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## Mr. Webster's Speech,

In the House of Representatives, on the subject of the Mission to Panama; the amendment to the resolution reported by the Committee of Foreign Relations, offered by Mr. Lane, being then under consideration.

MR. CHAIRMAN: I am not ambitious of amplifying this discussion. On the contrary, it is my anxious wish to confine the debate, so far as I partake in it, to the real and material questions before us.

Our judgment of things is liable, doubtless, to be affected by our opinions of men. It would be affectation in me, or in any one, to claim an exemption from this possibility of bias. I can say, however, that it has been my sincere purpose to consider and discuss the present subject with the single view of finding out what duty it devolves upon me, as a member of the House of Representatives. If any thing has diverted me from that sole aim, it has been against my intention.

I think, sir, that there are two questions, and two only, for our decision.—The first is, whether the House of Representatives will assume the responsibility of withholding the ordinary appropriation, for carrying into effect an Executive measure, which the Executive Department has constituted? The second, whether, if it will not withhold the appropriation, it will yet take the responsibility of interposing, with its own opinions, directions or instructions, as to the manner in which this particular Executive measure shall be conducted?

I am certainly, in the negative, on both these propositions. I am neither willing to refuse the appropriation, nor am I willing to limit or restrain the discretion of the Executive, beforehand, as to the manner in which it shall perform its own appropriate constitutional duties.—And, sir, those of us who hold these opinions have the advantage of being on the common highway of our national politics. We propose nothing new: we suggest no change; we adhere to the uniform practice of the government, as I understand it, from its origin. It is for those, on the other hand, who are in favor of either, or both, of the propositions, to show us the cogent reasons which recommend their adoption. The duty is on them to satisfy the House and the country that there is something in the present occasion which calls for such an extraordinary and unprecedented interference.

The President and Senate have instituted a public mission, for the purpose of treating with foreign States. The Constitution gives to the President the power of appointing, with the consent of the Senate, Ambassadors and other public ministers. Such appointment is, therefore, a clear and unquestionable exercise of Executive power. It is, indeed, less connected with the appropriate duties of this House, than almost any other Executive act; because the office of a public minister is not created by any statute or law of our own Government. It exists under the law of nations, and is recognized as existing by our Constitution.—The acts of Congress indeed limit the salaries of public ministers; but they do no more. Every thing else in regard to the appointment of public ministers, their numbers, the time of their appointment, and the negotiations contemplated in such appointments, is matter for Executive discretion. Every new appointment to supply vacancies in existing missions, is under the same authority.—There are, indeed, what we commonly term standing missions, so known in the practice of the government, but they are not made so by any law. All missions rest on the same ground. Now the question is, whether the President and Senate, having created this mission, or, in other words, having appointed the ministers, in the exercise of their undoubted constitutional power, this House will take upon itself the responsibility of defeating its objects, and rendering this exercise of Executive power void?

By voting the salaries, in the ordinary way, we assume, as it seems to me, no responsibility whatever. We merely empower another branch of the government to discharge its own appropriate duties, in that mode which seems to itself more conducive to the public in-

terests. We are, by so voting, no more responsible for the manner in which the negotiation shall be conducted, than we are for the manner in which one of the Heads of Department may discharge the duties of his office.

On the other hand, if we withhold the ordinary means, we do incur a heavy responsibility. We interfere to prevent the action of the Government according to constitutional forms and provisions.—It ought constantly to be remembered that our whole power, in the case, is merely incidental. It is only because public ministers must have salaries, like other officers, and because no salaries can be paid, but by our vote, that the subject is referred to us at all. The Constitution vests the power of appointment in the President and Senate; the law gives to the President even the power of fixing the amount of salary, within certain limits; and the only question here, is upon the appropriation. There is no doubt that we have the power, if we see fit to exercise it, to break up the mission, by withholding the salaries; we have power also to break up the Court, by withholding the salaries of the Judges, or to break up the office of President, by withholding the salary provided for it by law. All these things, it is true, we have the power to do, since we hold the keys of the Treasury. But, then, can we rightfully exercise this power? The gentleman from Pennsylvania, (Mr. Buchanan,) with whom I have great pleasure in concurring on this part of the case, while I regret that I differ with him on others, has placed this question in a point of view which cannot be improved. These officers do, indeed, already exist. They are public ministers. If they were to negotiate a treaty, and the Senate should ratify it, it would become a law of the land, whether we voted their salaries or not. This shows that the Constitution never contemplated that the House of Representatives should act a part in originating negotiations, or concluding treaties.

