

THE ATTITUDE OF CONGRESS TOWARD THE PIONEERS OF THE WEST FROM 1789 TO 1820

[This is the first of a series of monographs in which an attempt will be made to trace the history of the attitude of Congress toward the pioneers of the West. It may appear to the student of American history that some phases of western history are too little considered, while other and less significant phases are rather fully discussed. This is due to the fact that only those incidents have been chosen that called forth opinions in Congress concerning the character of the pioneer population and reflected the attitude especially of eastern congressmen. Covering the period 1789 to 1820, from the organization of the First Congress to the time of the Missouri Compromise, the attitude of Congress towards the pioneers will be discussed under the following heads: (I) The Pioneers and the Public Lands; (II) Territorial Government in the West; (III) National Defense and Frontier Protection; and (IV) Internal Improvements in the West.—EDITOR.]

INTRODUCTION

“Sir, our brethren of the West have suffered, as our brethren throughout the United States, from the same cause, although with them the cause exists in an aggravated degree by a departure from the industry, the simplicity, the economy, and the frugality of our ancestors. They have suffered from a greediness of gain, that has grasped at the shadow while it has lost the substance — from habits of indolence, of profusion, of extravagance from a miserable attempt at the shabby genteel, which only serves to make our poverty more conspicuous.”

These words of rebuke John Randolph of Virginia addressed to the Kentucky members of Congress. Nor did he refrain from speaking of particulars, for he pronounced the western country a land “where any man may get beastly drunk for three pence sterling — in England, you cannot get a small wineglass of spirits under twenty-five cents; one such drink of grog as I have seen swallowed

in this country would there cost a dollar the Western Country, where every man can get as much meat and bread as he can consume, and yet spend the best part of his days, and nights too, perhaps, on the tavern benches, or loitering at the cross-roads asking the news a country, with countless millions of wild land and wild animals besides. . . . I had as lief be a tythe-proctor in Ireland, and met on a dark night in a narrow road by a dozen white-boys, or peep-of-day boys, or hearts of oak, or hearts of steel, as an exciseman in the Alleghany mountains, met, in a lonely road, or by-place, by a backwoodsman, with a rifle in his hand.”¹

Continuing, the Virginia statesman not only denounced the habits of the western people, but also ridiculed them as “men in hunting shirts, with deer-skin leggings and moccasins on their feet men with rifles on their shoulders, and long knives in their belts, seeking in the forests to lay in their next Winter’s supply of bear meat.”

Such bold and ungracious criticism did not fail to provoke replies from members who lived nearer the frontier than Virginia — members who claimed to know personally the long line of western pioneers extending across the country, north to south, from the Great Lakes to the Gulf of Mexico. “The gentleman from Virginia (Mr. Randolph) has sought every possible occasion to pour forth his gall and bitterness, and to display his wit, against the people beyond the mountains”, exclaimed Mr. Robert P. Letcher of Kentucky a few days later on the floor of the House. “He has given to this House a most ludicrous description of their dress, their appearance, their manners, and their habits. He has taken peculiar pleasure in attempting to exhibit them before this nation as uncivilized

¹ *Annals of Congress*, 1st Session, 18th Congress, pp. 1298, 2364. January 30, and April 15, 1824.

savages, rather than as American citizens. I must take the liberty of declaring to that gentleman that he is most grossly and inexcusably ignorant of the character, the feelings, the intelligence, and the habits, of the Western people. Sir, with the utmost frankness, I admit, their external appearance is not the most fashionable and elegant kind; they are not decorated in all the style, the gaiety, and the taste, of a dandy of the first water. Their means are too limited, and their discretion is too great, I trust, for the indulgence of such foppery and extravagance”.

“Of the past,” continued Mr. Letcher, “however, I will not speak. I will not make disagreeable and invidious comparisons. Let the firmness, the valor, the suffering, of the people of the West, during our recent conflict [the War of 1812] be forgotten. Say nothing of the laurels which they won in battle; say nothing of the many patient feats of starvation they endured, without a murmur. Withhold, if you choose, the gratitude of the nation; but I beg of you to do justice to their private virtues, to allow them, at least, a character for integrity of motive, for benevolence of heart, for hospitality of conduct. . . . Their hospitality is without ostentation, without parade, without hypocrisy. . . . Sir, these are the very citizens of whom the nation ought to be proud. They constitute the bone, and sinew, and strength, of your Government. In the hour of peril and danger, they are always ready to rally around the standard of their country. Call upon them to maintain the honor of the nation, to defend her rights, they set up no Constitutional scruples, in answer to your call, *about crossing boundary lines!*”²

² *Annals of Congress*, 1st Session, 18th Congress, p. 2522. May 3, 1824.

The reference to “crossing boundary lines” is to the famous controversy in the Cabinet and in Congress concerning Major-General Andrew Jackson’s pursuit of the Seminole Indians into Spanish territory, during the Seminole Indian War of 1818.

This episode in congressional debate illustrates two attitudes toward the pioneers of the West — one unfavorable to them, the other favorable. The attitude expressed by Mr. Randolph viewed with displeasure the westward movement, regarding it as a lawless migration resulting in a depopulation of eastern States and involving enormous expenditures on the part of the Federal government for the protection of the ever advancing frontier. The attitude expressed by the Kentucky Representative considered the rise of the West as a great empire expansion, contributing to the prosperity and prestige of the whole United States.

It is not surprising that opinions of different members in Congress concerning the character of the pioneers should have varied according to the light in which they viewed the growth of the West. Nor was there any lack of opportunity for such expression of opinion. Territorial questions were considered by Congress at every regular session since the adoption of the Federal Constitution. Sometimes these questions were of tremendous importance — as the bills to admit into the Union the States of Maine and Missouri. Sometimes they have been of only local significance — as private land claim bills. The congressional debates upon all these questions constitute a unique history of the progress of the West.

The close identification of Congress with the history of the West which the debates reveal was due to a combination of circumstances occurring at the time of the Confederacy and the formation of the Union. Stated briefly they are: (1) by the Treaty of Paris, 1783, Great Britain relinquished to the exclusive jurisdiction of the United States all of the British claims west of the Alleghanies as far as the Mississippi River; (2) the Constitution of the Confederation and the Constitution of 1787 provided that the Federal legislature should establish all rules and regulations for Terri-

tories; (3) the original States ceded to the general government the greater part of their claims to western lands, thus placing in the power of Congress the entire disposal of almost all the vacant lands in the western country; and (4) by virtue of the Constitution of 1787 Congress had the power to admit new States into the Union.

Thus from the beginning of the new nation Congress was vested with the imperialistic control of the western country, and the exercise of this many sided function brought forth a multitude of debates reflecting various views and attitudes concerning the people who went beyond the mountains, opened the wilderness to settlement, and laid the foundations of a new empire — the Empire of the West. Consequently a study of the character of the pioneers in this new and peculiarly American empire will throw light on the forces that have builded a nation.

I

THE PIONEERS AND THE PUBLIC LANDS

In obedience to an order of the House of Representatives³ Alexander Hamilton, Secretary of the Treasury, on July 22, 1790, communicated to the House a plan for disposing of the public lands.⁴ In this report he stated with his usual clearness the relation of the government to the applicants for lands in these words:

In the formation of a plan for the disposition of the vacant lands of the United States, there appear to be two leading objects of consideration: one, the facility of advantageous sales, according to the probable course of purchases; the other the accommodation of individuals now inhabiting the Western country, or who may hereafter emigrate thither. The former, as an operation of finance, claims

³ *Journal of the House of Representatives of the United States* (Washington, Gales and Seaton, 1826), Vol. I, p. 143. January 20, 1790.

