





AMERICAN CRISIS BIOGRAPHIES

Edited by

Ellis Paxson Oberholtzer, Ph. D.

The American Crisis Biographies

Edited by Ellis Paxson Oberholtzer, Ph.D. With the counsel and advice of Professor John B. McMaster, of the University of Pennsylvania.

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DANIEL WEBSTER

by

FREDERIC AUSTIN OGG, Ph.D.

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and author of "Social Progress in Contemporary Europe,"
"The Governments of Europe," etc.



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PREFACE

ALTHOUGH in truth one of the most human of men, Daniel Webster is, and must remain, for students of American history primarily the orator, jurist, and statesman ; and while in this brief biography an attempt has been made to convey some impression of the personal characteristics of the man, and especially of the conditions surrounding his earlier life, space has been devoted principally to the multifold public activities by which his ultimate distinction was attained. The subject is old, and yet ever fresh. The shelves of our libraries groan under the masses of books relating to it. Yet neglected or largely unused materials are still being brought to light ; and so intricately do the life and work of the man enter into the very texture of the nation's history that they are very nearly as incapable of full and final interpretation as is that history itself.

In the preparation of the present sketch liberal use has been made of the earlier biographies, especially of the two excellent ones by Curtis and Lodge, of the standard histories, and of monographs. The very abundant source materials, however,—chiefly the writings of Webster and of his contemporaries,—have been the principal reliance. Since the publication, in 1902, of Professor Van Tyne's "Letters of Daniel Webster," and, in 1903, of the eighteen-volume "National Edition" of Webster's "Writings and Speeches," these sources have been almost entirely available in print. In the bibliography which is appended there is an enu-

meration of the most useful materials of various kinds. In the foot-notes the title "Works of Webster" is employed to denote the six-volume edition published originally in 1851, that of "Writings and Speeches" to denote the more recent and complete edition. The smaller set is likely to be found in many places where the larger one is not available, and for this reason it has been deemed desirable to give references to both.

To Professor Van Tyne, who, according to original plans, was to have written this volume, I am indebted for a number of helpful suggestions and for the use of transcripts and other materials gathered by him during the preparation of his admirable collection of the "Letters." My thanks should be expressed, also, for courtesies received from the authorities of the Library of Congress, the New Hampshire Historical Society, the Massachusetts Historical Society, and the Boston Athenæum.

FREDERIC AUSTIN OGG.

*Cambridge, Mass.,
January 10, 1914.*

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CHRONOLOGY

- 1782—January 18, born in the township of Salisbury, in the county of Hillsborough, New Hampshire, the second son of Ebenezer Webster and his second wife, Abigail Eastman.
- 1796—May, becomes a student at Phillips Exeter Academy.
- 1797—February, begins preparation for college under the tutelage of Dr. Samuel Wood of Boscawen. August, becomes a member of the freshman class at Dartmouth College.
- 1800—July 4, delivers public oration by invitation of the townspeople of Hanover, N. H.
- 1801—August, is graduated from Dartmouth College. Begins the study of law in the office of Thomas W. Thompson, in Salisbury.
- 1802—January, assumes the preceptorship of Fryeburg (Me.) Academy. September, returns to the study of law in the office of Mr. Thompson.
- 1804—July, goes to Boston and obtains a clerkship in the office of Christopher Gore.
- 1805—January, refuses the clerkship of the court of common pleas of the county of Hillsborough, N. H. March, is admitted to the bar in Boston. Begins practice of law in Boscawen.
- 1807—May, is admitted as a counsellor of the Superior Court of New Hampshire. September, removes to Portsmouth, N. H.
- 1808—June 24, marries Miss Grace Fletcher, of Hopkinton, N. H. Publishes anonymously "Considerations on the Embargo Laws."
- 1809—Delivers Phi Beta Kappa oration at Dartmouth College.
- 1809-1812—Absorbed by growing professional activities; rises to a position of eminence at the New Hampshire bar.
- 1812—August, writes the "Rockingham Memorial." November, elected from the Portsmouth district to a seat in the Thirteenth Congress.

- 1813—June 10, introduces resolutions relative to the Berlin and Milan decrees. December 22, fire destroys Portsmouth home.
- 1813-1814—Active in criticism of the conduct of the war by the Madison Administration.
- 1815—January 2, speaks on the bill to establish a second Bank of the United States.
- 1816—Opposes a protective tariff bill. Challenged to a duel by John Randolph. August, removes from Portsmouth to Boston.
- 1817—September, participates in argument of the Dartmouth College Case before the Supreme Court of New Hampshire.
- 1818—March 10, makes notable argument in behalf of Dartmouth College before the United States Supreme Court.
- 1820-1821—November to January, serves as a member of the convention to draft a revision of the constitution of Massachusetts.
- 1820—December 22, delivers an oration at Plymouth commemorative of the coming of the Pilgrims.
- 1822—November, elected to Congress from the Suffolk district.
- 1824—January 19, speaks on the Greek Revolution. April 1-2, speaks in opposition to a protective tariff. December, visits Jefferson and Madison in Virginia.
- 1825—March, procures passage of the Crimes Act. June 17, delivers first Bunker Hill oration. June-July, excursion to Niagara Falls.
- 1826—January 4, speaks in behalf of a reform of the federal judiciary. August 2, delivers eulogy on Adams and Jefferson.
- 1827—June, elected to the United States Senate.
- 1828—January 21, Mrs. Webster dies. May 9, speaks in support of the "tariff of abominations." June 5, is given a public dinner in Faneuil Hall. December, brings suit against Theodore Lyman for libel.
- 1829—April 10, Ezekiel Webster dies. December, marries Miss Caroline LeRoy, of New York City.
- 1830—January 20-27, engages in debate with Senator Hayne on the nature of the Union. August-September, participates in the Knapp trials.
- 1831—March 10, is tendered a public dinner at the City Hotel, New York. Widely considered as a possible candidate for the presidency. Begins the acquisition of land at Marshfield.

- 1832—April 5, submits a report on the apportionment of representatives. May 25, speaks on the bill to renew the charter of the United States Bank. July 11, speaks on the President's veto of the Bank Bill. October 12, speaks at the National Republican convention at Worcester.
- 1833—February 16, delivers the speech "The Constitution not a Compact between Sovereign States," in reply to Calhoun. Opposes the Compromise Tariff. May-June, makes a visit to the Middle West.
- 1834—January-June, makes numerous speeches in the Senate on the President's course regarding the removal of the deposits and on the subject of a national bank. May 7, speaks on the President's protest against the Senate's resolutions of censure.
- 1835—January 12, speaks on the claims arising from French spoiliations prior to 1800. January, is nominated for the presidency by the Whig majority of the Massachusetts legislature. February 16, speaks on the appointing and removing powers of the President. October 12, is presented with a vase by the citizens of Boston.
- 1836—January 14, explains the grounds of opposition to the Fortifications Bill of 1835. Receives the electoral vote of Massachusetts for the presidency. December 21, speaks on the Specie Circular.
- 1837—January 16, protests against the Expunging Resolution. Proposes to retire from the Senate, but is persuaded not to do so. March 15, delivers an important speech in Niblo's Garden, New York. June-July, makes an extended visit to the Middle West. September 28, speaks on the regulation of the currency.
- 1838—January 31 and March 12, speaks on the President's independent treasury proposals.
- 1839—May 18, sails for a brief visit to Great Britain. July 18, addresses the Royal Agricultural Society at Oxford. December 29, arrives in New York.
- 1840—Supports Harrison and Tyler for the presidency and vice-presidency. December 1, receives from General Harrison an offer of the State or the Treasury portfolio. December 11, accepts the secretaryship of state.
- 1841—February 22, resigns seat in the Senate, being succeeded by Rufus Choate. May-September, watches apprehensively the conflict of President Tyler and the Whigs in Congress. September, refuses to resign from the cabinet with his colleagues. September-October, assists in the settlement of the McLeod Case.

- 1842—June, opens negotiations with Lord Ashburton relative to the northeastern boundary and other matters in dispute with Great Britain. August 9, signs the treaty of Washington. September 30, speaks in Faneuil Hall in defense of his refusal to retire from the cabinet.
- 1843—May 8, resigns the secretaryship of state and retires to Marshfield. June 17, delivers the second Bunker Hill oration. November 9, addresses the convention of Massachusetts Whigs at Andover.
- 1844—Participates actively in the campaign for the election of Clay.
- 1845—December 22, speaks in protest against the annexation of Texas.
- 1846—February 26, opposes the resolution to give immediate notice to Great Britain concerning Oregon. April 6-7, speaks in defense of the treaty of Washington. Accepts an annuity from Massachusetts friends. July 25-27, speaks on the Walker tariff.
- 1847—March 1, speaks on the Three Million Bill. April-May, makes a journey through the South.
- 1848—January 25, a son, Major Edward Webster, dies in Mexico. March 17, speaks on the Ten Regiment Bill. March 23, speaks on the Objects of the Mexican War. April 28, a daughter, Mrs. Julia Webster Appleton, dies. June 9, General Taylor is nominated for the presidency by the Whigs. October 1 and 24, speaks at Marshfield and in Faneuil Hall advising, with reluctance, that the Whigs support Taylor.
- 1849—February 22, introduces a bill proposing to postpone the issue of slavery in the newly acquired territories.
- 1850—January 25, Clay introduces his Compromise Measures. March 7, delivers notable speech in behalf of the Compromise. July 9, Fillmore succeeds to the presidency. July 23, enters upon second period of service in the State Department. December 22, speaks at the Pilgrim Festival at New York.
- 1851—May, accompanies the President on a trip through central New York. July 4, delivers an oration at the laying of the corner-stone of an addition to the Capitol. December 21, transmits to Baron Hülsemann a letter proclaiming the power and independence of the United States. Adjusts difficulties arising from an attack on the Spanish consulate in New Orleans. November, is urged by the Massachusetts Whigs for the presidential nomination.

1852—January 7, speaks at a banquet tendered to Louis Kossuth. February 24, addresses the New York Historical Society. June 16, Whig nominating convention assembles in Baltimore. Nomination of General Scott and disappointment of Webster. July 9, is tendered a reception by the people of Boston. July 26, is welcomed by the citizens of Marshfield. July 26, offers to resign the secretaryship of state. September 8, leaves Washington for the last time. September 20, makes last visit to Boston. October 24, dies at Marshfield.

DANIEL WEBSTER

CHAPTER I

PARENTAGE AND YOUTH

IN the history of New England, hardly less than in that of the Ohio and Mississippi valleys, the termination of French dominion in America in 1763 was an epoch-marking event. In the one region as in the other the tension which through a century had been growing ever more threatening between the westward pressure of the seaboard, English-speaking population, and the stubbornly resisting powers of French and Indian allies was brought definitely to an end, and vast stretches of virgin territory, hitherto largely inaccessible, were thrown open for uncontested and profitable exploitation. At the beginning, in 1754, of the last and greatest phase of the Anglo-French combat in America an aggregate area not much in excess of a third of the 66,424 square miles now comprised in the six states of New England was occupied, in even the smallest measure, by English colonists, and everywhere the frontier line still hovered very near the Atlantic. The regions still awaiting population included virtually the whole of Vermont; all of New Hampshire save a strip along the coast, the Merrimac valley northward to New Hampton, and a bit of the Connecticut valley in the southwest; all of Maine except an irregular coastal strip from the Piscataqua to

Penobscot Bay ; and broad areas in western and northern Massachusetts.¹ The aggregate population of the New England colonies was approximately 400,000.

At the close of the war there came an outburst of expansive enterprise in consequence of which there was wrought a remarkable sectional transformation. Although within the settled portions of every one of the colonies, with the possible exception of Rhode Island, there was still an abundance of vacant and tillable land, men of rugged fibre and restless spirit, accustomed to pioneer conditions and impatient with the restraints of a rapidly conventionalizing society, cut loose by the hundreds from their uncongenial or unpromising surroundings and went off with their families and possessions into the mountains and valleys of the interior in quest of land, livelihood, and larger opportunity. The passing and repassing of colonial troops through the disputed northern territory during the course of the war had served to familiarize many people with the resources of the back country, and the upshot was that, long in advance of the formal signature of peace, the royal governors of New York and New Hampshire were driving a lucrative business in the granting of land tracts to thrifty speculators and settlers. In the single year, 1761, not fewer than sixty townships were granted on the western side of the Connecticut and eighteen on the eastern. The grantees began forthwith the quest of purchasers and tenants and thereby stimulated substantially an influx which was already setting in from the adjacent province of Massachusetts, and from remoter Connecticut and Rhode Island. All fear of French attack and, for the moment, of Indian outbreak, was removed. The task

¹ Matthews, "The Expansion of New England," chap. 4.

as it presented itself to the prospective settler was one simply of occupying cheap lands and wresting from a niggardly soil the means of a plain but comfortable existence—a task from which the average New Englander of the eighteenth century was in no wise disposed to shrink. Only with the northward and westward rush of settlers after 1760, so the historian of New Hampshire tells us, began the prosperity of the later Granite State ;¹ and one would hardly go far wrong in making the same affirmation concerning New England as a whole.

In 1749 a band of pioneer farmers of Kingston, in southeastern New Hampshire, had obtained from Governor Benning Wentworth the grant of a township near the centre of the province, so located that it included the spot where the Merrimac River is formed by the confluence of the Pemigewasset and the Winnipiseogee, some eighteen miles north of the present town of Concord. The leader of the group was a certain Colonel Ebenezer Stevens, in whose honor the first settlement established, Stevenstown (incorporated under the name of Salisbury in 1767), was named ; and among the settlers who after a few years were attracted thither was a stalwart frontiersman who, it appears, when a child had been bound to Stevens as an apprentice, Captain Ebenezer Webster. Ebenezer Webster was a typical eighteenth-century New England soldier-farmer. Born in Kingston in 1739, already by 1763 he had crowded into his twenty-four years more adventure than is allotted the ordinary man of three score and ten. His father was a farmer and freeholder of the same name, and his remoter ancestry can still be traced back, in the town records of Hamp-

¹ Belknap, "History of New Hampshire," Vol. II, p. 312.

ton, Kingston (now East Kingston), and Salisbury, to a Thomas Webster, who settled at Hampton, on the New Hampshire coast, only sixteen years after the coming of the *Mayflower*. The family, although resident in England some generations before emigration, was apparently of Lowland Scotch origin.

The boyhood of Ebenezer Webster fell in an exciting period—the years when all New England was aroused by King George's War, and, in particular, by the exploit of Pepperell and his men at Louisburg. There was little time, and less opportunity, for the acquirement of an education. The boy, as a pupil, never saw the inside of a schoolroom. He none the less picked up a good deal of knowledge of a homely and practical sort, and even became in a limited degree a reader and student of books. Some of the earliest records of the town of Salisbury are in his handwriting. After the age of twelve or fifteen he lived for several years in the family of Colonel Stevens, until, apparently in 1760, at the age of twenty-one, he enlisted in one of the famous companies of "rangers" commanded by Robert Rogers, which accompanied Sir Jeffrey Amherst on his invasion of Canada. Upon the conclusion of the war the young man, now a captain, returned to Kingston, where he married, in 1761, Mehitable Smith. Some months later, accompanied by his wife, and by several fellow-townsmen—most of them, like himself, but lately thrown out of military employment—he traversed the almost unbroken way to his patron's wilderness settlement, Stevenstown. The new township, as originally laid out, comprised a tract four miles in width along the west bank of the Merrimac, and extended to the southwest a distance of some nine miles, almost to the summit of Kearsarge Mountain.

To Webster fell the northernmost portion of it,—so that after he had erected his log cabin on a hill three miles west of the Merrimac and lighted his fire, “his smoke ascended nearer to the North Star than that of any other of his Majesty’s New England subjects.”¹ His nearest civilized neighbor on the north was at Montreal.

Life in most parts of rural New England in the eighteenth century was hard and prosaic. Nowhere, perhaps, was it more so than among the hills of central New Hampshire. The soil was shallow and unproductive. Roads and bridges scarcely existed. The winters were long and forbidding. Of newspapers, books, schools, and other agencies of entertainment and information, there were few or none. There was not even entire security, for although the French no longer threatened from Montreal or Quebec, in the woods lurked savages ready to steal and destroy, if not actually to burn and kill. As late as 1775 a frontiersman’s wife was slain by marauding redskins within three miles of the Webster homestead. Unceasing toil, recurring hardship, and not infrequent danger—conditions which only men and women of the toughest fibre could hope to meet and overcome—were the certain lot of every commonwealth-builder of northern and western New England a hundred and fifty years ago.

“My first clear and distinct recollection of my father’s appearance,” wrote Daniel Webster in 1829, “was when he was at the age of fifty. I think it was rather striking; he was tall, six feet, or six feet within half an inch, erect, with a broad and full chest, hair still of an unchanged black, features rather large and prominent. He had a decisive air and bearing, partly

¹ “Autobiography of Daniel Webster.” Webster, “Private Correspondence,” Vol. I, p. 5.

the effect, I suppose, of early soldiership. . . . The last time I ever saw General Stark, he paid me the compliment of saying that my complexion was like that of my father, and that his was of that cast, so convenient for a soldier, that burnt gunpowder did not change it."¹ Writing in 1846, Webster said of his father: "He had in him what I collect to have been the character of some of the old Puritans. He was deeply religious, but not sour. On the contrary, good-humored, facetious, showing even in his age, with a contagious laugh, teeth all as white as alabaster, gentle, soft, playful, and yet having a heart in him that he seemed to have borrowed from a lion. He could frown; a frown it was; but cheerfulness, good-humor, and smiles composed his most usual aspect."² As a man of sound common sense, of correct judgment, and of resolute character, a patriotic, devout, high-minded citizen, the elder Webster early achieved a solid reputation throughout the section of the country in which he lived. In 1768 he was chosen by his neighbors moderator of the Salisbury town-meeting, an office to which he was thereafter elected forty-three times, serving for the last time in 1803. In March, 1774, after ten years of backwoods existence, Mrs. Webster died. Of the five children she had borne, two—a son and a daughter—had died young, while three—a daughter, Susannah, and two sons, David and Joseph—survived. Within the year (in August) the father married again, the second wife being Abigail Eastman, a woman, according to all accounts, of more than ordinary force of will and loftiness of soul.

¹ "Autobiography of Daniel Webster." Webster, "Private Correspondence," Vol. I, pp. 4-6.

² Webster to Blatchford, May 3, 1846. *Ibid.*, Vol. II, p. 229.

Early in 1775 the storm of war broke upon the colonies. Among the first patriots to respond to the call to arms which followed Concord and Lexington was Captain Ebenezer Webster. The town of Salisbury had so grown that it was now able to muster a company of two hundred men, and throughout the larger portion of the war this company, raised by the efforts of Webster from among his neighbors and kindred, marched and bivouacked and fought under his command. At the operations about Boston in 1775-1776, at White Plains in 1776, with General Stark at Bennington in 1777, and at West Point on the occasion of the discovery of Arnold's treason in 1780—not to mention a fruitless expedition to aid in the relief of Ticonderoga in 1777—Captain Webster rendered services of an intrepid and highly honorable character. The proudest moment of his career came when, on the night following the exposure of Arnold's treachery, he was selected to stand guard in front of General Washington's headquarters, and when, if tradition is to be accredited, the general declared to him, "Captain Webster, I believe I can trust *you*." In the New Hampshire militia he rose, by 1785, to the rank of colonel.

Interspersed with military services were not only hurried intervals of farming but labors of a civic nature. By his neighbors Webster was sent as a delegate to the convention which framed the first New Hampshire constitution. More than once he sat as a member of committees having charge of the regulation of prices, the prevention of forestalling, and the raising of the town's quota of troops. Three times, in all, he was chosen first selectman, and three times town clerk. And with the establishment of a state government the range of his political activities was broadened. During

and after the war he served four terms in the lower house of the state legislature and four in the upper one. In 1788 he was a member of the Exeter convention called to consider the ratification of the proposed Constitution of the United States, and in the adjourned session of that convention, at Concord, in the following June, he is reputed to have given material assistance in carrying the day for the new frame of government. In 1789 he served as a presidential elector, and from 1791 until his death, in April, 1806, he was continued by the suffrage of his neighbors in the office of judge of the court of common pleas for the county of Hillsborough.

Meanwhile certain changes had come about in the economy of the Webster household. With the growth of the family a larger and better dwelling became a necessity, and shortly before the close of the war a "frame" house was built, not far from the old structure of logs. The new building was a typical New England farmhouse of the old days—"one story high, clap-boarded, with the chimney in the centre, the door in the middle of the south side, four rooms on the ground floor, and a lean-to in the rear for a kitchen."¹ The evidence is not entirely conclusive, but it would appear that, of the five children borne by Captain Webster's second wife, two first saw the light in the old log house, two others in the frame dwelling, and the fifth in a house three miles to the eastward to which the family

¹ McMaster, "Daniel Webster," p. 6. The house, still standing, is located four miles from the centre of the town of Franklin on the Salisbury road. In recent years it has been leased to various persons by a building and loan association by which it is owned. In 1912 an organization was formed, under the presidency of Ex-Senator William E. Chandler, for the purchase and preservation of the homestead.

removed in 1783. Of the five, three were daughters—Mehitable, Abigail, and Sarah. Of the two sons, Ezekiel was born in the log house, April 11, 1780; Daniel, in the frame structure, January 18, 1782.

The piece of ground to which Captain Webster removed during the year following Daniel's birth was known in later days as "Elms Farm." It was situated in a valley two and a half miles to the south of the head of the Merrimac. At the time when the Websters made it their homestead, it was included within the township of Salisbury, although subsequently it fell within that part of the parent township which, in 1828, was set off under the name of Franklin. From a sheep-pasture, which commanded the most extensive outlook from the farm, Ascutney Mountain, to the north-west, in Vermont, was plainly visible, as, to the north-east, was the snow-capped summit of Mount Washington. Altogether, with hills and valleys and distant mountain stretches, the physical environment amidst which it was the fortune of the boy Daniel to grow up contained much that was impressive, even awe-inspiring. That his earliest recollection, recorded in his autobiography, should have been one of those spectacular visitations of Nature—a devastating flood—to which the New England hills are liable, is hardly surprising. The spell cast over him by rugged, relentless Nature as he studied her and wondered at her subtle power, never left him, and perhaps it is not too much to fancy that to its influence he owed something of that ruggedness and force which were to make of him a veritable giant among men.

Ezekiel Webster was the common sort of New England boy, sturdy, self-reliant, ready at the age of ten or twelve to bear a hand in the rough task of maintain-

ing the family group. But the younger Daniel seemed distinctly less fortunate and less promising. Delicate, even sickly, in his infancy, as a boy he was altogether incapable of manual labor. He accordingly was allowed, and encouraged, to spend his time in the fields and woods at play. Racing over the meadows, stealing among the trees to watch the habits of animals and birds, fishing, and occasionally riding horseback up and down the corn rows which his father was ploughing, he gradually accumulated a larger vitality than fond parents had dared hope for him, and at the same time he filled his mind with a lore not then, or at any time, satisfactorily to be had from books. As an almost inseparable companion, the boy had, through many years, a curious old character by the name of Robert Wise—an unlettered adventurer who had fought in several European wars, had served with the New Hampshire levies in the Revolution, and had at last settled for the remainder of his days in a little cottage located on a corner of Elms Farm. Between the two a bargain was quickly struck whereby the old soldier was to instruct the boy in angling and other outdoor sports, as well as to entertain him from an apparently inexhaustible fund of experiences and anecdotes, in return for which young Daniel was to read to his companion, "still a true Briton," such accounts of British affairs and deeds of valor as could be wrung from the meagre newspapers of the day. "Alas, poor Robert," runs a passage in the autobiography of later years, "I have never so attained the narrative art as to hold the attention of others as thou, with thy Yorkshire tongue, hast held mine."¹

But all was not mere play and entertainment. There

¹ Webster, "Private Correspondence," Vol. I, p. 16.

was the problem of an education. In his autobiography Webster tells us that he was unable to remember when or by whom he was taught to read, and that he never could recollect a time when he was not able to read the Bible. His supposition was that he was taught by his mother or his elder sisters, and the instruction must have begun at the tender age of three or four. Of opportunity for further education there was none save such as was afforded by the extremely inadequate town schools of the vicinity. Ambitious, even as a child, to extend his range of information, and given every encouragement by the members of his family, the boy attended these schools as regularly as health and weather permitted. That district of the town of Salisbury in which the Webster family lived contained, indeed, three log schoolhouses. The itinerant masters, however, who elsewhere came from time to time into such communities and dispensed learning in its simpler forms seldom penetrated so far as the Webster community, so that the keeping of schools fell almost exclusively to various small farmers or storekeepers who sought thereby to eke out their precarious livelihood. One may well believe that such teachers, to employ Webster's own phrase, were "sufficiently indifferent." In these schools, he says, "nothing was taught but reading and writing; and, as to these, the first I generally could perform better than the teacher, and the last a good master could hardly instruct me in; writing was so laborious, irksome, and repulsive an occupation to me always. My masters used to tell me that they feared, after all, my fingers were destined for the plough-tail."¹ The first of these masters, Thomas Chase, is said to have been able to read and write with

¹ Webster, "Private Correspondence," Vol. I, p. 7.

fair facility, but to have floundered hopelessly with his spelling. Another, James Tappan, who occasionally "boarded" with the Websters, was more proficient.

For most children attendance at school was restricted to the eight or ten weeks of the year during which instruction was being offered in the immediate neighborhood. While still but six or eight years of age, however, Daniel persisted in walking, even in the depth of winter, to and from a school two and a half or three miles distant. And when no opportunity was to be had within even this distance, the boy's indulgent father sometimes made arrangements for him to board for a few weeks with a family living in the vicinity of a school that was more remote. "A good deal of this," the autobiography records, "was an extra care, more than had been bestowed on my elder brothers, and originating in a conviction of the slenderness and frailty of my constitution, which was thought not likely ever to allow me to pursue robust occupation."¹

The sacrifice was well repaid. The boy was not a prodigy, but he learned rapidly and remembered unflinchingly all that he had been taught. When, upon one occasion, a master, as a special inducement to industry, made an offer of a jack-knife to the pupil who at a specified time should be able to recite the largest number of verses of Scripture, Daniel easily carried off the prize, and without being allowed, so we are assured, to reel off the full quota of passages which he had tucked away in his mind for the occasion. Outside of school he read as widely as the restricted opportunities of the frontier permitted. His father and certain other men of standing in the community established a small circulating library, and from this Daniel

¹ Webster, "Private Correspondence," Vol. I, p. 7.

obtained a variety of books, most of them of fair quality and readableness. Among them was Addison's "Spectator," which, by reason of the boy's decided taste for poetry, was a godsend, although he tells us that it perplexed him not a little that the essayist should have taken so great pains to demonstrate the beauty of Chevy Chase, a thing which was so perfectly self-evident. At the age of ten or twelve he could repeat from memory the greater portion of the psalms and hymns of Dr. Watts, and not seldom in his later life did he draw upon them for apt quotation. "I remember," he records in the autobiography, "that my father brought home from some of the lower towns Pope's 'Essay on Man,' published in a sort of pamphlet. I took it, and very soon could repeat it, from the beginning to end. We had so few books that to read them once or twice was nothing. We thought they were all to be got by heart."¹ Even the arrival of the yearly almanac was an event, and upon one occasion it came near being attended with disastrous consequences. Rising by candle-light at two o'clock one morning to ascertain a word in the third line of the quatrain set down at the top of the page devoted to April, young Daniel accidentally set the house on fire, and it was only by his father's presence of mind that the property, and perhaps the family, was saved. The boy's chagrin was not lessened by the discovery that in the dispute in which he and Ezekiel had been engaged relative to the April quatrain he had been in the wrong.

When Daniel was not more than eight years of age there fell into his hands a copy of the recently adopted Constitution of the United States. From his father, whose hard-headed reasoning in the Concord conven-

¹ Webster, "Private Correspondence," Vol. I, p. 8.

tion of two years before had helped turn the tide in favor of a ratification of the instrument, the boy must have picked up a good deal of information concerning the pressing political problems of the time. He had never seen the text of the new frame of government, however, until one day, in a little store kept by William Hoyt, he bought for a few cents a small cotton pocket-handkerchief, on the two sides of which was printed the Constitution, embellished with crude cuts of flags and other emblems. It was a gaudy affair, proudly exhibited by the owner, but roundly complained of by the good housewife on the ground that it "wouldn't wash." The printed matter was painstakingly spelled out and studied, and from it the boy learned, as was laughingly remarked in later years, "that there was a constitution, —or that there were thirteen states." Relating the incident, in 1850, Webster testified that this was his earliest acquaintance with the Constitution, adding naively that he had "known more or less of it ever since."¹

Until his fourteenth year the life of the boy flowed in its accustomed channels. "A great deal of the time," he records, "I was sick, and when well was exceedingly slender, and apparently of feeble system. I read what I could get to read, went to school when I could; and when not at school was a farmer's youngest boy, not good for much, for want of health and strength, but was expected to do something."² There appeared no hope of an education beyond such as might be afforded by the agencies that have been described. In 1791, however, there had come an improvement in the affairs of the elder Webster which eventually opened

¹ Webster, "Private Correspondence," Vol. II, p. 398.

² Webster, *Ibid.*, Vol. I, p. 9.

the way to a wider opportunity for the son. Possessed in ever increasing measure of the confidence and favor of his neighbors, Ebenezer Webster was elevated in 1791 to a "side," *i. e.*, an associate, justiceship in the court of common pleas for the county in which he resided. There was attached to the office a salary of three or four hundred dollars a year. This acquisition made a world of difference in the economy of the Webster household, and gradually there took shape in the Judge's mind a plan for the further education of his youngest son. All of the sons save Daniel and Ezekiel were long since settled in life. As between the two who remained, Daniel seemed perhaps the more promising; at any rate, his obvious lack of adaptation to the life of the farmer pointed him out as the natural recipient of a paternal encouragement which could not be stretched to cover both.

In July, 1795, the father gave to Daniel his first intimation of the special opportunities that were to be offered him. The circumstances attending the incident left an impression which never faded from Webster's memory. It was a hot July day and the boy was in the field with his father, giving such assistance as he could in the haying. "About the middle of the forenoon," he records, "the Honorable Abiel Foster, M. C., who lived in Canterbury, six miles off, called at the house, and came into the field to see my father. He was a worthy man, college-learned, and had been a minister, but was not a person of any considerable natural power. My father was his friend and supporter. He talked awhile in the field, and went on his way. When he was gone, my father called me to him, and we sat down beneath the elm, on a haycock. He said, 'My son, that is a worthy man; he is a

member of Congress ; he goes to Philadelphia and gets six dollars a day, while I toil here. It is because he had an education, which I never had. If I had had his early education, I should have been in Philadelphia in his place. I came near it as it was. But I missed it, and now I must work here.' 'My dear father,' said I, 'you shall not work. Brother and I will work for you, and will wear our hands out, and you shall rest.' And I remember to have cried, and I cry now at the recollection. 'My child,' said he, 'it is of no importance to me. I now live but for my children. I could not give your elder brothers the advantages of knowledge, but I can do something for you. Exert yourself, improve your opportunities, learn, learn, and, when I am gone, you will not need to go through the hardships which I have undergone, and which have made me an old man before my time.'¹

The precise purport of this admonition did not appear until some months later. In 1781—the year before Daniel's birth—there had been established at Exeter an institution of learning modeled on the higher-grade English schools of the time, and known, from the name of its benefactor, the Honorable John Phillips, as the Phillips Exeter Academy. In the spring of 1796 the elder Webster disclosed to his son his purpose to place him in this far-famed school, and, May 26th, the two made the trip together on horseback to Exeter, where the necessary arrangements were concluded with the principal of the school, Dr. Benjamin Abbott. Daniel was at the time but fourteen years of age. Never before, except for a few days at a time, had he been away from home, and in his new surroundings he was

¹ Webster to Blatchford, May 3, 1846. Webster, "Private Correspondence," Vol. II, pp. 228-229.

at first somewhat overpowered. His home-made clothes and his rustic manners subjected him to a certain amount of ridicule on the part of his more fashionable associates, and there were recurring attacks of homesickness. Application to his studies, however, and the commendation of his teachers enabled him in time to overcome these difficulties. During the session from May to October he mastered the rudiments of English grammar and made substantial progress in writing and arithmetic ; and after a brief autumn vacation, spent at home, he entered upon the study of more advanced subjects. In Latin grammar he fell under the tutelage of Joseph Stevens Buckminster, an older student of the academy who in 1796 was giving instruction during the illness of Dr. Abbott. Other teachers of this period whom Webster in subsequent days recalled with gratitude were a Mr. Thacher and a Mr. Emery, both of whom turned eventually to law and attained some eminence in the profession.

In one respect only was the boy's career at Exeter unsatisfactory to himself and to his masters : he never was able to summon up the requisite presence of mind to deliver a declamation, as every boy was expected to do, in the hearing of his fellow-pupils. "The kind and excellent Buckminster sought, especially," he tells us, "to persuade me to perform the exercise of declamation like other boys, but I could not do it. Many a piece did I commit to memory, and recite and rehearse in my own room, over and over again, yet, when the day came, when the school collected to hear declamations, when my name was called, and I saw all eyes turned to my seat, I could not raise myself from it. Sometimes the instructors frowned, sometimes they smiled. Mr. Buckminster always pressed and en-

treated, most winningly, that I would venture, but I could never command sufficient resolution. When the occasion was over, I went home and wept bitter tears of mortification."¹ From the timid Exeter school-boy to the confident and peerless orator of the Plymouth and Bunker Hill commemorations, or of the Seventh of March, was a transition of tremendous magnitude. Although Webster himself nowhere gives us any light upon the point, it is reasonable to suppose, as does his principal biographer, that the deficiency of the schoolboy arose from conditions of mental sensitiveness and physical frailty which in time completely disappeared.² At any rate, under more favorable circumstances, at college and in his profession, the difficulty seems never to have recurred.

After nine months at the academy there came another change. In February, 1797, it was arranged that Daniel should be placed under the tutelage of the Reverend Samuel Wood, a minister of the adjoining town of Boscawen, but six miles distant from the Webster homestead. It was now the purpose of Judge Webster to send the boy to college, and Dr. Wood, strongly impressed by the lad's ability, had volunteered to fit him for admission, making a charge therefor, covering lodging, board, and instruction, of one dollar a week. On the road to Boscawen the father disclosed to the boy his ultimate intention. "The very idea," wrote Webster long after, "thrilled my whole frame. He said he then lived but for his children, and if I would do all I could for myself he would do what he could for me. I remember that I was quite overcome and my head grew dizzy. The thing appeared to me

¹ Webster, "Private Correspondence," Vol. I, pp. 9-10.

² Curtis, "Life of Daniel Webster," Vol. I, p. 21.

so high, and the expense and sacrifice it was to cost my father so great, I could only press his hands and shed tears. Excellent, excellent parent! I cannot think of him, even now, without turning child again.”¹

With Dr. Wood the boy continued his studies during a period of approximately six months. He read Virgil and Cicero, conceiving, as he tells us, “a pleasure in the study of them, especially the latter, which rendered application no longer a task.” When haying time came round he was called home for a time by his father, but his indifferent application to the prosaic tasks of the farm only confirmed the conviction that he must be prepared for some occupation that would not involve manual labor. He was therefore returned without delay to the tutelage of Dr. Wood, and to the end that he might obtain the necessary preparation in the Greek grammar for an early entrance to college, a Dartmouth senior by the name of Palmer was called in to give him special instruction in that branch. Dr. Wood was not an exceptional scholar or teacher, but during a pastorate covering upward of fifty years he taught in his own house, sometimes without hope of pecuniary reward, no fewer than one hundred and fifty boys, most of whom went to college, and several of whom, like Webster, attained rare distinction in subsequent professional life. It was service of this nature, hardly less than the more immediate ministrations of religion, that gave the New England minister of a hundred years ago his remarkable hold upon the life and thought of his times.

In midsummer of 1797 Dr. Wood announced to his youthful pupil that he might consider himself prepared for college. His attainments as yet, of course, were

¹ Webster, “Private Correspondence,” Vol. I, p. 10.

meagre enough. The Latin grammar he knew fairly well. The first six books of the *Æneid* and Cicero's four orations against Catiline he had read. Of the Greek grammar he had an elementary knowledge, and he had read, although with indifferent proficiency, the four gospels in the original tongue. Of mathematics he knew nothing, except the elementary arithmetic studied in the town schools and at Exeter. Of geography and history he had no systematic knowledge, although his reading had given him an acquaintance with some phases of these subjects. In the domain of English literature, while he had never received formal instruction, he had read with sufficient range and discernment to be at least better equipped than was the average college student of the day. For Greek and mathematics he had small taste; but for the Latin classics, English literature, history, and politics he exhibited a decided liking. As to his preparation for college, the boy seems himself to have cherished some misgivings. His patron's efforts, however, accomplished their purpose, and in August, 1797, at the age of fifteen, Daniel found himself a member of the freshman class at Dartmouth. Doubtless it was, as he himself long afterward described it, a "mere breaking-in"; but it opened a new and wonderful field of opportunity.

CHAPTER II

PREPARATION FOR THE LAW

WHEN Webster became a student at Dartmouth the institution was—as it still was twenty-one years later when he summoned all his powers to its defense before the highest tribunal of the land—a little college. Its origin is to be traced to a plan of the missionary, John Sergeant, for the establishment of an Indian school at Stockbridge, Massachusetts. By reason of the premature death of Sergeant the project upon which he was bent was delayed, but it was taken up by Dr. Eleazer Wheelock, of Lebanon, Connecticut, and broadened to comprehend the founding of an institution of higher learning for both Indians and whites. Funds were collected in England and America and a site, offered by Governor Thomas Wentworth and other citizens of New Hampshire, was accepted, consisting of the township of Hanover, on the eastern bank of the Connecticut. In 1770 the college, bearing the name of an English patron, the Earl of Dartmouth, and endowed with upward of fifty thousand acres of land in New Hampshire and Vermont, opened its doors, under the management of President Wheelock and a self-perpetuating board of twelve trustees. A class of four was graduated in 1771.

By 1797 there were upward of two hundred students in the college, and the number of graduates from year to year was surpassed at only one other institution in the country. The quality of instruction was excellent,

although the range was of necessity restricted. As a freshman young Webster merely went on with the reading of the *Æneid* and of the Greek New Testament. In the sophomore year there was more of the same sort of thing, with excursions into arithmetic and algebra. Of new subjects to be studied there were practically none. And, recalling the dislike which Webster cherished for mathematics, and his comparative indifference to Greek, it is easy enough to understand the conclusion at which apparently he in time arrived, namely, that the academic routine with which most of his companions were content was ill-considered and insufficient. That during his earlier years at the college he ever got so far as definitely to formulate this revolutionary doctrine does not appear. What he did was simply to attend with fair diligence to the tasks which his instructors imposed, employing the remainder of his time in more congenial pursuits, especially in extending his knowledge of English literature, philosophy, and modern history. There was still the passion for poetry, and not merely for the reading and memorizing of it, but for writing it. Some of the effusions of this period, for which the author in later years expressed a profound contempt, survive, among them verses addressed to George Herbert, an intimate college friend, when Webster was on the point of returning to Salisbury for the winter vacation of 1798-1799.¹ They exhibit sophomoric flamboyancy, and yet are by no means lacking in delicacy of sentiment and felicity of expression. The consequence of the youth's somewhat independent apportionment of his time was that, while he was recognized as a student who could be depended upon absolutely to come up to the mark

¹ Webster, "Private Correspondence," Vol. I, pp. 71-72.

with his required exercises, he did not attain great distinction in his academic subjects. At the sophomore "exhibition" in 1799 neither of the two principal appointments conferred by the faculty fell to him. Measured solely by those standards according to which academic honors were then, and have often been since, bestowed, Daniel's college career was, indeed, considerably less brilliant than was that, subsequently, of his brother Ezekiel.

The credit, however, for Ezekiel's attainments rests in no small degree with the younger, and on the whole the more capable, brother. When Ebenezer Webster, in the teeth of financial embarrassment and approaching old age, formulated his plan for the education of Daniel it was his purpose that Ezekiel, vastly superior in physical strength and accounted of no special promise intellectually, should remain on the farm, gradually to take over the heavier labor that was to be performed and, eventually, the care of the surviving members of the household. In this disposition of his future Ezekiel uncomplainingly acquiesced. To the sensitive mind of Daniel, however, the arrangement brought sore misgiving. Never were brothers more sympathetic and more inseparable than Daniel and Ezekiel; and that, by reason of his precarious health and greater boyishness, he had been shielded and humored in countless ways by his large-hearted brother, Daniel was much too honorable to fail to recognize. The relations sustained between the two are well illustrated by a little anecdote which, whether or not based upon actual fact, was long current in New England. The two boys, as the story runs, were once provided with a little pocket money and permitted to attend a country fair. When they returned in the evening Daniel was

enthusiastic, Ezekiel rather non-committal. "What did you do with your money?" Daniel was asked. "Spent it," was the exultant answer. "And, Ezekiel, what did you do with yours?" The reply came with an air of resignation: "Lent it to Daniel."

When, in May, 1799, the young sophomore returned to the old homestead for the spring vacation, he found Ezekiel visibly depressed by his apparently unpromising lot. He had been thinking, so he confided to Daniel, of seeking his fortune in some new portion of the country, and had been deterred only by the realization that his father was coming to be more than ever in need of his help and that within perhaps a few years he would be the sole dependence of his mother and his two unmarried sisters. In a conference which lasted throughout an entire night the two boys, the elder as yet only nineteen years of age, canvassed a problem which for older heads would have been sufficiently knotty. In the end it was decided that the idea of seeking a fortune in distant parts should be abandoned, but that, instead, Daniel should take up at once with his father the question of arranging, even at this late day, for Ezekiel's education, including eventually a course at Dartmouth. Both recognized that such a project would come as a shock to the other members of the family, particularly as the father was growing old, his health was not good, and his circumstances were far from easy. None the less, on the morrow Daniel broached the plan and supported it with arguments which enabled him to carry the day. He promised to "keep school" himself, if need should arise, and thus to take more than the allotted four years to complete his own course at Hanover, if only Ezekiel might be given an opportunity such as that which he

was himself enjoying. The father "said at once," Webster records, "he lived but for his children ; that he had but little, and on that little he put no value, except so far as it might be useful to them. That to carry us both through college would take all he was worth ; that, for himself, he was willing to run the risk ; but that this was a serious matter to our mother and two unmarried sisters ; that we must settle the matter with them, and, if their consent was obtained, he would trust to Providence, and get along as well as he could." ¹

In a family council which Webster feelingly described in his old age the mother affirmed her willingness even that the farm, already under mortgage for Daniel's education, should be sold, if need be, to meet the expenses of the two boys. To such lengths it proved, fortunately, not necessary to go, but through many years thereafter the shadow of debt hung heavy over the family. For Ezekiel the road to be traversed was long and hard. At the relatively advanced age of nineteen, and after having given several years exclusively to the labor of the farm, he had to begin with those elementary studies which the younger brother had long since left behind. By dint of resolute application, however, he overcame the disadvantage. Two terms at a little academy recently established at Salisbury were followed by nine months of instruction under the direction of Dr. Wood at Boscawen, and in March, 1801—six months before Daniel's graduation—he entered Dartmouth, so well prepared, and with such habits of industry, that within a year he had taken rank as one of the most proficient students of the college. He was graduated in 1804, after having

¹ Webster, "Private Correspondence," Vol. I, p. 12.

been in residence at Hanover little more than three years.

Returning to college in the autumn of 1799 for his junior year, Daniel found himself obliged to eke out by his own efforts the diminishing funds with which it was now possible for his father to supply him. By superintending the publication of a little weekly newspaper, the *Dartmouth Gazette*, and making selections for it from books and current periodicals, he was able to pay his board and at the same time to indulge his taste for literature and public affairs. "I suppose I sometimes wrote," he says, "a foolish paragraph myself."¹ The winter vacation of 1800 found him teaching a small school at Salisbury, the proceeds of which went to the support of Ezekiel during his months of tutelage at Dr. Wood's.

The last two years of Webster's stay at Dartmouth were distinctly a period of growth in mental power and of broadening grasp upon those things that make for success in professional life. With scrupulous fidelity, although in sometimes a rather perfunctory manner, the subjects which fell to juniors and seniors under the rigid curriculum of the day were accorded their quota of time and labor. But beyond these the rapidly maturing student pushed his interests and inquiries in multifold directions. History, especially, he read with voracious zeal, and, as appears from a few of his letters which have survived from these years, the politics of the day, both foreign and domestic, received his continued attention. At home the times were full of interest. In the election of 1800 federalism, under whose ægis Webster had been reared, went down to defeat, and in 1801 there was being established that

¹ Webster, "Private Correspondence," Vol. I, p. 11.

Jeffersonian régime which some of the young student's friends and companions regarded as a curious experiment, others as a curse that had fallen upon the land by reason of the iniquities of the people, but few if any as a natural or desirable refreshing of the body politic. Abroad, affairs were still more stirring. "Who would have thought six months ago," wrote Webster, February 5, 1800, to a former Exeter comrade, James H. Bingham, "that Bonaparte, who was then represented as lying with his slaughtered army on the plains of Egypt, to taint the air and gorge the monsters of the Nile, would at this time have returned to France, have destroyed the Directory and Legislative Councils, have established a triumvirate, and have placed himself at its head—which is saying, have virtually made himself sovereign of France? Who could have predicted that the Duke of York, who so late was marching victoriously through Holland, should ere this time have entered into a convention, by which he was to give up all his booty and prisoners and evacuate the country? Or, who ever supposed that Paul, emperor of Russia, who so lately was raising one hundred and eighty thousand men to reinforce his armies, should now order Suwarrow, with his veteran Cossacks, to quit the field and return home? The occurrences hitherto would have warranted the most extravagant expectations; but these events must have been, I think, unprepared for. What unknown cause has wrought these changes? I cannot determine. I am weary of conjecture."¹

The letter just quoted is of further interest by reason of the comments contained in it upon the perils by which the writer believed his own country to be beset.

¹ Webster to Bingham, February 5, 1800. Webster, "Private Correspondence," Vol. I, p. 78.

“When baffled in attempting to scan the horizon of European politics, could I turn my eyes home and be presented with such a prospect as was afforded five years ago, I should lift my heart to heaven in a transport of devotion, and exclaim, ‘Let France or England be arbiter of Europe, but be mine the privileges of an American citizen.’ But, Hervey, our prospect darkens; clouds hang around us. Not that I fear the menaces of France; not that I should fear all the powers of Europe leagued together for our destruction. No, Bingham, intestine feuds alone I fear. The French faction, though quelled, is not eradicated; the southern states in commotion; a Democrat the head of the Executive in Virginia; a whole county in arms against the government of McKean, in Pennsylvania; Washington, the great political cement dead, and Adams almost worn down with years, and the weight of cares. These considerations, operating on a mind naturally timorous, excite unpleasant emotions. In my melancholy moments, I presage the most dire calamities. I already see, in my imagination, the time when the banner of civil war shall be unfurled; when Discord’s hydra form shall set up her hideous yell, and from her hundred mouths shall howl destruction through our empire; and when American blood shall be made to flow in rivers, by American swords! But propitious heaven prevent such dreadful calamities! . . . Heaven grant that the bonds of our federal union may be strengthened; that Gallic emissaries and Gallic principles may be spurned from our land; that traitors may be abashed, and that the stars and stripes of United Columbia may wave triumphant.”¹

¹ Webster to James H. Bingham, February 5, 1800. *Loc. cit.*

In these sentences there is, of course, much sheer bombast and a good deal of partisan prejudice. But it should be borne in mind that they were penned by a college junior who had arrived at the stage of development where one is likely to be too proud of one's rhetoric to be able to keep it wholly within bounds. Between the effectiveness of the passages that have been quoted and that of the peroration of the second Reply to Hayne there is no apparent possibility of comparison. Yet the superiority of the later effort arises not so much from the sentiments contained in it as from the simple and restrained language in which they are expressed. The statesman of 1830 cherished an attachment for the Union hardly more fervid than that which stirred the heart of the schoolboy of 1800.

It was during his junior year at Dartmouth that Webster first acquired proficiency in public speaking. A society, "The United Fraternity," of which he became a member afforded abundant opportunity for practice, and gradually the shyness which had rendered his days at Exeter a torment completely disappeared. By the beginning of the senior year no one in the college was regarded as his equal in debate or set oration. It was now that his enormous reading and his prodigious memory began to tell to his advantage. At a moment's notice he was able to call up from the depths of his mental storehouse a wealth of fact and allusion, with which nothing short of his long-continued, painstaking reading could have equipped him. His own testimony on the point is interesting. "So much as I read, I made my own. When a half-hour, or an hour at most, had elapsed, I closed my book, and thought over what I had read. If there was anything peculiarly interesting or striking in the passage,

I endeavored to recall it and lay it up in my memory, and commonly could effect my object. Then if, in debate or conversation afterward, any subject came up on which I had read something, I could talk very easily so far as I had read, and there I was very careful to stop.”¹

Three only of the orations which Webster delivered during his days at college have been preserved. That the young man had achieved fame locally as a public speaker is sufficiently demonstrated by the fact that he was invited by the townspeople of Hanover to make the principal address at the Fourth of July celebration in 1800. The character of this effort was in part predetermined, of course, by the nature of the occasion. In the speech the eighteen-year-old orator rehearsed the more exhilarating aspects of the Revolution, paid lofty tribute to Washington and other Revolutionary leaders, and praised the new order which had been ushered in under the Constitution. The tone was pronouncedly Federalist, but few if any of the auditors were likely to take offense thereat. The style, while simple and more direct than had been usual in eighteenth century oratory, was still florid, and at times labored. The thought was, in large part, solid. The burden of the argument—the necessity of the Union, the menace of civil discord, the efficacy of the Constitution as the bulwark of the nation—was precisely that which it was to be the lot of Webster to bear before his countrymen in countless oratorical appeals through upward of two succeeding generations.² Of the other two college orations which have survived, one is a dis-

¹ McGaw to Sanborn, November 16, 1852. Webster, "Private Correspondence," Vol. I, p. 51.

² "Writings and Speeches," Vol. XV, pp. 475-484.

course on "Opinion," delivered before the United Fraternity;¹ the other, a eulogy on a classmate, Ephraim Simonds, who died in June of his senior year. Both show some improvement upon the Hanover speech, the eulogy, in particular, being, as Mr. Curtis describes it, "natural, unaffected, full of feeling, and of a strong religious faith."²

In 1801 Webster was graduated with his class. Although admittedly the best speaker and the student of widest information in the college, he had no part in the commencement exercises. This, as he tells us, was "owing to some difficulties—*hæc non meminisse juvat.*" The circumstance reflected at the time no discredit upon the young graduate, nor indeed upon any one concerned. It arose from the fact that Webster's rank in his academic subjects was surpassed by that of a few of his classmates and that a misunderstanding between the faculty and the graduating class with regard to commencement parts left Webster quite without an appointment. There is no evidence that he ever cherished a grudge by reason of the affair.

Of his attainments upon leaving college Webster spoke several times during his subsequent life, always with modesty, if not disparagement. In 1802, to one who was complimenting him upon his scholarship in college he protested: "The opinion of my scholarship was a mistaken one. It was overestimated. . . . Many other students read more than I did and knew more than I did." In 1825 he said to Mr. Ticknor: "My Greek and mathematics were not great while I was in college, but I was better read in history and

¹ "Writings and Speeches," Vol. XV, pp. 494-504.

² Curtis, "Webster," Vol. I, p. 40. For the speech see "Writings and Speeches," Vol. XV, pp. 487-493.

English generally than any of my class, and I was good in composition. My Latin was pretty strong too." And in 1851, in a letter to a classmate, Dr. Merrill, he said: "I believe I was less industrious; at any rate, I indulged more in general reading, and my attainments, if I made any, were not such as told for much in the recitation-room. After leaving college, I 'caught up,' as the boys say, pretty well in Latin; but in college, and afterward, I left Greek to Loveland, and mathematics to Shattuck. Would that I had pursued Greek till I could read and understand Demosthenes in his own language!"¹ A taste of elementary Greek, a slight acquaintance with the higher forms of mathematics, a reasonably thorough familiarity with Latin grammar and literature, a broad and discerning knowledge of history, politics, and English literature—such, in brief, was the academic equipment which the aspiring graduate of nineteen was able to bring to the task of making his way in the world. Other qualifications, however, he possessed in liberal degree. He could write smooth and forceful, even if as yet occasionally extravagant, English. In facility in public debate, and in oratorical abilities generally, he had achieved the highest distinction possible within the sphere to which he had thus far been confined. His capacity for work was prodigious, his memory extraordinary. Further than that, his character and deportment were such as to win the readiest confidence. He was refined in his tastes, unimpeachable in morals, genial in manner, optimistic in temperament, and passionately patriotic. No one knew him but to admire him, and when he went forth from the little New

¹ Webster to Merrill, January 10, 1851. Webster, "Private Correspondence," Vol. II. p. 412.

Hampshire college many of those who had observed his genius and measured his character were ready to predict for him the loftiest distinctions of life.

After commencement Webster returned to his father's house in Salisbury. Not until now, it would appear, was the choice of a profession definitely made. Even at his graduation, the young man himself seems to have been totally undecided as to the direction in which he should turn. The father suggested, and mildly urged, the study of law; and, without enthusiasm—even with ill-concealed indifference—the son accepted the suggestion. In August, 1801, he entered the office of his father's old friend and neighbor, Thomas W. Thompson, an able practitioner and in later times a member of both the House of Representatives and the Senate of the United States. "I have precipitated myself into an office," wrote Webster to his friend Bingham a few months after graduation, "with how much prudence I do not now allow myself to reflect. I am not like you, harassed with dreams, nor troubled with any waverings of inclination; but am rather sunken in indifference and apathy. I have read some since commencement, learned a little, forgotten a good deal, and should be glad to forget much more."¹ In a later portion of the same letter he confesses that he expects "to meet many disappointments in the prosecution of the law," states that he has "calculated too largely on the profession," and solemnly records that he has lately "engaged a new auxiliary" to support him under mortification, namely, tobacco. To a Mr. Coffin he writes, a few days later: "Considering how long I must read law,

¹ Webster to Bingham, September 22, 1801. Webster, "Private Correspondence," Vol. 1, p. 92.

prospects are not very flattering, but perhaps I may find room hereafter in some wilderness, where the violet has not resigned her tenement, to make writs without disturbance of rivals, if there should be nobody to purchase. . . . Our class are much inclined to the law, but I believe we have all mistaken our talents. We have those that might be good divines, and perhaps eminent physicians. But, in honesty, it is not my opinion that any individual has brilliancy, and at the same time penetration and judgment enough, for a great law character."¹

Mr. Thompson was a graduate of Harvard and had served for three years as a tutor at that institution. He possessed a library which, as country lawyer's libraries went in the early nineteenth century, was well filled and well selected. It was Webster's lament that as a student of law he was obliged to pore over Vattel, Montesquieu, and Blackstone when he should greatly have preferred Homer, Shakespeare, and Milton. And although he made substantial progress with his legal subjects, especially the law of nations (of which one day he was to become an eminent expounder), he found time to devour the "Iliad," in Pope's translation, a large part of the poetry of Cowper, "Paradise Lost," several of Shakespeare's plays, and the histories of Hume and Robertson. When there were no writs to be copied and reading grew wearisome, the woods and streams tempted him forth with dog and gun and fishing-rod.

The intention had been that Webster should continue with Mr. Thompson throughout the winter of 1801-1802. By mid-winter, however, the state of the

¹ Webster to Coffin, October 3, 1801. Webster, "Private Correspondence," Vol. I, pp. 94-95.

family finances became such that there was nothing for the young man to do but to suspend his studies and earn some money, for both his own support and the maintenance of Ezekiel at Dartmouth. At this juncture there came, opportunely enough, an offer of the preceptorship of a little academy at Fryeburg, Maine. Fryeburg, at the head of the Saco River and near the New Hampshire line, was a comparatively new settlement, but it was growing rapidly, and even if Webster had been in a position to select the scene of his labors he should probably have adjudged the town by no means an unattractive place. As it was, he grasped the opportunity without delay, and the middle of January found him once more in the schoolmaster's chair, on a contract for six months' service at a salary of one hundred and seventy-five dollars. To the end that he might save his entire earnings he forthwith entered into a self-sacrificing arrangement with the register of deeds for the county of Oxford, Mr. James Osgood, with whose family he lived and boarded. "The fee," he tells us, "for recording at full length a common deed, in a large fair hand, and with the care requisite to avoid errors, was two shillings and threepence. Mr. Osgood proposed to me that I should do this writing, and that of the two shillings and threepence for each deed I should have one shilling and sixpence. I greedily seized upon so tempting an offer, and set to work. On a long winter's evening I could copy two deeds, and that was half a dollar. Four evenings in a week earned two dollars; and two dollars a week paid my board. This appeared to me to be a very thriving condition. . . . But the ache is not yet out of my fingers, for nothing has ever been so laborious to me as writing, when under the necessity of writing a good

hand.”¹ To a young man who loved reading, social converse, and recreation as did Webster, all this meant drudgery of the dreariest sort. A further passage in the autobiography lays bare the motive: “In May of this year (1802), having a week’s vacation, I took my quarter’s salary, mounted a horse, went straight over all the hills to Hanover, and had the pleasure of putting these, the first earnings of my life, into my brother’s hands for his college expenses. Having enjoyed this sincere and high pleasure, I hied me back again to my school and my copying of deeds.”²

Continued outlays in Ezekiel’s behalf left Daniel in a chronic state of dire poverty. “You will naturally inquire,” he writes to Mr. Fuller toward the end of his stay at Fryeburg, “how I prosper in the article of cash; finely! finely! I came here in January with a horse and watch, etc., and a few ‘rascally counters’ in my pocket. Was soon obliged to sell my horse and live on the proceeds. Still straitened for cash, I sold my watch, and made a shift to get home, where my friends supplied me with another horse and another watch. My horse is sold again, and my watch goes I expect this week; thus you see how I lay up cash.”³ Ezekiel’s needs were no greater than Daniel’s had been, but through reiterated supplications they were made to appear insatiable. “Now, Zeke, you will not read half a sentence,” so runs a note written from Salisbury, November 4, 1802, “no, not one syllable, before you have thoroughly searched this sheet for scrip; but, my word for it, you will find no scrip here!

¹ Autobiography. Webster, “Private Correspondence,” Vol. I, p. 13.

² *Ibid.*, p. 14.

³ Webster to Fuller, August 29, 1802. *Ibid.*, Vol. I, p. 122.

We held a sanhedrim this morning on the subject of cash, could not hit upon any way to get you any; just before we went away to hang ourselves through disappointment, it came into our heads that next week might do. . . . I have now by me two cents in lawful federal currency; next week I will send them, if they be all; they will buy a pipe; with a pipe you can smoke; smoking inspires wisdom; wisdom is allied to fortitude; from fortitude it is but one step to stoicism; and stoicism never pants for this world's goods; so perhaps my two cents, by this process, may put you quite at ease about cash."¹ "Money, Daniel, money," was the appeal that came from Hanover four days later. "As I was walking down to the office after a letter, I happened to find one cent, which is the only money I have had since the second day after I came on. It is a fact, Dan, that I was called on since for a dollar where I owed it, and borrowed it, and have borrowed it four times since to pay those I borrowed of."²

After some weeks a new and perplexing problem was presented. As a schoolmaster Webster was eminently successful. His pupils were devoted to him, and the townspeople of Fryeburg besought him to remain in their midst. He was offered a salary of five or six hundred dollars if he would consent to retain the preceptorship, and as an additional perquisite the clerkship of the court of common pleas for the county of Oxford was placed at his disposal. Could he expect to attain even this measure of success as a lawyer? At times he doubted it. "What shall I do?" he writes

¹ Daniel to Ezekiel Webster, November 4, 1802. Webster, "Private Correspondence," Vol. I, pp. 122-123.

² Ezekiel to Daniel Webster, November 6, 1802. *Ibid.*, p. 124.

to Bingham shortly after the trip to Hanover. "Shall I say, 'Yes, gentlemen,' and sit down here to spend my days in a kind of comfortable privacy, or shall I relinquish these prospects, and enter into a profession, where my feelings will be constantly harrowed by objects either of dishonesty or misfortune; where my living must be squeezed from penury (for rich folks seldom go to law), and my moral principle continually be at hazard? I agree with you that the law is well calculated to draw forth the powers of the mind, but what are its effects on the heart? Are they equally propitious? Does it inspire benevolence, and awake tenderness; or does it, by a frequent repetition of wretched objects, blunt sensibility, and stifle the still small voice of mercy?"¹ After enumerating the inducements that still drew him toward the law—his father's wishes, his friends' advice, and Mr. Thompson's offer of tuition gratis and eventually of his clientage—he concludes: "On the whole, I shall make one more trial in the ensuing autumn. If I prosecute the profession, I pray God to fortify me against its temptations. To the winds I dismiss those light hopes of eminence which ambition inspired, and vanity fostered. To be 'honest, to be capable, to be faithful' to my client and my conscience, I earnestly hope will be my first endeavor."²

In September, 1802, after nine months of service at Fryeburg, Webster was back in Mr. Thompson's office at Salisbury, where he remained until the early spring of 1804. Even during the busy weeks at Fryeburg he had contrived to continue to some extent both

¹ Webster to Bingham, May 18, 1802. Webster, "Private Correspondence," Vol. I, pp. 110-111.

² *Ibid.*, p. 111.

his legal and his general reading. He was much too poor to purchase Blackstone, but he borrowed a set of the Commentaries and waded through two or three of the portly volumes. From a circulating library he obtained Adams's "Defense of the American Constitutions," Goldsmith's "History of England," Mosheim's "Ecclesiastical History," "The Spectator," "The Tatler," Pope's poetical works, and various other books, all of which were perused with unflagging interest. Here, also, there had fallen into his hands Fisher Ames's memorable speech on the Jay Treaty, which he not only read but memorized. During the year and a half spent at Salisbury after the sojourn at Fryeburg his reading was confined more continuously to the law. Hume, however, he reread, and as much time as could be spared was devoted to the Latin classics—Cicero, Horace, Cæsar, Sallust, and Juvenal. Long extracts from Cicero were committed to memory, and some of the odes of Horace were converted into English rhymes. "If one can keep up an acquaintance with general literature in the meantime, the law may help to invigorate and unfold the powers of the mind." Such was the highest praise which, as late as 1803, he could find it within him to bestow upon his adopted profession.

That the lofty ideals which weighed so heavily with Webster during these maturing years should have created within him a desire to attain, not necessarily a higher rank, but a higher efficiency, in his profession than had been commonly aimed at by men in his circumstances, was inevitable. In his letters he begins to speak of a "rational and necessary ambition," and to exhibit ill-concealed impatience with the straightened conditions amidst which his lot had thus far been

cast. An idea that came to him again and again was that of going to Boston for the completion of his legal studies. "I believe," he writes in 1803, "that some acquaintance in the capital of New England would be very useful to us who expect to plant ourselves down as country lawyers. But I cannot control my fortune ; I must follow wherever circumstances lead. My going to Boston is therefore much more a matter of hope than of probability ; unless something like a miracle puts the means in my hands, I shall not budge from here very soon." ¹

For the realization of this dream the way was opened much more speedily than the ambitious student had dared hope. In the early weeks of 1804 Daniel and Ezekiel came to a realization that one or the other would be obliged to turn at once to something that would yield a little revenue ; "for," so the autobiography informs us, "we were getting to be heinously unprovided." In February Daniel made his way to Boston in quest of employment for himself or his brother. Very opportunely he found that a college friend, Dr. Cyrus Perkins, was on the point of giving up a small private school in Short (afterward Kings-ton) Street, and the upshot was that arrangements were made for Ezekiel to assume the mastership. By continuing his studies out of residence, the older brother was able to be graduated, in the same year, with his class. And so well did he prosper in his new position that, dissuading Daniel from yielding to a transitory impulse to seek his fortunes in New York, he was permitted to repay bygone sacrifices by bringing the young law student to Boston and maintaining

¹ Webster to Bingham, October 6, 1803. Webster, "Private Correspondence," Vol. I, p. 145.

him until his professional preparation had been completed.

Arrived in Boston, in July, 1804, Daniel's first problem was to seek out an office wherein to obtain a clerkship and, with it, an opportunity to continue his studies. Having acquaintance with no member of the legal profession in the city, and totally unprovided with letters of introduction, he found the task far from easy. After a few unsuccessful attempts, he secured, through a young man scarcely better known than himself, an interview with Christopher Gore, a Federalist of eminence who, after upward of eight years spent in Great Britain as one of the commissioners under the Jay Treaty to settle claims for damages by British cruisers, had just returned home and had opened a law office in Scollay's building, but had as yet taken no clerk. In his autobiography Webster relates with zest the incidents of this interview—his own embarrassment in the presence of so courtly a gentleman, Mr. Gore's reassuring manner, and the engagement that, after fifteen minutes' conversation, was entered into between them. "My young friend," said Mr. Gore, as the awkward youth rose to go, "you look as though you might be trusted. You say you came to study, and not to waste time. I will take you at your word. You may as well hang up your hat at once; go into the other room; take your book and sit down to reading it, and write at your convenience to New Hampshire for your letters."¹ That a lawyer of Mr. Gore's experience and reputation should receive in his office as a clerk a raw youth whom he had never seen, and who came without any sort of commendation ex-

¹ Autobiography. Webster, "Private Correspondence," Vol. I, p. 19.

cept that of his face and manner, is substantial evidence of the exceptional marks of trustworthiness, if not of promise, which the young man bore.

For Webster the affiliation with Mr. Gore was a stroke of great good fortune. During the months from July, 1804, to the succeeding March, he enjoyed the widest opportunity, as he tells us, to study "men and books and things." Books on the common and municipal law he read, besides Vattel for the third time, Ward's "Law of Nations," Lord Bacon's "Elements," Puffendorf's "Latin History of England," Gifford's "Juvenal," Boswell's "Tour to the Hebrides," Moore's "Travels," and numerous other miscellaneous works. The field in which he labored most was that of the common law, especially the portions of it relating to special pleading. "Whatever was in Viner, Bacon, and other books then usually studied on that part of the science, I paid my respects to. Among other things, I went through Saunders's Reports, the old folio edition, and abstracted and put into English, out of Latin and Norman French, the pleadings in all his reports. It was an edifying work."¹ Invaluable, too, was the opportunity which was now obtained for the first time of attending the sittings of the higher courts, especially the United States Circuit Court and the Supreme Court of Massachusetts. A fragmentary journal entitled "Some Characters at the Boston Bar, 1804," containing characterizations of Chief Justice Theophilus Parsons, Samuel Dexter, Harrison Gray Otis, James Sullivan, and other legal lights of the time, affords interesting evidence of the faithfulness with which this opportunity was improved. In August, 1804, it became

¹ Autobiography. Webster, "Private Correspondence," Vol. I, p. 19.

necessary for Ezekiel to journey to Hanover to be present at the graduation of his class. Assuming charge, for a brief interval, of the Short Street school, Daniel formed the acquaintance, among its pupils, of Edward Everett, destined to be thereafter through half a century friend and companion, and in time fellow-publicist.

