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Speech of Mr. BARTON, of Missouri.

IN SENATE UNITED STATES—*February* 9, 1830.

[CONTINUED.]

Let me take up the two first great fundamental principles of true Republicanism here announced, as most interesting to this country, and in which, indeed, all the others may be included—The Union and the Farewell Address of Washington; and show that the whole spirit & scope of this sectional war of civil discord; and the whole plan of hunting popularity in the West for years past, by feeding the flames of sectional prejudices, jealousies, and animosities are in open violation of their principles and injunctions; and that we have, in truth a Convention in the West, in opposition to both, more dangerous to our constitutional liberties, than either the Hartford Convention of the North, or the projected Convention of the South; and without any of their redeeming features or objects of local relief, from real or imaginary oppressions, to soften its character, or to apologize for its existence!

Chief Justice Marshall, in his life of Washington, (vol. 5, p. 685) speaking of the Farewell Address, says, "It contains precepts to which the American statesman cannot too frequently recur, and long as it is, is thought too valuable to be omitted or abridged."

Upon the immense importance of cherishing our Union, permit me to read the following extract from that paternal address, in page 689:

"But as it is easy to foresee that from different causes, and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress, against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed? it is of infinite moment, that you should properly estimate the immense value of your National Union, to your collective and individual happiness; that you should cherish a cordial, habitual and immoveable attachment to it; accustoming yourselves to think and speak of it, as of the Palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can, in any event, be abandoned and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts."

Know then, that we have a Convention of internal enemies—of Demagogues and aspirants—in the West!

Its members like our settlements and our towns, are scattered over a wide surface, 'few and far between,' and consequently, cannot easily present the concentration of force and unity of action, which your Northern or your Southern projects might have done, if so disposed; but they have concentration enough for effect, and unity enough for mischief.

Its objects are personal aggrandizement, and the gratification of inordinate and unhallowed ambition. Its means of operation are to inflame sectional prejudices, local animosities, and the slumbering embers of civil discord, in one portion of our Union against another; misrepresenting the objects, opinions, and views of the other; assuming to be the champions and devoted friends of their own deluded sections, and thus gaining a species of illegitimate and matricidal renown, and erecting a kind of monument to their fame, based upon the ruins of the Farewell Address of the Father of his country!

I pass over other points of comparison, and come to what I suppose, upon the charitable construction and the declaration of the parties, to have been the real ulterior objects of both the Northern and the Southern projects; presuming neither to have intended treason or disunion.

Each had an ulterior object which, *per se*, was both patriotic and laudable. It was merely relief from what both considered the ruinous influence of the prevailing policy and measures of the Federal Government, upon their respective countries. The North considered their country blighted by the war measures of embargo and non intercourse. The South thought theirs desolated by the prevailing doctrines of protection to American manufactures and internal improvement.

Their *modus operandi* seems to have been, to make a strong expression and demonstration at home, to influence the measures of the Union at the Metropolis, and thereby produce the resulting relief, which was desired at home.

To that extent—and confined to that extent—they both had ulterior objects, both patriotic and laudable in their views of their own situation.

But our Western Convention, composed of the like aspirants and Catalines, against whom Washington warned us most, as being most likely to disturb our harmony, has no redeeming feature of patriotism about it.

It is altogether hideous and deformed as Lucifer himself is represented by Milton to have been after his expulsion from Heaven, and his nine day's fall from the presence of God!

It is the mere embodying of the fiends of local animosity and hatred

The mere incarnation of the spirits of civil discord, which has already roamed the world for so many centuries, and despoiled union and liberty in the greater part of Europe, in Asia, in Africa, in South America, in Mexico, in the Isles of the Ocean, and among the lingering remnants of the once powerful tribes of the aboriginal race of man on this Continent, and driven union and liberty, as we are taught to believe, to their last retreat, upon that little green spot upon the map of the whole world, these United States!

And well might the Father of his Country, with his sage knowledge of the past, and his sagacious ken of the future, have dreaded this incarnation as the most insinuating and dangerous enemy that posterity would have to encounter!

Well might he have bequeathed to us his Farewell Address!

