to the latter point, it must be and is well known, both to the United States and to the whole world, that Great Britain desires, and is constantly exerting herself to procure, the general abolition of slavery throughout the world. But the means which she has adopted, and will continue to adopt, for this humane and virtuous purpose, are open and undisguised. She will do nothing secretly or underhand. She desires that her motives may be generally understood, and her acts seen by all.

" With regard to Texas, we avow that we wish to see slavery abolished there, as elsewhere; and we should rejoice if the recognition of that country by the Mexican government should be accompanied by an engagement on the part of Texas to abolish slavery eventually, and under proper conditions, throughout the republic. But although we earnestly desire and feel it to be our duty to promote such a consummation, we shall not interfere unduly, or with an improper assumption of authority, with either party, in order to insure the adoption of such a course. We shall counsel, but we shall not seek to compel, or unduly control, either party.

" . . . she [Great Britain] has no thought or intention of seeking to act directly or indirectly, in a political sense, on the United States through Texas.

" . . . the governments of the slaveholding states may be assured that, although we shall not desist from those open and honest efforts which we have constantly made for procuring the abolition of slavery throughout the world, we shall neither openly nor secretly resort to any measures which can tend to disturb their internal tranquillity, or thereby to affect the prosperity of the American Union." The whole so-called Packenham correspondence is printed also in Calh.'s Works, V, pp. 330 seq.

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Who can accurately determine how far a diplomat and statesman may exceed the limits which truth and honor place to the employment of sophistical dialectics in private life, in order to realize his views on the demands of the interests of the state? But, verily, one need not be a narrow-minded moralist to say that Calhoun, in this case, went altogether too far beyond them.

Calhoun starts out with the serious alarm caused the president by the admission that England was laboring for the abolition of slavery in the entire world. Naturally enough, the secretary of state did not wish to make himself and the president a laughing stock, by the pretext which they now hit upon for the first time, but which the birds on every house-top had been chirping for years. In his opinion, the reader should, it was plain, seek the explanation of the sudden anxiety in this, that the fact with which all the world was familiar, was now, "for the first time," avowed in an official document, in express terms. But why this should be so very important it is not possible to discover, and Calhoun takes care not to say the least word about it. With bold evasiveness, he carries on his argument as if the slaveholding states of the world had, by this means, for the first time, obtained information of the fact which had made itself felt in the United States, in many ways, and which had repeatedly led to serious differences between the two nations.[1]

[1] ". . . The president . . . at the same time regards with deep concern the avowal, for the first time made to this government, 'that Great Britain desires and is constantly exerting herself to procure the general abolition of slavery throughout the world.'

"So long as Great Britain confined herself to the abolition of slavery in her own possessions and colonies, no other country had a right to complain. It belonged to her exclusively to determine, according to her own views of policy, whether it should be done or not. But when she goes beyond, and avows it as her settled policy, and the object of her constant exertions, to abolish it throughout the world, she makes it the duty of all other coun-

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The ultimate source of all these differences was England's conviction of the immorality and perniciousness of slavery, and her endeavor, prompted by this conviction, to put obstacles in its way wherever an opportunity offered. And Lord Aberdeen's declaration affirmed nothing more than that England would act in the very same way in future. That declaration referred to no concrete measures whatever, but only designated the general tendency of English policy; and there was no change in the latter nor even an intensification of it contemplated, but, on the contrary, it was expressly said that it was to remain unaltered. And how could it have been otherwise, since Lord Aberdeen's dispatch had no object but to exercise a quieting influence on the United States?

The public was put in the right mood by the cry of "fire." Now it was possible to convince that same public that a spark was a flaming fire.

Still greater solicitude, Calhoun continued, was caused to the president by the admission that England desired the abolition of slavery in Texas, and that she was trying to determine Mexico to connect its recognition of Texan independence with this condition. This admission had made it the duty of the president to examine the consequences which the realization of this wish would have for the United States, and he had become convinced that the government of the Union would have to prevent it by the most effectual measures.[1]

tries, whose safety or prosperity may be endangered by her policy, to adopt such measures as they may deem necessary for their protection."

[1] "It is with still deeper concern the president regards the avowal of Lord Aberdeen of the desire of Great Britain to see slavery abolished in Texas, and, as he infers, is endeavoring, through her diplomacy, to accomplish it, by making the abolition of slavery one of the conditions on which Mexico should acknowledge her independence. It has confirmed his previous impressions as to the policy of Great Britain in reference to Texas, and made it his duty to examine with much care and solicitude what would be its effects on the prosperity and safety of the United States, should she succeed in her endeavors. . . . It is felt to be the imperious duty of

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Now Aberdeen's letter said nothing that was new on England's attitude toward slavery in Texas. If Tyler had beforehand only "impressions" in relation to it, he could have nothing more now. Lord Aberdeen had told Everett previously, precisely what he wrote now, and Everett had informed his government of it, on the 3d of November, in almost the same words. Hence, either Tyler was not, for the first time, induced by Aberdeen's letter to make his weighty reflections, or he had needed months to recognize that England's policy made these reflections his duty.

Calhoun then announced that the incorporation of Texas into the Union was the most effectual measure, and that, therefore, a treaty of annexation had been closed. Hence, Texas had to be annexed in consequence of Lord Aberdeen's letter. The United States were not responsible for the circumstances which made it a duty of self-preservation to accede at last to the wishes of Texas for annexation. To confirm the truth of this assertion, the secretary of state says that the United States had done nothing to bring about the severance of Texas from Mexico, and that they had remained passive until England had forced them to take action by her policy.[1] These asser-

the Federal government, the common representative and protector of the states of the Union, to adopt, in self-defense, the most effectual measures to defeat it."

[1] "To hazard consequences which would be so dangerous to the prosperity and safety of this Union, without resorting to the most effective measures to prevent them, would be, on the part of the Federal government, an abandonment of the most solemn obligation imposed by the guaranty which the states, in adopting the constitution, entered into to protect each other against whatever might endanger their safety, whether from without or within. Acting in obedience to this obligation, on which our federal system of government rests, the president directs me to inform you that a treaty has been concluded between the United States and Texas, for the annexation of the latter to the former as a part of its territory, which will be submitted without delay to the senate, for its approval. This step has been taken as the most effectual, if not the only means of guard-

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tions need no commentary after the documentary history of the question of annexation has been told. Calhoun might boast of having effected the annexation. His is also the fame of having crowned all the underhand dealing, all the fraud and falsehood which characterized this job, from the beginning, with a conscious lie than which a more shameless or monstrous one never came from the mouth of a diplomatist.[1]

But there was an incontestable truth bound up with the lie, and if the political moral code of certain people permitted them to come to terms with the latter, by means of the principle: one should not make much ado about a pretext, for when a person has not a good one, he must make use of a bad one — the former could not be gotten rid of by any sophistry or by any morality, no matter how pliant, and the fate of the republic was bound up with it. It was no lie that the policy of England sent the blood with force to the brain of this most gifted representative of the slavocratic instincts, and that he was most deeply convinced, yea,

ing against the threatened danger, and securing their permanent peace and welfare. . . . The United States have heretofore declined to meet her [Texas'] wishes; but the time has now arrived when they can no longer refuse, consistently with their own security and peace, and the sacred obligation imposed by their constitutional compact for mutual defense and protection. Nor are they any way responsible for the circumstances which have imposed this obligation on them. They had no agency in bringing about the state of things which had terminated in the separation of Texas from Mexico. . . . They are equally without responsibility for that state of things already adverted to as the immediate cause of imposing on them, in self-defense, the obligation of adopting the measures they have. They remained passive so long as the policy on the part of Great Britain, which has led to its adoption, had no immediate bearing on their peace and safety."

[1] Let only the following dates be borne in mind: On the 23d of May, 1836, the same Calhoun had declared in the senate annexation to be necessary; on the 16th of October, 1843, Upshur made the formal proposition of annexation; on the 26th of December, 1843, Lord Aberdeen wrote his dispatch, and on the 26th of February, 1844, Packenham sent a copy of it to Upshur.

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that it was to him a palpable fact — that this policy placed the slavocracy before the decisive alternative, and that procrastination was inevitable ruin. Calhoun had recognized, and he confessed, that England did not need to go a step beyond the line designated in Lord Aberdeen's letter, to make slavery in Texas impossible, in case it remained independent; and he had recognized and he confessed, that a Texas without slavery and the permanent continuance of slavery in the Union, were irreconcilable.[1] If the opponents of the slavocracy contested this, not only were they in error, but they were guilty of a piece of folly, since herein lay the most destructive judgment which could be passed on

[1] "The investigation has resulted in the settled conviction that it would be difficult for Texas, in her actual condition, to resist what she [Great Britain] desires, without supposing the influence and exertions of Great Britain would be extended beyond the limits assigned by Lord Aberdeen; and this, if Texas could not resist the consummation of the object of her desire, would endanger both the safety and prosperity of the Union. . .

"It is sufficient to say, that the consummation of the avowed object of her wishes in reference to Texas would be followed by hostile feelings and relations between that country and the United States, which could not fail to place her under the influence and control of Great Britain. This, from the geographical position of Texas, would expose the weakest and most vulnerable portion of our frontier to inroads, and place in the power of Great Britain the most efficient means of effecting in the neighboring states of this Union what she avows to be her desire to do in all countries where slavery exists."

Tyler says the same thing in his message of the 22d of April, in different words: "Least of all, was it [the executive] ignorant of the anxiety of other powers to induce Mexico to enter into terms of reconciliation with Texas, which, affecting the domestic institutions of Texas, would operate most injuriously upon the United States, and might most seriously threaten the existence of this happy Union. . . . .

"I repeat, the executive saw Texas in a state of almost hopeless exhaustion, and the question was narrowed down to the simple proposition, whether the United States should accept the boon of annexation on fair and liberal terms, or, by refusing to do so, force Texas to seek a refuge in the arms of some other power." Statesm.'s Man., II, pp. 1465, 1466.

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slavery. The slavocracy itself declared that there existed, between it and liberty, a conflict of principle so irreconcilable that it was placed before the question of life or death, by the simple fact of the neighborhood of independent states, in which slavery did not exist. Did it not follow directly from this, that its political connection with free states was possible only on the supposition of the complete bondage of the latter? Could there be a more forcible proof of this afforded, than the demand which the slavocracy now made, in consequence of that fact? The slavocracy was an interest possessed of rights under the constitution — it was threatened — it demanded protection — and effectual protection could be afforded it only by the prevention, by the Union, of the abolition of slavery in Texas. This is the immense meaning of the first letter to Packenham. It was not only a fact that Texas was to be annexed to make the continued existence of slavery possible there, but the fact was officially declared before the whole world, by the executive of the Union. Slavery in the states was — there was only one man, John Quincy Adams, in the whole nation who contested it — withdrawn from all legislative action of the general government, but it was "the sacred duty" of the Union to prevent the abolition of slavery in the neighboring countries.[1]

[1] There were influential politicians who even vindicated for the south the right to prevent the abolition of slavery, by force, even if Texas should resolve on it, free from all foreign influence. Governor Troup, of Georgia, writes on the 3d of June, 1844: "The slavery question has reached its crisis. . . .

"If Texas had her acknowledged sovereignty and jurisdiction and rights of property — absolved from all connection with Mexico, and were to presume to do, in relation to slavery, what England would persuade her to do, and what Mexico would force her to do — the entire of the southern states (if one community), would have a right, by the law of nations, as a measure of safety, to protest against any such doing, and to follow up that protest by acts of war and reprisal — having justifiable cause of war in self defense. I say, admitting Texas to be among the most independent of

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It had to do it by the most "effectual means," that is, to prevent the breaking of the chain it would have to add that very chain to the others which already bound its arms. The letter to Packenham was the official proclamation of the "nationalization" of slavery. The annexation of Texas would be the nation's sanction of this nationalization. It should not, without any more ado, be inferred from the fact of annexation that the nation approved all the views on slavery expressed by Calhoun in the letter to Packenham, although it was certainly very significant, that the secretary of state ventured, in an official letter, that is, in the name of the federal executive, to give vent to his opinions, broadly and emphatically, on the blessings of slavery;[1] but annexa-

nations, and having supreme control over her slave population, Texas would still be subject to the same limitation and restriction in her use and control of that population, as all states and individuals would be by law of nature and nations, viz: so to control and use that population, as not to interfere with the rights of her neighbors — especially the rights which appertain to the same description of population. If Texas, following the example of Mexico, were to pass an act of emancipation, well knowing that the same population would instantaneously cross the line to poison and corrupt and incite their own color to cut the throats of the women and children on this side, no doubt could be entertained by the strictest casuist of the right of the southern states (the Federal government refusing its aid), to protect themselves by all the means in their power as a case of imminent peril, and one not admitting of delay." Niles, LXVI, pp. 327, 328.

[1] "He [the undersigned] does not, however, deem it irrelevant to state that, if the experience of more than half a century is to decide, it would be neither humane nor wise in them to change their policy. The census and other authentic documents show that, in all instances in which the states have changed the former relation between the two races, the condition of the African, instead of being improved, has become worse. They have been invariably sunk into vice and pauperism, accompanied by the bodily and mental inflictions incident thereto — deafness, blindness, insanity and idiocy — to a degree without example; while, in all other states which have retained the ancient relation between them, they have improved in every respect — in number, comfort, intelligence and morals. . . . On the other hand, the census and other authentic sources of information

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tion was, incontestably, the actual assumption of the alleged obligation, to go so far even as to engage in slavery-propa-

establish the fact that the condition of the African race throughout all the states, where the ancient relation between the two has been retained, enjoys a degree of health and comfort which may well compare with that of the laboring population of any country in Christendom; and it may be added, that in no other condition, or in any other age or country, has the negro race ever attained so high an elevation in morals, intelligence or civilization. . . . Experience has proved that the existing relation, in which the one is subject to the other, in the slaveholding states, is consistent with the peace and safety of both, with great improvement to the inferior; while the same experience proves that the relation which it is the desire and object of Great Britain to substitute in its stead in this and all other countries, under the plausible name of the abolition of slavery, would (if it did not destroy the inferior by conflicts, to which it would lead) reduce it to the extremes of vice and wretchedness." It is interesting to hear the judgment of the ultra-democratic "Democratic Review" (Jan., 1845, p. 8) on the Packenham correspondence, and especially on these utterances, and this all the more because that periodical strongly advocated immediate annexation, and said in the same article, of its own attitude towards Calhoun: "For us to declare our exalted admiration, respect, and even attachment, for Mr. Calhoun would be superfluous enough, after the evidences of it with which former pages of this 'Review' have abounded." The "Review" says: "What has become of the southern doctrine, what of the northern democratic position, that the institution of slavery, whether a good or an evil, was a local and not a national, a municipal and not a federal institution, with which the free states had nothing to do, for which they were in nowise responsible, either to their own conscience or to the judgment of the world, even though it existed on the common ground of the District of Columbia? What has become of this position, after a southern president and a southern secretary of state, and that secretary John C. Calhoun, of all men living, have so nationalized, so federalized, the question, as we have lately seen done? When that has not only been acted upon, but avowed, argued, vehemently urged — that, and that almost exclusively — as the ground for a large and momentous measure of national policy; involving the annexation of territory enough for a kingdom; the assumption of at least a menaced war; a war possibly to be backed by England; in an unascertained condition of the public sentiment of our country; in certain disregard of the earnest objection of at least a very large minority among ourselves; the whole done, moreover, in a manner of most unusual volunteer precipitation, soliciting even with threats the

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gandism in the defense of the interests of the slavocracy, and, confessedly, even at the risk of a war.[1]

With the conclusion of the annexation treaty it was decided that Texas would be the decisive element in the presidential election of 1844. Even in December, Clay thought that the alarm started by Tyler should be noticed as little as possible.[2] Now no one could think of presenting himself be-

compliance of Texas itself; and actually pledging the military intervention of the country, by simple unconstitutional executive promise, to plunge directly into war with Mexico, if she should execute her threat of immediate invasion of Texas; and this while congress, the sole war-making authority under the constitution, is in session. Nay, more, what shall be said of our volunteer discussion of the essential merits of this peculiar local institution, through the peculiar organ of our collective nationality, for which, if for anything, the Union, and the whole Union, is emphatically responsible, in public diplomatic papers, addressed to England, to France, to the whole civilized world? If all this can be done by great southern statesmen, on the avowed ground, the almost exclusively avowed ground of strengthening and preserving the institution of slavery, what, we repeat, becomes of the above stated position of the state-rights party at north and south, the democratic party of strict constitutional construction?"

