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REMARKS

ON THE

LIFE AND WRITINGS

OF

DANIEL WEBSTER,

OF MASSACHUSETTS.

George Ticknor



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The following remarks are taken (with some additions) from the eighteenth number of the American Quarterly Review.

REMARKS, &c.

It has often enough been objected to books written and published in the United States, that they want a national air, tone, and temper. Unhappily, too, the complaint has not unfrequently been well founded; but the volume of Mr. Webster's Works is a striking exception to all such remarks. It consists of a collection of his Addresses, Speeches in Congress, and Forensic Arguments, printed chiefly from pamphlets, already well known; and it is marked throughout, to an uncommon degree, with the best characteristics of a generous nationality. No one, indeed, can open it, without perceiving that, whatever it contains, must have been the work of one born and educated among our free institutions,—of one formed in their spirit, and animated and sustained by their genius and power. The subjects discussed, and the interests maintained in it, are entirely American; and many of them are so important, that they are already become prominent parts of our history. As we turn over its pages, therefore, and see how completely Mr. Webster has identified himself with the great institutions of the country, and how they, in their turn, have inspired and called forth the greatest efforts of his uncommon mind, we feel as if the sources of his strength, and the mystery by which it controls us, were, in a considerable degree, interpreted. We feel that, like the fabulous giant of antiquity, he gathers his power from the very earth that produced him; and our sympathy and interest, therefore, are excited, not less by the principle on which it so much depends, than by the subjects and occasions on which it is so strikingly put forth. We understand better than we did before, not only why we have been drawn to him, but why the attraction that carried us along, was at once so cogent and so natural.

When, however, such a man appears before the nation, the period of his youth and training is necessarily gone by. It is only as a distinguished member of the General Government,—probably in one of the two Houses of Congress, that he first comes, as it were, into the presence of the great mass of his countrymen. But, before he can arrive there, he has, in the vast majority of cases, reached the full stature of his strength, and developed all the prominent peculiarities of his character. Much, therefore, of what is most interesting in relation to him,—much of what goes to make up his individuality and momentum, and without which, neither his elevation nor his conduct can be fully understood or estimated, is known only in the circle of his private friends, or, at most, in that section of the country from which he derives his origin. In this way, we are ignorant of a great deal it concerns us to know about many of our distinguished statesmen; but about none, probably, are we more relatively ignorant than about Mr. Webster, who is eminently one of those persons, whose professional and political career cannot be tolerably understood, unless

we have some acquaintance with the circumstances of his origin, and of his early history, taken in connexion with his whole public life. We were, therefore, disappointed, on opening the volume of his works, not to find prefixed to it a full biographical notice of him. We were, indeed, so much disappointed and felt so fully persuaded, that neither the contents of the volume itself, nor the sources of its author's power, nor his position before the nation, could be properly comprehended without it, that we determined at once to prepare such notices of his life, as we might be able to collect under unfavorable circumstances. We only regret that our efforts have not been more successful,—and that our notices, therefore, are few and imperfect.

Mr. Webster was born in Salisbury, a farming town of New-Hampshire, at the head of the Merrimack, in 1782. His father, always a farmer, was a man of a strongly marked and vigorous character,—full of decision, integrity, firmness, and good sense. He served under Lord Amherst, in the French war, that ended in 1763; and, in the war of the Revolution, he commanded a company chiefly composed of his own towns-people and friends, who gladly fought under his leading nearly every campaign, and at whose head he was found, in the battle of Bennington, at the White Plains, and at West-Point, when Arnold's treason was discovered. He died about the year 1806; and, at the time of his death, had filled, for many years, the office of Judge of the Court of Common Pleas, for the state of New-Hampshire.

But, during the early part of Mr. Webster's life, the place of his birth, now the centre of a flourishing and happy population, was on the frontiers of civilization. His father had been one of the very first settlers, and had even pushed further into the wilderness than the rest; so that the smoke sent up amidst the solitude of the forest, from the humble dwelling in which Mr. Webster was himself born, marked, for some time, the ultimate limit of New-England adventure at the North. Undoubtedly, in any other country, the sufferings, privations, and discouragements inevitable in such a life, would have precluded all thought of intellectual culture. But, in New-England, ever since the first free-school was established amidst the woods that covered the peninsula of Boston, in 1636, the school-master has been found on the border line between savage and civilized life, often indeed with an ax to open his own path, but always looked up to with respect, and always carrying with him a valuable and preponderating influence.

It is to this characteristic trait of New-England policy, that we owe the first development of Mr. Webster's powers, and the original determination of his whole course in life; for, unless the school had sought him in the forest, his father's means would not have been sufficient to send him down into the settlements to seek the school. The first upward step, therefore, would have been wanting; and it is not at all probable, that any subsequent exertions on his own part, would have enabled him to retrieve it. The value of such a benefit cannot, indeed, be measured; but it

seems to have been his good fortune to be able in part, at least, to repay it; for no man has explained with such simplicity and force as he has explained them, the very principles and foundations on which the free-schools of New-England rest, or shown, with such a feeling of their importance and value, how truly the free institutions of our country must be built on the education of all. We allude now to his remarks in the Convention of Massachusetts, where, speaking of the support of schools, he says:—

“ In this particular we may be allowed to claim a merit of a very high and peculiar character. This commonwealth, with other of the New-England states, early adopted, and has constantly maintained the principle, that it is the undoubted right, and the bounden duty of government, to provide for the instruction of all youth. That which is elsewhere left to chance, or to charity, we secure by law. For the purpose of public instruction, we hold every man subject to taxation, in proportion to his property, and we look not to the question, whether he, himself, have or have not children to be benefited by the education for which he pays. We regard it as a wise and liberal system of policy, by which property, and life, and the peace of society are secured. We seek to prevent, in some measure, the extension of the penal code, by inspiring a salutary and conservative principle of virtue, and of knowledge, in an early age. We hope to excite a feeling of respectability, and of sense of character, by enlarging the capacity, and increasing the sphere of intellectual enjoyment. By general instruction, we seek, as far as possible, to purify the whole moral atmosphere; to keep good sentiments uppermost, and to turn the strong current of feeling and opinion, as well as the censures of the law, and the denunciations of religion, against immorality and crime. We hope for a security, beyond the law, and above the law, in the prevalence of enlightened and well principled moral sentiment. We hope to continue and to prolong the time, when, in the villages and farm-houses of New-England, there may be undisturbed sleep, within unbarred doors. And knowing that our government rests directly on the public will, that we may preserve it, we endeavor to give a safe and proper direction to the public will. We do not, indeed, expect all men to be philosophers, or statesmen; but we confidently trust, and our expectation of the duration of our system of government rests on that trust, that by the diffusion of general knowledge, and good and virtuous sentiments, the political fabric may be secure, as well against open violence and overthrow, as against the slow but sure undermining of licentiousness.” pages 209, 210.

“ I rejoice, Sir, that every man in this community may call all property his own, so far as he has occasion for it, to furnish for himself and his children the blessings of religious instruction and the elements of knowledge. This celestial, and this earthly light, he is entitled to by the fundamental laws. It is every poor man's undoubted birth-right, it is the great blessing which this constitution has secured to him, it is his solace in life, and it may well be his consolation in death, that his country stands pledged, by the faith which it has plighted to all its citizens, to protect his children from ignorance, barbarism, and vice.” p. 211.

How Mr. Webster's education was advanced immediately after he left these primary schools, is, we believe, not known. It was, however, with great sacrifices on the part of his family, and severe struggles on his own. At last, when he was fifteen or sixteen years old, after a very imperfect preparation, he was entered at Dartmouth College; at least, so we infer, for he was graduated there in 1801. What were his principal or favorite pursuits during the three or four years of his academic life, we do not know. We remember, however, to have met formerly one of his classmates, who spoke with the liveliest interest of the generous and delightful spirit he showed among his earliest friends and competitors, in the midst of whom, he manifested, from the first, aspirations entirely beyond his condition, and, when the first year was passed, developed faculties which left all rivalry far

behind him. Indeed, it is known, in many ways, that, by those who were acquainted with him at this period of his life, he was already regarded as a marked man; and that, to the more sagacious of them, the honors of his subsequent career have not been unexpected.

Immediately after leaving college, he began the study of the law in the place of his nativity, with Mr. Thompson, soon afterwards a member of Congress; a gentleman who, from the elevation of his own character, was able to comprehend that of his pupil, and contribute to unfold its powers. But the *res angustæ domi* pressed hard upon him. He was compelled to exert himself for his own support; and his professional studies were frequently interrupted and impaired by pursuits, which ended only in obtaining what was needful for his mere subsistence.

Circumstances connected with his condition and wants at this time, led him to Boston, and carried him, when there, into the office of Mr. Gore. This was, undoubtedly, one of the deciding circumstances of his life. Mr. Gore was a lawyer of eminence, and a *gentleman*, in the loftiest and most generous meaning of the word. His history was already connected with that of the country. He had been appointed district attorney of the United States for Massachusetts, by Washington; he had served in England as our commissioner under Jay's treaty; and he was afterwards governor of his native state, and its senator in Congress. His whole character, private, political, and professional, from its elevation, purity, and dignity, was singularly fitted to influence a young man of quick and generous feelings, who already perceived within himself the impulse of talents and the stirrings of an ambition whose direction was yet to be determined. Mr. Webster felt, that it was well for him to be there; and Mr. Gore obtained an influence over his young mind, which the peculiarly kind and frank manners of the instructor permitted early to ripen into an intimacy and friendship that were interrupted only by death.

Mr. Webster finished the study of his profession in Boston, and was there admitted to the bar in 1805;—Mr. Gore, who presented him, venturing, at the time, to make a prediction to the court respecting his pupil's future eminence, which has been hardly more than fulfilled by all his present fame. At first, he began the practice of his profession in Boscawen, a small village adjacent to the place of his birth; but in 1807, he removed to Portsmouth, where, no doubt, he thought he was establishing himself for life.

As a young lawyer, about to lay the foundations for future success, his position could, perhaps, hardly have been rendered more fortunate and happy than it was now in Portsmouth. He rose rapidly in general regard, and was, therefore, almost at once, ranked with the first in his profession in his native state. Of course, his associations and intercourse were with the first minds. And, happily for one like him, the presiding judge of the highest tribunal in New-Hampshire was then Mr. Smith, afterwards governor of the state, whose native clearness of perception, acuteness, and

power, united to faithful and accurate learning in his profession, and the soundest and most practical wisdom in the fulfilment of his duties on the bench, and in his intercourse with the bar, gave him naturally and necessarily great influence over its younger members. Mr. Webster, as the most prominent among them, came much in contact with him, and profited much from his sagacious foresight and wise and discriminating kindness. He came, too, still more in contact with Mr. Mason, afterwards a senator in Congress, and then and still the leading counsel in New-Hampshire. Mr. Mason was his senior by several years, but there was no other adversary capable of encountering him: and the intellect with which Mr. Webster was thus called to contend on equal terms was one of the highest order, of ample resources, and of the quickest penetration; whose original reach, firm grasp, and unsparing logic, left no safety to an adversary, but in a vigor, readiness, and skill, which could never be taken unprepared or at disadvantage. It was a severe school; but there is little reason to doubt, Mr. Webster owes to its stern and rigid discipline much of that intellectual training and power, which render him, in his turn, so formidable an adversary. He owes to it, also, notwithstanding their uniform and daily opposition in court, the no less uniform personal friendship of Mr. Mason in private life.

It was in the midst, however, of this period, both of discipline and success as a lawyer, in New-Hampshire, that he entered public life. In the government of his native state, we believe, he never took office of any kind; and his first political place, therefore, was in the thirteenth Congress of the United States. He was chosen in 1812, soon after the declaration of war; and as he was then but thirty years old, he must have been one of the youngest members of that important Congress. His position there was difficult, and he felt it to be so. He was opposed to the policy of the war; he represented a state earnestly opposed to it; and he had always, especially in the eloquent and powerful memorial from the great popular meeting in Rockingham, expressed himself fully and frankly on the whole subject. But he was now called into the councils of the government, which was carrying on the war itself. He felt it to be his duty, therefore, to make no factious opposition to the measures essential to maintain the dignity and honor of the country; to make no opposition for opposition's sake; though, at the same time, he felt it to be no less his duty, to take good heed that neither the constitution, nor the essential interests of the nation, were endangered or sacrificed—*ne quid detrimenti respublica accipiat*. This, indeed, seems to have been his motto up to the time of the peace; and his tone in relation to it is always manly, bold, and decisive. When Mr. Monroe's bill for a sort of conscription was introduced, he joined with Mr. Eppes, and other friends of the administration, in defeating a project, which, except in a moment of great anxiety and excitement, would probably have found no defenders. But when, on the other hand, the bill for "encouraging

enlistments" was before the house, he held, in January 1814, the following strong and striking language, in which, now the passions of that stormy period are hushed, all will sympathize.

"The humble aid which it would be in my power to render to measures of government, shall be given cheerfully, if government will pursue measures which I can conscientiously support. If, even now, failing in an honest and sincere attempt to procure a just and honourable peace, it will return to measures of defence 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 defence 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 make war upon 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. Turn the current of your efforts into the channel, which national sentiment has already worn broad and deep to receive it. A naval force, competent to defend your coast against considerable armaments, to convoy your trade, and perhaps raise the blockade of your rivers, is not a chimera. It may be realized. If, then, the war must continue, 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 your fortunes 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 the 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 resource. In time, you may be enabled to redress injuries in the place where they may be offered; and, if need be, to accompany your own flag throughout the world with the protection of your own cannon."* Speech, pp. 14, 15.

Later in the same Congress, the subject of the establishment and principles of a national bank came into discussion, and the finances of the country being then greatly embarrassed, this subject rose to paramount importance, and absorbed much of the attention of Congress up to the moment when the annunciation of peace put a period, for the time, to all such debates. On the whole

* These are the last words of the speech; and the sentiment they contain in favor of a navy and naval protection, has been maintained with great earnestness by Mr. Webster for nearly thirty years, on all public occasions. In an oration delivered July 4th, 1806, and printed at Concord, N. H., he says, "an immense portion of our property is on the waves. Sixty or eighty thousand of our most useful citizens are there, and are entitled to such protection from the government as their case requires." In another oration, delivered in 1812, and printed at Portsmouth, he says, "a navy sufficient for the defence of our coasts and harbors, for the convoy of important branches of our trade, and sufficient, also, to give our enemies to understand, when they injure us, that *they* too are vulnerable, and that we have the power of retaliation as well as of defence, seems to be the plain, necessary, indispensable policy of the nation. It is the dictate of nature and common sense, that means of defence shall have relation to the danger." These doctrines in favor of a navy were extremely unwelcome to the nation when they were delivered; the first occasion referred to, being just before the imposition of the embargo; and the second, just before the capture of the *Guerriere*. How stands the national sentiment now? Who doubts the truth of what Mr. Webster could not utter in 1806 and 1812 without exciting ill-will to himself?

matter of the bank and the currency, Congress was divided into three parties. First, those who were against a national bank under any form. These persons consisted chiefly of the remains of the old party, which had originally opposed the establishment of the first bank in Washington's time, in 1791, and in 1811 had prevented the renewal of its charter. They were, however, generally, friends of the existing administration, whose position now called strongly for the creation of a new bank: and, therefore, while they usually voted on preliminary and incidental measures with the favorers of a bank, they voted, on the final passage of the bill, against it; so that it was much easier to defeat the whole of any one project, than to carry through any modification of it. Second, there was a party consisting almost entirely of friends of the administration, who wished for a bank, provided it were such a one as they thought would not only regulate the currency of the country, and facilitate the operations of the government, but also afford present and important aid by heavy loans, which the bank was to be compelled to make, and to enable it to do which, it was to be relieved from the necessity of paying its notes in specie;— in other words, it was a party that wished to authorize and establish a paper currency for the whole country. The third party wished for a bank with a moderate capital, compelled always to redeem its notes with specie, and at liberty to judge for itself, when it would, and when it would not, make loans to the government.