In January, 1805, there arose a circumstance which called out another of the great decisions which had so much to do with the determining of Webster's career. The clerk of the court of common pleas of the county of Hillsborough (the court of which Ebenezer Webster was a judge) resigned, and Daniel was named as his successor. The office carried an income of fifteen hundred dollars, and the appointment seemed to mean that at last the fortunes of the Webster family were secure. The father long since had set his heart upon obtaining it for his son, and when at length it was in hand he lost no time in sending word that the prize was won. It fell to Mr. Gore, in the interest of the larger future, to prick the bubble of present good fortune. The arguments with which he tactfully dissuaded the young man from accepting the post—that the tenure would be precarious, that even if permanent it would never mean more than a mere clerkship, and that its acceptance would cut off the chances of a professional career now about beginning—constituted indeed, as Webster testifies, “a shower bath of ice water.” But they were convincing, and in the end they prevailed. The most unpleasant part of the affair was the breaking of the decision to the aged and fast declining parent who, after a life crowded full of sacrifice for his children, had caught at last a gleam of hope for a competency for those who were dear to him.

The thing was done, although Webster took care to travel all the way to Salisbury to the end that he might bear the news in the most tactful and reassuring manner possible. "I should be very sorry," he declared, half in bravado, to the assembled family, "if I could not do better at present than to be clerk, for fifteen hundred dollars a year, not to speak of future prospects. I mean to use my tongue in the courts, not my pen; to be an actor, not a register of other men's actions. I hope yet, sir, to astonish your Honor, in your own court, by my professional attainments!" The immediate effect of so startling an announcement was painful. "For a moment," relates Webster, "I thought he [the father] was angry. He rocked his chair slightly; a flash went over an eye, softened by age, but still as black as jet; but it was gone, and I thought I saw that parental partiality was, after all, a little gratified at this apparent devotion to an honorable profession, and this seeming confidence of success in it. He looked at me for as much as a minute, and then said very slowly, 'Well, my son, your mother has always said you would come to something or nothing, she was not sure which; and I think you are now about settling that doubt for her.' This he said, and never a word spoke more to me on the subject."¹

In the mind of the son, however, if not in that of the father, there must have lingered some misgiving. But a few weeks remained before he was to be admitted to the bar, and of what he was then to do he had no notion, other than is indicated in a letter of March 10th to Mr. Fuller: "In two weeks I again put myself in motion, and like Noah's dove, shall flutter, with

¹ Autobiography. Webster, "Private Correspondence," Vol. I, p. 22.

faint and wearied wing, over the deluge of this world, seeking for rest. In some country town in New Hampshire I shall probably put off my character of a rover, and fix my feet for a season. Having been for the winter a wandering comet, in the spring I become a falling star, and shall drop from the firmament of Boston gayety and pleasure to the level of a rustic village, of silence and of obscurity.”¹ In March, 1805, on the motion of his patron, Mr. Gore, young Webster was admitted to practice in the court of common pleas in Boston.

¹ Webster to Fuller, March 10, 1805. Webster, “Private Correspondence,” Vol. I, p. 200.

CHAPTER III

THE YOUNG PRACTITIONER

THE choice of a field within which to enter upon the practice of his profession gave Webster no small concern. He would gladly have remained in Boston ; but that city seemed already to be supplied with legal talent in superabundance. New York City was considered ; but, on the ground principally of the expensiveness of living there, and of possible uncongeniality of climate, Ezekiel advised against a removal thither, and the idea was given up. The elimination of these larger cities meant, in effect, the fixing upon a location in some town or rural region, presumably in New Hampshire. A twelvemonth prior to his admission to the bar Webster wrote to his schoolboy companion, Bingham, that he especially desired to settle in a place "where the practice of the bar is fair and honorable," that he had understood that the bar of Cheshire County was superior in this respect to that of any other county in the state, and that he would probably seek a location within that county. In this decision he professed to be influenced in a measure by his preference for the people of the Connecticut Valley.¹

Judge Webster wisely refrained from attempting to influence his son's decision. "As to the place of your settlement," he wrote in December, 1804, "you must determine for yourself." The ground upon which a

¹ Webster to Bingham, April 3, 1804. Webster, "Private Correspondence," Vol. I, p. 162.

decision was finally reached, however, was that of filial obligation. Immediately upon his admission to the bar, in April, 1805, Daniel went to Amherst, New Hampshire, where his father was in attendance upon a session of court. By his earlier legal mentor, Thompson, and by others whose counsel he valued, he had been advised to settle in Portsmouth, which, being a seaport and the largest town in the state, gave promise of a fairly substantial practice; and in his autobiography he tells us that at the time when he left Boston he expected to make Portsmouth his home. Judge Webster, however, had been for years in precarious health, and he was at this time so manifestly in decline that Daniel could not bring himself to remove to even a distant part of the same state. Resolving not to leave the immediate neighborhood of Salisbury during the remainder of his father's lifetime, he "took a room," as he tells us, "in the little adjoining village of Boscawen, and there commenced the practice of the law."¹ The station of the county lawyer in New England a hundred years ago was not without its attractiveness. It was respectable. It carried with it, indeed, a certain social distinction, at least locally, and it opened the door not infrequently to political preferment. If it was rarely lucrative, it at least afforded the means of comfortable existence. Most men who attained it were content with it, and most, whether by reason of limitation of talent, restriction of opportunity, or simple inertia, were never heard of beyond the confines of their neighborhood or state. Save for a certain restiveness of spirit and a wholesome self-confidence, it might well have been so with Daniel Webster. As it

¹ Autobiography. Webster, "Private Correspondence," Vol. I, p. 23.

was, the young lawyer seems never to have resigned himself to an indefinite prolonging of his humdrum existence at Boscawen. The considerations involving his sojourn there were of the most honorable sort ; but as soon as they had ceased to be operative he lost no time in seeking a sphere which he felt to be more commensurate with his aspirations and abilities.

“The two years and a half which I spent in Boscawen,” he tells us, “were devoted to business and study. I had enough of the first to live on, and to afford opportunity for practice and discipline. I read law and history ; not without some mixture of other things. These were the days of the *Boston Anthology*, and I had the honor of being a contributor to that publication. There are sundry reviews, written by me, not worth looking up or remembering.”¹ By unflagging diligence a practice was built up which could be depended upon to yield some six or seven hundred dollars a year—enough to provide the necessities of life and leave something over for the purchase of books. Even such a competence was to Webster a source of genuine gratification. “If I am not earning my bread and cheese in exactly nine days after my admission to the bar,” he had written to Bingham, “I shall certainly be a bankrupt.” His practice extended over the three counties of Grafton, Rockingham, and Hillsborough. Although his life, as he described it, was one of “writs and summonses,” there were frequent intervals of leisure, and these were employed principally in the study of the law and of kindred subjects. Cut off from access to libraries, he purchased books in

¹ Autobiography. Webster, “Private Correspondence of Daniel Webster.” Vol. I. p. 23. Four contributions to the *Anthology* are reproduced in “Writings and Speeches,” Vol. XV, pp. 548-563.

such quantities as the condition of his purse would permit. When upon one occasion a sum of eighty-five dollars which had been despatched to a Boston book-seller in payment for a consignment of volumes was stolen from the bearer, the effect was that of a genuine calamity ; although the book-seller filled the order on credit and would not so much as accept the security which Ezekiel, in Daniel's behalf, procured. For many months thereafter the loss of Daniel's eighty-five dollars was a subject of frequent allusion, sometimes seriously, but often jestingly, in the letters of the Webster family. To Bingham Webster laments in this period his inability, by lack of time, to continue certain of his college studies and diversions, especially the practice of the art of versification. One ray of hope presents itself to him, however, namely that writs may some day be found reducible to poetical form, thus :

All good sheriffs in the land
 We command
That forthwith you arrest John Dyer
 Esquire
If in your precinct you can find him
 And bind him, etc., etc., etc.

A saving sense of humor softened the asperities of other dreary stretches in Webster's career long after the life at Boscawen was but a memory.

Surrounded by conditions which afforded constant temptation to indulgence in petty chicanery, Webster preserved scrupulously throughout these years his personal dignity and his lofty ideal of his profession. "Study," he writes to Bingham, "is truly the grand requisite for a lawyer. Men may be born poets, and

leap from their cradles painters; nature may have made them musicians, and called on them only to exercise, and not to acquire, ability. But law is artificial. It is a human science to be learnt, not inspired. . . . The evil is that an accursed love for money violates everything. We cannot study, because we must pettifog. We learn the low recourses of attorneyism, when we should learn the conceptions, the reasonings, and the opinions of Cicero and Murray. The love of fame is extinguished; every ardent wish for knowledge repressed; conscience put in jeopardy, and the best feelings of the heart indurated, by the mean, money-catching, abominable practices, which cover with disgrace a part of the modern practitioners of law. . . . Our profession is good if practiced in the spirit of it; it is damnable fraud and iniquity, when its true spirit is supplied by a spirit of mischief-making and money-catching."¹ By men generally with whom Webster in this period of his career was brought in contact it was agreed that there was in him the promise of an exponent of the law of a type essentially different from that which has in all times been more familiar than it ought to be in the profession.

It was the fortune of Judge Webster to be permitted to hear his son's first argument in court, but only the first. During the winter of 1805-1806 health failed completely and in April, 1806, the pioneer, soldier, lawmaker, and jurist passed away, at the age of sixty-seven. He was, in words applied to him by his distinguished son four decades later, "everything that a man could be to whom learning never had disclosed her ample page"—one who faltered at nothing when

¹ Webster to Bingham, January 19, 1806. Webster, "Private Correspondence," Vol. I, p. 222.

the interests involved were those of his family, his community, or his country.

In May, 1807, Webster was admitted as an attorney and counselor of the Superior Court of New Hampshire, and in September of the same year he relinquished his office and his business in Boscawen to his brother Ezekiel and, in conformity with his earlier purpose, removed to Portsmouth. Ezekiel had but been admitted to the bar. Family interests at Salisbury—the care of the mother and sisters and the management of the property—made it imperative that one of the brothers remain in that neighborhood, and Daniel, “not being very willing to take charge of the farm,” decided to endorse over to Ezekiel both farm and office, on condition that the two be assumed together. The field of legal opportunity at Boscawen was severely restricted. For Ezekiel it might suffice, at least until he should be upon his feet; for Daniel it was already outgrown. Besides, it afforded no “pleasure of a social sort,” of which the younger brother was ever fond. But it is not to be overlooked that Daniel now assumed his father’s debts and that he long continued to contribute to the support of his mother and sisters.

The removal to Portsmouth constitutes a division point in Webster’s career. By it he definitely cut loose from the petty routine of an obscure country lawyer and set his foot on the upward path of professional attainment. Nine years, in all, were spent in practice and study within this larger field. For a time the outlook was not roseate. In the town the newcomer found seven or eight other men who filled writs and performed varied legal services, so that the share which fell to him was for a time meagre.

“Money,” he writes to Ezekiel, March 3, 1808, “I have none. I shall certainly be hanged before three weeks, if I cannot get some. What can be done?” A week later he writes that he has “already got to the second item of his will.” The days brightened, however, and within a year or two he was earning an ample competence. From debt he never wholly escaped. Indebtedness, on the part of himself, his family, and many of his associates, was a perennial condition, and it was his misfortune to allow the easy assumption to settle upon him that it was a normal, and in no wise a dishonorable, condition. His integrity was unimpeachable, but he neither now nor later felt, as his father and his brother Ezekiel felt, that indebtedness involved a certain sort of social, and even moral, stigma.

At the time of his settlement in Portsmouth Webster was twenty-five years of age. He was in appearance striking and in manner attractive. People generally concurred in the judgment of the Reverend Buckminster's daughter that the young lawyer was “a remarkable person” and that he “had a most marked character for good or for evil.” Dr. Buckminster was the father of the Exeter usher already mentioned and minister of the principal Congregational church in Portsmouth. He took a lively interest in the young man and, perceiving the apparent frailty of his constitution, urged upon him the exercise afforded by a half-hour's wood-sawing each morning before breakfast. Indeed, indisposed to counsel what he would not himself practice, the reverend gentleman very frequently pulled one end of a “cross-cut” saw while Webster pulled the other. “We young people,” wrote Miss Buckminster later, “were always delighted when this

strong medicine was taken before breakfast, for, however disagreeable in itself, Mr. Webster appeared at our breakfast afterward with his genial humor unimpaired." ¹

Nine months after the settlement in Portsmouth Webster slipped away for a visit, it was supposed, among his relatives and earlier friends, but, in point of fact, to be married. Until within a few months of the date of the wedding no intimation of such a purpose had been forthcoming. "I am making," he writes to Merrill, in May, 1804, "no progress toward matrimony. In point of time I am twenty-three years nearer to it than when I was born; but, in point of probability, I cannot say that I am any." At some time in 1807, however, he made the acquaintance of Miss Grace Fletcher, daughter of the Rev. Elijah Fletcher, of Hopkinton. One story is that he saw the young lady for the first time at church in Salisbury during the course of a visit which she was paying to her elder sister, the wife of Israel W. Kelly, of Salisbury, then sheriff of Merrimac County and subsequently United States marshal for the district of New Hampshire. At any rate, an engagement ensued, and before the end of the year Webster was confiding to Fuller that he had "been a young dog long enough," and that he now thought of joining himself, "as soon as convenient, to that happy and honorable society of which you are one,—the society of married men." ² The wedding took place at Salisbury, June 24, 1808. Immediately after it Webster returned with his bride to Portsmouth.

At the time of her marriage Mrs. Webster was

¹ Curtis, "Webster," Vol. I, p. 82.

² Van Tyne, "Letters of Daniel Webster," p. 25.

twenty-seven years of age, one year older than her husband. All testimony concurs that she was a woman of refinement and of forceful character. Her education fitted her to appreciate, and even to share in, the labors and the successes of her husband, and during the twenty years of her subsequent life she was commonly regarded by all who knew her as a model wife and mother. Her dignity, her composure, and her ability to meet every kind of situation commanded wide-spread admiration. In 1810 there was born a daughter, to whom was given the name of the mother. Such glimpses as may be had into the Webster household during the years at Portsmouth are pleasing in the extreme. In a collection of reminiscences employed by Mr. Curtis in his biography of Webster Mr. Ticknor writes as follows : " Between 1809 and 1814 I was frequently in Portsmouth. . . . I always saw Mr. Webster on these occasions, dining with him at his own house and elsewhere, and meeting him often in the evening. Sometimes I saw him at his office. He seemed busy, but was always ready for cheerful conversation ; and loved to tell humorous stories of his college life. His office was a common, ordinary looking room, with less furniture and more books than common. . . . When I first saw him there he lived in a small, modest, wooden house, which was burned in the great fire in 1813. His parlor was a bright and cheerful room. I remember how proud and fond he seemed of little Grace, his first child, as she sat by the fire with her book ; a child of uncommon intelligence, with a brilliant red and white complexion, and deep-set eyes, and hair as black as her father's. He seemed very happy. He had grown a little stouter than he was when I first saw him, and had

a more commanding air ; but he was always animated, and sometimes full of fun. After the fire he had a somewhat better house ; that, I think, was behind Dr. Buckminster's church. Mrs. Webster was pleasing and animated, and her manner to the friends of her husband, and to us young men, was very kind and cordial."¹

Professionally, at least, the nine years spent at Portsmouth comprised the formative period of Webster's life. It was during these years that the crude law student was converted into the skilled and polished practitioner. In his professional friendships and associations he was from the outset fortunate. The ablest lawyers of New Hampshire—Jeremiah Smith, George Sullivan, William Plumer, Jeremiah Mason—and legal leaders of adjacent states, including Dexter and Parsons of Massachusetts, practiced regularly at Portsmouth, and with all of these Webster was brought into intimate relation, both professionally and socially. The environment was precisely of the sort that the young man needed. His efforts to hold his own with his older associates kept him continuously upon his mettle. He was impelled to study assiduously and to amend relentlessly every error into which he fell. In the earlier contests in which he was engaged he was not infrequently worsted. Plumer defeated him in the first case in which the two were opposed. Mason did the same thing. It was instantly perceived, however, that in young Webster the ablest lawyer of them all had an opponent worthy of his steel. By leaving off the florid style of speaking to which he had been prone and by cultivating in its stead the simple, direct oratory which appealed to a jury, he multiplied his effective-

¹ Curtis, "Webster," Vol. I, p. 85.

ness as an advocate and ere long was winning more than his share of cases. Under the spur of combat with more experienced men he was pushed all of the time to the limit of his ingenuity and ability. Nothing contributes more directly to the ripening of lawyerly talent.

Of all his professional mentors and associates, by his own testimony Jeremiah Mason was most helpful and most influential. Mr. Mason, to-day but little known, was in his time a commanding figure. When Webster settled in Portsmouth, Mason was the recognized leader of the New Hampshire bar and one of the principal lawyers of New England. A man of massive physique, of heavy countenance, and of apparently lethargic disposition, he was none the less wonderfully alert, industrious, and forceful. His knowledge of books was not remarkable, but his acquaintance with the great body of the common law was in his day unsurpassed. Of rhetoric he knew little, and of the fine points of studied oratory, less. He scorned, indeed, all arts of speech save that of simple and clear argumentation. By sheer ability to couch his arguments in language comprehensible by the most ordinary jury he won many a case. In all that pertained to courtroom methods Webster took him as a model. "He had a habit," Webster one time recalled, "of standing quite near to the jury, so near that he might have laid his finger on the foreman's nose; and then he talked to them in a plain conversational way, in short sentences, and using no word that was not level to the comprehension of the least educated man on the panel. This led me to examine my own style, and I set about reforming it altogether."

Throughout his later life Webster not infrequently

testified to his admiration for Mason and to the debt which he owed him. In the Autobiography, written eighteen years before Mason's death in 1848, appears the following tribute: "For the nine years I lived in Portsmouth Mr. Mason and myself, in the counties where we both practiced, were on opposite sides, pretty much as a matter of course. He has been of infinite advantage to me, not only by his unvarying friendship, but by the many good lessons he has taught and the example he set me in the beginning of my career. If there be in the country a stronger intellect, if there be a mind of more native resources, if there be a vision that sees quicker or sees deeper into whatever is intricate or whatsoever is profound, I must confess I have not known it. I have not written this paragraph without considering what it implies. I look to that individual who, if it belong to anybody, is entitled to be an exception. But I deliberately let the judgment stand. That that individual has much more habit of regular composition, that he has been disciplined and exercised in a vastly superior school, that he possesses even a faculty of illustration more various and more easy, I think may be admitted. That the original reach of his mind is greater, that its grasp is stronger, that its logic is closer, I do not allow."¹ The person whom Webster had in mind in drawing this comparison was none other than Chief Justice John Marshall.

The years of residence at Portsmouth were marked, further, by Webster's entry, in a modest way, into

¹ Webster, "Private Correspondence," Vol. I, p. 24. During the years 1813-1817 Mason occupied a seat in the United States Senate. In 1832 he removed to Boston, where, after six years of practice, he lived in retirement until his death in 1848.

politics. It was the opinion of William Plumer, after hearing some of Webster's earlier arguments in court, that the young man was indeed rather better fitted for politics than for the law; and there was some ground for the judgment. Remarkable as were Webster's subsequent triumphs within the domain of the law, they were clearly surpassed by his achievements as statesman and publicist. In the first half of the nineteenth century a young lawyer was even more likely to be drawn into political life than is his counterpart to-day. Opportunity within the purely legal field was more restricted, pecuniary rewards were very much smaller, and the allurements of public office were correspondingly more impelling. Webster's entrance upon a career of political activity was gradual but inevitable. From an early day he had cherished a distinct taste for politics and for things political, and his large participation in political affairs in after times is to be attributed not only to the logic of circumstances but to the following out of a predominating personal inclination.

In politics Webster was a Federalist. At the outset, at least, he could hardly have been anything other than a Federalist and at the same time have been his father's son. For Ebenezer Webster was a Federalist of the deepest dye. It is related of him that, being once taken ill in a Democratic community, he begged to be removed to his home, declaring that he had been born a Federalist, that he had lived a Federalist, and that he would not "die in a Democratic town." Ezekiel Webster, likewise, was a Federalist of the rock-ribbed variety. He refused persistently to modify in the least the political principles under which he had been brought up, even though by yielding but a

little he might easily have attained the honor of a seat in Congress. In his earlier years Daniel, likewise, could see nothing of good in a Democrat. The political overturn of 1800 by which Jefferson was brought to the presidency was for the Webster family gall and wormwood, and the capture of New Hampshire by the Democrats in 1804 was little short of a public calamity. In reply to a pessimistic letter from Daniel announcing to Ezekiel, then at Boston, the last-mentioned event, Ezekiel writes: "In my opinion there is not a nook or corner in the United States that will not be revolutionized. The contagion of democracy will pervade every place and corrupt every generous and manly sentiment."¹

Never did Daniel question the essential soundness of the principles of Federalism. But he early threw off, if indeed he ever cherished, that intensely partisan spirit which was so eminently characteristic of his father and of his brother. Political parties seemed to him inevitable, but undesirable. Power of intellect and breadth of sympathy enabled him to view public questions with a larger judiciousness than was for most men possible, and from an early stage of his career he schooled himself to practice moderation in speech and in action in all things, political as well as otherwise. Prior to 1812 his own political activities were limited. Early in 1804, during a visit to Salisbury, he was prevailed upon to write an anonymous pamphlet advocating the election of John Gilman, the Federalist candidate and long a friend of the Webster family, to the governorship of New Hampshire. Of this brochure—"An Appeal to Old Whigs"—he wrote to Bingham a year later that he had "had the pleasure of seeing it

¹ Webster, "Private Correspondence," Vol. I, p. 175.

kicked about under many tables." He thought but little of it and requested that the secret of its authorship be preserved.¹ Three Fourth of July orations delivered between 1801 and 1809 were of literary rather than political interest.² "My time," he records in the Autobiography, "was always exclusively given to my profession till 1812, when the war commenced. I had occasionally taken part in political questions, always felt an interest in elections, and contributed my part, I believe, to the political ephemera of the day. Indeed, I always felt an interest in political concerns. My lucubrations for the press go back, I believe, to my sixteenth year. They are, or ought to be, all forgotten, at least, most of them; and all of this early period."³

In the intervals of professional labor Webster, none the less, read widely upon the political developments of both America and Europe. His interest in public questions knew no bounds, geographical or otherwise. Many things he found to disapprove. Indeed the prevailing tone of his political observations during this period is pessimistic. To Merrill he writes, a few months before the removal to Portsmouth: "It is indeed alarming that private character weighs nothing in the scale of public office. . . . Indeed I fear that our country is growing corrupt at a rate which distances the speed of every other. I do not say that the degree of positive corruption is so great, but the course toward total depravity is swift." There is lam-

¹ The pamphlet is reproduced in "Writings and Speeches," Vol. XV, pp. 522-531.

² In 1802, at Fryeburg; in 1805, at Salisbury; in 1806, at Concord. See "Writings and Speeches," Vol. XV, pp. 505-521, 537-547.

³ Webster, "Private Correspondence," Vol. I, p. 25.

entation also by reason of the evils that have befallen Europe in consequence of the Napoleonic domination. "The times," it is declared, "are such that I am surprised at nothing. If, before I rise from my table, I should learn that Napoleon is in London, it would not astonish me. I am persuaded that a great revolution is taking place, not only in Europe, but through the world. Society is deeply shaken everywhere. The minds of men are flying from all steadfast principles, like an arrow from the bow. Principles are called prejudices, and duty, scrupulosity. Where all of this will end, you and I cannot tell."¹

Webster's earlier years at Portsmouth fell, indeed, within a period of wide-spread public unrest. More and more the United States was being made to suffer by reason of the abnormal situation in Europe created by the titanic conflict of England and France. The Napoleonic decrees and the British orders in council of 1806 and 1807 unquestionably involved less injury to American commerce than has sometimes been represented, but the injury was certainly considerable, and the course which the United States might best pursue to obviate it came to be easily the predominating public issue of the day. In New England, and especially among the New England Federalists, it was urged that the ultimate responsibility for the disturbance of the international equilibrium was to be laid at the door of Napoleon, and that, however reprehensible the course which Great Britain was pursuing in maritime affairs, France was the nation primarily to be held to account. The shipping interests, solidly Federalist in political affiliation, demanded insistently the

¹ Webster to Merrill, March 8, 1807. Webster, "Private Correspondence," Vol. I, p. 225.

preservation of peace, the adjustment of our commercial difficulties by diplomacy, and the avoiding of any course of action that would bear the slightest appearance of an alliance with Napoleon. Federalism, however, had lost its grip upon the nation, and the Federalists were unable to prevent the gradual drift of the country into war with Great Britain. Prior to the actual outbreak of hostilities Webster was too much preoccupied with his legal practice to do more than follow with interest, and occasionally to comment pointedly upon, the growing problem of our foreign policy. In 1808 he indulged his political inclination to the extent of publishing anonymously a small pamphlet entitled "Considerations on the Embargo Laws," the principal thesis of which was the unconstitutionality of an embargo measure not expressly limited in duration.¹ In his clear-cut differentiation of a limited from an unlimited embargo he here gave evidence of that ability which he displayed so remarkably in later years to seize upon a vital aspect of a subject and to portray it so vividly that even the most unlearned and the most indifferent might comprehend it. Portsmouth was a coast town, in which commercial interests preponderated, and it may be supposed that the attitude of Webster toward the restrictionist measures of the Jefferson and Madison administrations was determined in some degree not merely by his Federalist proclivities but by the feelings and interests of his neighbors.

From 1809 to 1812 Webster's time was absorbed almost wholly by his professional engagements. He followed the Superior Court through most of the counties of the state, and appeared before it as counsel in very nearly every case of first-rate importance. Ac-

¹ "Writings and Speeches," Vol. XV, pp. 564-574.

ording to his own account, his income in these times rarely, if ever, reached two thousand dollars a year. But he was fast acquiring a legal reputation which was much out of the ordinary, and the way was opening more rapidly than he dreamed for the broadening of his field of activity. In the summer of 1809 he paid a visit to Dartmouth College, in the course of which he delivered before the Phi Beta Kappa Society an oration on the subject "The State of our Literature." If the oration was not a remarkable one, it should be remembered that it was prepared at odd moments during the tedious trip to Hanover. It was, however, far from a perfunctory piece of work, and we have the assurance of Mr. Ticknor, who as a youth of eighteen was privileged to hear it, that it was very much admired and praised; although he adds that it seemed to him at the time "that the excitement he created and the homage he received were due rather to their [the hearers'] affection for the man, and their admiration of him, than to the merit of that particular performance."¹

On June 18, 1812, by act of Congress war was declared with Great Britain. July 4th—barely more than two weeks later—Webster delivered a speech which, marking as it did in a very real sense his entrance of the political arena, was easily the most important of his career to this point. The address was delivered, by invitation, before the Washington Benevolent Society of Portsmouth. It comprised a masterful argument against the necessity and the wisdom of the lately adopted policy of war. Demonstrating that maritime defense, the protection of trade, and the pro-

¹ Curtis, "Webster," Vol. I, p. 96. For the oration see "Writings and Speeches," Vol. XV, pp. 575-582.

viding of a national revenue were fundamental objects of the Union, and directing attention to the departures which the Democrats had made from the sound Washingtonian policies in these matters, the orator went on to insist that if there must be a war, the depleted navy should be at once reconstituted, the much-talked-of project of invading Canada should be abandoned, and every measure should be adopted to bring the conflict to an early and an honorable close. In his criticism of the men who, while ready to force a war, had neglected to prepare the country for such a contingency, he but voiced the opinion of the Federalists universally. At one point, however, he took occasion to affirm in no uncertain tone a principle upon which Federalists were far from agreed, namely, the unalterable obligation of all citizens to obey implicitly the laws of the land, however objectionable they might be. So unpopular among New England Federalists was "Mr. Madison's war" that, as is well enough known, many persons were ready not simply to withhold from it every vestige of support, but even to go as far in positive opposition to it as was possible without incurring the risk of an indictment for treason. Within the circle of Webster's friends and associates there were scores of men whose attitude was, and continued to be, one of unrelieved bitterness.

By Webster himself, however, the absolute enforcement of the Constitution and of the laws had ever been regarded as a basic necessity and unreserved obedience thereto on the part of the citizen an unquestionable obligation. "With respect to the war in which we are now involved," he solemnly affirmed, "the course which our principles require us to pursue cannot be doubtful. It is now the law of the land, and as such

we are bound to regard it. Resistance and insurrection form no part of our creed. The disciples of Washington are neither tyrants in power nor rebels out. If we are taxed to carry on this war, we shall disregard certain distinguished examples, and shall pay. If our personal services are required, we shall yield them to the precise extent of our constitutional liability. At the same time, the world may be assured that we know our rights, and shall exercise them. We shall express our opinions on this, as on every measure of government—I trust, without passion; I am certain, without fear. . . . By the exercise of our constitutional right of suffrage, by the peaceable remedy of election, we shall seek to restore wisdom to our councils and peace to our country.” At a time when older and more experienced men were playing fast and loose with the obligations of law-abiding citizenship, such doctrine from the lips of a Fourth of July orator but thirty years of age was hardly less remarkable than wholesome. It would have been well if many a New Englander in succeeding years had pondered more seriously the principle here so forcefully enunciated.¹

To men of moderate temper Webster’s oration appealed with power. The document was promptly printed and two editions were exhausted. In the following August its author was appointed a delegate from Portsmouth to attend a convention of the people of the county of Rockingham, held in part to prepare a formal expression of the public disapproval of the war; and the Rockingham convention proved an important episode in his career. A paper drawn up by him—the so-called “Rockingham Memorial”—was

¹The speech is printed in “Writings and Speeches,” Vol. XV, pp. 583–598.

signed by a committee representing more than fifteen hundred delegates and transmitted to President Madison as the approved expression of the sense of the convention. The tone of the memorial was dignified, courteous, and moderate; but the protest against the war was firm, the disapproval of coöperation with France was uncompromising, and the demand for immediate naval preparations was insistent. Continued fidelity to the Union was specifically avowed, although there was mention of a possible dissolution of the Union, which, should it ever occur, might be expected to take place "on some occasion when one portion of the country undertakes to control, to regulate, and to sacrifice the interest of another." There is every reason to suppose that this allusion to the subject of secession sprang from the influence of the committee, whose sentiments Webster, as chairman and spokesman, was obliged to incorporate in the memorial. In the Autobiography, written in 1832, occurs this interesting comment: "August, 1812, I wrote the Rockingham Memorial. It was an anti-war paper, of some note in its time. I confess I am pleased to find, on looking at it now, for I do not think I have read it in all the twenty years that have rolled by since I wrote it, among all its faults, whether of principle or in execution, that it is of a tone and strain less vulgar than such things are prone to be."¹

The Rockingham convention was of further importance in the career of Webster in that, in recognition of his services during the session, as well as of his well-tested ability and integrity in general, the delegates

¹ Webster, "Private Correspondence," Vol. I, p. 25. The *Memorial* is printed in "Writings and Speeches," Vol. XV, pp. 599-610.

conferred upon him the honor of a nomination to a seat in the Thirteenth Congress. At the election in the following November his party was victorious in the district, and May 24, 1813, at the convening of the new Congress in special session, he took his place on the floor of the lower house at Washington. He was at the time but thirty-one years of age.

CHAPTER IV

IN CONGRESS FROM NEW HAMPSHIRE

IN compliance with an arrangement agreed upon by its expiring predecessor, the Thirteenth Congress was convened in special session May 24, 1813. The Senate was still strongly Democratic, and in the new House of Representatives the dominating element was the remarkable group of younger Democratic statesmen—the “war-hawks” of John Randolph’s famous characterization—whose voices and votes had been chiefly instrumental in bringing on the contest with Great Britain and in determining the method of its conduct to the present point. Henry Clay was a member and was promptly reelected Speaker.¹ John C. Calhoun was the Administration’s ablest spokesman. John McLean of Ohio, Charles J. Ingersoll of Pennsylvania, Felix Grundy of Tennessee, William Gaston of North Carolina, and John Forsyth and George M. Troup of Georgia, were able debaters and vigilant parliamentarians. To Webster fell at the outset a post which afforded him, as a new member, an unusual opportunity to make his voice heard in the proceedings of the House. He was appointed, May 26th, to the Committee on Foreign Relations, of which Calhoun was chairman. No committee was at the time more important, and no appointment could have been to the young New Hampshire member more gratifying.

¹ Having been appointed a member of the commission to negotiate peace with Great Britain, Clay resigned the speakership, January 14, 1814.

The fundamental task of the Thirteenth Congress was to make provision for the successful prosecution of the war. All things considered, the task was one of disheartening proportions. The war hitherto had been, by common admission, a failure, whose depressing effect was relieved only by certain brilliant achievements upon the high seas. The armies were small and undisciplined; the commanders were, in large part, inexperienced and of doubtful ability; equipment was meagre and antiquated; funds were low. Large portions of the people, especially in New England, continued to be entirely out of sympathy with the contest, and in some quarters where the war had at first been popular it no longer commanded enthusiasm, or even willing support. The Madison Administration, backed by a diminished majority in Congress, found itself more than ever compelled to contend not alone with the forces of the enemy but with wide-spread indifference and subtle opposition at home.

To Washington Webster came in 1813 a thorough-going New England Federalist, recognizing rather more clearly than many New England Federalists were prone to do the fundamental obligations of loyal citizenship, but admitting no obligation to follow unprotestingly the lead of an administration whose course he believed to be unwarranted and indefensible. His spirit was very much less vindictive than was that of the Federalists of his section generally. He scrupulously avoided personalities, and through all of the heated controversies that filled the later months of the war period he contrived to remain on very agreeable terms socially with all of his opponents, including President Madison. But it was by reason of his per-

sonal dignity and fairness, not by mincing of words or wavering upon principle, that this was made possible. "Wholly inexperienced in public affairs," he wrote to Timothy Pickering shortly after his election, "my first object is to comprehend the objects, understand the maxims, and imbibe the spirit of the first administration; persuaded, as I am, that the principles which prevailed in the cabinet and councils of that period form the only *anchorage* in which our political prosperity and safety can find any *hold* in this dangerous and stormy time."¹

Webster's active legislative career was inaugurated, June 10, 1813, by the introduction of a series of five resolutions calling upon the President to supply information concerning the time and manner in which the repeal of the Berlin and Milan decrees had been communicated to the authorities of the United States.² Subsequent to the declaration of war, June 18, 1812, there was made public a decree of the French Government, under date of April 28, 1811, which purported to repeal the measures mentioned. It was further stated by the French foreign secretary that a copy of this decree had been forwarded without delay to the French minister at Washington. Had the President and his advisers taken it upon themselves to withhold this decree until there should have been a declaration of war, in the fear that, if the decree should be made public, the British Government might be constrained to rescind its orders in council, and so to leave the United States with no ground upon which to declare a war? Or had the Administration simply been duped by the French authorities? In either case the situa-

¹ Van Tyne, "Letters of Daniel Webster," pp. 29-30.

² "Writings and Speeches," Vol. XIV, pp. 3-7.

tion hardly redounded to the credit of Mr. Madison and the war party. Webster was not slow to detect the weakness of the Administration's position, and in his resolutions of June 10th he sought deliberately to turn the search-light upon a situation whose laying bare could hardly fail to prove embarrassing to those who had been responsible for the war. The speech in which the resolutions were explained and defended, however, was characteristically temperate; and, in truth, throughout the acrimonious debate which ensued Webster spoke but twice, and each time but briefly. Calhoun, leading in the defense of the Administration, was at first inclined to suppress the proposed inquiry. He found, however, that the House was in no mood to countenance such a course, and, following a debate which lasted intermittently through a week, all of the resolutions were adopted by overwhelming majorities. Sentiment in their favor grew so rapidly that Webster found it superfluous to deliver a closing speech in their defense, although he had given some time to the preparation of such a discourse. Webster and John Rhea, of Tennessee, were named as a committee to present the resolutions to the President.¹

When the two men appeared at the White House in fulfilment of their commission they found Mr. Madison suffering from a fever and were able to obtain from him only a promise that in due time the resolutions would "be attended to." On July 12th a formal statement was issued in the name of the President by Mr. Monroe, Secretary of State, in which it was affirmed

¹ Text of the resolutions in "Annals of Congress," 13th Cong., 1st sess., Vol. I, pp. 150-151. For the debate, see *ibid.*, pp. 170-311, *passim*.

that the Government had remained in ignorance of the repealing decree of April 28, 1811, until July 13, 1812, upward of a month after the declaration of war. The explanation was accompanied by an elaborate defense of the Administration's course throughout the conflict. Monroe's reply was referred forthwith to the Committee on Foreign Relations and five thousand copies were ordered to be printed. On behalf of the committee Calhoun brought in a report sustaining the Administration in general and recommending the adoption of a resolution specifically approving the conduct of the Executive in relation to the various subjects embraced in Webster's resolutions. Persistent effort, however, to procure the approval of this report failed, and, August 2d, Congress adjourned until the regular meeting date in December. In the meantime, foreseeing that there would be no early action upon the subject, Webster had returned to Portsmouth.

On the whole, the youthful statesman's first taste of public life had been far from disagreeable. He had formed the acquaintance of men of note from all sections of the country. Without thrusting himself forward unduly, he had been instrumental in forcing from the Madison Administration the most elaborate defense of its conduct that it had as yet felt called upon to render. By the few brief speeches that he had made he had added to the reputation he had brought with him to Washington for both breadth of information and skill in debate. By his fellow-partisans he was looked upon as a worthy champion; by his opponents, as a hard-hitting but fair-spirited foeman. Life in Washington, particularly during the summer months, he regarded as largely devoid of attractiveness, and, but for the consciousness that his position obligated him to re-

main well through the session, he should have been glad to return to his family and his professional interests sooner than he did. "I have been to the levee or drawing-room," he writes to Bingham, "but once. It is a mere matter of form. You make your bow to Mrs. Madison, and to Mr. M. if he comes in your way, but he being there merely as a guest, is not officially entitled to your *cong e*. Monsieur Serurier, Madame Bonaparte, the Russian minister, heads of departments, and tails of departments, members of Congress, etc., etc., here and there, interspersed with military and naval hat and coat, make up the group. You stay from five minutes to an hour, as you please; eat and drink what you can catch, without danger of surfeit, and if you can luckily find your hat and stick, then take French leave; and that's going to the 'levee.'"¹

The return to Washington for the regular session of 1813-1814 was delayed until three weeks after the sittings had begun. Almost immediately upon the arrival letters were received giving information of a disastrous fire, December 22d, whereby a considerable portion of the town of Portsmouth had been swept away. Webster's own residence, recently purchased for the sum of six thousand dollars, had been destroyed, together with his library and practically the whole of his personal property. He carried no insurance, and the loss was absolute. His first thought was to return at once to New Hampshire; but in communications from his wife, and from various friends, he was advised that this would be unnecessary. Mrs. Webster and the two children, Grace and Daniel Fletcher (the

¹ Webster to Bingham, June 4, 1813. Webster, "Private Correspondence," Vol. I, p. 234.

son had been born during the previous summer), were provided with shelter for the winter in the home of Mr. Mason. Assured, therefore, that all would be well with them, and induced by the critical character of the times, Webster decided to remain uninterruptedly at Washington.

One of his first acts during the new session was to call up for consideration the Administration's recent defense of the war. "If," said he, "its advocates can show satisfactorily that this war was undertaken on grounds plainly and manifestly just; if they can show that it was necessary and unavoidable; that it is strictly an American war; that it rests solely on American grounds; and that it grew out of a policy just and impartial as it related to the belligerents of Europe,—if they ever make all this manifest, the war will change its character. It will then grow as energetic as it now is feeble. It will then become the cause of the people, and not the cause of a party. The people would then maintain their own cause, with vigor and effect."¹ Following a short debate, January 3, 1814, the message transmitting Monroe's reply was referred to a committee of the whole and a date was fixed for its consideration. The discussion, however, never took place. Though leading to no positive action, the resolutions of inquiry were adjudged by all parties to have been by no means barren of effect. They had put the Administration more than ever upon the defensive, and had compelled a wholesome inquiry into the entire status and prospect of the war. They had won for their author a commanding place among the opposition members on the floor of the House. And they

¹ Speech of January 3, 1814. "Annals of Congress," 13th Cong., 1st sess., Vol. I, p. 826.

constituted the point of departure for many a subsequent attack and argument.

During the early weeks of 1814 Webster participated in debate with some frequency. On January 10th he spoke at length against a resolution introduced by Robert Wright, of Maryland, proposing to extend to citizens generally the rules of war relating to spies. The object of the measure was to bring to an end the giving of aid to the enemy by American citizens, which was known to be not uncommon, especially on the northern frontier. In a speech of which we have only an epitome Webster avowed that if illegal intercourse with the enemy existed he would "go as far as any one in applying constitutional remedies to that evil." The offenses, however, which the measure in hand was designed to reach were, he pointed out, already covered by the laws on the subject of treason, and adequate penalties for the commission of them were already prescribed. Mr. Wright's measure was tantamount to a proposal to transfer the trial of such offenses from the ordinary courts of law to tribunals of a military character. "Sir," declared Webster, "the proposition strikes me as monstrous. I cannot consent to entertain the consideration of it even for a moment. It goes to destroy the plainest Constitutional provisions. . . . If the proposition should pass into a law, it takes away the Constitutional definition of the offense of treason ; it takes away the prescribed mode of proof ; it takes away the trial by jury ; it takes away the civil tribunal, and establishes the military. On a resolution of this sort, I cannot believe the House will consent to deliberate."¹

Despite the efforts of Webster and others, the reso-

¹ "Annals of Congress," 13th Cong., 1st sess., Vol. I, p. 885 ; "Writings and Speeches," Vol. XIV, pp. 11-13.

lution was referred, by a majority of eleven votes, to a committee of the whole ; but it was never reported upon nor subsequently discussed. Of the fundamental soundness of Webster's position there can be no question. That the relations maintained between the British and certain of the American opponents of the war were exasperating in the extreme from the point of view of the Administration, can readily enough be understood. On the American side, those relations were not infrequently clearly treasonable. But the wholesale extension of martial law, upon this account, to all cases involving questions of the kind would have meant, as Webster demonstrated, not merely to make provision for what was already sufficiently provided for, but flagrantly to subvert the fundamental rights of citizenship as guaranteed in the Constitution.

On the day (January 10th) upon which Webster delivered his speech in opposition to the Wright resolution George M. Troup, of Georgia, reported to the House from the Committee on Military Affairs a bill making provision for the filling of the ranks of the regular army, encouraging enlistments through the payment of liberal bounties, and authorizing the re-enlistment for longer periods of men whose terms of service were about to expire. The measure was referred to the committee of the whole, and three days later it was called up for consideration. Debate, which turned at first upon various details of the bill, broadened inevitably into a discussion of the fundamental aspects of the war itself—its causes, its methods, its prospects, and particularly the policies pursued by the government in its administration. On January 14th Daniel Sheffey, of Virginia, offered an amendment to the engrossed bill to the effect that the troops which

should be enlisted under the terms of the prospective act should be "limited, as to service, to the defense of the territory and frontiers of the United States." The purpose of the amendment was to compel an abandonment of the projected invasion of Canada and to restrict the war on land to operations of defense. The earlier attempts to invade Canada had failed miserably, and on the part of many people there was small desire to witness their renewal. By the decisive vote of 103 to 54, however, the Sheffey amendment was rejected.

At this point, Webster, who thus far had participated in the debate but incidentally, rose to deliver a speech which easily surpassed all of his earlier efforts and touched, indeed, the high-water mark of his oratory during his first period of congressional service. Writing to Ezekiel two weeks later, and enclosing for distribution in Salisbury some copies of the speech, Webster strongly maintained that the effort was not what it ought to have been. "I had not time," he insists. "I had no intention of speaking till nine o'clock in the morning, and delivered the thing about two. I could make it better, but I dare say you think it would be easier to make a new one than to mend it. It was well enough received at the time, and our side of the house said they would have it in this form."¹ The subject was one of which Webster was full, and, although there was opportunity for but slight preparation of the details of the discourse, the speaker's interest in, and knowledge of, all of the questions pertaining to the war, combined with his highly developed oratorical ability, fitted him above all men to discuss instantly any phase of the subject with force and effect.

¹ Daniel to Ezekiel Webster, January 30, 1814. Webster, "Private Correspondence," Vol. I, p. 239.

The florid style which had marred earlier speeches had now virtually disappeared and in its stead was simplicity, directness, deliberation. The speech was professedly partisan, and in it there was little that was new. But it gathered up the arguments of the opposition, arrayed them in masterful fashion, and drove them home with a cogency which commanded the admiration of the least sympathetic hearers.

Beginning with an avowal of readiness to support any measure that could be shown to be necessary for the defense of the country, Webster attacked sharply the Administration's conduct of the war and its laws restrictive of commerce, and urged that henceforth the war should be made one of defense solely, that the navy should be developed, and that the proposed measure for the enlistment of troops, presumably for the conquest of Canada, should be defeated. The war itself, it was contended, was a mistake. Those who were responsible for it had never been able to justify it. It had been rashly undertaken and feebly prosecuted. The opposition to it was, and had been from the outset, honest, firm, and well considered. The right of those in opposition to speak, write, and vote as their consciences dictated was inviolate. The war, being supported by but a party, could prove only wasteful and inconclusive. "Badly as I think of the original grounds of the war, as well as of the manner in which it has been hitherto conducted, if even now, failing in an honest and sincere attempt to procure just and honorable peace, it [the Government] will return to measures of defense and protection, such as reason and common sense and the public opinion all call for, my vote shall not be withheld from the means. Give up your futile projects of invasion. Extinguish the fires

that blaze on your inland frontiers. Establish perfect safety and defense there by adequate force. Let every man that sleeps on your soil sleep in security. Stop the blood that flows from the veins of unarmed yeomanry and women and children. Give to the living time to bury and lament their dead, in the quietness of private sorrow. Having performed this work of beneficence and mercy on your inland border, turn and look with the eye of justice and compassion on your vast population along the coast. Unclench the iron grasp of your embargo. Take measures for that end before another sun sets upon you. With all the war of the enemy on your commerce, if you would cease to war on it yourselves, you would still have some commerce. That commerce would give you some revenue. Apply that revenue to the augmentation of your navy. That navy, in turn, will protect your commerce. Let it no longer be said that not one ship of force, built by your hands since the war, yet floats upon the ocean. . . . If, then, the war must be continued, go to the ocean. If you are seriously contending for maritime rights, go to the theatre where alone those rights can be defended. Thither every indication of our fortune points you. There the united wishes and exertions of the nation will go with you. Even our party divisions, acrimonious as they are, cease at the water's edge. They are lost in attachment to national character on the element where that character is made respectable. In protecting naval interests by naval means, you will arm yourselves with the whole power of national sentiment, and may command the whole abundance of the national resources."¹

¹ "Annals of Congress," 13th Cong., 1st sess., Vol. I, pp. 950-951; "Writings and Speeches," Vol. XIV, pp. 33-34.

Pressure from the opposition, combined with the drift of circumstances, compelled the Administration and its supporters, within a brief period, to adopt the course thus so vigorously marked out. The embargo of December 17, 1813, against which Webster inveighed proved not only ineffective but unsupportable. By its terms all foreign commerce was inhibited, and likewise the coasting trade, even trade by water between ports of the same state. Certain influential Republicans, as Lowndes and Cheves, had regarded the measure from the outset as impossible to enforce, if not otherwise objectionable. Within a month it was found necessary to alter the law for the relief of the population of the island of Nantucket, and on the 4th of April Calhoun was obliged to report from the Committee on Foreign Relations a bill providing for its complete and immediate repeal. The task of piloting the bill through the House, which fell to Calhoun, was not an enviable one, for although there could be little doubt as to the measure's passage, a plausible defense of so sharp a reversal of policy on the part of the war party called for the exercise of unusual ingenuity. The policy of restriction was admitted frankly to have been a failure, but the reasons for the failure were declared to lie, not in the inherent inefficacy of restriction as a principle, but rather in the change of situation which had taken place in Europe. It was confessed that when war was once begun the restrictionist policy should have been discontinued. The plight of the advocates of restriction was, at best, however, embarrassing, and the opponents of the system were not unnaturally exultant.

Following Calhoun's labored, though artful, explanations, Webster spoke at some length in commendation of the proposed repeal, but deprecating the

opinion advanced by Calhoun to the effect that the rescinding of the restrictive system should not be allowed to affect the increased tariff rates established by the act of 1812. Speaking now, as indeed through many years to come, for the commercial and ship-building interests of New England, Webster was quick to raise his voice against anything whatsoever that savored of an artificial restraint upon trade. In the present speech, throughout which ran a vein of dignified but pointed sarcasm, the speaker confessed to a special delight at being present to participate in "the funeral ceremonies" of the restrictive system. "The embargo act, the non-importation act, and all the crowd of additions and supplements, together with all their garniture of messages, reports, and resolutions, are tumbling undistinguished into one common grave. But yesterday this policy had a thousand friends and supporters; to-day it is fallen and prostrate, and 'few so poor as to do it reverence.'"¹ Especially forceful was the ridicule which was heaped upon the shifting and uncertain policies, both commercial and military, which had characterized the Administration's conduct of the war. "It would seem, however," he concluded, "that there is a class of politicians to whose taste all change is suited, to whom whatever is unnatural seems wise, and all that is violent appears great." But at no point, upon this occasion or upon any other, did Webster permit himself to descend to the level of mere invective. His power lay not alone in his oratory, but in his fair-mindedness, his moderation, and his rigorous abstention from personalities. Before the Thirteenth Congress had passed into history it was

¹ "Annals of Congress," 13th Cong., 1st sess., Vol. II, p. 1971; "Writings and Speeches," Vol. XIV, p. 42.

generally conceded that the House contained no orator who was his equal and no parliamentarian who, in agility and fairness, was his superior. Calhoun— young, aggressive, patriotic—was perhaps the most active member of the body. But his speeches, compared with those of Webster, were formal, dry, and spiritless. The bill providing for the repeal of the Embargo became law April 14th, and with its enactment all direct restraints upon foreign trade disappeared, save, of course, in goods which could be styled enemy's property.

Throughout the few remaining days of the session Webster found occasion or incentive to speak upon no topic of first-rate importance. By the repeal of the restrictions upon trade he appears to have felt that the most urgent public need of the hour had been met. On April 18th came the adjournment, and he returned forthwith to his home. The four-month sojourn at the capital had been crowded with activity, and it had set the young New Hampshire member forward very appreciably in both his public and his professional career. In addition to the discharge of his duties in the House he had opened during the winter a practice in the federal Supreme Court which was destined to be renewed at frequent intervals throughout the next thirty-five years, and in the course of which he was eventually to arrive at the zenith of his profession. His earlier cases pertained principally to captures and prizes.

By reason of the urgent necessity of further preparations for the prosecution of the war Congress was summoned by the President to meet in special session September 19, 1814. Negotiations between the British and American commissioners at Ghent had indeed

been opened, but the outlook for peace was far from reassuring. During the previous August there had occurred the sack of Washington, together with the burning of the capital and of the President's mansion, and with the collapse of the Napoleonic power in Europe it seemed not improbable that the contest in America had entered upon a new and more serious stage. In his message of September 20th President Madison called for an increase of the regular army, a reclassification of the militia for purposes of active service, and the voting of supplies adequate to meet the enlarged needs of the country. The session, which terminated only with the expiration of the Thirteenth Congress, March 4, 1815, was taken up almost exclusively with the consideration of measures pertaining to the procuring of men or of money, or of both, for the war.

Webster's attitude throughout was that of an independent Federalist. On most subjects he was in substantial accord with the majority of his party. He at no time, however, acknowledged obligation to support party measures of which he did not approve. And in one important matter he broke absolutely with the more radical members of his party in his own section of the Union. With the Hartford Convention of the winter of 1814-1815 he had nothing to do; and he was totally out of sympathy with both its purposes and its methods. In the autumn of 1814 the Federalist majority in the legislature of Massachusetts procured the appointment of twelve delegates—including such men of influence as George Cabot, Harrison Gray Otis, and Nathan Dane—who were instructed to meet with similarly appointed delegates from other New England states for the purpose of taking under consideration

the grievances of New England arising from the war and recommending measures of redress. Twenty-three official delegates from Massachusetts, Connecticut, and Rhode Island, together with four unofficial representatives of New Hampshire and Vermont, met at Hartford, December 15, 1814, and during the ensuing month worked out a report in which appeared some of the principles, and even some of the phrasology, of the Kentucky and Virginia Resolutions of 1797-1798, closing with a series of resolutions and proposed constitutional amendments which embodied a most vigorous assault upon the Administration, even if they did not, as many men believed, amount to deliberate sedition. Memorials requesting the call of such a convention were transmitted from various towns of Massachusetts early in 1814, but it was not until after Webster had returned to Washington for the special session that the movement assumed serious proportions. To the governor of New Hampshire he wrote advising earnestly against the appointment of delegates, and although two of the western counties of the state took it upon themselves to send representatives, the state as such had no part in the Hartford enterprise. Webster's deep-seated attachment to the Union led him to deprecate any project which involved so much as the calling in question of the nation's permanence. His familiarity with the situation at Washington, furthermore, encouraged him to expect an early turn in affairs by which the policies and measures to which the New England opposition was most forcibly objecting would be brought to an end.

The principal measures of the new session with which Webster had something to do were those relating to the laying of war taxes and the establishment of a na-

tional bank. October 10, 1814—five days before Webster appeared in his seat—there was reported from the Ways and Means Committee of the House a series of resolutions declaring the expediency of continuing the direct tax of 1813 and of increasing it by fifty per cent., and likewise the desirability of increasing various existing indirect taxes and of laying a number of new ones. There ensued a spirited debate, involving discussion not merely of the wisdom of the specific modifications which had been recommended but also the conduct of the war and the prospects of an honorable peace. On October 24th, there being under immediate consideration the question of increasing the direct tax from fifty to one hundred per cent., Webster explained at some length his reasons for voting against the measure. The purport of the speech was that, in view of the certainty of the bill's adoption, he did not feel himself "under the necessity, either of obstructing the passage of the taxes through the House, or of taking upon himself any portion of the responsibility of laying them." "It is not put to us who opposed the war in its origin, and have steadily reprobated the manner in which it has been prosecuted, to say now whether a burdensome system of taxes shall be imposed upon the people to replenish the exhausted Treasury. That is for those to determine who have made the taxes necessary. Our votes are not asked for now, any more than upon the declaration of hostilities." ¹ If, he continued, it could be shown that the Administration's honest efforts for peace had been frustrated, that it would apply henceforth its means to "the first great object of all governments, the protection of the people," that.

¹ "Annals of Congress," 13th Cong., 3d sess., Vol. III, p. 459; "Writings and Speeches," Vol. XIV, p. 42.

indeed, it would consent to carry on the war in a manner "agreeable to the common sense of the community," he would be willing to vote all supplies for which the occasion might call. In the absence of these assurances, he could not bring himself to seem to lend his approval, as he should do were he to concur in the proposed increase of revenues. In assuming this position he acted, as he seldom did, with the Federalists of the extremer type. The majority of his fellow-partisans voted for the taxes, which were carried.

During the winter Webster contributed to the defeat of a draft project designed by the Administration to fill the depleted regiments of the army. His speech of December 9th upon this subject, first published only recently,¹ was regarded at the time as an exceedingly able defense of the constitutional rights of the citizen, and as late as 1831 Webster himself referred with some pride to the part which he had "in overthrowing Mr. Monroe's conscription in 1814." In his own later judgment, however, his most honorable and effective service as a congressman from New Hampshire was rendered in connection with the establishment of the second national bank and the regeneration of the nation's disordered currency system. "My efforts in regard to the banks at different times suggested," he wrote in 1832, "and in regard to the currency of the country, I think were of some small degree of utility to the public. Other subjects were temporary, and whatever was done or said about them has passed away, and lost interest."² By reason largely of Federalist op-

¹ In Van Tyne, "Letters of Daniel Webster," pp. 56-68; "Writings and Speeches," Vol. XIV, pp. 55-69.

² Autobiography. Webster, "Private Correspondence," Vol. I, p. 26.

position to the renewal of its charter, the first national bank, established in 1791, had passed out of existence in 1811. During the war period there was a veritable craze for the establishment of state banks and the issuing of paper money, so that within the brief space of two years (1811-1813) the number of local banks in the country rose from eighty-eight to two hundred and eight. Some of these institutions were securely founded, but many were not. Sooner or later the majority of them were obliged to suspend specie payment, with the consequence that all forms of bank paper entered upon a sharp and ruinous depreciation. When the banks of Boston were still paying specie on demand, the notes of the New York banks were ten per cent. below specie value, those of Philadelphia banks fifteen, those of Baltimore twenty, those of Washington twenty-five. Everywhere the currency was deranged; in the West and South its state can be described as nothing short of chaotic. Even the government was obliged to accept its revenues in the form of depreciated and widely fluctuating paper. No national need was more obvious or imperative than some device, whether or not a national bank, which should exercise a steadying influence upon the currency, such as at one time had been exercised by Hamilton's bank.

The consequence of this situation was the inauguration of a movement for the establishment of a second bank. As early as April 2, 1814, it had been proposed in the House that a committee should be appointed to inquire into the expediency of establishing a bank, but it was not until Alexander J. Dallas, of Pennsylvania, became President Madison's Secretary of the Treasury (October, 1814) that the project took definite form.

Within a fortnight of his appointment to the treasury portfolio Dallas addressed to the Ways and Means Committee a letter recommending a national bank with a capital of fifty million dollars. On October 28, 1814, by a vote of ninety-three to fifty-four, the House resolved "that it is expedient to establish a national bank with branches in the several states," and instructed a committee to bring in a bill for such an institution. The resulting measure, introduced November 7th, failed in the House, but a new bill, originated in the Senate, was eventually passed by both houses. This bill provided for a bank with a capital of thirty million dollars, of which amount the United States might subscribe one-sixth. By reason, however, of the restrictions imposed upon the loans which the bank might make the government, as well as from other considerations, President Madison, with the approval of Dallas, vetoed the measure, January 30, 1815.¹ Within a week peace was proclaimed, and the question of the bank went over to the next Congress.

In the House debates upon the bank question Webster had an active and an influential part. To him no subject seemed of more fundamental importance. Involved in it was not merely the successful prosecution of the war, but the prosperity of industry and business and the credit of the nation. To the end that there might be a general toning-up of the currency system Webster advocated warmly the establishment of a bank, provided only that the bank established be one of the right description. There were those in Congress who opposed the establishment of any bank. There were those who advocated a bank which should

¹ Richardson, "Messages and Papers of the Presidents," Vol. I, pp. 555-557.

not be obliged to restrict itself to the redemption of its notes in specie. And there were those who desired a bank which should be compelled always to pay its notes, upon demand, in specie, and which should be entirely free to determine its own policy in respect to the making of loans to the government. To the third of these groups Webster belonged. "Throughout all the debates on the bank question," he records, "I kept steadily in view the object of restoring the currency as a matter of the very first importance, without which it would be impossible to establish any efficient system of revenue and finance. The very first step toward such a system is to provide a safe medium of payment. I opposed, therefore, to the full extent of my power, every project for a bank so constituted that it might issue irredeemable paper, and thus drown and overwhelm us still more completely in the miseries and calamities of paper money. I would agree to nothing but a specie-paying bank."¹

Both the House and Senate bills, as originally drawn, provided for a paper-money bank, and it was against this feature of the two measures that Webster directed most forcefully his opposition. The speech of January 2, 1815, on the recommitment of the Senate bill was one of the most notable of his earlier efforts.² With clearness, force, and eloquence he laid bare the evils of a paper-money régime and expounded those fundamental principles of public finance which are acknowledged to-day to lie at the very root of all sound banking. It was largely through his influence

¹ Memorandum of 1831, cited in Curtis, "Webster," Vol. I, p. 140.

² "Annals of Congress," 13th Cong., 3d sess., pp. 1014-1023; "Writings and Speeches," Vol. V, pp. 35-47.

that there were incorporated in the measure amendments taking from the government the power to force loans from the bank and to permit the institution to suspend the payment of specie, and not until these amendments had been secured was Webster willing to give the project his vote. "We had a hard time," he writes to Ezekiel, "to prevent its [the bill's] passing in its worst shape"; and again: "A hundred of the narrowest chances alone saved us from a complete paper-money system, in such a form as was calculated and intended to transfer the odium of depreciation from the government to the bank." Madison's veto of the measure was interpreted by Webster as indicative that the proposed bank was too sound to suit the Administration. "The President has negatived the bank bill," he writes to Ezekiel. "So all our labor is lost. . . . What is to be done next nobody can tell." The veto precipitated a renewal of the controversy, but the announcement of peace intervened, and on the 4th of March, 1815, the Thirteenth Congress expired.

In November, 1814, Webster was chosen to a second term as representative from the Portsmouth district. As late as 1831, he still regarded the Fourteenth Congress as the most talented he had known, and it is therefore the more worthy of being observed that by common consent Webster was recognized at the time as the Federalist leader of the House, even as Calhoun was yet admitted to be the Administration's principal spokesman and parliamentarian. Most of the abler members of the Thirteenth Congress reappeared in the Fourteenth, and some men of marked ability took their seats for the first time. Clay, returned from Europe, was again in the Speaker's chair. William

Pinkney, of Maryland, indisputable leader of the American bar, was present until, in April, 1816, he departed for Russia. The men of largest influence in the House were Webster, Clay, Calhoun, John Randolph, Pinkney, and Lowndes.

By the illness of his daughter Grace, Webster was prevented from taking his seat until February 7, 1816. During the session, which had begun on the 5th of the previous December, the two subjects which engrossed most attention were the bank and the tariff. When Webster arrived in Washington he found already under consideration a bank bill, introduced January 8th by Calhoun, chairman of the committee on the national currency, and following with some closeness a plan recently submitted by the Secretary of the Treasury. The project as it stood embraced several features essentially identical with those to which Webster had taken exception in connection with the bills of 1814-1815. Plunging unreservedly into the fight, the Federalist leader, with the assistance of other members of like mind, secured once more a reduction in volume of the proposed capital, a restriction of the power of the government to exact loans, and—most important of all—an absolute prohibition of the suspension of specie payments. "I was at special pains," he records, "to convince Congress and the country that a paper bank would be ruinous; a bank with an inordinate amount of capital, such as fifty millions, dangerous; and that all hope of restoring the currency of the country, even by means of the best-conducted bank, futile, until the government itself should execute existing laws, and require payment of debts and taxes in legal coin, or in the paper of specie-paying banks." During the course of the delay which had taken place

Webster's interest in the bank had, in truth, somewhat waned, and his argument now was rather that the United States already had a currency (gold and silver) as good as any in the world, and that if the government would but refuse to receive the issues of non-specie-paying banks such institutions would forthwith be driven out of existence and the currency, undisturbed by depreciated paper issues, would right itself automatically. In the end he cast his vote against the bank bill, being led to do so more particularly by his opposition to the government's participation in the direction of the proposed institution. Under the leadership of Calhoun and Clay, however, the friends of the measure were able to muster eighty votes in a total of one hundred and forty-nine in the House. The bill was concurred in by the Senate and, approved by the President, April 10, 1816, it became law.

During its earlier years the new bank was badly managed, its stock became a medium for violent speculation, and several of the difficulties which had been predicted were fully realized. Eventually, however, the institution got upon its feet, and during its later career Webster came to be one of its warmest defenders. Perhaps the most significant aspect of the bank controversy, taken as a whole, was a fundamental agreement of Webster, Clay, Calhoun, and a large portion of their respective followings, regarding not only the necessity of a stable currency and the utility of a national bank to that end, but the indubitable constitutionality of the establishment of such an institution. Under the spell of the nationalizing spirit of the war period South Carolina and Kentucky were ready to join hands with New England in the undertaking of this, and many another, public project which twenty

years earlier, and twenty years later, would have been pronounced simply inadmissible. To the restoration of financial stability Webster made further notable contribution in 1816 through his procuring of the passage of resolutions, approved by the President April 30th, in accordance with which the government required all obligations due it to be met in coin, in Treasury notes, in notes of the Bank of the United States, or in notes of other specie-paying banks.¹ The victory was the more noteworthy by reason of the fact that Calhoun had but just failed to carry through the House a similar measure.

On March 12, 1816, there was introduced in the House a general tariff bill, embodying substantially the suggestions offered by Secretary Dallas in his notable report of February 12th preceding. The bill was neither a party nor a sectional measure. It was the first tariff bill in our history in which the protection of American industry was a preponderating consideration; but to most people the defense of the newly risen manufactures of the war period seemed so obviously the part of wisdom that upon the principles of the bill there was but small difference of opinion. Upon the details of the measure, especially the rates of duty to be imposed and the period of their application, there was naturally some variation of view. As reported by the Ways and Means Committee, the bill proposed to lay a duty of twenty-five per cent. *ad valorem* on all imports of cotton and woollen manufactures. On motion of Clay, the rate on cottons was increased to thirty per cent. Webster opposed the measure as a whole and the cottons schedule in partic-

¹See the speech of April 26, 1816. "Writings and Speeches," Vol. V, pp. 48-59.

ular. It was manifest that under its operation the importation of East Indian cotton fabrics would be terminated completely. The India trade, however, was a valuable asset of New England, and, although the cotton and woolen manufactures which were to be accorded protection flourished principally in New England, Webster represented as yet a commercial, ship-building constituency and in its interest he felt obliged to vote against the bill. It was his judgment, moreover, that the rates stipulated in the measure were too high to be permanent, and that a further evil that might be expected from the proposed system would be its instability. Recognizing that he was powerless to prevent the passage of a protective measure of some kind, he proposed that the duties on cottons be fixed at thirty per cent. *ad valorem* for two years only, from June 30, 1816, at twenty-five per cent. for the next two years, and at twenty per cent. indefinitely thereafter. By a large majority this proposition was concurred in, although before the final passage of the bill it was modified to stipulate a twenty-five per cent. duty for three years from the ensuing June 30th and a duty of twenty per cent. thereafter.

During the remainder of the session Webster participated in the shaping of a number of measures, but none of first-rate importance. An incident of some momentary interest was John Randolph's challenge to a duel, arising from a fancied insult during the course of a House debate. The challenge was declined with dignity and ere long the two men were again upon the best of terms. In the proceedings of the second session of this congress Webster's part was still less prominent. Early in the session there occurred the death of his daughter Grace, and after the return to Washington

his practice in the Supreme Court absorbed the larger portion of his time and thought. February 8, 1817, he voted for Calhoun's bill setting aside as a permanent fund for internal improvements the bonus of one and a half million dollars, together with the dividends, to be derived from the United States Bank. Upon both the constitutionality and the expediency of the measure Webster was in complete accord with his South Carolinian colleague, although the bill was opposed by no fewer than twenty-three of the Federalist members from New England, and by nine of the ten New England senators. Madison's veto of March 3d did not shake his judgment. He voted to sustain the bill as against the veto. But the measure failed for want of a constitutional majority.

March 3, 1817, the Fourteenth Congress expired, and with it ended for a period of five years Webster's services in public office.

CHAPTER V

LAW AND ORATORY IN MASSACHUSETTS

DURING the course of his second congressional term Webster arrived at a decision to remove from his native state in quest of a broader field of professional opportunity. To Ezekiel he announced his purpose as early as March, 1816. Although but thirty-four years of age, he stood already at the head of the New Hampshire bar, and within the circumscribed sphere of his earlier triumphs there were no more worlds to conquer. His income of barely two thousand dollars a year was increasingly inadequate, and the loss of almost the whole of his property in the Portsmouth fire of December 22, 1813, rendered it the more necessary that some measure be taken to advance his personal fortune. After all, however, the principal propelling force was a sober consciousness of powers yet unused and a laudable ambition to press forward to the topmost heights of the legal profession. Various possible locations were considered, principally New York, Albany, and Boston. At one time New York was all but selected. "Our New England prosperity and importance," wrote Webster pessimistically to Ezekiel, "are passing away. This is fact. The events of the times, the policy of England, the consequences of our war, and the Ghent Treaty, have bereft us of our commerce, the great source of our wealth. If any great scenes are to be acted in this country within the next twenty years New York is the place in which those scenes are to be

viewed.”¹ The ultimate decision, none the less, was in favor of Boston. In the New England metropolis Webster had already a somewhat extended acquaintance, and the opportunity for professional promotion there awaiting men of high ability was almost, if not quite, as attractive as that in New York. In August, 1816, the removal was made and the family was settled in a comfortable but unpretentious house in Mt. Vernon Street, at the summit of Beacon Hill, a stone’s throw to the northwest from the State House.