[1] ". . . The president enjoins it on you to give it [the Mexican government] . . . the strongest assurance . . . that the step was forced on the government of the United States, in self-defense, in consequence of the policy adopted by Great Britain in reference to the abolition of slavery in Texas. It was impossible for the United States to witness with indifference the efforts of Great Britain to abolish slavery there. They could not but see that she had the means in her power, in the actual condition of Texas, to accomplish the objects of her policy, unless prevented by the most efficient measures; and that, if accomplished, it would lead to a state of things dangerous in the extreme to the adjacent states, and the Union itself. Seeing this, this government has been compelled, by the necessity of the case, and a regard to its constitutional obligations, to take the step it has, as the only certain and effectual means of preventing it. It has taken it in full view of all possible consequences (!), but not without a desire and hope that a full and fair disclosure of the causes which induced it to do so would prevent the disturbance of the harmony subsisting between the two countries, which the United States is anxious to preserve." Sen. Doc., 28th Congr., 1st Sess., Vol. V, No. 341, p. 54.

[2] Adams writes December 15, 1843: "Mr. John J. Crittenden, one of the

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fore the people as a candidate without having taken a decided attitude towards this question.

Clay made his confession of faith, in a letter of the 17th of April, to the publisher of the *National Intelligencer*.[1] He occupied the strongest position of all the candidates, inasmuch as he had been the leader of the opposition, in 1819, in the house of representatives, against the Florida treaty, by which the doubtful claims of the United States to the territory reaching to the Rio del Norte had been surrendered. Hence, when he now properly made short work of those who ventured to talk of a simple resumption of the old title of possession, he carried all the more weight.[2] But he weakened the moral force of his judgment, by the presumably election-wise caution with which he avoided saying clearly, whether he would, under any circumstances whatever, consider the acquisition of Texas desirable. Towards the end of his letter, indeed, he remarked how excellent it would be, if the United States had Canada and Texas at their

senators from the state of Kentucky, left with me for my perusal a private and confidential letter from H. Clay to him on the subject of Texas, dated the 5th of this month. He thinks Texas in Tyler's hands is a mere firebrand, to be noticed as little as possible. Mr. Crittenden concurs with him in opinion." Mem. of J. Q. Adams, XI, p. 449.

[1] Niles, LXVI, pp. 152, 153.

[2] "It is, therefore, perfectly idle and ridiculous, if not dishonorable, to talk of resuming our title to Texas, as if we had never parted with it. We can no more do that than Spain can resume Florida. France Louisiana, or Great Britain the thirteen colonies, now composing a part of the United States." The annexionists now spoke only of "re-annexation." Ashley, of Arkasas, had the face to say in the senate: "He claimed that this territory belongs to us now; that we had never parted with it; that we had no power to part with it. He claimed that, by the concurrent authority of every prominent man in the country, we did acquire Texas by the treaty of 1803. . . . Assuming that as true then, . . . how did she lose her citizenship or nationality by any act to which she did not consent?" Deb. of Congr., XV, p. 215.

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side as sister republics, but he did not say that this would be best. The argument proper was directed exclusively against the particular circumstances under which the annexation had now to be brought about.[1] Of these, he laid the greatest stress on the inevitableness of a war with Mexico,[2] and on the decided opposition of a great portion of the nation. It was even deserving of censure, that the executive, without being able to rely on a wish of the public opinion of the country expressed so that it could not be ignored, had, of his own motion, undertaken a project of so much importance; and he was all the more to be blamed, since he had not obtained even the advice of the representatives of the people. But, even leaving the unbecoming manner in which the matter had been carried on out of consideration, every true patriot must be opposed to the project, for the simple reason that it was disapproved of by so many. The first and chief task was plainly to make the existing Union firm and happy. Hence new elements should not be incorporated into it, if it was certain that great dissatisfaction and a weakening of the Union would be the consequences.[3] But it

[1] "If, without the loss of national character, without the hazard of foreign war, with the general concurrence of the nation, without any danger to the integrity of the Union, and without giving unreasonable price for Texas, the question of annexation were presented, it would appear in quite a different light from that in which, I apprehend, it is now to be regarded."

[2] "Annexation and war with Mexico are indentical."

[3] "I do not think that Texas ought to be received into the Union, as an integral part of it, in decided opposition to the wishes of a considerable and respectable portion of the confederacy. I think it far more wise and important to compose and harmonize the present confederacy, as it now exists, than to introduce a new element of discord and distraction into it. In my humble opinion, it should be the constant and earnest endeavor of American statesmen to eradicate prejudices, to cultivate and foster concord, and to produce general contentment among all parts of our confederacy, And true wisdom, it seems to me, points to the duty of rendering its present

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was entirely absurd to wish to restore the equilibrium between the two halves of the Union, by extensions of territory. There was no seeing where this course might lead to if it were once entered on. And, finally, in a competitive game of grab, the half of the Union, already the weaker, would remain at a disadvantage, since the lion's share of Texas would ultimately fall to the lot of free labor, and hence to the north. As a last objection, Clay adduces the great burthen of the debt of Texas, which would have to be assumed by the Union.

Clay's letter is strongest and most full of conviction in the part which condemns all extension of territory from sectional interest and at the cost of internal harmony. Here, there is less of shrewd calculation than in any other part, and the controlling fundamental tendency of his whole political life, although not with all the warmth which might be expected, finds vent: the greatest of political offenses is shaking the Union. As to the rest, the letter must have left all who had taken a decided position on the one side or the other, dissatisfied. In all very important points, it was either attempted to make the turning of the scales of the balance, on this side or on that, as small as possible, or else the writer did not frankly speak out what he really thought. The reader was compelled to deduce now more and now less, but always something, by his own conclusions, and of course always at the risk of seeing their correctness subsequently contested. There was only one thing of which there was no doubt — that Clay was, under the circumstances existing, opposed to annexation. But, considering the great excitement throughout the whole country, this was not sufficient. More definite declarations were called for by the left wings of both

members happy, prosperous and satisfied with each other, rather than to attempt to introduce alien members, against the common consent, and with the certainty of deep dissatisfaction."

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parties. Clay permitted such declarations to be wrested from him, and he threw the new weight into the scale of the south.

In a letter of the 1st of July, 1844, to St. F. Miller, of Alabama, Clay repels, with some indignation, the insinuation that he had the abolitionists in mind when he spoke of the opposition, whose opinions and wishes should be taken into consideration.[1] This was, unquestionably, in harmony with the truth, but it was not the whole truth. Clay, with diplomatic reticence, passed over the fact that the first and principal reason of the opposition of the states which he had chiefly in view, was the extension of slavery. There was, indeed, a formal but no material justification for distinguishing thus strictly, between the opposition of these states and that of the abolitionists. Hence, too, Clay, on this account, spoke only of the abolitionists and not of their motive. In respect to the latter, indeed, he went a great step beyond his first letter, but allowed himself only a general remark from which his attitude on this definite point might be inferred: he assured the world that, personally, he had nothing to say against annexation.[2]

[1] "You have justly conceived my meaning, when I referred in my Texas letter to a considerable and respectable portion of the confederacy. And you might have strengthened your construction of the paragraph, by reference to the fact, that, at the date of my letter, the states of Ohio, Vermont and Massachusetts had, almost unanimously, declared against annexation. . . . As to the idea of my courting the abolitionists it is perfectly absurd. No man in the United States has been half as much abused by them as I have been." Niles, LXVI, p. 372.

[2] "Personally I could have no objection to the annexation of Texas."

It is interesting to note how plainly it appeared that, here again, the mediating attitude of Clay was determined by the geographical situation of Kentucky. "From developments now being made in South Carolina, it is perfectly manifest that a party exists in that state seeking a dissolution of the Union, and for that purpose employing the pretext of the rejection of Mr. Tyler's abominable treaty. South Carolina, being surrounded by slave states, would, in the event of a dissolution of the Union,

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He did not succeed now, either, in the untrue wiping out of differences. A demand for plainer declarations came from Alabama. In his answer of the 27th of July, he confessed himself a friend of annexation, in case it could be brought about without giving occasion to the objections previously raised, and he promised, as president, to allow himself to be guided, in this question, by the circumstances of the moment entirely. He still accorded a large space among these to public opinion, but he notwithstanding said it was unwise to drop annexation for the sake of slavery.[1]

The internal untruth, by means of which Clay wished to convince himself and the people, that the question of annexation could and should be judged independently of the question of slavery, was made entirely clear by this letter. This, however, sufficed to make those whigs drop away from him, who considered annexation as the principal question in this electoral campaign, and who either favored it or uncon-

suffer only comparative evils; but it is otherwise with Kentucky. She has the boundary of the Ohio extending five hundred miles on the three free states — what would her condition be in the event of the greatest calamity that could befall this nation?

"In Kentucky, the Texas question will do the whig cause no prejudice."

[1] "But, gentlemen, you are desirous of knowing by what policy I would be guided, in the event of my election as chief magistrate of the United States, in reference to the question of the annexation of Texas. I do not think it right to announce in advance what will be the course of a future administration in respect to a question with a foreign power. I have, however, no hesitation in saying that, far from having any personal objection to the annexation of Texas, I should be glad to see it, without dishonor — without war, with the common consent of the Union, and upon just and fair terms. I do not think that the subject of slavery ought to affect the question, one way or the other. Whether Texas be independent, or incorporated in the United States, I do not believe it will prolong or shorten the duration of that institution. It is destined to become extinct, at some distant day, in my opinion, by the operation of the inevitable laws of population. It would be unwise to refuse a permanent acquisition, which will exist as long as the globe remains, on account of a temporary institution." Niles, LXVI, p. 439.

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ditionally rejected it because of slavery. A very large majority of the party was, indeed, satisfied to see the decision indefinitely postponed; but it was a question, whether the issue of the election would not depend on the two mutually opposed small minorities which Clay had alienated from himself by his half-way position.

Van Buren agreed with Clay in all that was essential. A certain Hammet, a representative from Mississippi, had written the letter which was intended to make him state his views, on the 27th of March. Van Buren delayed the making of them public, to the last moment, in order that he might leave his opponents in the party as little time as possible to turn them to account in the nominating convention. He had left himself time enough to make his answer, dated the 20th of April, proof against any objection on account of a want of clearness, and he had allowed himself space enough to leave nothing unsaid which it was important to say. But the very circumstance, that the size of his answer was more in keeping with a brochure than with a letter,[1] must have awakened the suspicion that in both respects his endeavor had been the very reverse. And so it was. It is disgusting to follow the endless meandering paths by which he seeks to creep through the thorny hedge which shut him off from the party nomination, which was already considered entirely certain. It was a hard task, for while, under the existing circumstances, he was obliged to declare himself decidedly opposed to annexation, he had to justify the entire policy of Jackson's and of his own administration towards Texas and Mexico. And, in addition to this, there was the chief point, in respect to which speech and silence were equally ruinous. With two obscure allusions, he skims over the slavery question, whispering in the ears of the hard southern masters, that

[1] It fills in "Niles' Register," twelve and one-half columns of one hundred closely printed lines each. Ibid., pp. 153–157.

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they should, indeed, believe him; that he was now, as he had been before, the northern man with southern principles.[1]

In vain Jackson himself went surety, that the sage of Kinderhook might be trusted, and that he would permit himself to be set right.[2] The southern wing governed the party, and it was resolved, under no circumstances, to allow that to be

[1] "The present condition of the relations between Mexico and Texas may soon be so far changed as to weaken, and perhaps to obviate entirely, the objections against the immediate annexation of the latter to the United States, which I have here set forth, and to place the question on different grounds. Should such a state of things arise, and I be found in charge of the responsible duties of president, you may be assured that I would meet the question, if then presented to me, with a sincere desire to promote the result which I believed best calculated to advance the permanent welfare of the whole country. In the discharge of this, the common duty of all our public functionaries, I would not allow myself to be influenced by local or sectional feelings. I am not, I need hardly say to you, an untried man in my disposition or ability to disregard any feeling of that character in the discharge of official duties. You, as well as all others, have therefore at least some grounds on which to form an opinion as to the probable fidelity with which these assurances would be observed.

" . . . If, after the whole subject had been brought before the country, and fully discussed, as it now will be, the senate and house of representatives, a large portion of the former, and the whole of the latter being chosen by the people, after the question of annexation had been brought before the country for its mature consideration, should express an opinion in favor of annexation, I would hold it to be my further duty to employ the executive power to carry into full and fair effect the wishes of a majority of the people of the existing states, thus constitutionally and solemnly expressed."

[2] "I cannot close these remarks without saying that my regard for Mr. Van Buren is so great, and my confidence in his love of country is strengthened by so long and intimate an acquaintance, that no difference on this subject [the annexation of Texas] can change my opinion of his character. He has evidently prepared his letter from a knowledge only of the circumstances bearing on the subject as they existed at the close of his administration, without a view of the disclosures since made, and which manifest the probability of a dangerous interference with the affairs of Texas by a foreign power." A. Jackson to the editor of the "Nashville Union," May 13, 1844. Niles' Reg., LXVI, p. 328.