The second party, of course, was the one that introduced into Congress the project for a bank at this time. The bill was originally presented to the Senate; and its main features were, that the bank should absorb a large amount of the depreciated public debt of the United States, and grant to the government heavy loans on the security of a similar debt to be created; that its capital should consist of fifty millions of dollars, of which five millions only were to be specie, and the rest depreciated government securities; and that the bank, when required, should lend the government thirty millions. At the time when this plan was brought forward, all the numerous state banks south of New-England had refused to redeem their notes, or, as it was called "to ears polite," had "suspended specie payments," in consequence of which, their notes had fallen in value from 10 to 25 per cent., and specie, of course, had risen proportionally in value, and disappeared from circulation entirely. To afford the contemplated national bank any chance for carrying on its operations, or even for beginning them, it was to be authorized "to suspend specie payments," which meant, that it was to be authorized never to begin them; for, without this authority, their specie would be drained the moment their notes should be issued equal to its amount. On the other hand, all the taxes and revenues of the government were to be receivable in the paper of the bank, however much it might fall in value. In short, the whole scheme was one of those vast Serbonian bogs, where, from the days of Law's Mississippi Company, armies

whole of legislators and projectors have sunk, without leaving even a monument behind them to warn their followers of their fate.

We must not, however, be extravagantly astonished, that a project which we now know was in its nature so wild and dangerous, should have found favorers and advocates. The finances of the country were then in a critical, and even distressing position; and all men were anxious to devise some means to relieve them. A large part of the nation, too, sincerely entertained the chimerical notion, now universally exploded, that it was practicable to establish and maintain a safe and stable paper currency, even when not convertible into specie at the pleasure of the holder; and the example of England and its national bank was referred to with effect, though, from its history since, the same example could now be referred to with double effect on the other side of the discussion. After an earnest and able debate, then, the bill, on the whole, passed the Senate, and it was understood that a considerable majority of the House of Representatives was in its favor.

When brought there on the 9th of December, 1814, it excited a very animated discussion, which, with various interruptions from the forms and rules of the House, references to committees, and occasional adjournments, was continued till the 2d of January. In this protracted debate Mr. Webster took a conspicuous part; and his efforts, of which the speech now published is but an inconsiderable item, did much to avert the threatened evil, and to establish his reputation, not merely as an eloquent and powerful debater, which had already been settled in the previous session, but as a sagacious and sound statesman.

His principal opposition to the bill was made on the last day of its discussion. He then introduced a series of resolutions, bringing the bank proposed within the limits of the specie-paying principle, and taking off from it the restraints, which placed it too much within the power of the government to make it useful as a moneyed institution, either to the finances or to the commerce of the country. The objections to the plan then before Congress, and the disasters that would probably follow its adoption, he portrayed in the following strong language, which none, however, will now think to have been too strong.

“The capital of the bank, then, will be five millions of specie, and forty-five millions of government stocks. In other words, the bank will possess five millions of dollars, and the government will owe it forty-five millions. This debt from government, the bank is restrained from selling during the war, and government is excused from paying until it shall see fit. The bank is also to be under obligation to loan government thirty millions of dollars on demand, to be repaid, not when the convenience or necessity of the bank may require, but when debts due to the bank, from government, are paid; that is, when it shall be the good pleasure of government. This sum of thirty millions is to supply the necessities of government, and to supersede the occasion of other loans. This loan will doubtless be made on the first day of the existence of the bank, because the public wants can admit of no delay. Its condition, then, will be, that it has five millions of specie, if it has been able to obtain so much, and a debt of seventy-five millions, no part of which it can either sell or call in, due to it from government.

“The loan of thirty millions to government, can only be made by an immediate issue of bills to that amount. If these bills should return, the bank will not be able

to pay them. This is certain, and to remedy this inconvenience, power is given to the directors, by the act, to suspend, at their own discretion, the payment of their notes, until the President of the United States shall otherwise order. The President will give no such order, because the necessities of government will compel it to draw on the bank till the bank becomes as necessitous as itself. Indeed, whatever orders may be given or withheld, it will be utterly impossible for the bank to pay its notes. No such thing is expected from it. The first note it issues will be dishonored on its return, and yet it will continue to pour out its paper, so long as government can apply it in any degree to its purposes.

"What sort of an institution, sir, is this? It looks less like a bank than a department of government. It will be properly the paper-money department. Its capital is government debts; the amount of its issues will depend on government necessities; government, in effect, absolves itself from its own debts to the bank, and by way of compensation absolves the bank from its own contracts with others. This is, indeed, a wonderful scheme of finance. The government is to grow rich, because it is to borrow without the obligation of repaying, and is to borrow of a bank which issues paper without liability to redeem it. If this bank, like other institutions which dull and plodding common sense has erected, were to pay its debts, it must have some limits to its issues of paper, and therefore there would be a point beyond which it could not make loans to government. This would fall short of the wishes of the contrivers of this system. They provide for an unlimited issue of paper, in an entire exemption from payment. They found their bank, in the first place, on the discredit of government, and then hope to enrich government out of the insolvency of their bank. With them, poverty itself is the main source of supply, and bankruptcy a mine of inexhaustible treasure." pp. 224-5.

The resolutions proposed by Mr. Webster, and supported in this speech, were not passed. Probably he did not expect them to pass, when he proposed them; but the same day, the main question was taken upon the passage of the bill itself; and, as it was rejected by the casting vote of the speaker, there can be no reasonable doubt, that without his exertions this portentous absurdity would not have been defeated. It is but justice, however, to the supporters of the measure, to say, that the mischievous consequences of its adoption, were by no means so apparent then as they are now. We have since had no little experience on the whole matter. It required all the power and influence of the general government, and of the present sound and specie-paying Bank of the United States, acting vigorously in concert for several years after the war, to relieve the country from the flood of depreciated notes of the state banks with which it was inundated, and to restore a safe and uniform currency. When or how this evil could have been remedied, if, at the very close of the war, it had been almost indefinitely increased by the establishment of a vast machine, issuing every day as much irredeemable paper as would be taken at any and every discount, and thus co-operating with the evil itself, instead of opposing it, is more than any man will now be bold enough to conjecture. We should, no doubt, have been in bondage to it to this hour, and probably left it as a yoke upon the necks of our children.

But, at the time referred to, the necessities of the government were urgent; and, on motion of Mr. Webster, the rule that prevented a reconsideration at the same session of a subject thus disposed of, was suspended the very next day, and a bill for a bank was, on the same day, January 3, recommitted to a select committee. On the 6th, the committee reported a specie-paying bank, with a much diminished capital, which was carried in the

house, with the fewest possible forms, on the 7th; Mr. Webster and most of his friends voting for it. It passed the senate, too, though with some difficulty; but was refused by the President, on the ground, that it was not sufficient to meet the exigencies of the case, which, indeed, we now know, no bank would have been able to meet. This project, however, being thus rejected, another was immediately introduced into the senate, the basis of which was to be laid, like that of the first bank proposed, in a paper currency. It passed that body; but on being brought into the house met a severe and determined opposition, which ceased only when, on the 17th, the news of peace being received, the bill was indefinitely postponed.

Mr. Webster's exertions, however, on the subject of the currency, did not cease with the overthrow of the paper bank system. He was re-elected by New-Hampshire for the fourteenth Congress, and sat there during the sessions of 1815-16; and 1816-17. The whole state of things in the nation was now changed. The war was over, and the great purpose of sound statesmanship was therefore to bring the healing and renovating influences of peace into the administration and finances of the country. On the introduction of the bill to incorporate the present Bank of the United States, Mr. Webster opposed its passage. The grounds on which he opposed it were mainly two. He thought the proposed capital, which, in the original bill, was fifty millions, was unwisely and unnecessarily large; and he thought the power given to the President to authorize a suspension of specie payments would prove ruinous. On both these points, his opposition, with that of his friends, was successful; the proposed amount of capital was reduced to thirty-five millions; and the power to authorize a suspension of specie payments was stricken out. It seems, also, to have been his opinion, that the government should have nothing to do with the appointment of Directors;—perhaps, because it had nothing to do with their appointment in the bank of 1791. As, however, the government itself was to be a large subscriber to the present institution, we confess, it seems to us but reasonable, that it should have its proper voice in the annual constitution of the Board of Directors. Perhaps Mr. Webster was opposed to the subscription to the stock on the part of the Government; and that this, together with the appointment of Government-Directors, and a hope of other useful changes in the charter, influenced his final vote, which was against the passage of the bill, though he had previously voted for one bank, and had steadily maintained the utility of a well established institution of that kind. His great object, however, through the whole, seems to have been to convince Congress and the country, that a paper bank would be ruinous; that a bank, with an inordinate amount of capital, such as fifty millions, would be dangerous; that a bank, with power to suspend specie payments, would bring the country to bankruptcy and ruin; and that all hope of restoring the currency of the country, even by means of the best conducted bank, would

be futile, unless the Government itself would execute the existing laws, and receive payment of its debts only in legal coin, or in the paper of specie-paying banks. In a speech, not printed in this volume, made on the 28th February, 1816, we find the following sound and cogent remarks, which we should have been glad to see republished with the rest of Mr. Webster's discussions on these subjects; for they are full of a wisdom which is always profitable.

"It was a mistaken idea," he said, "which he had heard uttered on this subject, that we were about to reform the national currency. No nation had a better currency than the United States—there was no nation which had guarded its currency with more care; for the framers of the constitution, and those who enacted the early statutes on this subject were *hard-money men*; they had felt, and therefore duly appreciated the evils of a paper medium; they therefore sedulously guarded the currency of the United States from debasement. The legal currency of the United States was gold and silver coin; this was a subject in regard to which Congress had run into no folly. What then was the present evil? Having a perfectly sound national currency, and the government having no power in fact to make any thing else current but gold and silver, there had grown up in different states a currency of paper issued by banks, setting out with the promise to pay gold and silver, which they had been wholly unable to redeem; the consequence was, that there was a mass of paper afloat, of perhaps fifty millions, which sustained no immediate relation to the legal currency of the country—a paper which will not enable any man to pay money he owes to his neighbor, or his debts to the government.—The banks had issued more money than they could redeem, and the evil was severely felt. He declined occupying the time of the house to prove that there was a depreciation of the paper in circulation; the legal standard of value was gold and silver; the relation of paper to it proved its state, and the rate of its depreciation. Gold and silver currency was the law of the land at home, and the law of the world abroad; there could, in the present state of the world, be no other currency. In consequence of the immense paper issues having banished specie from circulation, the government had been obliged, in direct violation of existing statutes, to receive the amount of their taxes in something which was not recognized by law as the money of the country, and which was, in fact, greatly depreciated. This was the evil.

"As to the conduct of the banks, he would not examine whether the great advances they had made to the government during the war, were right or wrong in them, or whether it was right or wrong in the government to accept them; but since the peace, their conduct had been wholly unjustifiable, as also had that of the Treasury in relation to them. It had been supposed the banks would have immediately sold out the stocks, with which they had no business, and have fulfilled their engagements; but public expectation had in this respect been disappointed. When this happened, the government ought, by the use of means in its power, to have compelled the banks to return to their specie payments. Any remedy now to be applied to this evil, must be applied to the depreciated mass of paper itself; it must be some measure which would give heat and life to this mortified mass of the body politic. The evil was not to be remedied by introducing a new paper circulation; there could be no such thing, he showed by a variety of illustration, as two media in circulation, the one credited, and the other discredited. All bank paper derives its credit solely from its relation to gold and silver; and there was no remedy for the state of depreciation of the paper currency but the resumption of specie payments. If all the property of the United States was pledged for the redemption of these fifty millions of paper, it would not thereby be brought up to par; or, if it did, that would happen which had never yet happened in any other country. An issue of Treasury-notes would have no better effect than the establishment of a new bank paper. He illustrated this general position by referring to a period anterior to the time of the reformation of the coin of England, when the existing coin had been much debased by clipping, &c. which had created much alarm; an attempt had been made to correct the currency thus vitiated, by throwing a quantity of sound coin into circulation with the debased; the result was, that the sound coin disappeared, was hoarded up, because more valuable than that of the same nominal value which was in general circulation."

* * * * *

"In regard to the plan of this proposed bank, he would consent to no bank which

to all intents and purposes was not a specie bank ; and in that view he was in favor of the proposed amendment. He expressed some alarm at the stock feature of the bank ; which would enable and might induce the existing bank corporations to come forward and take up the whole stock of the National Bank. He should be glad to see a bank established, he observed, in the course of his remarks on this point, which would command the solid capital of the country. There were men of wealth and standing who would embark their funds in a bank constituted on commercial specie principles, but who would not associate in such an institution with the stockholders in the country, any more than a good currency would associate with a bad one. A National Bank ought to be regarded, not as the power to rectify the present state of the currency, but as a means to aid the government in the exercise of *its* power in this respect. The power of the government must be exercised in some way, and that speedily, or evils would result the extent of which he would not attempt to describe." F -

The suggestions which Mr. Webster made in this same speech, predicting enormous subscriptions to the proposed institution for purposes of speculation merely, and out of all proportion to the real ability of the subscribers, showed the sound statesmanlike forecast which has marked him through his whole political course, and were fully justified by the difficulties that occurred in consequence of them, in the early history of the bank. The bill, however, having passed, and having received the President's signature on the 10th April, Mr. Webster, who saw, indeed, at once, that it placed the bank substantially on the principles maintained in his resolutions of the preceding year, which defeated the project of a paper bank, saw no less quickly and clearly, that the peace had produced an important change in the influence of the paper currency of the country, and that no National Bank, however wisely managed, would alone be able to meet the increased and increasing evils of the case, or have power enough to restore unaided a sound and safe circulating medium. The small depreciated notes of the state banks south of New-England, he saw, still filled the land with their lothed intrusion ; and, what was worse, the revenue of the general government, receivable at the different custom-houses, was collected in this degraded paper, to the great injury of the finances of the country, and to the still greater injury of the property of private individuals, who, in different states, paid, of course, different rates of duties to the treasury, according to the value of the paper medium in which it happened to be received. Mr. Webster foresaw the mischiefs that must follow from this state of things, if a remedy were not speedily applied. He, therefore, in the same month of April, 1816, introduced a resolution, the effect of which was, to require the revenue of the United States to be collected and received only in the legal currency of the United States, or in bills equal to that currency in value.

In stating the nature of the evil, after showing by what means the paper of the state banks south of New-England had become depreciated ; he says,—

“ What still farther increases the evil is, that this bank paper being the issue of very many institutions, situated in different parts of the country, and possessing different degrees of credit, the depreciation has not been, and is not now, uniform throughout the United States. It is not the same at Baltimore as at Philadelphia, nor the same at Philadelphia as at New-York. In New-England, the banks have

not stopped payment in specie, and of course their paper has not been depressed at all. But the notes of banks which have ceased to pay specie, have nevertheless been, and still are, received for duties and taxes in the places where such banks exist. The consequence of all this is, that the people of the United States pay their duties and taxes in currencies of different values, in different places. In other words, taxes and duties are higher in some places than they are in others, by as much as the value of gold and silver is greater than the value of the several descriptions of bank paper which are received by government. This difference in relation to the paper of the District where we now are, is twenty-five per cent. Taxes and duties, therefore, collected in Massachusetts, are one quarter higher than the taxes and duties which are collected, by virtue of the same laws, in the District of Columbia." pp. 233-4.

A little further on, after showing that if this state of things is not changed by the government, it will be likely to change the government itself, he adds,—

"It is our business to foresee this danger, and to avoid it. There are some political evils which are seen as soon as they are dangerous, and which alarm at once as well the people as the government. Wars and invasions therefore are not always the most certain destroyers of national prosperity. They come in no questionable shape. They announce their own approach, and the general security is preserved by the general alarm. Not so with the evils of a debased coin, a depreciated paper currency, or a depressed and falling public credit. Not so with the plausible and insidious mischiefs of a paper-money system. These insinuate themselves in the shape of facilities, accommodation, and relief. They hold out the most fallacious hope of an easy payment of debts, and a lighter burden of taxation. It is easy for a portion of the people to imagine that government may properly continue to receive depreciated paper, because they have received it, and because it is more convenient to obtain it than to obtain other paper, or specie. But on these subjects it is, that government ought to exercise its own peculiar wisdom and caution. It is supposed to possess, on subjects of this nature, somewhat more of foresight than has fallen to the lot of individuals. It is bound to foresee the evil before every man feels it, and to take all necessary measures to guard against it, although they may be measures attended with some difficulty and not without temporary inconvenience. In my humble judgment, the evil demands the immediate attention of Congress. It is not certain, and in my opinion not probable that it will ever cure itself. It is more likely to grow by indulgence, while the remedy which must in the end be applied, will become less efficacious by delay.