⁴ *Journal of the House of Representatives* (1826), Vol. I, p. 276.

primary attention; the latter is important, as it relates to the satisfaction of the inhabitants of the Western country. It is desirable, and does not appear impracticable, to conciliate both. Purchasers may be contemplated in three classes: moneyed individuals and companies, who will buy to sell again; associations of persons, who intend to make settlements themselves; single persons, or families now resident in the Western country, or who may emigrate thither hereafter. The first two will be frequently blended, and will always want considerable tracts. The last will generally purchase small quantities. Hence, a plan for the sale of the Western lands, while it may have due regard to the last, should be calculated to obtain all the advantages which may be derived from the two first classes. For this reason, it seems requisite that the General Land Office should be established at the seat of Government. It is there that the principal purchasers, whether citizens or foreigners, can most easily find proper agents, and that contracts for large purchases can be best adjusted.

But the accommodation of the present inhabitants of the Western Territory, and of unassociated persons and families who may emigrate thither, seems to require that one office, subordinate to that at the seat of Congress, should be opened in the Northwestern, and another in the Southwestern Government.⁵

Hamilton further proposed that the public lands should be divided into separate tracts for three different purposes: (1) there should be sufficient tracts to satisfy subscribers to the proposed loan for the public debt; (2) tracts for the purpose of location by actual settlers, in quantities not exceeding one hundred acres to one person; and (3) tracts set apart for sales (in townships of ten miles square) to moneyed individuals, companies, or associations. Previous to this report there had been but two tracts of public land sold by contract since the cession of western claims by the original States. The first sale was made in 1787 to Winthrop Sargent and Manasseh Cutler on behalf of the Ohio Company, of lands located on the Scioto and Ohio rivers.⁶

⁵ *American State Papers, Public Lands*, Vol. I, p. 8.

⁶ *Journals of the American Congress* (1823), Vol. IV, Appendix, pp. 16, 17.

The next sale was to John Cleves Symmes of New Jersey, to whom Congress on October 15, 1788, contracted to sell land situated on the Ohio River, between the Great and the Little Miami rivers.⁷

While Hamilton's plan contemplated similar sales of extensive districts of land to individuals or companies, it also included the sale of small quantities by the government to pioneers who should take actual possession and cultivate the soil. It seems to have been the sense of Congress that such a policy was more consistent with democracy. It placed the public lands directly within the reach of the great body of citizens, without passing through the hands of capitalists or speculators who, alone, could afford to finance large tracts of land.

On January 20, 1790, the day when the Secretary was instructed to prepare a plan for the disposal of the public lands, Mr. Roger Sherman of Connecticut said in the House of Representatives that "the unappropriated land in the Western Territory was a great fund of wealth, and which, if properly disposed of, might extinguish the national debt, and be peopled by a valuable class of citizens; but if, from a mistaken policy, it was thrown away upon foreign adventurers or speculators, the public would get nothing for it, as had been the case heretofore, in the sale of large districts, where the expenses attending the surveys, &c. left very little profit to the United States."⁸

Mr. Michael Stone of Maryland thought "that a land-office ought to be opened where every one could be accommodated." He had "no idea of giving preferences or enabling one man to make a better bargain than another."⁹

⁷ *United States Statutes at Large*, Vol. I, p. 266; *Journals of the American Congress* (1823), Vol. IV, Appendix, pp. 17, 18.

⁸ *Annals of Congress*, 2nd Session, 1st Congress, Vol. I, p. 1107. January 20, 1790.

⁹ *Annals of Congress*, 2nd Session, 1st Congress, Vol. I, p. 1107.

Mr. Elias Boudinot of New York was of the opinion "that the business of selling lands was of considerable consequence; if it was properly managed, it might be a productive source for the extinguishment of the national debt; but much depended upon the manner of setting out. If they went into a desultory mode of selling lands, they might do material injury." He wished a general and systematic plan might be adopted.¹⁰

Almost a year before this debate on the floor of the House, Mr. Thomas Scott of Pennsylvania had called the attention of Congress to the public land question in two speeches in which he prophesied a great future for the West and described at length its fertility and attractiveness.¹¹ He urged the claims of the actual settlers as against speculators. "There are, at this moment," he said, "a great number of people on the ground, who are willing to acquire by purchase a right to the soil they are seated upon. Alured by its fertility, the agreeableness of the climate, and the prospect of future ease to themselves and families, they would not seek a change. Kentucky, already full, at least there are no more valuable lands to be got there with a clear title, can receive no more emigrants: they therefore turn their wistful eyes upon the lands of the Union. They hope to get them of Congress upon as good terms as they can procure them of the speculators. What will these men think, who have placed themselves on a vacant spot, anxiously waiting its disposition by the Government, to find their pre-emption right engrossed by the purchaser of a million of acres?"¹²

Mr. Scott sympathized with the western emigrants to

¹⁰ *Annals of Congress*, 2nd Session, 1st Congress, Vol. I, p. 1106.

¹¹ *Annals of Congress*, 1st Session, 1st Congress, Vol. I, pp. 427-430, 646-654. May 28, 1789, July 13, 1789.

¹² *Annals of Congress*, 1st Session, 1st Congress, Vol. I, p. 428.

such an extent that he even threatened a hostile attitude toward the United States on their part, declaring that "There are seven thousand souls waiting for lands; they will have them here or elsewhere; but there is some danger, if they cannot be accommodated within the boundaries of the United States, they will do one of two things: either move into the Spanish territory, where they are not altogether uninvited, and become an accession of power to a foreign nation forming to us a dangerous frontier; or they will take this course, move on the United States' territory, and take possession without your leave. . . . But nevertheless they are willing to pay an equitable price for those lands; and, if they may be indulged with a pre-emption to the purchase, no men will be better friends to the Government."¹³ Mr. Scott earnestly hoped that the government would not embarrass the growth of the West by preventing none but "million acre purchasers" from acquiring lands in that territory.¹⁴

Mr. James Madison of Virginia considered the manner of disposal of the public domain to actual settlers to be business of great importance and he urged that early action be taken in reference thereto.¹⁵

Mr. Roger Sherman of Connecticut was of the opinion that it would be better to delay the decision of the disposal of the public lands. He disapproved of indiscriminate settling over all of the country according to the wish of the settlers. "I think it would tend to greater advantage, to settle the country gradually, in compact bodies, as the inhabitants can be spared from the other parts of the Union. . . . If men are to take out warrants, and lay them where they please, the settlers will break up the ground, and we

¹³ *Annals of Congress*, 1st Session, 1st Congress, Vol. I, p. 428.

¹⁴ *Annals of Congress*, 1st Session, 1st Congress, Vol. I, p. 432.

¹⁵ *Annals of Congress*, 1st Session, 1st Congress, Vol. I, p. 431.

shall be forced to sell after a while, for less money, because the lands will be picked and nothing but the refuse left; besides, people not knowing where others have located, may take up the same lots, and lay a foundation for eternal lawsuits and discontent."¹⁶ He advocated settling only by townships.

