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Congress of the United States.

HOUSE OF REPRESENTATIVES. DEBATE

On the admission of the Territory of Orleans into the Union as a State.

(Mr. Quincy's Speech concluded.)

I have thus shewn, and whether fairly, I am willing to be judged by the sound discretion of the American people, that the power proposed to be usurped, in this bill, results neither from the general nature, nor the particular provision of the federal constitution; and that it is a palpable violation of it in a fundamental point; whence all the consequences I have intimated.

But says the gentleman from Tennessee (Mr. Rhea) "these people have been seven years citizens of the United States." I deny it. Sir—As citizens of Orleans, or of Louisiana, they never have been, and by the mode proposed they never will be, citizens of the U. S. They may be giv'g upon us for a moment, but no real cement can grow from such an association. What the real situation of the inhabitants of those foreign countries is, I shall have occasion to show presently. But, says the same gentleman, "If I have a farm in my neighborhood, and settle my sons upon it, and in time admit them to a share, in the management of my household?" Doubtless, sir. But are these cases parallel? Are the three branches of this government owners of that farm, called the United States? I desire to thank Heaven, they are not. I hold my life, liberty and property, and the people of the state, from which I have the honor to be a representative, hold theirs, by a better tenure than any this national government can give. Sir, I know your virtue. And I thank the great giver of every good gift, that neither the gentleman from Tennessee nor his comrades, nor any, nor all the members of this House, nor of the other branch of the Legislature, nor the good gentleman, who lives in the palace yonder, nor all combined, can touch these my essential rights and those of my friends and constituents except in a limited and prescribed form. No, sir. We hold these by the laws, customs, and principles of the commonwealth of Massachusetts. Behind her ample shield, we find refuge, and feel safety. I beg gentlemen not to act upon the principle, that the commonwealth of Massachusetts sets as their farm.

But, the gentleman adds, "what shall we do, if we do not admit the people of Louisiana into our Union—our children are settling that country." Sir, it is no concern of mine what he does. Because his children have run wild and uncovered into the woods, is that a reason for him to break into my house, or the houses of my friends, to filch our children's clothes, in order to cover his children's nakedness? This constitution never was, and never can be strained to lap over all the wilderness of the west, without essentially affecting both the rights and convenience of its real proprietors. It was never constructed to form a covering for the inhabitants of the Missouri & the Red River country. And whenever it is attempted to be stretched over them, it will rend asunder. I have done with this part of my argument. It rests upon this fundamental principle, that the proportion of political power, subject only to the internal modifications permitted by the constitution, is an unalienable, essential, intangible right. When it is touched, the fabric is annihilated. For the preservation of these proportions depend our rights and liberties.

If we recur to the known relations existing among the states, at the time of the adoption of this constitution, the same conclusion will result. The various interests, habits, manners, prejudices, education, situation and views, which excited jealousies and anxieties in the breasts of some of our most distinguished citizens, touching the result of the proposed constitution, were potent obstacles to its adoption. The immortal leader of our revolution, in his letter to the President of the old Congress, written as president of the convention which formed this compact, thus speaks on this subject: "It is at all times difficult to draw with precision, the line between those rights, which must be surrendered and those which may be reserved; and on the present occasion, this difficulty was increased by a difference among the several states as to their situation, extent, habits and particular interests." The debates of that period will show that the effect of the slave votes, upon the political influence of this part of the country were subjects of great & just jealousy to some of the best patriots, in the Northern and Eastern States. Suppose, then, that it had been distinctly reserved, that in addition to the effect of this weighty population of a world beyond the Mississippi was to be brought into this and the other branch of the legislature, to form our laws, control our rights and decide our destiny. Sir, can it be pretended that the patriots of that day would for one moment have listened to it? They were no madmen—they had not taken degrees at the hospital of idleness. They knew the nature of man and the effect of his combinations in political societies. They knew that when the weight of particular sections of a confederacy was greatly unequal, the resulting power would be abused; and that it was not in the nature of man to exercise such moderation. The very extravagance of the intended use is a conclusive evidence against the possibility of the grant of such a power, as is here proposed. Why, sir I have already heard of an states, and some say there will be, at no

great distance of time, more. I have also heard that the mouth of the Ohio, will be far to the east, of the centre of the contemplated empire. If the bill is passed, the principle is recognized. All the rest are mere questions of expediency. It is impossible such a power could be granted. It was not for these men that our fathers fought. It was not for them this constitution was adopted. You have no authority to throw the rights and liberties, and property of this people, into a "hotch-pot" with the wild men on the Missouri, nor with the mixt, through more respectable race of Anglo-Hispano-Gaily Americans, who bask on the sands, at the mouth of the Mississippi. I make no objections to these from their want of moral qualities or political light. The inhabitants of New-Orleans are, I suppose like those of all other countries, some good, some bad, some indifferent.