"The only power which the general government possesses of restraining the issues of the state banks, is to refuse their notes in the receipts of the treasury. This power it can exercise now, or at least it can provide now for exercising in reasonable time, because the currency of some part of the country is yet sound, and the evil is not universal. If it should become universal, who, that hesitates now, will then propose any adequate means of relief? If a measure, like the bill of yesterday, or the resolution of to-day, can hardly pass here now, what hope is there that any efficient measures will be adopted hereafter?" pp. 235-6.

The doctrine of this speech is as important as it is true. A sound and uniform currency is essential, not only for the convenient and safe management of the fiscal concerns of a government; but, no less so, for the security of private property. It is, indeed, at once the standard and basis of all transfer and exchange; and, whenever the circulating medium has become much deranged in any country, it has been found an arduous, and sometimes a dangerous task, to restore it to a sound state. The effort almost necessarily brings on a conflict between the two great classes of debtor and creditor, into which every community is divided,—the creditor claiming the highest standard of value in the currency, and the debtor the lowest; and the results of such a conflict have not unfrequently been found in changes, convulsions, and political revolution. From such a conflict we

were saved in this country, by the defeat of the paper-currency bank proposed in 1814,—by the establishment of the present specie-paying bank, and by the adoption of Mr. Webster's resolution, which was approved by the President on the 30th of April, 1816.

And yet, notwithstanding all this;—notwithstanding the long discussion about the first bank, whose charter was so deliberately approved and signed by Washington in 1791; notwithstanding the able and thorough discussion of 1815 and 1816, which resulted in the establishment of the present bank,—the child not so much of the policy as of the absolute necessities of the State; notwithstanding too, that *both* banks have amply fulfilled the purposes of their establishment while the last has restored and still continues to us the sound currency, which we had lost by a refusal to re-charter the first;—notwithstanding all this, there are persons, who, even now, stand ready to reject the whole experience of the past, to give up a National Bank, and throw us back again into the disasters and conflicts of a fluctuating and degraded paper currency. Some of these persons have, or seem to have, metaphysical scruples about the constitutionality of such an institution. But, if the constitutionality of the Bank of the United States is not settled, what is? It has been admitted and acted upon by every administration which has been at the head of our affairs; it has been twice elaborately discussed and decided by Congress, and received their sanction; and it has been repeatedly drawn into controversy in the courts of law, and as repeatedly recognized on appeal by the highest tribunals of the country. In short, the three co-ordinate branches of our government, comprising, of course, the whole of its powers and sanctions, have uniformly, for the space of forty years, either silently sustained or directly asserted the constitutionality of the Bank of the United States. Is it, then, too much to say, that there is not a citizen of our union, who holds a foot of land or a dollar of property, by a safer tenure and right, than the Bank of the United States holds its chartered privileges?*

But, others, who admit fully its constitutionality, deny that it is a useful or valuable institution. How, then, stands this view of the case? Every secretary of the treasury has maintained, not merely its usefulness, but its absolute necessity to the government; and the two wisest and ablest of them, Hamilton and Gallatin, who agreed in political opinion about little else, are found united on this cardinal point; and no small portion of their respective reputations now rests on the distinguished ability with which they have defended it. Besides, is not the utility of the Bank obvious to every man, who will look abroad into the country fairly and independently? No sober man, we believe, can see, how the general government, while there are twenty-four States, with un-

* Since the above remarks were written, Mr. Madison's admirable letter to Mr. Ingersoll, dated June 25, 1831, has been published. It is marked with all his peculiar wisdom and power; and, we apprehend, puts at rest the question it discusses.

limited powers for creating Banks, can do common justice to its own affairs without a similar institution. Our revenue is collected by eight or nine thousand persons, scattered over our immense territory, who now remit it to the national treasury, by means of the Bank of the United States, through a safe channel and in a uniform and sound currency. But, what would become of it, if there were no such safe medium? The answer is plain. Each collector, of the eight or nine thousand, would then be left to his own discretion, and to the currency of the part of the country with which he may happen to be connected; the revenue would be wasted away by losses in its transmissions, and especially by losses in depreciated paper; and the different portions of the country, paying different rates of duty to the government, from their different currencies, would, from this circumstance alone, be speedily brought into controversy and conflict. All this, too, is not only obvious to every one, who will reason on the consequences of what is before his own eyes, but to every one who will recall what has absolutely happened within his own recollection. It is the state of things, into which we were actually brought no longer ago, than in 1814—1816, for want of a national Bank; and, out of which, the present Bank and the treasury, acting under Mr. Webster's resolution of April 30, 1816, have, with great wisdom and with great difficulty, rescued us. The true question, therefore, so far as the usefulness of the Bank is concerned, is, whether, with our eyes open and with full warning and experience of the consequences, we shall voluntarily plunge back again into the confusion, embarrassment, losses, and collisions arising from an unsound currency, out of which we have so recently escaped?

Some persons, however, have proposed a remedy for this, without resorting to a Bank. Restore, they say very coolly,—restore a metallic currency, and put down the State Banks, and let all government transactions be carried on in gold and silver. This, to be sure, would be safe enough, though it would, undoubtedly, be an inconvenient approximation to the institutions of Lycurgus. But before we admit it to be a benefit, there are two questions to be settled:—first; is it *desirable* to put down the State Banks?—and, second; is it *possible* to restore a metallic currency? Every practical and judicious man in the country, we believe, would answer both of them in the negative. The State Banks, when wisely managed, are great public benefits, and, even when ill managed, the States cannot be prevented from establishing them, and will not give up the power to sustain them. And, as to a metallic currency, all the legislation of all the governments in the country could not introduce it, at a less cost, than the universal destruction of enterprise and industry.

What, then, remains? Unquestionably we must come back to the old and tried remedy of a National Bank. It is the only power, which can, at the same time, sustain and assist the State Banks, when they ought to be upheld, and control them, when they

threaten to become injurious from excessive issues;—exercising towards them, functions similar to those which the General Government exercises towards the States. This control, too, enjoys the immense advantage of having been tried and found at once kindly and safe in its operations. The whole people of the United States have been witnessing it. They know it works well; and that is all they require. While it continues, and continues under its present excellent and efficient management, the old difficulty of some States with a sound currency, and some with an unsound, by which a part of the citizens should pay their debts to the government in good money and a part of them in money worth 20 per cent. less;—this difficulty, and the vast mischiefs that necessarily follow it, cannot recur. But, take away the Bank, and this vast evil comes back of course. The people of the United States, however, we are persuaded, are not ready to offer this premium on the insolvency of States and State Banks, or to introduce the conflicts between different portions of the country, and the injury to industry and enterprise, that would be its speedy and inevitable consequence.

The question, therefore, *must* be, not whether *any* National Bank shall exist; but whether the *present* one shall be continued, or whether a *new* one shall be created. We are in favor of the continuance and re-chartering of the present Bank. For, in the *first* place, its mere existence; its wise and judicious management; the great good it has done, and is doing, are all in favor of its continuance. We are all familiar with it, and know how it operates; we know, it is fulfilling the very purpose for which it was created, and that it is fulfilling them beneficially and effectually. Why, then, destroy it?—In the *second* place, there would be not a little confusion, embarrassment and injury to different interests, in the intermediate state between the operations of the old Bank and the new one;—while winding up one concern and opening another;—and all, too, to change a machine which works well for one which has not been tried. And in the *third* place, the nation would sustain, at the same time, a severe and needless loss. For the government now owns seven millions of stock in the present Bank, worth this day \$130 for each \$100. To destroy the present Bank is, to reduce the value of its stock to par;—that is, so far as the nation is concerned, to sink \$2,100,000 of national property. But the new Bank may be able and willing to give the same bonus the present one would;—say \$1,500,000, so that the absolute dead loss of this part of the transaction will be \$600,000. But then, on the other hand, by continuing the present Bank, the nation gains the \$2,100,000 and *the bonus besides*, or three millions six hundred thousand dollars. The difference, then, between losing \$600,000 and making \$3,600,000; that is the sum of *four millions, two hundred thousand dollars*, is the least loss the nation will sustain, in a merely pecuniary point of view, by the change, as any body can understand who is acquainted with common accounts. And all this, too, in order to substitute a machine,

whose operation has not been tried, for one which *we know works well*.

And what would be gained, or what is proposed to be gained by a change, which should create a new Bank? Nothing but a new set of stockholders. And suppose the new stock to be given to exactly such favorites as the administration, for the time being, might desire, or suppose it to be as much subdivided as possible, and to be carried into the smallest channels of private investment; what would be the consequence? Speculations would at once take place; the stock would be sold and resold; and, just as surely as the principle of gravitation will bring water to its level, just so surely the new stock, like all similar property, would find its way into the hands that have held the old;—that is, the hands of the capitalists. Thus we should end just as we began; though, probably, not until the Bank itself should have gone through the seasoning of a good deal of mismanagement; and certainly not until individual property should have been much injured, and four millions three hundred thousand dollars of the money of the country sacrificed.

But suppose the present Bank to be re-chartered,—shall any change be made in its chartered rights? Some have thought, the States should have a share in its management. But why so? The United States have none in the management of the State Banks. The most important object of the United States' Bank is, to exercise a beneficial control over the currency, and thus prevent the State Banks from running into excessive issues of paper, and so degrading it and rendering it unsound. But many of the State Banks, like those of Alabama, Georgia, and South Carolina, are the exclusive property of their respective States. Shall, then, these same States have power over the Bank of the United States? It is absurd. The true principle undoubtedly is, to make them, as far as possible, independent of each other; and then they *can* act on each other only for the benefit of the community.

This, in truth, is the point, upon which the whole question turns or ought to turn;—What course in relation to the Bank of the United States is most for the benefit of the community; for the benefit of the whole people? Certainly, nothing the national Legislature can do for the Nation, or give to it, or continue to it, is a more direct and important blessing to every individual it contains, than a sound currency. We have it now, we had it not in 1815 and 1816. What lost it to us? The surrender of all control over it by the United States, when the re-chartering of the old Bank was refused. What restored it to us, and placed us where we now are? The resumption and exercise of that control in 1816. Why, then, are men found, who, with such facts as these, which no sophistry can mystify, and such a plain and bitter experience which we all have felt;—why are there men, who wish that all these facts and all this experience should be lost upon us? Let their consciences, their interests, and their passions answer.

But, to return to Mr. Webster;—it was at this period, 1816, that he determined to change his residence, and, of course, to re-

ture, for a time at least, from public life. He had now lived in Portsmouth nine years; and they had been to him years of great happiness in his private relations, and, in his relations to the country, years of remarkable advancement and honor. But, in the disastrous fire, which, in 1813, destroyed a large part of that devoted town, he had sustained a heavy loss, which the means and opportunities offered by his profession in New-Hampshire were not likely to repair. He determined, therefore, to establish himself in a larger capital, where his resources would be more ample, and, in the summer of 1816, removed to Boston, where he has ever since resided.

His object now was professional occupation, and he devoted himself to it for six or eight years exclusively, with unremitting assiduity, refusing to accept office, or to mingle in political discussion. His success corresponded to his exertions. He was already known as a distinguished lawyer in his native state; and the two terms he had served in Congress, had placed him, notwithstanding his comparative youth, among the prominent statesmen of the country. His rank as a jurist, in the general regard of the nation, was now no less speedily determined. Like many other eminent members of the profession, however, who have rarely been able to select at first what cases should be intrusted to them, it was not for him to arrange or determine the time and the occasion, when his powers should be decisively measured and made known. We must, therefore, account it for a fortunate accident, though perhaps one of those accidents granted only to talent like his, that the occasion was the well-known case of Dartmouth College; and, we must add, as a circumstance no less fortunate, that the forum where he was called to defend the principles of this great cause, and where he did defend them so triumphantly, was that of the Supreme Court of the United States, at Washington.

There is, indeed, something peculiar in this grave national tribunal, especially with regard to the means and motives it offers to call out distinguished talent, and try and confirm a just reputation, which is worth notice. The judges themselves, selected from among the great jurists of the country, as above ignorance, weakness, and the temptations of political ambition,—with that venerable man at their head, who for thirty years has been the ornament of the government, and, in whose wisdom has been, in no small degree, the hiding of its power—constitute a tribunal, which may be truly called solemn and august. The advocates, too, who appear before it, are no less a chosen few, full of talent and skill, and eager with ambition, who go there from all the ends of the country, to discuss the gravest and most important interests both public and private,—to settle the conflicts between domestic and foreign jurisprudence, or the more perilous conflicts between the authority of the individual states, and that of the general government;—in short, to return constantly upon the first great principles of national and municipal adjudication, and take heed, that,

whatever is determined shall rest only on the deep and sure foundations of truth, right, and law. And, finally, if we turn from the bench and the bar, to the audience which is collected around them, we shall find again much that is remarkable, and even imposing. We shall find, that, large as it is, it is gathered together from a city not populous, where every thing, even the resources of fashion, must have a direct dependence on the operations of government; and where the senators themselves, and the representatives of foreign powers, no less than the crowds collected during the session of Congress, by the solicitations of an enlightened curiosity, or of a strenuous indolence, can, after all, discover no resort so full of a stirring interest and excitement, as that of the Supreme Court, into whose arena such practised and powerful gladiators daily descend, rejoicing in the combat. Taking it in all its connexions, then, we look upon this highest tribunal of the country, not only to be solemn and imposing in itself, but to be one of peculiar power over the reputations of these jurists and advocates, who appear before it, and who must necessarily feel themselves to be standing singularly in presence of the nation, represented there as it is, in almost every way, and by almost every class, from the fashion and beauty lounging on the sofas in the recesses of the court-room, up to the eager antagonists, who are impatiently waiting their time to contend for the mastery on some great interest or principle, and the judges who are ultimately to decide it.

Mr. Webster had already appeared once or twice before this tribunal;—but not in any cause which had called seriously into action the powers of his mind. The case of Dartmouth College, however, was one that might well task the faculties of any man. That institution, founded originally by charter from the king of Great Britain, had been in successful operation nearly half a century, when, in 1816, the Legislature of New-Hampshire, from some movements in party politics, was induced, without the consent of the college, to annul its charter, and, by several acts, to give it a new incorporation and name. The trustees of the college resisted this interference; and, in 1817, commenced an action in the state courts, which was decided against them. A writ of error was then sued out by the original plaintiffs, to remove the cause, for its final adjudication, to the Supreme Court of the United States; and it came on there for argument in March, 1818.

The court-room was excessively crowded, not only with a large assemblage of the eminent lawyers of the Union, but with many of its leading statesmen,—drawn there no less by the importance of the cause, and the wide results that would follow its decision, than by the known eloquence of Mr. Hopkinson and Mr. Wirt, both of whom were engaged in it. Mr. Webster opened it, on behalf of the college. The question turned mainly on the point, whether the acts of the Legislature of New-Hampshire, in relation to Dartmouth College, constituted a violation of a contract; for, if they did, then they were contrary to the Constitution of the United States. The principles involved, therefore, went to de-

termine the extent to which a legislature can exercise authority over the chartered rights of all corporations; and this of course gave the case an importance at the time, and a value since, paramount to that of almost any other in the books. Mr. Webster's argument is given in this volume at p. 110, et seq.; that is, we have there the technical outline, the dry skeleton of it. But those who heard him, when it was originally delivered, still wonder how such dry bones could ever have lived with the power they there witnessed and felt. He opened his cause, as he always does, with perfect simplicity in the general statement of its facts; and then went on to unfold the topics of his argument, in a lucid order, which made each position sustain every other. The logic and the law were rendered irresistible. But, as he advanced, his heart warmed to the subject and the occasion. Thoughts and feelings, that had grown old with his best affections, rose unbidden to his lips. He remembered that the institution he was defending, was the one where his own youth had been nurtured; and the moral tenderness and beauty this gave to the grandeur of his thoughts; the sort of religious sensibility it imparted to his urgent appeals and demands for the stern fulfilment of what law and justice required, wrought up the whole audience to an extraordinary state of excitement. Many betrayed strong agitation; many were dissolved in tears. When he ceased to speak, there was a perceptible interval before any one was willing to break the silence; and, when that vast crowd separated, not one person of the whole number doubted, that the young man who had that day so moved, astonished, and controlled them, had vindicated for himself a place at the side of the first jurists of the country.