Mr. Sherman thought that the government should guard against speculation in western lands.¹⁷ It seems to have been the opinion of practically all the Representatives, no matter how different were their views concerning the details of the disposal of these lands, that the man of moderate means who wished to cultivate a small farm in the West should have due consideration as well as "million acre purchasers". It was the hope of the country at large that the western lands should prove a public fund to extinguish the national war debt, and the immediate sale of large tracts to capitalists seemed financially expedient. That Congress should have considered the convenience and welfare of the individual settlers shows a broad sympathy with the individualistic development of the West.

In spite of this early anti-speculation feeling it was not until 1796 that Congress passed a law providing for the sale of small quantities of land with the privilege of one year's credit.¹⁸ This law applied only to a district in the Northwest Territory. The debate upon this measure on the floor of the House was even more pronounced in favor of accommodating actual settlers than the previous debates upon this question. Said Robert Rutherford of Virginia in opening the debate: "This tract of country should be disposed of to real settlers, industrious, respectable persons, who are ready to pay a reasonable price for it, and

¹⁶ *Annals of Congress*, 1st Session, 1st Congress, Vol. I, p. 655.

¹⁷ *Annals of Congress*, 1st Session, 1st Congress, Vol. I, p. 655.

¹⁸ *United States Statutes at Large*, Vol. I, p. 464.

not sold to persons who have no other view than engrossing riches."¹⁹ He estimated that there were 150,000 families waiting to occupy this land.

Mr. Albert Gallatin, however, favored the sale of both small sections to farmers and larger tracts to moneyed men, in such a way as to redeem and extinguish the Federal debt within as short a period as possible;²⁰ and Mr. John Nicholas of New York thought that only capitalists would wish to buy land.²¹ But Mr. William Findley opposed the sale of land in large quantities. He favored the encouragement of small farmers. He wished "every man to have an opportunity of purchasing fifty or one hundred acres", and urged that the land be brought within the reach of the people.²² Several members were filled with the fear of land monopolization. Mr. Andrew Moore of Virginia desired that "every citizen who had a wish to purchase a part of this land should be accommodated."²³ Mr. John Williams of New York had especially in mind "the lower classes of the people".²⁴ Mr. Jeremiah Crabb of Maryland proclaimed that every man has a right in the public lands, still he approved of both the wholesale and retail plans of sale.²⁵

Mr. John E. Van Allen of New York argued for the sale of only small lots saying, that the offering on the market of large tracts was "replete with such evident advantages to that part of the wealthy class of citizens whom they had been in the habit of styling speculators", and he hoped

¹⁹ *Annals of Congress*, 1st Session, 4th Congress, p. 329. February 15, 1796.

²⁰ *Annals of Congress*, 1st Session, 4th Congress, pp. 408-409. March 3, 1796.

²¹ *Annals of Congress*, 1st Session, 4th Congress, pp. 336-337. February 16, 1796.

²² *Annals of Congress*, 1st Session, 4th Congress, p. 339. February 17, 1796.

²³ *Annals of Congress*, 1st Session, 4th Congress, p. 341.

²⁴ *Annals of Congress*, 1st Session, 4th Congress, p. 346. February 18, 1796.

²⁵ *Annals of Congress*, 1st Session, 4th Congress, p. 348.

“that, if ever any discrimination between different classes of citizens should be thought proper, the poorer and middle class would not be considered the least deserving the care and attention of [the] Government.”²⁶ Mr. Findley was of the opinion that the emigrants to the West were all of the poorer classes.²⁷

Mr. Gallatin in one of several speeches said: “If the cause of the happiness of this country was examined into it would be found to arise as much from the great plenty of land in proportion to the inhabitants, which their citizens enjoyed, as from the wisdom of their political institutions. It is, in fact because the poor man has been able always to obtain his portion of land. And it was perfectly immaterial to them whether a man was happy in New Jersey or upon the Western Territory, it was their duty to do all in their power to promote the general happiness of the whole country.”²⁸ Mr. Madison said he was not surprised to hear different opinions on this question according to the different States from which the members came. He was not in favor of placing on the market a greater quantity of land than could be settled.²⁹

On April 6, 1796, a bill passed the House, providing for the sale of land in tracts of different sizes, the smallest of which was 160 acres, at two dollars per acre.³⁰ However, in the Senate this House bill was considerably amended, and later it was further altered in the House.³¹

²⁶ *Annals of Congress*, 1st Session, 4th Congress, pp. 865, 866. April 5, 1796.

²⁷ *Annals of Congress*, 1st Session, 4th Congress, p. 343. February 17, 1796.

²⁸ *Annals of Congress*, 1st Session, 4th Congress, p. 411. March 3, 1796. Compare Henry Adams's *Life of Albert Gallatin*, p. 167.

²⁹ *Annals of Congress*, 1st Session, 4th Congress, p. 414.

³⁰ *Journal of the House of Representatives* (1826), Vol. II, p. 497.

³¹ *Journal of the Senate* (1820), Vol. II, pp. 248, 251; *Journal of the House of Representatives* (1826), Vol. II, p. 550; *Annals of Congress*, 1st Session, 4th Congress, p. 1340.

Notwithstanding the many late expressions in favor of the poorer class of western pioneers the bill as finally passed made no provision for the sale of smaller lots than 640 acres of land, while it provided also for the sale of quarter townships in single tracts. An amendment to reinsert the clause authorizing the sale of as small lots as 160 acres was voted down by a vote of thirty-one for it and thirty-three against it. Although this act did not authorize the sale of the smallest divisions desired, yet it may be considered for the time very favorable to the actual settlers of the West.

In the year 1800 Mr. William Henry Harrison, Delegate from the Northwest Territory, reported from a select committee on public lands a bill amendatory to the act of 1796.³² This bill made provision for the establishment of four land offices in the Northwest, authorized the sale of as small tracts of land as a half section, and granted credit to purchasers by permitting the purchase price to be paid in four yearly installments. Albert Gallatin and Robert Goodloe Harper of South Carolina were warm supporters of this bill — indeed, Gallatin was probably its author.³³ It was deemed a measure that would prevent speculators receiving the advantages resulting from offering the lands for sale in large quantities, and that it would encourage settlement by families of poor or moderate means because of offering smaller tracts and extension of payment. The bill passed both houses and became a law on May 10, 1800.³⁴ Unfortunately the debates upon this public measure which introduced the credit system of land sales were never fully reported. Mr. Roger Griswold of Connecticut led the un-

³² *Annals of Congress*, 1st Session, 6th Congress, p. 625. March 14, 1800.

³³ *Annals of Congress*, 1st Session, 6th Congress, p. 651. March 31, 1800.

³⁴ *Annals of Congress*, 1st Session, 6th Congress, pp. 652, 701, 165, 174; *United States Statutes at Large*, Vol. II, p. 73.

successful opposition to the bill, claiming that it would produce great expense in surveying and would encourage intruders upon the public domain.³⁵

There was strong sentiment in the East opposed to the rage for western migration. In 1787 George Mason of Virginia wrote: "If it were possible by just means to prevent emigration to the western country, it might be good policy". And Mr. Madison declared in the House of Representatives some years later that he was not in favor of encouraging migration to the West, nor would he on the other hand throw obstacles in its way.³⁶ Men of property

³⁵ *Annals of Congress*, 1st Session, 5th Congress, p. 651. March 31, 1800.