Had the Hartford Convention, contrary to its supposed design, been productive of war, it might, by possibility, have been confined to foreign war with a civilized nation and the broad expanse of the Atlantic Ocean between, and to the frontier war with the expiring remnants of the aboriginal race.

Should the project of the South be productive of war, it cannot come in a milder form than civil war, followed, almost of course by all the horrors of a servile war!

Should our Western Convention of civil discord be productive of war, contrary to its supposed design, it could not be in a less hideous form than civil war, and probably, following in its train, a re-enactment, throughout the South, of the horrid scenes of San Domingo!

If either of the projects had bursted beyond its intended bounds, it might have happened that the Hartford Convention would have been the most harmless of the three.

There is one objection common to the three: the impossibility of those who raise such storms being always able to control the extent of their ravages. Like other revolutions, they generally prostrate their projectors in their early stages, and finally produce results, and throw up characters to the view of the world, which were not even imagined at the time of their commencement. Like tornadoes, they are uncontrolable, and admit of no fixed bonds.

It has been well said, that a fire brand thrown by the hand of sport, or of a madman, will ignite a city as soon, and wrap it in flames as uncontrolable and consuming, as if it had been thrown by the hand of the designing incendiary.—And so thought Washington when writing his Farewell Address.

But general descriptions of our Western Convention, of dreadful demagogues, and dangerous Catalines, will not suffice.

They often confuse our ideas, and fail of their intended effect. Specific instances concentrate our ideas, and show all at a glance; I will name several to the Senate.

And first I arraign "Americanus" at the bar of the Farewell Address of Washington.

One principal object of my entering into this debate, was to rescue from forgetfulness and oblivion, by withdrawing from the musty files of its debate, the testimony of the Senators from Maryland and Maine (Gen. Smith and Mr. Holmes) respecting the authorship of our Southwestern boundary between the United States and Mexico running along the Sabine river and a zig zag line to the Pacific Coast in latitude 42 dg., as established in the Florida treaty. This fact would seem to be wholly immaterial. So it would have been but for that description of demagogues to which I have been alluding.

The Ex-President, Mr. Adams has been charged, in a series of numbers lately published in the West, in the assumed name of "Americanus," and republished in this Metropolis, and rendered as public as the party gazettes of the day can make them, with being the author of that line.

Had that been all, those numbers would probably have produced no mischief in the unhallowed work of sectional prejudice, local animosity and civil discord in the Western Country; but a long catalogue of the darkest and most unpatriotic motives were imputed to him in those numbers. It was represented as having been done from that aboriginal, never dying hostility to the West, which has been imputed to New England in this debate.

To have been done in concert with certain members of the Hartford Convention, then supposed to have been lurking about the City of Washington, to prevent the increase of slave holding States in the Southwest to counterbalance the non-slave-holding States about to arise in the Northwest. To have been done to dismember the valley of the Mississippi. To have been done from motives of hostility to the principles of republicanism and the rights of man, and to prevent republicanism from migrating from the United States to the interior of Mexico, by the means of a vast desert spread between Missouri and Mexican settlements on the Rio del Norte and the Colorado of the East.

The publication of those inflamitory and sectional essays at civil discord, stabbing Mr. A. after it was boasted that he was down and helpless, and stabbing at the standing and character of his friends through him, placed me in a somewhat awkward dilemma. I had supported Mr. Adam's election and administration. It was no uncommon thing to be accosted with language such as this: "Look at your Yankee President whom you have joined in preference to Old Hickory! The enemy of Republican principles and the rights of man! The old and systematic enemy of the West! The dismemberer of the valley of the Mississippi! The snake coiled around the infant West to strangle her in her cradle, and prevent her developement and growth!" Sir, I was suspected of the petty treason of Yankeeism, and of infidelity to my country; aye, of being an "unlineal and bastard son of the West"

In conversation, I attempted a defence of Mr. A.'s motives, suggesting that it was impossible any man in his elevated station could have been actuated by such motives—suggesting his peerless defence of the title of the United States to Texas in his negotiations with the Spanish Minister, Don Onis; and even the impossibility of his having been able to control the President Monroe, and all his Cabinet, and the Senate of the U. States, if he had been the first to suggest that line; but as to the fact of his being the author of the suggestion of that line, I was "dumb as a lamb before his shearers," for truth is, I did not know how that fact was, until the disclosure of it in this unique debate.