From this period, therefore, Mr. Webster's attendance on the Supreme Court at Washington has been constantly secured by retainers, in the most important causes; and the circle of his professional business, which has been regularly enlarging, has not been exceeded, if it has been equalled, by that of any other lawyer who has ever appeared in the national forum. The volume before us contains, indeed, few traces of all this. It contains, however, two arguments upon constitutional questions of great interest and wide results. One is the case of *Gibbons vs. Ogden*, in 1824, involving the question, how far a state has authority to grant the exclusive right of navigating the tide-waters within its territorial limits; refusing that right to all persons belonging to other states, as well as to its own citizens. This question struck, of course, at the great steam-boat monopoly granted by the state of New-York, from motives of public munificence, to Mr. Fulton, the admirable first mover of that national benefit, and Chancellor Livingston, its early and adventurous patron. The case was argued by Mr. Webster and Mr. Wirt against the monopoly, and by Mr. Oakley and Mr. Emmet for it; so that probably as much ability was brought into the discussion on each side, as has been called for by any single cause in our judicial annals. The result was, that the monopoly was declared to be unconstitutional; and

thus another great national blessing was obtained, hardly less important than the original invention,—that of throwing open the right of steam-navigation to the competition of the whole Union.

There were circumstances which gave uncommon interest to this cause, independently of its great constitutional importance, and the wide consequences involved in it. It had been litigated, during a series of years, in every form, in the state courts of New-York, where the monopoly had triumphed over all opposition. And it need hardly be said, that the state courts of New-York have maintained as proud a reputation for learning, research, and talent, as any in the Union. What lawyer has not sat gladly at the feet of Chancellor Kent, and Chief Justice Spencer? And what state, in relation to her jurisprudence, can so boldly say—

“*Quæ regio in terris nostri non plena laboris?*”

Mr. Webster's argument in the opening of this case,—which was closed with great power by the Attorney-General, Mr. Wirt,—furnishes, even in the meager outline still preserved, p. 170—184, a specimen of some of the characteristics of his mind. We here see his clearness and downright simplicity in stating facts; his acute suggestion and analysis of difficulties; his peculiar power of disentangling complicated propositions, and resolving them into elements so plain, as to be intelligible to the simplest minds; and his wariness not to be betrayed into untenable positions, or to spread his forces over useless ground. We see him, indeed, fortifying himself, as it were, strongly within the narrowest limits of his cause, concentrating his strength, and ready at any moment to enter, like a skilful general, at all the weak points of his adversary's position. This argument, therefore, especially as it was originally pronounced in court, we look upon, as a whole, to have been equally remarkable for depth and sagacity; for the choice and comprehensiveness of the topics; and for the power and tact exhibited in their discussion. Yet we are carried along so quietly by its deep current, that, like Partridge in Tom Jones, when he saw Garrick act Hamlet, all seems to us so spontaneous, so completely without effort, that we are convinced, nay, we feel sure, there is neither artifice nor mystery, extraordinary power nor genius, in the whole matter. But, to those who are familiar with Mr. Webster, and the workings of his mind, it is well known, that, in this very plainness; in this earnest pursuit of truth for truth's sake, and of the principles of law for the sake of right and justice, and in his obvious desire to reach them all by the most direct and simple means, is to be found no small part of the secret of his power. It is this, in fact, above every thing else, that makes him so prevalent with the jury; and, not only with the jury in court, but with the great jury of the whole people.

The same general remarks are applicable to his argument in the case of Ogden against Saunders, in 1827, which we notice now, out of the regular series of events, in order to finish at once the little we can say of his professional career as a lawyer. The case to which we now refer, involved the question of the constitution-

ality of state insolvent laws, when they purported to absolve the party from the obligation of the *contract*, as well as from personal *imprisonment*, on execution. In a legal and constitutional point of view, this has always been thought one of Mr. Webster's ablest and most convincing arguments. With the court he was only half successful; there being a remarkable diversity of opinion among the judges. But, taken in connexion with the opinion of Chief Justice Marshall, delivered in the case, with which Mr. Webster's argument coincides, both in reasoning and in conclusion, it seems absolutely to have exhausted the whole range of the discussion on that side, and to furnish all that future inquirers can need to master the question.

But, during the years we have just passed over, Mr. Webster's success was not confined to the bar. In the year 1820-21, a convention of delegates was assembled in Boston, to revise the constitution of Massachusetts. As it was one of those primary assemblies, where no office disqualifies from membership, and as the occasion was one of the rarest importance, the talent and wisdom, the fortunes and authority of that commonwealth were, to a singular degree, collected in it. The venerable John Adams, then above eighty-five years old, represented his native village; Mr. Justice Story, of the Supreme Court of the United States, was a delegate from Salem; Judge Davis, of the District Court of the United States, and the greater part of the judicial officers of the state, were there, as well as a large number of the leading members of the Massachusetts bar, and a still larger number of its wealthiest or most prominent land-holders and merchants. No assembly of equal dignity and talent was ever collected in that commonwealth. Mr. Webster was one of the delegates from Boston. What influence he exerted, or how beneficial, or how extensive it was, can be entirely known only there where it was put forth. But, if we may judge from the important committees on which he served; the prominent interests and individuals his duty called him occasionally to defend, to encounter, and to oppose; and the business-like air of his short remarks, which are scattered up and down through the whole volume of the "Journal of Debates and Proceedings" of this convention, published soon afterwards, we should be led to believe, that, though he was then but a newly adopted child of Massachusetts, he had already gained a degree of confidence, respect and authority, to which few in that ancient commonwealth could lay claim. The fruits of it all, in the present volume, are, a short speech on "Oaths of Office;" another on "the removal of Judges upon the address of two-thirds of each branch of the Legislature;" and a more ample and very powerful one on the "Principle of representation in the Senate." They are all strong and striking; and it would be easy to extract something from each, characteristic of its author; but we have not room, and must content ourselves with referring, for a specimen of the whole, to the remarks on the free-schools of New-England, from the speech in the Senate, which

we have already cited; adding merely, that, to this remarkable speech of Mr. Webster, and to another of great beauty and force, by Mr. Justice Story, was ascribed, at the time, a change in the opinions and vote of the convention, which, considering the importance of the subject, and the long discussion it had undergone, was all but unprecedented.*

While this convention was still in session, a great anniversary came round at the north. The two hundredth year from the first landing of the Pilgrims at Plymouth, was completed on the 22d of December, 1820; and every man born in New-England, or in whose veins stirred a drop of New-England blood, felt that he had an interest in the event it recalled, and demanded its grateful celebration. Preparations, therefore, for its commemoration, on the spot where it occurred, were made long beforehand; and, by the sure indication of the public will, and at the special invitation of the Pilgrim Society, Mr. Webster was summoned as the man who should go to the Rock of Plymouth, and there so speak of the centuries past, as that the centuries to come should still receive and heed his words. Undoubtedly he amply fulfilled the expectations that waited on this great occasion. His address, which opens the present volume, is one of the gravest productions it contains. He seems to feel that the ground on which he stands is holy; and the deep moral sensibility, and even religious solemnity, which pervade many parts of this striking discourse, —where he seems to have collected the experience of all the past, in order to minister warning and encouragement to all the future,—is in perfect harmony with the scene and the occasion, and produced its appropriate effect on the multitude elected, even at that inclement season, from the body of the New-England states, to offer up thanksgivings for their descent from the Pilgrim fathers. The effect, too, at the time, has been justified by a wider success since; and the multiplied editions of the printed discourse, while they have carried it into the farm-houses and hearts of the New-England yeomanry, are at the same time insuring its passage onward to the next generation, and the next, who may be well satisfied, when the same jubilee comes round, if they can leave behind them monuments equally imposing, to mark the lapse and revolutions of ages.

It would not be difficult to select eloquent passages from this discourse. We prefer, however, to take one containing what was then a plain and adventurous prediction; but what is now passing into history before our very eyes. We allude to the remarks on the principle of the subdivision of property in France, as affecting the permanency of the French government, which Mr. Webster ventured to call in question, on the same general grounds, on which he undertook to prove the permanency of our own.

* A most interesting experiment of the effect of a subdivision of property on government, is now making in France. It is understood, that the law regulating the

transmission of property, in that country, now divides it, real and personal, among all the children, equally, both sons and daughters; and that there is, also, a very great restraint on the power of making dispositions of property by will. It has been supposed, that the effects of this might probably be, in time, to break up the soil into such small subdivisions, that the proprietors would be too poor to resist the encroachments of executive power. I think far otherwise. What is lost in individual wealth, will be more than gained in numbers, in intelligence, and in a sympathy of sentiment. If, indeed, only one, or a few landholders were to resist the crown, like the barons of England, they must, of course, be great and powerful landholders with multitudes of retainers, to promise success. But if the proprietors of a given extent of territory are summoned to resistance, there is no reason to believe that such resistance would be less forcible, or less successful, because the number of such proprietors should be great. Each would perceive his own importance, and his own interest, and would feel that natural elevation of character which the consciousness of property inspires. A common sentiment would unite all, and numbers would not only add strength, but excite enthusiasm. It is true, that France possesses a vast military force, under the direction of an hereditary executive government, and military power, it is possible, may overthrow any government. It is in vain, however, in this period of the world, to look for security against military power, to the arm of the great landholders. That notion is derived from a state of things long since past; a state in which a feudal baron, with his retainers, might stand against the sovereign, who was himself but the greatest baron, and his retainers. But at present, what could the richest landholder do, against one regiment of disciplined troops? Other securities, therefore, against the prevalence of military power must be provided. Happily for us, we are not so situated as that any purpose of national defence requires, ordinarily and constantly, such a military force as might seriously endanger our liberties.

"In respect, however, to the recent law of succession in France, to which I have alluded, *I would, presumptuously, perhaps, hazard a conjecture, that if the government do not change the law, the law, in half a century, will change the government; and that this change will be not in favor of the power of the crown, as some European writers have supposed, but against it.* Those writers only reason upon what they think correct general principles, in relation to this subject. They acknowledge a want of experience. Here we have had that experience; and we know that a multitude of small proprietors, acting with intelligence, and that enthusiasm which a common cause inspires, constitute not only a formidable, but an invincible power." pp. 47-8.

In less than six years from the time when this statesmanlike prediction was made, the King of France, at the opening of the Legislative Chambers, thus strangely and portentously echoed it,

"Legislation ought to provide, by successive improvements, for all the wants of society. *The progressive partitioning of landed estates essentially contrary to the spirit of a monarchical government would enfeeble the guarantees which the charter has given to my throne and to my subjects. Measures will be proposed to you, gentlemen, to establish the consistency which ought to exist between the political law and the civil law; and to preserve the patrimony of families, without restricting the liberty of disposing of one's property. The preservation of families is connected with, and affords a guarantee to political stability, which is the first want of states, and which is especially that of France after so many vicissitudes.*"

But the discovery came too late. The foundations, on which to build or sustain the cumbrous system of the old monarchy, were already taken away; and the events of the last summer, while they would almost persuade us, that the "Attendant Spirit" so boldly given by the orator in this very discourse to one of the great founders of our government, had opened to him, also, on the Rock of Plymouth, "a vision of the future;"*—these events, we say, can leave little doubt in the mind of any man, that the speaker himself may live long enough,—as God grant he may!—to witness the entire fulfilment of his own extraordinary prophecy, and

* See the beautiful passage respecting the fortune and the life of John Adams, at p. 44.

to see the French people erecting for themselves a sure and stable government, suited to the foundation, on which alone it can now rest.

In 1825, Mr. Webster was called to interpret the feelings of New-England, on another great festival and anniversary. Fifty years from the day, when the grave drama of the American Revolution was opened with such picturesque solemnity, as a magnificent show on Bunker's Hill, witnessed by the whole neighboring city and country, clustering by thousands on their steeples, the roofs of their houses, and the hill-tops, and waiting with unspeakable anxiety the results of the scene that was passing before their eyes,—fifty years from that day, it was determined to lay, with no less solemnity, the corner-stone of a monument worthy to commemorate its importance. An immense multitude was assembled. They stood on that consecrated spot, with only the heavens over their heads, and beneath their feet the bones of their fathers; amidst the visible remains of the very redoubt thrown up by Prescott, and defended by him to the very last desperate extremity;* and with the names of Warren, Putnam, Stark, and Brooks, and the other leaders or victims of that great day, frequent and familiar on their lips. In the midst of such a scene and with such recollections, starting like the spirits of the dead from the very sods of that hill-side, it may well be imagined, that words like the following, addressed to a vast audience,—composed in no small degree of the survivors of the battle, their children, and their grandchildren,—produced an effect, which only the hand of death can efface.

“ We know, indeed, that the record of illustrious actions is most safely deposited in the universal remembrance of mankind. We know, that if we could cause this structure to ascend, not only till it reached the skies, but till it pierced them, its broad surfaces could still contain but part of that, which, in an age of knowledge, hath already been spread over the earth, and which history charges itself with making known to all future times. We know, that no inscription on entablatures less broad than the earth itself, can carry information of the events we commemorate, where it has not already gone; and that no structure, which shall not outlive the duration of letters and knowledge among men, can prolong the memorial. But our object is, by this edifice, to show our own deep sense of the value and importance of the achievements of our ancestors; and, by presenting this work of gratitude to the eye, to keep alive similar sentiments, and to foster a constant regard for the principles of the Revolution. Human beings are composed not of reason only, but of imagination also, and sentiment; and that is neither wasted nor misapplied which is appropriated to the purpose of giving right direction to sentiments, and opening proper springs of feeling in the heart. Let it not be supposed that our object is to perpetuate national hostility, or even to cherish a mere military spirit. It is higher, purer, nobler. We consecrate our work to the spirit of national independence, and we wish that the light

* In an able article on the battle of Bunker's Hill, which is found in the North American Review, 1818, VII. 225—258, and is understood to have been written by Mr. Webster, he says,—“ In truth, if there was any commander-in-chief in the action, it was Prescott. From the first breaking of the ground to the retreat, he acted the most important part; and if it were now proper to give the battle a name from any distinguished agent in it, it should be called, Prescott's battle.” We have no doubt this is but an exact measure of justice to one of those who hazarded all in our revolution, when the hazard was the greatest. The whole review is strong, and no one hereafter can write the history of the period it refers to, without consulting it. The opening description of the battle is beautiful and picturesque.

of peace may rest upon it for ever. We rear a memorial of our conviction of that unmeasured benefit, which has been conferred on our own land, and of the happy influences, which have been produced, by the same events, on the general interests of mankind. We come, as Americans, to mark a spot, which must for ever be dear to us and our posterity. We wish, that whosoever, in all coming time, shall turn his eye hither, may behold that the place is not undistinguished, where the first great battle of the Revolution was fought. We wish, that this structure may proclaim the magnitude and importance of that event, to every class and every age. We wish, that infancy may learn the purpose of its creation from maternal lips, and that weary and withered age may behold it, and be soled by the recollections which it suggests. We wish, that labor may look up here, and be proud, in the midst of its toil. We wish, that, in those days of disaster, which, as they come on all nations, must be expected to come on us also, desponding patriotism may turn its eyes hitherward, and be assured that the foundations of our national power still stand strong. We wish, that this column, rising towards heaven among the pointed spires of so many temples dedicated to God, may contribute also to produce, in all minds, a pious feeling of dependence and gratitude. We wish, finally, that the last object on the sight of him who leaves his native shore, and the first to gladden his who revisits it, may be something which shall remind him of the liberty and the glory of his country. Let it rise, till it meet the sun in his coming; let the earliest light of the morning gild it, and parting day linger and play on its summit." pp. 58-9.