As then the power in this bill proposed to be usurped is neither to be drawn from the general nature of the instrument, nor from the clause just examined, it follows, that if it exist any where, it must result from the treaty making power. This the gentleman from Tennessee (Mr. Rhea) asserts—but the gentleman from North Carolina (Mr. Macon) denies—and very justly: For what a monstrous position is this, that the treaty making power has the competency to change the fundamental relations of the constitution itself! That a power under the constitution should have the ability to charge and annihilate the instrument, from which it derives all its power—and if the treaty making power can introduce new partners to the political rights of the states, there is no length, however extravagant, or inconsistent with the end, to which it may not be wrested. The present President of the United States, when a member of the Virginia convention for adopting the constitution, expressly declares that the treaty making power has limitations, and he states this as one, "that it cannot alienate any essential right." Now is not here an essential right to be alienated?—The right to that proportion of political power which the constitution has secured to every state, modified only by such internal increase of states, as the existing limits of the territories at the time of the adoption of the constitution permitted. The debates of that period chiefly turned upon the competency of this power to bargain away any of the old states. It was agreed at that time, that by this power old states within the ancient limits could not be sold from us. And I maintain, that by it new states without the ancient limits cannot be saddled upon us. It was agreed, at that time that the treaty making power "could not cut off a limb." And I maintain that neither has it the competency to lay a hump upon our shoulders. The fair proportions devised by the constitution are in both cases marred, and the fate and felicity of the political being in material particulars, related to the essence of his constitution, affected. It was never pretended by the most enthusiastic advocates for the extent of the treaty making power, that it exceeded that of the king of Great Britain. Yet I ask, suppose that monarch should make a treaty stipulating that Hanover, or Hindostan, should have a right of representation on the floor of Parliament—would such a treaty be binding? No, sir; nor as I believe, if a House of Commons and Lords could be found venal enough to agree to it. But although in that country the three branches of its legislature are called omnipotent and the people might not deem themselves justified in resistance, yet here there is no apology of this kind, the limits of our power are distinctly marked, and when the three branches of this government usurp upon this constitution in particular vital to the liberties of this people, the deed is at their peril.

I have done with the constitutional argument. Whether I have been able to convince any member of this House, I am ignorant, I had almost said indifferent. But this I will not say, because I am indeed deeply anxious to prevent the passage of this bill. Of this I am certain, however, that when the dissensions of this day are passed away, when party spirit shall no longer prevent the people of the United States from looking at the principle assumed in it, independent of gross and deceptive attachments and antipathies, that the ground here defended will be acknowledged as a high constitutional bulwark, and that the principles here advanced will be appreciated.

I will add one word touching the situation of New Orleans. The provision of the treaty of 1803, which stipulates that it shall be "admitted as soon as possible," does not therefore imply a violation of the constitution. There are ways in which this may constitutionally be effected by an amendment of the constitution; or by reference to conventions of the people in the states. And I do suppose, that, in relation to the objects of the present bill, (the people of New Orleans,) no great difficulty would arise. Considered as an important accommodation to the Western States, there would be no violent objection to the measure. But this would not answer all the projects, to which the principle of this bill, when once admitted, leads, and is intended to be applied. The whole extent of Louisiana is to be cut up into independent states; to counterbalance and to paralyze whatever there is of influence in other quarters of the union. Such a power, I am well aware, that the people of the states would never grant you. And, therefore, if you get it, the only way is, by the mode adopted in this bill—by usurpation.