So far as appears from his writings, Webster had at this time no thought of returning to public life. His years in Congress had been full of interest and profit; but he was still primarily a lawyer, and even during his period of service in the House he had divided his time habitually between his legislative duties and his employments of a professional nature. When removing to Boston, he expected to devote himself uninterruptedly to the practice of the law, in both the courts of Massachusetts and the federal tribunals; and so he was enabled to do during somewhat more than half a decade. Success in the new field was instant and flattering. If, as tradition tells, there were legal lights in Boston who at first were disposed to regard the “village” lawyer from New Hampshire with some condescension, the time soon came when the greatest of them were obliged to receive him as an equal. There had not yet come into his countenance that striking, even awe-inspiring, appearance of solemn majesty which in later years transfixed men who gazed upon him. But even now his presence was such that, by all accounts, when he so much as entered a room every eye was

¹ Daniel to Ezekiel Webster, March 26, 1816. Webster, “Private Correspondence,” Vol. I, p. 256.

riveted upon him and voices were hushed. His friends and associates in the new home soon comprised not simply the leaders of his own profession but men of the highest standing in all callings. Business crowded in upon him, and within a year his income had been increased to upward of twenty thousand dollars.

Side-lights afforded by the testimony of various persons who in this period had the privilege of knowing the Websters somewhat intimately reveal a picture of splendid domestic felicity and professional prosperity—an epitome of substantial but unostentatious New England town life at its best. In no period of his career, probably, was Webster a busier man. He rose early and as a rule disposed of a goodly amount of work before other people had set about the duties of the day. In the midst of the preparation of arguments and the multiplied exactions of a lawyer's life he kept up his study of the more difficult phases of the law and gave no inconsiderable amount of time to the reading of books, documents, and periodicals relating to the politics of Europe, especially of Great Britain. The day was crowded with toil; the evening, as a rule, was devoted to rest, recreation, and the amenities of family life. "After dinner," writes an intimate acquaintance of the family, "Mr. Webster would throw himself upon the sofa, and then was seen the truly electrical attraction of his character. Every person in the room was drawn immediately into his sphere. The children squeezing themselves into all possible places and postures upon the sofa, in order to be close to him; Mrs. Webster sitting by his side, and the friend in the house or social visitor, only too happy to join in the circle. All this was not from invitation to the children; he did nothing to amuse them; he

told them no stories. It was the irresistible attraction of his character, the charm of his illumined countenance, from which beamed indulgence and kindness to every one of his family.”¹

Within a twelvemonth after the settlement at Boston Webster was drawn into the most notable piece of litigation with which he had as yet had connection. In the ripening of his own legal talent, in the development of the facilities of higher education, and in the shaping of the constitutional law of the United States, the Dartmouth College case was alike of prime importance. The history of the “college causes” which centred about the case of Dartmouth College *vs.* Woodward is too extended to be related in detail here. The controversy sprang originally from an attempt on the part of an element in the board of trustees of the college to drive John Wheelock from the presidency, or, in any event, to curb the influence of the “Wheelock dynasty” in the affairs of the college. By the terms of its charter, conferred by the crown in 1769, the college was created a perpetual corporation, Dr. Eleazer Wheelock was appointed president, with power to designate his successor, subject to the approval of the trustees, and the trustees were authorized to make laws and ordinances for the government of the college, with power to fill vacancies in their own body. In 1779 John Wheelock, under provision of the will of his father, succeeded to the presidency. As early as 1793 there developed a certain amount of friction between the president and some of the trustees, and in 1809 the enemies of Wheelock secured a majority of the board, enabling them to tie the hands of the president and to exclude from the government of the col-

¹ Quoted in Curtis, “Webster,” Vol. I, p. 161.

lege men known to be friends of the Wheelock régime. For a time the conflict was kept under cover, but in 1815 the Wheelock forces published a brochure in which their grievances were thoroughly aired, and instantly there ensued a campaign of pamphleteering and recrimination which attracted much attention. Wheelock, contemplating legal proceedings, secured from Webster a promise of professional assistance; and when, at his own request, a committee of the legislature was appointed to investigate the charges brought by him against the trustees, he requested Webster to appear in his behalf before the committee. On the pretext of absorption in business, Webster neglected to appear, whereat some of the partisans of Wheelock took serious, and perhaps in a measure justifiable, offense. The truth is that Webster entertained doubts as to the strength of the president's case and preferred for the present to keep clear of it. Eventually he abandoned Wheelock altogether.

In 1815 the trustees summarily dismissed Wheelock from the presidency and appointed in his stead the Reverend Francis Brown. The "college question" became forthwith the principal interest of the state. The trustees were Federalist in politics and Congregational in religion, with the consequence that all Democrats, all members of sects other than Congregational (Wheelock himself was a Presbyterian), and all independent spirits generally were easily induced to join in a crusade to break the grasp which Federalist Congregationalism had hitherto maintained upon the affairs of the college. At the spring elections of 1816, with the college question as a preponderating issue, the Democrats swept the state, electing both a Democratic legislature and William Plumer, a former Federalist

but now the Democratic candidate, as governor. Wheelock and his adherents went over bodily to the triumphant party. The victory was followed up, on June 27, 1816, by the enactment of a measure submitted by Plumer changing the corporate name of the institution from "The Trustees of Dartmouth College" to "The Trustees of Dartmouth University," increasing the number of the trustees, vesting the appointment of some of them in the governor and council, and in other ways altering fundamentally the nature of the original corporation, to the end that the college might be converted into a liberal institution after the model of Jefferson's University of Virginia. The old board refused absolutely to yield to the new one. Judge William H. Woodward, its secretary, was expelled from his office by reason of his having accepted a similar position with the new board, and suit was brought against him in the Supreme Court of the state to recover possession of the college seal and other effects of the corporation.

In the first argument of the case, in May, 1817, the college, *i. e.*, the old board, was represented by Jeremiah Mason and Judge Jeremiah Smith, two of the ablest lawyers of the day, while the interests of Woodward and the recently created board were entrusted to Ichabod Bartlett and the attorney-general of the state, George Sullivan, who likewise were hard fighters and ingenious advocates. The case was postponed to the September session, at Exeter, and at the second arguing—affirmed by one writer to have been the sharpest intellectual contest which ever took place in a New Hampshire court¹—it fell to Webster to coöperate with Mason and Smith in the defense of the college.

¹ McCall, "Daniel Webster," p. 23.

A two-hour speech (unreported), closing for the plaintiff, exhibited many of the qualities which reappeared in yet more striking fashion in the effort of the next year before the Supreme Court at Washington. The judgment of the court, however, sustained the constitutionality and validity of the act of 1816 without reserve, and was therefore adverse to the claims of the college upon every point. The charter was declared to have created a public corporation, established for the purpose of promoting public education ; hence, not being a contract with individuals, it must be regarded as at the entire disposition ultimately, in the public interest, of the legislature of the state.

It having been determined to continue the fight, the case was carried, on a writ of error, to the Supreme Court of the United States. The claim upon which the appeal was based was that the statute of June, 1816, had so altered the character of the college corporation as to have comprised an impairment of the obligation of a contract, involving the exercise of a power which the Federal Constitution plainly withholds from the legislatures of the states. In the consideration of the case in the New Hampshire court this point had received little emphasis. It had been mentioned, but the arguments of Mason, Smith, and Webster had run along other lines, to the effect, chiefly, that in the act of 1816 the legislature of the state had transcended not merely the normal scope of legislative power but also the positive limitations imposed upon such power by the constitution of the state. So keenly did Webster regret the necessity of resting the college's case upon the purely constitutional issue in relation to the impairment of contracts that he instigated the devising of cognate cases covering other aspects of the situation, in

the hope that these cases, after having been pushed through the courts of the state, should be carried to the supreme federal tribunal, so that they in time might be made the means of a victory for the college over its adversaries. It was destined to come about that before any of these cognate causes could be made to yield results the immediate case had been argued and decided, and the college had won the most signal of victories upon the fundamental issue of the impairment of contracts. Despised as was this issue by all of the college's attorneys, Webster included, it was squarely upon it, and upon nothing else, that John Marshall and his colleagues in 1819 based their famous decision; and the principal importance of that decision arose from the solemn proclamation which it accordingly contained both of the inviolability of the provisions of the constitution and the transcendent power of the federal government. "If," as has been suggested, "the whole cause had been subject to review, it might well have been decided upon one of the other grounds, and thus it would not have become one of the great landmarks of constitutional history."¹

When it became known that neither Mason nor Smith was able, or willing, to assume the conduct of the college's case before the Supreme Court, the task, by the common consent of those interested, was entrusted to Webster. As late as September 4, 1817, he writes to Mason, however, that he "has not thought of the subject, nor made the least preparation," and that he is "willing to be considered as belonging to the cause and to talk about it, and consult about it, but should do no good by undertaking an argument." November 27th he writes that he has "engaged to

¹ McCall, "Daniel Webster," p. 25.

keep hold" of the case in the event that he should go to Washington during the winter, and that if the management of the case should fall to him he should expect to make liberal use of the briefs prepared by Mason and Smith upon the subject. December 8th he writes to Smith: "If I argue this cause at Washington, every one knows I can only be the reciter of the argument made by you at Exeter. You are, therefore, principally interested, as to the matter of reputation, in the figure I make at Washington. Nothing will be expected of me but decent delivery of your matter."¹ During the winter months preparation for the handling of the case was pushed, when other and exacting duties permitted. Liberal use was made of the briefs, and of the occasional advice, of Mason and Smith, and in the substance of the argument which was put in shape there was, as Webster was the first to affirm, little or nothing that was original. Here, as upon many another occasion, the skill of the man displayed itself peculiarly in the selection and adaptation of contributions made by other minds. His own personal contribution was to be oratorical, rather than strictly legal.

As associate counsel Webster selected a close personal friend, Joseph Hopkinson, an old-school lawyer of Philadelphia whose practice in the federal courts was extended. The case for the state fell into hands rather less capable than those of Bartlett and Sullivan. The attorneys whom Webster and Hopkinson were called upon to meet were John Holmes, of Maine, and the Attorney-General of the United States, William Wirt. Holmes was an influential Democratic politician, but an indifferent lawyer. Wirt was a man of

¹ Webster to Smith, December 8, 1817. Webster, "Private Correspondence," Vol. I, p. 268.

distinction and of unquestioned ability ; but at the present juncture he was so preoccupied with other business that he quite neglected to prepare for the Dartmouth case, and when he appeared in it he made a rather pitiable showing. If, however, his opponents were not formidable, the task which Webster had assumed was, none the less, by no means an easy one. He must bring the Supreme Court to a decision adverse to that just rendered by the highest tribunal of New Hampshire—a judgment which he had himself been obliged to admit was “able, plausible, and ingenious.” He must accomplish this, furthermore, by the employment of a course of reasoning (respecting the impairment of contracts) in which he had not hitherto placed great faith ; and it was the judgment of many disinterested members of the bar that he had insufficient ground upon which to build a successful plea.

The argument of the case, opened March 10, 1818, occupied upward of three days. By reason of the fact that the Capitol had not yet been rebuilt, the sittings of the Court were held in a small and ill-adapted apartment. Audiences were therefore meagre, although upon this occasion they were select, being composed principally of men of the legal profession who had been attracted, in some instances from considerable distances, by the fame of the case and of the advocates. The case was opened by Webster. According to Dr. Chauncey A. Goodrich, a Yale professor, who was present upon the occasion, Webster entered upon his argument in a tone of easy and dignified conversation. “His matter was so completely at his command that he scarcely looked at his brief, but went on for more than four hours with a statement so luminous, and a chain of reasoning so easy to be understood, and yet

approaching so nearly to absolute demonstration, that he seemed to carry with him every man of his audience without the slightest effort or uneasiness on either side. It was hardly eloquence in the strict sense of the term ; it was pure reason. Now and then, for a sentence or two, his eye flashed and his voice swelled into a bolder note, as he uttered some emphatic thought ; but he instantly fell back into the tone of earnest conversation which ran throughout the great body of the speech.”¹

Complete mastery of the law and facts, remarkable simplicity and cogency in the elaboration of his argument, profound and even passionate devotion to his client—these were Webster’s principal assets in the prosecution of his cause. Nowhere has his speech been preserved in full. An abridged revision of it was incorporated in the Supreme Court reports, and this is the document which has found a place in the published editions of Webster’s writings. But, as Webster himself one time observed, in the printed document “something was left out,” that “something” comprising, indeed, a wealth of oratorical outburst and of passionate appeal which the reporter adjudged to have no place in the dry and sober synopsis of constitutional argument contained within the formal record. The essential points in the argument, buttressed by varied allusion to precedent, and by close and convincing reasoning, may be summarized thus : (1) the charter of 1769 created a private, and not a public, corporation, to administer a charity, in the administration of which the twelve trustees had a property, recognized by law ; (2) the grant of such a charter constitutes a contract between the grantor and successors, on the one

¹ Quoted in Curtis, “Webster,” Vol. I, p. 169.

hand, and the grantee and successors, on the other ; and (3) the legislation of 1816, by which was taken from the trustees the right to exercise the powers of visitation and government, and by which this right was conferred upon another body of men, comprised an impairment of contract, within the meaning of the Constitution of the United States, and was therefore null and void. The judgment of the state court of New Hampshire, it should be observed, had been rendered on the ground that the college was a *public* corporation, and that in respect to corporations of a public character there is no contract or agreement which the state may not regulate.

For his arguments of a purely legal nature upon these matters Webster relied almost wholly upon the briefs and the opinions of Mason and Smith. Even here, however, he was far more than "a mere reciter," for he welded together the material supplied by his elders, supplemented it from the resources of his own learning, and poured forth the whole in a flood of surpassing eloquence which invested the subject with interest and meaning undreamed of by those whose knowledge of the case was more academic. Nor did the speaker content himself with precedents and logic. He did not scruple to appeal with all the power that was in him to the emotions, and even to the political susceptibilities, of his hearers, and especially of the members of the Court. Of the seven justices, two—Marshall and Washington—Webster was confident he could carry with him ; two others—Todd and Duvall—he could hardly expect to move ; the remaining three—Story, Livingston, and Johnson—were not at the outset favorably inclined, but might be won over. One stroke Webster conceived to be of the

greatest strategic importance, namely, to arouse the political feelings of the Chief Justice and to enlist his sympathy for the college as a surviving but sorely beset bulwark of Federalism. To this end a considerable portion of the speech was deliberately devoted; and with such consummate art was the appeal made that it is commonly believed that, had it been necessary, Marshall would probably have brought about a decision in the college's favor by the sheer force of his dominating influence within the Court.¹

The peroration of the Dartmouth College speech and the scene attending it, as described by eye-witnesses, have hardly been paralleled in the history of modern oratory. The formal argument ended, Webster paused some seconds while every eye was riveted upon him and the silence became almost oppressive. "This, sir," he concluded, "is my case. It is the case not merely of that humble institution, it is the case of every college in our land. It is the case of every eleemosynary institution throughout our country—of all those great charities founded by the piety of our ancestors, to alleviate human misery and scatter blessings along the pathway of life. . . . Sir, you may destroy this little institution; it is weak; it is in your hands! I know it is one of the lesser lights in the literary horizon of our country. You may put it out. But, if you do so, you must carry through your work! You must extinguish, one after another, all those greater lights of science which, for more than a century, have thrown their radiance over our land! It is, sir, as I have said, a small college. And yet there are those who love it——"

¹ Lodge, "Webster," p. 89.

At this point, as the episode is described by Dr. Goodrich, the emotion which the speaker had so far succeeded in holding in restraint broke forth. His lips quivered, his cheeks trembled, his voice choked, and his eyes filled with tears. In words of exquisite tenderness he continued, in broken voice, to express his personal anxiety for the college. "The whole," says Dr. Goodrich, "seemed to be mingled throughout with the recollections of father, mother, brother, and all the privations and trials through which he had made his way in life. Every one saw that it was wholly unpremeditated, a pressure on his heart, which sought relief in words and tears. The court-room during these two or three minutes presented an extraordinary spectacle. Chief Justice Marshall, with his tall and gaunt figure bent over, as if to catch the slightest whisper, the deep furrows of his cheek expanded with emotion, and his eyes suffused with tears; Mr. Justice Washington at his side, with his small and emaciated frame and countenance more like marble than I ever saw on any other human being—leaning forward with an eager, troubled look; and the remainder of the court, at the two extremities, pressing, as it were, toward a single point, while the audience below were wrapping themselves round in closer folds beneath the bench, to catch each look and every movement of the speaker's face." Recovering his composure and fixing his eye upon the Chief Justice, Webster drew himself up to his full height and in the tone of majesty with which he sometimes thrilled an audience declared: "Sir, I know not how others may feel, but, for myself, when I see my Alma Mater surrounded, like Cæsar in the senate-house, by those who are reiterating stab after stab, I would not, for this right hand, have her turn to

me, and say, *Et tu quoque mi fili!* And thou too, my son!"¹

During the ensuing days the case was argued further by the opposing counsel, Holmes and Wirt, and by Webster's associate, Hopkinson. The substance of the opposition's contention was (1) that the charter was not a contract; (2) that all corporations were terminated by the Revolution; (3) that the charter, if a contract, had not been impaired; and (4) that, both parties belonging to the same state, the Supreme Court lacked jurisdiction. Holmes's speech Webster pronounced "three hours of the merest stuff that was ever uttered in a county court." Of Wirt's effort he had a higher opinion, although he was unable to see that the Attorney-General brought forward an iota of either new matter or new reasoning. "I believe," wrote Webster to Mason on the day after the closing of the hearing, "I may say that nearly or quite all the bar are with us. How the court will be I have no means of knowing."² A day later he wrote to Smith: "I think we shall finally succeed."

On the morning of March 13th the Chief Justice announced that the Court had conferred, that there were differing opinions, that some of the justices had not formed opinions, and that, accordingly, a decision would not be immediately forthcoming. The following day the Court adjourned. During the several months which intervened before the opening of a new term there was carried on by the counsel and friends of the college an adroit campaign for the conversion of those

¹ Quoted in Curtis, "Webster," Vol. I, pp. 169-171. The speech is printed in "Works of Webster," Vol. V, pp. 462-501, and "Writings and Speeches," Vol. X, pp. 194-233.

² Webster to Mason, March 13, 1818. Webster, "Private Correspondence," Vol. I, p. 276.

members of the Court—Livingston, Johnson, and Story—who were believed to be wavering in their opinion. The state, at the same time, prepared for a renewal of the contest and engaged as counsel William Pinkney, acknowledged leader of the American bar. When the Court convened, however, the Chief Justice brushed aside all preparations for a rehearing of the case and announced forthwith that a decision had been arrived at. The judgment which Marshall then made public, February, 1819, takes rank among the most far-reaching and influential in American history. The college charter, it was held, was a contract; the acts of the New Hampshire legislature constituted an impairment of it, in the meaning of the Constitution of the United States; these acts were, accordingly, void. The arguments of Webster were sustained at every point. The Chief Justice and four associates supported the opinion; one justice, Todd, was absent; only one, Duvall, dissented. Even Story, who had accepted membership on the opposition board of trustees, acquiesced in the majority opinion. At a single point only had the Supreme Court passed hitherto upon the meaning and scope of the constitutional provision relating to contracts. It had been ruled that a grant of land made by a state constituted a contract whose obligation it was beyond the competence of the state to impair. By the Dartmouth College decision, however, there was brought within the scope of the constitutional guarantee, by implication, every charter and similar instrument conferred within a state. The independence of the states in the administration of all contractual affairs was sharply curtailed, the pervading power of the federal government under the Constitution was correspondingly exalted, and a fundamental principle

of law was laid down which, although again and again assailed since Marshall's day, has never been overthrown.¹

It is the opinion of most persons conversant with the career of Webster that he seldom equalled, and never surpassed, the brilliance of his pleading in this memorable case. The great jurist, Chancellor Kent, confessed to have been changed completely in his views of the merits of the case by a mere reading of the condensed report of Webster's speech. The case was not the first which Webster had argued before the Supreme Court, but through it he attained at a stroke a place among the three or four most eminent practitioners at the bar of that tribunal, and in general it may be said that after 1819 his position as an advocate was hardly second to that of Pinkney, Wirt, or any of his older contemporaries. Of his own generation there was no one whose legal ability and fame could be regarded as in any sense the equal of his. Clay was a consummate parliamentarian, but only an ordinary lawyer. Calhoun knew a great deal of law, but never practiced.

In the midst of a lucrative professional activity Webster was called upon not long thereafter to render a service of distinguished character to his adopted state. The separation of Maine from Massachusetts in 1820, together with certain other exigencies of the time, stimulated a movement for the revision of the constitution of the commonwealth, and a convention was elected to undertake the task. The assemblage met at Boston in November, 1820, and continued its delibera-

¹ In consequence of the decision Dr. Brown and the "old" board of trustees took possession of the insignia and property of the college. Wheelock himself had died in 1817.

tions until the following January. It was composed of some five hundred members and included practically all of the ablest men of the commonwealth—members of Congress, state officials, the federal judges, leaders at the bar and in business, and representatives of every important class, profession, and interest. John Adams, then in his eighty-fifth year, and one of the few surviving framers of the constitution of 1780, was honored by election to the presidency of the convention, although by reason of infirmity he declined to serve and the duties of the chair fell to Chief Justice Parker. Among the delegates representing Boston was Webster.

In most respects the constitution of 1780 had proved a very satisfactory instrument, and there was little or no demand in 1820 that it be set aside entirely. As to the extent and nature of the changes that should be introduced in it, however, there was much difference of opinion. The period was one in which political parties as such can scarcely be said to have existed. There was, none the less, a pretty sharply drawn issue between the radical and the conservative wings of the convention, which but reflected far-reaching divisions of sentiment among the inhabitants of the state. Since 1780 there had been a remarkable growth of democratic opinion, and the force of this opinion in 1820 was directed toward the elimination of numerous eighteenth-century principles and governmental forms from the constitutional system. In opposition to the radical revisionists stood a substantial body of conservatives, ready to acquiesce in certain modifications, but disposed to resist all changes not regarded as absolutely necessary. Webster was identified, in the main, with the conservative group, and throughout the proceedings of the convention no member, with the

possible exception of Joseph Story, exercised a more potent influence in behalf of the sane and judicious adjustment of the problems in hand. He delivered a number of formal speeches and participated freely in impromptu discussion. He served as chairman of two important committees. And when, upon several occasions, he was called by Chief Justice Parker to occupy the chair, he presided with a dignity and ability so noteworthy that men were moved to comment upon his peculiar qualification for the speakership of the national House—a post of responsibility which, however, he was destined never to occupy.

The questions to whose settlement Webster contributed most during the deliberations of the convention pertained to three subjects: the character of the oath of office, the basis of representation in the senate, and the independence of the judiciary. The constitution of 1780 prescribed as a feature of the oath of office a declaration of belief in the Christian religion. In a speech of remarkable cogency¹ Webster demonstrated that while the existing requirement did not operate, as in certain quarters it had been alleged to do, to deprive some men of the *right* to public office—because no man has such a right—it was not in harmony with the fundamental principle of liberty of conscience, and was, moreover, in practice, unnecessary. A people so predominantly Christian as were the inhabitants of Massachusetts would be very unlikely to elect to public office a disbeliever. If they should do so, it must be because they were not disposed to insist upon an avowal of belief in Christianity as a necessary qualification. In any case, the test imposed by the present constitution was non-essential, and, being so, undesir-

¹“Writings and Speeches,” Vol. V, pp. 3-7.

able. Under the influence principally of this logic the convention was brought to a decision to eliminate from the oath all reference to religious opinion ; and from that day no religious qualification has been required of office-holders within the state.

A second question to which Webster addressed himself with notable force and effectiveness was that of the basis of representation in the senate. Here his part was to avert, rather than to encourage, change. Under the constitution of 1780 members of the upper house were chosen by the voters in districts in proportion to taxable property. Members of the lower house were apportioned according to population. By 1820 the growth of democratic ideas, especially in the rural portions of the state, had been such that a very considerable element of the people had come to look upon the composition of the senate as archaic, aristocratic, and indefensible. It was urgently demanded that the constitution be so amended as to provide for an apportionment of both senators and representatives according to population. It fell to Webster to develop in a carefully prepared speech¹ the theory of bicameral legislative bodies and to demonstrate the advantages that may be expected to arise from a constitution of the two houses upon bases that are not identical, to the end that the one chamber may not become a mere replica of the other, and that each may constitute a proper check upon the other. While it was beyond serious question that one house should be apportioned wholly to population, into the apportionment of the other, it was urged, property—not in the sense of mere personal interests, but in the sense of the great permanent interest whose protection is one of the func-

¹ "Writings and Speeches," Vol. V, pp. 8-25.

tions of society—should always enter. The view was not a popular one, but by sheer force of persuasion Webster carried his point, and the existing provision of the constitution was left untouched. Every student of political science to-day recognizes in Webster's exposition of the theory of legislative bodies numerous arguments that are unanswerable. It was only in later years, after the spell of Webster's influence had been somewhat relaxed, that the composition of the Massachusetts senate was modified in accordance with the popular demand.

A third subject upon which Webster expended no small amount of effort in the convention was the independence of the judiciary. After the analogy of English practice, the constitution of 1780, while stipulating a judicial tenure of good behavior, provided that a judge might be removed by the governor on an address from the legislature. A simple majority of the legislature was competent to issue the address; no reasons need be assigned; and the official in question was guaranteed no opportunity for defense. Many men, including Webster, felt that under these arrangements judges were too much subject to the whim of the legislative chambers. It was therefore proposed that the constitution be so amended as to require that an address of removal be passed by a two-thirds vote of each house, that reasons should be assigned, and that an accused official should be given an opportunity to bring in a defense. A masterful speech of Webster¹ failed to carry conviction and the proposed amendment was lost. On Webster's motion, however, it was stipulated in the revised constitution that no address for the removal of a judicial officer should be passed in either

¹ "Writings and Speeches," Vol. V, pp. 26-32.

branch of the legislature until the reasons therefor should have been entered upon the records and the accused should have been admitted to a hearing in his own behalf in each house.

All in all, the part taken by Webster in the convention was one of peculiar distinction. "Our friend Webster," wrote Judge Story to Mr. Mason, "has gained a noble reputation. He was before known as a lawyer; but he has now secured the title of an eminent and enlightened statesman. It was a glorious field for him, and he has had an ample harvest. The whole force of his great mind was brought out, and in several speeches he commanded universal admiration. He always led the van, and was most skilful and instantaneous in attack and retreat. . . . On the whole, I never was more proud of any display than his in my life, and I am much deceived if the well-earned popularity, so justly and so boldly acquired by him on this occasion, does not carry him, if he lives, to the presidency."¹

While the deliberations of the convention were in progress, there came on the two hundredth anniversary of the landing of the Pilgrims at Plymouth. Early in the year citizens of Plymouth, together with descendants of the Pilgrims elsewhere, organized the "Pilgrim Society," whose purpose was "to commemorate the landing, and to honor the memory, of the intrepid men who first set foot on Plymouth Rock." It was determined to celebrate the two hundredth anniversary with unusual elaborateness, and Webster was chosen to deliver the oration. The invitation carried with it a magnificent opportunity. The occasion, the subject, the hear-

¹Story to Mason, January 21, 1821. W. Story, "Life and Letters of Joseph Story," Vol. I, pp. 395-396.

ing—all were such as to inspire to the loftiest endeavor. And when, on the 22d of December, the orator rose before an audience that filled and overflowed the old First Church, he was in every sense prepared for an effort worthy of the day. Already the fame of his eloquence at the bar, on the floor of Congress, and in the constitutional convention then in session had covered the land. Whether he should be able to seize upon a striking historical event, interpret it in the light of the development of a growing nation, and attain the summit of polished speech in an address intended neither to convince a judge nor to mold the course of a deliberative assembly, remained to be determined. Within the domain of purely "occasional" oratory his efforts hitherto had been confined almost entirely to Fourth of July speeches, a Phi Beta Kappa oration at Dartmouth in 1809 upon a purely literary theme, and an address in 1812 before the Washington Benevolent Society of Portsmouth upon a theme purely political. But people who knew the man and were familiar with the depths of his feeling did not hesitate to expect of him upon this occasion the greatest things.

The test was met with a splendid achievement. By some it has even been maintained that Webster himself never subsequently rose in sheer eloquence above the height attained in the Plymouth oration. In this judgment it is hardly possible to concur, for in the present effort there lingered a quality of grandioseness which is happily lacking in the Bunker Hill speech of 1825, the eulogy on Adams and Jefferson in 1826, and other orations of subsequent years. Yet in loftiness of conception and eloquence of diction the Plymouth address was unquestionably superior to anything of the kind which had been heard in America within a gen-

eration. Its stirring portrayal of the hardships of the Pilgrims both before and after migration, its masterful characterization of those institutions which lay at the basis of New England society in colonial times, its tribute to the fundamental principles of republicanism upon which the nation of later days was built, its compelling survey of the whole stretch of American civilization and achievement, were destined to classical celebrity. Especially notable was the peroration, during the course of whose delivery the speaker stood with arms outstretched as if to welcome the oncoming generations of men to whom it was addressed. "Advance, then, ye future generations! We would hail you, as you rise in your long succession to fill the places which we now fill, and to taste the blessings of existence where we are passing, and soon shall have passed, our own human duration. We bid you welcome to this pleasant land of the fathers. We bid you welcome to the healthful skies and the verdant fields of New England. We greet your accession to the great inheritance which we have enjoyed. We welcome you to the blessings of good government and religious liberty. We welcome you to the treasures of science and the delights of learning. We welcome you to the transcendent sweets of domestic life, to the happiness of kindred, and parents, and children. We welcome you to the immeasurable blessings of rational existence, the immortal hope of Christianity, and the light of everlasting truth."¹

"I was never so excited by public speaking before in my life," afterward wrote George Ticknor. "Three or four times I thought my temples would burst with

¹ "Works of Webster," Vol. I, pp. 49-50; "Writings and Speeches," Vol. I, pp. 225-226.

the gush of blood. When I came out I was almost afraid to come near to him. It seemed to me as if he was like the mount that might not be touched and that burned with fire. I was beside myself, and am so still.”¹ And Ticknor, while an admirer and, upon the present occasion, a traveling-companion, was by nature cool and critical. The effect of the discourse was to place Webster at once in advance of all contemporary orators, at least in the judgment of most American critics. “Mr. Burke,” wrote John Adams, “is no longer entitled to the praise—the most consummate orator of modern times.” Within a year the oration was put in print—rather more, indeed, than was actually spoken during the upward of two hours occupied by the delivery—and circulated broadcast over the country. The reception with which it met was rivaled only by that accorded the “Sketch Book” and other works of Washington Irving then appearing.

¹ Quoted in Lodge, “Webster,” p. 118.

CHAPTER VI

IN CONGRESS AGAIN, 1823-1827

IN the autumn of 1822 a number of the prominent men of Boston persuaded Webster to accept a nomination as representative of the Suffolk district in Congress. The nomination was tendered formally, and unanimously, by a body of delegates representing the various wards comprised within the urban district. When the proposition was broached Webster was inclined to demur, and there is reason for the belief that when eventually he yielded to public demand he did so in contravention of his actual desires. Acceptance meant the abandoning, in at least some measure, of his lucrative and absorbing legal practice; and, since he had assumed the indebtedness of his father to prevent the paternal estate from being declared insolvent, his financial position was not yet such that he could contemplate with equanimity the impairment of his yearly income. And, even if it be assumed that Webster had in mind a return to public life, it may be inferred that, having already spent four years in the lower house at Washington, he would now have preferred some other and more exalted station. But the people of Boston would not have it otherwise than that he should represent them in the Eighteenth Congress, and, indeed, in the two succeeding congresses, to which they reëlected him almost unanimously.¹ "Mr. Webster,"

¹ He was returned to his seat at the election of 1824 by a vote of 4,990 in a total poll of 5,000.

declared a member of the committee appointed to wait on him in 1822, "I come to ask you to throw down your law books and enter the service of the public ; for to the public you belong. I know what sacrifices we demand of you, but we must rely on your patriotism. We cannot take a refusal."¹ Against the force of such an appeal Webster found it impossible to hold out. He accepted, and in the following November he was elected by an overwhelming majority.

The six years of congressional service thus inaugurated comprised a distinctly active and useful period in Webster's public career. During the interim since his retirement in 1817 he had made great strides in both reputation and ability. By reason of the Dartmouth College case, the Plymouth oration, the succession of masterly efforts in the constitutional convention of 1820, and scores of notable victories at the bar, both state and federal, his position had come to be that of the most widely-known and most commanding New Englander, with the possible exception of John Quincy Adams. Since the death of Pinkney, in 1822, he had become unquestionably the foremost of advocates at the American bar. The Eighteenth Congress, in which he took his seat in December, 1823, was much the superior of its predecessor in ability and influence. Clay was again a member of the House of Representatives, and with him appeared Forsyth, Crowninshield, Randolph, Edward Livingston, McLane, Tod, Taylor, Barbour, and Sam Houston. Webster reëntered the House with outlook broadened, spirit chastened, and patriotism undiminished, and it was to be expected that he should be accounted from the first one of the half-dozen ablest members of the body. With peculiar fit-

¹ Curtis, "Webster," Vol. I, p. 198.

ness Clay, once more elected Speaker, appointed him to the important post of chairman of the Committee on the Judiciary.

Politically, the situation in Congress, and throughout the country, in 1823 was very different from that which obtained in 1817. During the six years of Webster's absence from Washington there had occurred an almost complete dissolution of political parties. There were still Federalists who called themselves by the time-honored party name and who, in respect to their principles, were as irreconcilable as a decade earlier. But they were not numerous or influential, and in the forthcoming campaign for the presidency they gave promise of cutting little or no figure. The great mass of people in all sections of the country had been absorbed by the broadly nationalized Republican party, which, indeed, by reason of the very completeness of its triumph, had largely ceased to maintain the essential qualities of a party. According to the school-books of later days the era was one of "good feeling." In point of fact, there are not more than two or three epochs in our national history in which political feeling was more intense, bitter, and personal. What was nominally the great party of Jefferson and Madison and Monroe was in truth little more than a congeries of jealous and struggling groups, each led by, or rallying around, some one of the half-dozen active presidential aspirants of the day—Clay, Calhoun, Crawford, Jackson, Clinton, John Quincy Adams.

In the midst of a situation so confused the political inclinations of Webster were for a time uncertain and anomalous. Throughout his public career he had been accustomed to stand as a matter of course with the Federalists, although, as has appeared, he was not

averse to a break with the majority of his party when occasion seemed to him to demand an independent course of action ; and he had never been identified with the reactionary and irreconcilable New England element which had been wont to delight in factious opposition for its own sake. During the earlier months of the new Congress every political leader and group angled with more or less skill for the support of the Federalist members, with the consequence that a minority element which had no program or prospects of its own was exalted occasionally to a position of influence altogether disproportionate to its numerical strength. Webster, still inclined to the opinion that political parties are essentially an evil, was not displeased with the untrammelled position in which he found himself. He set out to be essentially a free lance, and throughout his three terms he held aloof persistently from a number of political groups, any one of which would gladly have welcomed his accession to its ranks. Eventually, with the re-formation, in the late twenties, of definite party lines, Webster became again perforce a party man. But he never gloried in the affairs of party as such, and it may be doubted whether in his own judgment the greater brilliance of later stages of his career ever quite compensated for the loss of individual independence involved in party allegiance.

The period covered by the Eighteenth Congress was one of exceptional importance, not alone in respect to the unfolding of the domestic political situation, but by reason of a state of affairs abroad which stimulated wide-spread interest and at times occasioned serious apprehension. The questions at home which elicited most attention were those relating to the tariff and internal improvements, and the most striking event was

the election of John Quincy Adams to the presidency by the House of Representatives. The principal foreign questions were those arising from the revolt of the Spanish American colonies and the threatened activities of the Holy Alliance.

The first issue to which Webster addressed himself in a deliberate manner after the opening of the session of 1823-1824 was one which arose from contemporary developments in the remoter portions of Europe, notably the struggle of the Greeks for independence from Turkey. As has already appeared, Webster from boyhood cherished a living interest in European politics, and his correspondence, even as a college student, abounds in allusions to men and affairs on the other side of the Atlantic. He had watched with solicitude the rise and predominance of Napoleon ; he had followed with satisfaction the collapse of the Corsican's dominion ; he had viewed with apprehension the reaction which followed the Congress of Vienna, and particularly the designs of the Holy Alliance upon liberalism, both in Europe and beyond. At the present moment he was moved to enthusiasm by the magnificent contest for independence which the successors of the ancient Hellenes were waging against the semi-barbaric and cruel power of Turkey. This contest had begun in 1821. In 1822 a national assembly had proclaimed the independence of Greece and made provision for the organization of an autonomous government. No nation had as yet recognized the independence of the country, but in the opinion of Webster the time had arrived, by the end of 1823, when the United States ought to set the timid and reactionary powers of Europe an example by doing so. December 8th, but a few days after the opening of the

session, he introduced in the House a resolution to the effect that provision ought to be made by law for defraying the expenses incident to the appointment of an agent or commissioner to Greece, whenever the President should deem it expedient to make such an appointment. The resolution was not introduced until its author had conferred privately with a number of men, all of whom gave the project their approval. From various quarters, however, it encountered substantial opposition. Many members professed to believe its adoption would precipitate war, and many others feared that by the powers of Europe the action which was proposed would be interpreted as a piece of sheer meddling in a situation that was of no immediate concern to the United States. The Administration, already committed to the maintenance of a firm attitude *apropos* the threatened interference of the Allies in Latin America, hesitated to give the resolution its support, although in his famous message of December 2d, President Monroe had gone so far as to express the opinion that there was reason to hope for the eventual triumph of the Greek cause. "The pinch is," wrote Webster to Everett, "that in the message the President has taken, as is supposed, pretty high ground as to this continent, and is afraid of the appearance of interfering in the concerns of the other continent also." To the author of the resolution himself this consideration appealed with little force. "I think," he maintained, "we have as much community with the Greeks as with the inhabitants of the Andes and the dwellers on the borders of the Vermilion sea."¹

On January 19, 1824, the resolution came up for

¹ Webster to Everett, December 6, 1823. Webster, "Private Correspondence," Vol. I, p. 332.

consideration in committee of the whole, and in advocacy of it Webster delivered a very notable speech. Expecting a dazzling display of oratory upon a theme which so readily lent itself to passionate appeal, listeners crowded the galleries. Webster's purpose, however, reached far beyond the delivery of a merely brilliant oration, and in truth the speech was so sober and restrained that some of the hearers were doubtless a bit disappointed. "My intention," the speaker had written to Everett, "is to justify the resolution against two classes of objections, those that suppose it not to go far enough, and those that suppose it to go too far. Then, to give some little history of the Greek revolution, express a pretty strong conviction of its ultimate success, and persuade the House, if I can, to take the merit of being the first government, among all the civilized nations, who have publicly rejoiced in the emancipation of Greece."¹ Brushing aside all considerations of sentiment arising from the classical associations of the Greek peninsula, Webster devoted himself to (1) an exposition of the reactionary principles of the European powers, as developed in successive congresses from that of Paris in 1814 to that of Laibach in 1821; (2) an argument to the effect that, while the United States might not properly interfere in European affairs, she was none the less obligated by the broader interest of humanity to throw her influence squarely against the designs of the Allies; (3) a review of the progress of the revolution in Greece, with an optimistic forecast of its outcome; and (4) an appeal that Congress, by passing the proposed resolution, should at least go so far as to provide

¹ Webster to Everett, December 21, 1823. Webster, "Private Correspondence," Vol. I, p. 336.

the President with the means of recognizing the new Greek nation whenever he should deem it the part of discretion to do so. "They [the Greeks] look to us," he declared in closing, "as the great Republic of the earth—and they ask us by our common faith, whether we can forget that they are struggling, as we once struggled, for what we now so happily enjoy? I cannot say, sir, that they will succeed: that rests with heaven. But for myself, sir, if I should to-morrow hear that they have failed—that their last phalanx had sunk beneath the Turkish scimitar, that the flames of their last city had sunk in its ashes, and that naught remained but the wide melancholy waste where Greece once was, I should still reflect, with the most heartfelt satisfaction, that I have asked you, in the name of seven millions of freemen, that you would give them at least the cheering of one friendly voice."¹

During the lively discussion that ensued Webster's resolution was warmly defended by Clay, who brought forward another of similar purport with reference to the intervention of European powers in the affairs of Latin America. Poinsett, of South Carolina, offered an amendment to the effect that no appropriation for a Grecian mission should be voted, but that Congress should promulgate a formal declaration of American sympathy with the Greeks and of good wishes for their cause. John Randolph emptied upon the original project, and upon its author, all the vials of his wrath. It became apparent that the resolution could not pass, even in the form of the Poinsett amendment; whereupon Webster reluctantly abandoned the effort, and no

¹ "Annals of Congress," 18th Cong., 1st sess., Vol. I, p. 1099. For the speech see "Works of Webster," Vol. III, pp. 60-93, and "Writings and Speeches," Vol. V, pp. 60-93.

vote was taken. Three more years elapsed before the powers of Europe took it upon themselves, first to offer mediation in Greece, and subsequently to intervene; and the final independence of the Greek nation was not established until 1832. By his resolution and speech Webster did not affect in any overt manner the official attitude of the United States respecting the situation. He had, however, achieved his deeper purpose of exposing the reactionary principles which at that time dominated the policies of the European powers and of setting the United States still more firmly in opposition to them. Between the Greek resolution and the Monroe Doctrine there was a closer relation than is apt nowadays to be perceived. Alluding half-humorously, as late as 1831, to a recently published collection of his orations, Webster said of the Greek speech that he was "more fond of this child than of any of the family." Certainly it attracted wider attention than any other. "Mr. Webster's speech," reported a friend of Henry A. S. Dearborn in London, "has been received with general approbation and applause. It has been translated into Greek and printed in London, in order to be distributed all over Greece. I am happy that the Demosthenes of America has taken the lead in encouraging and animating the countrymen of his great prototype."¹ The speech was, in fact, translated into most of the European languages and was circulated not only in Europe but throughout Latin America. In sheer oratorical quality it was inferior to some of its predecessors, but its subject, combined with its authorship, gave it a world-wide interest.

As has been stated, Webster occupied in the Eight-

¹ Dearborn to Webster, May 4, 1824. Van Tyne, "Letters of Daniel Webster," p. 104.

eenth Congress the position of chairman of the Committee on the Judiciary. In this capacity it fell to him to handle a considerable number of questions relating to the extension and the reorganization of the federal judicial system. The time was ripe for an increase of the number of justices attached to the Supreme Court, or, in lieu of that, the creation of new tribunals whereby the Supreme Court might be relieved of a portion of the work which devolved upon it, and Webster would have been happy to devote himself without delay to the preparation and promotion of legislative measures directed toward these ends. The obstacles to be overcome were, however, enormous. In Virginia, in Kentucky, and other quarters, there was insistent demand that the expanding functions of the Supreme Court in relation to the passing upon the constitutionality of law should be put under restraint, and Webster found that he could hardly hope to do more for a time than to defend the judicial power as it was against the projects that were continually being brought forward for its impairment. To Justice Story he writes, January 4, 1824: "I am in great trouble and perplexity on this subject of the courts; and often wish I was almost anywhere rather than where I am. There are difficulties inherent in the subject; there are others, more formidable, arising from the state of men's opinions."¹

The most immediate reform which it was desired to bring about was the increase of the membership of the Supreme Court from seven to nine,² to the end, chiefly,

¹ Webster to Story, January 4, 1824. Webster, "Private Correspondence," Vol. I, p. 338.

² The number of justices of the Supreme Court, fixed at six by the act of September, 1789, was reduced to five by the act of February, 1801, restored to six by the act of March 8, 1802, and increased to seven by an act of 1807 under whose terms a new circuit in the West was created.

that it might not become necessary for the justices to abandon altogether the practice of holding court, in coöperation with the district judges, on circuit. With such an increase Webster believed that the country could "get along probably for twenty years, or forever." Early in the Nineteenth Congress, during whose term he was continued at the head of the Judiciary Committee, he framed, with the assistance of members of the committee, a judiciary bill and labored with incessant zeal to procure its enactment into law. The bill provided that the membership of the Supreme Court should be increased from seven to ten, that six should constitute a quorum, and that the states should be divided into ten circuits, with a circuit court in each, in which one of the Supreme Court justices should at least occasionally sit. The bill was introduced in the House December 22, 1825. On the 4th of January, 1826, its adoption was advocated by its author in a speech in which there was reviewed in a masterful manner the growth of the American judiciary and the situation within the domain of federal justice which called for the changes which were proposed.¹ Within three weeks the bill was passed by the House, but in the Senate it had no able champion, with the result that it came back to the House encumbered with so many amendments as to be scarcely recognizable. Upon the amendments the two houses failed to agree, and the outcome was that the measure was lost. If the West, in whose interest largely the bill had been framed, had rallied to its support it might easily have been carried. Webster's interest in the reform continued unabated, and his correspondence

¹ "Works of Webster," Vol. III, pp. 150-177; "Writings and Speeches," Vol. V, pp. 150-177.

with Judge Story in succeeding years contained frequent references to the subject. It was not, however, until 1837 that the enlargement of the Court, to nine members, with a corresponding increase of the federal circuits, took place. It is of interest to observe that Webster in 1825 believed that in the future the growth of judicial business would be met by "a gradual and progressive improvement in the district courts, and that so far as the business becomes incapable of being performed by the supreme judges on the circuit, the duties of the circuit court will be devolved on the district judge." Intermediate circuit judges, such as had been provided for by the act of 1801 (repealed in 1802) were not likely, in his opinion, ever to be required.

During the closing session of the Eighteenth Congress Webster introduced and procured the enactment of one very important measure relating to the judiciary, namely, the Crimes Act of March 3, 1825. The First Congress under the Constitution had enacted, under date of April 30, 1790, a carefully drawn criminal code; but this body of law was never complete, and by 1825 its gaps and deficiencies were glaring and serious. With the assistance of Justice Story Webster laboriously compiled a criminal code, supplementing and amplifying the code of 1790, and for this he contrived, with a good deal of patience and adroitness, to procure the approval of Congress. In its final form the new code, published in twenty-six sections, made provision for every kind of case that had arisen during the past thirty-five years, involving the jurisprudence of the United States as distinguished from that of the several states. And the opinion is avowed by Mr. Lodge that the Crimes Act is perhaps the best monu-

ment that remains of Webster's purely legislative and constructive ability.¹

Another subject to which some attention was given at this time is that of internal improvements. In the spring of 1817 Webster had voted for Calhoun's "Bonus Bill," and in his conviction of both the constitutionality and the expediency of a liberal policy of road and canal building at the national cost he was not shaken by President Madison's veto of that measure. During the session of 1824-1825 there was introduced in the House a measure providing for the extension of the Cumberland Road from Wheeling to Zanesville. The bill was opposed with vigor by McDuffie, of South Carolina, and by others, on the ground that it was partial and sectional. In a speech of much force Webster combatted the notion that in the determining of internal improvement policy Congress was obligated to attempt to balance the conflicting interests of the various sections. If the power existed at all—and Webster never doubted that it did—it ought to be exercised for the good of the nation as a whole and without regard to sectional concerns. That road or canal should be constructed first which was most needed, in whatsoever portion of the country it might happen to be located. In thus advocating a policy by which the settlement of the West might be expected to be promoted Webster broke absolutely with New England tradition and planted himself squarely upon the bed-rock of nationalism. Emigration from a more densely populated to a less densely populated region he regarded as not only inevitable but altogether desirable. If, he declared, any of his own constituents care to settle "on the Kansas or the Arkansas, or the

¹ Lodge, "Webster," p. 138.

Lord knows where, within our territory," he should cherish not the slightest objection. Let them go and be happier if they could. By a legitimate expansion of population the wealth and prosperity of the country would be increased far more than by any policy whose object should be to confine population to the Eastern states. The lofty and liberal tone of this argument contributed distinctly to the enactment of the present bill, and in consequence Webster attained a degree of favor throughout the West which hitherto he had not enjoyed. "Permit me to say," wrote an Ohio congressman in 1825, "that with our people no man in this nation stands on more elevated ground."¹

The years of Webster's second period of service in Congress comprised throughout the country an epoch of intense political rivalry and excitement. At the outset Webster himself exhibited indifference toward the purely political questions of the day, and at no time did he suffer politics to encroach upon the legislative and professional labors in which he was primarily interested. In the unfolding of his public career the period is, none the less, highly important, because here it was that, almost against his own will, he was drawn into the gigantic political game that was playing, and here it was that he was induced by the sheer drift of circumstances to assume a position of leadership in the new anti-Jackson, National Republican, later Whig, party with whose fortunes his subsequent career was destined largely to be bound up. As early as December, 1823, when he first assumed his seat, the question as to who should succeed Monroe in the presidency fifteen months hence was claiming the at-

¹ Joseph Vance to Webster. March 29, 1825. Quoted in Curtis, "Webster," Vol. I, p. 241.

tention of many of his colleagues to the exclusion of very nearly everything else. There were numerous candidates, principally Adams, Clay, Jackson, Calhoun, and Crawford, and intrigues among their respective groups of supporters were at their height. So evenly matched were the candidates that many men already believed, as did Webster himself, that the election would inevitably be thrown into the House of Representatives. As to a preference among the men in the field, Webster was for a time undecided. Jackson, the champion of militarism and the favorite of the unthinking masses, he could not abide. Crawford, the representative of radical Republicanism, stood at the pole totally opposite to a Federalist, even though of the moderate school. With Clay Webster had often stood on common ground. More than once the Kentuckian had manifested unreservedly his respect for Webster's station and ability, and the two were most of the time on very friendly terms. Toward Clay, however, in the present situation Webster felt no inclination, perchance, as Mr. Lodge suggests, by reason of a certain instinctive feeling of rivalry between them.

The natural candidate to have received Webster's support, and the one who, through process of elimination, finally did receive it, was Adams. Between Webster and Adams there was no small community of taste and of ideas. Circumstances eventually compelled the one to become the parliamentary champion of the administrative policies of the other. As yet, however, there existed between the two men but a limited acquaintance; and even after acquaintance had ripened, there always lingered in the heart of each a certain distrust of the other. By reason of his support of the Jefferson administration in its commercial

policies in 1807-1808 and his essentially independent attitude upon public questions thereafter, Adams had long been out of favor with the leaders of his former party. By many New England Federalists of the stricter school he had been, and by not a few he still was, regarded, indeed, as nothing short of an arch-traitor. "I never did like John Q. Adams," writes Ezekiel Webster to his brother in 1822. "He must have a very objectionable rival whose election I should not prefer. . . . I should really prefer Calhoun, Lowndes, Crawford, Clinton, and fifty others that I could mention."¹ Such, so far as personal inclination went, was the position of New England Federalists very generally. At the same time, by the definite turn of New England to Republicanism the political position of Adams in his own section had been vastly improved. From the Federalists he had little to expect, but New England was no longer Federalist, and by 1823 he found himself in a position to be supported by not only the lifelong Republicans but also the large mass of Republicans of Federalist antecedents. He was not personally popular, but as the election of 1824 drew on, being the only New England (and only important northern) candidate, he was assured of a very general support in Massachusetts and adjacent states. "I think," wrote Ezekiel Webster, with an air of resignation, in the letter above quoted, "it would be difficult for any candidate to divide the vote in New England with him. Although he may not be very popular, yet it seems to be in some degree a matter of necessity to support him, if any man is to be taken from the land of the Pilgrims."

The candidate toward whom Daniel Webster was

¹ Van Tyne, "Letters of Daniel Webster," p. 89.

inclined, so long as there appeared any chance of his success, was Calhoun. April 3, 1823, a letter from Ezekiel, in reply to specific inquiry upon the point, conveyed the opinion that of all the persons who had been named for the presidency, the people of New Hampshire would prefer Adams; but that, if he were removed from the field, Calhoun would undoubtedly be their choice. In this order of preference Ezekiel declared that he himself now, somewhat reluctantly, concurred.¹ As the winter of 1823-1824 progressed it became increasingly clear, however, that the contest in the end would lie between Adams and Jackson. Convinced that the election of Calhoun was unattainable, Webster began advising the political leaders of New England to support the South Carolinian for the vice-presidency, and Calhoun's election to the inferior office in 1824 must be attributed in no small measure to influence from this source. To his brother he wrote, March 14, 1824, "I hope all New England will support Mr. Calhoun for the vice-presidency. If so, he will probably be chosen, and that will be a great thing. He is a true man, and will do good to the country in that situation."²

Between Adams and Jackson there seemed to Webster no possible choice except Adams, although General Jackson's manners, he was obliged to confess, were more presidential than those of any of the candidates. "He is grave," he writes, "mild and reserved. My wife is for him decidedly."³ Crawford's chances he

¹ Ezekiel to Daniel Webster, April 3, 1823. Webster, "Private Correspondence," Vol. I, p. 323.

² Daniel to Ezekiel Webster, March 14, 1824. *Ibid.*, Vol. I, p. 347.

³ Daniel to Ezekiel Webster, February 22, 1824. *Ibid.*, Vol. I, p. 346.

rightly believed to have been injured by his acceptance of a nomination at the hand of a congressional caucus. Against the caucus as an institution, involving, as it did, the assumption by a clique of congressmen of the right to dictate the presidential nominee of a party or political group, there was arising a public protest so vigorous that never again, as it proved, would a presidential aspirant consent to enter upon a race handicapped by a caucus nomination. What Webster himself thought of the caucus as a political device appears very clearly in his correspondence in 1823. On November 30th he wrote to Mason: "It appears to me to be our true policy to oppose all caucuses; so far our course seems to me to be clear. Beyond that I do not think we are bound to proceed at present. To defeat caucus nominations, or prevent them, and to give the election, wherever it can be done, to the people, are the best means of restoring the body politic to its natural and wholesome state."¹ And to his brother Ezekiel he addressed, December 4th, an admonition, *apropos* the forthcoming New Hampshire state elections, to the following effect: "One thing I hold to be material—get on without a caucus. It will only require a little more pains. It is time to put an end to caucuses. They make great men little, and little men great. The true source of power is the people."²

The electoral vote of 1824 was distributed as follows: Jackson, ninety-nine; Adams, eighty-four; Crawford, forty-one; Clay, thirty-seven. Final choice among the first three candidates devolved upon the House of Representatives. In view of the fact that Webster had

¹ Van Tyne, "Letters of Daniel Webster," p. 93.

² Webster, "Private Correspondence," Vol. I, p. 331.

already arrived at the opinion that the interest of the country demanded the election of Adams, and in view of the further fact that the electoral votes of New England were cast solidly for the Massachusetts candidate, it followed as a matter of course that Webster's support in the House should be accorded to Adams. In the interim preceding the House election, however, various contingencies that might conceivably arise were carefully canvassed. Under date of January 18, 1825, a series of questions was addressed to Ezekiel designed to elicit information which might prove helpful. "If on the first or any subsequent ballot Mr. Adams falls behind Mr. Crawford, and remains so a day or two, shall we hold out to the end of the chapter, or shall we vote for one of the highest? If for one of the highest—say Jackson and Crawford—for which? Is it advisable, under any circumstances, to hold out and leave the chair to Mr. Calhoun? Would or would not New England prefer a man of the power of Calhoun, to a choice of General Jackson?"¹ From Ezekiel, and from other sources, came the opinion that New England would expect her representatives to hold out for Adams as long as there should be any chance of his election.

The House election was set for February 9th. Six days in advance of that date Henry R. Warfield, a representative of Maryland, feeling that his vote might determine the vote of his state, and thereby not inconceivably the result of the election, addressed to Webster, in a note which has been preserved, an inquiry as to the policy in relation to partisan interests which the New England candidate, if elected, might be expected to put into execution. Warfield was identi-

¹ Van Tyne, "Letters of Daniel Webster," p. 111.

fied with the Maryland group of Federalists, and there was among this element grave apprehension lest Adams should "administer the government on party considerations," so that the old landmarks of party distinction should be revived and all persons who had hitherto been denominated "Federalists" should be denied a share in public office. For his own part, Warfield declared he "should trust that Mr. Adams's administration would be conducted on liberal and independent grounds; and that, regardless of names, he would not deny to talent, integrity, and competency a due participation." The subject was one of no small degree of interest to Webster himself. Had he believed that Adams as president would resort to a proscription of men of Federalist antecedents he could not at any point have allowed himself to be known as an Adams man. "For myself," he wrote in reply, February 5th, "I am satisfied, and shall give him [Adams] my vote, cheerfully and steadily. And I am ready to say that I should not do so if I did not believe that he would administer the government on liberal principles, not excluding Federalists, as such, from his regard and confidence. . . . I wish to see nothing like a portioning, parceling out, or distributing offices of trust among men called by different denominations. Such a proceeding would be to acknowledge and to regard the existence of distinctions; whereas my wish is that distinctions should be disregarded."¹ Before transmitting to Warfield his letter containing these sentiments Webster sought an interview with Adams, laid the letter before him, and secured from him a statement to the effect that with all that was said

¹ Webster to Warfield, February 5, 1825. Webster, "Private Correspondence," Vol. I, p. 378.

therein he was in complete agreement. It was understood between the two that (assuming Adams's election), while a cabinet position might not be bestowed upon a Federalist, some important appointment should be made expressly to manifest the Administration's disposition to disregard party distinctions.

February 9th, as had been generally expected, Adams was elected to the presidency by the House on the first ballot. With the result Webster was in no wise displeased. "If there is any faith in man," he writes to Ezekiel a week later, "we shall have a liberal administration. I think it not unlikely that if the matter were pressed, there might be a Federalist in the cabinet, but our friends are not at all satisfied that such a measure would be discreet at this moment. No doubt the true course at present is to maintain the administration, and give it a fair chance. We may be deceived, but if we are, it will be a gross deception."¹ Fully appreciative of Webster's ability and prestige, Mr. Adams as president could not have been otherwise than desirous of his support. In his protestations of non-partisanship Adams was absolutely sincere, and throughout the entire administration his adherence to the lofty principles with which he entered office was so rigid as to give offense to very many of the persons who had been responsible for his election. From the outset he took care to cultivate the acquaintance of Webster, and between the two men there arose something very like cordiality. During the bitter and prolonged contests which ensued between the President and the majority of Congress it devolved upon Webster to serve almost continuously on the floor of the lower

¹ Daniel to Ezekiel Webster, February 16, 1825. Webster, "Private Correspondence," Vol. I, p. 381.

chamber as the Administration's spokesman and champion. In this capacity was delivered an important speech of April 14, 1826, explaining the nature of the forthcoming Panama Congress, interpreting the recently promulgated declarations of President Monroe, and defending the right of the President to appoint and to instruct commissioners to represent the United States at the proposed Congress.¹ And in a similar capacity, early in the next year, was delivered a stirring defense of the President in the attitude which he had assumed in relation to the pending issues between Georgia and the Creek Indians.²

All of the while, however, there lingered in the background a certain distrust, cherished by both men, but perhaps the more consciously by Webster. At the beginning of the administration Webster appears clearly to have had in mind a possible appointment as minister to Great Britain. If we are to accept Adams's impression, recorded in the "Memoirs," he was indeed "panting" for the honor. As time passed all hope of this, or any other, appointment faded. In the interest of congressional harmony Adams intervened to dissuade Webster, furthermore, from becoming a candidate for the speakership of the House—a post for which, in truth, he cared but little. By these and other indications the Massachusetts member was brought to the opinion that his services were inadequately appreciated. The sacrifices of time and effort which he had made were heavy, and there was a limit beyond which he was not disposed to go. That limit was pretty well reached by the beginning of the second half of the ad-

¹ "Works of Webster," Vol. III, pp. 178-217; "Writings and Speeches," Vol. V, pp. 178-217.

² "Writings and Speeches," Vol. XIV, pp. 107-118.

ministration, and it was not made more remote by the circumstance that when, early in 1827, it was proposed at Boston to elevate Webster to the Senate Adams expressed a decided preference that the choice should fall upon Governor Lincoln. This attitude was assumed, not in disparagement of Webster, it is true, but rather on the ground that he was more needed in the House than in the Senate ; yet the episode added to the coolness between the two men which was already becoming very perceptible.

But for his hostility toward Jackson, it is probable that the attitude of Webster during the campaign of 1828 would have been one of thoroughgoing indifference. In a very real sense that campaign began with the inauguration of Adams as president in 1825. It reached its culminating stages of intensity in 1827 and 1828. The choice of the country lay clearly between Adams and Jackson, with the consequence that the political alignment of the period became one of Adams men *vs.* Jackson men. The personal element was still preponderant, but there was a growing demarcation of principles, and in truth the period was one in which political parties, for some time virtually non-existent, were destined to spring up again, with sharply defined programs and thoroughgoing organization. The Jackson men were becoming the democrats of later days ; the Adams men, the National Republicans and Whigs. Webster was perforce drawn into the National Republican party, and by the logic of events he, with Clay, was brought step by step to a position of leadership within it. As yet, however, in 1827 and 1828, party lines were not very clearly drawn and the coolness of Webster toward Adams disinclined him to an active participation in the contest for the latter's reelection.

Jackson he disliked as heartily as ever, and it was only this consideration that influenced him to speak and write for Adams. Unlike Clay, he did not believe that Adams could be reelected, and in this judgment he proved correct. From a "cold sense of duty," as Ezekiel subsequently declared, "and not from any liking of the man," New England chose a full quota of Adams electors. None the less, when it became known that Jackson was the victor the Websters accepted the result with equanimity.

Throughout the years covered by his second period of service in the House Webster was most of the time pressed hard with professional duties. His practice in the Supreme Court was very large. During a single session, in the winter of 1826-1827, he argued fifteen regularly reported cases, in addition to arguments made on motions; and he not infrequently appeared before inferior tribunals throughout the eastern states. During several years, furthermore, he served as leading counsel for the prosecution of claims under the Florida treaty of 1819 for indemnification on account of spoliations committed by Spanish cruisers upon American commerce in 1788-1789. The commissioners appointed to adjudicate these claims held numerous sessions at Washington between 1821 and 1826. The subject was one of unusual difficulty and in the prosecution of the many claims which were committed to his care Webster was obliged to undertake extended research and to expend an amount of labor often quite disproportioned to the seriousness of the question involved. His fees for this work alone, however, aggregated seventy thousand dollars.

The period was further marked by a number of splendid exhibitions of "occasional" oratory, of

which two—the Bunker Hill address of June 17, 1825, and the eulogy on Adams and Jefferson of August 2, 1826—stand out with special prominence. There had been for some years in Boston a Bunker Hill Monument Association, whose object was to bring about the erection of a shaft commemorative of the battle of June 17, 1775, and, in general, to keep alive a public sense of gratitude toward the patriots and leaders of the Revolution. As the fiftieth anniversary of the battle drew near it was planned to celebrate the day in a peculiarly worthy manner by laying the corner-stone of the proposed monument. Webster, who at the time was president of the Association, was chosen unanimously by his fellow-trustees to deliver the principal address. The interest of the occasion was increased by the presence of General Lafayette. The day was one of the most memorable in the history of Boston. The weather was perfect and the outpouring of people tremendous. A procession from the State House to the Hill; an oration such as only a Webster could deliver; an outdoor dinner on the neighboring hill, with toasts by Webster, Lafayette, and others; and in the evening a grand reception at the Webster house in Summer Street—such were the proceedings of a day long remembered by those who had part in them. It was always the opinion of Webster that the oration at Plymouth surpassed that delivered at Bunker Hill. In the breadth of its sweep, and in the quality of majesty, it undeniably did so. In sheer eloquence, however, it may be doubted whether anything that Webster ever uttered surpassed his address upon the later occasion to the survivors of the battle, his apostrophe to General Warren, and his encomium of Lafayette. Like many of Webster's greatest speeches,

the Bunker Hill discourse was thought out in all of its larger aspects far from books and manuscripts—in this instance during the course of a day's fishing in the Marshpee River. Its details, however, were the ground of much solicitude, and even after its delivery the author consumed no small amount of time in the revision of his manuscript preparatory to printing.¹ The address, placed at the disposal of the Monument Association, was given a wide circulation, being translated, indeed, almost immediately into French and other languages, "to the very great profit," so Lafayette wrote, "of European readers."

On July 4, 1826, there occurred within the space of a few hours the death of John Adams at Quincy and of Thomas Jefferson at Monticello. Throughout the country there were held commemorative meetings, and in Boston the municipal authorities requested Webster to pronounce, in Faneuil Hall, a public discourse upon the careers and services of the two men. In the presence of the dignitaries of state and city, and of a concourse of citizens who struggled, in large part vainly, to gain admission to the hall, the eulogy was delivered, August 2d. "Mr. Webster spoke," records an auditor (Mr. Ticknor), "in an orator's gown and wore small-clothes. He was in the perfection of his manly beauty and strength; his form filled out to its finest proportions, and his bearing, as he stood before the vast multitude, that of absolute dignity and power. His manuscript lay on a small table near him, but I think he did not once refer to it. His manner of speaking was deliberate and commanding. When he came to the passage on eloquence, and to the words, 'It is

¹ For the speech see "Works of Webster," Vol. I, pp. 79-108; "Writings and Speeches," Vol. I, pp. 233-254.

action, noble, sublime, godlike action,' he stamped his foot repeatedly on the stage, his form seemed to dilate, and he stood, as that whole audience saw and felt, the personification of what he so perfectly described. I never heard him when his manner was so grand and appropriate."¹ When the oration was concluded the pent-up feeling of the audience burst forth in three mighty cheers, inappropriate enough to the occasion, yet by no means without excuse. The portion of the address which attracted most attention subsequently was that in which there was put in the mouth of John Adams a supposititious speech in behalf of American independence and in that of an unnamed opponent a similar argument in opposition to so boldly-conceived a policy. With such consummate skill and realism was the thing done that even as late as 1851 men were still inquiring whether the utterances ascribed to the orators of 1776 might not be real, despite long-continued effort of Webster and his friends to make clear the actual character of the speeches in question. "I will tell you," confessed Webster to President Fillmore upon one occasion near the end of his life, "what is not generally known. I wrote that speech [the one ascribed to Adams] one morning before breakfast, in my library, and when it was finished my paper was wet with my tears." "Your attempt," wrote Richard Rush, "to pass the doors of that most august sanctuary, the Congress of '76, and become a listener and reporter of its immortal debates, was extremely bold, extremely hazardous. Nothing but success could have justified it; and you have succeeded."²

¹ Quoted in Curtis, "Webster," Vol. I, p. 275.

² Rush to Webster, August 30, 1826. *Ibid.*, Vol. I, p. 280. For the text of the speech see "Works of Webster," Vol. I, pp. 109-150; "Writings and Speeches," Vol. I, pp. 289-324.

Life in these years was too much crowded with work to permit of much diversion. In December, 1824, however, Webster was one of a small party that paid a visit to Jefferson and Madison at their Virginia homes. At Monticello the travelers were detained upward of a week by bad weather, so that opportunity for conversation with "the sage" was extended; and subsequently Webster took occasion to commit to writing a memorandum of this conversation which is of no inconsiderable interest.¹ Webster and Madison were, of course, old acquaintances, and it is interesting to observe that after his return to Washington Webster confided to Mr. Ticknor that Madison's conversation upon the occasion of the recent visit had confirmed him in an opinion he had for some time entertained, "that Mr. Madison was the wisest of our Presidents, except Washington." In June and July, 1825, Webster was a member of a party that journeyed by stage-coach and Erie Canal passenger-boat by way of Albany to Niagara Falls. Besides Webster himself, the party consisted of Mrs. Webster, Judge and Mrs. Story, and Miss Buckminster (afterward Mrs. Lee). At Albany Webster and Story met Lafayette at a public dinner. Numerous letters written from Niagara Falls abound in splendid accounts of the scenery of the region, evincing not merely the descriptive art that one might expect in so consummate a master of English but also a fresh and boundless love of Nature and an appreciation of her humblest as well as of her grandest works.