The chief source of debates in Congress from 1789 to 1824 is the *Annals of Congress*. The first two volumes of this publication were compiled by Joseph Gales and published by the firm of Gales and Seaton in 1834 — forty-five years after the organization of the First Congress. The remaining forty volumes were published between 1849 and 1856. During the period covered by the *Annals* no official clerks were employed by Congress to report debates, although newspaper representatives were admitted to its legislative sittings. The debates in the House, printed in the *Annals* from 1789 to March 8, 1790, are but reprints from the reports of Mr. Thomas Lloyd's *Congressional Register* (New York, 1790, 4 volumes). In compiling the debates from March, 1790, to May, 1800, Mr. Joseph Gales obtained his account from the reports in the newspapers of Philadelphia and New York, and from a collection of debates during March and April of 1796, published by Bache (Philadelphia, 1796). For the debates after May, 1800, Mr. Gales depended almost exclusively upon the reports from the *National Intelligencer* — established in October, 1800. This newspaper acquired an enviable reputation at the time for the accuracy and fairness of its reports, although these were by no means complete, being largely but abridgments of debates.

The accounts of Senate discussions during the early days of the government are meagre in the extreme. The *Annals* contain practically only copies of the proceedings as recorded in the *Journal of the Senate*. The reason for this unfortunate loss of the substance of the Senate debates, is that until the second session of the third Congress, the Senate permitted no visitors to attend either its legislative or its executive sittings. At the second session of the third Congress, the Senate permitted the galleries to remain open during such time as the Senate should be sitting in its legislative capacity, unless otherwise ordered. However, the Senate debates for the first two decades were never as fully reported as those in the lower house.

³⁶ *Annals of Congress*, 1st Session, 4th Congress, p. 415. March 3, 1796.

Madison, however, expressed a different view in an article depicting the bless-

in the old settled States looked with great apprehension at the withdrawal of labor from their localities.

Senator William Maclay of Pennsylvania wrote in his *Journal* during the second session of the First Congress these words:—"March 25th.—The Speaker told me last night that Mr. Clymer wished to see us this morning at his lodgings. As I always embrace the smallest hint to meet the [Pennsylvania] delegation, I was early ready. . . Found Scott . . . at the door. I asked what had happened. Scott, with a great laugh, said Clymer had read them a letter to the Speaker, and was dreadfully afraid all the people would fly to the Western world. I replied, 'Scott, I told you some time ago that this would happen if you taxed the Atlantic States too high, and you gave me a great Monongahela laugh in answer.' 'Aye', says he, 'and I will give you many more.' I went upstairs, and had a letter of Clymer's composing put into my hands; the amount of it was that every man was worth two hundred pounds sterling; that every man that went to the Western country was lost to the United States, and therefore every tract of land we sold to a settler would be attended with the loss of a man or his equivalent, two hundred pounds sterling, deducting the trifle the United States would get for the land.

"All this fine reason falls dead to the ground should it appear that the man is not lost to the United States. . . . Clymer came in, and said on the principle of that letter he would vote against paying any of the public debt with back lands."³⁷

And yet this same Senator Maclay, who highly approved
ings of emigration which appeared in Freneau's *National Gazette*, Vol. I, November 21, 1791.

³⁷ *Journal of William Maclay* (1890), pp. 223, 224. Those referred to in this diary of Maclay are: Frederick Augustus Muhlenberg of Pennsylvania, Speaker of the House; George Clymer and Thomas Scott, Representatives from Pennsylvania.

of the westward expansion, complained to Robert Morris, his colleague in the Senate, when he proposed a joint speculation in vacant Pennsylvania lands, saying: "Such is the rage of migrations that lands with all the advantages of soil and climate, in the bosom of society are neglected for fancied elysiums in Yazoo or Kentucky."³⁸ Representative Scott assured New England members that in no event would the depopulation of the Atlantic States take place.³⁹ "Whilst the desire of emigration continues," he said, "and lands are to be procured, settlers will find their way into that territory." And what if it did result in depopulating these States? Westward migration was inevitable.

After the first decade of national life this fear of depopulation found a different outlet of expression (on the part of some eastern members) in denouncing the expenditure of Federal funds on internal improvements in western States. The drain of western migration upon the Atlantic States was too largely hidden by great increases in their own population and wealth to become a prolonged or serious question.

It was on March 3, 1791, that the first of a long series of acts confirming lands in the possession of certain settlers—mostly French—at Vincennes and in the Illinois country⁴⁰ was passed, thus fulfilling a moral obligation, which, however, was never imposed by any treaty.⁴¹ Similar grants were made following the purchases of Louisiana and Florida.⁴² The great avalanche of private land claims and petitions following each of these accessions

³⁸ *Journal of William Maclay* (1890), pp. 218, 219.

³⁹ *Annals of Congress*, 1st Session, p. 648. July 13, 1789.

⁴⁰ *United States Statutes at Large*, Vol. I, p. 221.

⁴¹ See *United States Statutes at Large: European Treaties*, Vol. VIII, p. 84.

⁴² March 2, 1805.—*United States Statutes at Large*, Vol. II, p. 324. May 8, 1822.—*United States Statutes at Large*, Vol. III, p. 709.

of territory was accorded a generous treatment by Congress, although as a rule the claims were adjusted by commissioners authorized by Congress, or in the courts. There were some private claims which were, however, pressed persistently upon the attention of Congress. Such were the famous Yazoo claims.

It seems that the legislature of the State of Georgia had in 1795 granted some thirty-five million acres of land for \$500,000, a price of less than one and one-half cents an acre, to four companies.⁴³ The grant comprised a large part of the present States of Alabama and Mississippi. Georgia's claim to this region, however, was insufficient, since it conflicted with claims both by Spain and by the United States.⁴⁴ The four land companies sold stock and tracts of their new possessions extensively, especially in New England. Moreover, in 1796 the new State legislature rescinded the action of its predecessor on the grounds of corrupt influence in obtaining the passage of the act making the grant.⁴⁵ Many Federal as well as State officials became involved in the matter, and the complication which followed was carried to Congress.

On April 24, 1802, Georgia ceded her claims to this region to the United States.⁴⁶ Then followed in Congress a series of attempts, backed by Madison and northern politicians, to effect a compromise by which all innocent purchasers from the original companies should be protected in their claims. John Randolph of Virginia led the fight which bitterly opposed this measure and delayed action for a long period of time. In March, 1804, he made vehement speeches sanctioning the Georgia rescinding act of 1796. He called

⁴³ *American State Papers, Public Lands*, Vol. I, pp. 152-155.

⁴⁴ *American State Papers, Public Lands*, Vol. I, p. 132.

⁴⁵ *American State Papers, Public Lands*, Vol. I, pp. 156-158.