Every good man and lover of the harmony, of his country must rejoice at the disclosure; that the West has been thus disabused; that Mr. A. hunted even in his retirement and the spirit of New England, have been thus rescued from the imputations of their calumniator; and that this fruitful source of sectional prejudice and jealousy has been thus effectually closed.

The falsehood of the charges has been thus placed on high, a conspicuous object of the contempt of honorable men, by the concurring testimony of the Senator from Maryland, the star of whose Revolutionary fame shone high in the firmament before 'Americanus' was born and of the Senator from Maine, who, in the darkest period of the late war, was considered no enemy of the Union, nor of the West; and who, at the darkest period of the unhappy Missouri question, was not considered an enemy to Missouri when taking his official life in his hand, he stood against the array of public opinion in N. England, and voted for the admission of Missouri; and was forgiven by his constituents for the honesty and patriotism of his motives, although they did believe, and no doubt sincerely too, that his vote was wrong—for the whole mass of those States is opposed to the slavery of man.

It has been the fate of this Senator to receive an ungrateful thrust in the course of the rage of party spirit, from the same hand that thrust the patriotic son of Kentucky, in the unhallowed debate of sectional prejudice. And when such a spirit rules the debate, let those who can rejoice with me that he has escaped pretty well. Nor who can doubt the party reason of assailing the motives of the illustrious dead—the venerable fathers of N. England—in charging them with a settle hostility to the West, on account of their votes of antiquity, and visiting their imputed sins upon their children, when we have witnessed the awkward attempt to go down to posterity as the defender of Jefferson's fame at the expense of Bayard's, when the fact is now notorious that Mr. Jefferson, in 1809, contemplated delivering up all the Louisiana purchase, except the mouth of the Mississippi to the 'dominion of the savages and wild beasts' for fifty years!

Who can doubt the party reason which should never find place in this once elevated body, for embracing the Roanoke; whose well known opinions and votes would have prevented the settlement of the West, or its admission into the Union; and damning a N. England man, in his person, his posterity, and his ancestry, upon suspicion of a like opinion?

I do not arraign the motives of Jefferson, in his philanthropical views in favor of the remnants of the once powerful owners of this Continent; nor those of any whose opinions do not admit of their voting for the annexation of the West to the Union. I only arraign the glaringly inconsistent and sectional spirit of the debate at the bar of the Farewell Address of Washington

If the acquisition of Florida must be tortured into a sectional measure, or if individuals be entitled to the praise or the censure of the measures of a government, the treaty establishing the line between the United States and Mexico would seem to be rather a Southern measure. And what good and fair minded man censures the motives or acts of the South, in acquiring Florida when it could be had, and fixing the future extension of our Southwestern line, when the increase of our population shall require it?

It is sufficient to know, for the present tranquility and harmony of the Western Country, that Mr. Adams was the last to abandon his justly renowned defence of our former title to Texas, and the last to recede from the line of the Colorado of the Gulf of Mexico! But if the fact had been otherwise, I am at a loss to know how the long list of anti-republican and diabolical motives ascribed to him, which now stand like Mahomet's coffin in the air, without any visible support, could have been discovered; unless it were upon the authority of the old author, who lays down the following rule for the discovery of hidden motives: "Mankind being incapable of penetrating the secrets of each other's hearts, as the Father of Life and Light can do, are naturally prone to judge each other's motives by their own. Hence you will usually see a fair minded and honorable man disposed to attribute fair and honorable motives to others: but a man of a contrary character drags down all humanity to the level of his own heart, and judging them by that standard, very naturally concludes that all mankind, are villains too."

I arraign the attacks of this debate, upon the sheet anchor of the vessel of State—the Supreme Court of the U. States—the great common tribunal of the States of this Union, and all attempts here or elsewhere, to destroy its utility, by casting over it a cloud of suspicion and bringing it into disrepute among the good people of the U. States, by comparing it to the party tribunals of Great Britain in that dark and unhappy period of her history, during the State Trials, introduced by the Senator from Missouri, as great departures from the precepts of Washington.