The last formal address delivered by Mr. Webster on any great public occasion, was unexpectedly called from him in the summer of 1826, in commemoration of the services of Adams and Jefferson;—an occasion so remarkable, that what was said and felt on it, will not pass out of the memories of the present generation. We shall, therefore, only make one short extract from Mr. Webster's address at Faneuil Hall—the description of the peculiar eloquence of Mr. Adams, in giving which, the speaker becomes, himself, a living example of what he describes.

"The eloquence of Mr. Adams resembled his general character, and formed, indeed, a part of it. It was bold, manly, and energetic; and such the crisis required. When public bodies are to be addressed on momentous occasions, when great interests are at stake, and strong passions excited, nothing is valuable, in speech, farther than it is connected with high intellectual and moral endowments. Clearness, force, and earnestness are the qualities which produce conviction. True eloquence, indeed, does not consist in speech. It cannot be brought from far. Labor and learning may toil for it, but they will toil in vain. Words and phrases may be marshalled in every way, but they cannot compass it. It must exist in the man, in the subject, and in the occasion. Affected passion, intense expression, the pomp of declamation, all may aspire after it—they cannot reach it. It comes, if it come at all, like the outbursting of a fountain from the earth, or the bursting forth of volcanic fires, with spontaneous, original, native force. The graces taught in the schools, the costly ornaments, and studied contrivances of speech, shock and disgust men, when their own lives, and the fate of their wives, their children, and their country, hang on the decision of the hour. Then words have lost their power, rhetoric is vain, and all elaborate oratory contemptible. Even genius itself then feels rebuked, and subdued, as in the presence of higher qualities. Then, patriotism is eloquent; then self-devotion is eloquent. The clear conception, outrunning the deductions of logic, the high purpose, the firm resolve, the dauntless spirit, speaking on the tongue, beaming from the eye, informing every feature, and urging the whole man onward, right onward to his object—this, this is eloquence; or rather it is something greater and higher than all eloquence, it is action, noble, sublime, god-like action." Page 84.

During a part, however, of the period, over which we have thus very slightly passed, Mr. Webster was again in public life. He was elected to represent the city of Boston, in the seventeenth Congress, and took his seat there in December, 1823. Early in the session,

he presented a resolution in favor of appointing a commissioner or agent to Greece; and the resolution being taken up on the 19th of January following, Mr. Webster delivered the speech, which usually passes under the name of "the Greek Speech." His object, however, in presenting the resolution, did not seem, at first, to be well understood. It was believed, that, seeing the existence of a warm public sympathy for the suffering Greeks, and solicited by the attractions of the subject itself, and of the classical associations awakened by it, his object was to parade a few sentences and figures, and so make an oration or harangue, which might usher him, with some *éclat*, a second time, upon the theatre of public affairs. The galleries, therefore, were thronged with a brilliant and fashionable audience. But the crowd was destined to be disappointed;—Mr. Webster, after a graceful and conciliating introduction, in which he evidently disclaimed any such purpose, addressed himself at once to the subject, and made, what he always makes, a powerful, but a downright business speech. His object, instead of being the narrow one suggested for him, was apparent, as he advanced, to be the broadest possible. It was nothing less, than to take occasion of the Greek revolution, and the conduct pursued in regard to it by the great continental powers, in order to exhibit the principles laid down and avowed by those powers, as the basis on which they intended to maintain the peace of Europe. In doing this, he went through a very able examination of the proceedings of all the famous Congresses, beginning with that of Paris, in 1814, and coming down to that of Laybach, in 1821;—the principles of all which were, that the people hold their fundamental rights and privileges, as matter of concession and indulgence from the sovereign power; and that all sovereign powers have a right to interfere and control other nations, in their desires and attempts to change their own governments:—

"The ultimate effect of this alliance of sovereigns, for objects personal to themselves, or respecting only the permanency of their own power, must be the destruction of all just feeling, and all natural sympathy, between those who exercise the power of government, and those who are subject to it. The old channels of mutual regard and confidence are to be dried up, or cut off. Obedience can now be expected no longer than it is enforced. Instead of relying on the affections of the governed, sovereigns are to rely on the affections and friendship of other sovereigns. They are, in short, no longer to be nations. Princes and people no longer are to unite for interests common to them both. There is to be an end of all patriotism, as a distinct national feeling. Society is to be divided horizontally; all sovereigns above, and all subjects below; the former coalescing for their own security, and for the more certain subjection of the undistinguished multitude beneath." Page 249.

But, as he says afterwards,—

"This reasoning mistakes the age. The time has been, indeed, when fleets, and armies, and subsidies, were the principal reliances even in the best cause. But, happily for mankind, there has arrived a great change in this respect. Moral causes come into consideration, in proportion as the progress of knowledge is advanced; and the *public opinion* of the civilized world is rapidly gaining an ascendancy over mere brutal force. It is already able to oppose the most formidable obstruction to the progress of injustice and oppression; and, as it grows more intelligent and more intense, it will be more and more formidable. It may be silenced by military power, but it cannot be conquered. It is elastic, irrepressible, and invulnerable to the weapons of

ordinary warfare. It is that impassible, unextinguishable enemy of mere violence and arbitrary rule, which, like Milton's angels,

' Vital in every part,
Cannot, but by annihilating, die.'

" Until this be propitiated or satisfied, it is vain for power to talk either of triumphs or of repose. No matter what fields are desolated, what fortresses surrendered, what armies subdued, or what provinces overrun. In the history of the year that has passed by us, and in the instance of unhappy Spain, we have seen the vanity of all triumphs, in a cause which violates the general sense of justice of the civilized world. It is nothing, that the troops of France have passed from the Pyrenees to Cadiz; it is nothing that an unhappy and prostrate nation has fallen before them; it is nothing that arrests, and confiscation, and execution, sweep away the little remnant of national resistance. There is an enemy that still exists to check the glory of these triumphs. It follows the conqueror back to the very scene of his ovations; it calls upon him to take notice that Europe, though silent, is yet indignant; it shows him that the sceptre of his victory is a barren sceptre; that it shall confer neither joy nor honor, but shall inoulder to dry ashes in his grasp. In the midst of his exultation, it pierces his ear with the cry of injured justice, it denounces against him the indignation of an enlightened and civilized age; it turns to bitterness the eup of his rejoicing, and wounds him with the sting which belongs to the consciousness of having outraged the opinion of mankind.

" In my own opinion, Sir, the Spanish nation is now nearer, not only in point of time, but in point of circumstance, to the acquisition of a regulated government, than at the moment of the French invasion. Nations must, no doubt, undergo these trials in their progress to the establishment of free institutions. The very trials benefit them, and render them more capable both of obtaining and of enjoying the object which they seek." Page 253.

How completely does the mighty drama now passing before our eyes on the great theatre of Europe, justify these bold and sagacious predictions! A great revolution has just taken place in France, and a distinguished prince, out of the regular line of succession, has been invited to the throne, *on condition* of governing according to the constitution prescribed by the representatives of the popular will. Belgium is doing the same thing. Devoted Poland has attempted it. Italy is in confusion,—and Germany disturbed and uneasy;—so that, it seems already no longer to be in the power of any conspiracy of kings or congresses, to maintain permanently in Western Europe, a government not essentially founded on free institutions and principles. We will only add, that Mr. Webster has, on hardly any other occasion, entered into the discussion of European politics; and the consequence has been, that, if this speech has found less favor at home than some of his other efforts, it is one, that has brought him great honor abroad; since, besides being printed wherever the English tongue is spoken, it has been circulated through South America, and published in nearly every one of the civilized languages of Europe, including the Spanish and the Greek.

In April, 1824, he took a part in the great discussion of the tariff question; and his speech on that occasion, as well as the one he delivered on the same subject in May, 1828, are both given in the volume before us. But the whole matter is so fresh in the recollections of the community, and Mr. Webster's constant defence of a tariff adapted to the general interests of the country, encouraging alike the cause of American manufactures and the interests of commerce, are so well known, from the first tariff of 1816, to the present moment, that it cannot be needful to speak

of them. We would remark, however, that, in the speech of 1824, two subjects are discussed with great ability ;—the doctrine of exchange, and the balance of trade. Both of them had been drawn into controversy in Congress, on previous occasions, quite frequently, calling forth alternately “an infinite deal of nothing,” and the crudest absurdities ; but, from the period of this thorough and statesmanlike examination of them, they have, we believe, hardly been heard of in either house. The great points involved in both of them, have been considered as settled.

We have thus far spoken of Mr. Webster almost entirely as a public orator and debater, or as a jurist. But there is another point of view, in which he is less known to the nation, but no less valued at Washington. He has few equals in the diligence of the committee-rooms. Reputation in and out of Congress, is, in this respect, very differently measured. Nothing is more common in either House than moderately good speakers, prompt in common debate, and sufficiently well instructed not to betray themselves into contempt with the public. Because they *can* speak and *do* speak ; and especially because they speak *often* and *vehemently*, they obtain a transient credit abroad for far more than they are worth, and far more than they are, at last, able to maintain. It may, indeed, be said, as a general truth, that those who speak most frequently in Congress are least heeded, and least entitled to distinction. Members of real ability speak rarely ; and, when they do speak, it is from the fullness of their minds, after a careful consideration of the subject, and with a deference for the body they address, and a regard to the public service, which does not permit them to occupy more time than the development of their subject absolutely requires. They are, therefore, always heard with attention and respect ; and often with the conviction, that they may be safely followed.

But there is another class in Congress, less known to the public at large, and yet whose services are beyond price. We speak now of those excellent men, who, as chairmen and members of the committees, in the retired corners of the capitol, are doing the real business of legislation, and giving their days and nights to maturing schemes of wild policy and just relief ; men who are content, week after week, and month after month, to sacrifice themselves to the negative toil of saving us from the follies of indiscreet, meddlesome, and ignorant innovators, or from the more presumptuous purposes of those who would make legislation the means of furthering and gratifying their own private, unprincipled ambition. Such business-men,—who should be the heads of the working party, if such a party should ever be formed,—are well understood within the walls of Congress. They are marked by the general confidence that follows them ; and when they speak, to propose a measure, they are listened to ; nay, it may almost be said, they are obeyed.

Mr. Webster has long been known as an efficient laborer in these noiseless toils of the committee-rooms and of practical leg-

islation; and we owe to his hand not a few important improvements in our laws. The most remarkable is, probably, the Crimes-Act of 1825, which, in twenty-six sections, did so much for the criminal code of the country. The whole subject, when he approached it, was full of difficulties and deficiencies. The law in relation to it remained substantially on the foundation of the first great Act of 1790, ch. 36. That act, however, though deserving praise as a first attempt to meet the wants of the country, was entirely unsuited to its condition, and deficient in most important particulars. Its defects, indeed, were so numerous, that half the most notorious crimes, when committed where the general government alone could have cognizance of them, were left beyond the reach of human law and punishment;—rape, burglary, arson and other malicious burnings in forts, arsenals, and lighthouse establishments, together with many other offences, being wholly unprovided for. Mr. Webster's Act, which, as a just tribute to his exertions, already bears his name, cures these gross defects, besides a multitude of others; and it was well known at the time, that he wished to go much further, and give a competent system to the country on the whole criminal code, but was deterred by the danger of failure, if he attempted too much at once. Indeed, the difficulty of obtaining a patient hearing for any bill of such complexity and extent, is well understood in Congress; and it is not, perhaps, an unjust reproach upon our national legislature to confess, that even the most experienced statesmen are rarely able to carry through any great measure of purely practical improvement. Temporary projects, and party strifes, and private claims, and individual jealousies, and, above all, the passion for personal display in everlasting debate, offer obstacles to the success of mere patriotism and statesmanship, which are all but insurmountable. Probably no man, at that time, but Mr. Webster, who, in addition to his patient habits of labor in the committee-room, possessed the general confidence of the House, and had a persevering address and promptitude in answering objections, could have succeeded in so signal an undertaking. Sir Samuel Romilly and Mr. Peel have acquired lasting and merited reputations in England for meliorations of their criminal code. But they had a willing audience, and an eager support. Mr. Webster, without either, effected as much in his Crimes-Act of 1825, as has been effected by any single effort of these statesmen, and is fairly to be ranked by them among those benefactors of mankind, who have enlightened the jurisprudence of their country, and made it at once more efficient and more humane.

At the same session of Congress, the great question of internal improvements came up, and was vehemently discussed in January, on the appropriation made for the western national road. Mr. Webster defended the principle, as he had already defended it in 1816; and as he has defended it constantly since, down to the last year and the last session, without, so far as we have seen, receiving any sufficient answer to the positions he took in debate

on these memorable occasions. Perhaps the doctrine he has so uniformly maintained on this subject, is less directly favorable to the interests of the northern than of the western states; but it was high-toned and national throughout, and seems in no degree to have impaired the favor with which he was regarded in New-England. At any rate, he was re-elected, with singular unanimity, to represent the city of Boston in the nineteenth Congress, and took his seat there anew in December, 1825.

In both sessions of this Congress, important subjects were discussed, and Mr. Webster bore an important part in them; but we can now only suggest one or two of them. As chairman of the Judiciary Committee, he introduced the bill for enlarging the number of judges of the Supreme Court of the United States. His views in relation to it are contained in the remarks he made on the occasion, and had great weight with the House; but the bill was afterwards lost through an amendment of the Senate. So, too, on the question of the Panama mission, involving the points that were first moved in 1796 in the House of Representatives, on occasion of the British Treaty, Mr. Webster has left on record his opinions, doctrines, and feelings, in a speech of great beauty and power, which will always be recurred to, whenever the right of the House of Representatives to advise the executive in relation to the management of foreign missions may come under discussion. But we are compelled to abstain from any further notice of them both, by want of room.

In 1826, he had been elected, we believe, all but unanimously, to represent the city of Boston, in the House of Representatives; but, before he took his seat, a vacancy having occurred in the Senate, he was chosen to fill it by the Legislature of Massachusetts, of which, a great majority in both its branches, besides the council and the governor, belonged to the old republican party of the country. He was chosen, too, under circumstances which showed how completely his talents and lofty national bearing had disarmed all political animosities, and how thoroughly that commonwealth claimed him as her own, and cherished his reputation and influence as a part of her treasures. There was no regular nomination of him from any quarter, nor any regular opposition; and he received the appointment by a sort of general consent and acclamation, as if it were given with pride and pleasure, as well as with unhesitating confidence and respect.

How he has borne himself in the Senate during the four sessions he has sat there, is known to the whole country. No man has been found tall enough to overshadow him; no man has been able to attract from him, or to intercept from him, the constant regard of the nation. He has been so conspicuous, so prominent, that whatever he has done, and whatever he has said, has been watched and understood throughout the borders of the land, almost as familiarly and thoroughly as it has been at Washington.

But though the eyes of all have thus been fastened on him in

such a way, that nothing relating to him can have escaped their notice, there is yet one occasion, where he attracted a kind and degree of attention, which, as it is rarely given, is so much the more honorable when it is obtained. We refer now, of course, to the occasion, when, in 1830, he overthrew the doctrines of nullification. Undoubtedly, in one sense of the word, Mr. Webster was taken completely by surprise, when these doctrines, for the first time in the history of the country, were announced in the Senate; since he was so far from any particular preparation to meet or answer them, that it was almost by accident he was in his place, when they were so unexpectedly, at least to him and all his friends, brought forth. In another and better sense of the phrase, he was not taken by surprise at all; for the time was already long gone by, when, on any great question of national interest or constitutional principle, he could be taken unprepared or unarmed. We mean by this, that the discussion of the most important points in the memorable debate alluded to, came on incidentally; or rather that these points were thrust forward by a few individuals, who seemed predetermined to proceed, under cover of them, to the ultimate limits of personal and party violence.