⁴⁶ *American State Papers, Public Lands*, Vol. I, p. 125.

the granting act a desperate and wicked measure, and termed the four grantee companies a "band of land adventurers" and a "ravenous pack of speculators".⁴⁷ After a spirited struggle in the House, which was almost equally divided, Randolph, by carrying a vote of postponement, succeeded in defeating action on the proposed bill.⁴⁸

In the next session of Congress the Yazoo claims were again presented and opposition became frantic. Randolph loudly denounced "the stupendous villany" of 1795 and the several land companies.⁴⁹ His bitterness was directed especially against the New England Mississippi Land Company that was organized by eastern purchasers of these ill fated land grants. "Millions of acres", he said, "are easily digested by such stomachs. Goaded by avarice, they buy only to sell, and sell only to buy. The retail trade of fraud and imposture yields too small and slow a profit to gratify their cupidity. They buy and sell corruption in the gross, and a few millions, more or less, is hardly felt in the account."⁵⁰

Many members like Mr. Joseph Clay of Pennsylvania doubted the policy of compromising with speculators who claimed to be innocent purchasers.⁵¹ Mr. John G. Jackson of Virginia, however, contended in a speech, probably written by James Madison, that a grant by a State legislature could not be rescinded and that the present claimants who purchased without knowledge of the corruption of the legislature should be given liberal consideration.⁵² After

⁴⁷ *Annals of Congress*, 1st Session, 8th Congress, p. 1141.

⁴⁸ *Annals of Congress*, 1st Session, 8th Congress, p. 1170. March 12, 1804.

⁴⁹ *Annals of Congress*, 2nd Session, 8th Congress, p. 1026. January 29, 1805.

⁵⁰ *Annals of Congress*, 2nd Session, 8th Congress, p. 1031.

⁵¹ *Annals of Congress*, 2nd Session, 8th Congress, p. 1126. February 1, 1805.

⁵² *Annals of Congress*, 2nd Session, 8th Congress, pp. 1064-1080. January 31, 1805.

another sharp debate, in which acridity of expression was by no means confined to John Randolph, the bill was again postponed, but by a bare majority for the New England members were almost solidly for it.⁵³

The Yazoo claims remained an open and irritating question for nearly ten years. The claims came before the Supreme Court in 1809; and in the year following Chief Justice Marshall delivered an opinion favorable to the claimants, in which he held that a State legislature is not vested with the power to annul the rights which it has granted to an individual by a law in its nature a contract.⁵⁴ The settlers on the lands in the Mississippi Territory, meanwhile, constantly petitioned Congress for an equitable settlement. The defeat of John Randolph as a leader in the House removed a great stumbling-block to the measure.

In February, 1813, Mr. John A. Harper of New Hampshire delivered a speech on the justice due to the innocent and suffering settlers who had purchased land from the speculators,⁵⁵ but on the motion of Henry Clay the subject was laid over for the next session.⁵⁶ In the next regular session of Congress Mr. Lattimore, Delegate from the Mississippi Territory, showed that these unfortunate Yazoo complexities had retarded the settlement of his Territory.⁵⁷ Congressional opinion appears to have been at this time very generous. The Senate passed a bill on February 28, 1814, and the House on March 26, providing for the indemnification of the Yazoo claimants.⁵⁸

⁵³ *Journal of the House of Representatives* (1826), Vol. V, p. 117.

⁵⁴ *Fletcher vs. Peck*, 6 Cranch, 87.

⁵⁵ *Annals of Congress*, 2nd Session, 12th Congress, p. 1066. February 15, 1813.

⁵⁶ *Annals of Congress*, 2nd Session, 12th Congress, p. 1073.

⁵⁷ *Annals of Congress*, 2nd Session, 13th Congress, p. 1902. March 24, 1814.

⁵⁸ *Annals of Congress*, 1st Session, 13th Congress, pp. 643, 1925; *United States Statutes at Large*, Vol. III, p. 116.

Before this date Congress had begun to drift into a policy of dealing very liberally with the purchasers of small tracts of public lands. When the law of May 18, 1796, was under discussion for amendment in the House, Albert Gallatin, supported by other Representatives of the Middle States, attempted to insert in the bill a provision for the payment of the purchase price in four yearly installments.⁵⁹ This proposition was advanced more to encourage moneyed men to invest than as a convenience to poor settlers. The insertion, nevertheless, was strongly opposed. It was said that "it was probable that nothing more would be received of the purchasers than the first deposit, if so long a credit was given; that it would create a host of enemies to the Government; that when the time of payment came, instead of money, they should have petitions sent in for a prolonging of the time of payment; they would, therefore, rather prefer a lowering of the price than an extension of credit."⁶⁰

The question came up again in 1800, and a bill, becoming a law on May 10, 1800, contained the provision already noted — namely, four years credit on the installment plan.⁶¹ This law also provided that the purchase price might be paid either in specie or in evidences of the public debt. In 1806 Congress passed an act declining to receive evidences of public debt in payment for public land after April 30, 1806, saving all rights under previous acts.⁶² This then required all payments to be in specie.

During the years immediately following the passage of this act, although not directly resulting from it, there came a flood of memorials, private petitions, and Territorial legislative resolutions praying Congress for relief. The credit

⁵⁹ *Annals of Congress*, 2nd Session, 4th Congress, p. 2209. February 20, 1797.

⁶⁰ *Annals of Congress*, 2nd Session, 4th Congress, pp. 2209, 2210.

⁶¹ See pp. 15, 16, above.

⁶² *United States Statutes at Large*, Vol. II, p. 405.

system once inaugurated was hard to check. On March 2, 1809, Congress passed an act which extended for two years the time of payment of purchase money due.⁶³ Such liberality aroused the most extravagant demands, and the presentation of relief bills was a regular occurrence in subsequent sessions.

When in the next session (April, 1810) such a bill from the Senate was ordered for a third reading in the House, Mr. William A. Burwell of Virginia opposed its passage, declaring that the public lands were a "source of revenue to the United States, and the House ought to be extremely careful how they embodied in the Western country, a set of men who would wrest the fee simple from the United States."⁶⁴ There seems to have been a vague fear in the East that nothing but the most grave dangers to the Union could arise from allowing a large number of western settlers to become indebted to the general government. Mr. Burwell gravely predicted that if their debts to the government increased ambitious men would not be wanting to remind them of it, and to devise means of freeing themselves.

Mr. Peter B. Porter of New York called these debtor settlers "a species of enemy" to the government. "And we have already seen", he said, "to what a formidable extent their power and numbers are increasing."⁶⁵ Later he qualified his remarks by adding: "It is far from my intention, sir, to cast any injurious imputations on the character of these settlers."

A Tennessee member thought the laws granting extension of time a great injury even to the people themselves, who would soon demand the forgiving of all debts. "As

⁶³ *United States Statutes at Large*, Vol. II, p. 533.

⁶⁴ *Annals of Congress*, 2nd Session, 11th Congress, p. 1999. April 27, 1810.

⁶⁵ *Annals of Congress*, 2nd Session, 11th Congress, p. 1399. February 8, 1810.

you increase your sales," he said, "you will increase your enemies".⁶⁶

Mr. John G. Jackson of Virginia was strongly in favor of the bill. He argued that the settlers had no market in which to sell their produce and thus obtain money to pay their installments. With reference to these settlers he said: "There is no people in any part of the country more disposed to obey the laws of the Union. They will submit to their lands being sold, though to their utter ruin, because they are not able to pay for the land which they purchased in a state of nature. They will not resist the laws, though thousands should be turned from their property".⁶⁷

Mr. John Smilie appealed to the sympathy of the House: "Could this House, unmoved, witness the distress of families driven from their homes; of families which had travelled through the wilderness, and spent four or five years in changing the state of their plantations from wilderness to cultivation? If they were now to be ousted from their plantations and turned adrift on the world, they would be rendered desperate and, to some measure, useless to society."⁶⁸

Mr. Richard M. Johnson prayed indulgence for these men who, he said, possessed nothing but enterprise and their little farms for which they had paid to the government their last shilling and had improved by their own labor.⁶⁹

The bill had passed the Senate on March 30, 1810.⁷⁰ On April 27 the House passed it by a vote of sixty-eight to twenty-five.⁷¹ Indulgence once having been granted, there

⁶⁶ *Annals of Congress*, 2nd Session, 11th Congress, p. 2002. April 27, 1810.