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postponed till to-morrow which could be done to-day. Van Buren's adherents had now to suffer because they were the first to enunciate the rule, that the party would have to make the man their candidate for whom the greatest number of votes could be obtained.[1] This, unquestionably, could be claimed no longer for Van Buren, for the annexationists were resolved not to yield, because they were convinced that the resistants would rather submit than persist in their resistance at the risk of witnessing the disruption of the party. The *Spectator*, which was considered Calhoun's organ in Washington, formally announced that it was superfluous to talk any longer of Van Buren's candidacy.[2] The great majority of the delegates to the convention were, indeed, either expressly instructed to vote for Van Buren or chosen, confessedly, on the supposition that they would declare in his favor. This, however, did not disturb "the small but powerful party" of the opponents. For weeks, it had applied itself to its mole-like work in Washington, with the greatest energy. The question of annexation which shook the Union to its base, was not only to be decided before an opportunity was offered to the people to assume some attitude towards it, in a general election, but the decision was to be given by a president who was to be forced on the party contrary to its declared will, so far as anything whatever could be said of

[1] "To ascertain which of the democratic candidates is likely to concentrate the most number of votes in the election, is the obvious path by which the convention must approach its object." Address to the democracy of the United States of "friends of Mr. Van Buren in the District of Columbia." Fall of 1843. Ibid., LXV, p. 24.

[2] "We have, for six months, looked to Mr. Van Buren as the candidate of the democratic party for the presidency, and expected as such to support him, as we had done at the last election. Mr. Calhoun's friends in Virginia coöperated with all their zeal with his friends in the late elections. But Texas has destroyed him; and considering him as beside the presidential canvass, we shall hereafter say but little concerning him in connection with this high office." Niles, LXVI, p. 162.

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an expression of the will of the people, in relation to the setting up of a candidate. It was of no avail that, as has already been said, the democratic representatives of Ohio, in a circular to their constituents, dated the 1st of May, solemnly denounced the intrigue.[1] The moral indignation must have seemed very weak to the person who had caught a glimpse behind the curtain, and who knew how Van Buren had been made a candidate of the "people." It now suited those attacked, for the most part, just as well to continue to play the game above board. Of what avail was the half-true moralizing about the declared will of the people, in relation to persons, among whom those men had, in part, most to say who had themselves done their best to manufacture that will? No one had striven against Calhoun in favor of Van Buren more devotedly, fervently and successfully than Thomas Ritchie of the *Richmond Enquirer*. And Ritchie, the chairman of the democratic state committee of Virginia, now demanded on the 3d of May, in a party meeting, the recall of the instructions given to the delegates.[2] Since, moreover, the bad result of the town elections in Virginia, Connecticut, Maryland and New York had greatly demoralized Van Buren's adherents, they certainly could not expect, spite of all instructions, to have an easy position against the minority, which declared itself irrevocably determined to play *va banque!* on the card Texas.[3]

[1] l. c.

[2] "Resolved, That the democratic central committee be requested forthwith to issue an address to the democratic party of Virginia urging the serious and prompt expression of their opinion on the subject of a re-annexation of Texas to the Union — the propriety of relieving their delegates to the Baltimore convention from the instructions which now bind them, leaving them to the exercise of a sound discretion, or even to instruct them, if they deem it expedient to do so, to cast the vote of Virginia in favor of men known and pledged to be in favor of annexation, and" etc. l. c.

[3] The "South Carolinian," published in Columbia, writes on the 30th of May: "The south is deeply and almost unanimously aroused on the ques-

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It was certain that the majority of the democratic national convention which met in Baltimore on the 27th of May, would vote for Van Buren; but it was yet to be determined whether they would desire his nomination also. Even before the examination of credentials had been begun, the minority of the annexationists opened the battle against the official Van Buren majority. Saunders, of North Carolina, checkmated them by the motion to adopt the rules of the national convention of 1832, as the order of business.[1] By his side stood Walker, of Mississippi, in the role of furious Hagen (of the Nibelungenlied), of the annexationists, and Van Buren's honest adherents were led by B. F. Butler, of New York, who was, at one time, the chief of Van Buren's cabinet. The decisive point in Saunders's motion was the provision that two-thirds of all the votes should be requisite to a nomination. It had been so held, in the convention of 1832, and in that of 1835, after the latter had first declared a simple majority to be sufficient. Van Buren's partisans, therefore,

tion of annexation. This question absorbs all others. Even that all-absorbing and all-corrupting one, the presidency, sinks into insignificance before it. Whigs and democrats drop all their old party differences, and unite on it like brothers — the democrats apparently to a man; and the whigs, also, with the exception of the most blindly infatuated supporters of Mr. Clay. All others seem instinctively to feel that this is a question, not of party but of country, and, to the south, one of absolute self-preservation. Over the south, and some other portions of other sections, Mr. Van Buren is dropped by his most devoted followers. The people are releasing their delegates to the Baltimore convention from their instructions to vote for him, and many of the delegates themselves are declaring against him; and if there were only time for concert of action, he would not probably have received a single vote from the south. For want of this concert he may have been nominated by the convention (which was to meet on Monday last) — probably was so, under the rigid party discipline which secured the appointment of the delegates. Our late private letters from Washington indicate as much, but say that if he is, a third candidate, in favor of annexation, will assuredly be nominated." Niles, LXVI, p. 229.

[1] I follow the report in Niles, LXVI, pp. 211–218.

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took to playing comedy when they represented Saunders's motion as an entirely unheard-of, monstrous offense against the democratic principle of the rule of the majority. If one placed himself on the ground of pure theory, the measure might, at the first blush, seem very expedient; for did it not become more probable, that it would be possible to bring the whole strength of the party into the field, the more unanimously the confidential men of the people had decided in favor of a candidate? Moreover, a combination of the larger states had the majority of the delegates, but, by no means, that of the party also.[1] On the other hand, it was remarked by the other side, that, if any one was to yield, it evidently became the minority to do so, and that it should not be supposed that the majority would do so. If it were in the power of the minority to put obstacles in the way of every candidate of the simple majority, it might, perhaps, happen that the unanimity which seemed so expedient might be obtained only for a man whom no one had greatly desired in fact, and of whom the people knew scarcely more than the name. The theory, indeed, might have been wrangled over to the end of days, and much be brought forward in favor of both sides. Only one thing was incontestable, that neither the one theory nor the other afforded any guaranty whatever, of an agreement between the resolutions of the convention and the wishes of the people. And, indeed, the real question was, by no means, how these wishes might be realized most surely. The only point at issue was, which group of

[1] Walker said: "The states of New York, Pennsylvania, Ohio, and one or two others, exhibited a majority of votes in the convention, but certainly they represented a large minority of the democracy. . . . He opposed a departure from the two-third rule as an abandonment of democratic principles; it was to resign all the hopes and prospects of the party to the control of a minority, and could but terminate in disorganization, division and defeat; . . . it was . . . to consign the democratic party to the hands of those whose motto would appear to be 'rule or ruin.'"

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politicians should obtain the victory over the other. The augurs laughed in one another's face at their discussions of the principles involved. Butler, therefore, soon gave up wasting the strength of his lungs on them. With refreshing sobriety and a frankness deserving of recognition, he put the question in controversy thus: We have the majority for Van Buren; if Saunders's motion is adopted, it is all over with our man.[1] When to this he added that the minority would bring it to such a pass, by their stubbornness, that the convention would dissolve without reaching any result, he knew, better than any one else, how vain was the threat.[2]

The discussions relating to the principles involved were only smoke and dust; but the fight over Saunders's motion was most bitterly serious. And yet, even this latter would

[1] "He had been appointed a delegate to the convention, and accepted his credentials, as did his colleagues, with instructions to support and do all in their power to secure the nomination of a certain person. By consenting to the adoption of the two-third rule, he with them would prove unfaithful to their trust and their honor. He knew well that in voting by simple majority, the friend he was pledged to support would receive ten to fifteen majority, and consequently the nomination. If two-thirds should be required to make a choice, that friend must inevitably be defeated, and that defeat caused by the action of states which could not be claimed as democratic." The last assertion might have been very easily verified, and it was, at all events, a possibility which was of great interest for the theoretical discussion. Butler only forgot that New York belonged to the states in which a democratic victory was very doubtful. Dickinson, of New York, said: "He had no objection to members giving Mr. Van Buren a vote of two-thirds — he should rejoice to see it — but that gentleman was entitled to the nomination at the hands of a majority. It was true New York had been defeated in the last contest, but she would not only call upon Hercules, but put the shoulder to the wheel in good earnest in the next."

[2] "He predicted, if the rule should be carried, dismemberment and final breaking up of the party. If people persisted in going for men, and not measures, a black flag would be raised over them — the pall of death would shroud their hopes, and a funeral dirge might be sung. The convention would have to adjourn *sine die* without effecting a nomination at all."

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have been useless and aimless talk, were it not that both sides knew very well that Van Buren could count on more votes than he had friends in the convention. Yet, virtually, the decision lay with the simple majority, since, in order to assure Van Buren's triumph, all that they needed to do was to decline Saunders's proposition. But that proposition was adopted by the respectable majority of one hundred and forty-eight against one hundred and eighteen votes. It is a remarkable fact, that, of the nays, there were only fourteen from the slave states: the seven belonging to Missouri, which was entirely under Benton's influence; five — exactly the half of the delegation — of always moderate North Carolina, and two out of Maryland's eight votes. The south was almost unanimous against Van Buren, that is, in favor of the immediate annexation of Texas; and the north, in great part, supplied the men who handed Van Buren over to his enemies with a kiss. He was paid the bootless compliment of a majority vote, but, as early as the second ballot, he had only a minority, although he distanced all his competitors until the fourth. He was then outflanked by Cass, who, however, was not able to succeed in obtaining a majority. The number of votes cast for him decreased on the eighth ballot, and now the name of Governor Polk, of Tennessee, appeared, for the first time, but he received only forty-four votes. The democrats of Tennessee had presented Polk's name as a candidate for the vice-presidency,[1] but only once, and only a few days before, was a scarcely perceptible intimation thrown out that he might be selected for the presidency.[2] The ninth ballot was interrupted. The Virginia delegation, which had been

[1] Niles, XLV, p. 343.

[2] "We guess the claims of Mr. Polk and others will be urged privately or publicly, and after two or three ballotings, there will be a cordial, harmonious and strong union upon one of them, who will be hailed as the candidate of the great democratic party with enthusiasm and unanimity." Nashville Union, May 23, 1844. Ibid., LXVI, p. 235.

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unanimously in favor of Saunders's proposition, painfully admitted that it had to give Van Buren up and cast its vote for Polk. This was the signal for the end of the sorry business. "Polk!" "Polk!" was now heard on every side. The states which had already voted were now permitted to correct their vote, and Polk received the entire two hundred and sixty-six votes.[1]

The election of the vice-president did not take much time. On the very first ballot, Silas Wright received nearly all the votes. Benton was of opinion that this choice proved that Van Buren was thrust aside, not so much on account of his attitude towards the question of annexation as because this question of annexation had been used to bring the intrigues, which had been long carried on against him, to a happy termination.[2] It is incontestably true that many democratic politicians did not want to have anything to do with Van Buren, under any circumstances. But to infer from the election of Wright, who entertained the same views on the question of annexation, that the latter was not the chief and decisive element, is a blunder of which so old a politician should not have become guilty. Wright recommended himself to the convention by these very opinions, and by the fact that he was from New York. The annexationists now as little feared to see their circle disturbed by Wright as vice-president, as the whigs expected any evil to them four years before from the nomination of Tyler. They saw in these elements only the sugar which was to sweeten Van Buren's defeat and Polk's nomination for the lukewarm and the resistants. Hence, Wright's decided declina-

[1] Kettlewell, of Baltimore, accompanied his lamentation over the fact that South Carolina had sent no delegation, with the pretty remark: "The convention had passed through the refining fire, and like gold was now the purer for it."

[2] Thomas Benton to Gen. Van Antwerp, June 3, 1844. Niles, LXVI, p. 314.

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tion was, by no means, agreeable to them. This was, indeed, of no great importance. People smiled at the enthusiast McGinnis, of Missouri, who launched his anathema at the dissolving convention because of the fraud which it had practiced on the party and the country.[1] Yet Butler had, immediately after Virginia had declared in favor of Polk, drawn a letter of Van Buren's out of his pocket, which had been anxiously kept secret, in which the latter authorized him to withdraw his name at any time, and then went over with the New York delegation, with a loud flourish of trumpets, into Polk's camp. The gentlemen knew too well how rigid the discipline of the masses was, to permit them to be over solicitous concerning the irreconcilables among the dissatisfied.

The results of the Baltimore convention made the annexationists certain that they would reach the goal they had set themselves in case the democratic party was victorious; they could rely, absolutely, on Polk, and the party had been formally pledged to annexation.[2] They had taken the precaution to make themselves sure of the future, in this manner first, before they allowed a decision on the annexation treaty to be made. It is said that Calhoun obtained from Archer, of Virginia, the chairman of the committee on foreign affairs, the solemn promise that he would delay the senate forty days. Benton's assertion that this term was fixed with relation to the Baltimore convention, which met two days before,

[1] "It has committed a gross fraud — a fraud upon the democratic party — a fraud upon the country. I go against it — Missouri will go against it — I denounce it. I know that it is useless to spend more breath upon the subject here, but the people will see it, and treat it as it deserves to be treated."

[2] "Resolved, . . . that the re-occupation of Oregon and the re-annexation of Texas at the earliest practicable period are great American measures, which this convention recommends to the cordial support of the democracy of the Union." Niles, LXVI, p. 227.

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is unquestionably well founded. However, the administration pretended that this long delay was asked only because Mexico's answer to the notification of the treaty was to arrive by the last day of that term.[1] But this time might, certainly, have been shortened a little; or by dispatching the answer to Packenham immediately after the close of the treaty, some days might have been gained. If no regard whatever was had for the convention, this liberality as to time, was, to say the least, surprising; since, according to Calhoun, England's evil intentions made the greatest dispatch the highest duty of the United States. And what was expected of this whole correspondence with Mexico? Mexico was denied all right to say a word in the transaction between the United States and Texas, and the treaty brand-new was now sent to it, with the exculpatory assurance, that the policy of England had left the United States no possibility for a previous understanding with Mexico. It was told that the United States would not desist from the resolve once taken, even if it cost a war; and, notwithstanding this, the action of the senate was prevented because it was not known whether Mexico would give its consent or not. But it was as easy to find an explanation of the fact that Tyler and Calhoun were desirous to gain time as it was difficult to reconcile these contradictions.