¹ Printed in Webster, "Private Correspondence," Vol. I, pp. 364-373.

CHAPTER VII

IN THE SENATE: THE TARIFF

IN the year 1827 it devolved upon the legislature of Massachusetts to elect a successor to Elijah H. Mills in the United States Senate. By reason of his precarious health, grave doubt arose as to whether Mr. Mills could be, or should be, induced to accept a second term. Months in advance of the election members of the legislature began to canvass the field in search of another candidate, and early in the course of this search the name of Webster was very naturally suggested. To a member who had addressed him upon the subject Webster, under date of January 10, 1827, advocated very strongly the immediate reëlection of Mills, or, in lieu of that, a postponement of the choice until the ensuing June, in the hope that the senator's health would at that time more clearly warrant his reëlection. "For mercy's sake," he urged, "do not weaken our power in the Senate! When all the Philistines are against us, do let us have all the strength we can have. If Mr. Mills lives, he is second to no man in the Senate among our friends. Why, then, should he be now superseded? . . . I can only say that if you are governed by a disposition to sustain Mr. Adams, and help on the public business, you will, in all events, elect a man of the very best talents which are at your disposal. I pray you let no local, nor temporary, nor any small consideration induce you to refrain from electing the fittest man that can be found,

and that can possibly be prevailed on to take the place. The present moment, be assured, is a crisis in the affairs of Massachusetts and all the North.”¹

During its winter session the legislature arrived at no conclusion in the matter of the senatorship. The Senate went so far as to make choice of Levi Lincoln, then governor of the commonwealth ; but Mr. Lincoln, in a communication addressed to the Speaker of the House of Representatives, declined to permit his name to be used further, and there the matter rested. During the months which intervened prior to the reassembling of the legislature in June, Webster was urged by members and by friends at Washington to allow himself to be considered a candidate ; and, over the protest of many persons of influence, who, in some instances for partisan and in others for broadly patriotic reasons, believed that he was of larger service in the lower house than he could well be in the upper one, he was brought gradually to a decision to accept the senatorship if it should be urged upon him. In May he wrote to Lincoln urging that he consent to be chosen to Mr. Mills's seat. “There are,” he declared, “many strong personal reasons, and, as friends think (and as I think, too), some public reasons, why I should decline the offer of a seat in the Senate, if it should be made to me.”² The consideration of a public character to which allusion was made was that, in the critical situation of the time, the Administration ought to be strengthened in both houses, and that this end might be best attained by the accession of a senator of the

¹ Webster to Joseph E. Sprague, January 10, 1827. Webster, “Private Correspondence,” Vol. I, p. 414.

² Webster to Levi Lincoln, May 22, 1827. Quoted in Curtis, “Webster,” Vol. I, p. 293.

calibre of Governor Lincoln, rather than by the mere translation of Webster himself from the one house to the other. Governor Lincoln, however, remained steadfast in his refusal and insisted that for the public good Webster should consent to his own promotion. The upshot was that when the legislature reassembled, in June, the House, by a vote of 202 out of 328, and the Senate, by a vote of 26 out of 39, conferred upon Webster the senatorship for the term beginning March 4th previous. We have it on the authority of Clay that, much as Adams valued Webster's influence in the House, the President's wish had come to be that, in the event of Governor Lincoln's final refusal, the choice should fall upon Webster. Administration members of the lower branch, however, lamented keenly the loss of leadership arising from the transfer.

The election to the Senate in 1827 has been correctly appraised by Mr. Curtis as a turning-point in Webster's life. For, while there is no reason to suppose that his service in the House of Representatives might not have been prolonged and increasingly honorable, it none the less is true that, "whatever may have hitherto been his inclination or his power to withdraw from all public station, his entrance into the Senate must be considered as having fixed for the remainder of his days, and fortunately or unfortunately for his personal happiness and welfare, his position as a statesman who belonged to the country, and for whom, henceforth, private life was to be a matter of intervals and episodes."¹ In the oft-expressed reluctance of Webster to surrender himself to the exigencies of a public career it is not difficult to detect a note of sincerity. The demands of public service interfered con-

¹ Curtis, "Webster," Vol. I, p. 290.

stantly with the practice of a chosen profession. They not merely precluded that singleness of devotion which would have brought well-nigh unrivaled preëminence; they involved steady sacrifice of pecuniary advancement. Despite his unusual money-making talent, Webster died a poor man, and not alone because he habitually lacked thrift when financial affairs were involved, but largely by reason of his long-continued absorption in public service. The demands of a public career, too, not infrequently ran counter to the domestic tastes and interests which were at all times in Webster highly developed. Despite all of these considerations, however, it cannot be maintained that Webster was in his public life unhappy. Impelled by that same frankly owned ambition which had constituted the mainspring of his life from early boyhood, he inwardly exulted in every broadening of his field of opportunity. He loved power, eminence, and adulation, and his desire for public station grew as the years passed by, until in the end, as will appear, nothing short of the presidency itself could be made to satisfy him.

In the midst of wide-spread felicitation upon his election to the Senate, Webster was plunged into the depths of domestic distress. During the summer of 1827, Mrs. Webster, who for some time had been afflicted with a tumor, declined perceptibly in health; and although a few weeks spent at Sandwich seemed to give her fresh vigor, when, in December, in company with her husband, she set out from Boston for Washington her state was such as to occasion grave concern. The journey to New York proved taxing, and two physicians of that city, on being called into consultation, could offer no ground for expectation of an ulti-

mate recovery. "I hope," wrote the grief-stricken husband to his brother-in-law, Mr. Paige, "I may be able to meet the greatest of all earthly afflictions with firmness, but I need not say that I am at present quite overcome."¹ Two weeks of treatment yielded no very encouraging result, although the patient's condition seemed to grow no worse. Sick at heart, and himself all but disabled by an attack of rheumatism, Webster pressed on to Washington, in the hope that Mrs. Webster might subsequently be able to follow in the company of Judge and Mrs. Story. The hope was vain, and on the 4th of January, Webster returned to New York. A succession of letters written during the ensuing two weeks to relatives and close friends record with pathetic incisiveness the alternations of hope and despair, the effort to temper the painful facts of the situation and the struggle to accept them with resignation, which filled the life of the anxious husband during these days. January 21st the end came. When the funeral party returned to Boston, Webster and his children stayed, both before and after the burial, at the home of a close friend, Mr. George Blake, in Summer Street. Mrs. Webster's remains were placed with those of her children, Grace and Charles, in a tomb beneath St. Paul's Church. At the hour of the funeral, says Mr. Ticknor in his "Reminiscences," Webster "took Julia and Daniel in either hand and walked close to the hearse through the streets to the church in whose crypt the interment took place. It was a touching and solemn sight. He was excessively pale." The day was wet and an attempt was made to persuade the husband to ride in one of the

¹ Webster to Paige, December 5, 1827. Webster, "Private Correspondence," Vol. I, p. 424.

carriages. "No," was his reply, "my children and I must follow their mother to the grave on foot." Among the numerous friends of the family in and around Boston homes were found for the three children, Julia, Daniel Fletcher, and Edward;¹ and, having closed his house, Webster was able within three weeks to return to Washington to resume his duties in the Senate. The remainder of the winter brought little of interest. Even when conditions were in every respect favorable it was not infrequently with difficulty that Webster overcame a certain innate disposition to lethargy, and it is not remarkable that under the impact of the blow that had befallen him he continued for some time as one whose every impetus had disappeared. "I feel," he writes, "a vacuum, an indifference, a want of motive, which I cannot well describe. I hope my children, and the society of my best friends, may rouse me; but I can never see such days as I have seen."²

The comparative inactivity of Webster during his earlier months in the Senate is to be accounted for not solely upon the ground of personal bereavement. Professional duties, postponed in some instances by reason of Mrs. Webster's illness and death, absorbed a considerable amount of time. As a newcomer, furthermore, in the upper chamber he was disposed to proceed cautiously, although, it is true, he was moved to speak at some length upon a pending question as early as the second day after assuming his seat. Finally, there was the conviction that the elements of opposition were too formidable to be overcome by any

¹ A son, Charles, born in 1822, died December 18, 1824.

² Webster to Mrs. E. B. Lee, May 18, 1828. Webster, "Private Correspondence," Vol. I, p. 458.

amount of parliamentary activity. By the close of 1827 the anti-administration forces, *i. e.*, the large and varied elements inclined to the support of Jackson, were in effectual control in both branches of Congress, and between the President and the opposition majority there was incessant conflict and at times prolonged deadlock. "According to present appearances," Webster writes, December 17, 1827, "there will be little for me to do. Our adversaries undoubtedly have a majority, and I think the true course is to let them exercise it as seems to them good. Why should we be responsible for what we cannot control?"¹

Upon an occasional legislative issue, none the less, Webster was roused to the point of participation in debate, notably upon a bill for the relief of surviving officers of the Revolution, which, largely through his effort, was enacted into law.² But the one subject upon which he was stirred to his best effort at this time was the tariff. It was in the course of the debate upon the tariff act of 1828 that he abandoned his earlier attitude of opposition to protectionism and for the first time gave his support unreservedly to a measure founded upon that principle. In the history of the tariff, no less than in the shaping of Webster's public career, the event was one of unusual importance; so that it becomes necessary at this point, first, to review the earlier course of Webster in relation to tariff legislation and, secondly, to examine in some detail the circumstances of the *volte-face* of 1828.

It is hardly too much to say that Alexander Hamil-

¹ Webster to Mills, December 19, 1827. Webster, "Private Correspondence," Vol. I, p. 428.

² See speech of April 25, 1828. "Writings and Speeches," Vol. V, pp. 218-227.

ton was the founder of Federalism ; and one of the arguments upon which Hamilton, in his remarkable Report on Manufactures, submitted to Congress January 5, 1791, laid greatest stress was that for the due development of the industries of a new country such as the United States the imposition of protective tariff rates is a practical necessity. In New England, however, which early became the principal stronghold of Federalism, the protective idea was from the outset unpopular. It was not that a tariff for protection was considered unconstitutional. The liberal views entertained by all Federalists respecting the powers of the general government left small room for a denial of the power to impose protective duties. The objection with which Hamilton's proposed policy was met arose rather from a doubt as to the expediency of protection upon general principles and, more particularly, from the free-trade proclivities of a predominantly commercial people, running sharply counter as they did to a policy whose adoption would have for its avowed object the liberating of the nation from a dependence upon the importation of foreign goods. Prior to the War of 1812 the question of protection entered but slightly, if at all, into the deliberations of Congress. There are students of the subject who maintain that into the earliest of all of our tariff acts under the Constitution, that of 1789, the element of protection was deliberately injected. The view probably arises, however, from a disposition on the part of protectionists of a later day to read back into this original act an element which they are at least pleased to believe was in it. Certainly, as a general proposition, it can be maintained that of all the varied features of the Hamilton scheme of public finance the one alone which

was deliberately rejected was that pertaining to the imposition of a protective tariff. Until the War of 1812 the tariff continued a means simply of raising revenue; and when, upon the outbreak of the war, Congress voted to double all existing duty rates, the sole consideration was still the procuring of funds. It was only at the close of the war, when by the reopening of commercial relations with Great Britain the newly risen manufacturing industries of the United States seemed on the point of untimely extinction, that there arose that wide-spread and persistent demand for the adoption of a policy of protection which culminated in the important legislation of 1816.

As has been pointed out, Webster's earlier views respecting the tariff were in all respects those of commercial New England. In 1814, in rejoinder to an argument by Calhoun in favor of the continuance of the existing double duties as a protective measure, Webster, then but lately become a member of the House, was impelled to express himself with force upon what he and his constituents regarded as the artificial stimulation of manufactures. "In respect to manufactures," he said, "it is necessary to speak with some precision. I am not, generally speaking, their enemy; I am their friend; but I am not for rearing them or any other interest in hot-beds. I would not legislate precipitately, even in favor of them; above all, I would not profess intentions in relation to them which I did not purpose to execute. I feel no desire to push capital into extensive manufactures faster than the general progress of our wealth and population propels it. I am not in haste to see Sheffields and Birminghams in America. Until the population of the country shall be greater in proportion to its extent,

such establishments would be impracticable if attempted, and if practicable they would be unwise." At considerable length he went on to argue two fundamental propositions—first, that agriculture, possessed of numerous advantages over manufacturing, should remain forever in America the normal occupation for the great mass of citizens, and, second, that the government ought not to seek to control or to alter the natural industrial proclivities of the people. "It is," he declared, "the true policy of government to suffer the different pursuits of society to take their own course, and not to give excessive bounties or encouragements to one over another. This, also, is the true spirit of the Constitution. It has not, in my opinion, conferred on the government the power of changing the occupations of the people of different states and sections, and of forcing them into other employments." The attitude maintained by Webster at this point was, it is clear, not one of hostility to the development of manufactures under the gradual operation of enduring economic causes. It was, rather, as it has been characterized, an attitude of *laissez faire*, arising from the fundamental consideration that while it is the duty of the government to protect all legitimate occupations, it is neither constitutional nor expedient for it to extend its beneficence to one occupation more than to another.

At the time of the enactment of the tariff law of 1816 Webster contented himself with a series of attacks upon individual items and was successful in procuring some reductions of the original schedules. He voted against the measure, although he was compelled to recognize that in doing so he was opposing the wish of a very large majority of the people of the country.

From 1817 to 1823 he was out of Congress, and during that period there arose but one occasion upon which opportunity was afforded for a notable pronouncement upon the tariff question. That came in 1820. Under the stimulus of the act of 1816 cotton, woolen, and other kinds of manufactures exhibited a remarkable growth; although there was complaint almost from the beginning that the rates which finally had been determined upon were inadequate. In 1818 it was voted by Congress not to allow to go into operation the reduction which the act of 1816 had set for 1819, and a period of business depression in 1818-1819 gave occasion for an insistent demand from manufacturing interests for a new tariff schedule, with increased rates. In the spring of 1820 Henry Baldwin, representing the district in which Pittsburgh was located, brought forward in the House a bill of a more thoroughgoing protectionist character than any which as yet had been seriously advocated. Under its terms *ad valorem* duties were increased by proportions varying from twenty-five to sixty-six per cent. Employing principally his favorite argument in behalf of the extension of home markets for raw materials and foodstuffs, Clay defended this measure in one of the most remarkable of his numerous tariff speeches. In the House the bill was passed by a vote of ninety-one to seventy-eight.

The vote of New England was almost exactly evenly divided—eighteen in favor and seventeen opposed. The representatives of Rhode Island voted solidly for the bill. With a single exception, those of Connecticut did the same. Rhode Island and Connecticut were fast becoming manufacturing states, and accordingly they were inclining ever more strongly to the protectionist point of view. Of the members from

Massachusetts proper only three voted against the bill, and they represented the commercial districts about Boston and Salem. That portion of Massachusetts subsequently set off as the state of Maine registered four votes in opposition. New Hampshire and Vermont, save for a single vote from the latter state, were solidly opposed. The significant thing regarding the New England vote was the extent to which the recently developed interest in manufactures was beginning to tell in tariff legislation. For the first time the section declared as a whole, even though by the narrowest possible majority, for protection. By a single vote, on a motion to postpone, the Baldwin Bill was lost in the Senate. The friends of the measure at once, however, set about preparation to reopen the issue at the next session, and the country understood that the question was but deferred.

During the summer of 1820 public meetings were held in various places, some to promote and some to organize opposition to the proposed legislation. At a gathering of the second type held in Faneuil Hall in Boston on October 2d, Webster was invited to be present and to speak. The meeting was called by men whose interests lay in agriculture and commerce, and the resolutions adopted at the close of the proceedings comprised a forceful declaration of free-trade doctrine. In an able speech in support of these resolutions Webster took occasion to present at length his views respecting the unconstitutionality of such a protective measure as that which had recently passed the House. As a rule the advocates of protectionism had maintained hitherto that the power to lay a protective tariff was incidental to the power to lay and collect taxes, duties, imposts, and excises. In his Faneuil

Hall speech Webster argued that if protection is an incident to revenue, the incident cannot fairly be carried beyond the principal, and that duties laid solely or primarily for the purpose of affording protection to domestic manufactures fall outside the scope of the power under which it was claimed they might be imposed. In some quarters there was an attempt to defend the constitutionality of protection upon general grounds, or upon specific grounds independent of the taxing power. It was the contention of Clay, for example, that the power to lay a protective tariff is to be derived from the power which is given Congress to regulate foreign commerce. Against all such arguments, however, Webster entered protest. There was, he maintained, no "substantial and direct" power in virtue of which a protective tariff could be laid. "It would hardly be contended," he declared, "that Congress possessed that sort of general power by which it might declare that particular occupations should be pursued in society and that others should not. If such power belonged to any government in this country, it certainly did not belong to the general government."¹

As to the inexpediency of protection Webster's opinions had undergone no change. Manufactures he believed to be in themselves only moderately desirable. For Clay's idea that American manufactures ought to be developed in the interest of national independence he had nothing but ridicule. The effects of the rapid growth of manufactures, it seemed to him, were likely to be but the unwholesome concentration of capital, the making of the rich richer and the poor poorer, and the increase of social injustice and misery. Even if such a development were desirable, and if there

¹ "Writings and Speeches," Vol. XIII, pp. 5-22.

existed an indubitable power in the hands of the federal government to promote it by a policy of protection, a measure such as that for which manufacturing interests were clamoring would be unjust. Its adoption would be unfair to the numerous manufacturers who were not extended its supposed advantages, and in its operation it would constitute an agency of gross and indefensible favoritism. Its effect would be to increase both the cost of living and the burden of taxation. "In truth," it was contended, "every man in the community not immediately benefited by the new duties would suffer a double loss. In the first place, by shutting out the foreign commodity, the price of the domestic manufacture would be raised. The consumer, therefore, must pay more for it, and insomuch as the government will have lost the duty on the imported article, a tax equal to that duty must be paid to the government." For cogency of argument upon low tariff lines the Faneuil Hall speech has rarely been surpassed.

During the years covered by the second Monroe administration there continued strong demand for advanced tariff legislation, and the demand was accentuated from time to time by a recurrence of depression in various fields of business. Throughout the period Clay and his school kept up the contention that only by the creation of an enormous home market for raw materials—iron, hemp, wool, and other articles—and for foodstuffs could a substantial basis for national prosperity be laid, and that the development of such a domestic market involved of necessity the deliberate stimulation of manufactures through the means of high protective duties. Adequate protection against foreign competition, it was urged, was the sole method by

which European nations had been able to maintain themselves, and it was only the part of prudence for the United States to conform to the universal experience of modern states. Although during the years 1820-1823 Monroe's messages advocated repeatedly a moderate increase of prevailing duties and several attempts were made to rouse Congress to the point of action, it was not until the beginning of the session of 1823-1824—the session in which Webster reappeared as a member of the House—that the protectionist forces, under the aggressive leadership of Clay, commanded a majority adequate for action. Early in the session there was introduced a bill providing for an increase of the duties on cottons, woolens, iron, and hemp, and contemplating a general overhauling of the existing tariff laws, with a view to sweeping extensions of the protective system. In committee of the whole the measure was debated from time to time at great length and by the ablest members of the House. The principal champion of the bill was Clay, who in successive speeches elaborated with rare eloquence the fundamental aspects of his well-known "American system." A masterful appeal by Clay, delivered March 30 and 31, 1824, was followed, April 1st and 2d, by the lengthiest and ablest speech which Webster had yet delivered upon this subject.¹

After alluding to the pending bill as a "collection of different enactments, some of which meet my approbation and some of which do not," the Massachusetts member discussed with some fulness the state of dis-

¹ It has well been said that "these two speeches together are as interesting an economic study as can be found in our parliamentary history." Schurz, "Henry Clay," Vol I, p. 218. For Webster's speech see "Works of Webster," Vol. III, pp. 94-149; "Writings and Speeches," Vol. V, pp. 94-149.

tress which Clay had represented as prevailing throughout the country. From the accuracy of Clay's picture he dissented strongly, maintaining that, despite occasional depression, "a country enjoying a profound peace, perfect civil liberty, with the reward of labor sure, and its wages higher than anywhere else, cannot be represented as in gloom, melancholy, and distress, but by the effort of extraordinary powers of tragedy."¹ The true causes of such business unsettlement as admittedly existed in some sections Webster bade his hearers seek in a loose and ill-ordered system of currency and public finance. The issue of irredeemable paper money he regarded as the "most prominent and deplorable cause of whatever pressure still exists in this country." To the adoption of a more rigidly protectionist policy such as Clay had advocated he interposed a number of objections, each of which was sustained by a wealth of argument. In the first place, Clay's denomination of his scheme as an American system was ridiculed, on the ground that, historically, that was precisely what it was not. If names were to mean anything, he said, a policy which even its advocates admitted was new to America ought hardly to be called American; nor ought that policy which America had hitherto maintained, and which foreign nations had never pursued, to be spoken of as foreign. In the second place, it was unfair to impose upon a branch of industry, *i. e.*, commerce, which had contributed so largely to the prosperity of the country the handicap which must inevitably arise from protectionist policy—the more so when it was considered how depressed already were navigation and foreign trade in conse-

¹ "Works of Webster," Vol. III, p. 97; "Writings and Speeches," Vol. V, p. 97.

quence of the new conditions which had arisen since the restoration of peace in Europe. Thirdly, it was contended that the state of manufactures was not at all such as to demand the amount of governmental support which it was proposed to accord. The cotton, woolen, and iron industries had passed beyond their infancy, and whatever claim to special favor they once had possessed must be adjudged to have disappeared. Finally, it was argued that the pending bill was a hodge-podge of proposals, some less objectionable than others, but, taken together, far from calculated to accomplish even the purposes avowed by its friends.

“Gentlemen tell us,” declared Webster, “that they are in favor of domestic industry; so am I. They would give it protection; so would I. But then all domestic industry is not confined to manufactures. The employments of agriculture, commerce, and navigation are all branches of the same domestic industry; they all furnish employment for American capital and American labor. And when the question is whether new duties shall be laid for the purpose of giving further encouragement to particular manufactures, every reasonable man must ask himself, both whether the proposed new encouragement be necessary, and whether it can be given without injustice to other branches of industry.” In two or three passages of the speech, in particular, Webster stated incisively both his own view and that of the interests which he as yet represented. “With me it is a fundamental axiom, it is interwoven with all my opinions, that the great interests of the country are united and inseparable; that agriculture, commerce, and manufactures will prosper together or languish together; and that all legislation is dangerous which proposes to benefit one of these without

looking to the consequences which may fall on the others. . . . Protection, when carried to the point which is now recommended, that is, to entire prohibition, seems to me destructive of all commercial intercourse between nations. We are urged to adopt the system on general principles. . . . I do not admit the general principle ; on the contrary, I think freedom of trade the general principle, and restriction the exception." ¹ In rejoinder to the appeals of Clay and other speakers to the policies and experience of England, Webster contended that as the true nature of international trade should come to be better understood the entire system of monopolies and restraints which had grown up in England and other European countries would grow in disfavor, and that, indeed, there were already abundant and increasing signs of revolt against it. With current economic and political opinion in Great Britain Webster displayed here, as upon numerous other occasions, a degree of familiarity which was remarkable.

After a debate of nearly ten weeks the bill passed the House of Representatives, April 16th, by the narrow margin of 107 to 102 votes. Webster and twenty-two of his New England colleagues voted against the measure. Fifteen New England members—but one of them from Massachusetts—voted for it. In the Senate the various items of the bill were discussed at length, and in the end some amendments were introduced by which certain of Webster's objections to details were removed. The final vote was favorable, although only by a balance of 25 to 22, and eventually the measure became law.

¹ "Works of Daniel Webster," Vol. III, p. 96 ; "Writings and Speeches," Vol. V, p. 96.

The act of 1824 was a compromise evolved from a *mélange* of conflicting and insistent sectional demands. At the time of its adoption it pleased nobody in all of its specifications, and in practice it failed completely to meet with the approval of many important interests. Chief among the malcontents were the woolen manufacturers, whose numbers and interests in the New England states were rapidly increased during the years immediately following 1824. They were especially aggrieved because the advantage of an increased duty on woolen cloth had been offset by a doubling of the rate on raw wool in the interest of the wool-growers of rural New England and the Middle West. Early in 1827 a bill was introduced in the House by Rollin C. Mallery, of Vermont, substituting specific for *ad valorem* duties and applying to woolens the minimum principle already applied to cottons by the act of 1816. The measure passed the House, February 10th, but in the Senate, by the casting-vote of Vice-President Calhoun, it was laid on the table. During the summer of 1827 the question was agitated throughout the country, and at the first session of the Twentieth Congress, beginning in December of that year, the House Committee on Manufactures brought in a bill extending protection to wool, hemp, flax, iron, and other raw materials, even where the producers had not asked for it, and fixing a schedule of minimums for woolens so devised that the woolen goods chiefly manufactured in New England should be left without benefit. The bill was drawn by a committee in which Southern men preponderated, and we are given to understand by Calhoun that it was framed on the lines which have been indicated to the end that New England should be forced to join with the South in the defeat of the meas-

ure. It was part of the scheme that the opprobrium of the defeat should be made to fall upon the Adams administration, and so to contribute to the defeat of the President for reelection later in the year. The bill referred to manufactures of no sort or kind, scornfully, and not altogether inaptly, declared John Randolph, "but the manufacture of a president of the United States!" To the great chagrin of the Southern leaders, however, a sufficient number of New Englanders gave their support to the bill to pass it, in the House by a vote of 105 to 94, and in the Senate by one of 26 to 21. And Webster was one of the number.

By writers upon this period of American history the course pursued by Webster in relation to the tariff of 1828 has been interpreted in various ways. Some have viewed it as equivalent to a sheer surrender of principle. Certainly, it is true, that since his entrance of public life Webster had never before failed, not only to vote against protectionist measures, but to put forth his utmost endeavor to circumvent their adoption. Certainly also he was far from willing to approve all features of the act of 1828. That the measure constituted truly enough a "tariff of abominations" he would have been among the first to admit. None the less, he gave the bill both his voice and his vote, and for the fundamental reason that he now believed that the country had adopted protection as a permanent policy, and that in this matter its purpose was for the time unshakable; in which case it seemed to him altogether desirable that the policy should be followed up in a logical and systematic manner. In a speech of May 9th he explained to the Senate why, despite the many glaring faults of the bill, he proposed to give it his support. His first care was to disabuse the minds

of some of his hearers of the idea that the present measure and the protectionist policy which underlay it were to be attributed to the preferences of New England as a section. "New England, sir," he declared, "has not been a leader in this policy. On the contrary, she held back herself, and tried to hold others back from it, from the adoption of the Constitution to 1824. Up to 1824 she was accused of sinister and selfish designs, because she discountenanced the progress of this policy. . . . Now the imputation is precisely of an opposite character. The present measure is pronounced to be exclusively for the benefit of New England; to be brought forward by her agency, and designed to gratify the cupidity of the proprietors of her wealthy establishments. Both charges, sir, are equally without the slightest foundation."

Then follows a crisp exposition of the earlier New England attitude, which, as has appeared, had been precisely the attitude of Webster himself. "The opinion of New England up to 1824 was founded in the conviction that, on the whole, it was wisest and best, both for herself and others, that manufactures should make haste slowly. She felt a reluctance to trust great interests on the foundation of government patronage; for who could tell how long such patronage would last, or with what steadiness, skill, or perseverance it would continue to be granted? . . . At the same time, it is true that, from the very first commencement of the government, those who have administered its concerns have held a tone of encouragement and invitation toward those who should embark in manufactures. . . . When, at the commencement of the late war, duties were doubled, we were told that we should find a mitigation of the

weight of taxation in the new aid and succor which would be thus afforded to our own manufacturing labor. Like arguments were urged, and prevailed, but not by the aid of New England votes, when the tariff was afterward arranged, at the close of the war in 1816. Finally, after a whole winter's deliberation, the act of 1824 received the sanction of both houses of Congress, and settled the policy of the country. What, then, was New England to do? She was fitted for manufacturing operations, by the amount and character of her population, by her capital, by the vigor and energy of her free labor, by the skill, economy, enterprise, and perseverance of her people. I repeat, What was she under these circumstances to do? A great and prosperous rival in her near neighborhood, threatening to draw from her a part, perhaps a great part, of her foreign commerce; was she to use, or to neglect, those other means of seeking her own prosperity which belonged to her character and her condition? Was she to hold out forever against the course of the government, and see herself losing on one side, and yet make no effort to sustain herself on the other? No, sir. Nothing was left to New England, after the act of 1824, but to conform herself to the will of others. Nothing was left to her, but to consider that the government had fixed and determined its own policy; and that policy was protection."¹

The ground, therefore, upon which Webster sought to justify his course in voting for the bill was that of the sheer logic of circumstances—of circumstances which he, and the section of the country which he

¹ "Annals of Congress," 20th Cong., 1st sess., p. 751; "Works of Daniel Webster," Vol. III, pp. 229-230; "Writings and Speeches," Vol. V, pp. 228-230.

represented, had been powerless to control. There is no evidence that he now or at any later time abandoned his belief in free-trade as an abstract principle. A tariff, none the less, he conceived to be no matter of morals, but rather a simple concern of business and of expediency, and in changing rather abruptly his public attitude upon the subject in 1828 he seemed neither to himself nor to most other men of fair temper to be inviting just opprobrium. Upon the constitutional aspects of protectionism he was silent in 1828 and, in so far as possible, throughout his prolonged career as an advocate of high tariffs thereafter. There can be no question that upon this point he was obliged to modify, or to ignore, the views which he so positively avowed in 1816 and still maintained in 1820. It is not clear that he ever fully accepted Clay's doctrine that the power to lay protective duties is to be derived from the clause of the Constitution authorizing Congress to regulate foreign commerce. But he seems at least to have arrived at the conclusion that, the power having been exercised repeatedly at various stages of the country's history, and being bound up with the inevitable order of things, the question was to be consigned to the category of *res adjudicata*.¹ For his colleague, Mr. Silsbee, and the representative of the Boston district, Mr. Gorham, both of whom voted against the measure, he had no word of reproach. To him it had seemed the part of wisdom to "take the evil" of the bill for the sake of obtaining the good; to them the evil had appeared too completely to outweigh the good to render such a course desirable. "In the place I occupied," he subsequently explained to the people of his state, "I was one of the

¹ Lodge, "Webster," p. 170.

representatives of the whole Commonwealth. I was not at liberty to look exclusively at the interests of the district in which I live, and which I have heretofore had the high honor of representing. I was to extend my view from Barnstable to Berkshire ; to comprehend in it a proper regard for all interests, and a proper respect for all opinions. Looking to the aggregate of all the interests of the Commonwealth, and regarding the general current of opinion, so far as that was properly to be respected, I saw, at least I thought I saw, my duty to lie in the path which I pursued. The measure is adopted. Its consequences, for good or evil, must be left to the results of experience. In the meantime I refer the propriety of the vote which I gave, with entire submission, and with the utmost cheerfulness also, to the judgment of the good people of the Commonwealth.”¹

¹“Works of Webster,” Vol. I, p. 166. This passage occurs in the Faneuil Hall speech of June 5, 1823, to be mentioned presently. See p. 187.

CHAPTER VIII

IN THE SENATE : THE HAYNE DEBATE

UPON his return to Boston at the close of the session of 1827-1828 Webster was accorded the honor, June 5th, of a public dinner in Faneuil Hall. Despite the fact that his vote upon the recent tariff act was disapproved by many of his fellow-citizens, it was recognized by every one that his career during his first year in the Senate had been marked by the continued display of ability, independence, and integrity. To the flattering toast "Our distinguished guest,—worthy the noblest homage which freemen can give or a freeman receive, the homage of their hearts," he responded in an extended speech, in the course of which, after expressing deep appreciation of the compliment tendered him, he explained (as has been mentioned) the considerations by which he had been influenced to vote for the late tariff measure, touched upon his course in reference to a variety of other legislative proceedings, delivered a forceful argument in behalf of a liberal policy respecting internal improvements, and concluded with an eloquent defense of New England against charges of disloyalty which were all the while being circulated by the Jackson forces in an effort to cast opprobrium upon the candidacy of John Quincy Adams.

One passage in the discourse deserves quotation, because in it Webster stated succinctly to his friends the principle which underlay his attitude toward every sort

of public issue. Apropos internal improvements he declared: "It is my opinion, Mr. President, that the present government of the United States cannot be maintained but by administering it on principles as wide and broad as the country over which it extends. I mean, of course, no extension of the powers which it confers; but I speak of the spirit with which those powers should be exercised. If there be any doubts whether so many republics, covering so vast a territory, can be long held together under this Constitution, there is no doubt in my judgment of the impossibility of so holding them together by any narrow, local, or selfish system of legislation. To render the Constitution perpetual (which God grant it may be), it is necessary that its benefits should be practically felt by all parts of the country, and all interests in the country. The East and the West, the North and the South, must all see their own welfare protected and advanced by it. While the eastern frontier is defended by fortifications, its harbors improved, and commerce protected by a naval force, it is right and just that the region beyond the Alleghanies should receive fair consideration and equal attention, in any object of public improvement, interesting to itself, and within the proper power of the government. These, sir, are the general views by which I have been governed on questions of this kind."¹ To the people of his section, who were prone to regard the building of trans-Alleghany roads and canals at the national expense as a matter of, at the least, no practical concern to themselves, Webster appealed to assume in this matter, as indeed in all others, a point of view more broadly nationalistic. The appeal was

¹ "Works of Webster," Vol. I, p. 170; "Writings and Speeches," Vol. II, p. 20.

rational and wholesome. It was the direct outcome of a decade and a half of broadening influence exerted upon Webster himself by the circumstances and associations of his service in Congress and at the bar of the federal courts. In a letter of June 13th, Clay took occasion to extol in the strongest terms the entire speech, and especially the sentiments "truly national and patriotic," which were contained in it in reference to "the great interest of internal improvements." "Good," he declared, "will come of your work."

It was with much satisfaction that, upon his return to Boston, Webster gathered again his children under his own roof, even though for a period of but a few months. Now and again he was seized with fits of depression from which only the presence and needs of those who were dear to him availed to arouse him. In the midst of somewhat exacting professional engagements he was deluged with invitations to public meetings and requests for public addresses from all parts of the nation, especially from Massachusetts and New Hampshire. Only a few of these could be accepted. On the 12th of November, at the opening of a course of lectures to be given throughout the winter by professional and business men of note before the Boston Mechanics' Institute, he delivered a discourse upon the relations of science and the practical arts, in which, while speaking of course as a layman, he gave evidence of no mean acquaintance with the progress of science and invention throughout the centuries.¹ In the same month he presided at a meeting held by a group of Boston gentlemen, at which there was brought into existence an organization under the name of the Boston

¹ "Works of Webster," Vol. I, pp. 175-190; "Writings and Speeches," Vol. II, pp. 27-40.

Society for the Diffusion of Useful Knowledge. Of this society he, in the following year, became president.

As has been pointed out, with the campaign of 1828 Webster had not much to do. He maintained throughout its course the attitude of a supporter of the candidacy of Adams, but he did not believe, as did Clay, that Adams would win; and on both public and personal grounds he was too much out of sympathy with Adams to be able to exhibit zeal in the President's behalf. Of Jackson he knew little, and the little that he knew was unfavorable. The aspect of the campaign which interested him most was the reappearance of political parties, a development by which, however, he was in no small degree distressed. It was only by the logic of circumstances that he was gradually forced to identify himself with the National Republican organization, and eventually to assume a certain status of leadership within it. A Jacksonian he could not be, and in those days one could not well be other than a Jacksonian or an anti-Jacksonian—which is to say, a Democrat or a National Republican. To Webster at this time it seemed that the weakest portion of the Constitution was that which related to the executive and that a quadrennial scramble for the presidential office, such as the country had witnessed in 1824, and such as that through which it was at present passing, might easily prove subversive of the government itself. "The love of office," he declared in the Faneuil Hall speech, "will ere long triumph over the love of country, and party and faction usurp the place of wisdom and patriotism. If the contest for the executive power is thus to be renewed every four years; if it is to be conducted as the present has been conducted; and if every election is to be immediately followed, as the last

was followed, by a prompt union of all whose friends are not chosen against him who is, there is, in my judgment, danger, much danger, that this great experiment of confederated government may fail, and that even those of us who are not among the youngest may behold its catastrophe."¹

An illustration of the partisan bitterness of the time is afforded by a little-known episode in which Webster himself, near the close of the campaign, was involved. A number of New England Federalists who had never forgiven Adams for his friendliness toward the embargo measures of 1807-1809 were supporting Jackson and were maintaining in Boston a semi-weekly paper, the *Jackson Republican*.² On October 29, 1828, there appeared in this paper an article purporting to reproduce a charge made by Adams to Jefferson in 1807-1808, and reiterated as late as 1828, to the effect that during the second Jefferson administration Harrison Gray Otis, Samuel Dexter, and other New England Federalists were engaged in a plot to dissolve the Union and to reannex New England to the dependencies of Great Britain. In the list of conspirators was included the name of Webster, and the writer of the article demanded to know, among other things, why "for three years he [Adams] has held to his bosom, as a political counselor, Daniel Webster, a man whom he called, in his midnight denunciation, a traitor in 1808." Responsibility for the accusation was laid at the door principally of Theodore Lyman, Jr., one of the proprietors of the *Republican*, and a gentleman

¹ "Works of Webster," Vol. I, p. 172.

² After the election of Jackson the name was changed to the *Evening Bulletin and United States Republican*. In 1830 the paper was transferred to the *New England Palladium*, which during the same year was merged with the *Columbian Centinel*.

of ability and high social standing. Webster felt the charge keenly and, after ascertaining definitely that Lyman was the author of the article in question, he was impelled to do what no amount of provocation ever again drove him to do, namely, to bring suit in vindication of his name and honor. On indictment for criminal libel Lyman was brought to trial in the Supreme Judicial Court of Massachusetts, in December, 1828.

By reason of the eminence of the parties directly or indirectly involved in it, the case commanded widespread interest. The burden of the contention of Webster and his counsel, the Solicitor-General Daniel Davis, was that, whereas Adams's actual charge was only that in 1808 leading Federalists (not named) of Massachusetts had been guilty of treasonable designs, Lyman had referred to Webster specifically as a person to whom the libel applied, which was tantamount to a libel of Webster by Lyman himself. Lyman's defense was (1) that the article was not libelous, because, while Adams had not named individuals, he had charged *all* the leading Federalists with treasonable purposes, and while he spoke especially of the Federalists of Massachusetts, he really referred to all the leading Federalists of New England, of whom Webster was one, and (2) that the article—written hastily and in admitted disregard of the fact that in 1808 Webster was not resident in Massachusetts—was directed, not against Webster, but against Adams, so that if Webster had been charged with implication in a treasonable plot it was by inadvertence. In view of the fact that Webster in 1807–1808 was but an obscure New Hampshire lawyer, who had never as yet sustained any sort of relations with the men who were

named as his fellow-conspirators, the charge was so easily refuted as to be absurd ; and the defense of Lyman was shallow and halting. At the same time it is to be observed that there was offered to Lyman no opportunity to retract, or to explain, outside of court. The indictment was based upon the law of *scandatum magnatum*, or slander of great men, not unknown to English usage but never adopted into the common law of the United States. And, furthermore, a criminal suit was brought rather than a civil action for damages, rendering it possible, as the law then was, for Webster, but not for Lyman, to testify. In other words, the conditions of the trial were shaped deliberately to place the defendant at an unusual disadvantage ; and it is impossible to escape the conviction that the bitterness felt by the plaintiff and his political friends toward the "renegade" Lyman played some part in the whole proceeding.

The jury in the end found itself unable to agree upon the facts involved. Ten members favored conviction, but two dissented. The case was continued until the March term, 1829, and thence until the November term following. But when the November term arrived the Solicitor-General, with Webster's consent, entered a *nolle prosequi*, and the case was dropped. Lyman clearly considered the action more political than personal. Previously he and Webster had been on intimate terms socially, and within a year or two they were so again. The reconciliation was promoted by the fact that, in December, 1829, Webster married as his second wife a former schoolmate of Mrs. Lyman. In 1831 Lyman was elected mayor of Boston as the "Jackson candidate." The episode, furthermore, does not appear to have affected the

relations existing between Webster and President Adams. March 29, 1829, after Adams had retired from office, he recorded in his diary that Webster had called to take his leave and that the senator had declared that he entertained "no feeling of dissatisfaction."

When Webster returned to Washington at the opening of the session of 1828-1829 he found official circles at the capital absorbed principally in speculation concerning the prospective policies and measures of Jackson. From Clay came the counsel that, pending the establishment of the new administration, the National Republican policy should be to avoid alike professions of support and declarations of hostility; and with the course thus marked out Webster was in entire sympathy. In a memorandum of February, 1829, communicated probably to Ezekiel, the situation at the capital is characterized in scattered jottings as follows: "General Jackson will be here about 15th February. Nobody knows what he will do when he does come. Many letters are sent to him; he answers none of them. His friends here pretend to be very knowing; but, be assured, not one of them has any confidential communication from him. Great efforts are making to put him up to a general sweep, as to all offices; springing from great doubts whether he is disposed to go it. Nobody is authorized to say whether he intends to retire, after one term of service. Who will form his cabinet is as well known at Boston as at Washington. . . . My opinion is, that when he comes he will bring a breeze with him. Which way it will blow I cannot tell. . . . My fear is stronger than my hope."¹ There is added this exhortation relative to Clay: "Keep New

¹ Van Tyne, "Letters of Daniel Webster," pp.142-143.

England firm and steady, and she can make him President if she chooses." On February 9th Jackson arrived in Washington. Ten days later Webster wrote to his sister-in-law that "the city is full of speculation and speculators ; a great multitude, too many to be fed without a miracle, are already in the city, bungry for office." March 4th he writes : "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. The inauguration speech you will see. I cannot make much of it, except that it is anti-tariff, at least in some degree. What it 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."¹

The Senate was convened in special session March 4th. This circumstance, together with a number of professional engagements, detained Webster in Washington upward of six weeks, and during the period he chafed like a boy in school. "My health is good," he writes to his sister-in-law, "but I find, to confess the truth, that I am growing indolent. I would be glad to have more decisive volitions. I do nothing in Congress or the court but what is clearly necessary ; and in such cases, even, my efforts 'come haltingly off.' In short, I believe the truth is, that I am growing old, and age, you know, or rather you have heard, requires

¹ Webster to Mrs. Ezekiel Webster, March 4, 1829. Webster, "Private Correspondence," Vol. I, p. 473.

repose.”¹ To Ezekiel he writes a fortnight later in a strain to suggest that he was seriously considering a retirement from public life. Over his own protest Ezekiel, some weeks previously, had been nominated to Congress, and although Daniel was extremely desirous of his brother's election, neither he nor Ezekiel was at all confident. “If no change takes place,” he writes, “in my own condition, of which I have not the slightest expectation, and if you are not elected, I shall not return [to Washington]. This, *inter nos*, but my mind is settled. Under present circumstances, public and domestic, it is disagreeable being here, and to me there is no novelty to make compensation. It will be better for me and my children that I should be with them. If I do not come in a public, I shall not in a professional, character. I can leave the court now as well as ever, and can earn my bread as well at home as here. Your company and that of your wife would make a great difference.”² In this same letter, written immediately prior to the election, Webster declared that of Ezekiel's being returned he had not “much expectation”; and the ensuing results proved his apprehensions to have been well founded.

During the second week of April Webster arrived at his home in Boston, only immediately to be overwhelmed by the news of his brother's sudden and wholly unexpected death. The decease, which took place in the court-house at Concord, is thus described by a son-in-law. “Mr. Webster was speaking, standing erect, on a plain floor, the house full, and the court

¹ Webster to Mrs. Ezekiel Webster, March 2, 1829. Webster, “Private Correspondence,” Vol. I, p. 472.

² Daniel to Ezekiel Webster, March 15, 1829. *Ibid.*, Vol. I, p. 474.

and jurors and auditors intently listening to his words, with all their eyes fastened upon him. Speaking with full force, and perfect utterance, he arrived at the end of one branch of his argument. He closed that branch, uttered the last sentence, and the last word of that sentence, with perfect tone and emphasis, and then, in an instant, erect, and with arms depending by his side, he fell backward, without bending a joint, and, so far as appeared, was dead before his head reached the floor." ¹

Mrs. Webster and the elder of the two daughters were in Boston at the time, and it was there, at three o'clock on the morning of the 11th, that information of the death, which had occurred at four o'clock the previous afternoon, reached them. The wife and daughter, together with the brother and his two sons, arrived at Boscawen at nine o'clock the same evening, and the funeral was held on the following day. The grief of the surviving brother was extreme. "He [Ezekiel] has been my reliance through life, and I have derived much of its happiness from his fraternal affection." The tribute was simple, but heartfelt. In response to a note of condolence from Jeremiah Mason he writes : "You do not and cannot overrate the strength of the shock which my brother's death has caused me. I have felt but one such in life ; and this follows that so soon that it requires more fortitude than I possess to bear it with firmness, such perhaps as I ought. . . . With a multitude of acquaintance, I have few friends ; my nearest intimacies are broken and a sad void is made in the objects of affection." ² Rarely are brothers

¹ Edwin D. Sanborn, quoted in Curtis, "Webster," Vol. I, p. 341.

² Webster to Mason, April 19, 1829. Webster, "Private Correspondence," Vol. I, p. 477.

bound by a tie of such virility as that which underlay the relations of the two Websters. Established in the days of poverty-stricken boyhood, and strengthened through the arduous period of youth and early manhood, it had continued to the present the most tangible controlling force in the careers of the two men. In intellect, in oratorical power, and in breadth of information Daniel was much the superior; in integrity and loftiness of spirit he was his brother's equal, but no more; in industry, thrift, and patience he was indisputably the inferior. At every stage of his public career he had been accustomed to take Ezekiel into council, and not infrequently to defer to his judgment. The loss which he now suffered was beyond repair.

It fell to Webster during the ensuing summer to give much of his time to the adjustment of his brother's family and business affairs. Ezekiel, at his death, was forty-nine years of age. By dint of persistent effort he had acquired a competency for those dependent upon him, although not such but that careful management was required to preserve and make the most of it. By arrangement with the guardian of his brother's children, the farm at Franklin, containing the graves of his parents and of his brothers and sisters, passed now into Daniel's possession, and to it he thereafter made repeated reverential pilgrimages. In the course of time he regained some measure of good spirits, and the idea of abandoning public life was given up. During the autumn of 1829 he had occasion to spend some weeks in New York in the pursuit of professional duties, and while there he became engaged to marry Miss Caroline Le Roy, second daughter of Jacob Le Roy, a wealthy merchant and a member of one of New York's most honored

families. The wedding took place in December, and before the beginning of the new year Webster was again in a home circle of his own in Washington. The elder son, Daniel Fletcher, was now a freshman in Harvard College, and the younger, Edward, was in a preparatory school. The daughter, Julia, whose health was not good, was taken to Washington.

Meanwhile the affairs of the country were approaching a crisis, and in order to make clear the significance of the part which Webster was destined shortly to play in the drift of these affairs some attention must be given to the character of the situation which, by the close of the first year of Jackson's presidency, had developed. To the student of the third and fourth decades of our national history two great facts are patent. One of them is that at the close of the War of 1812, the United States possessed a larger measure of solidarity and its people a closer community of interest than at any time since the adoption of the Constitution. The other is that the period 1815-1830, and especially the second half of it, is notable above all other things for the rapid growth of sectionalism which took place within it. In 1815 the nation was flushed with the enthusiasm of victory. Its enemies abroad had been driven to cover, the malcontents at home discredited and silenced. Into the pursuits of peace it threw itself with unreserved energy. In fine disregard of carping critics, and with the assent of well-nigh all elements of the people, it laid tariffs to protect its newly risen manufactures, it appropriated national moneys for the improvement of means of trade and travel, it established a bank for the regulation of currency and the facilitation of public finance, it acquired territory for the adjustment of border

difficulties and the extension of the country to its natural frontiers. By 1830, none the less, this same nationalized republic had come to be, in no small degree, a mere aggregate of sections or regions, each with its own interests, its own conditions, its own demands, its own prospects. New England was a predominantly commercial, changing now into a predominantly manufacturing, section. Pennsylvania was a manufacturing section, but of an entirely different sort. The West, to the north of the Ohio River, was an agricultural section, producing principally food-stuffs and seeking ever a wider market for them. Virginia and adjacent portions of the older South comprised an agricultural section in decline, with soil outworn, and inclining more and more toward slave-breeding as a source of wealth. The further South—both the seaboard and the newer regions westward to the Texan frontier—was the great cotton-growing, slaveholding section, peculiar unto itself, profoundly conscious of its peculiarity, and, like every other one of the sections that have been enumerated, jealous of its interests and vigilant to defend them.

To attempt an explanation of the causes contributing to this remarkable transformation—the fundamental fact, in some regards, of the history of the “middle period”—would lead too far afield. These causes were, in part, political. The acerbities arising from the presidential campaigns of 1824 and 1828, for example, when, in default of clear-cut party lines, candidates represented in some measure rival sections of the country, undoubtedly had their decentralizing effect. Much more largely, however, these causes were economic and social. They sprang, in larger part, from diversity of occupation, of industrial condition, and of

local interest. It would be possible to illustrate the rise and progress of sectionalism with perfect clearness by reference to the history of internal improvements, of the national bank, or of any one of many other public issues of the period. Most striking, however, is the evidence afforded by the history of the tariff—a topic upon which there has been occasion to touch at a number of earlier points in this volume. The tariff of 1816 was enacted in response to a wide-spread and insistent demand that the infant industries which had sprung up during the war should be safeguarded against the ruin which impended at the hand of foreign, mainly British, competition. In no quarter was the measure seriously or formidably opposed. By its operation the entire country was expected to be benefited. Not many years, or even months, of experience, however, were required to inaugurate a gradual but thoroughgoing disruption of this unanimity of tariff sentiment. The woolen manufacturers of Rhode Island and Connecticut speedily developed a point of view with which the wool-growers of Pennsylvania and Ohio could hardly be expected to sympathize; the Portsmouth ship-builder wanted free hemp, while the Kentucky hemp producer clamored for a share in the benefits supposed to accrue from a protective duty upon his commodity; the iron manufacturer of Pittsburgh had his individual interests; and so *ad infinitum*. Under the operation of these conditions the framing of tariff bills became inevitably the occasion of log-rolling, of intrigue, and of the display of the most discordant sectional demands. It was so in 1820, in 1824, in 1827, and in 1828. Each section as a matter of course played for the maximum of advantage and the minimum of concession.

One of the clearest effects of the prolonged controversy which arose upon the subject of the tariff was the setting of a great section, the South, in an attitude of unalterable opposition to protective duties of whatsoever nature or purport. In 1816 the South did not apprehend that she might not expect to have some direct share in the forthcoming expansion of manufacturing industry. It was not even clear that, should manufactures fail to be developed, the increased demand for raw materials in the North would not compensate her for any increase that might appear in the cost of the manufactured commodities which she needed. All illusions upon these points, however, were in time dispelled. Slave labor, it was discovered, could not at all be adapted to the purposes of manufacture. The foreign market for raw cotton, it was found, was even more valuable than the home market and the freer the conditions of trade the more inviting the foreign market was certain to be. Tariffs, it was realized, not only operated to close markets; they increased the cost of clothing, machinery, and other manufactured goods which the planters had to buy. That the South not only did not profit by the protective system, but actually suffered by reason of it, came therefore to be the settled conviction of most—eventually of virtually all—Southern men. Lowndes broke with protectionism in 1820, Calhoun not definitely before 1826 or 1827; but by 1828 Southern leaders were almost unanimously in opposition.

The enactment of the tariff of 1828—a measure framed by Southern men, as has appeared, expressly to be defeated—caused in the cotton-growing states chagrin and exasperation. That such a measure could be passed seemed clearly to sustain the thesis laid down

by Webster that, for better or for worse, protectionism had become the settled policy of the country. In the manufacturing states the protective idea was rampant. Scarcely less so was it in the great wool, hemp, iron, and food producing regions of the West and Southwest. The day seemed to have arrived when, in defense of her peculiar interests, the South must do more than speak and vote through her representatives in Congress. Protest hitherto had been by no means lacking. In 1824 the senate of South Carolina declared protective tariffs unconstitutional. A year later the lower house adopted a resolution affirming the inalienable right of remonstrance against federal encroachments and declaring the laying of duties to protect domestic manufactures to be "an unconstitutional exercise of power." In March, 1826, the legislature of Virginia, reaffirming the principles of the resolutions of 1798, pronounced a protective tariff unconstitutional and "highly oppressive and partial in its operation." In December, 1827, the legislature of Georgia adopted a report declaring that "an increase of tariff duties will and ought to be resisted by all legal and constitutional means." Other similar expressions antedating the act of 1828 might be cited.

The effect of the Tariff of Abominations was to call out expressions still less conciliatory in tone. The most noteworthy was that embodied in a set of eight resolutions adopted by the legislature of South Carolina, December 19, 1828, and accompanied by an elaborate report, drafted originally by Calhoun, known as the South Carolina Exposition. In this composite document were contained the essentials of the constitutional argument which underlay the nullification movement of 1832: that, namely, the federal government

exists by virtue of a compact among the states ; that the powers which may legitimately be exercised by the federal government do not transcend those which are expressly delegated in the Constitution ; that each state, as a party to the compact, has an independent right, which it enjoys equally with all the other states, to judge for itself the constitutionality of any measure undertaken by the "joint agent" of the states ; and that any state, believing a measure of the federal government to have been undertaken in contravention of the Constitution, possesses the right to interpose its authority in its own defense, *i. e.*, to declare the given measure, within the limits of the state, null and void. In the substance of this argument there was, even in 1828, nothing that was new. The fundamental assumptions upon which it was based were as old as the Constitution itself, and in the Kentucky and Virginia Resolutions of 1797-1798 every essential of the Calhoun doctrine of 1828 may easily be recognized, even to the employment, in the second set of Kentucky resolutions, in 1799, of the word "nullification." Calhoun himself, in the treatises that flowed from his pen in 1831, surpassed by a wide margin the present effort in elaborateness of historical appeal and in subtlety of logic. The importance, none the less, of the South Carolina manifesto of 1828 was very great. The document was promulgated at a time when the public mind, deeply agitated, was prepared to be profoundly impressed. The Kentucky and Virginia Resolutions had, in their day, fallen flat. Despite the efforts of their sponsors, they made but a limited appeal and elicited but feeble response. The South Carolina pronouncement of 1828 met with a very much more cordial reception. Three other Southern states, through their legislatures, ex-

pressed formal concurrence in part or all of the sentiments contained, and in numerous other quarters there were sympathy and openly avowed support.

One circumstance chiefly, perhaps it alone, served to avert an immediate attempt to reduce the theories of the Exposition to practice. That was the impending change of administrations, involving as it did at least the possibility of a reversal of tariff policy, by which the way should be opened for an easy and natural escape from the *impasse* into which the South believed itself to have been driven. In respect to the tariff Jackson, prior to his election, had said little, and the little which he had said was to no practical effect. He was supposed to be mildly favorable to protection, but in what measure he was so and what effect his attitude would have upon the existing situation, were mysteries no man could fathom. From the point of view of the South there was at least some ground for hope, and the disposition which almost universally prevailed was to give the new executive a chance and await developments. From the inaugural it was impossible to glean any distinct foreshadowings of policy, and the issue rested until the convening of the Twenty-first Congress, December 7, 1829. In his first annual message Jackson spoke at some length of the tariff, but beyond a few specific recommendations respecting schedules he said little that was of definite import. One thing, however, was manifest: he did not announce, nor even counsel, the adoption of a policy of systematic tariff reduction. On the contrary, his assumption that there would long continue to accrue from the tariff a surplus of revenue seemed clearly to indicate his purpose not at any subsequent time to advocate the renunciation of protectionism. He even

suggested an amendment to the Constitution, if it should be deemed necessary, to authorize the distribution among the states of the recurring surpluses. The South was disappointed grievously; and, although there was required the sting of yet another protectionist tariff law before nullification should be undertaken, it is not too much to say that with the sending in of the first Jackson message to Congress the fateful issue was definitely reopened.

It was at this critical juncture that there took place on the floor of the Senate one of the most memorable of debates, participated in by two of the most skilled debaters, and upon the most fundamental of subjects known to American history. December 29, 1829, Samuel A. Foote, senator from Connecticut, introduced in the Senate a resolution whereby the Committee on Public Lands was instructed to inquire into the expediency of limiting for a period the sales of public lands to such lands as had theretofore been placed upon the market and were subject to entry at the minimum price of \$1.25 per acre. In itself, the resolution was harmless enough. It had been pointed out by the commissioner of the land office that the supply of land upon the market far exceeded the demand and that sales were proceeding in a sluggish and haphazard manner, and Senator Foote proposed simply that the placing of new lands upon the market should be discontinued pending an investigation of the conditions attending current sales. No sooner did the resolution make its appearance, however, than it was challenged by the representatives of the Middle West, and it was only over vigorous protest that its consideration was set for the eleventh day of January, 1830. The debate upon it was begun, in point of fact, on the thirteenth.

On the eighteenth Senator Benton, of Missouri, delivered a lengthy speech in which it was maintained that the West had been called upon much too frequently to sacrifice its interests at the behest of the East, that the prosperity of the West depended absolutely upon the rapid and unobstructed settlement of the country, and that the present measure, by imposing restrictions upon the sale of public lands, was calculated to retard the progress of the section of the nation which the speaker represented. A number of members participated in the general discussion that followed, among them Holmes, of Maine, who spoke in defense of the resolution. The last speaker of the day was Robert Y. Hayne, of South Carolina.

Hayne belonged to the younger group of members of the upper house. He was representative of all that was proudest and best in the South Carolina of his time—a man of education and dignity, an able lawyer, a fluent orator, a persuasive debater, and an adroit parliamentarian. Since his election to the popular branch of the legislature of his state in 1814 he had risen rapidly in the public eye. In 1822 he was chosen to the United States Senate, and in 1823 he took his seat in that body. At Washington he won almost instant distinction by a powerful speech in opposition to the tariff of 1824, and in the years that ensued he came to be known and feared as the ablest and boldest spokesman of the South in the upper house. As early as 1826, during the course of the debates on the Panama mission, he sounded the threat that secession would be the remedy to which resort would be had in the event that the security of the slaveholding interests should continue to be menaced. In 1828 he was reelected to the Senate by unanimous vote of the South Carolina legis-

lature, and during the troubled period which followed the enactment of the tariff of that year he assumed within his state a position of more open, if not more effective, leadership than even that occupied by Calhoun. As yet, in 1830, it should be observed, Calhoun was silenced in a measure by his tenure of the vice-presidential office.

In his speech of January 19th Hayne vigorously attacked the Foote resolution. He contended, in the first place, that its adoption would impose a restriction upon the natural development of the West and that it indubitably was, as Benton and other Western senators had contended, an expression of Eastern jealousy of, and unfriendliness toward, the West. He made much of the argument that there existed a natural sympathy between the West and the South, and called upon the West to recognize in the South, rather than in the East, its logical ally. The proposed measure, he urged, was but one manifestation of the deep-seated disposition on the part of the East, and particularly New England, to check westward migration, to build up manufactures, and to perpetuate indefinitely the protective system. Finally, there was deprecation of all "unnecessary extension of the powers or the influence of the Legislature or Executive of the Union over the States, or the people of the States."

At the moment when Hayne began speaking Webster, quite by chance it appears, came into the Senate chamber from the Supreme Court. Completely engrossed by pending business in the Court, he had given thus far little or no attention to a debate whose principal feature appeared to be the readiness of the speakers to wander from the point at issue. On the next day, the 20th, argument was to begin in an im-

portant cause in which Webster was employed, that of Carver's Lessees *vs.* John Jacob Astor, arising out of a controversy between the fur magnate and the state of New York. Seemingly it was only by the hearing of Hayne's discourse that the Massachusetts senator, moved by resentment of the reproaches cast upon his section and alarmed by the frankness of the South Carolinian's particularistic appeals, was prompted to enter the lists. This does not mean that Webster was not willing enough to take advantage of any opportunity that might arise to defend with all the eloquence of which he was master both his section and the Union. It does not mean, even, that he was not, at this stage of his career, half-consciously seeking precisely the sort of opportunity that now presented itself. It only means that there is no reason to believe that Webster had expected the Foote resolution to be productive of such an opportunity, or that he had expected to participate in the discussion which grew out of that proposal. That the contest with Hayne was entered upon without premeditation is the direct testimony of Webster himself. Speaking in New York, in March, 1831, upon the occasion of a public dinner in his honor, he declared : "Seeing the true grounds of the Constitution thus attacked, I raised my voice in its favor, I must confess, with no preparation or previous intention. I can hardly say that I embarked in the contest from a sense of duty. It was an instantaneous impulse of inclination, not acting against duty, I trust, but hardly waiting for its suggestions. I felt it to be a contest for the integrity of the Constitution, and I was ready to enter into it, not thinking, or caring, personally, how I might come out."¹

¹ "Works of Webster," Vol. I, p. 211.

At the conclusion of Hayne's speech, on the 19th, Webster rose to undertake a reply, but a motion to adjourn cut off debate and the intended reply was made upon the following day. The speech of January 20th, characterized properly by Mr. Lodge as "one of the most effective retorts, one of the strongest pieces of destructive criticism, ever uttered in the Senate,"¹ comprised in its essentials a vindication of the policy of the government toward the newer states of the West and, more notably, a defense of New England as a section against the charges of selfishness, jealousy, and disloyalty which had been brought against her. Not only was it denied that the East had at any time shown an illiberal policy toward the West; it was demonstrated by a brilliant review of public measures, beginning with the Northwest Ordinance, that again and again legislation admittedly favorable to the West had been carried only with the aid of New England votes. The tendency of such utterances as those voiced by Hayne "to bring the Union into discussion, as a mere question of present and temporary expediency" was especially lamented.²

On the following day a member from Maryland, in recognition of Webster's engagement in the Supreme Court, moved a postponement of the continuation of the discussion. But Hayne demanded the privilege of an immediate reply, and Webster was obliged to modify his plans in order to remain in the Senate chamber. The speech begun by Hayne on the 21st and completed four days later covered a wide range of subjects. Disclaiming antipathy toward the people of New England,

¹Lodge, "Webster," p. 173.

²"Works of Webster," Vol. III, pp. 248-269; "Writings and Speeches," Vol. V, pp. 248-269.

the speaker none the less reiterated his charges of Federalist disloyalty and accused Webster himself of implication in political "bargain and corruption." He lamented the tendency of the times toward a policy of "consolidation," and he pointed to the tariff of 1828 as an unmistakable manifestation of that policy. And, citing freely the Kentucky and Virginia Resolutions and the South Carolina Exposition, he developed with some minuteness and ingenuity the fundamental predications, doctrines, and conclusions of state rights and nullification. Throughout the speech Webster took notes, and at its close he rose to reply. An adjournment was moved and carried; but under the rules of the Senate the Massachusetts member was entitled to the floor at the opening of the next day's sitting.

Already the brilliance of the debate had attracted wide attention. The hotels of the city were filled with people who had come from a distance to follow the course of the discussion, and when, on the morning of the 26th, the doors of the Senate chamber were thrown open, every available inch of space in the galleries and on the floor was soon filled with interested, and even excited, spectators. So great was the pressure that all rules respecting the attendance of the public were waived. Ladies were admitted to the seats of the members, and the throng overflowed through the lobbies and down the long stairways, quite beyond hearing distance. In the House of Representatives the Speaker remained at his post, but the attendance was so scant that no business could be transacted. "I never spoke," declared Webster subsequently, "in the presence of an audience so eager and so sympathetic."¹

¹ Webster to Dutton, March 8, 1830. Webster, "Private Correspondence," Vol. 1, p. 494. For a graphic description of the

No possible incentive to powerful exertion, indeed, was lacking. The theme of discussion had come to be nothing less than the nature and permanence of the Union. The forces in opposition, represented not alone by the dashing senator from South Carolina, but by the still better known South Carolinian to whom it fell to occupy the chair while the debate proceeded, were adroit and commanding. The hearing represented the finest culture and ability of the country. In the heart of Webster, now in his physical and intellectual prime, these circumstances inspired only confidence, resoluteness, and fervor. Already recognized as the foremost statesman of New England, the ablest American constitutional lawyer, and the greatest of American orators, he rose with all his superb dignity and capacity to meet an occasion which meant not only the crowning or the collapse of his own reputation but the vindication or the discrediting of the conception of national unity and vigor for which he stood. Again he spoke with such immediate preparation only as the labors of a single night made possible. His written materials were confined to five letter-paper pages of notes. In point of fact, however, the entire previous career of the man had constituted preparation for precisely such a supreme effort. The origins of the federal union, the theories and applications of the Constitution, the history and character of the doctrine of nullification—these were matters with which years of study, observation, professional activity, and acquaintance with great men had made him absolutely

scene and of Webster's manner upon the occasion see March, "Reminiscences of Congress," pp. 132-148, reproduced in part in Everett's "Memoir," in "Works of Daniel Webster," Vol. I, pp. 92-97.

familiar ; and while there devolved upon him in the few hours preceding his speech of the 26th the marshaling of his materials and the blocking out of the proportions and sequences of his arguments, he was equipped in both mental power and range of knowledge to accomplish the task with a readiness and a thoroughness of which no other living American would have been capable.