⁶⁷ *Annals of Congress*, 2nd Session, 11th Congress, p. 2004.

⁶⁸ *Annals of Congress*, 2nd Session, 11th Congress, p. 2005.

⁶⁹ *Annals of Congress*, 2nd Session, 11th Congress, p. 2001.

⁷⁰ *Journal of the Senate* (1820), Vol. IV, p. 472.

⁷¹ *Journal of the House of Representatives* (1826), Vol. VII, p. 403.

was no end to the persistent demands on Congress, by later purchasers, for similar indulgence, and in response to this clamor there were passed by Congress, in the course of the following fifteen years, no less than sixteen bills for relief.⁷² Said a Kentucky member in the course of debate upon one of these bills: "Will Congress hesitate one moment, at this session, to do what they did at the last?"⁷³

During the period of national prosperity immediately following the War of 1812 the rush of western migration increased to a very great extent and excited in the West a fever of speculation, resulting in extravagant investments. The receipts of the land office rose from \$710,000 in 1812 to \$3,274,000 in 1819.⁷⁴ Settlers bought land, many of them paying all they had on the first installment and expecting the sale of the produce from the land to bring in enough money to meet the future payments. Lands were extensively mortgaged — even uncultivated lands. Specie in the West was very scarce, and to meet the demands of trade and speculation an unwholesomely rapid growth in western banks appeared. The young State of Kentucky with its fifty-nine banks in 1818 had actually fifteen more banks than the wealthy State of New York. Ohio and western Pennsylvania showed the same condition.⁷⁵ Although these banks were notoriously unsafe institutions, their discounted bills of credit furnished the greater part of the currency of the western country.

⁷² *United States Statutes at Large*, Vol. II, pp. 668, 712, 782, 811; Vol. III, pp. 97, 130, 201, 300, 433, 509, 555, 612, 665, 781; and Vol. IV, pp. 24, 60.

⁷³ *Annals of Congress*, 2nd Session, 11th Congress, p. 2001.

⁷⁴ Thomas Donaldson's *The Public Domain*, House Document 47, Part 4, 3rd Session, 46th Congress, p. 17.

⁷⁵ McMaster's *A History of the People of the United States*, Vol. IV, p. 485; Gallatin's *Considerations on the Currency and Banking System of the United States* in *The Writings of Albert Gallatin* (Philadelphia, 1879), Vol. III, pp. 360-362.

Due to lack of markets and suitable transportation thousands of families who had made their first payments on entered land were bitterly disappointed in their expectations to meet the unpaid installments. And being further embarrassed by the financial crisis of 1819, when the western banks collapsed and the currency was greatly reduced, these people were hard pressed. Unable to meet their obligations at the land office, they were obliged according to their contract with the government to forfeit their claims unless relieved by special act of Congress.

As already noted, Congress had gotten into the habit of passing special acts of relief; but at the session of Congress which met in December, 1819, there appeared some opposition to this system of indulgence, notwithstanding the evident distress of the disappointed settlers. On January 27, 1820, the memorial of the legislature of the State of Ohio, praying for the relief of purchasers of public lands, was presented.⁷⁶ A bill granting the desired relief passed both houses without extended debate and became a law on March 30, 1820.⁷⁷ The opposition to this policy of indulgences and, in fact, to the whole credit system was given expression in the debate over a bill reported during the session to reorganize the manner of disposing of the public domain.

Senator John W. Walker admitted that the system of indulgence had so long been in operation "that purchasers might be supposed to have bought under the expectation that it was to be continued", and he said he was informed "that lands were yet unpaid for, which were purchased at the early sales in the State of Ohio, which took place twenty years ago".⁷⁸

Rufus King of New York stated that the debts due to the

⁷⁶ *Annals of Congress*, 1st Session, 16th Congress, p. 275.

⁷⁷ *United States Statutes at Large*, Vol. III, p. 555.

⁷⁸ *Annals of Congress*, 1st Session, 16th Congress, p. 445. February 24, 1820.

United States for lands sold now amounted to twenty-two million dollars; and the evil thereof, he said, constantly increased. He invited the Senate to consider the grave danger to the Union in allowing so large a part of her citizens to become her debtors.⁷⁹

An amendment proposed in the Senate to grant a rebate to purchasers of public lands who forfeited their claims after making one payment was voted down by the decided vote of eight yeas and twenty-nine nays.⁸⁰ Senator Ninian Edwards of Illinois declared himself much in favor of the credit system, and he considered it as promoting the rapid settlement of the West.⁸¹ Senator King urged reducing the price of lands from \$2 per acre to \$1.25, offering to settlers tracts as small as eighty acres, so that the poorest could be accommodated. Having made these concessions he was in favor of abandoning the credit system and of selling in the future only for cash.⁸² A bill embodying these features passed the Senate, thirty-one votes being cast for it and seven against it.⁸³

The Senate's bill, declared Mr. George Robertson of Kentucky on the floor of the House, is "as perfect as the experience of twenty years and the circumstances of the times and the country would enable Congress to make". "A bill", he continued, "had been engrossed this morning, extending the indulgence one year longer; and it was obvious that a similar law must pass at the next session, and for many consecutive years, or the debtors for the public lands must be subjected to great distress, and many of them to ruin."⁸⁴

⁷⁹ *Annals of Congress*, 1st Session, 16th Congress, p. 447.

⁸⁰ *Annals of Congress*, 1st Session, 16th Congress, p. 482. March 8, 1820.

⁸¹ *Annals of Congress*, 1st Session, 16th Congress, p. 482.

⁸² *Annals of Congress*, 1st Session, 16th Congress, pp. 485, 486.

⁸³ *Annals of Congress*, 1st Session, 16th Congress, p. 490. March 9, 1820.

⁸⁴ *Annals of Congress*, 1st Session, 16th Congress, pp. 1867, 1869. April 18, 1820.

He thought it unreasonable to expect that "a man who should be able to pay only the first installment for a tract of land, could transplant himself and family in the Western wilds, open a farm, build his houses, support his family, and be able in four years to save, by the cultivation of the soil, as much as would pay the remaining three-fourths of the consideration. Under the most auspicious circumstances, some of the purchasers must unavoidably become delinquent. But if misfortune or calamity should fall on the public debtor, or the currency should be deranged, or the seasons unpropitious, or the market for agricultural products dull or unprofitable, how could the debt be punctually discharged?"

Robertson finished his earnest speech by declaring that the West should attempt to extricate itself from debt, "confine its expenditures within its actual means, and make its citizens independent cultivators of the soil, and not the tenants of the speculator or the Government". "The cash system . . . would tend to these wholesome results, by distributing the lands in small tracts among the people for their own use, and by frustrating speculation, and preventing monopolies."