The administration must have been exceedingly hopeful, if it were not convinced, long before the Baltimore convention, that the ratification of the treaty was not to be thought of. Two causes gave the unconditional opponents of annexation a very reasonable prospect, from the very first, that they would find on their side all those whose changing principles were wont to accommodate themselves to the commands of the interest of party, and even some of the violent annexationists opposed to this treaty. If, on the one hand, the

[1] 'Thirty Years' View, II, pp. 608, 609.

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Packenham correspondence had fulfilled its purpose, the consolidation of the south, in relation to the question of annexation, to the extent that Calhoun might have expected; that same correspondence had, on the other hand, made it almost impossible for the senators of the free states to vote for the treaty. Many of the free states might be won over to annexation, but to accomplish it on such official grounds was to impute altogether too much to them. The shrewd calculators wished all the less to expose themselves to any danger in this respect, as they found that they could not at all convince themselves of the necessity of such immoderate haste. They thought that, at best, Tyler's or Calhoun's personal interest might make that haste imperative, and this was to them another reason why they should grant themselves time. The senate by no means accepted, on faith, all that the president and secretary of state were pleased to serve up to it. With great perseverance, it wrung from the unwilling administration one bundle of documents after the other, and the more clearly these exposed the true state of the case, the larger grew the number of those who considered it disgraceful, or, to say the least, inexpedient, to thus harvest the reward of the intrigues of fifteen years. The course adopted against Mexico was subjected to a caustic criticism even by decided annexationists like Benton. All did not find in the intensity of their craving for the possession of Texas the measure of that which the nation's honor allowed, nor the weight which should serve as a counterpoise to a war with Mexico. Moreover, the majority believed that the consideration due to the senate and to the rights of congress had been so grossly infringed upon, by the administration, that it could not overlook the dereliction, simply to obtain Texas a few months sooner. The president was not precisely obliged to consult the senate before the close of the treaty. But it is easy to understand that the senate thought

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that the consideration due it had not been paid it, and looked upon it, that, in a question of so much importance, it was placed before an accomplished fact, as an unbecoming manœuvre. The administration and the defenders of the treaty gave it clearly to be understood that by its rejection Texas might be trifled away forever. Even if they themselves scarcely believed this, the very pretense that they did believe it, proved that, so far as there had been any possibility whatever to do so, the senate should have been forcibly placed before the alternative of dropping Texas entirely or of taking it on the conditions agreed upon without its action. The president, in order to attain this, had not hesitated to take a step, which, if it were not a direct monstrous usurpation, might have, at any moment, the same consequences as such a usurpation. If it was not the duty of the United States to obtain Mexico's previous consent to the annexation—and it certainly seems to me that no such duty existed — the president was under no constitutional obligation to pay any attention to Mexico's declaration, that it would look upon the annexation as a declaration of war; although it, undoubtedly, was a weighty reason not to proceed any further without, at least, coming to a previous understanding with the senate, in case the urgency of the occasion did not really permit him to wait for a sufficient expression of public opinion in the general election. But where did the president get the right to issue the orders to the land and naval forces, already mentioned, in accordance with which the United States were actually to inaugurate the war against Mexico, the moment the latter should make an attack upon Texas? The constitution gives the right to declare war to congress exclusively. Is it possible, from the right of the president to take the initiative in relation to international treaties, to infer his authority to take steps which would make a war the direct consequence of the deportment of a foreign power towards

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a third state? Before the close of the treaty, Tyler had declared himself, through Nelson, incompetent to take these steps, and now he would have it that he acquired the right to take them through that same treaty.[1] Whatever may have been the rights acquired by the United States in relation to Texas or Mexico by the imperfect treaty, certain it is that that treaty could not be to the president the source of rights in his relation to the other factors of the government of the Union. The healthy common sense of the originators of the constitution was contested by the allegation that they had not, indeed, granted the president certain powers, but that they had accorded him a right which he needed only to use in order to acquire these powers. Even the "hope" and the "faith" that the senate would ratify the treaty were better grounds of justification.[2]

[1] "At the same time, it is due to myself that I should declare it as my opinion, that the United States having by the treaty of annexation acquired a title to Texas which requires only the action of the senate to perfect it, no other power could be permitted to invade, and by force of arms to possess itself of, any portion of the territory of Texas, pending your deliberations upon the treaty, without placing itself in a hostile attitude to the United States, and justifying the employment of any means at our disposal to drive back the invasion." Message of May 15, 1844. Statesm.'s Man., II, p. 1468.

[2] "I have to inform the senate that, in consequence of the declaration of Mexico, communicated to this government, and by me laid before congress at the opening of its present session, announcing the determination of Mexico to regard as a declaration of war against her by the United States the definitive ratification of any treaty with Texas annexing the territory of that republic to the United States, and the hope and belief entertained by the executive that the treaty with Texas for that purpose would be speedily approved and ratified by the senate, it was regarded by the executive to have become emphatically its duty to concentrate in the Gulf of Mexico and its vicinity, as a precautionary measure, as large a portion of the home squadron under the command of Captain Connor, as could well be drawn together; and, at the same time, to assemble at Fort Jesup, on the borders of Texas, as large a military force as the demands of the service at other encampments would authorize to be detached." Ibid., p. 1467.

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We need not examine the question, how far Tyler and Calhoun themselves attached, in good faith, any weight to their own arguments. One thing alone was inviolably established for them — that Texas must be acquired, if not in a way in harmony with the theories of the constitution which they had always contended for, in some other manner. On the 8th of June, the senate rejected the treaty by a vote of thirty-five against sixteen.[1] As early as the end of April, before its provisions had become known, it was written from Washington to the *New York True Sun*, that, in this event, other roads to reach the end sought would have to be taken without delay.[2] This prophecy was now fulfilled. On the 10th of June, Tyler sent a message to the house of repre-

[1] Thirty Years' View, II, p. 619; Statesm.'s Man., II, p. 1531.

[2] "The excitement has risen to an intense pitch. The city is thronged with a multitude of Mexican claimants, owners of Texas land, speculators in scrips, and persons interested in a thousand ways for the anticipated treaty. . . . There has an assurance crept out, however, that a proviso limiting the exchange of ratifications to a period of four months has been inserted, so as to compel prompt action by the senate for or against the treaty. If against, then a bill for annexation will be introduced into the house of representatives, and carried through all its stages, from the simple resolution to its final passage. This can be effected by a bare majority vote, like what is required for any other bill, and not a two-thirds vote. There is no doubt that a majority of the house would go for annexation — they must, to secure Van Buren in the south, or rather to prevent his utter extinguishment there — so that the question will be immediately fought over again in the house, if negatived in the senate. Mr. Tyler has pledged himself to call an extra session for that purpose [as I stated some weeks back] should the action of the senate require it.

"There could be no doubt of the passage of such a bill in the house — such an event would be unprecedented but not unconstitutional, and the consent of the senate would still be necessary to its becoming a law. It is supposed that the force of public opinion after such an ordeal would compel the senate to succumb. This is the policy pledged to be followed by the friends of annexation in event of the treaty being rejected by the senate — it is taking strong ground, and shows their determination to effect their objects." Niles, LXVI, p. 132.

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sentatives, to which he appended all the documents relating to the question, including those from which the senate had not, as yet, removed the seal of secrecy. The message was in irreconcilable conflict with the letter of Calhoun, before referred to, to the *chargé d'affaires* in Mexico, and with itself. The secretary of state had said that, for want of time, the president had not been able to seek a previous understanding with Mexico. The president himself now declared that previous negotiations would have been not only fruitless, but that they would have been an offense both to Mexico and Texas.[1] He affirmed, in the same breath, that such negotiations could not be reconciled with the recognition of the independence of Texas by the United States, and gave expression to his readiness richly to compensate for any damage which Mexico would suffer from the annexation.[2] But there had been already so much of contradiction and sordid sophistry of this kind, that we need not waste any more words on them. Hence, the message of the 10th of June brought the question into an entirely new stage, because it was a direct appeal by the president from the senate to congress. There was, indeed, no express provision of the constitution in conflict with this appeal. But the taking of it by the executive was not only without precedent, but it was unquestionably opposed to the spirit of the constitution. The constitution confided the right to make treaties to the executive coöperating with the senate, and not even with a simple majority of the senate, but with a two-thirds majority

[1] "But negotiation, in advance of annexation, would prove not only truly abortive, but might be regarded as offensive to Mexico, and insulting to Texas." Statesm.'s Man., II, p. 1472.

[2] "Nor could we negotiate with Mexico for Texas, without admitting that our recognition of her independence was fraudulent, delusive, or void. . . . to render her [Mexico], in a word, the fullest and most ample recompense for any loss she might convince us she had sustained — fully accords with feelings and views the executive has always entertained."

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of that body. But a majority of the senate even greater than this had rejected the treaty, and the president, in opposition to this decision, called upon the house of representatives, with the express declaration that congress should, in another way, effect the same thing which the ratification of the treaty would have effected.[1] This summons was accompanied by the admission that a treaty would indeed have been the "most suitable" way.[2] Tyler would have hardly been able to deny this, even if he had not taken that way first. It was not the ambition of the originators of the constitution to introduce new politico-diplomatic inventions into the international relations of the Union; and treaties have been, from time immemorial, the form in which independent states express their formal, legally binding agreements on important matters. But what sense could the constitution have in giving the treaty-right to the president and senate, and, at the same time, granting authority to congress actually to exercise that same right; in requiring for the direct exercise of that right a majority of two-thirds of the senate, and being satisfied, in the indirect exercise of it by congress, with a simple majority? Tyler had a simple and crushing answer to these questions. He now confessed, before the entire people and before all the world: how we shall

[1] "The power of congress is, however, fully competent, in some other form of proceeding, to accomplish everything that a formal ratification of the treaty could have accomplished, and I therefore feel that I should but imperfectly discharge my duty to yourselves or the country if I failed to lay before you everything in the possession of the executive, which would enable you to act with full light on the subject, if you should deem proper to take any action upon it."

[2] " . . . while I have regarded the annexation to be accomplished by treaty as the most suitable form in which it could be effected, should congress deem it proper to resort to any other expedient compatible with the constitution, and likely to accomplish the object, I stand prepared to yield my most prompt and active coöperation."

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bring annexation about is a matter of secondary consideration; but bring it about we must.[1]

The question, indeed, might be referred to congress without encroaching on the rights of the senate, and without evading the provisions of the constitution on the treaty-right. This, too, was tried now; only Tyler did not contemplate this mode. On the same day on which Tyler had sent his message to the house of representatives, Benton asked permission, in the senate, to introduce a bill which might meet the demands of those who agreed with the president on the *what*, but who did not look upon the *how*, as a matter of indifference. The president was to be empowered, by a law, to enter into negotiations with Mexico and Texas, in relation to the annexation, and on the following basis: the "state" of Texas was to determine its own limits, but it was not to be larger than the largest state in the Union; the remaining territory was to be divided as nearly as possible equally between the free and slave-holding states; Mexico's consent might be disregarded in case congress should consider it proper to disregard it. Other details were, so far as it was allowable, to be regulated by treaty.[2]

Both Tyler's plain hints and Benton's motions were a programme drawn up for the future, since now, on account of the impending close of the session in a few days, a decision was no longer possible. As a matter of course, the time to the next meeting of congress was not spent in idle waiting. Calhoun made haste first to correct the gross mistake which he had fallen into in his letter of the 19th of April to the secretary of legation, Green, who had officiated as *chargé*

[1] "The great question is, not as to the manner in which it shall be done, but whether it shall be accomplished or not."

[2] I have mentioned only the provisions which are of importance from the standpoint of constitutional law. The bill is printed entire in Deb. of Congr., XV, p. 146.

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d'affaires in Mexico, until the post of minister had been filled anew.[1] The new minister, Wilson Shannon, was commissioned[2] to intimate to the Mexican government, that it had entirely misunderstood the overtures which had been made to it by Green in accordance with that instruction. The general assurance was repeated, that the United States desired to remain friendly and at peace, but the idea that they had wished to lower themselves to acts of humiliation or appeasing declarations was repelled in an excited and haughty tone. On the other hand, a long list of old and new complaints was brought forward with emphatic severity. Unquestionably as the balance was in favor of Mexico, when the accounts of the two states were compared with one another, it could not be contested that it had very recently been guilty of all kinds of derelictions, and thus played effectually

[1] Waddy Thompson had now become a decided opponent of annexation, for the reason that he saw in it great peril to the slavocratic interest. He writes: "If I believed that abolition either was or would become beneficial or necessary for the south, I should certainly be for annexation, as the most certain and best mode of accomplishing the object. I am firmly persuaded, that it is the certain and inevitable tendency of the annexation of Texas to promote the abolition of slavery — more so, indeed, than that of any other measure that has heretofore been proposed." One of his reasons for this idea is the conviction that their slaves would be taken away from all the border states: "Slave labor can be employed in Texas with, at least, twice the profit which it yields in the average of the slave states of the Union. Our slaves will then be carried to Texas by the force of a law as great and certain as that by which water finds its level. The slaves will very soon disappear from Maryland, Virginia, North Carolina, Tennessee and Kentucky, and in a period very short for such an operation those states will become non-slave-holding states. Whenever that is the case, they will not only no longer have a common interest with the remaining slave-holding states, but will very soon partake of that fanatical spirit of a false philanthropy which is now pervading the whole world. Thus shall we lose the most important of our allies — most important in numerical strength at the ballot-box, still more important if we should be driven to the cartouch-box as our last defense." The Democratic Review, September, 1844, p. 259.

[2] Instruction of the 20th of June, 1844. Calh.'s Works, V, pp. 349–356.

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into the hands of the annexationists. Even where its right was as clear as the sun, it always knew, with unfortunate skill, how to give its urging of it the form which the highest and completest utilization of its cardinal wrong — its weakness, permitted.

Anson Jones, the Texan secretary of state, notified the minister of the United States, General Howard, on the 6th of August, that Mexico intended a new invasion, and called for the aid promised by Murphy, on the 14th of February, and by Calhoun on the 11th of April.[1] Howard, in his answer of the same date, called attention to the fact, that Murphy had been disavowed by his government, and remarked that Calhoun had confined his assurances to the time during which the treaty of annexation was pending.[2] Calhoun, in a letter of the 10th of September, gave his approbation to this "construction" of the two letters in question. This, however, did not keep him from giving a much more liberal interpretation himself to his promises. The government of the United States was now to be obliged to protect Texas against Mexico, not only until the decision on the treaty of annexation, but while the question of annexation was pending.[3] On the same day, Shannon was instructed in great detail what he had to do to perform this "obligation."

General Woll, who commanded the Mexican "Army of the North," had announced the resumption of hostilities against the "department of Texas" in an army order of the 20th of

[1] Calh.'s Works, V, pp. 357, 358.