The operation here urged is not a new one. I refer with great delicacy to the course pursued by any member of the legislature; yet I have it from such authority that I have an entire belief of the fact, that our present minister in Russia, then a

member of that body, when the Louisiana treaty was under the consideration of the Senate, although he was in favor of the treaty, yet expressed great doubts on the ground of constitutionality, in relation to our control over the destinies of that people, and the manner and the principles on which they could be admitted into the Union. And it does appear that he made two several motions in that body, having for their object, as avowed, and as gathered from their nature, an alteration in the constitution to enable us to comply with the stipulations of that convention.

I will add only a few words in relation to the moral and political consequences of usurping this power. I have said that it would be a virtual dissolution of the Union; and gentlemen expressing great concern at the expression. But the true source of terror is not the declaration I have made, but the deed you propose. Is there a moral principle of public law better settled, or more conformable to the plainest suggestions of reason, than that the violation of a contract by one of the parties may be considered as exempting the other from its obligations? Suppose, in private life, thirteen form a partnership; and ten of them undertake to admit a new partner without the concurrence of the other three, would it not be at their option to abandon the partnership after so palpable an infringement of their rights? How much more, in the political partnership, where the admission of new associates, without previous authority, is so pregnant with obvious dangers and evils! Again—it is settled as a principle of morality, among writers on public law, that no person can be obliged beyond his intent at the time of the contract. Now, who believes, who dare assert, that it was the intention of the people, when they adopted this constitution to assign, eventually, to New Orleans and Louisiana, a portion of their political power; and to invest all the people of those extensive regions might hereafter contain, with an authority over themselves and their descendants? When you throw the weight of Louisiana into the scale, you destroy the political equilibrium, contemplated at the time of forming the contract. Can any man venture to affirm that the people did intend such a comprehension as you now, by construction, give it?—Or can it be contended, that beyond its fair and acknowledged intent, such a compact has no moral force?—If gentlemen are so alarmed at the bare mention of the consequences, let them abandon a measure, which sooner or later, will produce them. How long before the seeds of discontent will ripen, no man can foretell. But, it is the part of wisdom not to multiply or scatter them. Do you suppose the people of the Northern and Atlantic States will, or ought to look on with patience, and see representatives and senators, from the Red river and Missouri, pouring themselves upon this floor, managing the concerns of a sea board fifteen hundred miles at least from their residence; and having a preponderancy in councils, into which, constitutionally, they could never have been admitted?—I have no hesitation upon this point. They neither will see it, nor ought to see it, with content. It is the part of a wise man to foresee danger and to hide himself. This great usurpation, which creeps into this House, under the plausible appearance of giving content to that important point, New Orleans; starts up a gigantic power to control the nation.—Upon the actual condition of things, there is, there can be, no need of concealment. It is apparent to the blindest vision. By the course of nature, and conformable to the acknowledged principles of the constitution, the sceptre of power in this country is passing to wards the Northwest. Sir, there is to this no objection. The right belongs to that quarter of the country—Enjoy it. It is yours. Use the powers granted as you please. But take care in your haste after effectual dominion, not to overload the scales by heaping it with these new acquisitions. Grasp not too eagerly at your purpose. In your speed after uncontrolled sway, trample not down this constitution. Already the old states sink in the estimation of members, when brought into comparison with these new countries. We have been told that "New Orleans was the most important point in the union." A place, out of the union, the most important place within it!—We have been asked "what are some of the small states, when compared with the Mississippi Territory?"—The gentleman from that territory (Mr. Poindexter) spoke the other day of the "Mississippi as "of a high road between"—Good heavens! between what? Mr. Speaker—Why "The Eastern and Western States." So that the north-western territories, all the countries, once the extreme western boundary of our union, are hereafter to be denominated Eastern States.—

[Mr. Poindexter explained. He said that he had not said that the Mississippi was the boundary between the Eastern and Western States. He had merely thrown out a hint, that in erecting new states, it might be a good high road between the states on its waters. His idea had not extended beyond the new states, on the waters of the Mississippi.]

I make no great point of this matter.—The gentleman will find, in the National Intelligencer, the terms, to which I refer.—There will be seen, I presume, what he has said, and what he has not said. The argument is not affected by the explanation. New states are intended to be formed beyond the Mississippi. There is no limit to men's imaginations, on this subject, short of California and Columbia river. When I said that the bill would justify a revolution and would produce it, I spoke of its principle and its practical consequences. To this principle and those consequen-

ces, I would call the attention of this House and nation. If it be about to introduce a condition of things, absolutely insupportable; it becomes wise and honest men, to anticipate the evil—and to warn and prepare the people against the event. I have no hesitation on the subject. The extension of this principle to the states, contemplated beyond the Mississippi, cannot, with not, and ought not to be borne. And the sooner the people contemplate the unavoidable result, the better; the more likely, that convulsions may be prevented, the more hope that the evils may be palliated or removed.