Every man of common sense knows that we must necessarily, have some common tribunal to settle disputed questions among the States, as well as among individuals; otherwise disputation would never cease, nor any question become settled at rest; but confusion and anarchy, the element of demagogues would reign for ever.

That great common tribunal is not a fit topic for party disputation or popular declamation, until the design be entertained of rendering it a party engine, or of making it odious among the people, and substituting a party engine in its place.

The Judiciary must, from necessity, and the nature of its functions, possess high toned powers, Hence the ease with which it may be rendered odious, by making it a topic of party and to electioneering discussion, & representing it to the people, who have the least means of judging of it, as a despotic department of the Government, changing the relative powers of the States and the Union and harboring designs of consolidating the Government into one single empire.

By depriving it of the confidence of the public it loses its great utility in quieting instead of inflaming, the public mind, when it decides any of the important questions and principles of our yet young Government of the Union, or those that may arise among the States.

In such a state of the public mind, instead of calming and quieting and restoring tranquility to society, the decision of any great and interesting question would but irritate and inflame the more, and in time become the signal for commotion and revolt. Look to the great irritating events of our brief history as a Republic, and pause in this hazardous course.

If our Judges misconduct themselves, let the lawful proceedings be had, and the appropriate remedy applied.

If the organization of our common tribunal be unfit for the purposes of its creation, let the proposed reform or substitution be presented and discussed before the competent department to apply the remedy. If it be within legislative competency, let the bill be introduced and discussed here. If it require an amendment to the Constitution, let the proposed amendments be submitted and deliberated on; and if passed by Congress, go to the People and States for consideration, discussion and adoption; and if the decission be in favor of the present Judicial Department of the Union, as it was at the formation of the Government, let us sustain its reputation and utility for the good of our country.

It should be the last object of party attack, Save us from ever beholding that tribunal, too, converted into a party engine, to be wielded in the work of party proscription!

The Senator from Missouri has entertained you with an account of his reading the State Trials of England, at a remarkably tender age, for his widowed mother, probably, that she, as women are wont to do, might weep over the judicial murders which, he tells you, distinguished the reign of the House of Stuart. It was quite natural for a boy of seven or eight years of age to be horror struck, and deeply impressed with those judicial tragedies, as he declares himself to have been; and it is to be hoped that he has profited by the examples.

His attempt, however, in his new born zeal against the American system, (as it is harmlessly called,) to draw a parallel between the party tribunals of that gloomy period in the history of England, cutting off minorities by the halter and gibbet, and the Supreme Court of the U. States, as it yet exists, sustaining the beneficial powers of the Federal Government to make internal improvements, and perform other general duties, as means necessary to the accomplishment of objects expressly confided to this Government, and impracticable by the States, was equally unsuccessful and unpatriotic.

This attack upon the Sureme Court was made too, after a night's sleep upon what still lay in advance; and was announced to us before the adjournment, as a new field to be entered the next morning. Verily the new field has been unprofitably and unpatriotically occupied, although I did imagine I saw an apparition from Virginia, stalking across the visions of the orator in the slumbers of the preceding night.

The corrupt state of the Judiciary of England as described to us, so far from being the cause of the evils of that day, was but the effect of the greater evils of that gloomy epoch. Those evils had their source far beyond the Judiciary, in that same inordinate and unhallowed ambition desire to rule, and, lust of power, governed by that same party discipline and proscription, which I have feebly attempted to deprecate, and to denounce in the United States; and which pulled down the last Administration, and now makes the once proud Americans feel like slaves, and blush for the fallen state of their country—the humble victim of petty Cabinet tyrannies and corruptions!

Those evils had their source there, and, like turbid and overwhelming torrents prostrated the Executive, the Legislature, and even the Judiciary Departments of England; in their desolating course! History warns us that it required the purifying fires of another revolution to restore England from her fallen greatness" and let us profit by the example, and avoid her errors, while we may. Man is the same, in similar circumstances, throughout the world; and no monitor is more safe than faithful history.