[2] Ibid., pp. 361–363.

[3] "But he instructs you to assure the government of Texas that he feels the full force of the obligation of this government to protect Texas, pending the question of annexation, against the attacks which Mexico may make on her, in consequence of her acceptance of the proposition of this government to open negotiations on the subject of annexing Texas to the United States. As far as it relates to the executive department, he is prepared to use all its powers for that purpose." Ibid, p. 378.

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June which reeked with blood: whoever maintained any intercourse with Texas or came within a mile of the left bank of the Rio Bravo was to be shot, conformably to martial law, and whoever fled at the approach of the Mexican troops was to be pursued until captured or killed. It was so questionable, whether Mexico would be in a condition to make even an attempt at invasion, that this announcement in the main could be looked upon only as a monstrous rodomontade of impotent rage. But it might readily happen that occasions might offer to illustrate it practically by isolated cases of atrocity; and considering the experience hitherto had, it was not to be hoped that such occasions would not be taken advantage of. It was, therefore, an exaggeration, when many of the opponents of annexation, and especially the abolitionists, acted as if Woll's army order could not have been properly used as a pretext for any step whatever by the government of the Union.[1] The administration certainly made as much capital as possible out of its humanity and moral indignation; but it is just as certain that it had a right and had reason to enter its protest against a mode of warfare which seemed to wish to take the barbarity of the Indians for its model.

But Calhoun did not stop here. Nay, he did not think it necessary to put this in the foreground. Although he began by discharging himself at length on the "savage ferocity" with which Mexico intended to carry on the war, he took care to allow no doubt to suggest itself that the intention to renew the war was, in itself, the main thing. He deduces the right of the United States to record their protest not from their moral obligation, as the first power of the continent, to preserve the new world from the shame and the sorrow of such horrors. The end aimed at by Mexico, he

[1] Thus, for instance, Jay says: "The threats of the Mexicans were, indeed, idle words." Review of the Mexican War, p. 96.

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made the basis of his argument. It was the duty of the United States to Texas — and the protection of their own interests warranted it — to put a veto on the resumption of hostilities, because Mexico wished to prevent the annexation.[1] The senate had given it to be understood, in a very unambiguous manner, that it, at least in what concerned the president's independent initiative, did not share the opinion from which the executive had inferred his authority to make the promises which the secretary of state had made to Texas in

[1] "Shall we stand by and witness in silence the renewal of the war and its prosecution in this bloodthirsty and desolating spirit? In order to answer it fully and satisfactorily, it will be necessary to inquire first into her object for renewing the war at this time. There can be but one, and that is, to defeat the annexation of Texas to our Union. She knows full well that the rejection of the treaty has but postponed the question of annexation. . . . The alternative [for Mexico] is to drive out the inhabitants and desolate the country, or force her [Texas] into some foreign and unnatural alliance. . . . Shall we stand by and permit it to be consummated, and thereby defeat a measure long cherished, and indispensable alike to the safety and welfare of the United States and Texas? . . . Shall we stand by quietly and permit Mexico to defeat it, without making an effort to oppose her? Shall we, after this long and continued effort to annex Texas, now when the measure is about to be consummated, allow Mexico to put it aside, perhaps forever? Shall the 'golden opportunity' be lost, never again to return? Shall we permit Texas, for having accepted an invitation, tendered her at a critical moment, to join us, and consummate a measure essential to their and our permanent peace, welfare and safety, to be desolated, her inhabitants to be butchered or driven out; or, in order to avert so great a calamity, to be forced, against her will, into a strange alliance which would terminate in producing lasting hostilities between her and us, to the permanent injury, and perhaps the ruin, of both? The president has fully and deliberately examined the subject, and has come to the conclusion that honor and humanity, as well as the welfare and safety of both countries, forbid it; and that it is his duty, during the recess of congress, to use all his constitutional means in opposition to it. . . . Entertaining these views, Mexico would make a great mistake if she should suppose that the president would regard with indifference the renewal of the war which she has proclaimed against Texas. Our honor and our interests are both involved."

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his letter of the 11th of April. In consequence of this Calhoun now avoided declaring, in express words, that Texas would be defended by force of arms. Yet the declaration, that the United States would feel themselves "highly offended" by the renewal of the war, and that they would not "permit it," could be look upon only as the cautiously paraphrased threat of armed intervention. That declaration certainly imposed no obligation on the Union, and it, therefore, could not, like the promises of the letter of the 11th of April,[1] be branded as a directly unconstitutional usurpation; but it was, notwithstanding, a bold piece of arbitrariness. With the rejection of the treaty by the senate, the condition precedent to the obligations assumed in it, according to Calhoun's own interpretation of the letter of the 11th of April, disappeared. Annexation, as a question from which international obligations and rights could be deduced, had, for the moment, ceased to exist, for no new obligations had been entered into with Texas, and all that had previously happened was brought to a conclusion by the senate vote of the 8th of June. That Tyler had thought well, in his message of the 10th of June, to call upon the house of representatives to go to work in another way, and that Benton had introduced a bill into the senate relating thereto, could only prove that the president and certain members of congress still desired to do what they could to bring annexation about. The "government of the United States" was not thereby bound in any way, and, officially, Texas had not the

[1] Kent, in a letter of May 21, 1844, to H. L. Raymond, gives his weighty judgment on these, to the effect: "You will perceive that the impeachment power over 'high crimes and misdemeanors' is very broad, as defined and practiced under the sanction of the common law, by which it is to be construed and governed. I think there can be no doubt that the enormous abuses and stretch of power by President Tyler afford ample materials for the exercise of the power of impeachment, and an imperative duty in the house of representatives to put it in practice." Niles, LXVI, p. 226.

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least to do with it.[1] Hence, there was no justification whatever, on the basis of these facts, for representing the question of annexation as "pending," in the sense that, from such pendency, the Union came to have obligations towards Texas and rights in relation to Mexico.[2] Calhoun's argument amounted to this: that the United States had a right, and were obliged, to forbid Mexico a war against Texas, so long

[1] Ashbel Smith says that official as well as unofficial Texas had now only one desire — peace; and that the fulfillment of the wish on the basis of the permanent independence of Texas was prevented only by an accidental circumstance. In June, 1844, Lord Aberdeen, it was said, had proposed to him: "to 'pass a diplomatic act,' in which five powers should be invited to participate, to wit: Great Britain, France, the United States, Texas and Mexico. The basis of the proposed diplomatic act was peace between Texas and Mexico and the permanent separate independence of Texas, the parties to the act to be its guarantors. 'The United States would be invited to be party to the act, but it was not expected that they would accept the invitation.' It was believed Mexico would participate, but, in case of her refusal, England, France and Texas, having passed the act as between themselves, Mexico would be immediately 'forced to abide its terms.' The act if passed only by the three powers would not be abandoned, it would be maintained." France, it was said, acceded to Aberdeen's proposal, and Anson Jones, the Texan secretary of state, had been commanded by President Houston to send Smith the requisite instructions. Jones, who had been chosen next president of the republic, did not, however, obey this order, but had given Smith leave of absence to return to Texas. The motive to this arbitrary step so pregnant with consequences was the desire to reserve for his own administration the honor and merit of so happy a disentanglement of the knot. Reminiscences of the Texas Republic, pp. 61–65.

[2] "... The president would be compelled to regard the invasion of Texas by Mexico, while the question of annexation is pending, as highly offensive to the United States. He instructs you, accordingly, to address, without delay, to the proper department of the Mexican government, a communication, in which you will state the views entertained by him in reference to the renewal of the war while the question of annexation is pending, and the manner in which it is to be conducted; and to protest against both, in strong language, accompanied by declarations that the president cannot regard them with indifference, but as highly offensive to the United States."

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as the wish for annexation had not entirely vanished in them, and so long as expression was given to that wish, in any way whatever, by the executive or in congress.

Mexico repelled the protest with the utmost decision, and even allowed itself to find the frequent use of the word "barbarous," by the United States, not quite proper, since the reconquest of Texas would be the end of slavery there, while the principal object of annexation was, confessedly, its indefinite perpetuation. Tyler considered this attempt to sow dissatisfaction between the two parts of the Union very insulting. He thought that this disgraceful language would warrant the severest chastisement, but his love of peace caused him to be satisfied with urgently recommending annexation once more.[1] His love of peace, however, had not kept him from following Jackson's good example. "The special providence over the United States and little children," as the abbé Correa says, did not fail this time either, to permit a report on the agitations of Mexican agents among the Indians, to reach Washington at the right time. To see to the execution of the treaty of the 5th of April, 1831, with Mexico,

[1] "The extraordinary and highly offensive language which the Mexican government has thought proper to employ in reply to the remonstrance of the executive, through Mr. Shannon, against the renewal of the war with Texas while the question of annexation was pending before congress and the people, and also the proposed manner of conducting that war, will not fail to arrest your attention. . . .

"A course of conduct such as has been described on the part of Mexico, in violation of all friendly feeling, and of the courtesy which should characterize the intercourse between the nations of the earth, might well justify the United States in a resort to any measures to vindicate their national honor; but actuated by a sincere desire to preserve the general peace, and in view of the present condition of Mexico, the executive, resting upon its integrity, and not fearing but that the judgment of the world will duly appreciate its motives, abstains from recommending to congress a resort to measures of redress, and contents itself with reurging upon that body prompt and immediate action on the subject of annexation." Message of Dec. 18, 1844; Statesm.'s Man., II, pp. 1493, 1495.

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Calhoun, therefore, on the 17th of September, that is a few days after the protest, authorized the entry of the Union troops into Texas, as soon as the latter should desire it.[1]

In the White House, therefore, the doctrine inherited from the preceding administrations, in relation to the question of annexation, that as many arrows as possible should be kept in the quiver, was taken very well to heart. But, on this very account, it was seen with the utmost clearness that the decision would have to be looked for in the electoral campaign.

Even before the rejection of the treaty, the southern "fire-eaters" had spoken in the highest strain. In "private letters" which were, of course, intended to receive as wide a circulation as possible, and in public speeches, things were uttered in which it was scarcely possible to distinguish where fool-hardy arrogance stopped and the undissembled insanity of the slavocratic monomania began. Thus, for instance, one of these private letters, from Alabama, declared that the rejection of the treaty would be an evident breach of the compact of the constitution.[2] The writer proposed a convention of the slave states to resolve on the annexation of Texas by the southwestern states, in case it was refused by the Union. The president was to be required to call a meeting of congress without delay, to leave the free states the choice between annexation and the peaceable dissolution of the Union. The declaration that the south would rather let the Union than Texas go, became more and more frequent and emphatic.[3] On motion of General James Hamilton, a meeting in Russell county, Alabama, on the 8th of

[1] Calhoun to Donelson, Calh.'s Works, V, pp. 376, 377.

[2] " . . . if it turn out that the senate reject the treaty, a plain case of an infraction of the compact will have arisen, when the slave states will be justified in the eyes of posterity, and an impartial world, in resorting to the ultimate appeal, if necessary." Niles, LXVI, p. 229.

[3] A considerable number of such resolutions is printed in Niles, LXVI, pp. 230, 313, 405.

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June, resolved on the formal calling of a convention of the southern states, at Richmond, on the third Monday of October.[1] The object of the convention was to be the prevention of the threatened dissolution of the Union, and this object was to be attained by the overthrow or muzzling of all opposition to slavery and the slave-holding interest. An address of the whigs of Richmond[2] very emphatically intimated to the saviors of the Union, that they would have to look for some other place for their experiment to save the house from fire, by burning it down. It had not gone so far yet in Virginia. Even Ritchie himself, in his *Richmond Enquirer*, thought it best to correct all the resolutions of his over-fiery fellow-thinkers, by striking out of them everything that savored of treasonable views. He forgot, however, to inform his readers that he had allowed himself to make such corrections. Hence his assurance that, in making them, he had desired only to give expression to his disapprobation, found no credence among the whigs. They called the corrections forgeries intended to keep the moderate annexationists from becoming timid. It might be said in favor of this view, that the project of a convention received the same reception in other places as was accorded to it by the whigs of Richmond. When it was intended to bestow on Nashville the honor of extending a hospitable welcome to the convention, a mass meeting very decidedly declined it. It availed the "Polk Central Committee of Tennessee" nothing, that it gave its assurance that there was no thought of holding a "sectional convention," but that the intention was rather to celebrate a "national holiday."[3] The distrust and displeasure grew to such proportions that the party leaders thought well to smother up the whole convention

[1] Ibid., p. 313, the very instructive resolutions are printed in full.
[2] Ibid., pp. 404–406.
[3] Ibid., p. 326.

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project as far as possible, and, so far as it could be at all done, to deny it, as if it had never been thought of. The violent excitement, on both sides, was, indeed, not feigned; but propagandism neither for nor against annexation could be made, by means of the dissolution of the Union. Before admission could be obtained for this thought in bitter earnestness, it was necessary that what now only a minority recognized as the simply inevitable consequences of this extension of the slave-territory, should have become facts.

The south had a much more efficient instrument of terrorism against its northern vassals. It now made them pay dearly for their heresies in the economic policy of the country. "Texas or the disruption of the Union" did not avail; but, with many, "Texas or the abolition of the tariff of 1842" had a great effect. There was a large circle of people who entertained an entirely honest repugnance for slavery, but of whom it could not be said that they would, as yet, make any considerable material sacrifices in the struggle against it. They found themselves prepared to do this, only when they had come to recognize that they were face to face not simply with an abstract moral question, but that slavery was sitting bodily by their own hearths; that it was not only making bondsmen of themselves and their children, but that it was eating up the fruits of their labor and the inheritance of their children, with increasing greed.

Party passion was just as effective as the watchword: Texas or a new tariff! given out by Walker. The number of those is everywhere small, who are always conscious that party is only a means towards the attainment of certain ends, and that it is not its own end. Party spirit has permeated the whole of political life in the United States more than anywhere else. Hence it is, that there, more than anywhere else, party has acquired in the imaginations of people as existence independent of the individuals constituting it.

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Party is the political church. The traditions and programmes of parties have something of the binding force of dogmas. Not only on grounds of expediency, but also on grounds of political ethics, limits have to be put to the freedom of individual judgment in its relation to party, so far as that judgment finds expression in acts; and these limits are not permitted to be very wide. The priests of political orthodoxy are not unfrequently turned away from angrily or with contempt; but continuance in the congregation of the orthodox is worth great sacrifices of one's own convictions. As the Roman church has ventured to throw the insult of papal infallibility into the face of healthy common sense, although it could not deny that the papal chair has been disgraced by common criminals who would have deserved the gibbet and the wheel; so, in the United States, the leaders of parties may, and frequently with success, impute to people the sanctioning, for party's sake, of that which, as individuals, they would obviously have condemned unconditionally and in the severest manner.