But the discussion of these doctrines, though new and strange in Congress, and brought on unexpectedly to their adversaries, was nothing new elsewhere. In some portions of the southern country, and especially in South Carolina, the doctrines of nullification, connected, of course, more or less with the thought of a separation from the Union, had been, for nearly two years, familiar to the people. As far as this movement can be traced by any authentic documents, it may be found to have originated in two meetings holden by the South Carolina delegation in Congress, at General Hayne's lodgings in Washington, in May, 1828. From the correspondence and statements published in relation to these meetings, by Mr. Mitchell, General Hayne himself, Mr. Martin, Col. Drayton, Major Hamilton, and Mr. Carter, all of whom were present, it appears certain, that they, or most of them, had already endeavored in vain to unite the different delegations of the southern states in such a protest against the tariff, then recently passed, as was deemed desirable; and that they now met by themselves to devise some other effectual means of opposition;—that Major Hamilton was with difficulty prevented by his colleagues from the rash step of vacating his seat in Congress, and maintained that South Carolina could defend herself successfully against the Union;—that Mr. McDuffie believed a dissolution of the Union inevitable, if the prohibitory system were the settled policy of the country; and that he did not doubt the ability of South Carolina to sustain herself;—and that there was a conversation as to the effects which would be produced by a dissolution of the Union;—to all which Col. Drayton opposed himself, and the meetings broke up *re infectâ*. Mr. Mitchell charges these dangerous doctrines more distinctly to individuals, and says, that Mr. McDuffie declared there was no other remedy

for the evil than a separation of South Carolina from the Union, and that he himself (Mr. McDuffie) was prepared to go all lengths. This is denied, but the proceeding was admitted; and the difference between the two statements is more a difference in the phraseology than in the substance. The tendency of the general opinion of the meeting is not to be mistaken.

This was in May. In June, the effects of such a state of excitement among their representatives, and of the causes that produced it, were already apparent among the people of South Carolina. On the 12th of that month, a popular meeting was holden in the Colleton District, which sent forth an address to the whole state, *unanimously* "advising," to use their own words, "*an attitude of open resistance to the laws of the Union.*" On the 26th of July, a meeting of 3000 persons was holden at Edgefield Court-house, which passed resolutions of the same tone; and where, at a public dinner on the same day, Mr. McDuffie gave for a toast, "The Stamp Act of 1765 and the Tariff of 1828, kindred acts of despotism;—when our oppressors trace the parallel, let them remember, that we are descendants of a noble ancestry, and profit by the admonitions of history:—"a sentiment and threat fully equal to the "whole length's doctrine" imputed to him by his colleague, Mr. Mitchell. Other meetings were held, and the same tone of excitement was kept up by the same means of addresses and speeches, dinners and toasts.

At last, in the autumn, the Legislature of South Carolina was assembled. The subject was brought before them by the Governor; a committee, consisting of able and leading men, was appointed to report on it;* and on the 19th of December, they produced what they termed an Exposition to the Legislature of the State, and a Protest to Congress. This EXPOSITION AND PROTEST constitute an important and memorable document. The doctrines of nullification, which it was then thought could be established and enforced, and to strengthen which the whole summer had been a campaign of preparation, are here produced by the Legislature of South Carolina in bold relief, and in their most imposing form. Whatever may be thought of their reasoning, their conclusions and results are, at least, clearly stated, and not at all disguised. The general importance, too, of the whole is not a little increased by the circumstance, often stated and generally believed, that we owe this document, not to the committee by which it was reported, but to a distinguished citizen of South Carolina, holding one of the highest places in the gift of the people of the United

* The resolution of the House of Representatives of South Carolina, under which the above committee acted, should not be forgotten:—

"Resolved, That it is expedient to protest against the unconstitutionality and oppressive operation of the system of protecting duties, and to have such protest entered on the journal of the Senate of the United States. Also to make a public exposition of our wrongs and of the remedies within our power, to be communicated to our sister states, with a request that they will co-operate with this state in procuring a repeal of the Tariff for protection; and, if the repeal be not procured, that they will co-operate in such measures as may be necessary for arresting the evil."

States, in that Union, which it is the unquestionable tendency of this very "Exposition and Protest" to break up and overthrow.

The doctrines clearly announced in it are, 1. That it is a most erroneous and dangerous proposition to maintain, that the Supreme Court of the United States has constitutional authority to decide on the extent of the powers of a state government; its decisions being final only when applied to the authorities of Departments of the General Government. 2. That "universal experience" (lest we should seem to do the distinguished author injustice, we cite the very words)—that "universal experience, "in all ages and countries, teaches, that power can *only* be met "by power, and *not* by reason and justice, and that all restrictions "on authority, unsustained by an equal antagonist power, must "for ever prove *wholly* insufficient in practice. Such," he adds, "also has been the decisive proof of our own short experience." 3. That the right of judging and finally deciding on the extent of their own powers, is an essential attribute of sovereignty, of which the states are not and cannot be divested. 4. That power being divided between the General Government and the State Governments, it is impossible to deny to the states the right of deciding on the infraction of their own rights, and the proper remedy to be applied for the correction. 5. "But the existence," here we quote the very words again, lest it should seem incredible that such a position had been taken;—"But the existence of "the right of judging of their powers, clearly established from the "sovereignty of the states, as clearly implies A VETO, OR CONTROL ON THE ACTION OF THE GENERAL GOVERNMENT, on contested points of authority; and *this very control is the remedy which the constitution has provided to prevent the encroachment of the General Government on the reserved rights of the states.*" 6. The practical result of the foregoing doctrines is then stated in the following words:—"That there *exists* a case (the Tariff) which would *justify* the interposition of this state, and thereby *compel* the General Government to abandon an unconstitutional power, or to make an appeal to the amending power to confer it by express grant, "the committee does not in the least doubt, and they are equally "clear in the *existence* of a *necessity* to justify its exercise, if the "General Government should continue to persist in its improper "assumption of powers belonging to the state; which brings them "to the last point which they propose to consider—When would "it be proper to exercise this high power?"

Such was the condition of this momentous question, when, as the next step in the development of doctrines thus plainly tending to bring South Carolina into open hostility to the Union, it was thrust forward into the Senate of the United States by General Hayne, under cover of another subject, with which it had no proper connexion. Mr. Foot's resolution to inquire respecting the sales and the surveys of western lands, was the innocent cause of the whole conflict. It was introduced on the 29th of December, 1829; and was not then expected by its author, or, perhaps, by

anybody else, to excite much discussion, or lead to any very important results. When it was introduced Mr. Webster was absent from Washington. Two days afterwards he took his seat. The resolution had, indeed, called forth a few remarks, somewhat severe, the day after it was presented, and then had been postponed to the next Monday; but, apparently from want of interest in its fate, or from the pressure of more important business, it was not called up by the mover till January 13. From this time, a partial discussion began; but it lingered rather listlessly, and, in fact, really rose even to skirmishing only one day, until the 19th, when General Hayne, in a vehement and elaborate speech, attacked the New-England states for what he considered their selfish opposition to the interests of the West; and endeavored to show that a natural sympathy existed between the southern and western states, upon the distribution and sales of the public lands, which would necessarily make them a sort of natural allies. With this speech, of course, the war broke out.

While it was delivering, Mr. Webster entered the Senate. He came from the Supreme Court of the United States; and the papers in his hands showed how far his thoughts were from the subjects and the tone, which now at once reached him. As soon as General Hayne sat down, he rose to reply; but Mr. Benton of Missouri, with many compliments to General Hayne, and apparently willing the Senate should have all the leisure necessary to consider and feel the effects of his speech, moved an adjournment. Mr. Webster good-naturedly consented. Of course, he had the floor the next day; and in a speech, which will not be forgotten by the present generation, poured out stores of knowledge long before accumulated, in relation to the history of the public lands and to the legislation concerning them; defending the policy of the government towards the new states; showing the dangerous tendency of the doctrines respecting the Constitution, current in South Carolina, and sanctioned by General Hayne; and repelling the general charges and reproaches cast on New-England, especially the charge of hostility to the West, which,—if there was meaning in words or acts,—he proved to be distinctly applicable to the language and votes of the South Carolina delegation in the House of Representatives in 1825. The war was thus, at once, carried into the enemy's country.

The next day, January 21, it being well known that Mr. Webster had urgent business, which called him again into the Supreme Court of the United States, one of the members from Maryland moved an adjournment of the debate. It would, perhaps, have been only what is customary and courteous, if the request had been granted. But General Hayne objected. "The gentleman," he said, "had discharged his weapon, and he (Mr. H.) wished for an opportunity to return the fire." To which Mr. Webster having replied;—"I am ready to receive it; let the discussion go on;"—the debate was resumed. Mr. Benton then concluded some

unimportant remarks he had begun the day before; and Mr. Hayne rose, and opened a speech, which occupied the Senate the remainder of that day, and the whole of the day following. It was a vigorous speech, embracing a great number of topics and grounds;—calling in question the fairness of New-England, the consistency of Mr. Webster, and the patriotism of the State of Massachusetts; and ending with a bold, acute, and elaborated exposition and defence of the doctrines now, for the first time, formally developed in Congress, and since well known by the name of the *Doctrines of Nullification*. The first part of the speech was caustic and personal; the latter part of it grave and argumentative; and the whole was delivered in presence of an audience, which any man might be proud to have collected to listen to him.

Mr. Webster took notes during its delivery; and it was apparent to the crowd, which, for two days, had thronged the senate-chamber, that he intended to reply. Indeed, on this point, he was permitted no choice. He had been assailed in a way, which called for an answer. When, therefore, the doors of the senate-chamber were opened the next morning, the rush for admittance was unprecedented. Mr. Webster had the floor, and rose. The first division of his speech is in reply to parts and details of his adversary's personal assault,—and is a happy, though severe specimen of the keenest spirit of genuine debate and retort;—for Mr. Webster is one of those dangerous adversaries, who are never so formidable or so brilliant, as when they are most rudely pressed;—for then, as in the phosphorescence of the ocean, the degree of the violence urged, may always be taken as the measure of the brightness that is to follow. On the present occasion, his manner was cool, entirely self-possessed, and perfectly decided, and carried his irony as far as irony can go. There are portions of this first day's discussion, like the passage relating to the charge of sleeping on the speech, he had answered; the one in allusion to Banquo's ghost, which had been unhappily conjured up by his adversary; and the rejoinder respecting "one Nathan Dane of Beverly, in Massachusetts,"—which will not be forgotten. The very tones in which they were uttered, still vibrate in the ears of those who heard them. There are, also, other and graver portions of it,—like those which respect the course of legislation in regard to the new states; the conduct of the North in regard to slavery, and the doctrine of internal improvements,—which are in the most powerful style of parliamentary debate. As he approaches the conclusion of this first great division of his speech, he rises to the loftiest tone of national feeling, entirely above the dim, misty region of sectional or party passion and prejudice:—

"The eulogium pronounced on the character of the state of South Carolina, by the honorable gentleman, for her revolutionary and other merits, meets my hearty concurrence. I shall not acknowledge that the honorable member goes before me in

regard for whatever of distinguished talent, or distinguished character, South Carolina has produced. I claim part of the honor, I partake in the pride, of her great names. I claim them for countrymen, one and all. The Laurences, the Rutledges, the Pinckneys, the Sumpters, the Marions—Americans, all—whose fame is no more to be hemmed in by state lines, than their talents and patriotism were capable of being circumscribed within the same narrow limits. In their day and generation, they served and honored the country, and the whole country; and their renown is of the treasures of the whole country. Him, whose honored name the gentleman himself bears—does he esteem me less capable of gratitude for his patriotism, or sympathy for his sufferings, than if his eyes had first opened upon the light of Massachusetts, instead of South Carolina? Sir, does he suppose it in his power to exhibit a Carolina name, so bright, as to produce envy in my bosom? No, Sir, increased gratification and delight, rather. I thank God, that, if I am gifted with little of the spirit which is able to raise mortals to the skies, I have yet none, as I trust, of that other spirit, which would drag angels down. When I shall be found, Sir, in my place here, in the Senate, or elsewhere, to sneer at public merit, because it happens to spring up beyond the little limits of my own state, or neighborhood; when I refuse, for any such cause, or for any cause, the homage due to American talent, to elevated patriotism, to sincere devotion to liberty and the country; or, if I see an uncommon endowment of Heaven—if I see extraordinary capacity and virtue in any son of the South—and if, moved by local prejudice, or gangrened by state jealousy, I get up here to abate the tittle of a hair from his just character and just fame, may my tongue cleave to the roof of my mouth!

“Sir, let me recur to pleasing recollections—let me indulge in refreshing remembrance of the past—let me remind you that in early times, no states cherished greater harmony, both of principle and feeling, than Massachusetts and South Carolina. Would to God that harmony might again return! shoulder to shoulder they went through the revolution—hand in hand they stood round the administration of Washington, and felt his own great arm lean on them for support. Unkind feeling, if it exist, alienation and distrust, are the growth, unnatural to such soils, of false principles since sown. They are weeds, the seeds of which that same great arm never scattered.

“Mr. President, I shall enter on no encomium upon 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 for ever. 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 for ever. 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 to separate it from that 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.” Pages 406, 407.

The next day, Mr. Webster went into a grave and formal examination of the *doctrines of nullification*, or the right of the state legislatures to interfere, whenever, in their judgment, the general government transcends its constitutional limits, and to arrest the operation of its laws. Four days had hardly elapsed, since this doctrine had been announced with an air of assured success in the Senate; and these four days had been filled with active debate and contest. Of course, here again, there had been neither time nor opportunity for especial preparation. Happily, too, there was no need of it. The fund, on which the demand was so triumphantly made, was equal to the draft, great and unexpected as it was. Mr. Webster's mind is full of constitutional law and

legislation. On all such subjects, he needs no forecast, no preparation, no brief;—and, on this occasion, he had none. He but uttered opinions and arguments, which had grown mature with his years and his judgment, and which were as familiar to him as household words. We have, therefore, no elaborate, documentary discussions,—no citation of books or authorities. It is with principles, great constitutional principles, he deals; and it is in plain, direct arguments, which all can understand, that he defends them. There is nothing technical, nothing abstruse, nothing indirect, either in the subject or its explanation. On the contrary, all is straight-forward—obvious—to the purpose. For instance, after stating the question at issue to be, “*whose prerogative is it, to decide on the constitutionality or unconstitutionality of the laws?*” he goes on:—

“This leads us to inquire into the origin of this government, and the source of its power. Whose agent is it? Is it the creature of the state legislatures, or the creature of the people? If the government of the United States be the agent of the state governments, then they may control it, provided they can agree in the manner of controlling it; if it be the agent of the people, then the people alone can control it, restrain it, modify, or reform it. It is observable enough, that the doctrine for which the honorable gentleman contends, leads him to the necessity of maintaining, not only that this general government is the creature of the states, but that it is the creature of each of the states severally; so that each may assert the power, for itself, of determining whether it acts within the limits of its authority. It is the servant of four-and-twenty masters, of different wills and different purposes, and yet bound to obey all. This absurdity (for it seems no less) arises from a misconception as to the origin of this government and its true character. 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.—The general government and the state governments derive their authority from the same source. Neither can, in relation to the other, be called primary, though one is definite and restricted, and the other general and residuary. The national government possesses those powers which it can be shown the people have conferred on it, and no more. All the rest belongs to the state governments, or to the people themselves. So far as the people have restrained state sovereignty, by the expression of their will, in the constitution of the United States, so far, it must be admitted, state sovereignty is effectually controlled. I do not contend that it is, or ought to be controlled farther. The sentiment to which I have referred, propounds that state sovereignty is only to be controlled by its own ‘feeling of justice;’ that is to say, it is not to be controlled at all; for one who is to follow his own feelings is under no legal control.—Now, however men may think this ought to be, the fact is, that the people of the United States have chosen to impose control on state sovereignties. There are those, doubtless, who wish they had been left without restraint; but the constitution has ordered the matter differently. To make war, for instance, is an exercise of sovereignty; but the constitution declares that no state shall make war. To coin money is another exercise of sovereign power, but no state is at liberty to coin money. Again, the constitution says that no sovereign state shall be so sovereign as to make a treaty. These prohibitions, it must be confessed, are a control on the state sovereignty of South Carolina, as well as of the other states, which does not arise ‘from her own feelings of honorable justice.’ Such an opinion, therefore, is in defiance of the plainest provisions of the constitution.” Pages 410, 411.