I enter my protest against making the Judiciary of the United States the topic of mere party denunciation and popular declamation. It would be much more patriotic employment to draw that report of 1826, to curtail Executive patronage & put bounds to Executive will, from its long, four years, black hole, Calcutta imprisonment, in the cold vaults of this capitol and thaw it into life, and put it into practical operation. I repeat to you, that unless you do so, its long imprisonment, without the benefit of the writ of Habeas Corpus, will be considered as conclusive testimony by the public that it originated in the corrupt design of endowing a party press by its extensive printing and circulation and of prostituting your Senatorial functions to pull down the late Administration to get possession of their places, and not for the public good.

Your awkward affectation of looking out for the time "propitious to the enlargement of the powers of the people," as wistfully as a fanatic Jew looks out for the coming of his temporal Messiah, will not pass any longer, for that time is always present when you are sincere in a desire to avail yourself of it; and especially now, when the whole "ten talents" of power are committed to your charge.

The Senator from Kentucky, (Mr. Rowan,) usually argues a question like a Senator, rather than a belligerent, or if he should occasionally become a little belligerent, his war never degenerates into the massacre of his prisoners. I will now take up his principal propositions in relation to the Supreme Court, submitted to us yesterday, and consider them. Using my own hasty notes, I shall not attempt to quote his very words, but to state his propositions.

One of his principal propositions, in refutation of the argument of the Senator from Massachusetts, (Mr. Webster,) is, that the Federal Constitution was not adopted by the whole people of the U. States, as a National act; but by the people of each several State, in their respective corporate characters, as States.

Without stopping to dispute about the difference in the powers of the Supreme Court, conferred upon them by the Constitution, as the great common tribunal of the Union to decide questions arising between States, or between one of them and the whole Union, under the one construction or the other, I rely more upon the contemporaneous exposition and understanding of the Federal Constitution and of our whole Government, by the founders of the government, than upon the exposition of the Senator from Kentucky, and find their cotemporaneous expositions to be the same with those of the Senator from Massachusetts. The Constitution declares itself to be the adopted work of the people of the United States. Did not Washington and his venerable associates in the Federal Convention know that neither in the adoption of that Constitution by the people, nor in the election of a President, would it be possible to convene all the people interested in the question, in one collected mass, on any arena?

The Founders of the Republic did not expect to convene all the people of the late Provinces of Britain on this arena, within that beautiful and picturesque circle of hills which surrounds this Capitol, with a diameter of some four or five miles; nor even on the more grand arena of some of the vast plains and prairies of the Western Country, to act in mass. But, for convenience and practicability of action, sent both questions to the people of the United States, at home, in their respective States and in their subdivision of States into counties and counties, into districts, or precincts. Yet is not your Presidential Election as much a national act as if it had been conducted in mass, on one of those vast arenas of the West ample enough for all the purposes of collection and confusion? Besides, the Senator from Kentucky, submits to the decision of the Supreme Court backed by the instructions of Kentucky, that the Federal Government may exercise the power of Internal Improvement; and why will he not submit to the repeated decisions of the same tribunal in the United States Bank Charter, and other cases, that the Federal Constitution is the act of the people of the United States, as a whole? Can the instructions of a State make any difference in the cases, as to the obligatory force of the decisions? Can the decision of that great common tribunal be good to sustain the Senator from Kentucky in his votes for Internal Improvement, and slide from under the Senator from Massachusetts, when he would rely upon it for another purpose? We see the Senator from Kentucky arrives at the same practical conclusion to which we come, as I shall show more fully presently.—Why, then, these theoretical distinctions?

At present I will take up another of his main propositions, into which several of his minor ones may be consolidated; such as these: "The framers of the Federal Constitution never intended to give power to the Supreme Court to check the State Sovereignty. A Sovereignty cannot live on the will of another Sovereignty. A State must decide when its Sovereignty is infringed. How are disputes about State boundaries to be settled? Can the Supreme Court of the United States adjudicate such a question?" And something was said by the Senator from Kentucky about the *ultima ratio regum!*

Now, Sir, if there be one distinct proposition to which all these are reducible, it is that there is such a thing under our political institutions as State sovereignty (or power which means the same thing) over the matters confided by the Federal Constitution to the Supreme Court, or to the Government of the United States!

And there lies all the supposed difficulty.