Tyler set a good example of self-sacrifice to the dissatisfied. He withdrew his name from the list of presidential candidates, on the 20th of August, in order to prevent the splitting up of annexationist votes.[1] The sacrifice he thus made was, indeed, not great. He was at last obliged to convince himself that his candidacy was completely hopeless, and even if the democrats did not treat him courteously, and frequently not even with leniency, they had not endeavored systematically and violently, like the whigs, to brand him as a man without honor, and as a traitor. Every per-

[1] Niles, LXVI, pp. 416–418. In the letter of resignation we may read, but only between the lines, that this was his chief motive. He, however, expressly says that the question of annexation was one of the grounds of his acceptance of the candidacy: "I had also an indistinct hope that the great question of the annexation of Texas might, in some degree, be controlled by the position I occupied."

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sonal consideration, therefore, urged him to throw himself again unreservedly into the arms of his first political love, even if he could not hope that she would forgive and forget his previous infidelity, for the sake of what was, under the circumstances, a great service.

On the other hand, a real sacrifice was imputed to those democrats who would either hear nothing at all of annexation, or, at least, not under existing circumstances. The right had never as yet been conceded to a nominating convention to invent new articles of faith for parties at pleasure. But the great majority of the delegates to the Baltimore convention had been chosen without any regard to Texas. The adoption of annexation in the platform was, therefore, a bold usurpation, which was by no means binding on the party. There were to be found, even among the northern democrats, men who would not submit without any more ado to this arbitrary rule of the wire-pullers. The opposition assumed the most threatening attitude precisely in New York, which, at best, was very doubtful and yet exceedingly weighty, because of the large number of its electoral votes. Among its leaders, the poet, William Cullen Bryant, publisher of the *Evening Post*, deserves special mention. Yet, they were not able so far to conquer themselves as to say good-bye to the party whose immense majority the convention now followed. They thought out a compromise which makes their attachment to the party and their power of invention appear in the best light, but which left them no choice but to see either their political intelligence or their fidelity to their convictions called in question. They formally and solemnly refused to have anything to do with the annexation paragraph of the platform, but they voted for Polk, who owed his nomination simply to the fact that he was an unconditional annexationist.[1] They quieted their conscience,

[1] See his letter of the 23d of April, 1844, to S. P. Chase, Th. Heaton, etc. Niles, LXVI, pp. 228, 229.

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on this point, by the demand that only men opposed to annexation should be elected to congress.[1] But so little was the slavery question understood, even yet, that honorable men who had grown grey in political battles, were able to bring themselves to believe that this expedient could actually amount to something different from this: "I am innocent of the blood of this just man; see ye to it."

If the ties of party proved too strong for those who followed no selfish ends, it could, of course, not be difficult to maintain discipline among those professional politicians to whom politics was, in a greater or lesser degree, a means towards the prosecution of their personal interests. The theory of the spoils was so firmly rooted that there was no need now of much effort to do this. As early as July, 1843, before Texas had been made, officially, the order of the day, two leading organs of both parties had proclaimed, in praiseworthy unison, the necessity of proscribing "the pestiferous and demoralizing brood" who had not sold themselves bodily to the one party or the other.[2] It was a piece of super-

[1] "Was it [the party at the north] to reject the nominations and abandon the contest, or should it support the nominations, rejecting the untenable doctrine interpolated at the convention, and taking care that their support should be accompanied with such an expression of their opinion as to prevent its being misinterpreted? The latter alternative has been preferred, and we think wisely; for we conceive that a proper expression of their opinion will save their votes from misconstruction, and that proper efforts will secure the nomination of such members of congress as will reject the unwarrantable scheme now pressed upon the country." Ibid., p. 371. The "confidential" circular signed, besides by Bryant, by G. P. Barker, J. W. Edmonds, D. D. Field, Th. Sedgwick, Th. W. Tucker and J. Townsend.

[2] "The Globe" writes: "The democracy should guard itself at every point; and especially against the advances of the nondescripts — the no-party men — who are uniformly venal, and take an attitude to hold the balance of power between parties, so as to be able to sell themselves, and sacrifice the honest cause to the speculators in politics." To this "The

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fluous caution in *The Richmond Enquirer*, after the election of the electors, to notify once more the anti-annexationist democrats expressly, that they were entirely excluded from all share in the spoils.[1]

The electoral battle was fought on both sides with the greatest energy, but on the side of the democrats, in part, with that criminal ruthlessness which had so frequently put the nation's honor to shame in the Texas trade. The Clay electors

Richmond Whig" answered: "Regarding 'The Globe' as the exponent of the democratic party, we hail this expression of opinion with high satisfaction. The whigs, we believe, have long since, and with great unanimity, determined that they will no longer give rewards to such characters, nor permit themselves to be preyed upon by them. A similar determination was only wanting from the democracy, to render cow-boyism in politics so unprofitable as to be abandoned by universal consent. . . . Now that hostilities are raging between the captain [Tyler] and the right wing of the democracy, and the latter is suffering severely from the defection of its forces to the quarters of the cow-boys, 'The Globe' formally anathematizes the whole gang as public plunderers and pirates — *hostes humani generis*, who are entitled to no favor or mercy from any honest man. We shake hands with 'The Globe' on this. We concur with it heartily in desiring the extermination of this pestiferous and demoralizing brood, and will do whatever we can to effect it. As soon as the the government shall get over its present syncope, it will be in the power either of the whigs or democrats to apply a remedy in the premises. In the mean time by the cooperation of both of them, they can, to a very great extent, protect each other and prevent themselves from being preyed upon by the cow-boys. In all state appointments they may do this most effectually; for the whigs and democrats together compose four-fifths of every state legislature in the Union. Let them everywhere resolve that the gentry, who are too pure to associate with either of them, or to belong to either party, shall not use them to their own individual aggrandizement. Let them act on the principle that the whig or the democrat who has sense enough to form an opinion, and honesty enough to avow it, is to be preferred to the imbecile, or the purist or the mercenary who cannot come to a decision, or is ashamed of his principles, or, from sordid considerations, is afraid to declare them." Ibid., LXIV, p. 331.

[1] "We rejoice that those deserting democrats who oppose this vital measure which Mr. Polk so anxiously desires to be settled at this session, will have nothing to expect from his administration"

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received about twenty-two thousand votes more than Harrison, in 1840, and yet Polk was elected by an electoral vote of one hundred and seventy against one hundred and five.[1] The whigs had confidently calculated on victory up to the last moment, and their defeat struck them like lightning from a clear sky. The party was threatened with total demoralization. In the slave states, it seemed as if it would be entirely dissolved,[2] and, in the north, it was deeply concerned as to what it could hope from the future, now that Clay, notwithstanding the absence of unity in the camp of the enemy, could be beaten, spite of the fact that Webster and his party had supported him with all their energy. And people did not stop here. The result of the election appeared almost as something accessory, in face of the circumstances attending it, and which, from the very first moment, diverted attention from the specific interest of the parties to a whole series of problems, which, entirely independent of that interest, conditioned the weal and woe of the nation.

In one of the numerous letters of condolence sent to Clay, the conviction is expressed, that a man of really towering ability would never again fill the presidential chair.[3] In this

[1] Deb. of Congr., XV, p. 201. I can say no more in the text on the popular vote, since the data in the sources at my command deviate widely from one another. Benton, Thirty Years' View, II, p. 625, ascribes to Polk 1,536,196 votes, and to Clay 1,297,912. Statesm.'s Man., II, p. 1535, gives almost the same figure (1,297,033) for Clay, but for Polk only 1,335,834. Sargent, Public Men and Events, II, p. 251, gives Polk 1,327,323, and Clay 1,288,533, etc.

[2] W. C. Preston, the former senator of South Carolina, writes to Clay on the 23d of November, 1844: "For the present the whig party of the south is dispersed; and we can not know our position until the heat and smoke of the conflict have passed away." Priv. Corresp. of H. Clay, p. 503.

[3] "The result of this election has satisfied me that no such man as Henry Clay can ever be president of the United States. The party leaders, the men who make presidents, will never consent to elevate one greatly their superior; they suffer too much by the contrast; their aspirations are checked; their power is circumscribed; the clay cannot be moulded into an idol suited

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there was only too much truth. But the comparison between Clay and Polk is not the first thing which should have led to this conclusion. The whigs, in 1840, had preferred Harrison to Clay, and it ill became them now to cast stones at the democrats. However, the proof now given that the personal qualifications of the candidate were very indifferent, so far as his success was concerned, and that statesmen would have to strike their sails before the routine politicians who delivered themselves up completely to be party tools, was more forcible than it had ever been before; for it was undoubted that the whigs also, would not again, after this experience, make an attempt to take the field under the leadership of their most distinguished men.

Mediocrity had almost become a monopoly without which one was not entitled to the highest office of the nation; the property and intelligent classes began to doubt whether they would ever again obtain the controlling influence in the country; and even in the great crowd, the native population were so nearly evenly balanced that there was fear lest the weight which turned the scales might fall into the hands of the adopted citizens, who were politically entirely immature. Such were the fruits which the radicalization of the democracy had ripened. The affirmation that "nine-tenths of the virtue, intelligence and respectability of the nation had voted for Clay," is an exaggeration.[1] But, without question, Clay would

to their worship. Moreover, a statesman, prominent as you have been for so long a time, must have been identified with all the leading measures affecting the interests of the people, and those interests are frequently different in the several parts of our widely extended country. What is meat in one section is poison in another. Give me, therefore, a candidate of an inferior grade, one whose talents, patriotism and public services have never been so conspicuous as to force him into the first ranks. He will get all the votes which the best and wisest man could secure, and some which, for the reasons I have stated, he could not." Priv. Corresp. of H. Clay, p. 508.

[1] Priv. Corresp., p. 497. In the letter of condolence already cited, we read: "Nine-tenths of our respectable citizens [in New York] voted for

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have come forth victor from the electoral campaign, if it had been possible to weigh the votes. What did the votes of the "white trash" of the south weigh against those of the farmers of New England? What moral weight could those votes claim which were allowed the southern states for their slaves? How did those of the native merchants, manufacturers and tradesmen of the north compare with those of the Irish day laborers who had voted without exception for Polk?

The complaint of the whigs, however, was not only that the vote of the basest vagabond was worth exactly as much as that of the wisest and most virtuous man, and that that of the millionaire weighed not a grain more than that of the most ignorant beggar — that is, that the actual situation had completely conformed itself to the state of the law; and that this fact had turned to the advantage of their opponents exclusively; but they claimed also that, spite of all this, Clay would have become Tyler's successor if only the legal votes cast had been counted. The same charge had been lodged, four years before, against the whigs by the democrats, and we have heard it said, by witnesses beyond suspicion, that both parties had been guilty of electoral frauds. But unquestionably what was now done in this respect was so great that all that had been done previously seemed very harmless when compared with it.[1] Especially in Louisiana and in

Clay and Frelinghuysen, the merchants, the professional men, the mechanics and working men, all such as live by their skill and the labor of their hands, who have wives whom they cherish and children whom they strive to educate and make good citizens, men who go to church on Sundays, respect the laws and love their country, such men to the number of twenty-six thousand three hundred and eighty-five redeemed their pledge to God and the country; but alas! the numerical strength lies not in those classes. Foreigners who have 'no lot or inheritance' in the matter, have robbed us of our birth-right; the 'scepter has departed from Israel.' Ireland has re-conquered the country which England lost."

[1] Adams now writes to Clay: "I had hoped that under your guidance the country would have recovered from the downward tendency into which

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New York[1] was the business carried on systematically and on the most enormous scale. It could not be proved that

it has been sinking. But the glaring frauds by which it was consummated afford a sad presentiment of what must be expected hereafter." Priv. Corresp. of H. Clay, p. 520. In a private letter of B. Johnson Barbour to Clay, we read: "Double-dealing, defamation and slanders are still omnipotent. A motley party, without principle or principles, with fraud for the means and the election of a demagogue for the end, have triumphed. Domestic corruption and foreign putrescence coalesced to overwhelm the virtue and honesty of the country. Plaquemine and Tammany have stifled the voice of the American people, and the late contest has only established the melancholy facts that frauds upon the ballot box have perfect impunity, that mediocrity is merit, and that every excess may be committed in the name of a spurious democracy." Priv. Corresp. of H. Clay, p. 523. Compare ibid., pp. 497, 502, 511, 526.

[1] "The first state election which took place, and tested the strength of parties therein, was that of Louisiana. The contest was carried on with all the energy of hope and desperation. Force and fraud were freely resorted to, but in spite of these the whigs carried the state. At the presidential election, however, the famous, or infamous, '*Plaquemine frauds*' gave the electoral vote to Mr. Polk. These frauds were the work of the afterwards distinguished rebel, John Slidell. He had made a bet with Gen. Barrow upon the presidential election in that state, which, if the election was not fraudulent, he had fairly won; but he never claimed the bet. 'If he had,' said Gen. Barrow to me, 'I should have held him to a personal responsibility as the author of these frauds; and this he well knew was my intention.' The fraud simply consisted in taking down to Plaquemine, from New Orleans, two steamboats loaded with as rough and villainous a crowd of rascals as could be picked up in and about the wharves and purlieus of the city, to vote 'early and often.' All votes were required to be handed in unfolded, and if any one was for the whig candidates for electors, it was, if possible, rejected. It was dangerous for a whig to be on the ground. The vote at this parish had been as follows:

	1840.	*1842.*	*1843.*
Whig	40	93	34
Democratic	250	179	306

Never so high as three hundred and fifty. But at this election (1844) Polk had a majority of nine hundred and seventy! Many, if not most, of those who voted at Plaquemine on Wednesday had voted in New Orleans on Monday; those who had not were foreigners, non-residents, etc., not having a right to vote. Now, as Polk carried the state by a majority of six hundred and ninety only, it is very easy to see where it came from and

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Polk owed his election to these frauds, and such perhaps was not the case. But it cannot be contested that they had grown to be so numerous that the difference in the real strength of the parties needed to be diminished only by a minimum, in order, if this prostitution of the right of suffrage continued, to destroy every moral guaranty that the incumbent of the presidency was really the president elected. But if it actually ever came to this, there remained only one alternative: either for the Union to fall beyond redemption into a condition similar to that of Mexico, or for the people to summon all their strength, intellectual and moral, to scourge the corrupt trading politicians out of the temple, and to proceed energetically and circumspectly to the removing of the defects in the principle of their political system, out of which the despotic rule of this wicked band had grown.