I know, sir, it is a useless labour to discuss the kind of power which this House thus incidentally holds in these cases. Men will differ in that particular; and as the forms of public business and of the constitution are such, that the power may be exercised by this House, there will always be some, or always may be some, who feel inclined to exercise it.—For myself, I feel bound not to step out of my own sphere, and neither to exercise nor control any authority, of which the constitution has intimated to lodge the free and uncontrolled exercise in other hands. Cases of extreme necessity, in which a regard to public safety is to be the supreme law, or rather to take place of law, must be allowed to provide for themselves, when they arise. Reasoning from such possible cases, will shed no light on the general path of our constitutional duty.

Mr. Chairman, I have a habitual and very sincere respect for the opinions of the gentleman from Delaware; I can say with truth, that he is the last man in the House, from whom I should have looked for this proposition of amendment, or from whom I should have expected to hear some of the reasons which he has given in its support. He says, that, in this matter, the source from which the measure springs should have no influence with us whatever. I do not comprehend this; and I cannot but think the honorable gentleman has been surprised into an expression which does not convey his meaning. This measure comes from the Executive Power. How is it, then, that we are to consider it as entirely an open question for us; as if it were a legislative measure originating with ourselves? In deciding whether we will enable the executive to exercise his own duties, are we to consider whether we should have exercised them in the same way ourselves? And if we differ in opinion with the President and Senate, are we on that account to refuse the ordinary means? I think not; unless we mean to say that we will exercise ourselves, all the powers of the Government.

But the gentleman argues, that although generally, such a course would not be proper, yet in the present case, the President has especially referred the matter to our opinion, that he has thrown off, or attempted to throw off, his own constitutional responsibility; or, at least, that he proposes to divide it with us; that he requests our advice, and that we, having referred that request to the Committee on Foreign Affairs, have now received from that Committee their Report thereon.

Sir, this appears to me a very mistaken view of the subject; but if it were all so—if our advice and opinion had thus been asked, it would not alter the line of our duty. We cannot take, though it were offered, any share in Executive duty. We cannot divide their own proper

responsibility with other branches of the Government. The President cannot properly act, and we cannot properly give our advice, as to the manner in which he shall discharge his duties. He cannot shift the responsibility from himself; and we cannot assume it. Such a course, sir, would confound all that is distinct in the constitutional assignment of our respective functions. It would break down all known divisions of power, and put an end to all just responsibility. If the President were to receive directions or advice from us, in things pertaining to the duties of his own office, what becomes of his responsibility to us and to the Senate? We hold the impeaching power. We are to bring him to trial in any case of mal-administration. The Senate are to judge him by the constitution & laws; and it must be singular, indeed, if, when such occasion should arise, the party accused should have the means of sheltering himself under the advice or opinions of his accusers. Nothing can be more incorrect, or more dangerous, than this pledging the House, beforehand, to any opinion, as to the manner of discharging Executive duties.

But, sir, I see no evidence whatever, that the President has asked us to take this measure upon ourselves, or to divide the responsibility of it with him. I see no such invitation or request. The Senate having concurred in the mission, the President has sent a message requesting the appropriation, in the usual and common form. Another message is sent in answer to a call of the House, communicating the correspondence, and setting forth the objects of the mission. It is contended that by this message, he asks our advice, or refers the subject to our opinion. I do not so understand it. Our concurrence, he says, by making the appropriation, is subject to our free determination. Doubtless it is so. If we determine at all we shall determine freely; and the message does no more than leave to ourselves to decide how far we feel ourselves bound, either to support or to thwart the Executive department in the exercise of its duties. There is no message, no document, no communication to us, which asks for our concurrence, otherwise than as we shall manifest it by making the appropriation.