The "Second Reply to Hayne," as the speech of the 26th and 27th is commonly known, opened with an exordium calculated to alleviate the tenseness of the moment and to supply the forthcoming argument with a direct and appealing introduction. "Mr. President," began the speaker, "when the mariner has been tossed for many days in thick weather, and on an unknown sea, he naturally avails himself of the first pause in the storm, the earliest glance of the sun, to take his latitude, and ascertain how far the elements have driven him from his true course. Let us imitate this prudence, and, before we float farther on the waves of this debate, refer to the point from which we departed, that we may at least be able to conjecture where we now are."¹ The attention of the Senate was then directed in a simple manner to the fact that the proposal nominally under consideration, *i. e.*, the Foote Resolution, had been quite lost to view, and in the earlier portion of the speech an effort was made to bring back the discussion to its point of departure. The text of the entire speech, as reported by Joseph Gales, senior editor of the *National Intelligencer*, fills seventy-three pages of print, and of this amount no fewer than forty-eight pages are taken up with a defense of New England,

¹ "Works of Webster," Vol. III, p. 270 ; "Writings and Speeches," Vol. VI, p. 3.

and especially Massachusetts, against the charges of sectionalism and disloyalty reiterated in the second speech of Hayne. Once more, and at greater length, was reviewed, with a wealth of illustration and historical allusion, New England's share in the settlement and development of the West, in the promotion of a liberal public land policy, in the making of provision for internal improvements, and in the enactment of tariff legislation; and it was denied with fresh vigor that New England as a section had ever countenanced disunion—even that the Hartford Convention had nurtured the treasonable sentiment which Hayne ascribed to it. Few of Webster's utterances are more familiar than the sentences with which this portion of the speech was brought to a close. "Mr. President," he declared, "I shall enter on no encomium of Massachusetts; she needs none. There she is. Behold her, and judge for yourselves. There is her history; the world knows it by heart. The past, at least, is secure. There is Boston, and Concord, and Lexington, and Bunker Hill; and there they will remain forever. The bones of her sons, falling in the great struggle for Independence, now lie mingled with the soil of every state from New England to Georgia; and there they will lie forever. And, sir, where American Liberty raised its first voice, and where its youth was nurtured and sustained, there it still lives, in the strength of its manhood and full of its original spirit. If discord and disunion shall wound it, if party strife and blind ambition shall hawk at and tear it, if folly and madness, if uneasiness under salutary and necessary restraint, shall succeed in separating it from the Union, by which alone its existence is made sure, it will stand, in the end, by the side of that cradle in which its infancy was

rocked ; it will stretch forth its arm with whatever of vigor it may still retain over the friends who gather round it ; and it will fall at last, if fall it must, amidst the proudest monuments of its own glory, and on the very spot of its origin."¹

The portion of the Second Reply, however, which entitles the speech to be considered the most remarkable in the history of American forensics is that which was devoted to refutation of the doctrine of nullification and appeal for the solidarity and indestructibility of the Union. "There remains yet to be performed, Mr. President," declared the speaker, "by far the most grave and important duty, which I feel to be devolved upon me by this occasion. It is to state, and to defend, what I conceive to be the true principles of the Constitution under which we are here assembled." The wish was avowed that the task might have fallen "into abler and better hands" ; but the occasion had been "encountered, not sought," and Webster was the last among men to shrink from the responsibilities which it imposed. The position assumed by Hayne had been that it was the right of the legislature of a state to intervene whenever in its judgment the federal government should transcend its constitutional limits, and to thwart the execution of any and all measures of that government adjudged by it to be unconstitutional. The validity of this proposition Webster unreservedly denied. That there exists, in the United States as in all nations, an ultimate right of revolution, and that the people, here as elsewhere, had a right to resist the execution of unconstitutional laws, he declared to be altogether beyond question. But that

¹ "Works of Webster," Vol. III, p. 317; "Writings and Speeches," Vol. VI, p. 50.

between implicit and universal obedience to law, on the one hand, and revolution, involving the overthrow of the existing order and the establishment of a new one, on the other hand, there could be any admissible middle course, was pronounced an egregious and alarming fallacy. It being agreed that the people ought not to be expected to be obedient to unconstitutional laws, the vital question, it was pointed out, was as to whose prerogative it was to decide the constitutionality or unconstitutionality of measures which should be brought in question. The contention of Hayne and of his school was that this power was lodged, not in the general government or in any branch thereof, but in the legislatures of the several sovereign states. Webster's contention was that it was lodged in a branch of the federal government, namely in the judiciary; that this branch of the government was created in part to discharge this very function; that a federal law whose unconstitutionality was doubted could be put to a test in the courts at any time; that a measure so tested, and adjudged constitutional, must be obeyed implicitly so long as it should remain upon the statute books; and that the proper recourse of its opponents was not "nullification" but rather the inducing of the immediate repeal of the measure, or the accomplishment of the same end more slowly by returning to Congress a sufficient number of members of like mind with themselves, or even by bringing about an amendment of the Constitution.

The issue hinged squarely, of course, upon the character of the union established under the Constitution, and inevitably Webster was led to declare himself at length upon this subject. The national government was asserted unequivocally to be the creature, not of

the states, but of the people, who alone can "control it, restrain it, modify, or reform it." Against Hayne's objection that "the people of the United States" meant only the people of the several states, it was maintained that it was by *all* the people of the United States, in a collective capacity, that the Constitution was ordained and established. "It is, sir, the people's Constitution, the people's government, made for the people, made by the people, and answerable to the people. The people of the United States have declared that this Constitution shall be the supreme law. We must either admit the proposition, or dispute their authority. The states are, unquestionably, sovereign, so far as their sovereignty is not affected by this supreme law. But the state legislatures, as political bodies, however sovereign, are yet not sovereign over the people. So far as the people have given power to the general government, so far the grant is unquestionably good, and the government holds of the people, and not of the state governments. We are all agents of the same supreme power, the people."¹ From all this it followed that when the sovereign people should become dissatisfied with the distribution of powers which had been effected they could alter it, through the process of constitutional amendment. "But until they shall alter it," it was urged, "it must stand as their will, and is equally binding on the general government and on the states."

Webster's arguments were drawn, however, not only from constitutional theory but also from considerations of political practicability. Using for purpose of illustration the tariff law of 1828, he exposed

¹ "Works of Webster," Vol. III, p. 321; "Writings and Speeches," Vol. VI, p. 54.

with startling clearness the practical difficulties to which the nullificationist doctrine, if put into operation, would lead. "The tariff [so Hayne had declared] is a usurpation; it is a dangerous usurpation; it is a palpable usurpation; it is a deliberate usurpation. It is such a usurpation, therefore, as calls upon the states to exercise their right of interference. . . . Let us suppose the state of South Carolina to express this same opinion, by the voice of her legislature. That would be very imposing; but what then? Is the voice of one state conclusive? It so happens that, at the very moment when the state of South Carolina resolves that the tariff laws are unconstitutional, Pennsylvania and Kentucky resolve exactly the reverse. *They* hold those laws to be both highly proper and strictly constitutional. And now, sir, how does the honorable member propose to deal with this case? How does he relieve us from this difficulty, upon any principle of his? His construction gets us into it; how does he propose to get us out? In Carolina, the tariff is a palpable, deliberate usurpation; Carolina, therefore, may nullify it, and refuse to pay the duties. In Pennsylvania, it is both clearly constitutional and highly expedient; and there the duties are to be paid. And yet we live under a government of uniform laws, and under a Constitution, too, which contains an express provision, as it happens, that all duties shall be equal in all the states. Does not this approach absurdity? If there be no power to settle such questions, independent of either of the states, is not the whole Union a rope of sand? Are we not thrown back, again, precisely upon the old Confederation? It is too plain to be argued. Four-and-twenty interpreters of constitutional law, each with a power to

decide for itself, and none with authority to bind anybody else, and this constitutional law the only bond of their union ! ” ¹

Far from having left to the states the determination of the constitutional questions which should inevitably arise, the people, Webster maintained, had created the Constitution with the express purpose of establishing a government that should not be obliged to act through state agency or to depend on state opinion and state discretion. “ Sir, the people have wisely provided in the Constitution itself, a proper and suitable mode and tribunal for settling questions of constitutional law. There are in the Constitution grants of powers to Congress, and restrictions on these powers. There are, also, prohibitions on the states. Some authority must, therefore, necessarily exist, having the ultimate jurisdiction to fix and ascertain the interpretation of these grants, restrictions, and prohibitions. The Constitution has itself pointed out, ordained, and established that authority. How has it accomplished this great and essential end ? By declaring, sir, that ‘ the Constitution, and the laws of the United States made in pursuance thereof, shall be the supreme law of the land, anything in the constitution or laws of any state to the contrary notwithstanding. ’ This, sir, was the first great step. By this the supremacy of the Constitution and laws of the United States is declared. The people so will it. No state law is to be void which comes in conflict with the Constitution, or any law of the United States passed in pursuance of it. But who shall decide this question of interference ? To whom lies the last appeal ? This, sir, the Constitution itself

¹ “ Works of Daniel Webster,” Vol. I, pp. 323-324 ; “ Writings and Speeches,” Vol. VI, pp. 56-57.

decides also, by declaring, 'that the judicial power shall extend to all cases arising under the Constitution and laws of the United States.' These two provisions cover the whole ground. They are, in truth, the keystone of the arch! With these it is a government; without them it is a confederation."

In a peroration of unsurpassed eloquence Webster advanced to the objective point of the entire effort, namely, a plea for the maintenance inviolate, and for all time, of the Union. "Mr. President," he said, "I have thus stated the reasons of my dissent to the doctrines which have been advanced and maintained. I am conscious of having detained you and the Senate much too long. I was drawn into the debate with no previous deliberation, such as is suited to the discussion of so grave and important a subject. But it is a subject of which my heart is full, and I have not been willing to suppress the utterance of its spontaneous sentiments. I cannot, even now, persuade myself to relinquish it, without expressing once more my deep conviction that, since it respects nothing less than the Union of the States, it is of most vital and essential importance to the public happiness. I profess, sir, in my career hitherto, to have kept steadily in view the prosperity and honor of the whole country, and the preservation of our Federal Union. It is to that Union we owe our safety at home, and our consideration and dignity abroad. It is to that Union that we are chiefly indebted for whatever makes us most proud of our country. That Union we reached only by the discipline of our virtues in the severe school of adversity. It had its origin in the necessities of disordered finance, prostrate commerce, and ruined credit. Under its benign influences, these great interests im-

mediately awoke, as from the dead, and sprang forth with newness of life. Every year of its duration has teemed with fresh proofs of its utility and its blessings; and although our territory has stretched out wider and wider, and our population spread farther and farther, they have not outrun its protection or its benefits. It has been to us all a copious fountain of national, social, and personal happiness.

“ I have not allowed myself, sir, to look beyond the Union, to see what might lie hidden in the dark recess behind. I have not coolly weighed the chances of preserving liberty when the bonds that unite us together shall be broken asunder. I have not accustomed myself to hang over the precipice of disunion, to see whether, with my short sight, I can fathom the depth of the abyss below; nor could I regard him as a safe counselor in the affairs of this government, whose thoughts should be mainly bent on considering, not how the Union may be best preserved, but how tolerable might be the condition of the people when it should be broken up and destroyed. While the Union lasts, we have high, exciting, gratifying prospects spread out before us, for us and our children. Beyond that I seek not to penetrate the veil. God grant that in my day, at least, that curtain may not rise! God grant that on my vision never may be opened what lies behind! When my eyes shall be turned to behold for the last time the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union; on states dissevered, discordant, belligerent; on a land rent with civil feuds, or drenched, it may be, in fraternal blood! Let their last feeble and lingering glance rather behold the gorgeous ensign of the republic, now known and honored

throughout the earth, still full high advanced, its arms and trophies streaming in their original lustre, not a stripe erased or polluted, nor a single star obscured, bearing for its motto no such miserable interrogatory as 'What is all this worth?' nor those other words of delusion and folly, 'Liberty first and Union afterward'; but everywhere, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart—'Liberty and Union, now and forever, one and inseparable!' ”¹

Webster's speech occupied some three hours on the 26th and was concluded, in the space of approximately an hour, upon the following day. To it Hayne made reply immediately and at some length, maintaining still that each state is "an independent sovereignty," that the union is built upon a compact, and that every party to the compact is a rightful judge of violations of the fundamental agreement by which all are bound together. The argument was closer and more forcible than that made from this point of view during the earlier portion of the debate, but in a brief series of concluding remarks Webster effectually demolished most of the assumptions upon which it was based.² The discussion of Foote's resolution was continued intermittently through upward of four months. More than half of the members of the Senate participated in it; but long before May 21st, when, in accordance with a motion of Webster, the proposal was laid upon the table, the country had ceased to have an in-

¹ "Works of Daniel Webster," Vol. III, pp. 341-342; "Writings and Speeches," Vol. VI, pp. 74-75.

² "Writings and Speeches," Vol. VI, pp. 76-80.

terest in it. Save for the debate to which the consideration of it led, the resolution would hardly be mentioned in books to-day.

That debate, however, was easily the ablest and the most momentous since the adoption of the Constitution. It served to set before the country with exactness hitherto unattained the position occupied by the two great schools of political thought which were battling for the popular support. The contest, of course, was not at all decisive. Large numbers of men whose views had been hazy were led unquestionably to the adoption of the strictly nationalist interpretation of the Constitution for which Webster argued; but, similarly, other men of ill-defined opinions were won over by the arguments of Hayne. And probably very few people whose ideas upon the subject discussed were already clear were affected, other than by being confirmed in their opinions. But the effect was at least to clarify the political thinking of the people of all sections of the country. At some points Webster was undeniably upon the surer ground, at other points Hayne. The facts of history were in no small degree favorable to Hayne's contention, and although Webster felt obliged to recur to argument from the intent of the framers of the Constitution and the ideas generally prevailing in 1787-1789, he was in these matters least convincing. Upon conditions and questions of an economic nature, notably the operation of the tariff, he likewise was at a disadvantage, and he strove in so far as possible to keep clear of this ground. The South had a real economic grievance, and Webster was well enough aware that it could not be argued out of existence.

On the other hand, in his contentions based upon

the impracticability of nullification as a working principle of government he had a tremendous advantage and one which he did not fail to use to the utmost. The most unanswerable portion of his argument was that wherein he demonstrated that nullification, in practice, could of necessity mean nothing but chaos. Finally, it is to be observed that the logic of the larger phases of the situation lay with the New Englander. If the Union for which he made his plea was not the Union which the fathers intended to establish, or that which actually existed in the days of Washington and John Adams, it was at any rate the Union in which, by the close of the fourth decade under the Constitution, the majority of the people of the United States had come to believe. It was the Union of Henry Clay, of Andrew Jackson, of Abraham Lincoln. And the largest significance of Webster's arguments in 1830 arises from the definiteness and force with which he invested popular convictions which as yet were vague and ill-expressed—convictions which "went on broadening and deepening until, thirty years afterward, they had a force sufficient to sustain the North and enable her to triumph in the terrible struggle which resulted in the preservation of national life."¹ In the judgment of an able student of the subject, it was the Second Reply, more than any other single event from the adoption of the Constitution to the Civil War, which "compact[ed] the states into a nation."²

¹ Lodge, "Webster," p. 179. ² McCall, "Webster," p. 63.

CHAPTER IX

THE CONTEST WITH JACKSON : NULLIFICATION

THE "Great Debate" commanded the attention of the country as had few events since 1789. The more important portions of the various speeches, especially Webster's Second Reply, were reproduced in the newspapers, and large numbers of copies were circulated in various pamphlet editions. Few people who were able or disposed in any measure to follow public affairs failed to read more or less of what had been said, and the more inspiring passages began to be declaimed, as they are to this day, by schoolboys in thousands of communities. In the political literature of the country the Second Reply took its place at once very near the top. Webster was the recipient of scores of letters of congratulation, some from intimate friends, some from less-known admirers, some from total strangers, some even from political opponents. "The glorious effect of your patriotic, able, and eloquent defense of New England," wrote H. A. Dearborn, "and the triumphant support you have given to the fundamental principles of the Constitution are not confined to the capital of the Union. The aroma comes to gladden our hearts, like the spicy gales of Arabia to the distant mariner. Never have I heard such universal and ardent expressions of joy and approbation."¹ "If anything," wrote Governor Lincoln of Massachusetts, "can rouse the people of the United

¹ H. A. Dearborn to Webster, February 5, 1830. Van Tyne, "Letters of Daniel Webster," p. 147.

States to a sense of their danger, and a timely protection of themselves and their free institutions, it must be the appeals to their intelligence and virtue which have been addressed to them from the Senate-chamber." ¹ "I return my thanks," wrote Madison, "for the copy of your late very powerful speech in the Senate of the United States. It crushes 'nullification,' and must hasten an abandonment of secession." ² "I congratulate you," wrote Clay, "on the very great addition which you have made during the present session to your previous high reputation. Your speeches, and particularly that in reply to Mr. Hayne, are the theme of praise from every tongue; and I have shared in the delight which all have felt. I trust that they will do much good." ³ Certain men, notably Clay and Jackson, might continue to enjoy a measure of popularity with the masses which Webster could never attain; but after 1830 no public personage in the country commanded quite such a measure of admiration for his patriotic fervor and his statesmanlike abilities.

The sittings of Congress during the spring of 1830 Webster found, as in truth they were, largely lacking in interest. There was discussion of the tariff, of Indian affairs, and of the bank, but no important legislation. The one somewhat startling development was Jackson's veto, May 27th, of a bill authorizing a subscription of stock by the United States in the Maysville, Washington, Paris, and Lexington Turnpike Road Company. The veto, which evinced unmistakably the President's

¹ Lincoln to Webster, March 17, 1830. Curtis, "Webster," Vol. I, p. 371.

² Madison to Webster, March 15, 1830. Webster, "Private Correspondence," Vol. I, p. 496.

³ Clay to Webster, April 29, 1830. Curtis, "Webster," Vol. I, p. 374.

opposition to national outlays upon internal improvements, furnished occasion for an acrimonious debate in the House; but in the Senate it was received with equanimity. "I never felt more completely weary of a session," Webster confided to a friend; "if it do not terminate soon, I shall run away and leave it."¹ From various quarters of the country the thanks and congratulations of old and new admirers continued to pour in. At Boston a public dinner was proposed, although on the ground that numerous Massachusetts representatives in Congress had rendered service so conspicuous that to celebrate the home-coming of one of the number would be invidious, the honor was declined.² An enterprising publisher brought out a volume of the senator's speeches—a book upon which Webster passed the comment that it was "well enough except the awful face, which seems to be placed in the front of the volume, like a scarecrow in a corn-field, to frighten off all intruders."³ From a substantial citizen of Boston came a service of plate as a testimony of "gratitude for your services to the country, in your late efforts in the Senate, especially for your vindication of the character of Massachusetts and of New England."⁴ It was also at this time that, at the suggestion of friends, Webster began the composition of an autobiography. The task, however, was soon discontinued, and the resulting sketch, meagre at best, stopped short with the happenings of 1816. As the

¹ Webster to Dutton, May 9, 1830. Webster, "Private Correspondence," Vol. I, p. 502.

² Webster to William Sullivan, May 22, 1830. *Ibid.*, Vol. I, pp. 502-503.

³ Webster to C. B. Haddock, February 6, 1831. *Ibid.*, Vol. I, p. 508.

⁴ Amos Lawrence to Webster, October 23, 1830. *Ibid.*, Vol. I, p. 507.

pages were written they were placed in the possession of George Ticknor, by whom they were preserved.

During the late summer and autumn of 1830 Webster participated in a notable prosecution arising from the murder, in the preceding April, of Joseph White, an aged and wealthy resident of Salem, Massachusetts. He was engaged to assist the Attorney-General and the Solicitor-General, and largely through the legal acumen which he displayed two persons of the name of Knapp were convicted and sent to the gallows. By the attorneys for the defense it was charged that Webster, in violation of statute, was receiving compensation from a private source ; but the court did not sustain the objection. The Knapp trials demonstrated, among other things, that Webster's skill as an orator before legislative bodies had not been developed at the expense of his power to argue after the fashion demanded by courts of law.¹

Scarcely was Jackson well established in the presidential office before the political leaders began to plan toward the election of 1832. The contest of 1828 had hinged primarily upon the personal issue of the vindication of the people's choice in 1824, and throughout the era of Jacksonian politics the element of personal leadership and personal loyalty never ceased to be of prime importance. During the years of Jackson's presidency, however, the crystallization of political parties which had set in after the election of 1824 proceeded with rapidity, and from the political developments of this period sprang the two great parties—Democrat and Whig—which throughout the remain-

¹ Webster's argument in the Knapp case is printed in "Works of Webster," Vol. VI, pp. 41-105, and "Writings and Speeches," Vol. XI, pp. 41-105.

ing two decades covered by Webster's lifetime divided between them the support of the mass of the nation. The composition of the Democratic party was determined upon lines that were simple and obvious. The Democrats originally were merely the adherents of Jackson. Their basal principles were the rule of the people and a moderately strict construction of the Constitution. In 1828 the first of these meant specifically the election of Jackson ; the second, the cessation of internal improvements at the national cost and a serious questioning of the validity of protective tariffs and of the maintenance of a national bank. After the accession of the party to power in 1829 both were given broader and varied applications as public developments afforded occasion.

The elements which stood outside of, and in opposition to, the Democratic party were heterogeneous and loosely organized. The principal tie by which they were held in some sort of affiliation was a common opposition to Jackson and Jacksonianism, and even after, in 1834, the several anti-administration groups became outwardly amalgamated under the general designation of the Whig party, the interests which they possessed in common consisted always more largely of political antipathies than of constructive policies. In 1828, and during the ensuing three or four years, the most important anti-Jackson group was the National Republicans, including, in the main, the "Adams men" of the period 1824-1828. The principles of this group were not very clearly defined, but in general they were based upon a liberal construction of the Constitution, and they included the advocacy of internal improvements, of protectionism, and the maintenance of the national bank, and depre-

cation of the elevation of a military hero to the presidency. Chief among the prominent members of the group in popularity and in capacity for leadership was Henry Clay.

In successive messages to Congress Jackson recommended the adoption of a constitutional amendment limiting the eligibility of the president to a single term of four or six years. The suggestion elicited, however, no response, and when the President's friends, principally the members of his "kitchen cabinet," set about the effecting of arrangements for his reelection in 1832 he did not feel called upon to discourage them. During several years Calhoun had been considered, and certainly had considered himself, Jackson's probable successor. In 1824, and again in 1828, when Calhoun was persuaded to content himself with the vice-presidency it was commonly supposed that a single term would suffice for Jackson and that for the South Carolinian the step from the second position to the first would be easy and certain. The Vice-President at no time, however, enjoyed the undivided support of his party, and between him and Jackson there arose a breach which of itself was sufficient completely to alter the tacitly accepted programme. During the spring of 1830 Jackson was made aware that when, in 1818, he stood in danger of official censure in consequence of his arbitrary management of the Florida expedition, it was Calhoun, then secretary of war, not Adams, the secretary of state, who had urged in the cabinet that some penalty be imposed. Calhoun, called suddenly to account, offered a labored explanation, but Jackson refused to accept it, and a bitterness was engendered which time but partially assuaged. As matters stood, without the

favor of Jackson no Democrat might hope to attain the presidency ; and not only did Jackson now acquiesce in the plan of his friends for a second term for himself ; he commenced systematically to groom Martin Van Buren for the succession in 1836. Calhoun's chances, wrecked at least temporarily by the withdrawal of the President's favor, were annihilated for all time two years later in consequence of the collapse of nullification. It is of interest that as early as February, 1830, Webster expressed himself as "quite sure" that it was the intention of Jackson to be a candidate for a second term.¹

Among the National Republicans there was an almost universal disposition to support the candidacy of Clay. From 1829 to 1831 Clay was in private life, but his popularity continued unimpaired, and from one state after another came demand that he be agreed upon as the party's standard-bearer. "As to future operations," wrote Webster from Washington in March, 1830, "the general idea here seems to be this: to bring forward no candidate this year, though doubtless the general impression is that Mr. Clay stands first and foremost in the ranks of those who would desire a change. I do not think there is the least abatement of the respect and confidence entertained for him."² From various quarters came the suggestion that Webster should himself be a candidate. The proposition was contemplated with interest, and there can be no question that, had circumstances shaped themselves favorably, the Massachusetts senator would have been willing to accept the leadership of his party against

¹ Webster to Jeremiah Mason, February 27, 1830. Webster, "Private Correspondence," Vol. I, p. 488.

² Webster to Pleasants, March 6, 1830. *Ibid.*, Vol. I, p. 492.

Jackson in 1832. It must be observed, however, that he was ready to admit the superior claims of Clay, and that at no time, so long as the candidacy of the Kentuckian seemed to contain the largest promise of party success, did he withhold from Clay his cordial support. The temptation to enter the lists immediately was enhanced by the peculiarly disturbed political situation arising from the Antimasonic movement. Antimasonry acquired its principal strength in those portions of the country which were the strongholds of National Republicanism, *i. e.*, New York, Pennsylvania, and southern New England, and by the National Republican leaders the spread of the movement was viewed with unfeigned apprehension. Webster's letters during the years 1830 and 1831 abound in allusions to the uncertainties injected into the political situation by the new propaganda. It was hoped that the Antimasons might be influenced to combine with the National Republicans in the support of Clay. But Clay was a Mason, and the Antimasonic leaders let it be understood that he could never be accorded their support; that, indeed, on the contrary, they proposed to hold a national convention at Baltimore to frame a platform and to nominate candidates of their own.

In this juncture many persons bent upon compassing the overthrow of Jackson besought Webster to announce himself a candidate. Webster was not a Mason, and the thought of those who approached him upon the subject was that National Republicans and Antimasons might well unite in the support of him as they were certain not to be able to do in the support of Clay. It was represented, as Webster himself believed, that if the Antimasonic movement should make further inroads upon the National Republican ranks the election

of Clay would be rendered totally impossible and his candidacy useless. To the appeals which poured in upon him, however, Webster turned a deaf ear. He recognized that Clay had been, and still was, the leader of the party; that large numbers of his adherents were so attached to him that they were certain to be offended by the displacement of their favorite by any other candidate; and that Clay himself expected the support of his party and confidently believed that he could be elected. Moreover, with the Antimasonic movement Webster had little sympathy. He regarded secret orders as of doubtful utility, but he deprecated the displacement of fundamental political issues by issues which were both ephemeral and essentially non-political. The upshot was that he not only refrained from taking the step which his friends advised but made it clear that, for the time, at least, his support would be thrown to Clay. Firmly lodged in his mind was the purpose one day to be an active candidate; but every consideration of prudence and of honor dictated postponement of that day. From Joseph Gales, senior editor of the *National Intelligencer*, came sentiments which, reëchoed in communications received from other friends, rendered easier the decision. "Of all men (I can say in writing what I would not to your face) I should prefer you to any other for the presidency. I hope in God the time will come which will give to that station 'one Roman more.' At present Mr. Clay is so prominently before the public, and so identified with Western feeling (as you will find him), and, through you and other friends, so acceptable to the East, and so qualified by experience, and so allied, and as it were, endeared by late associations, that we must go for him if we go alone. I, for one, cannot bear the idea

of any other being thought of by those who approve his politics." ¹

The numerous and urgent personal and social invitations with which Webster was deluged during the winter of 1830-1831 testified both to the breadth of his fame and the respect which his countrymen entertained for him. The most important of the functions which he consented to attend was a public dinner given in his honor March 10, 1831, at the City Hotel in New York. The dinner was intended primarily to afford the citizens of the metropolis an opportunity to express their appreciation of the services rendered the country by the Massachusetts senator in the debate with Hayne during the previous year. Chancellor Kent, who presided, voiced the sentiment of the gathering in a temperate but eloquent appreciation, and Webster himself spoke an hour and a half upon lines suggested especially by the current issue of nullification in South Carolina. Carefully eschewing party politics and avoiding even the appearance of an attack upon the Administration, he paid eloquent tribute to the framers of the Constitution, portrayed the progress achieved by the various portions of the country under the operation of the instrument, laid emphasis upon the vagaries and the dangers of nullification, and admonished the nation that doctrines subversive of the Union, although in disrepute, were still to be guarded against with ceaseless vigilance. In appropriateness to the occasion and loftiness of sentiment the effort has hardly been surpassed in the history of American after-dinner oratory. ² A visit to the West which had long been in contempla-

¹ Joseph Gales to Webster, March 27, 1831. Curtis, "Webster," Vol. I, p. 398.

² The speech is printed in "Works of Webster," Vol. I, pp. 195-215, and in "Writings and Speeches," Vol. II, pp. 45-65.

tion was at this time definitely deferred. Invitations from Western men and organizations were flattering, and Webster greatly desired to see the newer portions of the country; but a Western trip at this juncture was decided to be politically inexpedient. It was too likely to be construed unfavorably by the friends of Clay.

As the year 1831 advanced preparations for the campaign of 1832 were pushed with vigor, especially by the Anti-Jacksonians. On September 26th there assembled at Baltimore a national nominating convention of the Antimasonic party, called under authority of a gathering of Antimasons at Philadelphia a twelvemonth previously. Prior to the Baltimore meeting the leaders of the Antimasonic movement avowed an intention to place in the field a candidate who should be able to muster the strength of all opponents of the Administration. There was no such person; but in any case the performance fell further short of the promise than was necessary. Clay might as well have been named; for the nominee of the convention was William Wirt, who, like Clay, was a Mason, and who, in his speech of acceptance, felt obliged to confess that he had never seen any harm in the order. But Clay was deliberately passed over, and the chances of a National Republican victory were correspondingly diminished. Webster was among those who urged most forcefully that the issue of Antimasonry was too petty to be made the foundation of a political party and that the National Republicans ought not to go out of their way for the sake of arriving at harmony with the disaffected elements. Yet there is testimony that, following the Antimasonic convention, he was not without hope that the nomination of his party might be diverted to himself. He was convinced that the nomination of Clay

would mean inevitably the reëlection of Jackson, because under no circumstances might the Antimasons be expected to give Clay their support ; but with himself, a non-Mason, as a candidate, he believed the chance of party unification and victory would be at least fair. The members of the party, however, regarded Clay as their natural leader, and even Webster's more intimate friends were obliged to persuade him afresh that his hour had not yet come.

At the convention of the National Republicans, assembled at Baltimore December 12, 1831, Clay was nominated unanimously, and with him, for vice-president, John Sergeant of Pennsylvania. On recommendation of this convention a national assemblage of young men met in Washington in May, 1832, and, after accepting the nominations that had been made, drew up and adopted the first party platform ever promulgated by an American national convention. To Judge Spencer, of New York, Webster wrote pessimistically as follows, a month prior to Clay's nomination : " I believe Mr. Wirt's nomination has secured General Jackson's reëlection ! I believe he cannot take a vote from General Jackson, but may take a few from Mr. Clay, that is, the Vermont votes ; but a greater evil resulting from his nomination is that it greatly discouraged those who were desirous of producing a change in the General Administration, and greatly encouraged the friends of the present president. I hope, indeed, for a different result, but I do not expect it. It is true, the events of the session may produce new aspects of things and I am willing to anticipate the best."¹ In the decision that Clay must be the nominee

¹ Webster to Ambrose Spencer, November 16, 1831. Van Tyne, " Letters of Daniel Webster," p. 168.

Webster acquiesced, at the last, good-naturedly. Passing through Baltimore on his way to Washington at the time when the convention was sitting, he watched the proceedings throughout a day with interest; and after the body had completed its task and many of the members had repaired to the capital, Webster and a Massachusetts congressman, Nathan Appleton, invited a distinguished company to meet the nominee at dinner.

The conjecture that by the "events of the session" some new aspects of things might be produced proved well-founded. The session, extending from December, 1831, to July, 1832, was, indeed, one of rare importance. Its developments precipitated relentless and deadly war between Andrew Jackson and the anti-administration forces; and, although they did not endanger the reelection of the President, they contributed enormously to the welding of the discordant elements of the opposition into a substantial organization—the Whig party of later years—destined one day to bring the Jacksonian democracy to overwhelming defeat. Several important subjects came up for consideration, but the history of the session centres largely about the contest upon the proposed rechartering of the United States Bank.

The second bank of the United States was chartered for a period of twenty years by an act of April 10, 1816. In its earlier days the institution was unsuccessful, but under the presidency of Langdon Cheves (1819–1823) it got upon its feet and became a powerful and prosperous financial organization. The efforts of certain states to tax out of existence the branches which were established within their borders were circumvented, and in the great case of *McCulloch vs.*

Maryland the constitutionality of the establishment of both the Bank and its branches was upheld at every point by the highest tribunal of the land. For a variety of reasons, however, the Bank continued to be unpopular, especially in the South and West. At his accession to the presidency Jackson was not clearly on record in respect to the Bank, although there had been some indication that his attitude was not favorable. In the inaugural address the subject was passed without mention. In the first message to Congress, however, both the constitutionality and the expediency of the Bank were called in question, and in the message of December 7, 1830, there was recommended the establishment of a central fiscal institution of a wholly different type. In the message of December 6, 1831, the subject was committed to "the investigation of an enlightened people and their representatives." Late in 1831 the unfriendly position which the President had assumed brought the authorities of the Bank, principally the president, Nicholas Biddle, to a decision to procure with the least possible delay a charter prolonging the life of the institution. Application for a new charter was presented to Congress January 9, 1832, and March 13th a bill framed in accordance with the application was reported from a select committee in the Senate by Dallas of Pennsylvania.

The Bank Bill was taken up in the Senate May 22d and was debated in detail until June 11th, when it was passed by a vote of twenty-eight to twenty. In the House of Representatives a bill on the subject, reported February 10th, was displaced by the Senate bill, which was adopted, July 3d, by a vote of 107 to 86. The handling of the measure in the upper chamber was managed principally by Webster. Although not one

of those who urged the pressing of the issue at so early a date, Webster believed that, since the future of the Bank had been brought in question, action ought to be taken which should render the perpetuity of the institution certain. On May 25th he spoke at some length in advocacy of the bill, dwelling rather more upon the aspect of expediency than upon that of constitutionality, because the real extent of the constitutional objections that would have to be encountered was as yet unknown; and three days later he opposed successfully an amendment in accordance with which branches of the Bank, established only with the consent of the states in which they were located, should be subject to state taxation in like manner as other banks.¹ The substance of Webster's contention was that the Bank, during its sixteen years of existence, had assisted in the maintenance of a sound and uniform currency, had facilitated the collection and disbursement of the public revenue, had imparted stability to the rates of foreign exchanges, had promoted the interests of agriculture, commerce, and manufactures—in short, had “sought the accomplishment of the public purposes designed by its institution with distinguished ability and distinguished success.”

The message with which the President accompanied his veto of the Bank Bill, July 10th, was a curious compound of fiscal and constitutional absurdities. The veto itself was not unexpected, and there is no reason to doubt that it was approved by a majority of the people. The Jacksonian contention that the Bank wielded a dangerous monopoly and that the ownership of a portion of the stock of the institution abroad con-

¹ These speeches are printed in “Works of Webster,” Vol. III, pp. 391-415, and in “Writings and Speeches,” Vol. VI, pp. 124-148.

stituted a national menace struck home among a people accustomed at the merest mention of a "money power" to scent danger. The most startling aspect of the veto was the argument employed by Jackson to the effect that, although the constitutionality of the Bank had been affirmed by the Supreme Court, it was none the less within the sphere of competency of the chief executive to regard the creation of the institution as unconstitutional and to refuse to be influenced in his attitude or policy by the opinion of a coördinate branch of the government. "The Congress, the Executive, and the Court," it was declared, "must each for itself be guided by its own opinion of the Constitution. Each public officer who takes a public oath to support the Constitution swears that he will support it as he understands it, and not as it is understood by others. It is as much the duty of the House of Representatives, of the Senate, and of the President, to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval as it is of the Supreme Judges when it may be brought before them for judicial decision. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges; and, on that point, the President is independent of both."¹

The position which Jackson thus assumed, subversive as it was of all rational principles of constitutional law, was essentially untenable, and the mass of his fellow-partisans had the good sense in after years not to endeavor to maintain it. To Webster it fell to expose the fallacies involved in it, and the task was performed in a cogent speech delivered in the Senate on

¹ Richardson, "Messages and Papers of the Presidents," Vol. II, p. 582.

the day following the receipt of the veto message, when a second vote upon the measure was pending. With characteristic moderateness of tone, but with determination born of clear thinking and deep conviction, he demolished completely the President's remarkable doctrine. He showed that while the Executive is, and must be, privileged to entertain an independent opinion upon the constitutionality of a measure or an institution whose validity has not been passed upon by the courts, and to govern his actions accordingly, in the case of measures or agencies whose constitutionality has been affirmed by the highest tribunal of the land neither the Executive nor any other department of the government possesses the power to proceed in accordance with a contrary opinion. Otherwise, as was easy enough to demonstrate, a principal function of the Supreme Court would be reduced to a nullity and the one means of constitutional interpretation and adjustment upon which the stability of the governmental system depends would be swept away.

“When a law,” it was declared, “has been passed by Congress and approved by the President, it is now no longer in the power, either of the same president, or of his successors, to say whether the law is constitutional or not. He is not at liberty to disregard it ; he is not at liberty to feel or to affect ‘constitutional scruples,’ and to sit in judgment himself on the validity of a statute of the government, and to nullify it, if he so chooses. After a law has passed through all the requisite forms ; after it has received the requisite legislative sanction and the executive approval, the question of its constitutionality then becomes a judicial question, and a judicial question alone. In the courts that question may be raised, argued, and adjudged ; it

can be adjudged nowhere else. . . . It is to be remembered, sir, that it is the present law, it is the act of 1816, it is the present charter of the bank, which the President pronounces to be unconstitutional. It is no bank *to be created*, it is no law *proposed to be passed*, which he denounces ; it is the *law now existing*, passed by Congress, approved by President Madison, and sanctioned by a solemn judgment of the Supreme Court, which he now declares unconstitutional, and which, of course, so far as it may depend on him, cannot be executed. If these opinions of the President be maintained, there is an end of all law and all judicial authority. Statutes are but recommendations, judgments no more than opinions. Both are equally destitute of binding force. Such a universal power as is now claimed for him, a power of judging over the laws and over the decisions of the judiciary, is nothing else but pure despotism.”

Of the essential soundness of this argument there can be no question, and it may be observed that the fundamental task of Webster throughout his public career was, more than any other one thing, to enforce upon the American people an adequate appreciation of the proper function of the judiciary in the maintenance of the constitutional system. This had been the essential contribution of the debate with Hayne, and the message was reiterated with convincing effect in the speech on the Bank veto. The attempt which was made to carry the Bank Bill over the veto failed, and the Bank prepared to wind up its affairs. But in consequence of the controversy the unification of the coming Whig party was promoted and the breach between Jackson and the opposition was further widened.¹

¹ For the speech of July 11th see “ Works of Webster,” Vol. III, pp. 416-447, and “ Writings and Speeches,” Vol. VI, pp. 149-180.

The speech on the President's veto of the Bank Bill was Webster's most notable effort during the session. Other subjects, however, received at this time his close attention. One was the action of the Senate on the nomination of Van Buren as minister to Great Britain. In April, 1831, Van Buren, now popularly regarded as a candidate for the vice-presidency, and, prospectively, for the presidency itself, resigned the secretaryship of state, and shortly thereafter he was appointed minister to the court of St. James. He went abroad and was received by the government to which he was accredited. When, however, his nomination came up for endorsement by the Senate, a large number of members demurred, and, in the end, confirmation of the appointment was refused, on the ground principally that in 1829 Van Buren, in the capacity of secretary of state, had communicated to McLane, then going to London as American minister, instructions which cast reflections upon the administration of John Quincy Adams. In the course of a series of remarks made in secret session, January 24 and 26, 1832, Webster explained forcefully his reasons for voting to reject the President's nomination.¹ The essential reason was that, in his judgment, Van Buren had been sent abroad as "the representative of his party and not as the representative of his country." The subject was admitted to be a delicate one and in speaking upon it Webster avowed that he had performed the most unpleasant act of his public life—an act, however, which, involving a solemn public duty, might not be shunned. There can be little question that Webster was impelled by an honest belief that, under the circum-

¹ "Works of Webster," Vol. III, pp. 356-368; "Writings and Speeches," Vol. VI, pp. 89-101.

stances, Van Buren was not a worthy, representative of the nation, but it is certain enough that many of those who voted for the recall of the former secretary were actuated by motives which were frankly partisan. The vote was so arranged that there was a tie (twenty-three to twenty-three), to the end that Vice-President Calhoun might have the satisfaction, by employment of the casting vote, of compassing the humiliation of the rival by whom he had been displaced. "It will kill him, sir," declared the South Carolinian to a friend, "kill him dead. He will never kick, sir, never kick." In point of fact, the consequence was far otherwise. No other single circumstance contributed so heavily to establish Van Buren in the favor of the Jackson party and to smooth for him the road to the presidency.

The activities of Webster during the session included a careful study of the questions involved in the apportionment of representatives in the lower branch of Congress. To effect the reapportionment which was due on the basis of the results of the fifth census, a bill was introduced in the House of Representatives providing that representatives should be allotted to the several states in the ratio of one for every 47,700 inhabitants. As upon earlier occasions of the kind, no provision was made for the representation of fractional remainders, and considerable numbers of people in the aggregate would find themselves, if not strictly unrepresented, at least devoid of proportionate power in the national legislative body. On March 27, 1832, the House bill was referred in the Senate to a select committee, and on April 5th Webster presented, in the name of this committee, a carefully considered report in which it was urged that the proposed measure should be so amended as to make provision for the representa-

tion of major fractions.¹ "Let the rule be," it was advocated, "that the whole number of the proposed House shall be apportioned among the several states according to their respective numbers, giving to each state that number of members which comes nearest to her exact mathematical part or proportion." Notwithstanding the cogency of the arguments which were employed in behalf of this procedure, Congress could not be brought upon this occasion, nor indeed upon that of the next decennial apportionment, to apply the reasonable and obvious remedy. By act of May 23, 1850, however, the principles urged by Webster's committee were enacted into law, and they have since been adhered to without variation.

In May, 1832, a Democratic convention at Baltimore "cordially concurred" in the nomination which Jackson had already received at the hands of sundry legislatures and mass-meetings and complied with the well understood wishes of the President by placing Van Buren in nomination for the vice-presidency. No platform was promulgated. None was needed. The Administration went before the country solely upon its record. The election in November resulted in a decisive Democratic triumph. Jackson received two hundred and nineteen electoral votes, Clay forty-nine, John Floyd eleven,² and Wirt seven. The popular vote for Jackson was 687,502; that for Clay and Wirt combined was but 530,189. The real object of the Democratic gathering at Baltimore had been to unite the party in the support of Van Buren for the vice-presidency, and an important result of the election was

¹ For the text of this report see "Works of Webster," Vol. III, pp. 369-390, and "Writings and Speeches," Vol. VI, pp. 102-123.

² These votes were cast by the electors of South Carolina.

to place "the Little Magician" definitely in line of succession to the higher post.

Meanwhile the crisis which long had been threatened by the tariff controversy had been precipitated. In his annual message of December 6, 1831, Jackson urged a revision of the tariff, and during the session which ensued a number of tariff bills were introduced, exhibiting, however, no appreciable consensus of interest or of policy. In the end a tariff measure was enacted, that of July 14, 1832; but the lowering of rates for which it made provision did not involve, and was not intended to involve, any essential modification of the protective system. Thereafter the nullification party in South Carolina fast gained the ascendancy. The state's representatives in Congress expressed the solemn conviction that all hope of relief at the hands of Congress had disappeared and recommended that independent action be no longer delayed. Late in October the legislature was assembled, and by heavy majorities it passed a measure providing for a convention, which met at Columbia November 19th. By a vote of 136 to 26 the convention, November 24th, adopted an ordinance declaring the tariff acts of 1828 and 1832 "null, void, and no law"; and three days later the legislature reassembled for the purpose of taking such steps as should be deemed necessary to maintain the position which had been assumed. The date fixed for the taking effect of the ordinance was February 1, 1833.

In the face of this unprecedented situation the attitude of the Administration was unhesitatingly firm. In a message of December 4th the President again recommended the readjustment of the tariff, but six days later there was issued a proclamation to the people of

South Carolina in which the right of nullification was specifically denied and the inhabitants of the disaffected state were admonished to retrace the revolutionary steps which had been taken. "I consider," affirmed the President, "the power to annul a law of the United States, assumed by one state, incompatible with the existence of the Union, contradicted expressly by the letter of the Constitution, unauthorized by its spirit, inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed."¹ The proclamation of December 10th takes rank as the ablest state paper of the Jacksonian era. With the preparation of it the Secretary of State, Edward Livingston, is known to have had much to do, but the credit for the bold stand taken by the Administration belongs, of course, to Jackson. The constitutional law upon which the proclamation was based was identical with that expounded by Webster in the great debate of 1830, and it was made as plain as words could make it that the authority of the federal government would be enforced by means which, if need be, would not stop short of the use of arms. When the South Carolina legislature replied to the proclamation in a tone that was deemed derogatory, Jackson was more than ever aroused, and there was no guarantee that his repressive measures might not include even capital punishment of the South Carolina leaders. And the chief of these leaders was Calhoun, once vice-president, but after his resignation of that post spokesman of the recalcitrant state upon the floor of the Senate.²

¹ Richardson, "Messages and Papers of the Presidents," Vol. II, p. 643.

² Hayne was inaugurated governor of South Carolina December 13, 1832. Two weeks later Calhoun resigned the vice-presidency and took Hayne's seat in the Senate.

At the dinner given in his honor in New York, in March, 1831, Webster had warned his hearers that, contrary to the assumption of some people, the menace of nullification was not terminated. Throughout ensuing months he watched the situation with growing anxiety. With the tariff proceedings of 1832 he had little to do, but he opposed every proposal which contemplated an abandonment of the protective principle. On October 12, 1832, he delivered at the state convention of the National Republicans of Massachusetts, held at Worcester, a lengthy speech reviewing the existing situation and arraigning the Administration for its alleged shortcomings. The burden of the argument was that the principles and measures of the Administration were "dangerous to the Constitution and to the union of states," in respect to removals from office, the use of the veto, hostility to internal improvements, and tolerance of the defiance which in the state of Georgia had been exhibited toward certain decisions of the Supreme Court. It was contended, furthermore, that the President had not shown himself clearly to be ready to lead the country in resistance to nullification and that, in the event of a crisis, the course which the Administration would be most likely to pursue would be objectionable and dangerous. The judgment which Webster visited upon the President in the last-mentioned matter was clearly premature, and within four months the senator was destined to find himself in the curious position of one fighting to uphold the policies of the President against the opposition of not a few of Jackson's accustomed supporters and fellow-partisans.¹

¹The text of the Worcester speech is in "Works of Webster," Vol. I, pp. 237-278, and in "Writings and Speeches," Vol. II, pp. 87-128.

The nullification episode stirred the feelings of Webster profoundly. During the autumn of 1832 Calhoun published a fresh defense of nullification, in the form of a letter to Governor Hamilton—a defense which Webster pronounced “far the ablest and most plausible, and therefore the most dangerous, vindication of that particular form of revolution which has yet appeared.” Webster’s first thought was to make a written reply, and, October 29th, he addressed to Chancellor Kent an inquiry as to whether he might be permitted to cast the reply in the form of an answer to a supposititious letter from that eminent jurist.¹ Impressed that the crisis was “indeed portentous and frightful,” Kent extended the desired permission; but when it became known that, having resigned the vice-presidency, Calhoun was to reappear in Congress as senator from South Carolina, Webster decided that the subject would better be threshed out in oral debate within the legislative chamber.

On January 16, 1833, the President transmitted to Congress a message recommending the enactment of a measure to enable him to meet the threatened resistance to the laws of the Union. The Judiciary Committee of the Senate, to which the message was referred, quickly responded by introducing a bill “further to provide for the collection of duties on imports.” Upon the “Force Bill,” as its opponents denominated it, the Administration members, however, fell into sharp division. To its adoption most Southerners, although adherents of Jackson, were opposed, and the situation became such that aid was sought openly among the more independent of the anti-administra-

¹ Webster to Kent, October 29, 1832. Webster, “Private Correspondence,” Vol. I, p. 526.

tion members, and first of all from Webster. February 8th, at the behest of Grundy and other Jacksonian leaders, Webster rose in his place and delivered a clinching argument in behalf of the bill. He showed how completely it was an Administration measure and by the force of his logic placed in a difficult position those of Jackson's supporters who had been ill-disposed toward it. He declared that the bill was "indispensable" and contended that no course was open to the President save that which he had taken. The nation, it was affirmed, was demanding steps such as the measure contemplated.

The *rapprochement* of Webster and Jackson frightened Calhoun, who thereupon besought Clay to bring in a tariff measure calculated to allay the controversy. In the House a bill to reduce and alter duties had been reported from the Ways and Means Committee, December 27th, by Verplanck of New York, and this measure was pending when, February 12th, Clay introduced in the Senate a bill designed eventually to reduce the tariff to a revenue basis, although without definitely abrogating the principle of protection. As early as the beginning of the session Clay had in mind the possibility of a compromise, and he now urged with all his eloquence the adoption of a scheme from which, it was believed, the largest practicable measure of satisfaction might be derived by all parties concerned. By Webster the proposition was opposed with vigor. February 12th he spoke briefly upon it, and the next day he offered a series of resolutions in which his own position was stated with succinctness. The last of these resolutions was to the effect that "no law ought to be passed on the subject of imposts, containing any stipulation, express or implied, or giving any

pledge or assurance, direct or indirect, which shall tend to restrain Congress from the full exercise, at all times hereafter, of all its constitutional powers, in giving reasonable protection to American industry, countervailing the policy of foreign nations, and maintaining the substantial independence of the United States.”¹

For the original adoption of the protective principle Webster, as has been explained, was in no wise responsible. He considered, however, that, for better or for worse, that principle had been adopted definitely as early as 1824, that its maintenance had become one of the abiding policies of the nation, and that if it were to be abandoned the great mass of capital and business which had grown up under the shelter of the protective system would be placed in jeopardy. There was, in his judgment, no present question of the constitutionality of protectionism, and he believed that to offer concessions at a time when the laws of the country were being defied would weaken the position which the executive authorities had assumed and would encourage the prolongation and the repetition of assaults upon the perpetuity of the Union. He regarded it as especially undesirable to tie the hands of future congresses in respect to tariff legislation. It was not, therefore, the mere reduction of duties to which objection was raised, but rather the proposition to obligate the government for a term of years not to exercise its proper authority within a given field, and, perhaps above everything else, the threatened enactment of a weakening measure in the face of, and by reason of, impending resistance to the exercise of a constitutional power. In the crisis the thing for

¹ Curtis, "Webster," Vol. I, p. 449.

which Clay stood preëminently was compromise ; that for which Webster stood was authority.

Discussion of Clay's tariff bill and of the Force Bill proceeded simultaneously. On February 15th and 16th Calhoun delivered a great speech in opposition to the Force Bill and in advocacy of a series of resolutions which he had introduced January 22d affirming the sovereignty of the states and maintaining that, "as in all other cases of compact among sovereign parties, without any common judge, each has an equal right to judge for itself, as well of the infraction as of the mode and measure of redress." The ground traversed was familiar, but now that a state was proposing actually to put to the test the doctrines propounded the arguments which were made acquired added seriousness, if not increased impressiveness. As a defense of nullification, it is commonly regarded that this speech surpassed the effort of Senator Hayne in 1830. It, in fact, may be regarded as the classic treatment of the subject, the product of the ripened thought and experience of the most influential, and perhaps the ablest, exponent of the doctrines involved.

The effort of Calhoun prompted Webster to make the lengthy and weighty reply embodied in the speech "The Constitution not a Compact between Sovereign States" of February 16th. Some days subsequently he wrote to a friend : "It does not seem magnanimous to underrate one's adversary, but, truly, between ourselves, I was greatly disappointed in Mr. Calhoun. He has little argument,—at least so it appeared to me."¹ None the less, Webster deemed the arguments

¹ Webster to Nathan Appleton, February, 1833. Van Tyne, "Letters of Daniel Webster," p. 180.

of his opponent worthy an answer which fills more than fifty pages of print ; and by men who were less established in matters of constitutional faith the magnitude of the former vice-president's effort was universally admitted. The speech which Webster delivered upon this occasion was less rhetorical and more closely argumentative than the Second Reply to Hayne in 1830. The ground traversed in the two discourses was much the same, except that in the present effort more attention was devoted to the historical and theoretical aspects of the subject. It is undoubtedly true, as Mr. Lodge has emphasized, that the argument from history was the least convincing which could have been employed—that in attempting to demonstrate that the constitutional principles of 1833 were those of 1789 the speaker was forced back upon an interpretation of history which was not in accordance with fact.¹ None the less, the judgment of Mr. Curtis may be accepted, that no speech, perhaps, ever made by Webster was “so close in its reasoning, so compact, and so powerful.”² The purport of the argument was (1) that the Constitution is not a compact, (2) that no state possesses authority to dissolve the relations existing between the government of the United States and the people, (3) that the final interpreter of the powers of the government is the Supreme Court, and (4) that “an attempt by a state to abrogate, annul, or nullify any act of Congress, or to arrest its operation within her limits, on the ground that, in her opinion, such law is unconstitutional, is a direct usurpation on the just powers of the general government, and on the equal rights of the states, a plain violation of the Constitu-

¹ Lodge, “Webster,” pp. 216-217.

² Curtis, “Webster,” Vol. I, p. 451.

tion, and a proceeding essentially revolutionary in its character and tendency." ¹

The carrying of the Force Bill by overwhelming majorities in both branches of Congress rendered it manifest that the full power of the government was to be available for the execution of the laws in South Carolina. In the Senate the vote was thirty-two to one, Tyler of Virginia alone voting in the negative, and upward of half of the members, among them Calhoun, refusing to vote at all. The vote in the House, March 1st, was 149 to 47. Meanwhile, February 19th, Clay's tariff bill was reported from committee in the Senate. Against the enactment of the measure Webster spoke vigorously six days later, but the tide was running too strongly in the direction of compromise to be stemmed. In the House the text of Clay's bill was substituted for the Verplanck project and, February 26th, the measure was adopted by a vote of 119 to 85. March 1st it was passed in the Senate, twenty-nine members voting for it and Webster and fifteen others voting against it. Thus, the Force Bill, intended to empower the President to execute the laws in South Carolina, and the Compromise Tariff Bill, intended to remove the conditions which had led to the attempt to evade these laws, were brought to the President for approval simultaneously; and assent was at once accorded both measures.

The enactment of the compromise tariff provided for all parties an easy and honorable way of escape from an extremely difficult situation. March 15th, by an overwhelming vote, the reassembled South Carolina convention rescinded the ordinance of nullification

¹ "Works of Webster," Vol. III, pp. 448-505; "Writings and Speeches," Vol. VI, pp. 181-238.

and the legislative acts which had been passed to give it effect; and although three days later an ordinance was voted "nullifying" the Force Bill, the episode was in reality at an end, with both sides claiming a victory. The settlement was not as Webster and many others would have had it, but it was probably the most reasonable that could have been reached under the circumstances. That the difficulty, however, was removed for all time Webster joined with many in doubting. "I agree with you also entirely in the opinion," he wrote to an anti-nullification South Carolinian, "that the danger is not over. A systematic and bold attack, now just begun, will be carried on, I apprehend, against the just and constitutional powers of the Government, and against whatsoever strengthens the union of the states. For my own part, I look forward to an animated controversy on these points for years to come; and if we can sustain our side of the controversy, my dear sir, with success, as I hope and believe we may, we shall transmit to posterity an inheritance above all price."¹

¹ Webster to Perry, April 10, 1833. Curtis, "Webster," Vol. I, p. 458.

CHAPTER X

PUBLIC FINANCE AND WHIG POLITICS

IN the early summer of 1833 Webster found leisure to pay the Middle West a visit which had been long in contemplation. Traveling from Boston by way of Albany, he tarried in the valley of the Genesee to study the agriculture of that attractive region, visited Buffalo, where he declined the honor of a formal reception, pressed on to Columbus, and at length arrived at Cincinnati, where, at a public dinner, he spoke for an hour in response to the toast "the profound expounder of the Constitution, the eloquent supporter of the Federal Union, and the uniform friend and advocate of the Western country." By reason of the prevalence of the cholera in many of the Western cities, and likewise on account of his desire to return to New England before the close of a visit of the President to that section,¹ he refused the scores of invitations which poured in upon him from various remoter states and cities, and from Cincinnati turned back eastward. Among the invitations was one from Clay, urging an excursion to Louisville and Lexington, and one from a committee of citizens of Nashville, the home of Jackson. On the return trip he arrived, July 4th, at Pittsburgh, where, four days later, he was tendered an informal and highly enthusiastic outdoor reception and was induced

¹ Jackson left Washington early in June and, after sojourning in Boston and vicinity throughout the month, returned to the capital July 4th, while Webster was yet on the way from the West.

to deliver an address of some length.¹ So notable were the amenities of the trip that the *National Intelligencer* was moved to declare : " Mr. Webster has wrought little less than a miracle upon the party feuds and divisions of the Western country ; he has fairly extinguished the one and obliterated the other." It was hardly to be expected, however, that the felicitations of an hour would exert an effect that would prove enduring, and ere long not only were the " feuds and divisions" of the West as rampant as ever they had been, but Webster himself was plunged afresh in the swirl of party controversy.

A memorandum bearing the laconic title " Objects," without date, but drawn up about the time of the Western journey, sets forth in an illuminating fashion Webster's programme of public policy at this stage of his career. It runs, in part : " First, and principal, to maintain the Union of the states, and uphold the Constitution, against the attempts of its enemies, whether attacking it directly by nullification, or seeking to break it up by secession. Second, to support the Administration, fairly, in all its just and proper measures ; and especially to stand by the President in his patriotic constitutional principles. Third, to maintain the cause of American Capital, American Industry, and more than all *American Labor*, against foreign and destructive competition, by a reasonable, moderate, but settled and permanent system of protective duties. Fourth, to preserve the general currency of the country, in a safe state, well guarded against those who would speculate on the rise and fall of circulating paper ; and to this end to advocate the

¹ " Works of Daniel Webster," Vol. I, pp. 291-306 ; " Writings and Speeches," Vol. II, pp. 141-156.

renewal of the Bank of the U. S. as the best means of promoting this end, and as especially useful in this part of the Country, as a check against the combination of other monied influences. Fifth, to resist and oppose the oppression and tyrannical combination of the Regency. . . . Sixth, I oppose, vigorously and unceasingly, all unlawful combinations, all secret oaths, all associations of men, meeting in darkness, and striving to obtain for themselves, by combination and concert, advantages not enjoyed by other citizens of the Republic.”¹

At the height of the contest over nullification the Administration had been pleased to profit by the support of so powerful an advocate as Webster, and after the crisis had passed the President took pains personally to express his appreciation of the service that had been rendered. It is the testimony of Benton that many people at the time imagined that thereafter Webster and Jackson would be found in substantial accord and that a cabinet appointment or an important post abroad would be the senator's reward. If, however, there were those who really contemplated such a possibility, they must have been persons whose acquaintance with the two men was far from intimate. For in training, temperament, and ideas there was between the two the most complete incompatibility. They had in common an undying devotion to the Union and a purpose to promote under all circumstances the enforcement of the laws; but beyond that they could not go far together. “On many points of what was then the proposed future policy of the Government,” asserted Webster himself in 1838, “there was no great difference of opinion; but there was an irrec-

¹ Van Tyne, “Letters of Daniel Webster,” p. 183.

oncilable difference on the great question of the currency." ¹ And it so happened that throughout the Jacksonian period the one subject which was most persistently thrust into the foreground of congressional and public controversy, even beyond nullification itself, was the currency.

During the winter of 1832-1833 the hostility of the President toward the Bank assumed a new and startling aspect. Not content with the defeat of the measure to recharter the institution, Jackson now proposed that the funds of the United States deposited with the Bank should be withdrawn forthwith and that all deposits should be made thereafter in state banks to be selected by the Executive. The Bank of the United States was to be left to eke out such an existence as it might until its charter should expire in 1836. The project was under consideration as early as December, 1832, and by the following March Webster was informed of it, although he was not at liberty to speak publicly concerning it. At the end of May McLane, who was opposed to the removal, was succeeded in the Treasury by William Duane, who was supposed to be favorable, and after his return from the New England tour, in July, the President resolved definitely upon the execution of the plan. It is suggested by Mr. Curtis that had Webster been in Boston upon the occasion of the President's sojourn there he might have exerted his influence successfully to avert the step which was impending. This is, of course, sheer conjecture. Without question Jackson was laboring under the disadvantage of bad advice upon the subject, but there is no reason, other than his friendly disposi-

¹ Memorandum of 1838, based on conversations with Edward Livingston in 1833. Cited in Curtis, "Webster," Vol. I, p. 464.

tion toward Webster at this time, for supposing that he would have been turned by a political opponent from a course which had long appealed to him as entirely logical and necessary. In any event, on September 18th he read to the cabinet a paper announcing his final purpose; two days later the decision was made public; on September 23d Duane, refusing to lend himself to the scheme, was succeeded at the Treasury by Roger B. Taney; on September 26th the new secretary signed the order for the removal; and October 1st deposits began to be made in the first of the state institutions to be selected for the purpose, the Girard Bank of Philadelphia.

The effect of this sudden shift in the relations of the government with the banking institutions of the country was to precipitate wide-spread panic and commercial distress, and when Congress reassembled, in December, 1833, the two houses were deluged with memorials calling for relief. To the course of the Administration Webster, who at this critical juncture became chairman of the Senate Committee on Finance, was unalterably opposed. The subject of public finance was one in which he had long manifested interest in a very special degree. He represented a section of the country in which business and trade were highly developed and in which the property of the people was wrapped up absolutely with the maintenance of a sound and uniform currency. He was not a thoroughgoing "hard-money" man. On the contrary, he regarded paper money as a desirable adjunct of every well-ordered currency system. But he would have the circulation of depreciated paper repressed by the refusal of the government to accept as revenue any paper which was not actually and immediately con-

vertible into specie—a policy which, it may be said, had been maintained without deviation through upward of two decades. He believed, furthermore, that the continuous existence of a great financial institution of the type of the Bank of the United States was necessary to preserve the stability and uniformity of the currency, and he considered the banks of the states to be altogether incapable of performing the service which had been performed by that Bank. He recognized in 1833 that as matters stood hardly more was to be hoped for than a possible agreement to prolong for a brief period after 1836 the existence of the Bank ; but the existence of the Bank would be of little avail unless the government should continue to transact business through the institution, so that the most immediate task was to bring to bear the pressure necessary to compel a reversal of the President's policy respecting the deposits.

On December 26th Clay introduced in the Senate two memorable resolutions designed to comprise at the same time a censure of the President and an assertion of the ultimate authority of Congress over the subject under controversy. The first declared that, by dismissing Duane because he would not order the removal of the deposits, and by appointing Taney because he was willing to perform this act, the President had “assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both.” The second affirmed that the reasons assigned by Secretary Taney for the removal were “unsatisfactory and insufficient.” Throughout the earlier months of 1834 discussion of these resolutions and of kindred proposals occupied the attention of the Senate almost to the exclusion of everything else. Be-

tween January 20th, when he presented a memorial adopted by a public meeting in Boston, and the adjournment of Congress, in June, Webster alone spoke upon the subject no fewer than sixty-four times. On February 5th he submitted for the Committee on Finance an elaborate report on the second of Clay's resolutions, recommending its adoption,¹ and March 18th he introduced and defended a bill for the prolongation of the Bank charter during a period of six years.² On March 28th both of Clay's resolutions were adopted, the one by a vote of twenty-six to twenty, the other by a vote of twenty-eight to eighteen. The subject, however, continued uninterruptedly under consideration, for although Webster's bill was not carried, on April 17th the President sent to the Senate a message in which he protested against the censure which had been passed upon him as "wholly unauthorized by the Constitution, and contrary to its spirit and to several of its express provisions," and requested that the message and protest be entered at length on the journals of the Senate. This remarkable rejoinder precipitated a notable outburst of debate. Into it Webster was drawn with much reluctance, for he still appreciated too deeply the services of the President in the crisis which had been passed to be able to find the satisfaction which some of his colleagues found in subjecting him to attack. He felt very strongly, however, that the balance of power contemplated in the Constitution was menaced by the attitude which Jackson had assumed, and on May 7th he was led to deliver a powerful speech in defense of the recently adopted resolutions of censure.

¹ "Writings and Speeches," Vol. VII, pp. 50-81.

² *Ibid.*, Vol. VII, pp. 82-102.

The propositions which were advanced in the presidential protest were, in brief, (1) that the Constitution, by vesting in the President the supreme executive power, including the power of appointment, was intended to give him discretionary control over the tenure and conduct of all subordinate executive officials; (2) that notwithstanding the provision of the Bank charter to the effect that the public deposits might be discontinued only on order of the Secretary of the Treasury, in which event that officer should lay before Congress his reasons for the course adopted, the President might interpose his own judgment, instruct the Secretary to remove the deposits, and dismiss him from office if he did not comply; and (3) that neither branch of Congress can rightfully take up or consider for the purpose of censure, any official act of the President, without some view to legislation or the institution of impeachment proceedings. The principal issue raised by the Protest was, then, "whether the general executive power of the President is of such a character that legislation cannot direct a subordinate officer to perform duties which are executive in their nature, without subjecting that officer, in the performance of these duties, to the control of the President."¹ In his speech upon this subject Webster surveyed with incisiveness the debatable ground which lies between the defined limits of the executive and legislative departments and sought to show that the position which Jackson had assumed was untenable.² The general power of appointment and removal was, of course, recognized. But it was maintained that, even though

¹ Curtis, "Webster," Vol. I, p. 489.

² "Works of Webster," Vol. IV, pp. 103-147; "Writings and Speeches," Vol. VII, pp. 103-147.

the President might change the officer, the duties of the office must remain as determined by Congress, and they must be discharged by the successor in accordance with the law. It cannot be said that the argument, masterful as it was, was at all points conclusive. The removal of the deposits is commonly adjudged a serious mistake, but the controversy which arose from it, in so far as it was of a purely constitutional character, involved some elements of advantage on both sides. The ultimate right of protest which Jackson asserted can hardly be questioned; nor can the President's contention that the grant of the power of impeachment precludes the indulgence of Congress in mere "censure." On the other hand, it is scarcely to be admitted that the President had a right to demand the admission of his protest to a place in the Senate journals.

Immediately following Webster's speech the Senate adopted, by substantial majorities, a series of resolutions declaring that the Protest asserted powers as belonging to the President which were inconsistent with the authority of Congress and contrary to the Constitution, that the President had "no right to send a protest to the Senate against any of its proceedings," and that the Protest should not be entered upon the journals. The opposition majority was powerless, however, to do more than thus to express its hostility, for in the House of Representatives the Jacksonians commanded a substantial majority, and when the Senate resolutions were transmitted to that body they were merely laid upon the table. So far as the immediate circumstance went, the triumph of the President was complete. A clear result of the controversy, however, had been to consolidate more effectively than hitherto the

elements from which the Whig party was being gradually evolved ; and in time the effect of this consolidation was destined to be felt in the collapse of the Jacksonian régime under repeated Whig assaults.

During the sessions of 1834-1835 and 1835-1836 the attention of Congress was absorbed in no small measure by a threatening situation which had arisen between the United States and France. By a convention concluded July 4, 1831, the French Government had obligated itself to pay to the United States the sum of twenty-five million francs in liquidation of claims of American citizens arising from commercial injuries received during the era of the Napoleonic wars. Payment was to be made in six annual instalments, beginning one year from the exchange of ratifications of the treaty (February 2, 1832). The treaty was unpopular in France and when, in February, 1833, the first payment fell due, a draft on the Minister of Finance, presented through the Bank of the United States, was refused on the ground that the Chambers had adjourned without making an appropriation to meet it. Two years of inaction and vain parleyings ensued, and in December, 1834, President Jackson, irritated by the delay, laid before Congress a complete history of the negotiations and recommended that a measure be passed authorizing reprisals upon French property in the event that no appropriation should be made at the approaching session of the French Chambers. In Paris the President's recommendation was taken as a threat, and in January, 1835, the French minister at Washington was recalled and the American minister to France, the ex-secretary of state Livingston, was given his passports. The Chambers were disposed to insist that before payment of the debt should be begun

President Jackson should be required to tender an apology for the insult which had been offered. Nothing was more certain than that such an apology would not be forthcoming, and war seemed imminent. In the Senate, however, the Committee on Foreign Affairs, under the chairmanship of Clay, reported that it would be inexpedient to adopt the President's recommendation. "There are," wrote Webster, "three parties in Congress on this question: the Jackson party proper, which, like its chief, feels very warlike; the Southern anti-Jackson men, who seem to me to be in the other extreme; . . . and then there is the rest of us, who desire to say and do nothing to encourage France in her neglect of our rights, and who are not willing, nevertheless, to hazard the peace of the country without absolute necessity."¹ It was this third group which, fortunately for all concerned, controlled the policy of the houses throughout the crisis. In the annual message of December 7, 1835, the President declared that the honor of his country should never be stained by an apology from him "for the statement of truth and the performance of duty," and in a special message, January 15, 1836, he again counseled reprisals and naval preparedness. On January 27th, however, Great Britain offered mediation and, the offer being accepted, Jackson was able to inform Congress, May 10th, that the difficulty had been adjusted and that the four instalments then due had been paid.