Plainly, it had not yet come to this. Loudly and violently as the whigs, at first, complained of fraud, Polk was, as a matter of fact and without any more ado, recognized as the legally elected president, and the great question of the day which was still waiting a solution, soon drove the memory of the wholesale manufacture of votes into the background. There was still another battle to be fought, and the American is too much of a man of action to waste his time and his strength under such circumstances in useless complaints. Another and a very different phase of the electoral pro-

how it was obtained." Sargent, Public Men and Events, II, p. 248. In New York, the Empire Club, led by Isaiah Rhynders, distinguished itself especially. Sargent says: "Famous as the 'Plaquemine frauds' became, they sank into insignificance when compared with those perpetrated in the city of New York." Clingman, of North Carolina, declared in the house of representatives that in the county of St. Lawrence, bordering on Canada, one thousand six hundred and twenty-seven votes more than ever before were cast, and in Georgia, even fifteen thousand nine hundred and forty-four more than there were persons with the right of suffrage. Public Men and Events, pp. 255, 256.

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ceedings made the deepest and most lasting impression; and this phase of those proceedings was, by far, the most important for the near future. Birney, the candidate of the liberty party, had received sixty-four thousand six hundred and fifty-three votes.[1] This number was still evanescently small in comparison with the vote of the two great parties; and yet this small band had turned the scales. The liberty party was recruited almost exclusively from among the whigs, and in New York and Michigan their vote was greater than the democratic majority. The two states had together forty-one electoral votes. If the liberty party had gone along with the whigs, Clay, spite of all the election frauds, would, therefore, have been elected by a majority of seventeen electoral votes.[2] Hence a great part of the whigs were far less embittered against the democratic election-forgers than against the "fanatics" who had proved untrue to their old flag, although they had known very well that they, in this way, might facilitate the victory of the common enemy. But this embitterment did not at all change the case, and the men who made hobby-horses of their principles manifested no regret, in any way. And this fact was still more significant than the immediate result. These hobby-horse riders were the little needle of the balance, and they had afforded actual proof, that, on the basis of equal convictions, in reference to questions of a second order and of a lesser

[1] Statesm.'s Man., II, p. 1535. Sargent, II, p. 251, gives sixty-two thousand two hundred and sixty-three.

[2] Even New York alone, with its thirty-six votes, would have been sufficient to secure his election. A. Spencer writes to Clay on the 21st of November: "You received two hundred and thirty-two thousand four hundred and eleven votes; Polk received two hundred and thirty-seven thousand four hundred and thirty-two; Birney, fifteen thousand eight hundred and seventy-five. What a monstrous poll! You received six thousand five hundred and ninety-four more votes than Harrison did in 1840, when his majority exceeded thirteen thousand. You will perceive that the abolition vote lost you the election, as three-fourths of them were firm whigs, converted into abolitionists." Clay, Priv. Corresp., pp. 501, 502.

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degree of base love for the slavocracy, their assistance could henceforth not be expected. True, they thus played into the hands of the annexationists, and made annexation possible. But this cannot determine history to adopt the damnatory judgment of the day. They helped to turn the ship towards its horrible end; but this they could do, or lend a hand to do, only to perpetuate the incomparably greater endless horror. If they continued their course, a new formation of parties was inevitable; and the whigs had to pay the whole account. The northern portion of the whigs furnished the reinforcements to the party of the future, and the more the ranks of the latter swelled, the greater must have been the tendency of the southern portion to join the democratic party which was ruled by the slavocracy.

The annexationists had, thanks to the liberty party, conquered, but, so far as it could be at all done by the presidential election, the proof was now adduced that the majority of the population were opposed to immediate annexation. The anti-annexationist vote was made up of the vote of the whigs, that of the liberty party and that of the democrats who would see in Polk only the democrat and not the annexationist. These three groups together constituted the majority, so that there was no need first to deduct the illegal votes from the vote for the Polk electors. Tyler, notwithstanding, in his annual message of the 3d of December, alleged with the boldness which had long distinguished the slavocrat, that annexation was the only question which had been before the people in the electoral campaign, and that the majority not only of the states but of the population also had decided in favor of immediate annexation. Both houses of congress, he declared, had been instructed, in "terms the most emphatic," to accomplish annexation immediately. Hence, it was proper that all questions of secondary consideration should be put aside. In accordance with this, he recom-

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mended in express terms the easiest and simplest way: annexation by joint resolution of both houses.[1]

This far surpassed all the gratuitous advice to which Jackson had ever treated the "people" as to the "decisions" which they should have come to. How wroth Calhoun had then been over such interpretations of the elections! But that Tyler did not now write a word on this question, which did not have the sanction of his secretary of state, is self-evident. The slavocracy would have to die, and to die beyond resurrection, if it could not devise some means to get more land and to create more states. No one had recognized this more clearly than Calhoun. What wonder, then, that the horrible craving for land which devoured the entrails

[1] "No definite action having been taken on the subject [annexation] by congress, the question referred itself directly to the decision of the states and the people. The great popular election which has just terminated, afforded the best opportunity of ascertaining the will of the states and the people upon it. . . . The decision of the people and the states, on this great and interesting subject, has been decisively manifested. The question of annexation has been presented nakedly to their consideration. By the treaty itself, all collateral and incidental issues which were calculated to divide and distract the public councils, were carefully avoided. These were left for the wisdom of the future to determine. It presented, I repeat, the isolated question of annexation; and in that form it has been submitted to the ordeal of public sentiment. A controlling majority of the people, and a large majority of the states, have declared in favor of immediate annexation. Instructions have thus come up to both branches of congress, from their respective constituents, in terms the most emphatic. It is the will of both the people and the states that Texas shall be annexed to the Union promptly and immediately. It may be hoped that, in carrying into execution the public will, thus declared, all collateral issues may be avoided. Future legislatures can best decide as to the number of states which should be formed out of the territory, when the time has arrived for deciding that question. So with all others. . . .

"The two governments having already agreed, through their respective organs, on the terms of annexation, I would recommend their adoption by congress in the form of a joint resolution, or act, to be perfected and made binding on the two countries when adopted, in like manner, by the government of Texas." Statesm.'s Man., II, pp. 1485, 1846.

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of the slavocracy, drove the greatest of the slavocrats, for the sake of obtaining this land, to ignore entirely, and without any compunction, all the underlying principles of his political doctrines. It was a question often raised, but never yet decided, whether the state legislatures had a right to instruct the senators. But who had ever heard of the right of the people to give instructions to the senate, by means of a general election? When had the powers of the legislatures been transferred to the electors? Even the most decided partisans of the right of instruction of the legislatures had, for the most part, left the senators the alternative of resignation. Now it was claimed that the instructions given by the presidential election directed the senate to refrain, on principle, from all further previous consideration; all it had to do was to grasp the tempting fruit, and leave it to the future to do the best it could with the numberless poisonous thorns which covered it. But above all, what became of the "sovereignty" of the states? The constitution had made the senate of congress, in the first place, the controlling adviser to the president, in respect to the relations with foreign powers. The least important of treaties required the assent of two-thirds of the senators. And now, in the case of a compact with a foreign power, than which it is impossible to imagine one more important, a simple majority was to suffice, although, according to Tyler's own theory, much more than one-third of the states had "instructed" their senators, in "terms the most emphatic," against annexation; for of twenty-six states, eleven had given their electoral vote for Clay. If the "people," by means of a presidential election, could oblige congress to incorporate a foreign state, and if congress could effect such incorporation by a simple majority resolution, the "consolidation" of the Union was complete, and its confederate character completely and forever at an end. The Union never was — neither actually nor legally — the

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confederation of sovereign states which Calhoun represented it to be; but neither was it actually or legally a political or national monad (*Einheitsstaat* = unity-state). The constitution of "this Union" into which congress might take new states, may be likened to a piece of tissue — representing the incomplete growing state of affairs — with a confederate warp and a federal woof. If Tyler's proposition was acceded to, this Union had disappeared. It was no longer, in any sense, a constitutional state, if the federal powers could thus be given binding instructions by the "people;" and still less, if possible, if the federal powers were entitled, in their own right, or by virtue of such instructions, to evade the most unambiguous provisions of the constitution. The interpretation of every constitution must start out with the two-fold supposition, that every one of its provisions has a reasonable purpose, and that it cannot have been the intention of the legislator that one part of its provisions should be repealed by another part. But the provision that treaties should be concluded by the president, with the coöperation of two-thirds of the senators, had no reasonable purpose if even the utmost which could be accomplished by the treaty-power could be effected likewise by a resolution of congress, in the most informal and most un-guarantied (*garantielosesten*) manner, in which any action whatever of congress could be taken. Moreover, the principle which had to be relied on, to effect annexation, by a joint resolution, involved the doing away, on principle, with the eminently conservative fundamental character of the constitution, in which the federative nature of the Union had found its most direct and entirely natural expression. All the guaranties with which the separate provisions of the constitution surrounded the constitutive members of the Union — the states — against too hasty changes in general, and especially against encroachments on their independent powers, and permanent curtail-

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ments of these powers, by simple majority resolutions, were mere illusions, if a majority-resolution of congress sufficed to incorporate foreign states into the Union. The annexationists laid great stress on the fact that the Texans were children of the Union, and had modeled all their institutions on those of the United States. But who went security that the hands of the annexationists would not soon grasp at territory which, in everything, bore a heterogeneous stamp? Many words to this effect had already dropped from the lips of the slavocrats, from which it appeared that such would be the case, under all circumstances, and that it would take place all the sooner if they acquired Texas.

Calhoun believed that the existence of the slavocracy was at stake, and hence he put the constitution aside, and threw it overboard, and the constitution, not only as he had hitherto conceived it, but as it really was. I do not say that he was clearly conscious of this. In all his thought and feeling, he was so entirely a slave of slavery, that he was not able to look to the right or to the left, so long as that conviction scourged him to the goal on which his eye was fastened with all the violence of the monomaniac. Others, on the contrary, not only walked right over the constitution, but, without any imaginable practical object and only for their own pleasure, ostentatiously and maliciously trampled it under foot. And again, the slavocracy was able to boast that a volunteer from among their northern soldier-boys pushed himself forward to perform this provost service (*Profossdienst*). Tyler had said that congress should no longer occupy itself with the question concerning the conditions, but be content with what had been agreed upon between the executives of the two states. Charles J. Ingersoll, of Pennsylvania, the chairman of the house committee on foreign affairs, carried out this wish to the very letter: he introduced

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the rejected treaty itself as an annexation resolution.[1] In the senate, McDuffie, of South Carolina, told, with laconic brevity, what this meant. According to his motion, the joint resolution should "ratify the treaty."[2] These were the fanatics of "strict construction."

The gentlemen were, therefore, after all, mistaken. If there was in congress a respectable number of representatives of the northern states who boasted the honor of considering it their duty to perform the meanest service for the slavocracy, there were, on the other hand, among the representatives of the southern states, still many patriots and men of honor, whose cheeks were mantled with shame and whose hearts beat with indignation at the brazen insinuation that they could thus foolishly play with the constitution.

The battle was fought along two entirely different lines. The one part contested, unconditionally, the right of the government of the Union to annex a foreign state, and did not want, under any circumstances, to allow the territory of slavery to be extended. In relation to the first point, the struggle over the purchase of Louisiana was not renewed. That precedent was, for the most part, looked upon as binding, and where this was not done, the question was left entirely undecided. The stress was laid on the fact that a piece of land was not to be acquired from a foreign state, but that an entire foreign state was to be incorporated into the Union.

[1] Deb. of Congr., XV, pp. 174, 175.

[2] "Resolved, by the senate and house of representatives of the United States of America, in congress assembled, That the compact of annexation made between the executive government of the United States and that of Texas, and submitted to the senate for confirmation by the president of the United States, be and the same is hereby ratified as the fundamental law of union between the United States and Texas, as soon as the supreme executive and legislative power of Texas shall ratify and confirm the said compact of annexation." Niles, LXVI, p. 422.

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The annexationists maintained that the constitution gave to congress, in general, authority to "adopt new states." They believed they found a point of support for their view, in the fact that, at first, the following restriction was added to the clause: "lawfully arising within the limits of the United States."[1] Rives, of Virginia, on the other hand, claimed that the Philadelphia convention had dropped this restriction only from regard to Vermont, which was at the time, in a certain measure, engaged in rebellion against New York, and which might, therefore, easily have been regarded as a state not "lawfully" arising. McDuffie replied that, to remove this difficulty, there was no need of striking out the whole limitation; it would have been sufficient to drop the word "lawfully."[2] Undoubtedly correct as this argument is in itself, I cannot but think that Rives's view accorded with the historical fact. It did not at all occur to the convention, that the question whether states originating outside the territory of the Union should be admitted, could arise. I consider the words, "within the limits of the United States," only an additional clause added to the words "states lawfully arising" out of stylistic considerations. With the latter the former, obviously, fell away. There is not to be found, in Madison's notes, the least intimation that a single member of the convention had referred to the possibility pointed out by McDuffie. But it may, indeed, be seen from them, that regard for the case of Vermont played an important part in the history of that clause. On the 29th of August, Gouverneur Morris introduced the motion which led to its later framing. The original limitation was stricken out, but the creation of new states within the limits of the existing states was made to depend on the assent of the legislatures of the states in question and of congress.

[1] Elliot, Debates, V, pp. 128, 157, 190, 211, 376, 381.
[2] Deb. of Congr., XV, p. 232.

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Luther Martin expressed himself in opposition to this, and asked whether it was desired to reduce Vermont by force.[1] Morris's motion and the final framing of the clause were a compromise: the convention avoided giving, in the constitution, a direct point of support for the raising of the question whether such events as were taking place in Vermont were unlawful, and at the same time saved their rights to the existing states.

The expression "new states," also affords an argument in favor of this interpretation. If it cannot be claimed that the expression is applicable only to states which originate within the territory of the Union, yet it will not be questioned that the word "new" was not the most direct and proper, if the Philadelphia convention had had foreign states in mind also. Considering the great care it took, throughout, in its redaction, we are justified in assuming that it would have used a second adjective, in this case, to designate both categories exactly. That it had only the former category in mind, is all the more probable, because the two restrictions pertaining to the granting of the right of admission, speak only of the territory of the Union.[2] Madison, indeed, speaks once in the *Federalist* of the admission of new states in "their [the thirteen original] neighborhoods;" but the context does not permit the slightest

[1] "Nothing . . . would so alarm the limited states as to make the consent of the large states, claiming the western lands, necessary to the establishments within their limits. It is proposed to guaranty the states. Shall Vermont be reduced by force, in favor of the states claiming it? Frankland, and the western county of Virginia, were in a like situation." Elliot, Debates, V, p. 493.

[2] See the speech of Bagby, of Alabama, Deb. of Congr., XV, pp. 220, 221. The clause reads: "New states may be admitted by the congress into this Union, but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress."