Undoubtedly, sir, the President would be glad to know that the measure met the approbation of the House. He must be aware, unquestionably, that all leading measures mainly depend for success on the support of Congress. Still there is no evidence that on this occasion he has sought to throw off responsibility from himself, or that he desires of us to be answerable for any thing beyond the discharge of our own constitutional duties. I have already said, sir, that I know of no precedent for such a proceeding as the amendment proposed by the gentleman from Delaware. None which I think analogous has been cited. The resolution of the House, some years ago, on the subject of the slave trade, is a precedent the other way. A committee had reported that in order to put an end to the slave trade, a mutual right of search might be admitted and arranged by negotiation. But this opinion was not incorporated as the gentleman now proposes to incorporate his amendment into the resolution of the House. The resolution only declared, in general terms, that the President be requested to enter upon such negotiations with other powers as he might deem expedient, for the effectual abolition of the African slave trade. It is singular enough, and may serve as an admonition on the present occasion, that a negotiation having been concluded, in conformity to the opinions expressed, not, indeed, by the House, but by the committee, the treaty, when laid before the Senate, was rejected by that body.

The gentleman from Delaware himself says, that the constitutional responsibility pertains alone to the Executive department; and that none other has to do with it, as a public measure. These admissions seem to me to conclude the question; because, in the first place, if the constitutional responsibility appertains alone to the President, he cannot devolve it on us, if he would; and because, in the second place, I see no proof of any intention on his part, so to devolve it on us, even if he had the power.

Mr. Chairman: I will here take occasion, in order to prevent misapprehension, to observe, that no one is more convinced than I am, that it is the right of this House, and often its duty, to express its general opinion in regard to questions of foreign policy. Nothing, certainly, is more proper. I have concurred in such proceedings, and am ready to do so again. On those great subjects, for instance, which form the leading topics in this discussion, it is not only the right of the House to express its opinions, but I think it its duty to do so, if it should think the executive to be pursuing a general

course of policy which the House itself will not ultimately approve. But that is something entirely different from the present suggestion. Here it is proposed to decide by our vote, what shall be discussed by particular ministers already appointed, when they shall meet the ministers of the other powers. This is not a general expression of opinion. It is a particular direction, or a special instruction. Its operation is limited to the conduct of particular men on a particular occasion. Such a thing, sir, is wholly unprecedented in our history. When the House proceeds, in the accustomed way, by general resolution, its sentiments apply, as far as expressed, to all public agents and on all occasions. They apply to the whole course of policy, and must necessarily be felt every where. But if we proceed by way of direction to particular ministers, we must direct them all. In short, we must ourselves furnish, in all cases, diplomatic instructions.

We now propose to prescribe what our ministers shall discuss, and what they shall not discuss at Panama. But there is no subject coming up for discussion there, which might not also be proposed for discussion either here or at Mexico, or the Capital of Colombia. If we direct what our ministers at Panama shall or shall not say on the subject of Mr. Monroe's declaration, for example, why should we not proceed to say also what our other ministers abroad, or our Secretary at home shall say on the same subject? There is precisely the same reason for one, as for the other. The course of the House, hitherto, sir, has not been such. It has expressed its opinions, when it deemed proper to express them at all, on great leading questions, by resolution and in a general form. These general opinions, being thus made known, have doubtless always had, and such expressions of opinion doubtless always will have, their effect. This is the practice of the Government. It is a salutary practice; but if we carry it further, or rather, if we adopt a very different practice, and undertake to prescribe to our public ministers what they shall not discuss, we take upon ourselves that which, in my judgment, does not at all belong to us. I see no more propriety in our deciding now, in what manner these ministers shall discharge their duty, than there would have been in our prescribing to the President and Senate what persons ought to have been appointed ministers.

An honorable member from Virginia, who spoke some days ago (Mr. Rives,) seems to go still farther than the member from Delaware. He maintains, that we may distinguish between the various objects contemplated by the Executive in the proposed negotiation; and adopt some and reject others. And this high, delicate, and important trust, the gentleman deduces simply from our power to withhold the ministers' salaries. The process of the gentleman's argument appears to me as singular as its conclusion. He founds himself on the legal maxim, that he who has the power to give, may annex whatever condition or qualification to the gift he chooses. This maxim, sir, would be applicable to the present case, if we were the sovereigns of the country; if all power were in our hands; if the public money were entirely our own; if our appropriation of it were mere grace and favor; and if there were no restraints upon us, but our own sovereign will and pleasure. But the argument totally forgets that we are ourselves but public agents; that our power over the Treasury is but that of stewards over a trust-fund; that we have nothing to give, and therefore no gifts to limit, or qualify; that it is as much our duty to appropriate to proper objects, as to withhold appropriations from such as are improper; and that it is as clearly our duty to appropriate in a proper and constitutional manner, as to appropriate at all.