Mr. Speaker.—What is this liberty of which so much is said? Is it to walk about this earth, to breathe the air, and to receive the common blessing of God's Providence? The leaves of the field and the birds of the air, partake with us in such privileges as these. But man boasts a purer, and more æthereal temperature. His mind grasps in its view the past and the future, as well as the present. We live not for ourselves alone. That which we call liberty, is that principle, on which the essential security of our political condition depends. It results from the limitations of our political system, prescribed in the constitution. These limitations, so long as they are faithfully observed, maintain order, peace and safety. When they are violated, in essential particulars, all the concurrent spheres of authority rush against each other; and disorder, derangement and convulsion, are, sooner or later, the necessary consequences.

With respect to this love of our union, concerning which, so much sensibility is expressed, I have no fear about analysing its nature. There is in it nothing of mystery. It depends upon the qualities of that union, and it results from its effects upon our and our country's happiness.—It is valued for "that sober certainty of waking bliss," which it enables us to realize. It grows out of the affections: and has not, and cannot be made to have, any thing universal in its nature. Sir, I confess it, the first public love of my heart is the Commonwealth of Massachusetts—There is my fire-side; there are the tombs of my ancestors—

"Low lies that land, yet blest with fruitful stores,
"Strong are her sons, tho' rocky are her shores;
"And none, ah! none, so lovely to my sight,
"Of all the lands which Heaven o'erspreads with light."

The love of this union grows out of this attachment to my native soil and is rooted in it. I cherish it, because it affords the external hope of her peace, her prosperity, her independence. I oppose this bill from no animosity to the people of New Orleans; out from the deep conviction that it contains a principle incompatible with the liberties and safety of my country. I have no concealment of my opinion. The bill, if it passes is a death-blow to the constitution. It may, afterwards, linger; but lingering, its fate will, at no very distant period, be consummated.

Mr. POINDEXTER. Mr. Speaker.—It is with extreme reluctance that I claim the indulgence of the House, to participate in the discussion of the subject now under consideration. I should deem it not only useless but inexcusable to trespass upon your time, and delay the final question on the passage of the bill before you, but for the novel and extraordinary aspect which has been given to the debate by an honorable member from Massachusetts, (Mr. Quincy.) The tendency of the remarks made by that gentleman is manifestly hostile to the best interests of the nation, and calculated to excite, so far as their influence extends, a spirit of revolt among the people of the United States. I cannot, therefore, forbear to enter my protest, in the only form constitutionally provided for the peculiar situation which I occupy on this floor, against the establishment of principles fraught with such disastrous consequences. But, sir, as various objections have been made to the passage of the bill, and as I profess to be friendly to its general objects, I shall endeavor to give some of these objections a concise examination before I proceed to notice the observations of the gentleman from Massachusetts.

It has been contended by an honorable gentleman from Connecticut, (Mr. Pitkin) that inasmuch as the western limits of Louisiana remain undefined, the state to be formed of the present Territory of Orleans would extend its jurisdiction over the province of Texas, to Rio Bravo, and down that river to its confluence with the sea, so as to include the Bay of St. Bernard, and the whole extent of country, supposed by the American government to be transferred by the French Republic under the name of Louisiana. This circumstance it is alleged will enable the government of the new state to involve the United States in war, for the establishment of the most western boundary, to which we have asserted a claim. The gentleman has himself referred to a fact, which, in my estimation, furnishes a sufficient answer to this objection. He admits, that the northern boundary of the state of Massachusetts was never definitely established until commissioners were appointed by the government of Great Britain and the United States, to ascertain what was the true river St. Croix. Anterior to that event it was uncertain how far north the jurisdiction of Massachusetts extended; but the most scrupulous advocates for state sovereignty never imagined that the state could decide its own boundaries, and call upon the general government to support that decision at the point of the bayonet. The difficulty was adjusted by amicable negotiation, and the river designated by the two nations became the permanent boundary of the state. Can the gen-