In connection with the French episode Webster delivered in the Senate two notable speeches. The first was in defense of a bill proposing that the United

¹ Webster to William Sullivan, February 23, 1835. Curtis, "Webster," Vol. I, pp. 515-516.

States should assume a definite obligation for claims arising from French depredations on American commerce prior to the conclusion of the convention of October 1, 1800. These claims, aggregating five million dollars, had been excluded from the convention named, and throughout a generation the claimants, cut off from recourse against France, had insisted that the government of the United States should make reparation for their losses. In his speech of January 12, 1835, Webster urged that the question was not one of party nor of public policy but one simply of justice to private individuals.¹ Over the opposition of Benton, Tyler, Wright, and other influential members, the measure was carried in the Senate, January 28th. In the House, however, it failed to be acted upon, and in point of fact the "French spoliation claims" were never put in the way of actual adjustment until, in 1885, they were submitted formally to the Court of Claims.

The second of Webster's important speeches occasioned by the French entanglement was that of January 14, 1836, in explanation of his opposition to the Fortification Bill of the previous year. March 3, 1835, when the last session of the Twenty-fourth Congress was almost at an end, the House of Representatives adopted and transmitted to the Senate an amendment to the pending Fortification Bill stipulating that the sum of three million dollars should be appropriated, to be expended by the President for the improvement of the military and naval services, provided such an outlay should be deemed necessary for the defense of the country prior to the next meeting of Congress. In the Senate the amendment was opposed with spirit by

¹ "Writings and Speeches," Vol. VII, pp. 152-178.

Webster, on the double ground that no such appropriation had been asked for by the Executive and that the objects of the proposed expenditure were left without specification. The Senate declined to concur in the proposal. The House, however, refused to abandon it, and although a conference committee, of which Webster was a member, brought in a report favoring specific appropriations aggregating eight hundred thousand dollars, the House failed to act upon the report and the entire Fortification Bill was lost. In his message of December, 1836, the President asserted that much injury and inconvenience had been experienced by reason of the failure of the bill and impliedly censured the Senate for the stand which that body had maintained. Webster having been chiefly responsible for the Senate's action, felt it incumbent upon him to make reply, and he did so, January 14, 1836, in a speech in which he defended at all points the course which had been pursued and avowed that if the proposition of the House were then before the upper chamber, "and the guns of the enemy were pointed against the walls of the Capitol," he would not agree to it.¹ For the employment of this somewhat startling language he was criticized so sharply by fellow-members of the Senate that he was impelled to write out a speech in his own defense. By his more intimate friends, however, he was persuaded that a formal reply was neither necessary nor expedient.

On February 16, 1835, the Senate having under consideration a bill intended to reduce the influence wielded by the President through the public patronage, Webster made a speech in which he discussed

¹ "Works of Webster," Vol. IV, pp. 205-229; "Writings and Speeches," Vol. VII, pp. 205-229.

with fulness the questions involved in the appointment and removal of federal officials and gave expression to some distinctly unusual views to which he clung upon that subject.¹ The extent of the patronage had become such, he asserted, that the mass of private and personal interest by it injected into all public elections and public questions had reached, already, an alarming height. The only remedy, it seemed to him, was to place a restriction upon "the unlimited power to grant office and to take it away" which the Chief Executive enjoyed; and the most obvious means of doing this was to bring to bear what Webster always believed to be the true intent of the Constitution, namely, that the power of removal, like the power of appointment, should be exercised, not by the President alone, but by the President and Senate conjointly. It is well enough known that in 1789 the question arose as to whether the Senate should be entitled to cooperate with the President in removals, and that, despite a good deal of difference of opinion, the view finally prevailed that practical convenience required that in the making of removals the Chief Executive should be free to act alone. This decision Webster believed to have been unwise, if not clearly contrary to the meaning and intent of the Constitution, and in the speech of 1835 he developed at length his reasons for so believing. At the same time, he recognized that the practice of decades was not likely to be reversed at a stroke, and he expressed himself as, for the present, content with the pending bill, which required that when a nomination should be made to the Senate to fill a vacancy created by the removal of an

¹ "Works of Webster," Vol. IV, pp. 179-199; "Writings and Speeches," Vol. VII, pp. 179-199.

incumbent the nomination of the new official should be accompanied by an explanation of the reasons for the removal of the old one. It is the almost unanimous judgment of students of our constitutional law that the decision of 1789 was, in point of fact, the only correct one, and that the method of removal which Webster advocated would but tend to diffuse responsibility and hence to aggravate the evils complained of. The argument which he made was plausible, but it was essentially speculative in character and was not altogether devoid of the spirit of partisanship. The bill which gave rise to the debate failed to become law.

Throughout the years 1835-1836 the attention of Congress continued to be occupied from time to time by questions arising more or less immediately from the discontinuance of the Bank. On February 18, 1835, Senator Benton introduced a resolution to expunge from the journals of the Senate the record of the censure of Jackson voted March 28, 1834. By a vote of thirty-nine to seven, however, the proposal was rejected and, upon motion of Webster, the resolution was laid upon the table. A similar proposal, in 1836, met a similar fate, and it was not until January 16, 1837, that an expunging resolution was finally carried, by the narrow vote of twenty-four to nineteen. The revision of the records of the chamber which was at last obtained was clearly unconstitutional, but the President was vindicated to his own and his supporters' satisfaction and "the people" were once more supreme. Against the adoption of the resolution Webster made emphatic protest. "We tell you," he declared, speaking for his colleague and himself, "that you have no right to mar or mutilate the record

of our votes given here, and recorded according to the Constitution ; we tell you that we may as well erase the yeas and nays on any other question or resolution, or on all questions or resolutions, as on this ; we tell you that you have just as much right to falsify the record, by so altering it as to make us appear to have voted on any question as we did not vote, as you have to erase a record, and make that page a blank in which our votes, as they were actually given and recorded, now stand. The one proceeding, as it appears to us, is as much of a falsification of the record as the other.”¹

In February, 1835, Webster took advantage of a debate upon a bill regulating the deposits of the public money to propose and carry a provision to the effect that, upon demand, Treasury drafts upon the deposit banks should be paid in gold or silver. In the remarks which he made upon the subject, February 26th, he emphasized the fact that already the disadvantages of the removal of the deposits were beginning to appear and that the full effect of the Administration's financial policies would be felt only after the paper of the Bank of the United States should have disappeared from circulation. At the same time, he considered the rechartering of the Bank for the present a dead issue. “I wish to say,” he asserted, “that I consider the question of renewing the Bank charter as entirely settled. It cannot be renewed. Public opinion, very unfortunately, as I think, for the country, has decided against it ; and while there is a strong and prevailing sentiment in the minds of the community against a measure, it is quite useless to pro-

¹ “Works of Webster,” Vol. IV, pp. 296-297 ; “Writings and Speeches,” Vol. VIII, pp. 34-35.

pose it. For myself, I shall take no part in any attempt to renew the charter of the Bank. The people have decided against its continuance, and it must expire. Nor shall I, if I remain in public life, join in any attempt, at any time hereafter, to establish a new national bank, till experience of its want shall have satisfied the country of its great utility or indispensable necessity. That the time will come when the country will feel the fullest conviction of this necessity, I do not doubt; but that conviction, I think, is likely to be brought about only by experience." ¹

Although recognizing the impossibility of an early rechartering of the Bank, Webster was ready to do what could be done to save the country from the worst consequences of the Administration's policy; and as chairman of the Senate Committee on Finance it fell to him to assume a prominent part in the recurring fiscal discussions. The fundamental difficulties of the situation arose, in his judgment, from the superabundance of the public funds and from their insecurity. The overflowing condition of the Treasury² was attributable, so he declared in remarks of April 23, 1835, to Jackson's pocket veto (in March, 1833) of Clay's bill for the distribution of the proceeds of the sale of public lands; the insecurity of the public money was affirmed to be a result of the veto of the Bank Bill and the removal of the deposits, whereby was overthrown "the great and salutary check to the immoderate issue of paper money." ³ The distribution project reappeared in December, 1833, and again in December, 1835.

¹ "Works of Webster," Vol. IV, pp. 200-201; "Writings and Speeches," Vol. VII, pp. 200-201.

² In January, 1835, the country found itself entirely without debt.

³ "Writings and Speeches," Vol. VII, pp. 238-246.

The proposal upon the later of these occasions was to distribute the proceeds of the land sales for the years 1833-1837. May 4, 1836, a bill of this purport passed the Senate, but the House laid the measure upon the table; and when, June 23d, a bill upon the subject finally became law the funds to be distributed were made to comprise everything in the Treasury January 1, 1837 in excess of five million dollars, from whatsoever source derived, and the sums distributed were regarded technically as "loans" rather than as absolute gifts. The bill was Calhoun's, although certain features of it were introduced in an amendment proposed by Webster.

The policy adopted was that of a single distribution, in four instalments, rather than that of continuous distributions through either a fixed or an unlimited period of time. To a policy of the latter sort Webster was unalterably opposed, unless the funds to be distributed should be exclusively those arising from the sale of public lands. "There would be," he declared in a speech of May 31, 1836, "insuperable objections, in my opinion, to a settled practice of distributing revenue among the states. It would be a strange operation of things, and its effects on our system of government might well be feared. I cannot reconcile myself to the spectacle of the states receiving their revenues, their means even of supporting their own governments, from the Treasury of the United States. If, indeed, the land bill could pass, and we could act on the policy, which I think the true policy, of regarding the public lands as a fund belonging to the people of all the states, I should cheerfully concur in that policy, and be willing to make an annual distribution of the proceeds of the lands, for some years at

least. But if we cannot separate the proceeds of the lands from other revenue, if all must go into the Treasury together, and there remain together, then I have no hesitation in declaring now, that the income from customs *must be reduced*. It must be reduced, even at the hazard of injury to some branches of manufacturing industry; because this, in my opinion, would be a less evil than that extraordinary and dangerous state of things, in which the United States should be found laying and collecting taxes, for the purpose of distributing them, when collected, among the states of the Union."¹ Herein Webster closely approached the eminently sensible position which Jackson himself had maintained with respect to the entire subject, namely, that the best solution of the problem of the surplus was so to amend the fiscal system that there should be no surplus.

Meanwhile there came on the presidential campaign of 1836. On the Democratic side the conditions attending this contest were almost as simple as those of four years before. Jackson, out of regard for the third-term tradition, was not a candidate. But the policies of his administration supplied everything that the party needed in the nature of a platform, and so fruitful had been his activity in smoothing the way for the succession of Van Buren that when, in May, 1835, the party convention met at Baltimore the desired nomination was carried by unanimous vote. There was no occasion for surprise when in his letter of acceptance Van Buren avowed his intent "to tread generally in the footsteps of President Jackson." Among the opposition, on the other hand, the situation was

¹ "Works of Webster," Vol. IV, p. 257; "Writings and Speeches," Vol. VII, p. 257.

one of distinct complexity. The most obvious fact was the partially accomplished welding of the anti-administration forces into a party with a new name, *i. e.*, Whig. The name Whig was first employed in this connection in 1834, when a New York editor, impressed by the resemblance between the English and the American opponents of prerogative, applied it to those persons, chiefly National Republicans, who were crying out against the "executive usurpations" alleged to be practiced by Jackson. The principal element entering into the composition of the Whig party of 1836 was the National Republicans. But more or less closely affiliated were men of other and widely varied antecedents—principally Antimasons, South Carolina "nullifiers," and Democrats who were unfriendly to Jackson. Among these groups there was little community of interest save such as arose from hostility toward the President and his system, and plans for the forthcoming campaign were developed in a loose and unpromising manner. That Clay, still the recognized leader of the preponderating element of the opposition, should be the Whig candidate against Van Buren seemed the logic of the situation. Yet Clay had suffered defeat in 1832, and the feeling was wide-spread that some other candidate might now be able to make a better showing. Against him, at any rate, there were brought into the field a number of local favorites—Hugh L. White, of Tennessee, General William Henry Harrison, of Ohio, John McLean, also of Ohio; and among the number was Webster.

The movement in behalf of Webster's candidacy dates from at least as early as 1834. It developed first in Massachusetts, but spread throughout New England, and eventually somewhat beyond. In the legis-

lature of Massachusetts the Whigs commanded a substantial majority, and toward the end of 1834 it was proposed from many quarters that, in default of other means of bringing a candidate before the country, this body should tender Webster a formal nomination. During the early months of 1835 Webster was in frequent communication with Jeremiah Mason upon the subject. On January 1st he writes: "Whether it is or will be best for Massachusetts to act at all on the subject of a nomination is a question which I leave entirely to the judgment of others. . . . A nomination by Massachusetts would certainly be one of the highest proofs of regard which any citizen can receive. As such, I should most undoubtedly esteem it. But, in the present condition of things, and with the prospects which are before us, a nomination is a questionable thing to one who is more desirous of preserving what little reputation he has than anxious to grasp at further distinction."¹ It was added that "if Massachusetts is to act at all, the time has come"; for active movements were on foot in behalf of other candidates. On January 5th there came a letter from Abbott Lawrence communicating the opinion that a nomination was certain to be forthcoming and expressing the hope that Webster would not be influenced by it to resign his seat in the Senate. January 22d Webster wrote to Mason that the nomination of McLean in Ohio "appears to take but little," and added: "The schism in the Jackson party proceeds. It appears to me that nothing is likely to stop its progress. If we Whigs had union and energy, we have now before us a prospect no way discouraging."² The expected nomination was made near the end of January, and on Feb-

¹ Curtis, "Webster," Vol. I, p. 503.

² *Ibid.*, Vol. I, p. 506.

ruary 1st Webster wrote to Mason : "The nomination appears to have been done as well as it could be. I mean, of course, in the manner of it. No fault is found with it by our friends, so far as I know. Measures are in train to produce a correspondent feeling and action in New York, Vermont, and some other states."¹

The purposes of Clay and his friends remained the most elusive factor in the situation. "Mr. Clay," continued Webster in the letter just quoted, "does nothing, and will do nothing, at present. He thinks—or perhaps it is his friends who think—that *something* may yet occur, perhaps a war, which may, in *some* way, cause a general rally around him. . . . If Massachusetts stands steady, and our friends act with prudence, the union of the whole Whig and Anti-masonic strength is certain. Neither you nor I have ever believed it would be easy to get Southern votes for *any* Northern man ; and I think the prospect now is that Mr. Van Buren will lose the whole South." On February 6th Webster addressed Mason at some length regarding the possibility of his retirement from the Senate. He said that he had looked forward to the events which the approaching election might bring about as likely to provide a suitable occasion for his resignation, although he had reached no decision which might not be modified by the advice and wishes of friends. "I do not affect," he wrote, "to desire to retire from public life, and to resume my profession. My habits, I must confess, and the nature of my pursuits for some years, render it more agreeable to me to attend to political than to professional subjects. But I have not lost all relish for the bar, and can still make some-

¹ Van Tyne, "Letters of Daniel Webster," p. 194.

thing by the practice ; and, by remaining in the Senate, I am making sacrifices which my circumstances do not justify. My residence here at Washington so many months every year greatly increases my expenses, and greatly reduces my income. . . . I find it inconvenient to push my practice in the Supreme Court while a member of the Senate ; and am inclined, under any view of the future, to decline engagements hereafter in that Court, unless under special circumstances.”¹

Throughout the year 1835 the political outlook continued very uncertain, and multiplied evidences of public appreciation of Webster's statesmanship and services to his country gave promise of a possible agreement upon him as the most effective candidate against Van Buren. In March he declined the honor of a public dinner at Harrisburg. In August he was prevailed upon, during the course of a professional visit to Bangor, to address the citizens of that place. On October 12th he was presented with a magnificent vase by the citizens of Boston, and in the presence of four thousand people assembled in the Odeon he spoke at some length upon the character of the Constitution and the nature of the perils by which that instrument was beset.² In November he was invited to a public dinner in Philadelphia, and in December to one in Baltimore ; but both of these invitations were declined. From numerous quarters came flattering assurances of readiness to lend support in a campaign for the presidency. The tide turned unfavorably however, when,

¹ Curtis, "Webster," Vol. I, p. 506.

² "Works of Webster," Vol. I, pp. 325-336 ; "Writings and Speeches," Vol. II, pp. 175-186. The vase is in the possession of the Boston Public Library.

in December, the Whig and Antimasonic conventions of Pennsylvania, assembled at Harrisburg, placed in nomination General Harrison. The Antimasons especially had felt an inclination to nominate Webster. But when they interrogated him upon the policy which, if elected, he would pursue regarding appointments to office they were able to obtain only the privately expressed reply that it did not consist with his sense of duty "to hold out promises, or anything that might be regarded as equivalent to promises, particularly on the eve of a great election, the results of which are to affect the highest interests of the country for years to come."¹ The stand thus taken was eminently statesmanlike, but it did not appeal to the hungry horde, and the nomination went elsewhere.

In the end the anti-Jackson forces were able to unite upon no one candidate. In truth, their plan of campaign became that of division rather than of unity, the hope being that the splitting of the vote of the country among a number of sectional favorites would have the effect of throwing the election into the House of Representatives, where a turn of fortune might well result in the triumph of some one of Van Buren's opponents. The scheme was ingenious, but it fell somewhat short of attaining the desired result. Its success was conditioned upon heavy losses of votes by Van Buren to his various opponents in their respective sections of the country, and while the losses suffered were considerable, the superior discipline of the Democratic party served to avert defeat. Van Buren received 762,978 popular votes, as against 736,250 received by all his opponents. He obtained one hundred and seventy

¹ Webster to W. W. Irwin, November 30, 1835. Curtis, "Webster," Vol. I, p. 511.

electoral votes and his opponents one hundred and twenty-four. Of the one hundred and twenty-four, Harrison received seventy-three, White twenty-six, Webster fourteen, and William P. Mangum of North Carolina eleven. It had been hoped that Webster might receive the votes of at least some of the New England states other than Massachusetts. He, however, failed to do so. Maine, New Hampshire, Rhode Island, and Connecticut were carried by the Democrats, while the seven votes of Vermont went to Harrison. That Webster already cherished a well-defined ambition to attain the presidency is beyond dispute. But he could never have regarded the situation in 1836 as really favorable, and there is no evidence that the result was a source of either surprise or lasting disappointment on his part.

Circumstances so shaped themselves that the subject of dominating interest throughout the years of the administration of President Van Buren was that of finance. Despite the fact that as late as the beginning of 1837 the business of the country seemed highly prosperous, before the retirement of Jackson two months later there set in, beginning in the South and spreading northward, the most ruinous and far-reaching crisis the country had ever known. The causes were numerous and complex. Excessive speculation, reckless banking, inflation of prices, and the failure of certain English firms engaged in the cotton trade were among them. In some degree they are to be traced, too, to the financial expedients of the Jacksonian period—the withdrawal of the deposits, the termination of the Bank, the distribution of the surplus, and, finally, the promulgation of the Specie Circular. The last-mentioned measure, comprising an executive order

under date of July 11, 1836, requiring that after August 15th only gold and silver should be received at the land-offices in payment for public lands, had the effect of augmenting enormously the difficulties of the banks in the West, where specie was scarce, and when Congress assembled for the session of 1837-1838 a resolution was introduced undertaking to rescind it. On December 21st Webster spoke at length upon this resolution, pronouncing the Circular both illegal and injurious and explaining in detail his long-cherished ideas upon the proper relations of the government and the currency.¹ The resolution was converted into a bill, which passed both houses, but Jackson withheld from it his assent, and the Circular remained in effect until May 21, 1838, when it was rescinded by a joint resolution. When, March 4, 1837, Van Buren assumed office, the country was already in the throes of business depression and financial distress. As a temporary expedient quantities of Treasury notes were issued forthwith, and Congress was summoned to meet in special session September 4th.

Some months prior to the inauguration of Van Buren, Webster renewed his determination to retire from public life, and at the close of January, 1837, his purpose was made known to his friends in Massachusetts, to the end that steps might be taken to ensure the election of his successor while the legislature should yet be in session. Not only in his own state, however, but in New York and elsewhere, the announcement called forth strong expressions of regret, and a committee of the Whigs in the Massachusetts legislature made a formal request that the contem-

¹ "Works of Webster," Vol. IV, pp. 265-291; "Writings and Speeches," Vol. VII, pp. 3-29.

plated resignation be abandoned, or at the least postponed. The pressure brought to bear was too powerful to be resisted, and for the time being the plan was given up, although the need of bestowing undivided attention for a period upon private and professional interests was felt to be imperative. On February 21st, when the resignation was impending, a meeting of Webster's political friends, presided over by Chancellor Kent, was held in New York City and an invitation was extended to a public reception. The invitation was accepted, and on the evening of March 15th the senator was greeted by a large, representative, and highly enthusiastic gathering of people at Niblo's Garden. The reception became the occasion of the most notable speech of a purely political character which Webster ever delivered. To no other effort did he refer in later times with so much frequency or so much pride. In the main, the speech comprised a detailed and analytical review of public questions and measures since the accession of Jackson to the presidency. Its tone was moderate but frank. The personal integrity of the late President was freely admitted, and the service which he had rendered the country in the enforcement of the laws was acknowledged with unstinted praise. At the same time, his executive usurpations, it was maintained, had produced a complete and well-nigh irreparable derangement of the currency and of business; and it was predicted that results would be experienced far worse than those which as yet were apparent. Among the portions of the speech dealing with subjects other than finance the most noteworthy was that in which, *apropos* the question of the annexation of Texas, the speaker gave force-

ful expression to his views on slavery and its extension. To this matter we shall have occasion to return subsequently.¹

Two months after the appearance at Niblo's Garden Webster set out upon his last and most extended visit to the West. At Wheeling, May 17th, he was tendered a public dinner, and the news of the suspension of the Eastern banks having just been received, he spoke feelingly of a situation which he had "never expected to see except as the result of war, a pestilence, or some other calamity."² At Maysville, Lexington, Louisville, and Cincinnati there were great outpourings of people and more speeches. On June 9th, St. Louis was reached, and there and in neighboring towns the reception was equally enthusiastic. Madison, Indiana, was visited,³ and thence the line of travel led to Chicago, where there were cavalcades, festivals, and public addresses. On July 1st Michigan City was reached, and thence a return was made to Massachusetts by way of Detroit, Toledo, Buffalo, and New York. One effect of the journey was to impress upon the people of the West the approachableness and democratic spirit of a man who in many quarters was still supposed to be temperamentally cold and aristocratic. In Webster himself the trip deepened the conviction of the actual and latent resources of the West. Already he had embarked upon a plan to acquire a great Western farm. He had become owner of a tract of land in Sangamon County, Illinois, to which he

¹ See pp. 327-336. "Works of Webster," Vol. I, pp. 343-380; "Writings and Speeches," Vol. II, pp. 193-230.

² "Works of Webster," Vol. I, p. 384; "Writings and Speeches," Vol. II, p. 234.

³ For the speech delivered at Madison see "Writings and Speeches," Vol. II, pp. 257-259.

gave the name Salisbury, and had placed upon it as agent a son of the Mr. Thomas from whom he had purchased a portion of his estate at Marshfield.¹ Now he proposed to add to his Illinois holding until he should have at least a thousand acres, and he even dreamed of establishing himself upon it at some future time, when he should be in a position to withdraw from public and professional life.

When, September 4th, Congress assembled in special session President Van Buren brought forward a number of proposals for the relief of the country's disordered finances. One was the postponement of the payment to the states of the fourth instalment of the surplus revenue. Another was the issue of more Treasury notes. The third and most important was the establishment of a system in accordance with which the public revenues, instead of being deposited in banks, of whatsoever description, should be kept in the custody of Treasury officials. As expanded in subsequent discussion, this proposition developed into the well-known Sub-treasury, or Independent Treasury, system. The essentials of it had been suggested by Van Buren as early as 1834. A bill incorporating the plan was introduced in Congress September 14th. Over the opposition of the Whigs, who now revived the project of a national bank, it was passed in the Senate; but in the House it failed, and although eventually the President was successful in carrying his programme into effect, it was not until July 4th, 1840, and only after three successive measures upon the subject had been defeated. The debates upon the first two of these bills were enlivened by two lengthy and illuminating speeches by Webster. The first was delivered Sep-

¹ See p. 317.

tember 28, 1837 ; the second, January 31, 1838.¹ Both included attacks upon the proposed Independent Treasury system, and in both the Whig alternative of a national bank was defended with fulness and force.

¹ " Writings and Speeches," Vol. VII, pp. 62-108, 140-161.

CHAPTER XI

SECRETARY OF STATE : THE TREATY OF WASHINGTON

DURING the spring of 1839 Webster arrived at a decision to spend some months in travel abroad, principally in England. At one time there appeared much likelihood of his appointment as a special envoy to Great Britain to negotiate a settlement of the long-standing controversy regarding the northeastern boundary. The Secretary of State, Forsyth, suggested to the President the making of such an appointment, and in order to commend himself as a person qualified to undertake the task Webster prepared and submitted an elaborate memorandum upon the proper course to be pursued in adjustment of the matters at issue.¹ The President was authorized specifically by Congress to make the proposed appointment. Van Buren, however, preferred to allow the negotiation to be carried on by the resident minister (Stevenson) exclusively, and, although by a curious turn of circumstances the opportunity to undertake the adjustment of the pending difficulties with Great Britain came to Webster as Secretary of State within two years, there was no present demand for his services.

Even so, he resolved upon a trip as a private citizen, and, accompanied by his wife, his daughter Julia, and a sister-in-law, Mrs. Paige, he embarked at New York, May 18th, and landed at Liverpool a fortnight later. On June 5th the party journeyed by rail, expending

¹ Van Tyne, "Letters of Daniel Webster," pp. 215-218.

ten and a half hours on the way, to London, where on the morning following the arrival the streets adjacent to the Brunswick Hotel were thronged with the carriages of substantial citizens eager for a glimpse of the far-famed orator and statesman. During a two months' stay in the metropolis Webster was showered with hospitalities. He met Wordsworth, Carlyle, Moore, Dickens, Sydney Smith, Hallam, Canning, Labouchere, and scores of other men of eminence. He visited the various higher courts, made the acquaintance of the judges, and was an interested spectator at numerous sittings of the two houses of Parliament. "I do not follow sightseeing," he writes to a friend; "what comes in the way I look at, but have not time to hunt after pictures, etc. Westminster Abbey and the Tower are two of the best things; they hold such memorials of bygone times."¹ On July 18th a celebration of the Royal Agricultural Society was attended at Oxford, and upon this one occasion during the trip Webster was induced to make a public address.² In August there was an excursion through Scotland, followed by a return to London where, September 24th, the daughter was married to a young Bostonian, Samuel Appleton, who, in accordance with an earlier arrangement, had joined the party. Late in November the travelers embarked for the homeward voyage, which, however, proved so protracted that it was not until December 29th that a landing was effected at New York.

The impression which Webster made upon his English acquaintances was deep and lasting. "Not many

¹ Webster to Curtis, July 4, 1839. Webster, "Private Correspondence," Vol. II, p. 55.

² "Writings and Speeches," Vol. II, pp. 285-289.

days ago," wrote Thomas Carlyle to an American friend, "I saw at breakfast the notablist of all your notabilities, Daniel Webster. He is a magnificent specimen. . . . As a logic-fencer, advocate, or parliamentary Hercules, one would incline to back him at first sight against all the extant world. The tanned complexion; that amorphous crag-like face; the dull black eyes under the precipice of brows, like dull anthracite furnaces needing only to be *blown*; the mastiff-mouth, accurately closed; I have not traced so much of *silent Berserkir rage* that I remember of in any other man; a dignified, perfectly-bred man, though not English in breeding; a man worthy of the best reception among us, and meeting such, I understand."¹

"It is but an echo of the common voice here," wrote Hallam to Mrs. Ticknor, "to say that I was extremely struck by his [Webster's] appearance, deportment, and conversation. Mr. Webster approaches as nearly to the *beau ideal* of a republican senator as any man that I have ever seen in the course of my life; worthy of Rome or Venice, rather than of our noisy and wrangling generation."²

It is the testimony of an English acquaintance that during his stay in London Webster talked continually of his intention to quit public life, both professional and political, and to retire to the estate which he had purchased in the West. "He spoke of this as a settled resolve. With these words on his lips, he embarked at Liverpool."³ However seriously he may have contemplated the step at certain moments, it is doubtful whether there was ever a fixed resolution upon

¹ Cited in Curtis, "Webster," Vol. II, p. 21.

² *Ibid.*, Vol. II, p. 27.

³ Denison, quoted in Curtis, "Webster," Vol. II, p. 27.

it, and in any case the development of the political situation which culminated in the election of General Harrison as president in 1840 absolutely precluded it. Webster was himself not a candidate in 1840. His candidacy was proposed by the Whig members of the Massachusetts legislature ; but, prior to sailing for England, in May, 1839, he made it known to his friends that he did not care to have his name brought before the forthcoming convention of the party. During the sojourn abroad he heard little and talked less of American political affairs. "I express no opinion to anybody," he wrote from Glasgow in August, "about the pending election. I see enough to convince me that our affairs at home are in a very bad and difficult state, and I do not profess to know who was born to set them right." ¹

As the administration of Van Buren progressed there were multiplied indications that the Whigs would have an excellent chance of success in 1840. To the widespread desire for reform and the more or less vague desire for change which almost inevitably accompanies a prolongation of power in the hands of one political party there was added in the present instance a very definite longing for relief from the chaos and depression in which the fiscal measures of the Jacksonian régime had involved the country. Van Buren's statesmanship was of no mean order, his integrity was unimpeachable, and his administration of public, including financial, affairs was very nearly as effective as could have been expected under the circumstances. The mass of the people, none the less, were ready for a change. The state elections of 1837 resulted unfavorably for the

¹ Webster to Ketchum, August 29, 1839. Webster, "Private Correspondence," Vol. II, p. 65.

Democrats, and the congressional elections of 1838 and the spring of 1839 very nearly resulted in the extinction of the Administration majority in the lower house. On December 4, 1839, two days after the meeting of the Twenty-sixth Congress, the national convention of the Whig party assembled at Harrisburg. The conditions of the time were such as to place a heavy premium upon "availability," and the members of the convention were disposed from the outset to be governed in their choice of a candidate by this consideration. Clay was still the principal leader of the party. But he was a free-mason and an ardent protectionist, and it was felt that his position in these two respects would render his election improbable. A candidate much more nearly of the type called for was at hand in the person of General Harrison, long and favorably known both as soldier and civilian, and excellently qualified to consolidate the diverse elements upon whose support the Whigs must depend for success. When the balloting began Clay led, but on the third day of the convention's proceedings the nomination was accorded to Harrison. In the hope of attracting in a special degree the support of the South the delegates bestowed the vice-presidential nomination upon John Tyler, of Virginia. Clay accepted the situation with good grace and promised his unreserved support, although he was deeply disappointed and, after the successful conclusion of the campaign, a trifle disaffected.

The first news received by Webster as his ship came into New York harbor, December 29th, was that of the action of the Harrisburg convention. This action he thoroughly approved, and the contest which ensued enlisted from the beginning his hearty interest.

Amidst the swirl of political combat all thought of immediate retirement from the Senate was abandoned. The campaign, as is familiarly known, was one of the noisiest and most exciting in the country's history. Having been unable to agree upon a platform, the Whigs contented themselves with attacks upon the Democratic candidates and with laudation of Harrison and Tyler. The Democrats made some effort to press the reëlection of Van Buren on the strength of the record of the administration, but in the end they were obliged largely to meet the Whigs with their own methods. To Webster there came calls for speeches from every portion of the country. Whig mass-meetings and conventions, especially in the East, were hardly considered successful unless he was present to speak, and the number of "Tippecanoe" clubs and similar organizations in which he was elected to honorary membership was legion. In the history of the nation there had been no such universal popular wish to hear public topics discussed by any single statesman.¹ The places at which Webster delivered political addresses of largest importance during the campaign were Saratoga, Charlestown (Mass.), New York, and Richmond, and upon all occasions the principal subject discussed was the unfortunate situation of the currency resulting from the fiscal policies of the Jackson and Van Buren administrations.²

Of the success of the campaign Webster was most of the time reasonably certain. "We shall choose General Harrison," he writes as early as February 16, 1840, "if no untoward event occurs between this time

¹ Curtis, "Webster," Vol. II, p. 42.

² For these speeches see, "Writings and Speeches," Vol. III, pp. 1-102.

and November.”¹ “General Harrison’s nomination runs through the country most astonishingly,” he writes, March 29th. “Our friends feel confident of the Centre, the Northwest, and the North and East. Kentucky and Louisiana will doubtless be with us ; very probably Tennessee, and there are even hopes of Virginia. . . . This hopeful state of things gives quite a new aspect to our politics.”² June 11th, he declares that he does “not doubt that General Harrison will be elected by a very large majority” and expresses the hope that his native state of New Hampshire “will now see the path of patriotism and duty, broad and plain before her, and be ready to follow it.”³ June 23d he writes to Jaudon : “The prospect is now very strong that General Harrison will be elected. Indeed, we have no doubt of it. We are more deceived than ever men were before, if there be not a state of feeling which will bring him in by a large majority. . . . And now, my dear sir, let me say that if this event shall take place, it will change my condition, though I cannot say exactly how. Indeed, some changes, or a change, will take place, let the election go either way. If Mr. Van Buren should be reëlected, I shall go back to the bar, leaving the Senate, and go to work with all my might. If General Harrison should be chosen, I shall equally leave the Senate, and you can judge as well as I, perhaps, whether I shall thenceforward have anything to do with the government, or not.”⁴

¹ Webster to Edward Everett, February 16, 1840. Webster, “Private Correspondence,” Vol. II, p. 76.

² Webster to Jaudon, March 29, 1840. *Ibid.*, Vol. II, p. 79.

³ Webster to Coffin, June 11, 1840. *Ibid.*, Vol. II, p. 86.

⁴ Webster to Jaudon, June 23, 1840. *Ibid.*, Vol. II, p. 87.

At the November elections the confidence of Webster, and of the Whig prophets generally, was vindicated. In a total of two hundred and ninety-four electoral votes Harrison received two hundred and thirty-four, Van Buren but sixty; while in the lower house of Congress the Whigs were assured a majority of forty-four, and in the upper house of seven. The overturn which was involved seemed to men of the time a veritable revolution. In point of fact, however, in most of the states carried by Harrison the Whig popular majority was small, and the total popular majority was but 145,914 in an aggregate vote of 2,404,118. The victory was substantial, but it was not overwhelming, and only by the preservation of harmony and the pursuance of wise and moderate policies could its results be conserved. On December 1st the President-elect wrote from Frankfort, Kentucky, a letter to Webster from which it appears that certain purposes relative to the formation of a cabinet, in the event of a Whig triumph, had been conceived early in the campaign. One of these was to offer a portfolio to Clay; another was to make a similar offer to Webster. It was now made known that the post of secretary of state had been tendered to Clay, but that this and every other position of the sort had been declined. "Since I was first a candidate for the presidency," Harrison went on to say, "I had determined, if successful, to solicit your able assistance in conducting the administration, and I now ask you to accept the State or Treasury department. I have myself no preference of either for you, but it may perhaps be more difficult to fill the latter than the former if you should decline it. It was the first designed for you in the supposition that you had given more attention to the subject of

finances than Mr. Clay.”¹ In the event that he should feel obliged to decline to enter the cabinet Webster was asked to make suggestions regarding other men available for appointment. “Give me your advice freely and fully,” wrote Harrison, “upon that and every other subject, whether you occupy a place in the cabinet or not, and it will be at all times thankfully received.”

The possibility of the offer of a cabinet position, in the event of the election of Harrison, had received ample consideration from both Webster and his friends. Interests of a professional and personal nature seemed still to require a retirement from public life, and, as has appeared, such a step was more than once determined upon. Few men, however, have ever been better fitted for the public service, and, much as he might try, Webster could never get away from the fact that he enjoyed the activities and opportunities of such service. Long before the election he was urged by influential men in various parts of the country not to refuse a cabinet post if it should be offered him, and when it became known that the President-elect had made the expected offer there was a universal expression of desire that it be accepted. Although, therefore, he should have preferred an appointment as minister to Great Britain, he decided to accept the portfolio of state. “I am willing,” he wrote to Harrison, December 11th, “to undertake the duties of the office, prepared to give to their faithful discharge my best ability and all my efforts. You are kind enough to suggest that my acquaintance with the subjects of currency and finance might render me useful as head of

¹ Harrison to Webster, December 1, 1840. Webster, “Private Correspondence,” Vol. II, p. 91.

the Treasury. On that subject my view has been this : I think all important questions of revenue, finance, and currency, properly belonging to the Executive, should be cabinet questions ; that every member of the cabinet should give them his best consideration, and especially that the results of these deliberations should receive the sanction of the President. This seems necessary to union and efficiency of action. If to these counsels I may be supposed able to contribute anything useful, I shall withhold myself from no degree of labor and no just responsibility. For the daily details of the Treasury, the matters of account, and the supervision of subordinate officers employed in the collection and disbursement of the public moneys, I do not think myself to be particularly well qualified.”¹ Willingness was expressed to accept the Treasury portfolio, however, in the event that special difficulty should be encountered in making provision for it. On December 27th Webster was informed by his chief that, so far as could be observed, his call to the State Department had given universal satisfaction.

The last session of the Twenty-sixth Congress was one of comparative unimportance. At its opening President Van Buren submitted a message in which the Whig proposal to establish a national bank was subjected to severe criticism and the recently adopted sub-treasury system was accorded the highest praise. In the Senate the portions of the message dealing with these subjects were referred to the Committee on Finance, and on December 16th and 17th, they were made the basis of the last important speech which Webster delivered during the present portion of his

¹ Webster to Harrison, December 11, 1840. Webster, “Private Correspondence,” Vol. II, pp. 93-94.

senatorial career. In it the existing state of the finances of the country was reviewed briefly but pointedly, and it was maintained that during the past four years the public expenditure had exceeded the public income by as much as seven million dollars a year, so that the Van Buren Administration had achieved "the dubious distinction of being the first to begin the accumulating of a national debt in a time of profound peace."¹

On February 22d, Webster's letter resigning his seat was read in the Senate. In advance of his resignation he communicated to his friends in Massachusetts his desire that the choice of his successor should proceed without any reference to his own opinions or affiliations, and he especially urged that the coolness long existing between himself and John Quincy Adams should not be allowed to militate against the candidacy of the Ex-President. "Mr. Adams's great knowledge and ability," he wrote, "his experience, and especially his thorough acquaintance with the foreign relations of the country, will undoubtedly make him prominent as a candidate; and I wish it to be understood that his election would be personally altogether agreeable to me."² In the end the choice of the legislature fell upon Rufus Choate, and Adams was continued as a member of the House of Representatives; but the magnanimity displayed toward a candidate against whom Webster and his friends had long cherished a grievance is not unworthy of note.

With the inauguration of Harrison and Tyler,

¹ "Works of Webster," Vol. V, pp. 40-54; "Writings and Speeches," Vol. IX, pp. 40-54.

² Webster to Solomon Lincoln, Jan. 15, 1871. Curtis, "Webster," Vol. II, p. 57.

March 4, 1841, the Whigs were brought for the first time into control of the national government. The new president had written feelingly of his hope for a "quiet and successful" administration. The conditions of the time, however, hardly afforded ground for high expectation in this direction. In the first place, the political overturn which had occurred presaged a stupendous demand for removals and new appointments throughout the government service. In the second place, the Whig successes had been won by narrow margins, and, as has been stated, the majority commanded by the party in Congress, especially in the upper house, was so slender that absolute harmony was essential to the achievement of legislative results and the maintenance of power. But, in the third place, substantial harmony was the last thing to be expected of the heterogeneous elements which had had a share in the winning of the recent victory. And, finally, the death of the President within a month from his inauguration brought to the White House a man whose nomination by the Whigs had been a matter of sheer expediency, who was really not a Whig at all, and who had sufficient independence of spirit to prompt him to a course of action conceived without the slightest regard to party obligation.

Of the tremendous conflict which was waged, during the years 1841-1842, between President Tyler and the Whig congressional majority, led by Henry Clay, it is impossible to speak at length in this place. Prior to his death President Harrison had called a special session of Congress, to convene May 31, 1841, and it was early in the course of this session that the storm broke in all of its fury. On June 7th, Clay introduced in the Senate a series of resolutions, which, setting forth

as they did the legislative programme of the Whig leaders, may well be regarded as a belated announcement of the Whig platform of 1840.¹ These resolutions called, in brief, for the repeal of the sub-treasury law, the establishment of a national bank, the laying of duties such as would yield revenue adequate for the increased needs of the country, and the distribution among the states of the proceeds of the sales of public land. The Senate passed immediately a measure to meet the first of these demands; but the issue which was pressed most forcefully—and the one which, by reason of the President's well-known hostility, was certain to prove the most critical—was that of the Bank.

Removed from Congress, and fully occupied with a group of diplomatic questions of the utmost seriousness, Webster was in a position to hold aloof, at least publicly, from participation in the domestic conflicts of the hour. His most immediate concern was the carrying through of the adjustments which were required to safeguard peace with Great Britain. In the execution of this task he needed the full and free coöperation of the President, and he early learned that agreeable relations with his chief would be jeopardized by any attempt to influence the executive attitude upon impending domestic issues. Although, therefore, he felt most keenly the desirability of the incorporation of a bank, the subject was rarely so much as mentioned in the frequent conferences between the two men. It was alluded to repeatedly, however, in correspondence with friends in Massachusetts and elsewhere. "We are in the midst of the session," wrote Webster to Edward Everett, July 24th, "and I may say in the crisis

¹ Garrison, "Westward Extension," p. 58.

of our affairs. If we get along with the bank bill, bankrupt bill, land bill, and revenue bill, all which are on the tapis, we shall stand strong with the public. But some of these measures are of doubtful result. The great difficulty consists in producing and maintaining harmony of action among the Whigs.”¹

The ensuing month revealed, however, that the principal obstacle to be overcome was not the tendency of the congressional majority to inharmonious action, but rather the inflexible attitude of the President. On July 28th the Senate adopted the bill for the establishment of a bank by a vote of twenty-six to twenty-three, and nine days later the House took similar action by a vote of one hundred and twenty-eight to ninety-seven. “Whether the President will approve it [the Bank Bill],” wrote Webster to Everett July 29th, “is a question which I hardly dare ask myself. If he should not, I know not what will become of our administration.”² On the day on which the bill reached the President, Webster wrote to his wife: “He [the President] keeps his own counsel as to approving or disapproving. Opinions differ very much as to what he will do. A great commotion will doubtless follow, if he should veto the bill. By agreement, I say nothing to him on the subject, and have therefore no better means of judging than others. But the inclination of my opinion is that he will sign the bill.”³ Action was delayed until August 16th, when the measure was returned with a veto, based upon grounds both of constitutionality and of expediency. Upon the question of passing the bill over the veto the

¹ Webster to Edward Everett, July 24, 1841. Webster, “Private Correspondence,” Vol. II, pp. 105-106.

² *Ibid.*, Vol. II, p. 106.

³ *Ibid.*, Vol. II, p. 108.

Senate was almost evenly divided, and the measure was lost. A second bill, framed by the Whig leaders partially in consultation with the President, was passed in the House August 23d and in the Senate September 3d ; but, September 9th, it was returned by Tyler without his signature, and all prospect of the enactment of a bank bill during the present administration definitely disappeared.

By the sharp setback which their programme had suffered at the hand of one whom they had themselves elevated to power the Whigs were alike chagrined and enraged. The President was accused of insincerity and maliciousness, and a select House committee under the chairmanship of John Quincy Adams brought in a report in which it was maintained that Tyler had committed himself definitely to the second bill in advance of its passage in Congress. The charge was denied unequivocally by the President, and in all probability with essential truthfulness. None the less, all of the members of the cabinet save Webster determined to enter protest by resignation, and all of the resigning members except the Postmaster-General, Granger, published statements in which the veracity of the President was sharply impugned. Writing to a friend in New York, September 10th, Webster informed him of the decision of his colleagues, arrived at on the previous evening in a conference at which he had not himself been present, and of the position which he had assumed in the matter. "I told them," he says, "I thought they had acted rashly, and that I should consider of my own course. I shall not act suddenly ; it will look too much like a combination between a Whig cabinet and a Whig Senate to bother the President. It will not be expected from me to countenance

such a proceeding. Then, again, I will not throw the great foreign concerns of the country into disorder or danger by any abrupt party proceeding. How long I may stay, I know not, but I mean to take time to consider.”¹ On the evening of the day upon which this letter was written the members of the Massachusetts delegation in Congress, gathered by invitation at Webster’s house, heard from him his reasons for refusing to concur in the action of his colleagues and assured him of their belief in the propriety of his course; and three days later he addressed to the editors of the *National Intelligencer* a statement in which he declared, first, that he “had seen no sufficient reasons for the dissolution of the late cabinet by the voluntary act of its own members,” second, that if he had seen such reasons he should not have felt warranted in retiring until the President should have been given ample opportunity to make provision for the handling of the important questions then pending in the State Department, and, thirdly, that while he was as firmly convinced of the necessity of a national bank as were any of his fellow-partisans, he still had confidence that the President would coöperate with Congress in removing the obstacles to the incorporation of such an institution, and there certainly was no prospect of the attainment of the desired end through any other means.²

The position thus assumed was so manifestly sensible and patriotic that it commanded wide-spread approval. Only the Whig leaders were disposed to criticize, and all save the more rabid of them were

¹ Webster to Ketchum, September 10, 1841. Webster, “Private Correspondence,” Vol. II, p. 110.

² Webster to Messrs. Gales and Seaton, September 13, 1841. Curtis, “Webster,” Vol. II, p. 81.

soon silenced. The vacancies in the cabinet were filled, and on September 13th the special session came to a close. Although a considerable amount of remedial legislation had been enacted, the bank project was recognized to be dead, and when the autumn elections came on it was revealed that already there had set in a sharp reaction against the Whig ascendancy. During the regular session of 1840-1841 some of the less important portions of Clay's programme were carried into operation. The tariff was readjusted and an act was passed providing for the distribution of the proceeds of the sales of public lands. But the modifications of the tariff were neither large nor enduring, and the distribution act was rendered inoperative by a provision to the effect that no distribution should be made when tariff rates should be in excess of twenty per cent. On March 31, 1842, Clay resigned his seat in the Senate, the more freely to devote himself to the reorganization of his shattered party.

That Webster likewise felt keenly the humiliation of his party and the discordant character of the times appears repeatedly in his correspondence. "I wish I could say a cheering word," he wrote to Everett two months after Clay's retirement, "in relation to the general state of our political affairs. But nothing can be worse. . . . Our system of self-government is now undergoing an experiment which amounts to torture. Party and personal rancor, recklessness, and animosity, seem to be making havoc of all just principles, all practical expediency, and all really patriotic feeling. I hope for better times, but the present darkness is thick and palpable."¹ "Public affairs are

¹ Webster to Everett, May 31, 1842. Webster, "Private Correspondence," Vol. I, p. 132.

in a dreadful state," declared a communication of August 10th, "and I know not when they will mend. Of one thing I am glad, and that is that I am out of Congress. I liked Congress very much formerly ; very much ; but men and things, habits, tempers, principles, all have changed." "It is obvious," he wrote to his son Fletcher, October 19th, "that the political power in the country is falling back into the hands of those who were outnumbered by the Whigs in 1840. All this was to have been expected, from the violence and injustice which have characterized the conduct of the Whig leaders."¹ "The recent elections," he wrote three weeks later, "show that the Whig party is broken up, and perhaps can never be reunited."

Despite, however, the chaos which prevailed in domestic affairs, the Whig Administration was able to pursue a vigorous and highly successful course in the conduct of foreign relations. The fact that the years of his withdrawal from Congress comprised a period during which membership in that body could not have yielded the best of results, and the further circumstance that the post of secretary of state fell to him at a juncture when the foreign situation was unusually full of opportunity, contributed enormously, not only to Webster's personal satisfaction during these troubled years, but also to his diversity of achievement and, consequently, to his fame. The period during which he retained the direction of the State Department extended from the inauguration of President Harrison to May 8, 1843, *i. e.*, through approximately the first half of the administration. During these years the activities of the Department were widely varied. The question of the annexation of Texas continued in suspense, but

¹ Van Tyne, "Letters of Webster," p. 281.

it fell to Webster to vindicate the course of the United States in recognizing the independence of the Texan republic and to take steps several times looking toward the protection of American lives and property in the southwest.¹ A treaty of some importance, arranging duties upon wines, was concluded with Portugal. A mission to China, organized for the purpose of procuring a treaty of commerce such as had been concluded between Great Britain and China, was provided for, and in 1844, under the skilful management of Caleb Cushing, the enterprise was carried to a successful conclusion. At home, the government's policies respecting the questions raised by the Dorr "rebellion" in Rhode Island were shaped and executed by the Department.

The questions of first-rate importance, however, which fell to Webster for adjustment were those arising from a somewhat extended series of controversies with Great Britain, and there is reason to believe that one of the considerations by which he was induced to accept the secretaryship of state was the conviction that he could achieve success in the conduct of our British relations where others had failed. Certainly one of the principal considerations which influenced him to remain in Tyler's cabinet after the withdrawal of all of his earlier colleagues was his desire to complete the gigantic diplomatic task to which he had set his hand. When he assumed control of the State Department there were pending between the United States and Great Britain three principal issues. The first was that of the boundary between Maine and Vermont, on the one side, and the British provinces of Quebec and

¹ See documents in "Works of Webster," Vol. VI, pp. 422-462, and "Writings and Speeches," Vol. XII, pp. 96-136.

Nova Scotia, on the other. The second was a question arising from the relations between American citizens and the Canadian insurgents at the time of the rebellion of 1837, involving especially the affair of the *Caroline* and the imprisonment in New York of a British-Canadian subject of the name of McLeod. The third pertained to the status of the international slave-trade, and centered largely about the hotly controverted principle of the right of search. Of the three issues, the first and third were long-standing, but of rapidly increasing seriousness ; the second was more ephemeral and was the first to be brought to the point of settlement.

The McLeod case, which was pressing for attention when Webster entered the cabinet, was an outcome of the *Caroline* affair of December 29, 1837. The *Caroline* was a vessel owned by a resident of Buffalo. She plied ordinarily between points on the American side of the Niagara River ; but during the course of the Canadian rebellion of 1837 she was used to transport supplies and reinforcements from the insurgent stronghold, Navy Island, to the Canadian side of the stream. On December 29th a party of Canadian troops crossed to the American shore, cut loose the vessel from her moorings, set her on fire, and allowed her to drift over the Falls. During the *mélée* a citizen of the United States of the name of Dufree was slain. The British Government avowed full responsibility for the destruction of the *Caroline* and protested that the act was one of necessary self-defense. The Van Buren Administration demurred, but was unable to establish a right to reparation. Late in 1840 Alexander McLeod, formerly a Canadian deputy sheriff, made his appearance in New York and boasted that it was he who had killed

Durfree; whereupon he was placed under arrest and indicted for murder. On the ground that the prisoner, while participating in the capture of the *Caroline*, was performing an act of public duty for which he could not be made personally and individually answerable to the laws of any country, the British minister at Washington, Fox, peremptorily demanded McLeod's release. Feeling in Great Britain, already stirred by the open sympathy of large numbers of Americans with the Canadian revolutionists, and by other matters, became intense. The foreign secretary, Palmerston, curtly informed the American minister, Stevenson, that McLeod's execution would be the signal for war;¹ and it is certainly true that at no time since 1815 had war between the United States and Great Britain been so imminent as it was in the spring of 1841. Webster's study of the case inclined him to an acceptance of the British contention, namely, that responsibility for the occurrences in which the prisoner was involved lay with the nation and not with the individual, and, accordingly, that McLeod should be set free. The peculiar difficulty of the case arose, however, from the fact that McLeod was in the custody of the authorities of the state of New York, who were bent upon proceeding with the trial which was set for the ensuing May. The most that Webster, acting with the concurrence of the President, could do was to see that McLeod was provided with capable counsel and to have this counsel furnished with evidence on which to sue for a writ of *habeas corpus* before the Supreme Court of New York. When the writ was unexpectedly denied and the prisoner was remanded for trial the situation looked dark. But the counsel for the defendant, abandoning

¹ Bulwer, "Palmerston," Vol. III, pp. 46, 49.

the line of defense marked out by the State Department, fell back upon the attempt to prove an *alibi*, and, curiously enough, the attempt was successful. October 12, 1841, McLeod was acquitted and released.¹

This termination of the McLeod case, wrote John Quincy Adams in his Diary, removed all immediate danger of a collision between the two nations, but "left the negotiations with the British authorities upon the Maine boundary, the South Sea [Pacific] boundary, the slave-trade, and the seizure of our ships on the coast of Africa thorus to be extracted by purer and more skilful hands than are to be found in the Administration of John Tyler."² The author of this caustic remark failed completely to estimate at their true worth the statesmanship of the President, the diplomatic capacities of the Secretary of State, and the integrity and patriotism of the Administration in general. At the moment when the words were penned the country was, in point of fact, fast approaching a diplomatic adjustment with Great Britain destined to be both honorable and permanent. For such a consummation the way was prepared, not alone by the accession of Webster to the portfolio of state, but by a general overturn in official circles at London. In June, 1841, the Whig ministry of Melbourne suffered defeat in the Commons, and at the national elections which ensued the Tories won so clear a victory that in August the making up of a ministry was entrusted to the Tory leader, Robert Peel. At the Foreign Office the aggressive Palmerston was succeeded by the cautious Aberdeen, and the new ministry as a whole was disposed to

¹ For the documents in the McLeod case see "Works of Webster," Vol. VI, pp. 247-269, and "Writings and Speeches," Vol. IX, pp. 247-269.

² Adams, "Memoirs," Vol. XI, p. 27.

be much more conciliatory than its predecessor. The consequence was the rapid smoothing of the way for the series of negotiations whose outcome was the notable treaty signed by Webster and the British commissioner Ashburton in the summer of 1842.

In many respects the most serious of the pending issues between the two countries was that of the north-eastern boundary, and in the settlement of this long-standing question Webster felt from the first the deepest possible interest. The question arose from the ambiguity of the treaty of peace of 1783 regarding the line of demarcation between the United States and the British possessions on the north. As early as 1802 a futile attempt was made by Jefferson to procure a settlement, and the treaty of Ghent contained a provision in accordance with which two joint commissions were to be constituted to take under consideration the matters in dispute. One of the resulting commissions performed successfully the work allotted to it, but the other, confronted by an essentially impossible task, expended six years of arduous effort and ended by failing completely to reach an agreement. In 1827 the two governments concluded a convention by whose terms the issue was referred to an arbitrator; but the referee chosen, the king of the Netherlands, recommended, in 1831, the adoption of a boundary line which he marked out, rather than either of the lines favored by one of the contestants, and the recommendation was not adopted. Correspondence upon the subject was continued intermittently, and the tone of it grew more rather than less unfriendly. Not until after the establishment of the Whig administration in 1841 did there appear prospect of a satisfactory adjustment. Meanwhile the situation grew ever more serious, for the

border populations of Maine and New Brunswick fell to fighting over the disputed lands. In 1838-1839 there was a prolonged series of clashes which acquired the designation of the Aroostook, or "Restook," War.

In March, 1841, Webster entered upon his duties as secretary of state convinced that "of all the topics in discussion," that of the boundary was "infinitely the most difficult,"¹ yet confident that a peaceful adjustment was by no means impossible. Two years previously, as has appeared, he had taken the suggestion that he should be despatched on a special mission to London as an occasion to draw up a comprehensive scheme for the handling of the boundary issue, and in 1841 he found himself in a position to carry into execution the essentials of this plan. To a proposal that negotiations should be renewed informally the British Government replied favorably, and the appointment, late in the year, of Lord Ashburton as special envoy evidenced in unmistakable manner the honesty of purpose of the premier and his colleagues. "The principal aim and object of that part of my life devoted to public objects," wrote Ashburton to Webster soon after the appointment, "during the thirty-five years that I have had a seat in one or the other House of Parliament, has been to impress on others the necessity of, and to promote myself, peace and harmony between our countries."² The only fault found with the appointment in England was that the envoy was likely to be too little disposed to insist upon British rights. "The special mission," wrote Webster to Everett, "was a surprise to us; but the country receives it

¹ Webster to John Davis, April 16, 1841. Webster, "Private Correspondence," Vol. II, p. 119.

² Van Tyne, "Letters of Daniel Webster," p. 253.

very well. For my own part, no selection of a minister could be more agreeable to me than that of Lord Ashburton, as I entertain toward him sentiments of great kindness and regard. . . . It [the mission] gives me promise of work enough, overwhelmed as I already am by affairs growing out of the very unhappy state of things among us, and out of the calls and proceedings of Congress. But my health is good—never better—and if I can so far repress anxiety as to be able to sleep, I hope to get through.”¹

Lord Ashburton arrived in Washington April 4, 1842, and was well received in both official and non-official circles. It was commonly believed that he had come, as Webster expressed it, with “an honest and sincere intent of removing all causes of jealousy, disquietude, or difference between the two countries.” The negotiations were opened, at the middle of June, with perfect frankness upon both sides, and were carried through with no deviation from the initial spirit of friendliness. The task was complicated enormously by the claims of the states of Maine and Massachusetts, pressed by specially appointed commissioners, and at several stages Webster was inclined to despair of a satisfactory issue. But happily the effort was not abandoned. The negotiations were so entirely informal that, contrary to the custom prevailing in such work, no minutes of the meetings were preserved and no protocols whatsoever were prepared. The Secretary had at all stages the cordial support of the President. “I shall never speak of this negotiation, my dear sir,” he declared to Tyler after the conclusion of the work, “which I believe is destined to make some figure in

¹ Webster to Everett, January 29, 1842. Webster, “Private Correspondence,” Vol. II, p. 114.

the history of the country, without doing you justice. Your steady support and confidence, your anxious and intelligent attention to what was in progress, and your exceedingly obliging and pleasant intercourse, both with the British minister and the commissioners of the states, have given every possible facility to my agency in this important transaction.”¹

The treaty as signed August 9th dealt with three important subjects—the extradition of persons accused of crime, the suppression of the international slave trade, and the northeastern and northwestern boundaries. The provision concerning extradition was the first inserted in any treaty to which the United States was a party since the Jay treaty of 1794; and the extradition article of that instrument had expired by limitation in 1806. The present provision was made both comprehensive and perpetual. On the subject of the slave trade the treaty went only so far as to stipulate that the two powers should maintain in service on the coast of Africa independent squadrons sufficient to enforce their respective laws for the suppression of the slave traffic, and that they should coöperate in “all becoming representations and remonstrances” with all powers within whose dominion the market for slaves was permitted to remain open. The opposition of the United States to the right of visitation or search, regarded by the British authorities as a necessary adjunct to the campaign against the slave trade, was so pronounced that the subject was regarded as one not open to discussion, and between Webster and Ash-

¹ Webster to Tyler, August 24, 1842. Webster, “Private Correspondence,” Vol. II, p. 147. For the notes exchanged by Webster and Lord Ashburton see “Works of Webster,” Vol. VI, pp. 270–328, and “Writings and Speeches,” Vol. XI, pp. 270–328.

burton it was hardly mentioned. The plan of action for which the treaty provided was in reality the President's, and it was in his name that it was presented by Webster to the British commissioner. The settlement of the northern boundaries was made upon the basis of compromise. The disputed lines from the source of the St. Croix to the intersection with the St. Lawrence, and from the passage between Lake Huron and Lake Superior to the northwestern corner of the Lake of the Woods, were agreed upon and described, and a commission was provided for to survey and mark them. The claims of Maine and Massachusetts were satisfied by a payment of one hundred and fifty thousand dollars to each by the United States. There were several minor stipulations regarding the navigation of rivers adjacent to the boundaries and other kindred matters.

Upon several pending questions of more or less importance the treaty did not touch. There was nothing regarding the Oregon territory, trade with the British West Indies, tariff relations, the violation of territory in the case of the *Caroline*, or the proper course to be pursued when slaves belonging to American citizens were by any circumstance cast upon British soil. The last-mentioned question had been given fresh interest by the *Creole* episode of November, 1841. The brig *Creole*, with a cargo of merchandise and slaves, was on her way from Richmond to New Orleans when the slaves rose, overpowered the ship's master and crew, and put in at the port of Nassau, on the British island of New Providence, in the West Indies. The British authorities at the port, instead of coming to the relief of the crew and setting the vessel again upon her course, permitted the slaves to escape and left the crew

entirely without succor. The affair aroused keen resentment in the South, and it fell to Webster to seek reparation. At the negotiation of 1842, however, Lord Ashburton professed lack of instructions, and the most that Webster could obtain from him was an unwritten agreement that there should be no "official interference" with American vessels driven by accident or by violence into West Indian ports. Notwithstanding these omissions, the results of the negotiation were regarded in the United States as distinctly worthy of commendation, and the treaty, laid before the Senate August 11th, was reported by the Foreign Relations Committee without amendment and was ratified by a vote of thirty-nine to nine, a majority considerably in excess of that which Webster had expected. On October 13th ratifications were exchanged at London, and on November 10th the treaty was proclaimed.

The Webster-Ashburton negotiation comprises one of the most highly creditable chapters in the history of modern diplomacy. Not only was a threatened war averted; the lofty tone of the negotiation fixed a standard which in subsequent times was by no means without effect in the dealings of the two nations. Each negotiator was firm when the interests committed to him required that he be so, but each was actuated by a profoundly friendly spirit toward the other, and each was ready at all times to make every possible allowance for the requirements of the other's position. Thoroughly grounded in the principles of the law of nations, Webster maintained throughout the negotiation not one point of law whose validity the jurist of to-day is disposed to call in question. And the fact that the settlements arrived at proved eventually satis-

factory on both sides of the Atlantic, notwithstanding the recent intensity of feeling on both sides, is testimony alike to the skill and the fairness with which the negotiations were carried through.¹

Throughout the summer of 1842 there continued to be murmuring among the more radical Whigs by reason of Webster's refusal to withdraw from the cabinet, and the fact that in the negotiations with Ashburton the Secretary was collaborating in a cordial manner with President Tyler brought down upon his head no small amount of open criticism. Even his closest friends were insistent that he should not continue a member of Tyler's official family after the termination of the British treaty. "Your *real* friends," wrote Abbott Lawrence, July 30th, when the end of the negotiation was in view, "will unanimously agree with me that *now* is the *accepted* time to quit, with honor, your present *responsible* but *disagreeable* position." "Your best friends here," wrote Jeremiah Mason from Boston, August 28th, "think that there is an insuperable difficulty in your continuing any longer in President Tyler's cabinet." The demand for his resignation became, indeed, after the signature of the treaty, insistent. The attempt to dictate his course of action appealed to Webster, however, most unfavorably. The petty persecution to which he was subjected nettled him, and, wholly apart from personal considerations, it seemed to him absolutely essential that he should remain at his post until the execution of the treaty should be entirely as-

¹ In Parliament the treaty, referred to by its opponents as "Ashburton's Capitulation," was attacked by Palmerston and other members of the Opposition. But the objections to it were neither fundamental nor lasting.

sured. He therefore gave his advisers scant satisfaction. "I am a little hard to coax," he declared, "but as to being driven, that is out of the question." His resolution was in no wise shaken by the hardly courteous action of the Massachusetts Whig convention of September 13, 1842, which definitely declared a "full and final" separation between the President and the Whig party. On the contrary, he was influenced by that action to appear in Faneuil Hall, September 30th, and in the presence of a brilliant assemblage of his fellow-townsmen to lay bare mercilessly the folly of widening the breach between Congress and the President, and incidentally to explain and defend the course which he was himself pursuing. As to his intent for the future he refused absolutely to commit himself. "I give no pledges, I make no intimations one way or the other; and I will be as free when this day closes to act as duty calls as I was at the dawn of this day."¹

During more than seven months thereafter he continued at his post, and it was only when, in the spring of 1843, he became convinced that he could be of little further service to the country as a member of the cabinet that he reached a decision to retire. The period was one of comparative inactivity in both foreign and domestic affairs. To the last the pleasant relations which had subsisted between the Secretary and the President were maintained. In his letter of resignation, May 8th, Webster assured his chief that no one could desire more sincerely or ardently "the prosperity, success, and honor" of his administration; while in his very cordial reply the President expressed the

¹ "Works of Webster," Vol. II, p. 124; "Writings and Speeches," Vol. III, p. 124.

conviction that in conducting "the most delicate and important negotiations" Webster had "manifested powers of intellect of the highest order, and, in all things, a true American heart."

CHAPTER XII

TEXAS, OREGON, AND THE ELECTION OF 1844

IMMEDIATELY upon his retirement from the cabinet Webster withdrew to his Massachusetts home, now definitely fixed at the country seat of Marshfield, and throughout the ensuing two years he was enabled, despite frequent professional engagements, to attend almost continuously to his growing rural interests and to enjoy in a larger measure than at any time since youth his favored forms of outdoor recreation. Marshfield was situated some thirty miles southeast of Boston, in the vicinity of the head of Duxbury Bay. The place was first visited by Webster in 1824. After he and his family had spent a number of summers there, in 1831 he purchased from his landlord, Captain John Thomas, a farm of one hundred and sixty acres, bordering immediately upon the sea. To this possession were added other tracts from time to time until there was brought together an estate of eighteen hundred acres. The house upon the original tract was a substantial square-shaped mansion, built about 1765. It proved too small for Webster's use and was added to upon several occasions until it became, as Mr. Curtis describes it, "a house of various architecture, irregular within and without, but spacious and convenient, and both externally and internally impressing the visitor with a sense of its fitness as Mr. Webster's favorite home."¹ At the time of the owner's retirement from

¹ Curtis, "Webster," Vol. II, p. 217.

the cabinet a room to be employed as a library was in process of construction. In 1839 the house in Summer Street, Boston, which Webster had erected and long occupied was sold, and thereupon the furniture and other personal property of the family was brought together in the Marshfield mansion. Only a law-office, with a valuable professional library, was retained in the city.

In both the theoretical and the practical aspects of agriculture Webster maintained at all times a vital interest. After the death of his brother Ezekiel, as has appeared, he took over the management of the ancestral Elms Farm in New Hampshire, so that his attention had thereafter to be divided between the lands at Franklin and those at Marshfield. In both places he had overseers and carefully selected tenants; but he busied himself none the less with the details of both estates. Throughout the periods of hardest labor at Washington his correspondence abounds in letters to his overseers, notably Mr. Weston at Marshfield, respecting the care of cattle, the sowing and harvesting of the crops, the repairing of fences and buildings, and the multiplicity of labors involved in the operation of a profitable farm. From the supervision of his agricultural enterprises he derived the deepest satisfaction, and it was with unbounded joy that he found himself occasionally so free from public and professional obligations as to be able to yoke a string of oxen to a plough and break an acre of soil or undertake some other feat of rural hardihood. When in the country he rose regularly at three or four o'clock, enjoyed what he always considered the grandest phenomenon of nature, *i. e.*, the sunrise, made the round of the barns with ears of corn for his favorite cattle, and not infre-

quently brought down some woodcocks or wild ducks with his fowling-piece before the call to breakfast. A well-appointed fishing-boat was always at hand, and with a hard-headed old salt, Seth Peterson, as steersman, many a day was spent in quest of halibut and cod in the cool waters of Massachusetts Bay. "Oh, Marshfield, the sea, the sea," was a plaint repeatedly raised during wearisome stretches of professional or congressional routine.