Again, what can be more sure and convincing than such plain reasoning as this:—

“ I maintain, that, between submission to the decision of the constituted tribunals, and revolution, or disunion, there is no middle ground—there is no ambiguous condition, half allegiance, and half rebellion. And, Sir, how futile, how very futile it is, to admit the right of state interference, and then attempt to save it from the character of unlawful resistance, by adding terms of qualification to the causes, and occasions, leaving all these qualifications, like the case itself, in the discretion of the state governments. It must be a clear case, it is said, a deliberate case; a palpable case; a dangerous case. But then the state is still left at liberty to decide for herself, what is clear, what is deliberate, what is palpable, what is dangerous. Do adjectives and epithets avail any thing? Sir, the human mind is so constituted, that the merits of both sides of a controversy appear very clear, and very palpable, to those who respectively espouse them; and both sides usually grow clearer as the controversy advances. South Carolina sees unconstitutionality in the tariff; she sees oppression there, also; and she sees danger. Pennsylvania, with a vision not less sharp, looks at the same tariff, and sees no such thing in it—she sees it all constitutional, all useful, all safe. The faith of South Carolina is strengthened by opposition, and she now not only sees, but *resolves*, that the tariff is palpably unconstitutional, oppressive and dangerous: but Pennsylvania, not to be behind her neighbors, and equally willing to strengthen her own faith by a confident asseveration, *resolves*, also, and gives to every warm affirmative of South Carolina, a plain, downright, Pennsylvania negative. South Carolina, to show the strength and unity of her opinion, brings her assembly to a unanimity, within seven voices; Pennsylvania, not to be outdone in this respect more than others, reduces her dissentient fraction to a single vote. Now, Sir, again, I ask the gentleman, what is to be done? Are these states both right? Is he bound to consider them both right? If not, which is in the wrong?—or rather, which has the best right to decide? And if he, and if I, are not to know what the constitution means, and what it is, till those two state legislatures, and the twenty-two others, shall agree in its construction, what have we sworn to, when we have sworn to maintain it? I was forcibly struck, Sir, with one reflection, as the gentleman went on in his speech. He quoted Mr. Madison’s resolution, to prove that a state may interfere, in a case of deliberate, palpable, and dangerous exercise of a power not granted. The honorable member supposes the tariff law to be such an exercise of power; and that, consequently, a case has arisen in which the state may, if it see fit, interfere by its own law. Now, it so happens, nevertheless, that Mr. Madison deems this same tariff law quite constitutional. Instead of a clear and palpable violation, it is, in his judgment, no violation at all. So that, while they use his authority for a hypothetical case, they reject it in the very case before them. All this, Sir, shows the inherent—futility—I had almost used a stronger word—of conceding this power of interference to the states, and then attempting to secure it from abuse by imposing qualifications, of which the states themselves are to judge. One of two things is true; either the laws of the Union are beyond the discretion, and beyond the control of the states; or else we have no constitution of general government, and are thrust back again to the days of the confederacy.” Pp. 416, 417.

This is a striking fact about Mr. Madison; but one still more striking occurred after the publication of the speech. His great name and authority had been constantly and confidently appealed to, not only in this debate, by General Hayne, but, on previous occasions, by other favorers of the South Carolina doctrines, until at last it began to be almost feared, that Mr. Madison sustained the positions of the nullifiers. But as he had already shown that the tariff law was quite constitutional, so, now, with no less promptness and power, he came out against the whole doctrine of nullification, and showed that his resolutions of 1798, on which its friends had rested the wild fabric of their argument, as its main pillars, had nothing to do with it; and thus, in conjunction with what had been done in the Senate, brought down the whole tem-

ple they had built with such pains and cost, upon the heads of their uncircumcised presumption and extravagance. His letter, indeed, on this subject, is one of the most characteristic efforts of his great wisdom, and one of the most important results of this discussion, since it took from the advocates of nullification all the support of his authority—the *magni nominis umbra*—the shade and shelter of his great name.

But to return to Mr. Webster; the general tone of the last half of his speech is uncommonly grave and imposing; but there is one passage in which a lighter accent is assumed. It is that in which he runs out General Hayne's nullifying doctrine into practice, and sets him, as a military man, to execute his own nullifying law. The argument of this passage is the more efficacious, because it is concealed under so much wit and good-humor.

"And now, Mr. President, let me run the honorable gentleman's doctrine a little into its practical application. Let us look at his probable *modus operandi*. If a thing can be done, an ingenious man can tell *how* it is to be done. Now, I wish to be informed, *how* this state interference is to be put in practice. We will take the existing case of the tariff law. South Carolina is said to have made up her opinion upon it. If we do not repeal it, (as we probably shall not), she will then apply to the case the remedy of her doctrine. She will, we must suppose, pass a law of her legislature, declaring the several acts of Congress, usually called the Tariff Laws, null and void, so far as they respect South Carolina, or the citizens thereof. So far, all is a paper transaction, and easy enough. But the collector at Charleston, is collecting the duties imposed by these tariff laws—he, therefore, must be stopped. The collector will seize the goods if the tariff duties are not paid. The state authorities will undertake their rescue; the marshal, with his posse, will come to the collector's aid, and here the contest begins. The militia of the state will be called out to sustain the nullifying act. They will march, Sir, under a very gallant leader: for I believe the honorable member himself commands the militia of that part of the state. He will raise the *Nullifying Act* on his standard, and spread it out as his banner. It will have a preamble, bearing that the tariff laws are palpable, deliberate, and dangerous violations of the Constitution! He will proceed, with his banner flying, to the custom-house in Charleston;

' All the while,
Sonorous metal blowing martial sounds.'

Arrived at the custom-house, he will tell the collector that he must collect no more duties under any of the tariff laws. This, he will be somewhat puzzled to say, by the way, with a grave countenance, considering what hand South Carolina herself had in that of 1816. But, Sir, the collector would, probably, not desist, at his bidding. He would show him the law of Congress, the treasury instruction, and his own oath of office. He would say, he should perform his duty, come what might. Here would ensue a pause: for they say that a certain stillness precedes the tempest. The trumpeter would hold his breath awhile, and before all this military array should fall on the custom-house, collector, clerks, and all, it is very probable some of those composing it, would request of their gallant commander-in-chief, to be informed a little upon the point of law; for they have, doubtless, a just respect for his opinions as a lawyer, as well as for his bravery as a soldier. They know he has read Blackstone and the Constitution, as well as Turenne and Vauban. They would ask him, therefore, something concerning their rights in this matter. They would inquire, whether it was not somewhat dangerous to resist a law of the United States. What would be the nature of their offence, they would wish to learn, if they, by military force and array, resisted the execution in Carolina of a law of the United States, and it should turn out, after all, that the law *was constitutional*? He would answer, of course, treason. No lawyer could give any other answer. John Fries, he would tell them, had learned that some years ago. How, then, they would ask, do you propose to defend us? We are not afraid of bullets, but treason has a way of taking people off, that we do not much relish. How do you propose to defend us? 'Look at my floating banner,' he would

reply, 'see there the *nullifying law*?' Is it your opinion, gallant commander, they would then say, that if we should be indicted for treason, that same floating banner of yours would make a good plea in bar? 'South Carolina is a sovereign state,' he would reply. That is true—but would the judge admit our plea? 'These tariff laws,' he would repeat, 'are unconstitutional, palpably, deliberately, dangerously.' That all may be so; but if the tribunal should not happen to be of that opinion, shall we swing for it? We are ready to die for our country, but it is rather an awkward business, this dying without touching the ground! After all, that is a sort of *hemp-tax*, worse than any part of the tariff.

"Mr. President, the honorable gentleman would be in a dilemma, like that of another great general. He would have a knot before him which he could not untie. He must cut it with his sword. He must say to his followers, 'Defend yourselves with your bayonets;' and this is war—civil war." pp. 421, 422.

After this his tone becomes even more grave and solemn than before, until, when he approaches the conclusion, he bursts forth with the expression of feelings of attachment to the Union and the Constitution, which it seemed no longer possible for him to suppress.

"Mr. President, (he says) 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 immediately awoke, as from the dead, and sprung 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 counsellor in the affairs of this government, whose thoughts should be mainly bent on considering, not how the union should be best preserved, but how tolerable might be the condition of the people when it shall 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 afterwards*—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 for ever, one and inseparable!*"

Mr. Hayne replied in a short speech on the constitutional question, which he afterwards expanded in the newspapers into a long one; and Mr. Webster immediately rejoined in the following *brief* remarks, which for syllogistic exactness and power can hardly be paralleled, and which carry with them all the force and conclusiveness of which moral demonstration is susceptible. No attempt, we believe, has been made to answer them, and though it may be thought expedient or necessary to abuse both the remarks themselves and their distinguished author, we suspect no direct answer will be hazarded, or if any one shall venture it, we neither envy his boldness nor doubt its consequences.

"A few words, Mr. President, on this constitutional argument, which the honorable gentleman has labored to reconstruct.

"His argument consists of two propositions, and an inference. His propositions are:—

"1. That the Constitution is a compact between the States.

"2. That a compact between two, with authority reserved to one to interpret its terms, would be a surrender to that one, of all power whatever.

"3. Therefore, (such is his inference) the General Government does not possess the authority to construe its own powers.

"Now, Sir, who does not see, without the aid of exposition or detection, the utter confusion of ideas, involved in this, so elaborate and systematic argument.

"The Constitution, it is said, is a compact *between States*; if so, the States, then, and the States only, are *parties to the compact*. How comes the General Government itself a *party*? Upon the honorable gentleman's hypothesis, the General Government is the result of the compact, the creature of the compact, not one of the parties to it. Yet the argument, as the gentleman has now stated it, makes the Government itself one of its own creators. It makes it a party to that compact, to which it owes its own existence.

"For the purpose of erecting the Constitution on the basis of a compact, the gentleman considers the States as parties to that compact; but as soon as his compact is made, then he chooses to consider the General Government, which is the offspring of that compact, not its offspring, but one of its parties; and so, being a party, has not the power of judging on the terms of compact. Pray, Sir, in what school is such reasoning as this taught?

"If the whole of the gentleman's main proposition were conceded to him, that is to say—if I admit for the sake of the argument, that the Constitution is a compact between States, the inferences, which he draws from that proposition, are warranted by no just reason. Because, if the Constitution be a compact between States, still, that Constitution, or that compact, has established a Government, with certain powers; and whether it be one of those powers, that it shall construe and interpret for itself, the terms of the compact, in doubtful cases, is a question which can only be decided by looking to the compact, and inquiring what provisions it contains on this point. Without any inconsistency with natural reason, the Government, even thus created, might be trusted with this power of construction. The extent of its powers, therefore, must still be sought for in the instrument itself.

"If the old Confederation had contained a clause, declaring that resolutions of the Congress should be the supreme law of the land, any state law or constitution to the contrary notwithstanding, and that a committee of Congress, or any other body created by it, should possess judicial powers, extending to all cases arising under resolutions of Congress, then the power of ultimate decision would have been vested in Congress, under the Confederation, although that Confederation was a compact between States; and, for this plain reason: that it would have been competent to the States, who alone were parties to the compact, to agree, who should decide, in cases of dispute arising on the construction of the compact.

"For the same reason, Sir, if I were now to concede to the gentleman his principal proposition, viz. that the Constitution is a compact between States, the question would still be, what provision is made, in this compact, to settle points of disputed construction, or contested power, that shall come into controversy? and this question would still be answered, and conclusively answered, by the Constitution itself. While the gentleman is contending against construction, he himself is setting up the most loose

and dangerous construction. The Constitution declares, that *the laws of Congress shall be the supreme law of the land*. No construction is necessary here. It declares, also, with equal plainness and precision, that *the Judicial power of the United States shall extend to every case arising under the laws of Congress*. This needs no construction. Here is a law, then, which is declared to be supreme; and here is a power established, which is to interpret that law. Now, Sir, how has the gentleman met this? Suppose the Constitution to be a compact, yet here are its terms, and how does the gentleman get rid of them? He cannot argue the *seal off the bond*, nor the words out of the instrument. Here they are—what answer does he give to them? None in the world, Sir, except that the effect of this would be to place the States in a condition of inferiority; and because it results, from the very nature of things, there being no superior, that the parties must be their own judges! Thus closely and cogently does the honorable gentleman reason on the words of the Constitution. The gentleman says, if there be such a power of final decision in the General Government, he asks for the grant of that power. Well, Sir, I show him the grant—I turn him to the very words—I show him that the laws of Congress are made supreme; and that the Judicial power extends, by express words, to the interpretation of these laws. Instead of answering this, he retreats into the general reflection, that it must result *from the nature of things*, that the States, being parties, must judge for themselves.

“I have admitted, that, if the Constitution were to be considered as the creature of the State Governments, it might be modified, interpreted, or construed, according to their pleasure. But, even in that case, it would be necessary that they should agree. One, alone, could not interpret it conclusively; one, alone, could not construe it; one, alone, could not modify it. Yet the gentleman’s doctrine is, that Carolina, alone, may construe and interpret that compact which equally binds all, and gives equal rights to all.

“So then, Sir, even supposing the Constitution to be a compact between the States, the gentleman’s doctrine, nevertheless, is not maintainable; because, first, the General Government is not a party to that compact, but a *Government* established by it, and vested by it with the powers of trying and deciding doubtful questions; and, secondly, because, if the Constitution be regarded as a compact, not one State only, but all the States, are parties to that compact, and one can have no right to fix upon it her own peculiar construction.

“So much, Sir, for the argument, even if the premises of the gentleman were granted, or could be proved. But, Sir, the gentleman has failed to maintain his leading proposition. He has not shown, it cannot be shown, that the Constitution is a compact between State Governments. The Constitution itself, in its very front, refutes that idea: it declares that it is ordained and established *by the People of the United States*. So far from saying that it is established by the Governments of the several States, it does not even say that it is established by the *People of the several States*; but it pronounces that it is established by the *People of the United States*, in the aggregate. The gentleman says, it must mean no more than the *People of the several States*. Doubtless, the *People of the several States*, taken collectively, constitute the *People of the United States*; but it is in this, their collective capacity, it is as all the people of the United States, that they establish the Constitution. So they declare; and words cannot be plainer than the words used.

“When the gentleman says the Constitution is a compact between the States, he uses language exactly applicable to the old confederation. He speaks as if he were in Congress before 1789. He describes fully that old state of things then existing. The confederation was, in strictness, a compact; the States, as States, were parties to it. We had no other General Government. But that was found insufficient, and inadequate to the public exigencies. The people were not satisfied with it, and undertook to establish a better. They undertook to form a General Government, which should stand on a new basis—and a confederacy, not a league, not a compact between states, but a *constitution*; a popular government, founded in popular election, directly responsible to the people themselves, and divided into branches, with prescribed limits of power, and prescribed duties. They ordained such a government; they gave it the name of a *Constitution*, and therein they established a distribution of powers between this, their General Government, and their several State Governments. When they shall become dissatisfied with this distribution, they can alter it. Their own power over their own instrument remains. But until they shall alter it, it must stand as their will, and is equally binding on the General Government and on the States.

“The gentleman, Sir, finds analogy, where I see none. He likens it to the case

of a treaty, in which, there being no common superior, each party must interpret for itself, under its own obligation of good faith. But this is not a treaty, but a constitution of government, with powers to execute itself, and fulfil its duties.

"I admit, Sir, that this Government is a Government of checks and balances; that is, the House of Representatives is a check on the Senate, and the Senate is a check on the House, and the President a check on both. But I cannot comprehend him, or, if I do, I totally differ from him, when he applies the notion of checks and balances to the interference of different Governments. He argues, that if we transgress, each State, as a State, has a right to check us. Does he admit the converse of the proposition, that we have a right to check the States? The gentleman's doctrines would give us a strange jumble of authorities and powers, instead of Governments of separate and defined powers. It is the part of wisdom, I think, to avoid this; and to keep the General Government and the State Governments, each in its proper sphere, avoiding, as carefully as possible, every kind of interference.