We take the constitution and the expositions of the Fathers in our hands and deny that there is any such thing as absolute State Sovereignty known to our institutions. They are all limited having power over some things, and no power over other things, as States. We affirm that the States, as such, have no power over any cases confided to this government, or to the Supreme court of this government, exclusively. And there ends the whole imaginary difficulty.

If States can settle questions of boundary, arising under the Charters of the British Crown, or otherwise, amicably, by Commission as Tennessee and Kentucky attempted to do some years since, be it so, so far as this debate is concerned; but the Federalist, written principally, as you know, by Hamilton and Madison, two of the founders of this Government, (in pages 88 and seq. and 102,) says, the settlement of such boundaries, when disputed, was one of the objects in establishing a great common tribunal.

When we contemplate absolute sovereignty, as it exists, say in the Autocrat of all the Russias, extending in absolute power over all cases and things, (if such be the present power of the Russian Emperor,) from the Baltic to Kamschatka, over the whole Eastern Hemisphere, and then import that word Sovereignty, of which we Republicans seem so fond, we are apt to misconceive the import of the term, as applicable to our Social Compact, embracing both State and General Governments.

There is no such thing as absolute State Sovereignty in our political institutions.

Another proposition of the Senator from Kentucky, which I will take by itself, is—"Sovereignty, [illegible] to the decision of the sovereignty the point in dispute between them." Be it so. He instances the familiar case of school-boys falling out in the play-place, (about the ball, I suppose,) and asks the United States Senate if one boy will submit the disputed point to the arbitrament of his adversary? I suppose he should not; for, then, there would be as many tribunals, and variant decisions as there are boys in the school. This matter should be submitted to the common tribunal, the schoolmaster, who, by the constitution of that school, was made the umpire in all such cases. And if the schoolmaster should make a law to govern those boys, in a matter of which he has jurisdiction, and promulgate it, and one of the boys violate the law, and then claim to put his *veto* upon it, on the ground that he, as a sovereign power, cannot submit the disputed point to his adversary sovereign, the schoolmaster, what is to be done in that dilemma!

And this brings me to the novel notion of modern times, of a State having the power to put her *veto* upon a law (for unless the act be constitutional it is no law) of the Union! The schoolmaster can decide that question.

Should the veto, whether in the ordinary form of legislation, or of a constitutional provision, be carried into practical operation, it assumes the body and port of rebellion; for the constitution and laws of the Union are expressly made the supreme law over State acts of either character.

This metaphisical and spiritual veto, disembodied from rebellion, seemed to me to defy the power, and elude the grasp, of the able Senator from Kentucky, as a gnat would annoy and sting an elephant, and still evade the touch of his proboscis; when, if a lion or a giant were to attack him, he would grasp the adversary, and throw him over the Capitol! There is something in having a good cause, after all.

All that class of the Senator's arguments intended to prove the *unfitness* of the present Supreme Court, as a conclusive common tribunal; and all his suggestions that Congress, or the Senate, or any other body, would be an advisable substitute, are matters of mere expediency, which have already been considered, and determined against him, in the formation and adoption of the present Federal Constitution.

If it be thought proper to revive those questions, either here or before the people of the United States, let him, as Chairman of the Judiciary Committee, submit his project—his bill, if it be of legislative competency; or his resolution to amend the constitution, if that be the adequate remedy; and let the matter be fairly discussed before the competent power, upon his project of reform; and let it not be drawn into this mere partisan debate, which has been visited upon us.

We admit that we have not 'angels in the form of men' to either legislate or adjudicate for us—no, nor to see that the laws be faithfully executed; but we cannot admit the propriety of this attack, as we consider it, upon our supreme common tribunal, in this sectional & party strife.

The Senator from Kentucky asks, why cannot the States execute the works of internal improvement, necessary in this Union? We answer, because they have not the means, in the first place, having surrendered all the great and fruitful sources of indirect and voluntary revenue to the Union, for the public good; and because, in the second place, their powers of concerted action are not commensurate with the object. To make only two roads, of two several States, meet on their common confine, would require a kind of compact, or confederation, for the special object. To extend the plan to a third State would require an extension of the compact, or understanding. Then a fourth, fifth, or sixth, must be embraced, and so on, until all the States on the route be embraced in this road-league!

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