The opportunity for retirement which presented itself in 1843 was especially agreeable to Webster because of the need under which he at the time was laboring to devote attention to his private affairs. The fact has been alluded to that in him the quality of thrift was not predominant and that an unfortunate trait developed during his youth was an easy and habitual indifference to debt. In the practice of his profession he made money readily, and often in considerable amounts. But he spent freely, even lavishly, and so large a portion of his maturer years was given over to the service of the public that the income which otherwise he would have enjoyed from his career at the bar was very materially lessened. In 1836, with the aid of friends, he contrived to adjust all of his accounts, so that for once he was entirely free from debt. Continued service in the Senate and the cabinet, however, involved further diminution of income, renewed borrowing, and once more, in the course of six or seven years, heavy indebtedness. The social obligations of his position, reënforced by a personal inclination to generous hospitality and good, though not extravagant, living, rendered his salary totally inadequate to meet his expenses. This salary could be supplemented only occasionally and irregularly by lawyer's fees. The

farms at Franklin and Marshfield were fairly productive, but the owner was unsparing in his outlays upon fine stock, improved methods, better buildings, and more land, so that the income was as a rule less than the outgo. There were also several landed investments in the West, few of which yielded returns. Finally must be mentioned the fact that Webster's personal finances were managed at all times in a haphazard manner. No regular accounts were kept, either by himself or by his agents, and it was never possible to ascertain precisely which enterprises were paying and which were not. In less than a year after his retirement from the cabinet, however, he was able to report that he was already in enjoyment of an income of fifteen thousand dollars from his revived law practice. He was hoping, too, to turn some minor pieces of property to good account, and with respect to his complete financial recovery he was altogether sanguine. At the suggestion that he should permit himself to be returned at an early date to the Senate he demurred, on the ground principally that he could not yet afford the pecuniary sacrifice that would be involved.¹

Life at Marshfield during the summer and autumn of 1843 was interrupted by the preparation of certain public addresses and by occasional trips beyond New England, chiefly professional visits to New York. On July 23, 1842, the last stone was raised to its place on the Bunker Hill Monument, and on June 17, 1843, the sixty-eighth anniversary of the battle and the eighteenth of the laying of the corner-stone, the completion of the giant shaft was publicly celebrated. As was befitting, the services of Webster were again sought, and, not-

¹ Webster to Sears, February 5, 1844. Webster, "Private Correspondence," Vol. II, p. 183.

withstanding his desire for rest, he consented to deliver the principal oration of the occasion. Elaborate preparations for the day were made, the weather proved ideal, and in numbers and enthusiasm the celebration easily surpassed that of eighteen years before. The present oration was less impassioned than the earlier one, but not less powerful. It was delivered in the shadow of the giant obelisk, looming two hundred and twenty-one feet in the air, and in the presence of an audience of one hundred thousand people, at least half of whom were within hearing of the speaker's voice. "A duty," affirmed Webster in his simple opening sentences, "has been performed. A work of gratitude and patriotism is completed. This structure, having its foundations in soil which drank deep of early Revolutionary blood, has at length reached its destined height, and now lifts its summit to the skies. We have assembled to celebrate the accomplishment of this undertaking, and to indulge afresh in the recollection of the great event which it is designed to commemorate." When, after saying "It is not from my lips, it could not be from any human lips, that that strain of eloquence is this day to flow most competent to move and excite the vast multitude around me,—the powerful speaker stands motionless before us," he paused and pointed in silent admiration to the great pile of granite, the audience burst into unrestrained applause, and many minutes elapsed before the address could be continued.

"We have indulged," it was asserted in the memorable peroration, "in gratifying recollections of the past, in the prosperity and pleasures of the present, and in high hopes for the future. But let us remember that we have duties and obligations to perform,

corresponding to the blessings which we enjoy. Let us remember the trust, the sacred trust, attaching to the rich inheritance which we have received from our fathers. Let us feel our personal responsibility, to the full extent of our power and influence, for the preservation of the principles of civil and religious liberty. And let us remember that it is only religion, and morals, and knowledge, that can make men respectable and happy, under any form of government. Let us hold fast the great truth, that communities are responsible, as well as individuals; that no government is respectable, which is not just; that without unspotted purity of public faith, without sacred public principle, fidelity, and honor, no mere forms of government, no machinery of laws, can give dignity to political society. In our day and generation let us seek to raise and improve the moral sentiment, so that we may look, not for a degraded, but for an elevated and improved, future. And when both we and our children shall have been consigned to the house appointed for all living, may love of country and pride of country glow with equal fervor among those to whom our names and our blood shall have descended! And then, when honored and decrepit age shall lean against the base of this monument, and troops of ingenuous youth shall be gathered round it, and when the one shall speak to the other of its objects, the purposes of its construction, and the great and glorious events with which it is connected, there shall rise from every youthful breast the ejaculation, "Thank God, I—I also—AM AN AMERICAN!"¹

During the summer of 1843 Webster was urged to

¹"Works of Webster," Vol. I, pp. 106-107; "Writings and Speeches," Vol. I, pp. 282-283.

attend a fair to be held at Rochester in September, under the auspices of the New York State Agricultural Society. "Do not wonder," he wrote to his sister-in-law, September 18th, "if you hear of me making a sudden expedition to western New York, to be gone four days. There are to be cattle and sheep at Rochester." An invitation to be present at an entertainment given by the officials of the Agricultural Society on the evening of September 20th was accepted, and upon this occasion two speeches were delivered, one upon industrial topics in reply to the toast "the Farmer of Marshfield," the other an impromptu reply to another speaker's remarks concerning the financial condition of the states.¹

Meanwhile there was looming above the horizon the presidential election of 1844. Already, in August, 1843, the Liberty party had held a convention at Buffalo and had placed in nomination for the presidency James G. Birney of New York, upon a platform denying the power of Congress "to establish or continue slavery anywhere" and otherwise assailing the asserted privileges of the "peculiar institution." Among the Whigs Clay was still unquestionably leader, and that he should be accorded the honor in 1844 which he had been denied in 1840 was from the outset inevitable. His only possible rival was Webster. At the last, Webster received little or no consideration; but during the winter of 1843-1844 an appreciable amount of effort was exerted in his behalf by his Massachusetts friends. As has been observed, during the year or more preceding his withdrawal from the cabinet Webster's course had been subjected to very general criticism on the part of the Whigs everywhere,

¹ "Writings and Speeches," Vol. XIII, pp. 172-195.

and notably in his own section of the country. Even after his retirement the question continued to be agitated as to whether, indeed, he could any longer properly be considered a member of the Whig party. The charge held against him was not alone his prolonged continuance in the Tyler cabinet under the circumstances which have been described, but his reiterated public affirmation that a Bank of the United States upon the old plan had ceased to be practicable. Upon the constitutionality and desirability of duties affording incidental protection to home manufactures, the necessity of the distribution of the proceeds of the sales of public land, the duty of the general government to employ its full powers in the regulation of the currency, and a variety of other tenets of Whig polity he remained indubitably orthodox. But to many of his fellow-partisans the admission which had been made concerning the Bank appeared altogether unpardonable.

To the friends who were desirous of clearing the way for Webster's candidacy in 1844 it seemed imperative that something should be done to afford the country at large an assurance that within his own section past differences were forgotten and that he was regarded again as a party member in good standing. To effect this end Webster was persuaded to be present at, and to address, a convention of the Massachusetts Whigs held at Andover November 9, 1843. The speech delivered upon this occasion dealt mainly with the subjects of the currency, the tariff, and the public lands, but it comprised also a remarkably straightforward and convincing confession of personal principle. In the course of it Webster affirmed that he was not a candidate for "any office in the gift of

the government or in the gift of the people," and that his condition as a private citizen would never be changed by any movement or effort made for that purpose by himself or at his suggestion. "In my opinion," he asserted, "nominations for the high offices of the country should come, if they come at all, from the free and spontaneous exercise of that respect and confidence which the people themselves may feel. All solicitations of such nominations, and all canvassing for such high trusts, I regard as equally inconsistent with personal dignity and derogatory to the character of the institutions of the country."

Impelled by the wide-spread controversy to which his course had given rise, he went on to declare himself as follows: "As a private man, I hold my opinions on public subjects. They are all such, in their great features and general character, as I have ever held. It is as impossible that I should tread back the path of my political opinions as that I should retrace, step by step, the progress of my natural life, until I should find myself again a youth. On the leading questions arising under our constitutions and forms of government; on the importance of maintaining the separation of powers, which those constitutions establish; on the great principles of such a policy as shall promote all interests, maintain general harmony in the country, and perpetuate the blessings of political and religious liberty—my opinions, the result of no little study, and some experience, have become part of myself. They are identified with all my habits of thought and reflection, and though I may change my views of particular measures, or not deem the same measures equally proper at all times, yet I am sure it is quite impossible I should ever take such a view,

either of the public interest or of my own duty, as should lead to a departure from any cardinal principles." ¹

One subject, namely, the propriety of his course in refusing to retire from the cabinet in 1841, Webster declared he made mention of at this time only because the committee which had invited him to the convention had made specific allusion to it. "I am aware," he said, "that there are many persons in the country, having feelings not unfriendly toward me personally, and entertaining all proper respect for my public character, who yet think I ought to have left the cabinet with my colleagues. I do not complain of any fair exercise of opinion in this respect; and if, by such persons as I have referred to, explanation be desired of anything in the past, or anything in my present opinions, it will be readily and cheerfully given. On the other hand, those who deal only in coarse vituperation, and satisfy their sense of candor and justice simply by the repetition of the charge of dereliction of duty and infidelity to Whig principles, are not entitled to the respect of an answer from me. . . . Gentlemen, I could not but be sensible that great responsibility attached to the course which I adopted. It was a moment of great excitement. A most unfortunate difference had broken out between the President and the Whig members of Congress. Much exasperation had been produced, and the whole country was in a very inflamed state. No man of sense can suppose, that, without strong motives, I should wish to differ in conduct from those with whom I had long acted; and as for those persons whose

¹ "Works of Webster," Vol. II, pp. 180-181; "Writings and Speeches," Vol. III, pp. 180-181.

charity leads them to seek for such motive in the hope of personal advantage, neither their candor nor their sagacity deserves anything but contempt. I admit, gentlemen, that if a very strong desire to be instrumental and useful in accomplishing a settlement of our difficulties with England, which had then risen to an alarming height, and appeared to be approaching a crisis—if this be a personal motive, then I confess myself to have been influenced by a personal motive. The imputation of any other personal motive, the charge of seeking any selfish advantage, I repel with utter scorn. . . . Gentlemen, I thought I saw an opportunity of doing the State some service, and I ran the risk of the undertaking. I certainly do not regret it, and never shall regret it.”¹

In the opinion of Mr. Curtis the real reason why Webster made special effort at this point to set himself right with the Whigs was one which for the time being he was not free to avow, namely, his desire to be in a position to advise and control his party upon the question of Texas. It may be supposed that considerations of political expediency were not wholly without their bearing, but it undoubtedly is true that the seriousness of the Texan issue was very keenly felt. When, in 1836, that issue was thrust into the foreground by the success of the Texan revolution Webster predicted that it would introduce into the politics of the country “new causes of embarrassment and new tendencies to dismemberment”;² and throughout the succeeding years of intermittent diplomacy and varia-

¹ Curtis, “Webster,” Vol. II, p. 229; “Writings and Speeches,” Vol. III, pp. 181-182.

² Webster to Everett, May 7, 1836. Webster, “Private Correspondence,” Vol. II, p. 19.

tion of policy he found increasing rather than diminishing reason for apprehension. In September, 1836, the people of Texas voted overwhelmingly for annexation to the United States, and the demand for such annexation which arose from numerous and influential elements in the United States, northern as well as southern, was such as to be extremely difficult to resist. The most that could be obtained, however, during the continuance of the Jackson administration was a recognition of the independence of the republic, in March, 1837; and throughout the four years of Van Buren the programme of the annexationists was blocked absolutely by the opposition of the President. In 1838 the Texan offer of annexation was withdrawn, and in 1839-1840 treaties of friendship were concluded by the republic with France, Great Britain, and other European states. When, in 1841, Webster assumed the state portfolio he recognized that the project of annexation was likely to be revived at any time, and in December of the year mentioned he was not surprised to be approached by an envoy of the Texan secretary of state bent upon ascertaining the attitude of the new Administration toward such a project. The envoy, Reily, was given no encouragement, and early in 1842 he asked of his government that he be relieved. The request was granted and another envoy, Van Zandt, was sent to Washington to watch and report upon the fluctuations of annexation sentiment in both official and non-official circles.

Thus matters stood until after the retirement of Webster from the State Department, in May, 1843. A few weeks subsequent to that event, however, new phases assumed by the Texan situation induced a change from a passive to an active attitude on the part

of the Tyler Administration. Through the efforts of British and French agents a truce was brought about between Texas and Mexico ; almost immediately thereafter Van Zandt was instructed to inform the government of the United States that the subject of annexation was no longer open for discussion ; and rumors became widely current to the effect that British influence was being employed to bring about the abolition of slavery within the republic. The new secretary of state, Upshur, became so panic-stricken as to believe that Great Britain was engaged in a gigantic plot having as its end nothing less than the abolition of slavery in all parts of America. The danger in Texas was believed to be immediate ; and in order to avert it the President and Secretary Upshur resolved upon an immediate negotiation of a treaty providing for the annexation of the republic to the United States. The negotiations, opened in October, 1843, proceeded slowly and in secret, and it was not until April 12th that the annexation treaty was signed. In the meantime Upshur, killed in an accident February 28th, had been succeeded in the State Department by Calhoun.

During the winter of 1843-1844 Webster spent some weeks in Washington attending to business in the Supreme Court, and while there he became aware of the Administration's Texan project, despite the effort which was being made to preserve secrecy. Furthermore, he obtained his information indirectly from Upshur himself. Webster and his successor, notwithstanding political differences, were excellent friends. In the course of one of their conversations Upshur confided to Webster that he disagreed with the President's policy in such a measure that "he would not continue in office a fortnight if he had not a particular

object to accomplish." The nature of the object was not specified, but Webster related subsequently that he "felt Texas go through" him and that within two days he knew all about the Administration's dealings with Van Zandt. Returning to Boston, he called into conference his friend Ticknor and disclosed to him what he had learned. War, he declared, would be the inevitable consequence of an annexation of Texas without the consent of Mexico. Upon the evils that would follow an extension of territory to the southward he discoursed eloquently, even passionately, asserting that he had been unable to sleep at night and that he could think of little else by day. The existence of the Union itself, he was certain, would be endangered. In the *Intelligencer* he had published already two articles in opposition to annexation, and at his suggestion a Massachusetts member had introduced in the national House of Representatives a resolution to the effect that no proposition for the annexation of Texas ought to be made or assented to by the United States.

On April 22, 1844, the Texan treaty was submitted by President Tyler to the Senate with an urgent recommendation that it be ratified. Nine days later the Whig national convention met at Baltimore and nominated Clay unanimously, and without a contest, upon a platform devoted almost entirely to laudation of the candidate and his running-mate, Theodore Frelinghuysen. In a letter to friends in New Hampshire, written at the middle of the winter, Webster had expressed the hope that his own name should not be employed for the purpose of preventing harmony among men whose general political principles were in accord, or "for any cause whatever but a conscientious regard to the good of the country." It was obvious, he ad-

mitted, that the tendency of opinion among the Whigs was at the time "generally and strongly set in another direction," *i. e.*, toward Clay, and the general support of this candidate was warmly advocated. "The election of the next autumn," he wrote, "must involve, in general, the same principles and the same questions that belonged to that of 1840. The cause I conceive to be the true cause of the country, its paramount prosperity, and all its great interests; the cause of its peace and honor, the cause of good government, true liberty, and the preservation and integrity of the Constitution; and none should despair of its success."¹ The events of the months intervening between the writing of this letter and the assembling of the Baltimore convention fully confirmed the conviction that the desire of the party could be met only by the nomination of Clay.

The Democratic convention met also at Baltimore, May 27th. In the desire to vindicate the claim of the Democracy to the nation's support in 1840 the imminence of the Texan question had been somewhat obscured and a majority of the delegates came to the convention pledged to support the candidacy of Van Buren. To the rank and file of the party, however, the nomination of an arch-opponent of annexation was objectionable in the extreme, and with the aid of the two-thirds rule Van Buren was defeated and the nomination was bestowed upon the first presidential "dark horse" in the history of the country, James K. Polk. In the platform it was proclaimed that "the re-occupation of Oregon and the re-annexation of Texas are great American measures, which the convention rec-

¹ Webster to John Warren and others, January 3, 1844. Curtis, "Webster," Vol. II, p. 238.

ommends to the cordial support of the Democracy of the Union.”

On June 8th a vote upon the ratification of the Texan treaty was taken in the Senate. Of the twenty-nine Whig members, all save one opposed ratification, and by a vote of thirty-five to sixteen the project was lost. The issue was thereupon thrown back upon the country, and in the campaign which already was under way it preponderated as no single question theretofore had ever preponderated in a national election. From the outset the Democrats had the advantage of a programme which was unequivocal upon this all-important issue and a candidate heartily in sympathy with this programme. The Whig platform did not so much as mention Texas, and the pronouncements upon the subject which Clay was driven to make were of such a character that they cost the party heavily in both North and South. No one recognized more clearly than did Webster the essential weakness of the Whig position. No course was open, however, save to support the party and its candidate. Even though Clay's attitude upon the Texan question was involved in certain obscurities, he was unquestionably opposed to annexation under existing conditions; and upon all other important questions of public policy his position was entirely satisfactory. In the campaign Webster therefore took a part of very considerable activity. Of the numerous speeches which he delivered the most important were those at Albany (August 27th), Philadelphia (October 1st), and Valley Forge (October 3d). The subject to which he devoted most attention was the tariff, but he did not hesitate to make allusion to the question of Texas and, at Valley Forge especially, to argue against the advisability of annexation. His

contention was not simply that the extension of slave territory was objectionable, but that the area of the country was already so vast that *any* annexation was for the present undesirable.¹

The result of the contest was close. The popular vote of the Whigs fell but 38,000 short of that of the Democrats; that of the Democrats lacked more than 24,000 of equaling that of the Whigs and the Liberty party combined. But of the 275 electoral votes 170 fell to Polk, and with them the victory. Inasmuch as the votes for the Liberty candidate were cast chiefly by men who with but two parties in the field would have supported Clay against Polk, it is perhaps not too much to say that "the Abolitionists defeated Clay."² But it does not follow, as some have assumed, that the Whigs could have won with Webster as a candidate. His candidacy upon the only sort of a platform upon which he could have stood, namely, one declaring squarely against the annexation of Texas, would unquestionably have attracted many votes in Northern states which were lost to Clay. On the other hand it might well have involved the loss of certain states, notably Maryland, Delaware, Kentucky, Tennessee, and North Carolina, which were carried by Clay.

By the outcome of the election the early annexation of Texas was rendered inevitable. In his annual message of December 3d President Tyler maintained that the question, having been left at the previous session without settlement, had "referred itself" to the people, and that by the election of Polk a control-

¹ For these speeches see "Works of Webster," Vol. II, pp. 217-293, and "Writings and Speeches," Vol. III, pp. 217-293; for other speeches delivered during the campaign, "Writings and Speeches," Vol. XIII, pp. 196-305.

² Stanwood, "The Presidency," p. 224.

ling majority of the people, and a majority of the states, had pronounced in favor of the annexationist programme;¹ and there is no ground upon which the validity of this interpretation can be called seriously in question. To both the President and the Democratic leaders in Congress further delay appeared not only unnecessary but dangerous. The opposition was still strong, and there was no reason to suppose that the two-thirds majority requisite for the ratification of a treaty in the Senate could yet be obtained. The plan of action hit upon by the annexationists, therefore, was one whose execution required the concurrence of but a simple majority in the two houses, *i. e.*, that of enactment by joint resolution. The procedure was unusual, and by many persons its propriety was called in question. But it was simple and certain. The resolution in accordance with which the President was authorized to offer to Texas the privilege of becoming a state of the Union was carried in both houses in February, 1845. In July the proposition was accepted by a Texan convention, and in October the act of the convention was ratified by the people.

Meanwhile, during the winter of 1844-1845, Webster had been elected to the Senate to fill the vacancy caused by the retirement of Choate. His term began March 4, 1845; so that when, at the convening of Congress in the following December, a proposal was forthcoming to complete the Texan transaction by the admission of the former republic to statehood he was in a position to take part officially in the discussions which ensued. He recognized, however, that what had been done could not be undone and that resistance to the pro-

¹ Richardson, "Messages and Papers of the Presidents," Vol. IV, p. 343.

gramme of the Administration was futile. Accordingly, when a resolution for the admission of Texas passed the House and came up for consideration in the Senate he confined his efforts to a very brief speech, December 22d, stating his objections to the entire line of policy of which the measure in hand was but the culminating stroke. He declared that he had long been of the opinion that it was "of very dangerous tendency and doubtful consequences" to enlarge the boundaries of the country, and that he had "always wished that this country should exhibit to the nations of the earth the example of a great, rich, and powerful republic, which is not possessed by a spirit of aggrandizement." He asserted, furthermore, that while he was disposed to uphold in every respect the existing arrangements and compromises of the Constitution, he should never be in favor of the admission to the Union of states possessing the peculiar rights in respect to slavery which had been accorded the original members of the Union, and he avowed the opinion that if Texas were to be brought into the Union at all the act ought to have been performed through the medium of diplomatic adjustment, sanctioned by treaty. "I agree," he affirmed in closing, "with the unanimous opinion of the legislature of Massachusetts; I agree with the great mass of her people; I reaffirm what I have said and written during the last eight years, at various times, against this annexation. I here record my own dissent and opposition; and I here express and place on record also the dissent and protest of the state of Massachusetts."¹ The protest was recorded; but, as was entirely expected, it was without effect upon the actual drift of events.

¹ "Works of Webster," Vol. V, p. 59; "Writings and Speeches," Vol. IX, p. 59.

The resolution for admission, passed in both branches of Congress by large majorities, was approved by the President December 29th ; and, February 19, 1846, the state government of Texas was formally installed.

The expansionist sentiment by which the country was swept during the decade 1840-1850 found an outlet not alone toward the south but also toward the northwest. In the same paragraph in which the "re-annexation" of Texas was demanded the Democratic platform of 1844 called insistently for the "re-occupation" of Oregon, affirming that the title of the United States to the whole of the Oregon territory was "clear and unquestionable," and that no portion of the territory "ought to be ceded to England or any other power." And in his inaugural address President Polk reiterated the declarations of his party, asserting that the just claim of the United States extended northward to the parallel $54^{\circ} 40'$ and making it clear that it would be a part of his policy to see that the claim was enforced. Within the broad expanse of the Oregon country there had appeared at one time or another four claimants—Spain, Russia, Great Britain, and the United States. By the Spanish treaty of 1819, fixing the forty-second parallel as the northern boundary of New Mexico, one of the four was eliminated. Another, Russia, yielded her claims in treaties of 1824 and 1825 with the United States and Great Britain respectively, accepting $54^{\circ} 40'$ as her southern limit. Between the other two claimants an agreement for joint occupation, entered into first in 1818, was continued throughout a period of twenty-eight years, upon the understanding that either party had a right to terminate the agreement on twelve months' notice. In 1824, and again in 1826, the United States proposed the settlement of

the Oregon question by the simple extension of the forty-ninth parallel to the Pacific. But Great Britain held out for the Columbia River as a boundary, and no compromise was found possible. During the period of the Van Buren and Tyler administrations both the British and American populations in Oregon underwent a considerable increase, and the question of the eventual sovereignty of the territory became rapidly more pressing. It was the judgment of Webster that the forty-ninth parallel should be made the boundary. When, however, in 1842 he proposed that the subject should be included in the treaty of Washington he found that nothing could be done, because Lord Ashburton had received no instructions upon it.

As the issue grew in public interest the extreme position maintained by the British authorities operated to drive more zealous Americans to a corresponding extreme, and by 1844 the sentiment "54° 40' or fight" was so popular that the Democrats were able to employ it with the most telling effect in the campaign. Upon the establishment of the Polk Administration the effort to bring about an adjustment by negotiation was renewed. July 12, 1845, Secretary Buchanan again offered the line of the forty-ninth parallel. Two weeks later, however, the offer was refused by the British minister, Pakenham, without consultation with his government, and in terms that were rather unnecessarily curt. A month later the proposal was withdrawn, the negotiation was broken off, and the right of the United States to the whole of the territory in question was reasserted. So intense was the feeling upon both sides that the two nations were clearly upon the brink of war. On November 7th Webster delivered a powerful speech to his fellow-townsmen gathered

in Faneuil Hall in which he contended for the forty-ninth parallel as the natural boundary and urged that, despite the critical character of the situation, peace could be, and must be, preserved. The speech was translated into most of the languages of Europe and was widely influential in inclining the continental peoples to regard as necessary and just the solution which in it was proposed.

At the opening of the first session of the Twenty-ninth Congress, December 2, 1845, the President sent in a message reasserting forcefully the claim to the whole of the contested territory, and recommending that provision be made by law for the year's notice to Great Britain which was required to terminate the convention of 1827. On December 15th General Cass introduced in the Senate resolutions calling for an investigation of the state of the national defenses, assigning as a reason for such an investigation the pending dispute with Great Britain relative to Oregon; and three days later a joint resolution was introduced by Senator Allen of Ohio meeting the President's desire by authorizing him to give notice to Great Britain forthwith. On the ground that they might have a tendency to create unnecessary alarm, Webster spoke against the Cass resolutions; and in opposition to the Allen resolution, which was before the Senate through several months, although not formally discussed until February 10, 1846, he took occasion, February 26th, to speak at some length. Amended to provide that the President should give notice to Great Britain at his discretion, the Allen resolution was adopted by Congress and approved by the President in April, and on May 21st the notice was given.

In the meantime, however, negotiations had been re-

sumed. Pakenham's summary rejection of the proposal of the forty-ninth parallel was disavowed by the British ministry, and although much valuable time was wasted in the effort to induce the United States formally to renew the offer, in the end Great Britain herself transmitted to Washington the draft of a treaty in which the parallel named was stipulated as a boundary. Such an overture Webster, through private channels, had urged the British authorities to make, and there is reason for thinking that his suggestions had been very influential. Somewhat taken aback by the unexpected turn of the affair, the President departed from custom and asked of the Senate its opinion of the proposed treaty before giving or withholding his own assent. The advice which he received, namely, to make the most of the opportunity, was followed, and the treaty, forthwith submitted formally to the Senate, was ratified by a vote of forty-one to fourteen. The confidence which Webster had entertained from the first that the exercise of patience would make possible a fair and peaceful compromise was abundantly sustained.

During the course of the debates upon the Oregon question the treaty of Washington was alluded to several times in a disparaging manner, and the charge was made that in the negotiation of that instrument Webster had yielded territory which belonged properly to the United States. One member of the House of Representatives, in particular, Charles J. Ingersoll of Pennsylvania, angered by Webster's friendliness toward Great Britain, allowed himself to indulge in a savage attack upon the Ashburton negotiation, upon the treaty terminating it, and upon Webster's personal ability and integrity. And certain of the charges which were made—especially that the counsel

of McLeod was paid by the United States, that the Attorney-General of the United States was directed to take charge of McLeod's defense, and that Webster had written to Governor Seward, of New York, that if McLeod were not released the city of New York would be "laid in ashes"—were repeated by Daniel S. Dickinson of New York in the Senate. In the aggregate, the charges were equivalent to an accusation of gross malfeasance in office. Exasperated by the conduct of his opponents, Webster introduced a resolution, March 20th, asking that the entire correspondence pertaining to the Ashburton negotiation be laid before Congress. The resolution was adopted, the correspondence was brought in, and on April 6th and 7th Webster delivered the very lengthy, carefully prepared, and virile speech known commonly as the "Defense of the Treaty of Washington." So intense was the speaker's indignation that for almost the only time during his entire public career he permitted himself to indulge in personal invective. He refuted completely the charges bearing upon the McLeod affair, explained and defended the treaty of 1842, omitting to speak of no one of the half-dozen important issues which entered into the negotiation of that agreement, and challenged his hearers and the country at large to show that any essential interest had been neglected or that anything had been done "to tarnish the lustre of the American name and character."¹

Under the attack which was leveled against him Ingersoll waxed yet more bitter. Determined to follow up the contest, he now obtained from subordinates in the State Department certain papers which he pro-

¹ "Works of Webster," Vol. V, pp. 78-150; "Writings and Speeches," Vol. IX, pp. 78-150.

fessed to regard as proofs of Webster's misdemeanors and introduced a resolution calling for an account of all payments from the secret service fund, for all correspondence pertaining to the McLeod case, and for a variety of other documentary materials. The resolution was adopted, but the President replied to the call of the House by saying that he did not feel justified in violating a fixed practice by revealing the uses of the secret service fund, and accordingly the object which Ingersoll sought was not attained. In the Senate a resolution of similar purport was defeated almost unanimously. Ingersoll, however, reiterated his charges and insisted that they were susceptible of proof. Reduced to simplest form, they were (1) that Webster had violated all precedent by taking into his possession the fund for contingent expenses, (2) that he had used a portion of this fund for corrupt party purposes, and (3) that he had left office indebted to that fund and had not been able to make a settlement until after he had been two years out of the State Department. Following prolonged and embittered debate the charges were referred for investigation to two select committees. Ex-President Tyler appeared voluntarily before these committees to testify in Webster's behalf, and when, in June, 1846, the reports were brought in they showed that, while Webster during his tenure of the secretaryship of state had been grossly careless in the handling of his accounts, all vouchers had been made up eventually, and of the improper use of funds there was no evidence whatsoever. The reports were laid upon the table and no further action was taken.¹ As is remarked by one writer, this

¹ For interesting correspondence relating to the Ingersoll charges see Van Tyne, "Letters of Daniel Webster," pp. 309-324.

rather sorry affair is of interest now "merely as showing how deeply rooted was Mr. Webster's habitual carelessness in money matters, even when it was liable to expose him to very grave imputations, and what a very dangerous man he was to arouse and put on the defensive."¹

By accepting at this time an annuity consisting of the interest on a fund of thirty-seven thousand dollars raised for his use by a number of Massachusetts friends and admirers, Webster laid himself open to a charge of another sort—that, namely, of having become the pensioned agent of New England men of wealth, and especially of the manufacturing interests. There is no evidence that any one of the contributors to the fund expected to derive from the gift any personal benefit; likewise there is no reason to think that Webster regarded himself thereafter as any less free than before to speak and to vote independently. And it must be remembered that two generations ago the subsidizing of public men in some such manner was, if not more common, at least more open, than to-day. Granted, however, that the man of ability who cuts himself off by a career of public service from the affluence attainable by other men is entitled to some sort of compensation, it remains a serious question of ethics as to whether he may honorably become the beneficiary of private munificence. To do so, even in Webster's time, meant to incur a certain amount of criticism. To do so to-day would mean irreparable loss of dignity and reputation.

¹ Lodge, "Webster," p. 270.

CHAPTER XIII

THE MEXICAN WAR AND THE COMPROMISE OF 1850

DURING the later summer of 1846 Webster participated with some vigor in the debates which preceded the enactment of fresh legislation upon the two closely related subjects of the tariff and the independent treasury. Following the establishment of the Polk Administration the secretary of the treasury, Robert J. Walker, submitted to Congress, in December, 1845, a comprehensive report recommending the adoption of a revenue tariff based upon *ad valorem* rather than specific duties, and on April 14, 1846, an elaborate measure framed in accordance with this recommendation was introduced in the House of Representatives. When the bill came before the Senate Webster spoke upon it at much length, admonishing the Administration and its adherents not to make this "leap in the dark, in the early part of its career, unnecessarily, in the midst of a war, a war of which no one can see the end, and of which no man can now reckon the expense."¹ The bill was passed, and July 30th it was approved by the President. But prior to its enactment Webster was instrumental in causing to be stricken from it an extraordinary provision whereby in cases of undervaluation with intent to defraud the goods so undervalued should be seized and sold, the importer being paid the value of the goods as rated in his invoice, with five per cent. in addition.

¹ "Works of Webster," Vol. V, pp. 161-243; "Writings and Speeches," Vol. IX, pp. 161-243,

After five years of fiscal chaos succeeding the abolition of the independent treasury system by the Whigs in 1841, a law reëstablishing that system was carried through Congress and, August 6, 1846, approved by the President. This measure also Webster felt bound to oppose, and in remarks which he made upon it a few days prior to the final vote in the Senate he defended his opposition upon the ground that the proposed change would embarrass seriously the fiscal operations of the government and recommended that further consideration of the subject be postponed to the next Congress.¹ The system to which return was now made proved, however, not so disadvantageous as had been predicted; in fact, until the rise of the unusual circumstances occasioned by the Civil War, it was operated with substantial success.

Meanwhile the annexation of Texas had borne its inevitable fruit and the United States was at war with Mexico. Diplomatic relations between the two countries were severed as early as March, 1845; in June of the same year General Taylor was ordered to advance into Texas, and in August he did so; during the winter of 1845-1846 the unsuccessful mission of John Slidell demonstrated the futility of further attempts at negotiation; on January 13, 1846, Taylor was instructed to advance to the Rio Grande; on April 24th the first skirmish between Taylor's troops and the Mexicans took place; and on May 11th President Polk transmitted to Congress the famous message avowing that American blood had been shed on American soil and recommending an immediate declaration of war. The recommendation was carried into effect forthwith

¹ "Works of Webster," Vol. V, pp. 244-252; "Writings and Speeches," Vol. IX, pp. 244-252.

by overwhelming majorities in both houses. It happened that at the time when war was declared Webster was not in Washington. He therefore voted neither for nor against the declaration. Had he been in his seat, he would undoubtedly have voted in opposition, as did his Massachusetts colleague, John Davis.¹ He regarded the annexation of Texas by the United States as insufficient cause for war upon the part of Mexico. At the same time, he had predicted that from the annexation a war would spring, and it was only the suddenness of the declaration of May 12th that surprised him. On receipt of the intelligence he hastened to the capital, and two days subsequently he was in his seat.

The position which Webster maintained throughout the Mexican contest was that of a candid, although by no means factious or relentless, critic of the policies of the Administration. After the actual outbreak of hostilities, and when it was made apparent that only through the President's policy of "conquering a peace" could normal relations between the two countries be restored, he was not disinclined to advocate the prosecution of the contest to a decisive conclusion. The President's course, none the less, in precipitating a situation which rendered war inevitable was criticized as being an infraction of the power of Congress to declare war, and the method which the Administration employed in the raising of troops was more than once subjected to unsparing attack. That method comprised neither the enlistment of volunteers officered by the United States nor the calling into service of the militia of the states, but rather the creation

¹ Davis and Thomas Clayton of Delaware were the only senators who voted against the declaration. Three members, including Calhoun, refrained from voting.

of a nondescript body of troops, consisting of volunteers organized into regiments and officered by the states. The efficiency of a force raised after this manner was called in serious question, and it was maintained that the process could not be squared with the grant of military powers conferred in the Constitution.

The aspect of the war which, however, aroused deepest apprehension was that relating to the probable extension of territory on the southwest and the effects of such extension upon the status of slavery. Throughout the earlier portion of his public career Webster had been known as one of the most outspoken of opponents of the "peculiar institution." In 1819, when the Missouri question was pending, he had served as chairman of a committee of a public meeting in Boston by which was adopted a memorial appealing to "the justice and the wisdom of the national councils to prevent the further progress of a great and serious evil." In the Plymouth oration of 1820 he had denounced the African slave trade in sentences of fiery eloquence. In the debate with Hayne, while avowing that he was, and ever had been, of the opinion that the maintenance of slavery within the states was a matter of domestic policy with which the federal government had nothing to do, he declared unequivocally his belief that domestic slavery was "one of the greatest evils, both moral and political." During the controversy, opened on a serious scale in 1836, over the reception of anti-slavery petitions in Congress it fell to him occasionally to present such petitions; and although, like John Quincy Adams, the vigilant champion of the right of petition in the lower house, he was no abolitionist, he was insistent upon the propriety of such of the peti-

tions as related to the District of Columbia and upon the imperative necessity of the safeguarding of the privilege of petition as guaranteed in the Constitution. "More than all," he wrote in 1838, "it is my opinion that the citizens of the United States have an unquestionable constitutional right to petition Congress for the restraint or abolition of slavery and the slave trade within the said District; and that all such petitions being respectfully written, ought to be received, read, referred, and considered in the same manner as petitions on other important subjects are received, read, referred, and considered; and without reproach or rebuke to the authors or signers of such petitions."¹

Against Calhoun's bill of 1837 proposing to authorize postmasters under certain conditions to confiscate abolitionist literature deposited in the United States mails he spoke and voted, although again from a desire to defend a constitutional principle rather than from sympathy with the abolitionists. "My own opinion is," he none the less wrote soon afterward to Benjamin Silliman, "that the anti-slavery feeling is growing stronger and stronger every day; and while we must be careful to countenance nothing which violates the Constitution or invades the right of others, it is our policy, in my opinion, most clearly not to yield the substantial truth, for the sake of conciliating those whom we never can conciliate, at the expense of the loss of the friendship and support of those great masses of good men who are interested in the anti-slavery cause."²

¹ Webster to Peck, January 11, 1838. Webster, "Private Correspondence," Vol. II, p. 32.

² Webster to Silliman, January 28, 1838. Van Tyne, "Letters of Webster," p. 211.

As his anxiety for the future of the Union increased Webster fell back definitely upon the position to which he adhered throughout the later portion of his life, that, namely, of recognizing the absolute sovereignty of the states in the control of their domestic institutions and the claims of the slaveholders to the protection of their interests in all respects required by the letter or spirit of the Constitution, while at the same time opposing with determination the magnifying of the slavery problem through the admission of new slave states or the extension of territory in which the holding of slaves should be legal. This position was defined with clearness in that portion of the speech in Niblo's Garden in 1837 which related to Texas. "I frankly avow," he asserted, "my entire unwillingness to do anything that shall extend the slavery of the African race on this continent, or add other slaveholding states to the Union. When I say that I regard slavery in itself as a great moral, social, and political evil I only use the language which has been adopted by distinguished men, themselves the citizens of slaveholding states. I shall do nothing, therefore, to favor or encourage its further extension. We have slavery already amongst us. The Constitution found it in the Union ; it recognized it, and gave it solemn guaranties. To the full extent of these guaranties we are all bound, in honor, in justice, and by the Constitution. . . . Slavery, as it exists in the states, is beyond the reach of Congress. . . . I shall concur, therefore, in no act, no measure, no menace, no indication of purpose, which shall interfere or threaten to interfere with the exclusive authority of the several states over the subject of slavery as it exists within their respective limits. . . . But when we come

to speak of admitting new states, the subject assumes an entirely different aspect."¹

The attitude herein defined was one which was shared by an increasing number of Northern people, but it was by no means that of the abolitionists, nor even of men who, while not identified with the abolitionist movement, felt more keenly than did Webster concerning the moral, non-juristic aspects of the slavery problem. There can be no blinking the fact that as early as 1838 or 1839 Webster was being charged with indifference upon the slavery issue, and even with deliberate subservience to the slavery interests. In March, 1838, Adams wrote in his Diary that the Massachusetts delegation was truckling to the South to court favor for Webster and that Webster himself was "tampering with the South on the slavery and the Texas question." In 1839 Joshua R. Giddings declared it "impossible for any man who submitted so quietly to the dictation of slavery as Mr. Webster to command that influence which was necessary to constitute a successful politician." In the secretaryship of state it devolved upon Webster upon several occasions, notably in the *Creole* case, to defend the interests of slaveholders in such a manner as to excite especially the indignation of men who denied the obligation of the national government to protect the alleged rights of slaveholders when such rights were imperiled upon the high seas or in territory belonging to a European power. The principles of law which were acted upon in the cases referred to were in all essential respects sound, but the effect upon Webster's popularity among the more advanced anti-slavery elements was disastrous.

¹ "Works of Webster," Vol. I, p. 356.

As has been observed, the aspect of the Mexican war regarding which Webster felt deepest concern was the prospect of the acquisition of new territory, entailing a fresh conflict upon the territorial status of slavery. February 1, 1847, while there was pending in the House of Representatives a bill to appropriate three million dollars to defray any extraordinary expenses that might be incurred in bringing the war to a close, there was introduced a proviso to the effect that from all territory subsequently acquired by the United States slavery should be forever excluded. During the previous year a two-million bill had been amended to provide that from all territory which might be acquired from Mexico slavery should be excluded; but the amendment, although voted in the House, had been lost in the Senate. The proviso of 1847, like its predecessor, was introduced by David A. Wilmot, of Pennsylvania, but in reality it emanated from an anti-slavery Democratic congressman from Ohio, Jacob Brinkerhoff. Of the utility of such a pledge Webster was doubtful. Better by far, it seemed to him, would be the policy of avoiding the issue altogether by refusing to annex any more territory at all. Accordingly, within a fortnight after the introduction of the second Wilmot proviso he submitted to the Senate two resolutions, one declaring that the war with Mexico ought not to be prosecuted for the acquisition of territory to form new states, the other requiring that the Mexican authorities be informed that the United States was not seeking the dismemberment of the Mexican republic and that she was now ready to treat for peace. These resolutions did not come to a vote; but on March 1st a similar proposal emanating from a Southern Whig, Berrien

of Georgia, was rejected, twenty-nine to twenty-four, by an exact party division. The Democrats, both Northern and Southern, were bent upon the annexation of Mexican territory, and no argument could turn them from their purpose. Many of the Northern members of the party favored the adoption of the Wilmot proviso; but, proviso or no proviso, the annexation must take place. By the Southern element the proviso was, of course, opposed.

Following the rejection of Berrien's resolution Webster addressed the Senate in words of solemn warning, denouncing the equivocal attitude of the Northern Democracy which, while ready to concede that there ought to be no more slave states, was still insistent that the war should terminate in the annexation of vast stretches of Southern territory. A golden opportunity, it was maintained, had been lost, and through the defection of Northern votes. From the opinions expressed in the Niblo Garden discourse of 1837 the speaker declared he had not swerved. From the first he had seen nothing but "evil and danger" to the country from the Texan annexation, and now that, as a result of a war precipitated by that annexation, it was proposed to extend still further the possessions of the nation in the southwest he found his worst fears confirmed. "We want no extension of territory," he declared, "we want no accession of new states. The country is already large enough. . . . Sir, I fear we are not yet arrived at the beginning of the end [of controversy]. I pretend to see but little of the future, and that little affords no gratification. All I can see is contention, strife, and agitation. . . . We are suffering to pass the golden opportunity for securing harmony and stability of the Constitution. We appear

to me to be rushing upon perils headlong, and with our eyes wide open."¹ When the Wilmot proviso was moved in the Senate as an additional section of the Three Million Bill Webster was among those who supported it. It was rejected, however, by a vote of thirty-one to twenty-one. The bill finally became law with no mention of slavery, and the President was left to prosecute the war and to negotiate peace unhampered by any legislative restriction.

During the months of April and May, 1847, Webster made a long deferred excursion for recreation and observation through the Southern seaboard states. At Richmond, Raleigh, Wilmington, Charleston, Columbia, and Savannah he was received with unstinted hospitality, and at a number of dinners and public meetings in his honor he was called upon to deliver addresses.² On account of the excessive heat the plan to visit New Orleans was abandoned, but the trip was sufficiently extensive to afford that first-hand information regarding Southern life and institutions in which a majority of Northern members of Congress and other men of influence were largely or altogether deficient. Returning to Marshfield, June 8th, the senator spent the ensuing summer and autumn in the supervision of his agricultural interests, with an occasional visit to New York or to some New England town in the pursuit of professional business. The catarrh by which he had long been troubled became at this point unusually distressing, and although it yielded in some measure to treatment and to changes of climate, it remained at all times thereafter a source of discomfort and, toward the last,

¹ "Works of Webster," Vol. V, p. 261; "Writings and Speeches," Vol. IX, p. 261.

² For these speeches see "Writings and Speeches," Vol. IV, pp. 67-103.

of occasional disability. Returning to Washington for the session of 1847-1848, he found himself so preoccupied with cases in the Supreme Court that he was able for a time to take but an incidental part in the proceedings of the Senate. The winter was clouded, too, by the increasing poor health of his daughter Julia (Mrs. Appleton), and by the receipt, in February, of the wholly unexpected news of the death of his son, Major Edward Webster, which took place near the city of Mexico January 25th. The son, who was but twenty-eight years of age, had raised the first company of volunteers accepted and organized by his state for the present war, and had gone to the front upon the completion of his regiment. At Matamoras he had fallen ill and his life had been despaired of; but, recovering, he had continued for some months in active service, until the fatal recurrence of his illness, brought on by exposure and over-exertion.

Visibly depressed, Webster none the less returned, in March, 1848, to an active participation in the deliberations upon the floor of the Senate. On the 17th he spoke in opposition to a bill reported by General Cass from the Committee on Military Affairs to increase the army then engaged in Mexico by raising ten additional regiments of troops, and six days later, when the subject under consideration was a bill from the House of Representatives for raising a loan of sixteen million dollars, he delivered an extended speech in which the causes and objects of the war were subjected to the most searching analysis.¹ Six weeks previously the devious diplomacy of the American commissioner, Nicholas P. Trist, had borne fruit in the conclusion of

¹ "Works of Webster," Vol. V, pp. 271-301; "Writings and Speeches," Vol. X, pp. 3-33.

a treaty of peace at Guadalupe Hidalgo. By the terms of this treaty the Rio Grande River was recognized as the boundary of Texas, and Mexico ceded to the United States the whole of the vast territories of New Mexico and California, in return for a cash payment of fifteen million dollars and the assumption by the United States of the claims of her citizens upon Mexico. On March 10th the treaty was ratified by the Senate by a vote of thirty-eight to fourteen.

Curiously enough, however, warlike preparations continued to be pushed. The "All-Mexico" forces, represented in the cabinet by Buchanan and Walker, were active; and until the exchange of ratifications there was some possibility that Mexico might refuse to accede to the amendments which had been introduced in the treaty by the Senate. The Ten Regiments Bill was kept under consideration, and it was understood that the proposed sixteen-million loan was intended to pave the way for the raising of twenty regiments more. In his speech upon the loan bill Webster contended that the treaty rendered utterly inapt any legislation looking toward a prolonging of the war and charged that the object of the bill was "patronage, office, the gratification of friends." The war, it was maintained, had been waged from the outset for the object of creating new states in the southwest, and the speaker declared afresh his unalterable opposition to this programme, and, indeed, his readiness to oppose the annexation of foreign territory in any quarter or under any conceivable circumstance. The issue, it was declared, was simply "peace, with no new states, keeping our own money ourselves, or war till new states shall be acquired, and vast sums paid." ¹

¹ "Works of Webster," Vol. V, p. 283.

Eventually, the exchange of ratifications with the Mexican Government, May 30th, brought definite assurance of peace, and likewise of the annexation which the Administration and its friends were seeking. In the meantime Webster had returned to Boston, where at the close of April he was called upon to follow to the tomb, within the space of a single week, the remains of his daughter Julia and those of his son Edward. Of his five children but one, Daniel Fletcher, now survived.

As the election of 1848 approached it became apparent that the contest would turn almost wholly upon issues created by the war with Mexico. The problems of the Democrats were comparatively simple, for although the unity of the party was impaired by factional strife in New York, the nomination of General Cass for the presidency was virtually assured in advance and the framing of a platform affirming the justice and necessity of the Mexican war, condemning opposition to it, and endorsing the record of the Polk Administration afforded little or no difficulty. The task of the Whigs was more complicated, and in the end it was performed with indifferent success. Of possible candidates there were several. Clay was still in the field, and although his repeated defeats had led many of his former adherents to the conclusion that he could not be elected, he was able to command a large and influential following. General Scott was another possibility, and another was Webster. Still others were Judge McLean and John M. Clayton. Long, however, in advance of the assembling of the Whig convention at Philadelphia, June 7, 1848, it became clear that the candidate most likely to be successful was General Taylor, whose active service during the earlier portion of the war had

enabled him to supplant Scott in the admiration of the hero-loving public. The growing popularity of Taylor was viewed by Webster with alarm, not alone because he was himself a receptive candidate, but because he disapproved the selection of military men for public office. But as early as April, 1847, he predicted Taylor's nomination. "The probability now is," he wrote to his son, "that General Taylor will come in President with a general rush. He would, certainly, were the election now to come on. It is in the nature of mankind to carry their favor toward military achievement. No people yet have ever been found to resist that tendency."¹ Gradually during the winter of 1847-1848 the movement for Taylor acquired organization. On the part of the managers it was believed that with Taylor as a candidate the party could sweep the country, and it was assumed that under no other condition could success be hoped for. The fact that Taylor had never been identified with the Whig party—that, indeed, if he had political principles they were entirely unknown—was not permitted to stand in the way. It was a part of the original plan that the ticket should be assured of added strength by associating Webster with Taylor as a candidate for the vice-presidency; but the proposal, involving as it did little less than insult, was spurned by Webster and his friends with ill-disguised contempt. The presidency alone was Webster's ambition, and in any case he could not have assented to the candidacy of Taylor, as acceptance of the plan would have obliged him to do.

It was Webster's misfortune, throughout the preliminaries of the contest for the nomination, to be the

¹ Webster to Fletcher Webster, April 25, 1847. Webster, "Private Correspondence," Vol. II, p. 239.

victim of well-meaning but tactless friends. Thus at the end of January, 1848, a group of his supporters in New York, thinking to check the progress of the movement for Clay, and without consulting Webster, lent their support to a call for a public meeting in behalf of the nomination of Taylor. To Webster the act appeared a grave tactical error, and to one of the number he wrote reproachfully that as things were going the forthcoming convention would have to choose between but two candidates, Clay and Taylor, and that unless Taylor should make a public avowal of Whig principles Clay would certainly be the nominee.¹ During the spring, state conventions and mass meetings, especially in the Southern states, made demand for the nomination of Taylor, and in many quarters enthusiasts threatened to run the General as a candidate, whatever might be the action of the party convention. Besieged with requests, Taylor at length indicated in a letter, which was made public, that if nominated by the Whigs he would not refuse to run, provided he should be forced to make no pledges. In another communication he avowed that he was a Whig, "but not an ultra Whig."

When the convention assembled General Taylor was nominated on the fourth ballot, and with him was associated as vice-presidential candidate Millard Fillmore of New York. On the first and second ballots Webster received twenty-two votes, on the third seventeen, and on the fourth fourteen. With the exception of one member who came to the convention as a supporter of Taylor, the Massachusetts delegation accorded him its steadfast support. The convention appointed

¹ Webster to Blatchford, January 30, 1848. Curtis, "Webster," Vol. II, p. 336.

no committee on resolutions and adjourned without formulating any statement of principles whatsoever—a course which was regarded by Webster and many of his fellow-partisans with extreme disfavor. The party managers, however, were counting upon a victory to be achieved through the personal popularity of the nominee, and from their point of view the enunciation of principles could but be productive of disagreement and defeat. By the action of the convention Webster was grievously disappointed. His heart was set upon the attainment of the presidency, and neither now nor later was he able to perceive how utterly impossible of realization was his ambition. With the nomination of Taylor it became necessary for him to decide upon the course which he should pursue throughout the campaign. As appeared repeatedly in private conversation and correspondence, he was disgusted with the Whig nominee, the Whig management, even the Whig party itself. At the same time, he neither desired nor could afford to cast in his lot with the Free-Soilers, and the Democratic ticket he, of course, could not by any possibility support. “I shall endeavor,” he wrote to his son a week after the adjournment of the convention, “to steer my boat with discretion, but it is evident that I must say something, or else it will be said for me by others. And I can see no way but acquiescence in Taylor’s nomination; not enthusiastic support, nor zealous affection; but acquiescence, or forbearance from opposition.”¹ “It seems to me I must not,” he wrote three days later, “in consistency, abandon the support of Whig principles. My own reputation will not allow of this. I cannot be silent without being

¹ Webster to Fletcher Webster, June 16, 1848. Van Tyne, “Letters of Daniel Webster,” p. 368.

reproached, when such as Cass is pressed upon the country. . . . I think the safest way is to overlook the nomination, as not being the main thing, and to continue to maintain the Whig cause." ¹ To men who urged that he support the movement of the Free-Soilers he turned a deaf ear. "These Northern proceedings," he wrote to his son, "can come to nothing useful. . . . The men are all low in their objects." And to a Massachusetts friend he wrote, following the nomination of Van Buren by the Free-Soil convention at Buffalo: "It is utterly impossible for me to support the Buffalo nomination. I have no confidence in Mr. Van Buren, not the slightest. I would much rather trust General Taylor than Mr. Van Buren, even on this very question of slavery, for I believe that General Taylor is an honest man and I am sure he is not so much committed on the wrong side as I know Mr. Van Buren to have been for fifteen years." ²

For a time Webster held aloof, but before the close of the campaign he permitted himself to take part, in a guarded manner, in the canvass for Taylor. On September 1st he made a notable address to his neighbors and fellow-townsmen at Marshfield, and October 24th he spoke in Faneuil Hall to a representative gathering of Whigs of Boston and vicinity. In the Marshfield address he declared that Taylor's nomination had been dictated by the "sagacious, wise, far-seeing doctrine of *availability*," and that "the nomination was one not fit to be made." At the same time, he admitted that the nominee was a man of bravery and integrity, whose conduct since his nomination had

¹ Webster to Fletcher Webster, June 19, 1848. Van Tyne.

"Letters of Daniel Webster," p. 369.

² Webster to Hoar, August 23, 1848. *Ibid.*, p. 372.

been beyond reproach, and he conceded that, taking the General at his word, he might be considered a Whig. The alternative being Cass, with the certainty of the admission of more slave states, or Taylor, with a possibility of the avoiding of such a calamity, Webster declared that he could but vote for the latter, and he advised his friends to do the same. In the Faneuil Hall speech he expressed his confidence not only that General Taylor was a Whig but that, if elected, he would surround himself with a Whig cabinet and "honestly and faithfully adopt and pursue Whig principles and Whig measures."¹

At the close of a somewhat spiritless campaign it appeared that the confidence of General Taylor's supporters had not been misplaced. The Whigs were successful, even though by no wide margin. Taylor's popular majority over Cass was approximately 140,000, while his electoral majority was but thirty-six, so that had either New York or Pennsylvania thrown its support to the Democratic candidate he would have been elected. Of members of the House of Representatives the Democrats elected 112, the Whigs but 105. A Free-Soil group of thirteen held the balance of power. The outcome of the election, however, meant little. The Whigs were returned to power, but they brought with them into office no sharply defined principles, and only the future could reveal what their policies would be. As one writer has put it, practically the only thing which the election decided was that "a Whig general should be made president because he had done effective work in carrying on a Democratic war."²

¹ "Works of Webster," Vol. II, p. 475. For the speeches at Marshfield and in Faneuil Hall see "Writings and Speeches," Vol. IV, pp. 123-174.

² Garrison, "Westward Extension," p. 284.

The success of the Whigs raised at once the question of Webster's attitude toward, and his relations with, the forthcoming Administration. Notwithstanding his well-known opinion of Taylor's nomination, he had been influential in holding in line the malcontents of the party, and his eminence was such that he seemed clearly to be marked out for a diplomatic, cabinet, or other important appointment. Throughout the winter following the election Taylor remained at his Louisiana home, and, in the lack of definite information regarding his plans, the public was obliged to content itself with speculation. In large degree the making up of the cabinet was left to the party leaders who had engineered the General's nomination, and Webster, not being among these, was never so much as consulted. He stood ready to tender his advice, but he was not called upon, and he scorned to obtrude. To the suggestion which came from many quarters that he should himself become a member of the cabinet he replied that he had no reason either to expect or to desire an appointment of the kind. "I am old, and poor, and proud," he wrote to a New York friend. "All these things beckon me to retirement, to take care of myself—and, as I cannot act the first part, to act none."¹

Three weeks prior to the inauguration he wrote to the same correspondent that he was certain that it was not the purpose of the President-elect to offer him a cabinet post, and that even if such an offer were to be made it could not be accepted. The reasons advanced for unwillingness to assume a portfolio, should it be offered, were several. One was the irksomeness of

¹ Webster to Blatchford, December 5, 1848. Curtis, "Webster," Vol. II, p. 351.

the labors involved. Another was the feeling that there was still grave doubt as to what the real character of the Administration would be. A third was the consideration that, being the senior of the President in age, long experienced in public affairs, and himself an aspirant to the presidency, Webster felt that he could best preserve his own dignity by declining to fill a subordinate place in the executive branch of the government. Finally, it was pointed out that the practical difficulty of deciding between his own friends and the friends of Taylor in the making of appointments would be embarrassing in the extreme. "It is clear, therefore," he concluded, "that my true position is a position of respect, friendship, and support of the incoming Administration; but not a position in which I should be called upon to take part in the distribution of its offices and patronage."¹

The attitude of benevolent neutrality thus assumed was maintained consistently throughout the sixteen months of Taylor's tenure of the presidency. On May 18, 1850, Webster was able to write: "I feel neither indifferent nor distant toward our good President. He is an honest man, and a good Whig, and I wish well to his administration, for his sake and the country's. But what can I do? He never consults me, nor asks my advice; nor does any one of his cabinet except Mr. Meredith. . . . I shall support cordially the President's measures whenever I can; but I have been in public life some time longer than the President or any of his advisers, and suppose I shall not be much blamed if on great public questions I feel as much confidence in my own judgment as I do

¹ Webster to Blatchford, February 16, 1848. Curtis, "Webster," Vol. II, p. 358.

in theirs. Personally I esteem the President and like him very well.”¹

In the meantime the interest of the country was fast becoming centred upon the titanic contest which had begun in Congress over the organization of the territories acquired from Mexico. In the Faneuil Hall speech of 1848 Webster had made a supreme effort to thrust aside the issue of slavery and to revive the questions of the tariff and the sub-treasury. Yet no one knew better than he that the slavery question could not be kept in the background ; and when, at the convening of the Thirtieth Congress for its last session in December, 1848, President Polk declared in his message that the acquisition of the Mexican territories had created “a domestic question which seriously threatens to disturb the harmony and successful operation of our system,” he but admitted what Webster had declared from the outset would be the consequence of the annexations. The course urged upon Congress in the message was the extension of the line of the Missouri Compromise westward to the Pacific.

During the present session, and throughout the ensuing period of controversy, the problem of the status of slavery in the newly acquired territories was found to be susceptible of five possible solutions. At the one extreme was the contention of Calhoun and other advanced exponents of the slavery interests that in New Mexico and California, as in all other territories acquired by the blood and treasure of the entire country, slavery must be not only permitted but protected ; otherwise prospective settlers whose property

¹ Webster to J. P. Hall, May 18, 1850. Van Tyne, “Letters of Webster,” p. 412.

happened to be in the form of slaves would be discriminated against. At the other extreme stood the principle of the Wilmot proviso, namely, that slavery in newly acquired territory should be prohibited irrevocably by federal law. Between these two courses of action lay three others of a more moderate character. One was that advocated by President Polk, namely, the simple extension to the Mexican territories of the division line adopted in 1820 in relation to the Louisiana Purchase. A second was the policy first warmly advocated by General Cass, and now championed most prominently by Stephen A. Douglas,—that of permitting the inhabitants of the territories to decide for themselves whether or not they would have slavery. This policy was, of course, that of popular, or “squatter,” sovereignty. A third policy contemplated the inhibition of the territorial legislatures by Congress from the enactment of any law upon the subject of slavery, leaving the status of the institution to be determined entirely by the territorial courts. At the time of their annexation New Mexico and California were, both legally and actually, free soil; but the question of the immediate effect of the annexation upon their domestic institutions, no less than that of the proper course to be pursued in the future, was one upon which there was apparently hopeless difference of opinion. An effort in the summer of 1848 to make incidental provision for the organization of the Mexican cession in a measure relating primarily to the Oregon territory failed. Oregon was organized as a free territory, but the question of New Mexico and California was postponed.

During the session which began December 4, 1848, this question took precedence of all others. In the

Senate Douglas introduced a bill erecting the whole of the territory acquired under the treaty of Guadalupe Hidalgo into a single state; but the Judiciary Committee, to which the measure was referred, reported adversely and the proposal failed. February 22, 1849, Webster introduced a bill authorizing military government and the continuance of existing laws in the territories and postponing still further a permanent settlement. This proposal also failed. Still another measure was introduced undertaking to extend the Constitution to the territories, and also to extend to them certain revenue laws of the United States. The discussion of this proposition was rendered especially notable by a clash which took place between Webster and Calhoun upon the question of whether or not the Constitution extended to the territories *ex propria vigore*. It was the contention of Calhoun that the Constitution did so extend and of Webster that it did not. The advantage of the argument lay clearly with Webster. The session closed without the enactment of any measure relating to the territories, save one extending to them the federal revenue laws and creating in them a collection district.

At the establishment of the administration of President Taylor, in March, 1849, nothing was clearer to thoughtful men than that the slavery issue was likely at any time to precipitate a national crisis. In the first place, the discovery of gold in the Sacramento Valley in January, 1848, had resulted in a mad rush of fortune-hunters and settlers to California, creating an unexpected need for an immediate and definite organization of that region for purposes of government. In the second place, there had arisen a group of other, and more or less unrelated, slavery questions which

were pressing ever more seriously for solution. The most urgent of these arose from the demand of the South for a more effective fugitive slave law, but others of importance related to the abolition of the slave trade in the District of Columbia, the adjustment of the disputed boundary between Texas and New Mexico, and the assumption by the United States of the public debt of Texas. In September, 1849, the inhabitants of California, taking matters into their own hands, held a convention, adopted a constitution prohibiting slavery, set up a state government, and prepared to apply for admission to the Union. And when, in December, the Thirty-first Congress assembled for its first session, senators and representatives from California were in Washington ready to take their seats as soon as the necessary formalities should have been complied with. The boundaries of the prospective state were such as to render impracticable one of the solutions of the territorial question which has been mentioned, that, namely, of extending to the Pacific the line of the Missouri Compromise; for this line would cut squarely across the proposed state.

During the early weeks of the session feeling ran high, both in Congress and throughout the country. A determined contest over the speakership of the House, occupying three weeks, by no means bettered the situation; while state legislatures debated sharply, and threats and prophecies of secession were heard on every hand. The outcome was highly problematical when, January 25, 1850, the aged Clay, adopting once more the favorite rôle of compromiser, came forward with a memorable series of eight resolutions calculated to allay the passions of the hour and

to afford a basis for the speedy, fair, and permanent adjustment of the entire group of slavery questions by which the country was vexed. The more noteworthy of the proposals were (1) that California should be admitted as a free state ; (2) that the remaining territories acquired from Mexico in 1848 should be organized without any mention of slavery ; (3) that the slave trade in the District of Columbia should be abolished ; (4) that a new and more effective fugitive slave law should be enacted ; and (5) that Texas should yield to New Mexico the territory in dispute, in recognition of which act the United States should assume the debt contracted by Texas prior to her annexation to the United States. It is interesting to observe that four days before submitting publicly this plan of conciliation Clay sought and obtained a conference with Webster concerning it. Presenting himself at Webster's house on a stormy evening, and with no previous intimation of a visit, he poured out to his great compeer his fears for the Union and besought sympathy and assistance. The plan as unfolded appealed to Webster in all of its essentials, and he gave his word that if, upon further consideration, he should continue of the same mind he would devote himself to its adoption in the Senate, regardless of what the consequences might be at the North.

The pledge was abundantly redeemed. On February 5th and 6th Clay delivered a powerful speech in support of his resolutions, declaring that Congress and the state legislatures were "twenty-odd furnaces in full blast in generating heat and passion and intemperance, and diffusing them throughout the whole extent of the broad land," and expressing the most urgent anxiety for the restoration of "concord, harmony, and

peace." On March 4th the speech of Calhoun, who was too broken in health to be able to deliver it, was read by Senator Mason of Virginia. In it the Compromise was declared incapable of saving the Union, and it was asserted unequivocally that the only means whereby that consummation could be attained would be the concession to the South of an equal right in the territories, the complete enforcement of the fugitive slave law, and the absolute cessation of anti-slavery agitation. Three days later Webster, the third member of the great triumvirate whose twoscore years of service in Congress were now drawing to an end, delivered the memorable speech known from then until now by the date of its delivery, "the Seventh of March."

Earlier in the session Webster had expressed the conviction that the Union was not in imminent peril. "There is no serious danger," he wrote as late as February 14th. Subsequently, however, and especially after the reading of the speech of Calhoun, he came to the opinion that the threats of secession which were sounded so loudly were not entirely empty. As early as February 22d he was determined to "make a Union speech and discharge a clear conscience," and March 7th, when the resolutions of Clay were the special order of the day, he seized a favorable opportunity for the purpose. That he was likely to do so was known somewhat in advance, and when, on the day mentioned, the doors of the Senate chamber were opened all available space was quickly occupied by ladies, members of the House, and other spectators who had been fortunate enough to gain admission. Despite the fact that nothing except an outline was committed to writing, the speech was diligently prepared, and it is the testimony of those who heard it that it was delivered with

more than the speaker's usual deliberation and poise.¹ It was born of an intense devotion to the Union and a solicitous and discriminating study of the highly discordant aspects of the existing political situation, and through it flashed the same flames of eloquence which illumined the Reply to Hayne.

The exordium was one of singular dignity and power of appeal. "Mr. President, I wish to speak to-day, not as a Massachusetts man, nor as a Northern man, but as an American, and a member of the Senate of the United States. It is fortunate that there is a Senate of the United States; a body not yet moved from its propriety, not lost to a just sense of its own dignity and its own high responsibilities, and a body to which the country looks, with confidence, for wise, moderate, patriotic, and healing counsels. It is not to be denied that we live in the midst of strong agitations, and are surrounded by very considerable dangers to our institutions and government. The imprisoned winds are let loose. The East, the North, and the stormy South combine to throw the whole sea into commotion, to toss its billows to the skies, and disclose its profoundest depths. I do not affect to regard myself, Mr. President, as holding, or as fit to hold, the helm in this combat with the political elements; but I have a duty to perform, and I mean to perform it with fidelity, not without a sense of existing dangers, but not without hope. I have a part to act, not for my own security or safety, for I am looking out for no fragment upon which to float away from the wreck, if wreck there must be, but for the good of the whole and the preservation of all;

¹ The outline, which filled twenty-eight sheets of foolscap, is printed in Van Tyne, "Letters of Webster," pp. 393-403, and in "Writings and Speeches," Vol. X, pp. 281-291.

and there is that which will keep me to my duty during this struggle, whether the sun and the stars shall appear, or shall not appear for many days. I speak to-day for the preservation of the Union. 'Hear me for my cause.' I speak to-day, out of a solicitous and anxious heart, for the restoration to the country of that quiet and that harmony which make the blessings of this Union so rich, and so dear to us all. These are the topics that I propose to myself to discuss; these are the motives, and the sole motives, that influence me in the wish to communicate my opinions to the Senate and the country; and if I can do anything, however little, for the promotion of these ends, I shall have accomplished all that I expect."¹

Following this announcement of purpose Webster passed to a review of the history of slavery in the United States, pointing out how the hope of the disappearance of the institution cherished by men of earlier days, including slaveholders, had been brought to naught by the expansion of cotton culture, and how the South, once more outspoken in condemnation of slavery than was the North, had come gradually to regard the institution as natural, necessary, and even justifiable upon religious grounds. Then he sketched the annexation of Texas, the war with Mexico, and the general chain of events by which the nation had been brought to its present perilous situation. The character of every part of the country, with respect to slavery, was declared now to be fixed, by law or by Nature; and, avowing that Nature had herself attended to the exclusion of slavery from the territories comprised in the Mexican cession, he declared that he

¹ "Works of Webster," Vol. V, pp. 325-326; "Writings and Speeches," Vol. X, pp. 57-58.

would not "take pains to reaffirm an ordinance of Nature, nor to reënact the will of God,"—that he would "put in no Wilmot proviso, for the purpose of a taunt or a reproach." The "criminations and recriminations" of the slaveholding and non-slaveholding sections of the country were then surveyed at length and set forth in bold relief. The grievance of the South to which most attention was given was that arising from the lax enforcement of the fugitive slave law. In the controversy which had arisen upon this subject the South, it was affirmed, was right, the North was wrong. "No man fulfills his duty in any legislature who sets himself to find excuses, evasions, escapes from this constitutional obligation," it was maintained; and the activity of some Northern legislatures in flooding Congress with memorials on slavery in the District of Columbia and kindred subjects was especially deprecated. Of abolition societies, also, he spoke very unfavorably. Allowing that thousands of the members of these organizations were honest and good men, he none the less maintained that the societies during the last twenty years had "produced nothing good or valuable," and that their effect was but to excite feeling and create alarm. The violence of the Northern press was likewise reprobated, although it was insisted that the Southern press was no less at fault. In the entire catalogue of Southern complaints he professed to see, however, "no solid grievance within the redress of the Government" save "the want of a proper regard to the injunction of the Constitution for the delivery of fugitive slaves."