"Finally, Sir, the honorable gentleman says, that the States will only interfere, by their power, to preserve the Constitution. They will not destroy it, they will not impair it—they will only save, they will only preserve, they will only strengthen it! Ah! Sir, this is but the old story. All regulated Governments, all free Governments, have been broken up by similar disinterested and well-disposed interference! It is the common pretence. But I take leave of the subject."

With these remarks the discussion ended, as between Mr. Webster and General Hayne. It was afterwards continued, however, for several weeks, and a majority, or nearly a majority, of the whole Senate took part in it; but whenever it is now recollected or referred to, the contest between the two principal speakers, from the 19th to the 23d of January, is, we believe, generally intended.

The results of this memorable debate are already matter of history. The vast audience that had contended for admission to the senate-chamber, till entrance became dangerous, were the first to feel and make known its effect; for, with his peculiar power of explaining abstruse and technical subjects, so that all can comprehend them, Mr. Webster there expounded a great doctrine of the constitution, which had been powerfully assailed, so that all might feel the foundations on which it rests, to have been consolidated rather than disturbed by the attempt to shake them. Their verdict, therefore, was given at the time, and heard throughout the country. But since that day, when the crowd came out of the senate-chamber rejoicing in the victory which had been achieved for the constitution, nearly twenty editions of the same argument have been called for in different parts of the country, and thus scattered abroad above an hundred thousand copies of it, besides the countless multitudes that have been sent forth by the newspapers, until, almost without a metaphor, it may be said to have been carried to every fire-side in the land. The very question, therefore, which was first submitted to an audience in the capitol,—comprising, indeed, a remarkable representation of the talents and authority of the country, but still comparatively small,—has since been submitted by the press to the judgment of the nation, more fully, probably, than any thing of the kind was ever submitted before; and the same remarkable plainness, the same power of elucidating great legal and constitutional doctrines till they become as intelligible and simple as the occupations of daily

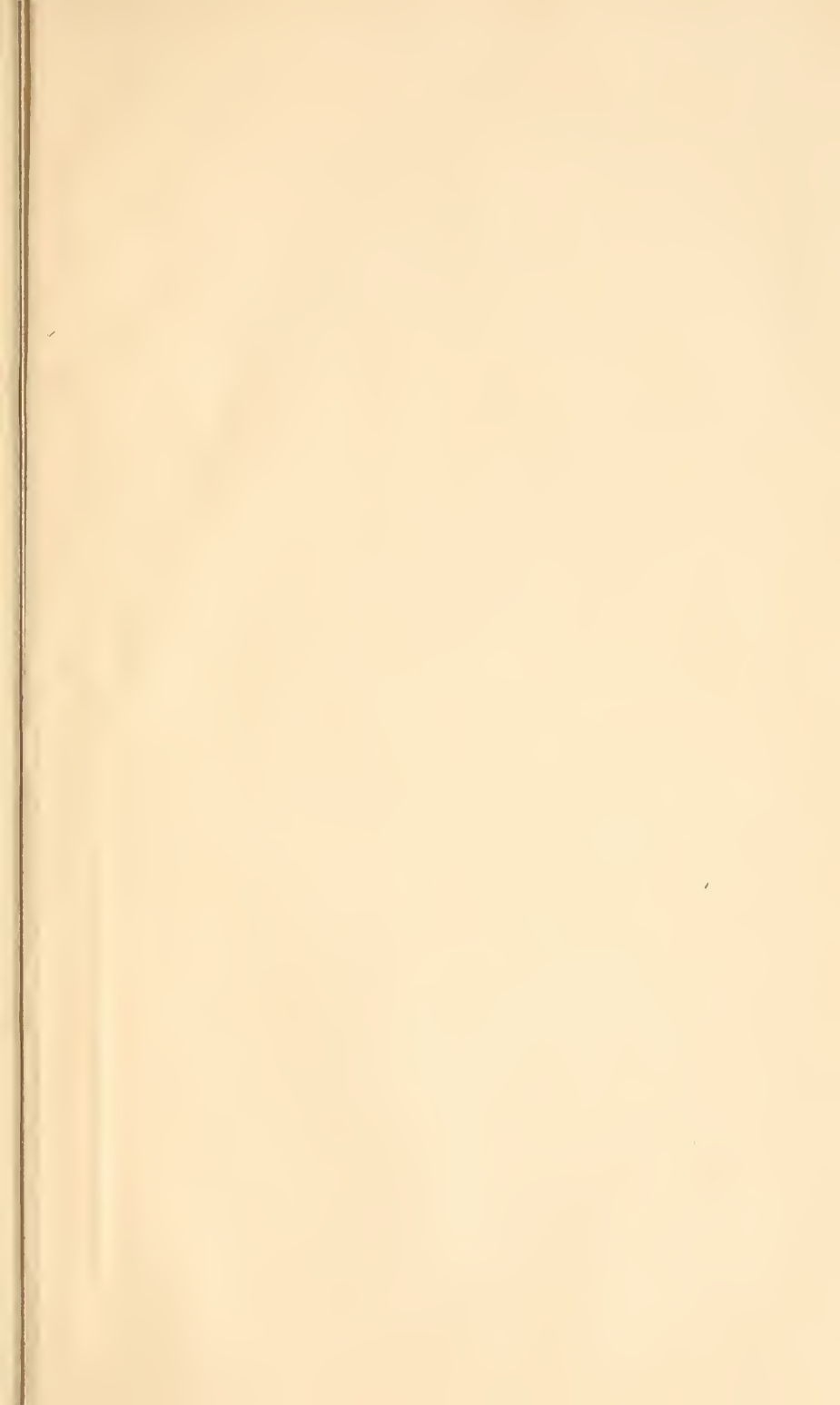
life, has enlarged the jury of the senate-chamber till it has become the jury of the whole people, and the same verdict has followed. What, therefore, Chancellor Kent said in relation to it, is as true as it is beautiful;—"Peace has its victories as well as war;"—and the triumph which Mr. Webster thus secured for a great constitutional principle, he may now well regard as the chief honor of his life.

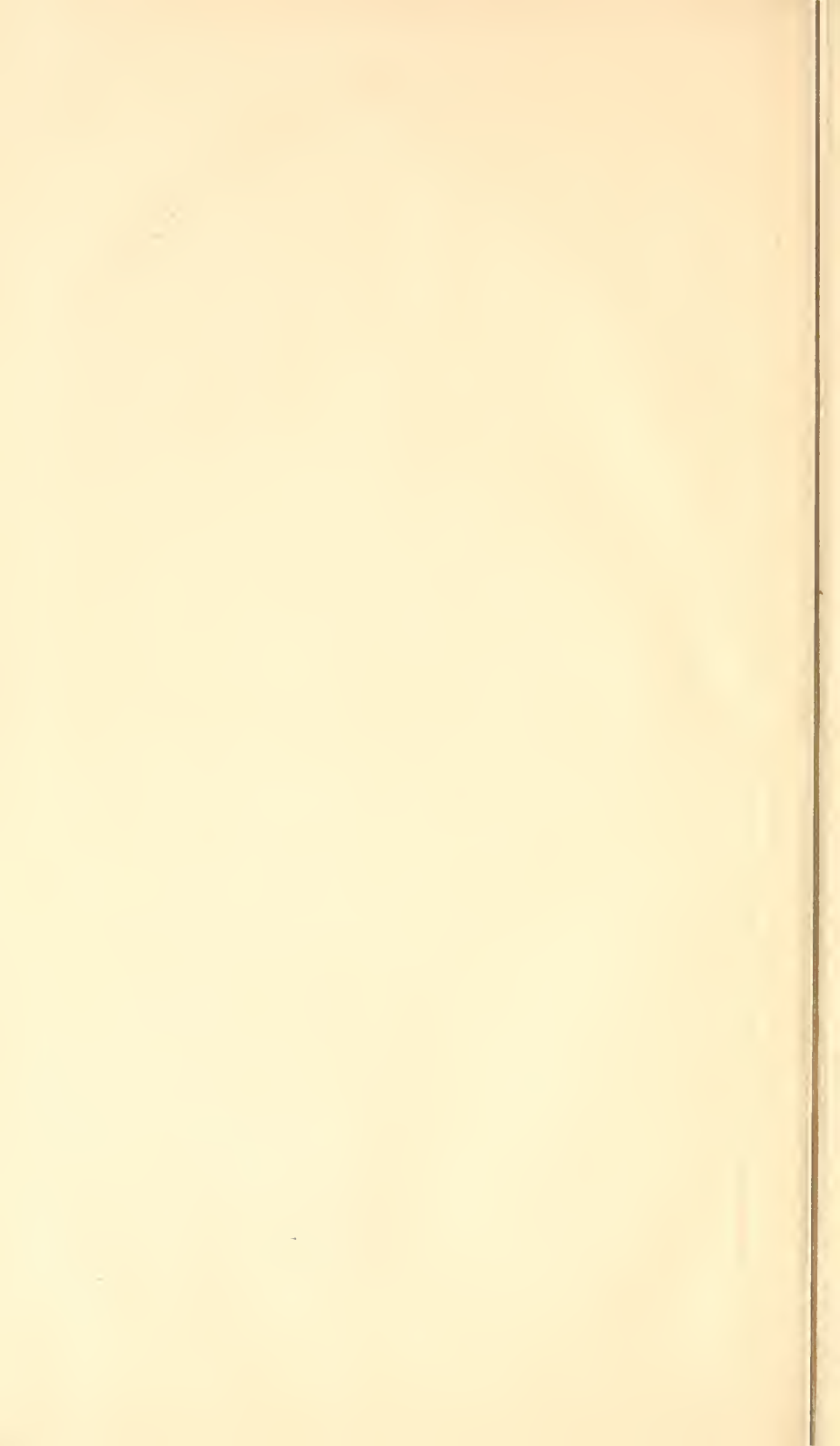
Indeed, a man such as he is, when he looks back upon his past life, and forward to the future, must needs feel, that his fate and his fortune, his fame and his ambition, are connected throughout with the fate and the fortunes of the constitution of his country. He is the child of our free institutions. None other could have produced or reared him;—none other can now sustain or advance him. From the days when amidst the fastnesses of nature, his young feet with difficulty sought the rude school-house, where his earliest aspirations were nurtured, up to the moment when he came forth in triumph from the senate-chamber, conscious that he had overthrown the doctrines of nullification, and contended successfully for the union of the states, he must have felt, that his extraordinary powers have constantly depended for their development and their exercise on the peculiar institutions of our free governments. It is plain, indeed, that he has thriven, heretofore, by their progress and success; and it is, we think, equally plain, that in time to come, his hopes and his fortunes can be advanced only by their continued stability and further progress. We think, too, that Mr. Webster feels this. On all the great principles of the constitution, and all the leading interests of the country, his opinions are known; his ground is taken; his lot is cast. Whoever may attack the Union, or any of the fundamental doctrines of our land, he must defend them. *Prima fortuna salutis monstrat iter.* The path he has chosen, is the path he must follow. And we rejoice at it. We rejoice, that such a necessity is imposed on such a mind. We rejoice, that, even such as he cannot stand, unless they sustain the institutions that formed them; and that, what is in itself so poetically just and so morally beautiful, is enforced by a providential wisdom, which neither genius nor ambition can resist or control. We rejoice, too, when, on the other hand, a man so gifted, faithfully and proudly devotes to the institutions of his country the powers and influence they have unfolded and fostered in him, that, in his turn, he is again rewarded with confidence and honors, which, as they can come neither from faction nor passion, so neither party discipline nor political violence can diminish or impair them. And, finally, and above all, we rejoice for the great body of the people, that the decided and unhesitating support they have so freely given to the distinguished Senator, with whose name "this land now rings from side to side," because he has triumphantly defended the union of the states and the principles of the constitution;—we rejoice, we say, *for the people*, because, such a support given by them for such a

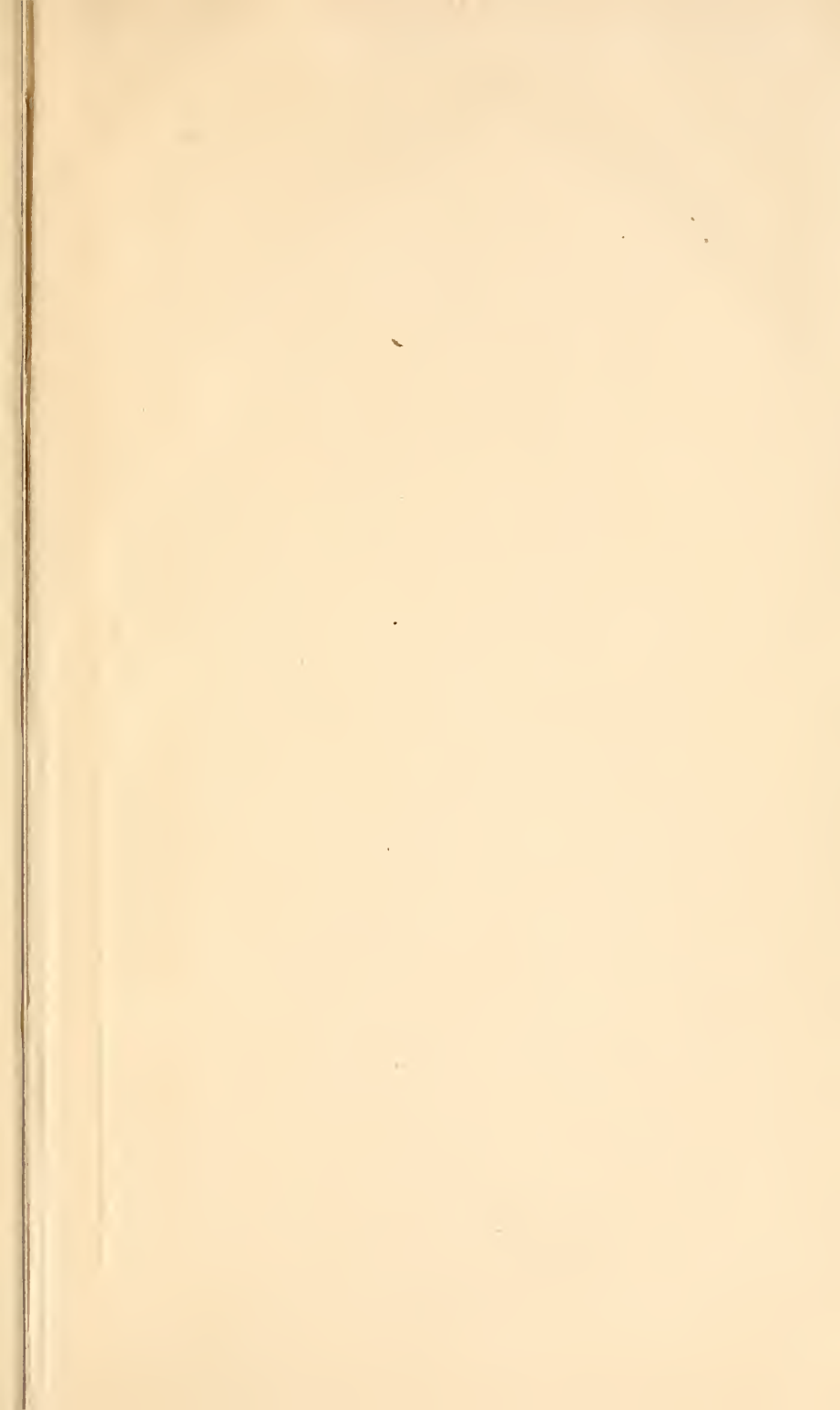
cause, not only strengthens and cements the very foundations of whatever is most valuable in our government; but at the same time, warns and encourages all who would hereafter seek similar honors and favors, to consult for the course they shall follow, neither the indications of party nor the impulses of passion, but to address themselves plainly, fearlessly, calmly, directly to the intelligence and honesty of *the whole nation*, "and ask no omen but their country's cause."

THE END.









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