Mr. John Sloan assured the House that there was no danger of a dissolution of the Union from allowing the western people to purchase lands on credit. "I trust I know that people too well", he said, "to give in to such an opinion. . . . I have seen one of the most important States in this Union grow up suddenly from the wilderness, under the influence of this [credit] system; yet I cannot but feel myself impressed by the strong prejudice that appears to prevail against it. I am well aware that it is believed that the Western people have enjoyed peculiar favors, and that great speculations have been made at the public expense. But let me assure you, sir, that this is not the case, there is but a small inducement to speculation in public lands; the

Government is too large a landholder for any one to come in competition with it. Sir, it is the industry of the Western people which has led to any degree of prosperity which they may be supposed to enjoy. I regret extremely that the Western people should be considered as wishing to live by the bounty of the General Government.”⁸⁵

Mr. Alney McLean thought that the credit system should be continued. “Gentlemen are not aware”, he said, “of the many difficulties which attend moving to, and settling a new country. The expense of traveling is considerable; and a whole year’s provisions has to be laid in, and generally at a high price; when this is done, the poor man’s funds are exhausted, and he has nothing left to purchase even a half of a quarter section of land.”⁸⁶

When it came to a vote the Senate bill for abolishing the credit system, reducing the price of land, and providing for the sale of conveniently small tracts passed the House by a vote of one hundred and thirty-three to twenty-three.⁸⁷ The opposition to this bill had come mainly from a certain few western members — twelve in number.

During the following summer the financial stringency, precipitated in 1819, continued to oppress the West, and the condition of settlers who had purchased land under the credit system became so distressing that President Monroe, in his message to Congress in November, 1820, called attention to the fact that \$22,996,545 was still due to the Treasury for the sale of public lands, and he submitted the advisability of granting a reasonable extension of payment, remarking that “It is known that the purchases were made when the price of every article had risen to its greatest

⁸⁵ *Annals of Congress*, 1st Session, 16th Congress, pp. 1890, 1892. April 19, 1820.

⁸⁶ *Annals of Congress*, 1st Session, 16th Congress, p. 1894.

⁸⁷ *Annals of Congress*, 1st Session, 16th Congress, p. 1901.

height, and that the installments are becoming due at a period of great depression." ⁸⁸

The usual bill of relief was framed in the Senate.⁸⁹ When it was taken up in committee of the whole House, Senator Jesse B. Thomas of Illinois described at length the frenzy of speculation which seized the West in 1817 and 1818.⁹⁰ Banks located in the wilderness, he explained, with no other purpose than that of furnishing facilities to the purchasers of public lands, had issued such a quantity of paper money that settlers were tempted to contract beyond their means. Prices fell; the banks failed. Now the poverty of these settlers would disable them from prompt payment. His colleague, Senator Ninian Edwards, also pictured the due effects of the land mania upon his constituents in Illinois.⁹¹ But, he argued, the western people are brave and patriotic. Would the government punish for so slight an indiscretion, these brave and patriotic defenders of our frontiers, by refusing to grant them indulgence? These Senators were as frank in stating the cause of the recent distress as was the memorial of the legislature of Kentucky which was communicated to the Senate on January 20, 1820, and read in part as follows:

Whereas many of the citizens of this Commonwealth, allured by the prospect of increasing their wealth, or procuring a more desirable home for themselves or their posterity, which the uninterrupted growth of the Western country presented to activity and enterprise, became purchasers of the public lands of the United States, under a well-founded confidence that the earnings of honest labor, the profits of fair trade, or the sale of their other property, would speedily enable them to fulfil their engagements to the public: Whereas the unexpected depression in the price of labor and of

⁸⁸ Richardson's *Messages and Papers of the Presidents*, Vol. II, p. 78.

⁸⁹ *Annals of Congress*, 2nd Session, 16th Congress, p. 133. December 28, 1820.

⁹⁰ *Annals of Congress*, 2nd Session, 16th Congress, p. 156. January 11, 1821.

⁹¹ *Annals of Congress*, 2nd Session, 16th Congress, p. 161.

property, the stagnation of trade, and the derangement of the local currency in the Western States, rendering it unfit for the payment of dues at the several land offices, have darkened the fairest prospects, deprived the public debtors of their power to fulfil engagements made in good faith, and thrown upon them and their country an accumulated load of debt and distress.⁹²

When the House resolved itself into a committee of the whole for the consideration of the Senate bill for relief, Mr. Robert Allen of Tennessee appeared strongly opposed to it. "If the people learn that debts can be paid with petitions and fair stories," he said, "you will soon have your table crowded. The next application will be from those who have completed their payments."⁹³ Mr. Allen declared that he did "not believe that many of the actual settlers on tracts purchased alone for cultivation are going to forfeit their lands, notwithstanding all we have heard said. They have carefully laid up every dollar that they have been able to lay their hands on since the purchase; the sum lacking they can procure at a trifling sacrifice, which they are content to make. The land forfeited will be by the speculator, whose only dependence was on making sales to meet the purchase money. If he has been disappointed, has he any right to call upon the whole community to bear his loss?"

On the other hand, Mr. Silas Wood of New York thought that the government should be liberal with the westerners. It appeared to him "that it was better to *settle* than to *sell* the public lands."⁹⁴ Mr. Thomas Metcalfe of Kentucky said that he rejoiced to see on the part of Congress "a disposition prevailing to pass an act of general amnesty and relief to those individuals who had been beguiled into error

⁹² *Annals of Congress*, 2nd Session, 16th Congress, p. 212.

⁹³ *Annals of Congress*, 2nd Session, 16th Congress, p. 1187. February 19, 1821.

⁹⁴ *Annals of Congress*, 2nd Session, 16th Congress, p. 1229. February 26, 1821.

by the injudicious and impolitic movements of the Government", and he hoped that it might be done "without detriment to the public interest."⁹⁵

The bill became a law on the second of March, 1821.⁹⁶ It was one of the series of acts passed by Congress evidently with an earnest regard for the welfare of the West — which, nevertheless, spread over the Middle West a disastrous system of land credit.

Before dismissing the congressional land policy for this period, note should be made of the early attitude toward "squatters" upon the public domain. In 1796 a committee of the House, to whom were referred the petitions of sundry persons in the Northwest Territory claiming preëmption rights on the ground of alleged settlement and improvement of public lands, reported that such petitions ought not to be granted "inasmuch as illegal settlements on the lands of the United States ought not to be encouraged".⁹⁷

More drastic action was taken in 1807 when after four sessions of desultory and long interrupted discussion of this question a bill passed the Senate to prevent settlements from being made on lands ceded to the United States, save the claimants under the Treaty of the Purchase of Louisiana.⁹⁸ The bill provided that the President should be authorized to remove such intruders, employing for that purpose if necessary the military force, and that the forfeitures should enure to the benefit of the United States. Provision was made also that actual settlers upon the public domain who had taken possession previously might hold their claims until they were opened for sale, providing they

⁹⁵ *Annals of Congress*, 2nd Session, 16th Congress, p. 1229.

⁹⁶ *United States Statutes at Large*, Vol. III, p. 612.

⁹⁷ *Journal of the House of Representatives* (1826), Vol. II, p. 553; *American State Papers, Public Lands*, Vol. I, p. 68.

⁹⁸ *Annals of Congress*, 2nd Session, 9th Congress, p. 66. February 11, 1807.

received permission to do so from the land office of the district.