Turning to the complaints of the North, he enumerated as first and gravest the change that had taken place in Southern sentiment since 1789, involving

efforts to extend the institution of slavery into new regions, contrary to the understanding which prevailed when the Constitution was adopted ; second, the tone of disparagement in which Southern men were accustomed to speak of free labor and of the industrial system of the North ; and, finally, the laws of certain Southern states in accordance with which colored seamen employed on Northern vessels were denied freedom when in Southern ports. With respect to the grievances of both sides it was declared that in so far as they had their foundation in matters of law they could be, and should be, redressed ; but that in so far as they had their foundation in matters of opinion, in sentiment, in mutual crimination and recrimination, all that could be done was to endeavor to “allay the agitation and cultivate a better feeling and more fraternal sentiments between the South and the North.”

Toward the close of the speech there came an outburst of impassioned eloquence such as Webster himself had seldom equaled. It was inspired especially by the free and easy references to secession which in these days fell not infrequently from the lips of men of high standing and influence. “Secession ! Peaceable secession ! Sir, your eyes and mine are never destined to see that miracle. The dismemberment of this vast country without convulsion ! The breaking up of the fountains of the great deep without ruffling the surface ! Who is so foolish, I beg everybody’s pardon, as to expect to see any such thing ? Sir, he who sees these states, now revolving in harmony around a common centre, and expects to see them quit their places and fly off without convulsion, may look the next hour to see the heavenly bodies rush from their spheres, and jostle against each other in the realms of space, with-

out causing the wreck of the universe. There can be no such thing as a peaceable secession. Peaceable secession is an utter impossibility. Is the great Constitution under which we live, covering this whole country, is it to be thawed and melted away by secession, as the snows on the mountain melt unobserved, and run off? No, sir! No, sir! I will not state what might produce the disruption of the Union; but, sir, I see as plainly as I see the sun in heaven what that disruption itself must produce; I see that it must produce war. . . . Peaceable secession! Peaceable secession! The concurrent agreement of all the members of this great republic to separate! A voluntary separation, with alimony on one side and on the other. Why, what would be the result? Where is the line to be drawn? What states are to secede? What is to remain American? What am I to be? An American no longer? Am I to become a sectional man, a local man, a separatist, with no country in common with the gentlemen who sit around me here, or who fill the other house of Congress? Heaven forbid! Where is the flag of the republic to remain? Where is the eagle still to tower? or is he to cower, and shrink, and fall to the ground? Why, sir, our ancestors, our fathers and our grandfathers, those of them that are yet living amongst us with prolonged lives, would rebuke and reproach us; and our children and our grandchildren would cry out shame upon us, if we of this generation should dishonor these ensigns of the power of the government and the harmony of that Union which is every day felt among us with so much joy and gratitude. What is to become of the army? What is to become of the navy? What is to become of the public lands? How is each of the thirty states

to defend itself? I know, although the idea has not been stated distinctly, there is to be, or it is supposed possible that there will be, a Southern Confederacy. I do not mean, when I allude to this statement, that any one seriously contemplates such a state of things. I do not mean to say that it is true, but I have heard it suggested elsewhere, that the idea has been entertained, that, after the dissolution of this Union, a Southern Confederacy might be formed. I am sorry, sir, that it has ever been thought of, talked of, or dreamed of, in the wildest flights of human imagination. But the idea, so far as it exists, must be of a separation, assigning the slave states to one side and the free states to the other. Sir, I may express myself too strongly, perhaps, but there are impossibilities in the natural as well as in the physical world, and I hold the idea of a separation of these states, those that are free to form one government, and those that are slaveholding to form another, as such an impossibility. We could not separate the states by any such line, if we were to draw it. We could not sit down here to-day and draw a line of separation that would satisfy any five men in the country. There are natural causes that would keep and tie us together, and there are social and domestic relations which we could not break if we would, and which we should not if we could." ¹

The most notable speeches upon the Compromise by which those of Clay, Calhoun, and Webster were followed were those of William H. Seward, delivered March 11th, and Salmon P. Chase, delivered two weeks later. Seward and Chase belonged to the younger generation of statesmen, to the generation

¹ "Works of Webster," Vol. V, pp. 361-362; "Writings and Speeches," Vol. X, pp. 93-94.

which was destined to witness the war between the sections and the complete abolition of slavery, and while their attachment to the Union was unimpeachable they felt less than did Webster and Clay the necessity of compromise and of toleration for the Union's sake. Seward pronounced all legislative compromises "radically wrong and essentially vicious," declared the fugitive slave law contrary to the law of nature, denied that the Constitution recognized slavery, and affirmed that in any case there was a higher law than the Constitution in accordance with which the newly acquired territories should be devoted to freedom. With these doctrines Chase was in substantial agreement.

On April 18th the compromise resolutions were referred to a committee of thirteen, of which Clay was chairman, and May 8th they were reported in the form of two bills, together with an amendment to the fugitive slave bill already pending in the Senate. The drift of circumstances throughout the country was strongly in favor of the Compromise. The holding of a convention at Nashville in which nine of the slave states were represented strikingly emphasized the desirability of an early settlement. On July 9th President Taylor died, and Fillmore, who succeeded, gave the weight of his influence to the proposed adjustment. Disentangling the numerous propositions one by one, Congress adopted the series with few modifications, and before the close of the year the Compromise had become law. The sentiment that the preservation of the Union should be exalted above the attainment of sectional ends upon controverted questions was still in the ascendant. Whether it would continue so after the passing of such bulwarks of nationalism as Webster and Clay was a serious question.

CHAPTER XIV

SECRETARY OF STATE UNDER FILLMORE

WITH the exception of the debate with Hayne, no performance of Webster in the course of a public career covering twoscore years aroused greater interest than did the speech of the Seventh of March. None provoked contemporaneously more wide-spread discussion, and none has since been judged more variously by biographers and historians. No sooner was the speech delivered and the content of it made known to an awaiting public than there arose throughout the North, and most of all in New England, a veritable storm of criticism. In pulpit and in press, by abolitionists and by men who detested the abolitionist creed, Webster was proclaimed, in language now of sorrow and now of indignation, a compromiser, a time-server, and an apostate. At a public meeting held in Faneuil Hall the speech was unsparingly condemned and Theodore Parker declared that he knew of no deed in American history done by a son of New England to which he could compare that of Webster save the act of Benedict Arnold. "Webster," wrote Horace Mann, "is a fallen star! Lucifer descending from heaven!" In a poem of mournful melody, "Ichabod," Whittier deplored the "fallen" statesman's loss of faith and honor; while a member of the Massachusetts legislature proclaimed the object of his scorn "a recreant son of Massachusetts who misrepresented her in the Senate." By the speech, asserted Giddings, "a blow was struck at

freedom and the constitutional rights of the free states which no Southern arm could have given." The *Boston Atlas*, the *New York Tribune* and other leading Whig journals were outspoken in disapproval.

The points of specific attack were several. One was the readiness now displayed, despite a strong disposition in the past to resist any possible extension of slavery, to accept the "law of Nature" in lieu of an act of Congress prohibiting slavery in the Mexican cession. Another was the consideration shown the South in the matter of the execution of the fugitive slave law and the seeming indifference to the sentiments of Northern people which were outraged by the proposed legislation upon this subject. It was charged that, instead of maintaining an independent and dignified attitude, as was his custom, Webster had stooped to the level of a mere compromiser, even a truckler to Southern interests, and it was alleged that he was currying favor with the South with the express purpose of promoting his chance of attaining the presidency. The abject surrender of moral principle which was alleged to have been made was declared to be the fruit of inordinate and long unsatisfied ambition. "The only reasonable way in which we can estimate this speech," affirmed Parker, "is as a bid for the presidency." And the charge was reiterated by Mann, Giddings, and numerous other critics. Even the crowning argument by which Webster had sought to promote the enactment of the measures of 1850, *i. e.*, the necessity of averting the peril of disunion, was pronounced empty and insincere, it being assumed that no peril of the sort existed.

There can be no question that throughout the North Webster's standing was affected adversely by the

speech, nor that in quarters where abolitionism was dominant all claim to popularity was at this point forfeited. Two facts are, however, to be observed. In the first place, if the speech served to bring down upon its author denunciation, and even disgrace, it also brought him numerous and highly flattering expressions of admiration and confidence. These came not alone from the South but from all portions of the country, and from political friends and foes alike. A formal address was sent to him from Boston, signed by eight hundred substantial citizens,¹ warmly approving the stand which had been taken. From Newburyport, Medford, the cities and towns of the Kennebec Valley, and from a representative body of friends and former neighbors in New Hampshire, came similar testimonials, enforcing the fact that while condemnation was sharpest in the senator's own section of the country it was not even there by any means universal. "I wish I could send you," wrote one of Webster's friends (from Washington) to another, "the tons of Southern and Western papers that are filled with glorifications of the speech—they would do you much good. The letters from clergymen all over the country, and from Democrats in all the states, concurring in the strongest approbation of the speech, have filled Mr. Webster's office, so that there is no room to sit down."²

A second fact to be observed is that after the lapse of a little time large numbers of persons who for the moment had been alienated assumed again an attitude

¹Including George Ticknor, George T. Curtis, Rufus Choate, William H. Prescott, and Jared Sparks.

²Edward Curtis to Peter Harvey, March 15, 1850. Van Tyne, "Letters of Webster," p. 405.

of sympathy and support. The conviction grew that in an era of controversy such as that in which men were now living the leadership of a statesman of Webster's intellect and integrity was something to be prized, not scorned. The abolitionists were irreconcilable, and undoubtedly the majority of anti-slavery people continued to be more or less displeased. But many Whig journals in time became less censorious, and several ended by according unreserved support; and the change of attitude was reflected widely among their readers. It was, as Mr. Rhodes asserts, Webster, rather than Clay, who raised up for the Compromise a powerful and much-needed support from Northern public sentiment.¹

The truth is that the course which Webster pursued in 1850, if considerably at variance with his course at earlier times, was dictated very much more largely by honest and patriotic motives than the critics of that day and since have been willing to admit. The point is incontestable that Webster in 1850 still aspired to attain the presidency. Such aspiration he, indeed, had cherished since at least the period of the Hayne debate and the controversy over nullification. It may be granted, too, that in the later portion of his career he was distinctly less outspoken in opposition to slavery than in the days of the Missouri Compromise and the Plymouth oration. At no time had he even approximated the position of the abolitionists. None the less, he had once been readier to denounce the slave trade and the several harsher phases of the institution, and in later times he was strongly disposed to confine his anti-slavery activities to the prevention of the acquisition of new slave territory. In 1850 he had

¹ Rhodes, "History of the United States," Vol. I, p. 157.

seemed, at least, to many people to yield even upon this fundamental point. But the fact is to be borne in mind that, if he refused to insist upon the positive exclusion of slavery from New Mexico, he refused also to accede to the demand of the South that the legality of slavery in the territories be recognized and maintained by Congress ; and it must be admitted that, California having already declared against slavery, the contention that there really never would be a slavery question in the Mexican cession was substantially based. Furthermore, the argument employed in behalf of the carrying into effect of the fugitive slave clause of the Constitution was, so far as the legal aspect of it is concerned, quite unimpeachable. Webster's only tactical error at this point lay in his failure to perceive the intensity and the permanence of the Northern feeling upon the subject and in his neglect to use the occasion to make fresh protestation of the essential iniquity of slavery. The making of such protestation, however, would have robbed the speech of its conciliatory tone, thereby defeating its essential purpose. That Webster was an anti-slavery man the country knew. In 1848 he had complained to a friend that there were those who refused to regard him as such unless he repeated the declaration "once a week." In 1850 there were those who would not have believed such an assertion if repeated daily. But the people in general knew his record and required at this time, as he felt, no fresh assurance.

Finally, despite the opinion of some historians to the contrary, it may be asserted that the motive which was supremely operative in the Seventh of March speech, as in Webster's public acts and utterances upon many other occasions, was that of the safeguarding of the

Union. "Sir," he declared in one of his speeches upon the Compromise, "my object is peace. My object is reconciliation. My purpose is not to make up a case for the North, or to make up a case for the South. My object is not to continue useless and irritating controversies. I am against agitators, North and South. I am against local ideas, North and South, and against all narrow and local contests. I am an American, and I know no locality but America; that is my country. My heart, my sentiments, my judgment, demand of me that I shall pursue such a course as shall promote the good, and the harmony, and the union of the whole country. This I shall do, God willing, to the end of the chapter."¹ Webster's idea that the Union was in danger was scoffed at by his abolitionist critics. Yet the student of the period knows that never had the threat of secession been made with such resoluteness as in 1850 and that within slightly more than a decade the durability of the nation was destined to be put to the supreme test. In the situation which existed Webster considered the proposals of Clay to comprise, not necessarily an ideal, but a common-sense, fair, and practicable, settlement—one well calculated to meet the rising demand of a large part of the nation for sectional peace. To what precise extent the still lingering longing for the presidency imparted color to the sentiments which were expressed no one can know. In all probability Webster himself did not know. There can be no question, however, that by some writers this factor has been greatly exaggerated. At the most, it was incidental rather than preponderant. If, as Mr. Rhodes has said, "one believes that Webster surrendered principle for the sake of winning the favor of

¹Curtis, "Webster," Vol. II, p. 448.

the South, it must be on the ground that this man of large public experience did not understand the sentiment of the North; or that, with unexampled fatuity, he hoped his position on the sectional question would gain him the support of the South and yet not lose him that of the free states."¹

On July 9, 1850, while the Compromise measures were pending, President Taylor died and was succeeded by the Vice-President, Mr. Fillmore. While relations between Taylor and Fillmore had been agreeable, it was understood that in temper and policy the two men were essentially unlike, and it was assumed that the personnel of the Administration would undergo a certain amount of change. "It is at this moment supposed," wrote Webster two days after Fillmore's accession, "that there will be an entirely new cabinet. Certainly not more than one or two can remain."² On the following day he wrote: "As to the State Department, I have no idea who will have it, although, if the power were with me, I think I could find a man [Edward Everett] without going out of Massachusetts, who has talent enough and knowledge enough; but whether he is at this moment so fresh in the minds of the people that his appointment would strike the public mind favorably, may be a doubt. Nobody can well be Secretary of State who has not fortune, unless he be a bachelor."³ But the man to whom, at the suggestion of Clay, Fillmore turned was none other than Webster himself. At some time during the three or four days succeeding July 16th the

¹ Rhodes, "History of the United States," Vol. I, pp. 158-159.

² Webster to Haven, July 11, 1850. Webster, "Private Correspondence," Vol. II, p. 376.

³ Webster to Haven, July 12, 1850. *Ibid.*, Vol. II, p. 376.

offer of the State portfolio was tendered and, with reluctance, accepted. "I yielded," wrote the new appointee on July 21st, "to what has been suggested from so many sides, and gave up my own wishes to the wishes and opinions of my friends. I must leave myself in their hands. There is work enough for me, and anxious duties in plenty; but if I can preserve my health, I will toil through a hot summer here, though I confess it does seem hard that at my age I cannot enjoy the comforts of my own home. I was persuaded to think it was my duty, in the present crisis, to accept a seat in the cabinet, but it made my heart ache to think of it."¹ A final speech in the Senate, delivered July 17th, comprised a masterful attempt to impress upon Congress and the country the supreme importance of the allaying of sectional strife through the adoption of the Compromise.²

On July 23, 1850, Webster entered upon his second period of service in the State Department; and the position at this point assumed was retained until his death, in October, 1852. There was, however, in these times a dearth of foreign questions of serious import, and the period is marked by no great diplomatic stroke such as that attained in the Ashburton treaty of a decade earlier. The highly important treaty of 1850 with Great Britain upon the subject of an interoceanic canal was brought to completion by Secretary Clayton before Webster's accession to office. So completely did domestic issues overshadow foreign ones, and so prominently was the name of Webster associated with

¹ Webster to Harvey, July 21, 1850. Webster, "Private Correspondence," Vol. II, p. 378. Webster's successor in the Senate was Robert Rantoul.

² "Works of Webster," Vol. V, pp. 412-438; "Writings and Speeches," Vol. X, pp. 144-170.

these issues, that throughout the period of his secretaryship it was upon them principally that his time and thought were bestowed. When he left the Senate for the cabinet the Compromise measures were still under discussion, and his correspondence during the ensuing weeks dealt almost exclusively with them. On September 10th, when at last all of the measures had become law except the one relating to the slave-trade in the District of Columbia, he unburdened himself to a friend as follows: "You have heard how all things have gone, so far. I confess I feel relieved. Since the 7th of March, there has not been an hour in which I have not felt a 'crushing' weight of anxiety and responsibility. I have gone to sleep at night, and waked in the morning with the same feeling of eating care. And I have sat down to no breakfast or dinner to which I have brought an unconcerned and easy mind. It is over. My part is acted, and I am satisfied. The rest I leave to stronger bodies and fresher minds."¹

By some writers it has been assumed that the "crushing weight of anxiety and responsibility" to which Webster here alludes was the product of remorse. Undoubtedly there was involved in it much of regret. But there is no reason for believing that Webster ever regarded his course upon the Compromise as anything other than honorable and patriotic. The Seventh of March speech he considered the most important effort of his life,² and, far from feeling regret or chagrin regarding it, he was active throughout his

¹ Webster to Harvey, September 10, 1850. Webster, "Private Correspondence," Vol. II, p. 385.

² Webster to Everett, September 27, 1851. Quoted in Curtis, "Webster," Vol. II, p. 529.

remaining years in promoting its circulation among the people and in defending the propositions upon which it was based. The "crushing weight" was, in fact, apprehension regarding the state of the Union, and relief was forthcoming only when the measures upon whose enactment the saving of the country was believed to be dependent were at last carried into law. "I think," it was declared feelingly, two days after the adoption of the Compromise was assured, "that the country has had a providential escape from very considerable dangers." To Harvey, Webster wrote optimistically on October 2d: "My main relief, however, is that Congress got through so well. I can now sleep o' nights. We have gone through the most important crisis which has occurred since the foundation of the Government; and whatever party may prevail, hereafter, the Union stands firm. Faction, disunion, and the love of mischief are put under, at least for the present, and I hope for a long time."¹

During the years which elapsed between the adoption of the Compromise and the rise of the Nebraska controversy, in 1853, the supreme issue before the country was that of the finality of the settlement which had been effected. Several of the adjustments which had been reached—the admission of California as a free state, the fixing of the Texan boundary, the assumption of the Texan debt—were beyond question final. Others—as the abolition of the slave-trade in the District of Columbia and the organization of New Mexico and Utah without federal regulation of slavery—were less clearly so. And one—the enactment of the new and curiously devised fugitive slave law—was, al-

¹ Webster to Harvey, October 2, 1850. Van Tyne, "Letters of Webster," p. 433.

most from the first, the object of continuous and powerful attack, by which its stability was seriously threatened. To minimize the effects of continued agitation men of influence in both parties (notably Cass and Douglas among the Democrats and Clay, Webster, Choate, and Fillmore among the Whigs) organized and led a nation-wide counter-movement for the enforcement of law and the cessation of intersectional controversy. In New York, Boston, and other cities "union" meetings were held, and every effort was made to rally to the cause of peace the business, professional, and other influential elements. In this work Webster was especially active. As early as April 29, 1850, he had declared to a Boston gathering that he would support "no agitations having their foundations in unreal, ghostly abstractions";¹ and throughout ensuing months he wrote numerous letters and delivered several public addresses in cities of New England, New York, and Virginia denouncing the renewal of agitation by the anti-slavery radicals and urging upon the people a general acquiescence in the results that had been attained. "No man," he preached, "is at liberty to set up, or affect to set up, his own conscience above the law"; and it was declared unequivocally that persons who should "continue to talk about Wilmot provisos, and to resist, or seek to repeal, the Fugitive Slave Bill, or use any other means to disturb the quiet of the country, will have no right to consider themselves as Whigs, or as friends of the Administration." The campaign for 'finality' was based upon a misapprehension of the actual situation, and in the end it was a failure; but its apparent success for a time deluded not only Webster but the majority of moderate people,

¹ "Writings and Speeches," Vol. XIII, p. 387.

in both North and South, into thinking that the slavery problem had really reached a solution.

After the adjournment of Congress, September 30, 1850, Webster took advantage of the lack of pressing business in the State Department to spend a number of weeks at Marshfield and Elms Farm in quest of relief from his increasingly serious catarrhal trouble. Throughout the ensuing winter he was called upon continually to address public gatherings of widely varied character. On December 22d he attended a Pilgrim Festival in New York, held by former residents of New England, and responded to a toast in one of the most impressive brief speeches of his career.¹ Nearly all other invitations were declined, but they not uncommonly elicited letters upon public issues which found their way into print and attracted widespread attention. The course which Webster had pursued in the debate on the Compromise continued to be discussed with vigor, and when it appeared that no shred of sympathy with the prevailing antagonism in New England to the enforcement of the fugitive slave law might be expected from him, the condemnation which had been visited upon him by pulpit and abolitionist press broke forth afresh. In April, 1851, when it was proposed to tender him a public reception in Faneuil Hall, the board of aldermen, after arrangements had been effected informally and Webster had assented to the plan, quite unexpectedly refused the use of the hall for the purpose. In the prevailing state of the public mind the incident aroused tremendous interest throughout the country. In Boston there was such indignation that the common council, explaining

¹ "Works of Webster," Vol. II, pp. 517-528; "Writings and Speeches," Vol. IV, pp. 217-226.

that the use of the hall had been refused to a defender of the Compromise only because it had been refused to Wendell Phillips and other opponents of the measure, signified willingness that the proposed reception be held.¹ Webster, however, declined to appear, declaring that he should not enter the "Cradle of American Liberty" until its doors should be thrown open without reserve to men of all parties who were "true to the Union as well as to Liberty."

Throughout the year 1851 the work of the State Department continued to be almost exclusively of a routine character. "There never was a time, I think," wrote Webster, "in which our foreign relations were more quiet. There seems no disturbing breath on the surface. All the diplomatic gentlemen here are amicably disposed, and our intercourse is quite agreeable."² There was, however, scant opportunity for the relaxation of which the Secretary stood in need. Even the prosaic tasks of administration could not be delegated wholly to subordinates, and from numerous quarters invitations, some of which could not well be refused, continued to pour in. At the middle of May there was a trip, in the company of President Fillmore and several members of the cabinet, to western New York for the purpose of participating in the celebration of the opening of the Erie Railroad, connecting the city of New York with Lake Erie. At Buffalo Webster spoke twice, once upon general lines at a public dinner given in his honor, and again upon the political issues of the day at a great open-air gathering of the people. The

¹ Resolutions of Boston Common Council, April 17, 1851. Van Tyne, "Letters of Webster," p. 471.

² Webster to Blatchford, May 4, 1851; Webster, "Private Correspondence," Vol. II, p. 441.

second speech, delivered before an audience vaster than could be reached by the human voice, and amidst a heavy downpour of rain, comprised a remarkably straightforward and convincing defense of the Compromise and of the principles of the seventh of March.¹ On the return journey the President stopped and spoke briefly in numerous towns of central New York, and Webster, who followed some days later, felt obliged to do the same thing or run the risk, as he said, of being "thought churlish." On May 28th he spoke to a great concourse of people in the square of the state capitol at Albany, again upon the issues involved in the Compromise.² Shortly thereafter he sought momentary relaxation in the hills of Virginia; and at Capon Springs, June 28th, the people from fifty miles around tendered him a public dinner and listened to not only a formal speech but also an impromptu plea for the Union called out by the remarks of another speaker who, while expressing his approval of the principal speech, confessed that he differed from Webster upon almost every question of public policy.³ On July 4th the corner-stone of an imposing addition to the Capitol at Washington was laid, and, in accordance with the urgent request of the committee in charge of the ceremony, and also of the President, Webster delivered the principal address.⁴ Following this came an opportunity to repair to Marshfield, and there and at Elms Farm the next three months were spent.

The period was, of course, not entirely devoid of

¹ "Works of Webster," Vol. II, pp. 529-564; "Writings and Speeches," Vol. IV, pp. 231-262.

² *Ibid.*, Vol. II, pp. 565-592; *Ibid.*, Vol. IV, pp. 267-290.

³ "Writings and Speeches," Vol. XIII, pp. 429-441.

⁴ "Works of Webster," Vol. II, pp. 593-620; "Writings and Speeches," Vol. IV, pp. 293-318.

foreign complications, although none assumed great seriousness. Easily the most notable episode within it was the preparation and transmission of the "Hülsemann letter." In April, 1849, the revolution which was sweeping over Austria-Hungary culminated in a declaration of Hungarian independence, and two months later President Taylor commissioned an emissary, Dudley A. Mann, to proceed to Hungary to investigate the situation with a view to a recognition of the independence of the country, should conditions be found to warrant such a step. Upon his arrival in Europe the commissioner learned that Hungary had failed to make good her declaration, whereupon, without so much as setting foot upon Hungarian soil, he reported that recognition would be without present justification. Unfortunately, the purpose of the mission became known to the Austrian Government, and through the *chargé d'affaires* at Washington, Baron Hülsemann, protest was lodged with Secretary Clayton. Explanations were entered upon, but before the incident was closed there occurred the death of the President and the reorganization of the cabinet, so that the framing of the final reply on the part of the United States devolved upon Webster.

The reply which was made, under date of December 21, 1850, comprised one of the most remarkable documents which has emanated at any time from the State Department. In it Webster defined the past policy of the United States in the matter of recognition, denied that the sending of Mann was an unfriendly act, and asserted the right of the American people to extend their sympathy to oppressed and struggling mankind anywhere and at all times. The tone assumed was one of distinct lordliness. "The power of this republic at

the present moment," it was declared, "is spread over a region one of the richest and most fertile on the globe, and of an extent in comparison with which the possessions of the house of Hapsburg are but as a patch on the earth's surface. Its population, already twenty-five millions, will exceed that of the Austrian Empire within the period during which it may be hoped that Mr. Hülsemann may yet remain in the honorable discharge of his duties to his government.

. . . Life, liberty, property, and all personal rights, are amply secured to all citizens and protected by just and stable laws; and credit, public and private, is as well established as in any government of Continental Europe; and the country, in all its interests and concerns, partakes most largely in all the improvements and progress which distinguish the age. Certainly the United States may be pardoned, even by those who profess adherence to the principles of absolute government, if they entertain an ardent affection for those popular forms of political organization which have so rapidly advanced their own prosperity and happiness, and enabled them, in so short a period, to bring their country, and the hemisphere to which it belongs, to the notice and respectful regard, not to say the admiration, of the civilized world."¹

To this communication the Austrian *chargé*, after receiving instructions, replied that his government remained of the same mind as before, but was not disposed to jeopardize the friendship existing between the two countries by prolonging the controversy. Webster reciprocated with an expression of good-will,

¹ "Works of Webster," Vol. VI, p. 496. For the Hülsemann correspondence see "Works of Webster," Vol. VI, pp. 488-506. and "Writings and Speeches," Vol. XII, pp. 162-180.

and the incident was closed. That the language employed in the letter quoted savored strongly of spread-eagleism and might hardly have been used with impunity toward a nation better circumstanced is hardly subject to dispute. The letter was, as one historian fairly characterizes it, "hardly more than a stump speech under diplomatic guise."¹ In a note to his friend Ticknor Webster defended it as follows: "If you say that my Hülsemann letter is boastful and rough, I shall own the soft impeachment. My excuse is twofold: 1. I thought it well enough to speak out, and tell the people of Europe who and what we are, and awaken them to a just sense of the unparalleled growth of this country. 2. I wished to write a paper which should touch the national pride, and make a man feel *sheepish* and look *silly* who should speak of disunion."² In short, the letter, while addressed to the representative of Austria, was calculated to make appeal to the peoples of both Europe and America—to inspire in the one a respect for the tremendous progress of the United States and to arouse in the other the spirit of patriotism, pride, and devotion to the Constitution under which this progress had been achieved.

At a later point in Webster's secretaryship the Hungarian question became again troublesome. Early in 1851 arrangements were procured whereby Louis Kossuth and a number of other Hungarian exiles, held since 1849 as semi-prisoners in Turkey, were to be allowed to be transported to the United States on an American man-of-war, and in October of the same year the agreement was carried into effect. Upon his

¹ Rhodes, "History of the United States," Vol. I, p. 206.

² Webster to Ticknor, January 16, 1851. Curtis, "Webster," Vol. II, p. 537.

arrival the Hungarian leader was lauded by the President in his annual message, presented ceremoniously by Webster at the White House, received with marks of respect by both branches of Congress, and accorded a continuous ovation wherever he appeared. The effect was to delude him momentarily into thinking that the United States might be induced to furnish diplomatic and financial aid in the establishment of his country's independence. The scrupulous caution of the Secretary of State and other officials, however, together with the awakened sense of the people and the indiscretions of Kossuth himself, made it entirely clear in time that the great agitator and his compatriots could expect from the United States nothing beyond good-will and hospitality. The attentions which were showered upon Kossuth angered Hülsemann, and after a banquet had been tendered the refugee at the capital, January 7, 1852, at which Webster was one of the speakers, formal protest was entered at the State Department.¹ Receiving no attention in this quarter, the *chargé* appealed in person to the President, but only to be told to confine his communications to the Department. On April 20, 1852, he informed Webster that his government would not permit him to remain longer "to continue official intercourse with the principal promoters of the much to be lamented Kossuth episode." He did not, however, withdraw at once, and when, in 1853, after Webster's death, there arose the complicated Koszta Case, involving the status of a Hungarian refugee, it was still Hülsemann who voiced the demands of the Austrian authorities.

¹For Webster's speech upon this occasion see "Writings and Speeches," Vol. XIII, pp. 452-462.

Aside from certain questions relating to the interpretation and execution of the Clayton-Bulwer treaty which began to arise thus early, the only other diplomatic issue of importance during Webster's second secretaryship was that which was created between the United States and Spain in consequence of the filibustering expeditions of Narcisco Lopez and his followers in Cuba. Lopez was a South American who in 1848 had led an unsuccessful revolution in Cuba and who, after being condemned to death, had contrived to escape to the United States. Despite the continued protests of the Spanish minister, Calderon de la Barca, and the efforts of the authorities at Washington, he contrived to fit out in the United States three successive filibustering expeditions against the Spanish government in Cuba.¹ The last one, undertaken in August, 1851, resulted in his own capture and death and the execution of some fifty of his followers, including several representatives of well-known Southern families. Throughout the South indignation was intense, and at New Orleans, the centre of filibustering activities, a mob attacked the houses and shops of Spaniards, wrecked the Spanish consulate, tore in pieces the Spanish flag, and defaced the portrait of the Spanish Queen.

On October 14th the Spanish minister, under instructions, made demand upon the United States for reparation, insisting especially that all property-holders should be indemnified for their losses and that the Spanish flag should be honored in some manner no less conspicuous than that in which it had been insulted. Webster recognized that, in part, at least, the demand was entirely reasonable. He pointed out that such of

¹ The first did not succeed in reaching the island.

the Spaniards who had suffered losses as were not official persons must look to the laws of the United States for protection of their interests, but admitted that such as were Spanish officials, principally the consul, stood upon a different footing and might properly seek redress through the representations of their own government. There was no precedent upon the subject, but Webster agreed that Congress should be requested to provide for the consul's indemnification in full, and likewise that by means of a ceremony of salutation the honor which was asked for the flag of Spain should be accorded. The adjustment proposed proved acceptable and was carried into effect. So tactfully, indeed, was the situation handled that one hundred and sixty survivors of the Lopez expedition who had been carried to Spain with the prospect of being set to labor in the mines were allowed their liberty, although, being filibusterers, they had no legal claim upon the United States for protection.¹

¹ "Works of Webster," Vol. VI, pp. 507-517, and "Writings and Speeches," Vol. XII, pp. 181-191.

CHAPTER XV

THE ELECTION OF 1852 : LAST PHASES

WITH the approach of the year 1852 there was opened a chapter which was destined to be the last, and the most unhappy, of Webster's entire public career, that, namely, comprising the final failure to obtain the long-coveted Whig nomination for the presidency. The party situation preceding the campaign of 1852 was in many respects confused. Nominally, the Whigs were in power ; but the administration of Fillmore, although entirely respectable, was not adapted to command enthusiasm, and in the state and congressional elections of 1850 and 1851 much ground was lost, in both North and South, to the Democrats. Apart from slavery, there was an almost utter lack of issues. The tariff, the currency, internal improvements—all were dead or quiescent. And a titanic effort was being made to convince the country that even the slavery question was no more. In the campaign for finality which had been in progress since the adoption of the Compromise the Democrats, at least, had been markedly successful. In New York the return of the Barnburners had restored the discipline of the party ; and the mass of the membership, in North and South alike, was ready to abide by the arrangements that had been effected and to frown down any sort of attempt to renew agitation. The Whigs had been less successful. Between the Southern wing of the party, strongly attached to the Compromise, and the Northern wing, large elements of which detested the new fugitive

slave law and stood ready to abet its non-enforcement, there yawned a chasm by whose widening the party was destined soon to be rent entirely asunder. Yet at the opening of 1852 most of the Whig leaders talked of finality with quite as much gusto as did their Democratic rivals, and it was assumed that slavery would play but little part in the ensuing contest. On both sides there was rather more than the customary amount of preliminary discussion and intrigue, centring, however, about candidates, rather than about issues.

The Democratic convention met at Baltimore, June 1st. The unity of the party was completely restored, good feeling prevailed, and no difficulty was encountered in the framing and adoption of a platform declaring for a faithful execution of the Compromise measures (including the fugitive slave law) and announcing the purpose of the party to resist "all attempts at renewing, in Congress or out of it, the agitation of the slavery question, under whatever shape or color the attempt may be made." The principal candidates for the nomination were Cass, Buchanan, Marcy, and Douglas. No one of these, however, could obtain the two-thirds majority necessary for a choice, and in the end, on the forty-ninth ballot, a stampede resulted in the naming of a "dark horse," Franklin Pierce, of New Hampshire.

Two weeks later the Whig convention assembled in the same city—indeed, in the same building. Long in advance of the meeting three candidates had been brought into the field, and when the convention met it was reasonably certain that to one of the three the nomination would fall. The three were President Fillmore, General Scott, and Webster. The candidacy of Fillmore was entirely natural. His conduct of the

presidency had been dignified and efficient, his administration was connected in the public mind with the critically important Compromise adjustment ; and, although president by chance rather than by the suffrage of the people, the fact that he had a record in office to be approved or disapproved gave him peculiar right to consideration. He was in no wise active as a candidate, but he permitted his friends to use his name, and in many portions of the country, notably the South, he acquired a large and determined following. Some of Webster's supporters warmly resented Fillmore's candidacy, but there is no evidence that Webster himself did so. As a member of the cabinet, he continued on the most agreeable terms with his chief. For the candidacy of General Scott there was little justification. It was promoted principally by Northern Whigs to whom the Compromise, with which both Fillmore and Webster were identified, was objectionable ; and its further basis was the hope that with a military candidate the triumphs of 1840 and 1848 might be duplicated. It might be that, as one of the General's enthusiastic advocates declared, he was "greater than Cortez in his triumphant, glorious, and almost miraculous march from Vera Cruz to the old city of the Aztecs" ; but there was nothing to indicate that he possessed even ordinary qualities of statesmanship.

The campaign for the nomination of Webster was begun actively in the autumn of 1851. Now that Clay, by reason of failing health and successive defeats, was definitely removed from the field, it was considered by the friends of the Massachusetts statesman that the claims of their leader could, and should, no longer be denied. In November, 1851, a gathering

of Massachusetts Whigs promulgated an address to the people, written by Edward Everett, in which, after the qualifications of Webster had been duly extolled, the opinion was expressed that the time had come when the welfare of the country required "that mere party claims should yield to higher considerations," and that in the support of the Massachusetts candidate "good citizens of both parties and in both of the great sections of the country might cordially and consistently unite." Similar meetings were held elsewhere, notably one in New York City by which an address of similar purport, written by William M. Evarts, was adopted and put in the course of circulation. A public letter of Clay, urging that the Compromise be regarded as final, was accepted as an expression of good-will toward the Webster candidacy, although nothing was said specifically upon that subject. During the winter of 1851-1852 the movement was kept up. Webster himself said and wrote little concerning it, but he followed the efforts of his friends with interest and appreciation. His own public activities at the time, aside from the administration of the State Department, were confined to the making of a number of addresses of a non-political character, chief among them being a discourse on "The Dignity of Historical Compositions," delivered February 24, 1852, before the New York Historical Society;¹ a speech before the legislature of Pennsylvania, April 1st; an address at Annapolis; and a neighborly talk in Faneuil Hall, May 22d, following partial recovery from a fall from a carriage suffered while driving near Marshfield.²

¹ "Writings and Speeches," Vol. XIII, pp. 463-497.

² *Ibid.*, pp. 510-522.

In April, 1852, Webster received from a Virginia Whig, G. A. Tavenner, acting in behalf of the Southern Whigs generally, a solicitous letter of inquiry regarding the purposes of the Northern Whigs in respect to the coming presidential contest and the maintenance of the Compromise of 1850. It was explained that Webster's high reputation and his fidelity to national Whig principles comprised the special reason for addressing such an inquiry to him. The Southern Whigs, it was asserted, had ever exhibited a national spirit during the sectional contests by which the country had been disturbed, and they had assumed, since the adoption of the Compromise, that the question of slavery would no longer prevent concert of action among the members of the party in the various portions of the Union. The disposition in the North, however, to keep up the contest—especially the reopening of agitation upon the subject of the return of fugitive slaves—had aroused deep apprehension, and had raised again the question as to what the South as a section might expect from the North, and especially from the Northern wing of the great Whig party. "You have the means," it was urged, "of knowing the state of public sentiment at the North. You have been identified with no section, in sectional controversies. You occupy a position from which you can speak plainly, and I doubt not your advice will be heeded. We are aware that you will differ from many Southern Whigs on the abstract question of slavery, but we also know that you have always stood forth the bold and fearless defender of the Constitution, and so as that instrument guarantees them to us you have been the advocate of the *rights of the South*. What then in your opinion has the South a right to expect

from the North? Upon what platform are the Whigs, North and South, to stand in the coming presidential contest? Is the Constitution to be the bond of Union between them? Are the late adjustment measures to be considered a final settlement in principle and substance of all the subjects which they embrace, or is the Whig party henceforth to be a sectional instead of a great national party?"¹

The reply addressed by Webster to Tavenner on the following day contains so explicit an affirmation of personal policy and conviction as to be worth quoting in full. It runs :

"Dear Sir,—I have the honor to acknowledge the receipt of your letter of the 5th inst., and thank you for what you are pleased to say of my fidelity to great national Whig principles. I trust there is not a man in the country who doubts my approbation of those measures, which are usually called 'Compromise Measures,' or my fixed determination to uphold them steadily and firmly. Nothing but a deep sense of duty led me to take the part which I did take in bringing about their adoption by Congress, and that same sense of duty remains with unabated force. I am of opinion that those measures, one and all, were necessary and expedient, and ought to be adhered to, by all friends of the Constitution, and all lovers of their country. That one among them which appears to have given the greatest dissatisfaction, I mean the Fugitive Slave Law, I hold to be a law, entirely constitutional, highly proper, and absolutely essential to the peace of the country. Such a law is demanded by the plain written words of the Constitution ; and how any man can wish

¹Tavenner to Webster, April 8, 1852. Van Tyne, "Letters of Daniel Webster," p. 521.

to abrogate or destroy it, and at the same time say that he is a supporter of the Constitution, and willing to adhere to those provisions in it which are clear and positive injunctions and restraints, passes my power of comprehension. My belief is, that when the passions of men subside, and reason and true patriotism are allowed to have their proper sway, the public mind, North and South, will come to a proper state upon these questions. I do not believe that further agitation can make any considerable progress at the North. The great mass of the people, I am sure, are sound, and have no wish to interfere with such things as are, by the Constitution, placed under the exclusive control of the separate states. I have noticed, indeed, not without regret, certain proceedings to which you have alluded, and in regard to these I have to say that gentlemen may not think it necessary, or proper, that they should be called upon to affirm, by resolution, that which is already the existing law of the land. That any positive movement to repeal or alter, any or all, the Compromise Measures, would meet with any general encouragement, or support, I do not at all believe. But however that may be, my own sentiments remain, and are likely to remain, quite unchanged. I am in favor of upholding the constitution, in the general, and all its particulars. I am in favor of respecting its authority and obeying its injunctions; and to the end of my life, shall do all in my power to fulfil, honestly and faithfully, all its provisions. I look upon the Compromise Measures as a just, proper, fair, and final adjustment of the questions to which they relate; and no re-agitation of those questions, no new opening of them, no effort to create dissatisfaction with them, will ever receive from me the least

countenance or support, concurrence, or approval, at any time, or under any circumstances." ¹

This letter, forthwith given to the press, served to make clear to the entire country the precise position which Webster occupied. There was little or nothing in it that was new; but it at least demonstrated afresh that Webster stood absolutely immovable for finality. By conservatives its contents were received with favor, but by anti-slavery radicals, with forceful expressions of dissatisfaction. The assurances which it contained, however, did not shake the determination of the Southern Whigs to give their support first of all to the candidacy of Fillmore. Many expressed their willingness, in the event of the impossibility of procuring Fillmore's nomination, to turn to Webster, who was much more acceptable than Scott; but it was apparent before the assembling of the Baltimore convention that only New England, as a section, would vote for Webster on the first ballot.² The hope of the Webster campaigners lay in the prevention of Northern defection to Scott before there should have arisen an opportunity for a Southern turning from Fillmore to Webster.

The Whig convention, which assembled June 16th, has been characterized rightly as "a theatre of intrigue."³ On the opening day the Southern Whigs met and adopted a body of resolutions designed to conciliate all elements, and subsequently these were thrust through the convention without debate as the platform of the party. One of them proclaimed, in effect, the validity of the principle of "state rights,"

¹ Webster to G. A. Tavenner, April 9, 1852. Van Tyne, "Letters of Daniel Webster," pp. 521-522.

² By reason of lingering discontent with the Ashburton treaty Maine, however, was certain to withhold her support.

³ Stanwood, "The Presidency," p. 250.

while another asserted that the Compromise measures of 1850, "the act known as the Fugitive Slave Law included, are received and acquiesced in by the Whig party of the United States as a settlement in principle and substance of the dangerous and exciting questions which they embrace" ; also that the strict enforcement of these measures would be insisted upon, and that all further agitation of "the question thus settled" would be deprecated and resisted. By way of concession to the Northern wing of the party, the term "final" was not employed ; but the finality of the Compromise was in effect declared, none the less. The platform had the approval of Webster's friends and of Webster himself.

The contest for the nomination of candidates was prolonged and keen. On the first ballot Fillmore received 133 votes, Scott 131, and Webster 29. Webster had votes from all of the New England states except Maine, although he did not receive the unanimous support of the delegation from his own state. New York gave him two votes, Wisconsin three, and California one. The South gave him none at all. Fillmore received every Southern vote except one ; while Scott was given all of the votes from the North except the twenty-nine that were cast for Webster and sixteen that went to Fillmore. Succeeding ballots showed little change. The highest total attained by Webster was thirty-two. On the fiftieth ballot Southern votes began to be turned from Fillmore to Scott, and on the fifty-third the number of changes was sufficient to effect a nomination. The final result was : Scott, 159 ; Fillmore, 112 ; Webster, 21.

Inasmuch as under Whig practice a bare majority was required for a nomination, the conservatives who

so persistently divided their support between Fillmore and Webster might easily, by combination, have carried the day. As Mr. Curtis observes, of the delegates who considered that the policy embodied in the Compromise Measures ought to be adhered to, and that the candidate of the Whig party ought to be a real representative of that policy, there were at all times more than enough to have made Mr. Webster the nominee."¹ Similarly, there were enough to have nominated Mr. Fillmore. But no such *rapprochement* took place, despite the fact that Webster and Fillmore were upon the best of terms personally, that the two men were in Washington during the balloting in the neighboring city, that an intervening Sunday afforded special opportunity for negotiation, and, finally, that a delegate from Buffalo had all the while in his possession a letter written by Fillmore withdrawing from the race, with instructions to present it to the convention at his discretion. Webster's strength with the convention was, of course, far greater than his quota of votes would seem to indicate. Yet, to a large degree, his strength was of such a sort that it could not be realized upon, *i. e.*, could not be converted into votes. He was the second choice of most of the Fillmore men. But these men were pledged to Fillmore as long as there should appear any chance whatsoever of his nomination, and the fact that Webster could not command the united support of his own section, even of his own state, operated to prevent a turning to him. At one point during the balloting, after the nomination of Fillmore was largely despaired of, the Southern friends of Webster proposed to deliver to the Massachusetts candidate one hundred and six Southern votes

¹ Curtis, "Webster," Vol. II, p. 620.

provided he could obtain as many as forty votes in the states north of Maryland. These, with the one vote from California which could be counted upon, would insure him the nomination. His Northern supporters worked desperately to meet the condition, but were unable to do so, and when the Southern break came it took the form of a slight, but decisive, defection from Fillmore to Scott.

Both the action of the convention and the intrigues by which it had been accompanied betrayed the fact that the Whig party, far from possessing the solidarity and strength of conviction which was claimed for it, was in reality in imminent danger of dissolution. In its platform it looked strongly in one direction, in its nomination just as decidedly in another; and events following the adjournment of the convention tended but to accentuate the weakness of position thus exhibited. On July 3d a group of Georgia Whigs, led by Alexander H. Stephens and Robert Toombs, published a manifesto announcing their purpose to oppose the election of Scott, on the ground that he was not sufficiently committed to the finality of the Compromise measures. Another group formed an independent Webster ticket, and throughout the South generally it was made plain that the regular nominee of the party would receive scant support. Large numbers of Whigs avowed a purpose to support Pierce, in the promotion of whose election the strength of the Democratic party, in both North and South, was solidly enlisted. On the other hand, the Free Soil element of the party could not acquiesce in either Baltimore platform, and at a convention held during the month of August John P. Hale, of New Hampshire, was placed in nomination. In Massachusetts the nomination of

Scott was received coldly, and in time an independent Webster electoral ticket was put in the field. This nomination, as that made by the Georgia Whigs, and also one tendered by a Native American convention at Trenton, was received by Webster with no indication of acceptance or refusal. Throughout the country as a whole the campaign, barren of vital issues, was petty and uninteresting.

To Webster the failure to obtain the nomination at Baltimore brought deep disappointment. Both because of his age and increasing infirmity and because of the precarious condition of his party, failure at this point meant, and was understood to mean, that the long-coveted honor would never be attained. Outwardly he maintained entire composure, and even an appearance of indifference ; but to his friends he confided freely his real feeling of regret. It was not so much the loss of the nomination that distressed him as the fact that, while the Southern delegates had protested that they were ready to give him their support when once the nomination of Fillmore should have become impossible, they had failed actually to do so. The reasons which had prevented them from doing so were not of record, and on that account, it seemed to him, a "false chapter in the history of the country" was not unlikely to be written—a chapter in whose pages his hold upon the nation would be taken as indicated merely by the meagre vote at Baltimore for his nomination. So deeply was the nomination of Scott resented that throughout the course of the campaign Webster could never bring himself to give the Whig candidate an iota of support. Indeed, he freely avowed his belief that the party was approaching dissolution, and he did not hesitate to advise his friends

to vote for Pierce, the one candidate who was committed irrevocably to the upholding of the Compromise. He predicted, furthermore, that if, in the event of Pierce's election, the Democratic party should remain faithful to its platform it would long retain the confidence of the country and the power of administering the public affairs.

The outcome of the campaign was the triumph, more overwhelming than any one had dared predict, of the Democrats. General Scott carried but four states—Vermont, Massachusetts, Kentucky, and Tennessee—and obtained but forty-two electoral votes; while the two branches of Congress remained solidly Democratic. But when the final show of strength took place the two most eminent founders and leaders of the defeated party were no more. When the convention at Baltimore was balloting upon candidates Clay lay dying from consumption in a hotel in Washington, although he lingered until June 29th. The death of Webster occurred at Marshfield on October 24th.

The physical decline which culminated in Webster's death had set in with some rapidity soon after the assumption for the second time of the portfolio of State. It was attributable in part to the prolonged and severe exertions incident to an active public career, in part to debilitating annual attacks of hay-fever, but, at the last, mainly to an incurable affliction diagnosed as cirrhosis of the liver. When, on the 9th of July, he reached Boston on his way to his Marshfield home Webster had been tendered a reception, essentially non-partisan in character, which was declared by witnesses of both events to have been more imposing than that tendered General Lafayette

in 1825, and at Marshfield a few days later his coming was honored by a general outpouring of the people from many miles around. Upon both occasions he spoke at length upon lines appropriate to the situation, and these were the last public addresses which he was destined to be able to make.¹ On July 26th he communicated to the President his desire to retire from the cabinet. But Fillmore insisted that he retain his post, returning to Washington only when he should have recovered somewhat in health. Early in August he gained sufficient strength to enable him to make the journey, and he remained at the capital until September 8th. To his reiterated offers to resign the President replied that the office could not at the moment be filled satisfactorily; and he returned to Marshfield with the understanding that he should give attention from that place to such public matters as could not be postponed.

On September 20th he went to Boston for the last time to consult his physician, Dr. Jeffries, and it is recorded that when, in the course of the visit, he contrived to appear for a few moments at a social gathering at the house of a friend, all who saw him were startled by the look of suffering in his face and by his general appearance of feebleness. At Marshfield he continued for a time to entertain visitors, write letters to his friends, and make occasional excursions over his estate; but as the October days went by he grew steadily weaker, until by the middle of the month he was no longer able to leave the house. On the 15th he revised and corrected an inscription to be placed on his monument, dictated a few days before; on the 18th he undertook the preparation of his will; and on

¹ "Writings and Speeches," Vol. XIII, pp. 528-542.

this same day the last letter written by his own hand was addressed to the President. On the 21st he was told that the state elections in Pennsylvania and elsewhere had resulted in overwhelming victories for the Democrats. "Yes," was his response; "that party will sweep the country; the Whig candidate will obtain but one or two states; and it is well; as a *national* party the Whigs are ended." When it was mentioned to him that a friend in Boston had expressed the hope that he should remain firm in his opposition to the action of the Baltimore convention he requested, half-humorously, that the gentleman be written to and told to "look over toward Charlestown and see if Bunker Hill monument is still standing!" On the 22d he gave instructions for the farm work of the day and made provision for the paying of the laborers what was due them. On Saturday, the 23d, his feebleness had so manifestly increased that he began directing, with remarkable fortitude and deliberation, the making of preparations for the end. To his physician he communicated his conviction that he should die during the coming night, and the physician could but express his concurrence in the prediction. He affixed his signature to the carefully drawn will,¹ spoke feelingly to his family and servants regarding his wishes for them, made solemn affirmation of his religious convictions, and expressed only the wish that he might be conscious of the act of dying. Some time after midnight he roused from a restless slumber long enough to utter very clearly the words, destined to become memorable, "I still live," and then relapsed into unconsciousness. At twenty-three minutes before

¹ The will is printed in "Writings and Speeches," Vol. XIII, pp. 586-591.

three o'clock Sunday morning, October 24th, the labored breathing ceased, and the end came.

For the news of the bereavement the public was not wholly unprepared, yet the intelligence came as a shock, and by it a hush was spread throughout the length and breadth of the land. The instant feeling was that a pillar of the state had fallen, and from men of every class of society, of every political affiliation, and of every sectional attachment, rose tributes of praise for the citizen, the statesman, and the patriot. President Fillmore sent to Marshfield a representative of the State Department to propose and execute arrangements for a public funeral. "I wish to be buried," Webster, however, had affirmed in his will, "without the least show or ostentation, but in a manner respectful to my neighbors, whose kindness has contributed so much to the happiness of me and mine"; and when this request became known, it was agreed that the family did the right thing in declining to permit a public funeral to be held.

At noon on Friday, October 29th, the people of the community were admitted to the Webster home, and every one who desired to do so was allowed to view the remains of the fallen chieftain, reposing in a coffin placed upon the lawn in front of the mansion-house. It is said that not fewer than ten thousand men and women were present. After simple religious services had been held in the house, in the presence of the relatives and closer friends, the coffin was raised on the shoulders of six stalwart farmer neighbors who had asked the privilege and carried, followed by the male members of the family, the intimate friends, and the faithful servants, as chief mourners, to the ancient burying-place of Marshfield, where all that was mortal of the

great man was committed to earth. "Daniel Webster," a plain-garbed spectator is reported to have exclaimed as he turned from the new-made grave, "the world, without you, will seem lonesome." By hundreds of thousands of people, of every rank and profession, and in every section of the land, the feeling was shared; and even in European countries it was recognized that there had disappeared a figure which, in a generation notable for its statesmen, orators, and diplomats, was worthy of comparison with the most masterful.

Daniel Webster was not a paragon of virtues. He had faults, some of which were not only serious but inexcusable. His appetites were not always under control. Although never guilty of speculation, he was habitually careless in money matters, and he was ready to accept the largesses of his friends when it would seem that every consideration of personal dignity would have interposed to prevent his doing so. He was inordinately fond of good living and prone to generosity which bordered closely upon prodigality. By his failure to keep under restraint the ambition which burned within him to attain the presidency he permitted his later years to be made feverish and unhappy and his usefulness to his generation to be impaired. He did not desire the presidency more ardently than did Clay. The great Kentuckian had the trying experience of being chosen to bear his party's banner twice when there was but a moderate chance of success, only to be rejected as a candidate in 1840 and in 1848 when, as events proved, expectation of victory was well founded. Furthermore, Clay was loved by the mass of the people as Webster never was, and he had more right than had his compeer to expect of them an

election to the highest office in the land. Yet of the two men, Clay accepted his ill-fortune much the more patiently. The adulation which was heaped upon Webster by friends and admirers was unquestionably sufficient to turn the head of an ordinary person. But Webster was not an ordinary person, and it must be reckoned against him that in his later years he allowed himself to become at times dictatorial and overbearing and to be guilty of pettishness and ingratitude. His moral vigor, in the trenchant estimate of Mr. Lodge, was not equal to his intellectual force; and while, as this biographer goes on to point out, it is not often that both moral and intellectual powers of a superlative order are combined in a single individual, had they been so combined in Webster the product must have been one of the most extraordinary of characters.

The physical endowments of the man were much above the average. When in his prime he possessed a robustness of which his childhood gave small promise; and although his last ten years were shadowed by disease, his bodily vigor was such as to enable him to attain the Scriptural age of threescore and ten. In his social relationships, as in his professional and public life, an asset of very distinct value was the majesty of his personal presence. He was five feet ten inches in height; he had an enormous chest measurement; his head, which was one of the largest ever borne on human shoulders, was nobly formed; his brow was high and broad; his hair was straight and black; his complexion was swarthy; and his eyes were large, deep-set, and dark, in moments of earnestness flashing with an intensity that was fairly startling. His visage, although usually kindly, was upon occasion stern, with sometimes a touch of melancholy. In

every look and gesture there was the element of command. When he walked down State Street men forgot business in gazing upon him ; when he but entered a room voices were hushed as if the newcomer had been a god.

Physical impressiveness was matched by excellent qualities of character and by extraordinary powers of intellect. Indeed, it was chiefly these, rather than the stature and Jove-like brow, that lent to the presence of the man its attractive, even awe-inspiring, aspect. Webster was the soul of hospitality, and his various places of residence, whether the humble home in Portsmouth, the capacious house in Summer Street, or the rambling, but splendid, dwelling at Marshfield, were ever shrines of neighborliness and good fellowship. From childhood he was a voracious reader, and his ability to remember what he read was equaled only by his power of assimilating it. Fluent of speech and widely informed, he was a splendid conversationalist ; yet he commonly preferred to listen rather than to talk. Without being himself a humorist, he had a well-developed sense of humor. His recorded speeches, which are peculiarly stately and serious, furnish virtually no evidence of this, but the lack is supplied by his more intimate correspondence and by the testimony of his associates in daily life. He liked a joke, and upon occasion enjoyed sheer boisterousness and fun. He was not inapt at playful allusion, unexpected turns of expression, and mock heroics. But he scorned humor as a mere means of keeping his auditors interested, and he seldom or never indulged in it in his public addresses, or upon any occasion with premeditation.

Webster was an ardent lover of Nature, especially in

her larger and grander aspects. A boyhood spent among the New Hampshire hills developed in him a sense of intimacy with trees and streams and wild animals which was never lost. He was fond of hunting and fishing and of every sort of outdoor amusement, and, wearied by the routine of legal practice or of statecraft, he not infrequently turned with boyish delight to the occupations of the farm. He rejoiced in the sunrise and, when at Marshfield, made it a rule never to miss seeing it. Above all other natural things, he loved the sea. Its vastness and its imperturbability appealed to his sense of grandeur, and he was not content until he had made for himself a home where he could look out across the Atlantic's broad expanse, ever varying in hue and mood, yet ever the same. Among animals he liked best the massive, slow-moving ox. Shortly before his death, after it had ceased to be possible for him to go out-of-doors, he had his finest oxen driven to the lawn about his house in order that he might have the satisfaction of gazing upon their glossy coats and wondering eyes. It has been said, indeed, that more than his hospitality his herds of fine oxen kept him poor.¹

Love of country became in Webster a veritable passion. His speeches glow with patriotic fervor, and the patriotism which is displayed in them was no mere patriotism of words. When he was first elected to Congress he had personally, perhaps, more to gain than to lose by entering the public service. He was then but a young, comparatively unknown, and far from affluent lawyer. When, however, in 1822 he was returned to the House of Representatives from the Boston district he was fast becoming the most highly reputed and

¹ McCall, "Daniel Webster," p. 121.

the most highly paid legal practitioner in America. From that year until his death he was never for more than a few months at a time out of public office. He served nine years, in all, in the House of Representatives, nineteen in the Senate, and somewhat more than four as secretary of state. Although, despite the appropriation of a large portion of his time and energy to his public duties, he became and long remained the acknowledged leader of the American bar, neither the volume nor the excellence of his legal achievement could be what, under freer conditions, it might have been ; and the pecuniary sacrifice which was involved was very great, the more so by reason of his prodigality in money matters and his taste for somewhat sumptuous living. Patriotism, it should be added, was tempered almost invariably by good sense and by the spirit of fairness. An expansionist by nature, Webster could oppose the American demand for the whole of Oregon as unjust, that for the annexation of Texas as likely to lead to war, and that for the conquest of Mexican territory as tending to aggravate the controversy of the sections upon the growing question of slavery. If in his famous letter to Hülsemann he permitted himself to indulge in the most brazen spread-eagleism, it was solely, as he was careful to explain to his friends, in the hope that national pride might be stimulated to counteract the sectional animosities of the time.

It may be doubted whether in sheer power of intellect Webster has been matched by any public man in the history of the country. In his own generation he was clearly the superior of Clay and of Calhoun, and, less markedly, of John Quincy Adams and Chief Justice Marshall ; and although the native mental ability

of Lincoln was probably not inferior, opportunities of academic education and of lifelong contact with the sharpest wits of bench, bar, and forum gave Webster a considerable advantage over Lincoln in the attainment of purely intellectual strength. It is true that Webster's intellectuality was fitful. He was not at all times "on edge," and some of his legal arguments and congressional speeches were of the most ordinary character. In the make-up of the man there were pronounced strains of irresolution and indolence. The fact is one which he was the first to recognize, and in his correspondence he complains again and again of having fallen into a slough of lethargy from which he was unable to extricate himself. His intellectual power is exhibited, not in an ability to work day after day and year after year at high tension, but rather in a capacity for prodigious mental performances under pressure of suddenly risen emergency. The most masterful of all of his forensic efforts, notably the Second Reply to Hayne and the speech of the Seventh of March, were preceded by but a few hours of direct preparation. No man not possessed of a mental equipment of the first order could have achieved equal results under the circumstances. Retentiveness of memory, quickness and depth of perception, comprehensiveness of view, sanity and fairness of judgment, orderliness of thought, and aptness in expression—these are the qualities which combined to produce in Webster a mental forcefulness well-nigh unsurpassable.

The most brilliant and the most lasting of Webster's achievements were accomplished through the medium of eloquence of speech. Regarding the position to be assigned him among American orators there is little or no difference of opinion. He was not always as felici-

tous in expression or as splendidly imaginative as was Choate, or as finished in style as was Everett. But no other American has exhibited so perfect a combination of all the varied elements that combine to produce true oratorical power. And among orators of other portions of the English-speaking world none rival him closely save Burke, Fox, and Sheridan. The qualities of his oratory which are most conspicuous are those of intellectuality, stateliness, freedom from invective, and patriotic spirit. In speeches which are so nearly extemporaneous as were most of those which he delivered there will be included inevitably a certain amount of that which is trivial and irrelevant. The proportion of this sort of thing in Webster's addresses is, however, small. Men who heard them were impressed with the solidity of their texture, with the range and depth of the information upon which their author drew in their composition. And a study of them nowadays serves but to confirm this impression. Their glitter was that of sharply polished fact, not that of flashy nothingness.

Webster was not at his best in the give-and-take of every-day debate. He was not notably adept at rapier-like thrusts. He rose to the full measure of his ability only upon some solemn occasion for which he made deliberate preparation, such as the Plymouth commemoration or the Bunker Hill celebrations; or when, aroused to the necessity of defending some great principle or measure upon which he felt deeply, he mustered the full quota of his physical and intellectual powers and hurled himself into the combat. His best speeches are, therefore, with few exceptions, his lengthiest. Their superiority arises in part from their very massiveness and conclusiveness.

By reason of the circumstance that his name is asso-

ciated with the initiation of few legislative or other public measures, it sometimes has been assumed that Webster's statesmanship was not of a constructive character. It certainly is true that Webster looms less prominently as an author of bills and of governmental policies than do several of his contemporaries, notably Clay, Calhoun, Jackson, and even Benton and Van Buren. There are, however, two facts to be observed. In the first place, not only did Webster, during his tenure of the secretaryship of state, display the most splendid qualities of originality and constructiveness ; during his prolonged service in the two branches of Congress he became the author of a large number of bills of importance and participated in the framing of many others. It happened that many of the measures with which he was closely identified dealt with questions, especially judicial and financial, which were overshadowed by other and more largely political issues ; and it happened that many of them failed of adoption. But it should not be overlooked that a large proportion of these measures were, in their essentials, adopted after the lapse of time, and that the statesmanship which underlay them received complete vindication.

In the second place, it is to be observed that the statesmanship of Webster was constructive in the most fundamental of all possible senses, in that it had for its aim nothing less than the moulding of public sentiment concerning the Constitution to accord with the changing needs of the country. The Constitution was, and is, susceptible of the most varied interpretation and development. Men in Webster's day differed no more widely in their understanding of the instrument than had their fathers. But a concurrence of social

and economic circumstances rendered their differences of view far more dangerous than had been those of earlier times, and it became Webster's task to proclaim to the new generation, in season and out, those fundamentals of constitutional interpretation by whose acceptance alone the perpetuity of the nation could be assured. Not all men were convinced, and in the course of time the country was deluged with the blood of a fraternal war. So long, however, as the generation of men to which Webster belonged continued in control of the councils of the nation, the conflagration was averted. To the very end the position maintained by that generation—the generation of Clay, Adams, Jackson, Calhoun, Van Buren, Benton, Fillmore, Corwin, Berrien, and Mangum—upon the momentous issues of slavery and disunion was of a character essentially conservative; and by no one was the conservative attitude cultivated more assiduously than by Webster himself. It was only with the rise to dominance of the generation of Lincoln, Seward, Chase, Sumner, Wade, Wilson, Toombs, Davis, Yancey, and Stephens that the spirit of radicalism came gradually into the ascendant; and this was the generation which waged the war. When the contest came, it was the creed of the Union as formulated most lucidly by Webster that supplied the grounds upon which the issue was prosecuted to the bitter end. It is to the essentials of that creed that men of all sections and parties to-day pledge their fidelity, under the *ægis* of a chastened and hopeful nationality.

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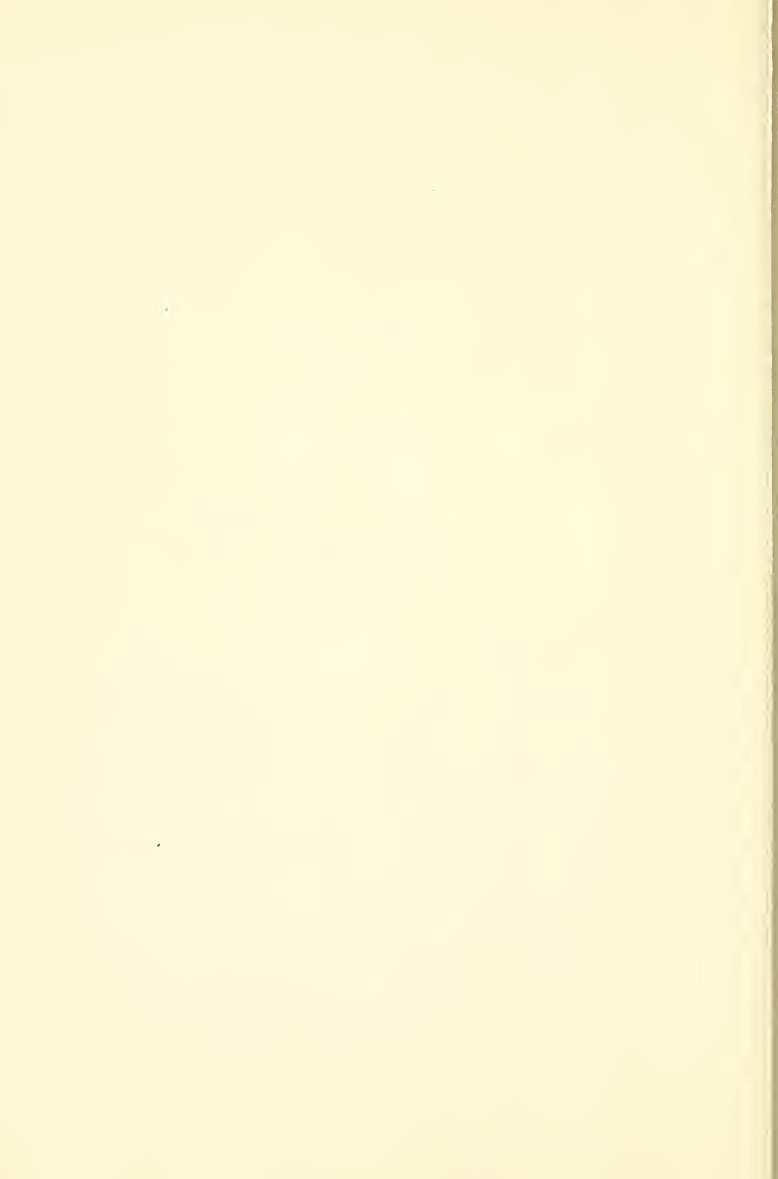
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