The same honorable member advanced another idea, in which I cannot concur. He does not admit that confidence is to be reposed in the Executive, on the present occasion, because confidence, he argues, implies only, that not knowing ourselves what will be done in a given case by others, we trust to those who are to act in it, that they will act right; and as we know the course likely to be pursued in regard to this subject by the Executive, confidence can have no place. This seems a singular notion of confidence; it certainly is not my notion of that confidence which the constitution requires one branch of the Government to reposit in another. The President is not our agent, but, like ourselves, the agent of the People. They have trusted to his hands the proper duties of his office; and we are not to take those duties out of his own hands, from any opinion of our own, that we should execute them better ourselves. The confidence which is due from us to the Executive, and from the Executive to us, is not personal, but

official. It has nothing to do with individual likings or dislikings; but results from that division of power among Departments, and those limitations on the authority of each, which belong to the nature and frame of our government.

It would be unfortunate, indeed, if our line of constitutional action were to vibrate backward, and forward, according to our opinions of persons, swerving this way to-day, from undue attachment, and the other way to-morrow, from distrust or dislike. This may sometimes happen from the weakness of our virtues, or the excitement of our passions; but I trust it will not be coolly recommended to us, as the rightful course of public conduct.

It is obvious to remark, Mr. Chairman, that the Senate have not undertaken to give directions or instructions in this case. That body is closely connected with the President in Executive measures. Its consent to these very appointments is made absolutely necessary by the constitution; yet, it has not seen fit, in this or any other case, to take upon itself the responsibility of directing the mode in which the negotiations should be conducted.

For these reasons, Mr. Chairman, I am for giving no instructions, advice, or directions in the case. I prefer leaving it where, in my judgment, the constitution has left it—to Executive discretion and Executive responsibility.

But, sir, I think there are other objections to the amendment. There are parts of it which I could not agree to, if it were proper to attach any such condition to our vote. As to all that part of the amendment, that asserts the neutrality policy of the United States, and the inexpediency of forming alliances, no man assents to those sentiments more readily or more sincerely than myself. On these points, we are all agreed. Such is our opinion; such we know to be the opinion of the country. If it be thought necessary to affirm opinions which no one either denies or doubts, by a resolution of the House, I shall cheerfully concur in it. But there is one part of the proposed amendment to which I could not agree in any form. I wish to ask the gentleman from Delaware himself to reconsider it. I pray him to look at it again, and to see whether he means what it expresses or implies; for, on this occasion, I should be more gratified by seeing that the honorable gentleman himself had become sensible that he had fallen into some error, in this respect, than by seeing the vote of the House against him by any majority whatever.

That part of the amendment to which I now object, is that which requires, as a condition of the resolution before us, that the ministers "shall not be authorized to discuss, consider, or consult upon any measure which shall commit the present or future neutral rights or duties of these United States, either as may regard European nations, or between the several States of Mexico and South America."

I need hardly repeat, that this amounts to a precise instruction. It being understood that the minister shall not be authorized to discuss particular subjects, is a mode of speech precisely equivalent to saying, provided the ministers be instructed, or the ministers being instructed not to discuss those subjects. After all that has been said, or can be said, about the amendment being no more than a general expression of opinion, or abstract proposition, this part of it is an exact and definite instruction. It prescribes to the public ministers the precise manner in which they are to conduct a public negotiation; a duty manifestly and exclusively belonging, in my judgment, to the Executive, and not to us.

But if we possessed the power to give instructions, this instruction would not be proper to be given. Let us examine it. The ministers shall not "discuss, consider, or consult," &c.

Now, sir, in the first place, it is to be observed, that they are not only not to agree to any such measure, but they are not to discuss it. If proposed to them, they are not to give reasons for declining it. Indeed, they cannot reject it; they can only say they are not authorized to consider it. Would it not be better, sir, to leave those agents at liberty to explain the policy of our government, fully and clearly, and to show the reasons which induce us to abstain, as far as possible, from foreign connections, and to act, in all things, with a scrupulous regard to the duties of neutrality?

But again: They are to discuss no measure which may commit our neutral rights or duties. To commit is somewhat indefinite. May they not modify, nor in any degree alter our neutral rights and duties? If not, I hardly know whether a common treaty of commerce could be negotiated; because all such treaties affect or modify, more or less, the neutral rights or duties of the parties: etc.

[Continued on fourth page.]