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doubt, that by "neighborhoods" he understood the territory belonging to the states which lay outside their limits as actually organized states.[1]

The law was against the annexationists, but the facts were on their side. Congress had not been granted the power to incorporate foreign states into the Union; but there was no essential difference between the purchase of Louisiana and the annexation of Texas. If the slavery question and the relation to Mexico were left out of consideration, there was all the less reason to hesitate about the latter; since Texas did not need first to assimilate itself to the United States in any essential respect. Had it belonged to the United States, from the first, and without interruption, it would not have been by one iota a more homogeneous element. But such facts weigh more in the life of nations than abstract right. The want of constitutional power furnished a solid basis for the other reasons of the opposition; but if these did not avail, from want of sufficient force, it was folly to expect that the former would be looked upon as an insurmountable obstacle.

Tyler would scarcely have assumed so bold an attitude, in

[1] He endeavors to refute the assertion that republics of great extent as to space are a nonentity; specifies the extent of the territory of the Union according to the limits established in the conclusion of peace with England; declares "the natural limit of a republic is that distance from the centre which will barely allow the representatives of the people to meet as often as may be necessary for the administration of public affairs. Can it be said that the limits of the United States exceed this distance?" And then says: "A second observation to be made is, that the immediate objects of the fœderal constitution is to secure the union of the thirteen primitive states, which we know to be practicable; and to add to them such other states as may arise in their own bosoms, or in their neighborhoods, which we cannot doubt to be equally practicable." The Federalist, No. XIV, Dawson's edit., pp. 85, 87. Hence these amplifications only confirm the view of the anti-annexationists. See also Crittenden's Speech, Deb. of Congr., XV, p. 223.

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his annual message, if he had not known that he was in accord, on the fundamental question, with the majority in both houses of congress. If only all those who knew how to come to an understanding in the one way or the other on the constitutional question in relation to the *how* of annexation could be brought together, the game was won.

In the house, there was need of only one cardinal concession: that the line of the Missouri compromise should be continued through Texas. Regard had to subsequent events, special attention should be called to the fact that Douglas, of Illinois, not only adopted this provision into the resolutions introduced by himself,[1] but that he also afterwards desired the amendment of the resolutions of Milton Brown, of Tennessee, by the express prohibition of slavery north of 36° 30'.[2] When this was accorded, the resolutions were adopted on the 25th of February by a vote of one hundred and twenty against ninety-eight.[3]

In the senate, the battle raged hotter and lasted longer; for the senate contended not only for the constitution in general, but for its own prerogatives also. Archer, of Virginia, made a report on the 4th of February, 1845, which very emphatically declared annexation to be possible only by means of the treaty, and which, moreover, demanded the resolution of Texas "into its component elements."[4] Benton again dis-

[1] Deb. of Congr., XV, pp. 170, 171.

[2] Deb. of Congr., XV, p. 196.

[3] Ibid., p. 197.

[4] "All views unite in the conclusion that foreign population, like exterior territory, can have passage into the Union only by the exercise of the treaty-making function in the government; and that function is not in congress. There is no contrivance to elude the resort, nor reasoning which may impugn the conclusion. . . . The only mode of effectuation of the admission of Texas lawfully . . . is by the resolution of the present state of Texas into its component elements of population and territory, which may in those forms pass through the ordeal sieve of the treaty-mak-

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tinguished himself by the weighty self-certainty and the incisive dialectics with which he defended this view. The session as well as Tyler's presidency were rapidly drawing to a close, and the left wing of the annexationists was forced to abandon the hope to cajole and force the majority of the senate in the summary manner proposed by the president. Then it was that Walker, of Mississippi, hit upon an expedient. He moved an amendment to the resolution of the house, in accordance with which the president might, under certain conditions, conclude a treaty of annexation, if such a course should seem to him better than to submit the pending resolution to Texas.[1] A part of the opposition greedily grasped at the sop; and Benton first of all. Miller, of New Jersey, moved as an amendment the bill which Benton had brought in on the 11th of December, 1844.[2] The Missourian, true to his principles, announced that he would vote against the amendment. To the question whether he wished to kill his own child, he replied: "I'll kill it stone dead."[3] He was repaid with laughter and applause for this heroic and patriotic resolution. There was, indeed, room for laughter if one were not able to understand what just ground there was to weep. Benton and those who with him were caught in Walker's snare, had repeatedly, and with the greatest emphasis, declared that the only constitutional way to annexation was a treaty. They now, accordingly, in a formal manner, authorized the president to decide as he

ing power under the constitution." Sen. Doc., 28th Congr., 2d Sess. 1844–45, Vol. III, No. 79, pp. 13, 20.

[1] "That if the president of the United States shall, in his judgment and discretion, deem it more advisable, instead of proceeding to submit the foregoing resolution to the republic of Texas as an overture on the part of the United States for admission, to negotiate with that republic, then," etc. Deb. of Congr., XV, p. 226.

[2] Ibid., p. 165.

[3] Ibid., p. 229.

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thought best, whether the constitution should be maintained intact or whether it should be trampled under foot.

The resolution of the house with Walker's amendment was adopted by a vote of twenty-seven against twenty-five, and on the 28th of February the house concurred in it by a vote of one hundred and thirty-two against seventy-six.[1]

The renegades in both houses of congress declared later, that they would never have meddled with the compromise if McDuffie had not declared, in the senate, that Calhoun would not have the "audacity" to invite Texas to hurried action, on the ground of the resolution of the house, and if Polk had not given his promise to act in the sense of the Walker amendment.[2] The joint resolution received the president's signature on the 1st of March.[3] The cabinet concurred in it, and Calhoun wrote his dispatch to the minister in Texas the same night. Late on the evening of the 3d of March — Tyler's presidential term had not many hours to last — Texas received the invitation to make use of the broad flight of steps of the resolution of the house as an ascent to the temple of the Union.[4] Calhoun, in his instruction to Donelson, laid stress on it — and repeated the declaration in a speech of the 24th of February, 1847, in the senate — that he had taken this step because he was convinced that even now no annexation treaty would have received the assent of the senate.[5] The bridal dress in

[1] Ibid., pp. 229, 231.

[2] Thirty Years' View, II, pp. 636, 637.

[3] Stat. at L., V, p. 797.

[4] "I saw the importance of acting promptly, and advised the president to act without delay; that he had the constitutional right of doing so, and that I deemed it necessary that he should act, in order effectually to secure the success of a measure which had originated with his administration. His cabinet were summoned the next day, and concurred in the opinion. That night I prepared the dispatch for Mr. Donelson, our *chargé* in Texas, and the next day, late in the evening of the 3d of March, it was forwarded to him." Calh.'s Works, IV, p. 363.

[5] "The president has deliberately considered the subject, and is of opinion

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which Calhoun had led the beloved of the slavocracy to the Union was the torn and tattered constitution of the United States.

As far back as eight years previous to this, Dr. Channing had written: "By this act our country will enter on a career of encroachment and crime, and will merit the punishment

that it would not be advisable to enter into the negotiations authorized by the amendment of the senate; and you are, accordingly, instructed to present to the government of Texas, as the basis of its admission, the proposals contained in the resolution as it came from the house of representatives. It is not deemed necessary to state at large the grounds on which the decision rests. It will be sufficient to state briefly that the provisions of the resolution, as it came from the house, are more simple in their character — may be more readily and with less difficulty and expense carried into effect; and that the great object contemplated by them is much less exposed to the hazard of ultimate defeat. . . . But the decisive objection to the amendment of the senate is, that it would endanger the ultimate success of the measure. It proposes to fix, by negotiation between the governments of the United States and Texas, the terms and conditions on which the state shall be admitted into our Union, and the cession of the remaining territory to the United States. Now by whatever name the agents conducting the negotiation may be known — whether they be called commissioners, ministers, or by any other title — the compact agreed on by them, in behalf of their respective governments, would be a treaty, whether so called or designated by some other name. The very meaning of a treaty is, a compact between independent states, founded on negotiation. And if a treaty (as it clearly would be), it must be submitted to the senate for its approval, and run the hazard of receiving the votes of two-thirds of the members present; which could hardly be expected if we are to judge from recent experience. This, of itself, is considered by the president as a conclusive reason for proposing the resolution of the house instead of the amendment of the senate as the basis of annexation." Calh.'s Works, V, pp. 393-395. "I selected the resolution of the house in preference to the amendment of which the senator from Missouri was the author — [in so far as the object of Walker's amendment was to fulfill as far as possible the wishes of Benton] — because I clearly saw, not only that it was every way preferable, but the only certain mode by which annexation could be effected. . . . That the course I adopted did secure the annexation, and that it was indispensable for that purpose, I have high authority in my possession." Calh.'s Works, IV, pp. 363, 364.

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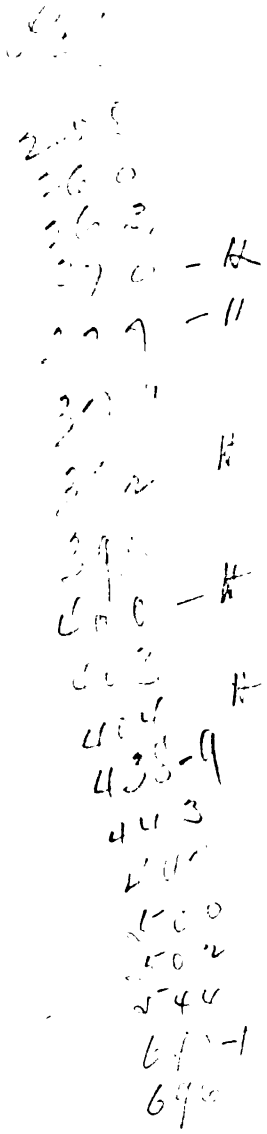
and woe of aggravated wrong-doing. The seizure of Texas will not stand alone. It will be linked by an iron necessity to long continued deeds of rapine and blood. Ages may not see the catastrophe of the tragedy, the first scene of which we are so ready to enact. Texas is a country conquered by our citizens, and the annexation of it to our Union will be but the beginning of conquests, which, unless arrested and beaten back by Providence, will stop only at the Isthmus of Darien. Henceforth we must cease to cry, peace! peace! Our eagle will whet, not gorge, his appetite on his first victim, and will snuff a more tempting quarry, more alluring blood, in every new region which opens southward."[1]

The eagle grew tired of playing the vulture, and learned to become ashamed of that role, but Texas became the Nessus robe of the slavocracy.[2]

[1] Jay, Review of Mexican War, p. 106.

[2] Adams in his grief supported himself with the foreboding hope that this might happen. When the news that Texas had accepted the conditions of annexation came, he wrote in his diary: "If the voice of the people is the voice of God, this measure has now the sanction of Almighty God. . . . *Victrix causa Deo placuit.* The sequel is in the hands of Providence, and the ultimate result may signally disappoint those by whom this enterprise has been consummated." Mem. of J. Q. Adams, XII, p. 202.

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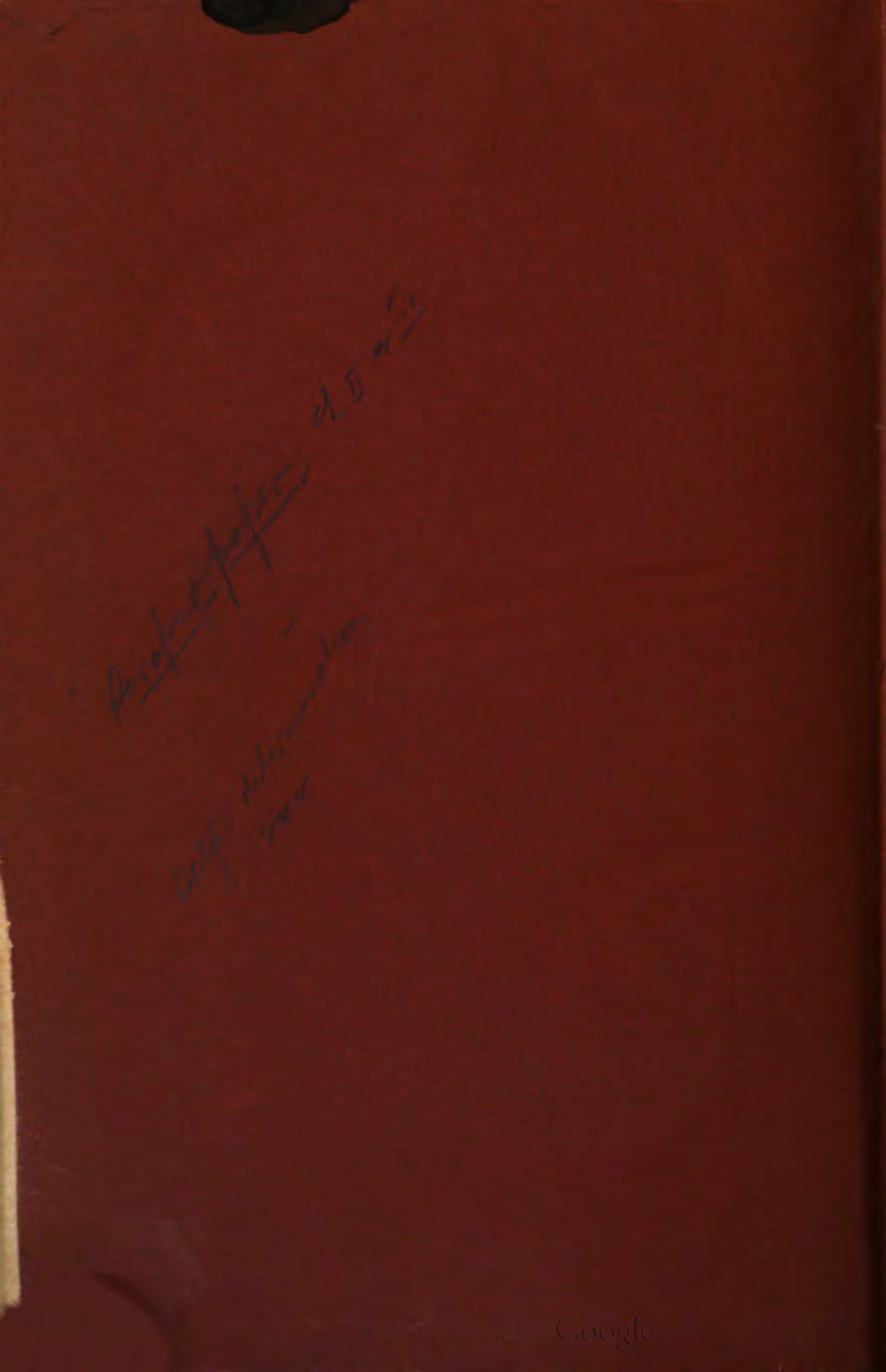
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