In the House, Mr. Josiah Quincy of Massachusetts objected to the bill on constitutional grounds.⁹⁹ Mr. Gideon Olin of Vermont believed no man would charge him with a design to cover certain fraudulent claims; but he trusted the principle contained in this bill would not be sanctioned. "They were not a judicial body; and had not a right to take the ground assumed in the bill."¹⁰⁰ But the trend of opinion was decidedly for some action. Said Mr. Andrew Gregg of Pennsylvania: "It must be known to every one that almost innumerable persons had settled down on the public lands without meaning to pay for them."¹⁰¹ And Mr. David R. Williams, referring to Mr. Quincy, said that "The gentleman from Massachusetts had observed there were not many intruders on the public lands, but surely he could not have read the papers even of his capital, or he must have recollected a proposition made in them to raise and march ten thousand men to take possession of the public lands. Would he in the face of such a fact say there was no danger?"¹⁰² Mr. John W. Eppes of Virginia declared: "I consider this House as much bound to protect the public land as the public money, and we shall not deserve the public confidence if we do not guard the one as effectually as the other."¹⁰³ John Randolph deprecated allowing settlers to bully the government out of its land.¹⁰⁴

The bill was passed on March 3, 1807, and remained with full effect upon the statute books of the United States

⁹⁹ *Annals of Congress*, 2nd Session, 9th Congress, p. 664. March 2, 1807.

¹⁰⁰ *Annals of Congress*, 2nd Session, 9th Congress, p. 665.

¹⁰¹ *Annals of Congress*, 2nd Session, 9th Congress, p. 665.

¹⁰² *Annals of Congress*, 2nd Session, 9th Congress, p. 666.

¹⁰³ *Annals of Congress*, 2nd Session, 9th Congress, p. 679.

¹⁰⁴ *Annals of Congress*, 2nd Session, 9th Congress, p. 677.

until the passage of the first general preëmption act of 1841, having, indeed, been revived by Congress in 1833 with special reference to the Iowa country west of the Mississippi.¹⁰⁵

II

TERRITORIAL GOVERNMENT IN THE WEST

The Ordinance for the Government of the Territory northwest of the river Ohio was an inheritance from the old Confederation which so highly met the approval of Congress that in the first session under the Constitution it was reënacted as Federal law,¹⁰⁶ and in the second session it was made the organic act of the Southwest Territory.¹⁰⁷ The view of Congress in respect to the western pioneers as reflected in the Ordinance may be expressed in a single sentence: they were colonists to be protected and governed by the general government.

During the first session of Congress in the spring of 1789 there seems to have been some opposition to the general government asserting jurisdiction over any part of the western country. George Clymer, a Representative from Pennsylvania, consistently opposed measures dealing with the government or the development of the West.¹⁰⁸ The debates upon these questions were never fully reported;¹⁰⁹ but such opposition can not have been serious nor long maintained. Indeed, it pertained chiefly to the days of the

¹⁰⁵ *United States Statutes at Large*, Vol. II, p. 445.

January 9, 1811, the Secretary of the Treasury reported to the House of Representatives that settlers on the public domain previous to the passage of the act had generally complied with its requirements by applying to the immediate land offices for permission to retain possession of their claims.—*American State Papers, Public Lands*, Vol. II, p. 209.

¹⁰⁶ *United States Statutes at Large*, Vol. I, p. 50.

¹⁰⁷ *United States Statutes at Large*, Vol. I, p. 123.

¹⁰⁸ *Journal of William Maclay* (1890), p. 223.

¹⁰⁹ Compare p. 16, note 35, above.

Confederation, before active threats of secession in the Kentucky country dispelled the indifference in the northern States, and when Gardoqui's proposal that the Mississippi be abandoned for twenty-five years by the United States in recompense for a commercial treaty with Spain came near acceptance.¹¹⁰

Under the act of February 4, 1791, Kentucky was admitted into the Union.¹¹¹ In 1795 and 1796 the inhabitants of the Southwest Territory, under the leadership of Governor William Blount, took a census, formed a State government, adopted a Constitution, and applied for admission into the Union.¹¹² To the granting of this petition considerable opposition appeared in the House from the Federalist party — especially from its northern members, who claimed that the people of the Territory were not authorized to erect a State government without instructions from Congress. It was charged that the census (showing a population over sixty thousand) had been irregularly if not fraudulently taken. To these members the independent action of the frontiersmen was somewhat irritating and they considered it entirely extra-legal.

The Speaker of the House (Jonathan Dayton of New Jersey) declared that he would never give his "consent to any proposition which expressly or even impliedly admitted that the people inhabiting either of the Territories of the United States could, at their own mere will and pleasure, and without the declared consent of Congress, erect themselves into a separate and independent State." He was by no means "desirous of opposing the wishes of this valuable and enterprising people who inhabit the Southwestern Ter-

¹¹⁰ *Secret Journals of the Acts and Proceedings of Congress* (1821), Vol. IV, p. 297.

¹¹¹ *United States Statutes at Large*, Vol. I, p. 189.

¹¹² *Annals of Congress*, 1st Session, 4th Congress, p. 892. April 8, 1796.

ritory, nor of unnecessarily impeding the efforts they were making to throw off the Territorial jurisdiction, and establish a system of Government for themselves". But being aware that the steps now about to be taken would be regarded and pursued hereafter as a precedent, he conceived it important that they should, in this first instance of the sort that had presented itself, proceed circumspectly.¹¹³

Mr. William Smith of South Carolina thought that the census returns and the adopted constitution — in fact all of the proceedings in the Territory — showed marks of haste and inaccuracy. He insinuated that the census was an "enumeration not only of all transient persons and strangers, but also of the inhabitants and travelers, several times over".¹¹⁴

Mr. Madison thought that there was no just ground for supposing the census had not been fairly taken; and even if there were not sixty thousand, if the inhabitants requested admission and Congress pleased to admit them before they had their full complement, the error could not be of so serious a nature. "The inhabitants of that district of country", continued Mr. Madison, "were at present in a degraded situation; they were deprived of a right essential to freemen — the right of being represented in Congress. Laws were made without their consent, or by their consent in part only. An exterior power had authority over their laws; an exterior authority appointed their Executive".¹¹⁵

In an able speech Mr. Nicholas of New York contended

¹¹³ *Annals of Congress*, 1st Session, 4th Congress, p. 1314. May 6, 1796.

¹¹⁴ *Annals of Congress*, 1st Session, 4th Congress, p. 1303.

¹¹⁵ *Annals of Congress*, 1st Session, 4th Congress, pp. 1308, 1309. It is well to compare Jefferson's opinion concerning Territorial government with that of Madison. On January 23, 1800, Jefferson wrote to Harry Innes: "The Mississippi territory has petitioned to be placed at once in what is called the second stage of government. Surely, such a government as the first form prescribed for the territories is a despotic oligarchy without one rational object." — Ford's *The Writings of Thomas Jefferson*, Vol. VII, p. 411.

that the people were entirely within their rights under the old Ordinance in proceeding to take a census and form a State government. He said: "The ordinance does not say who shall ascertain the fact of there being sixty thousand free inhabitants, but declares that, when that was the case, they shall be entitled to form a Government for themselves, and be admitted into the Union."¹¹⁶

When it came to a vote the bill recognizing the Territory as a State passed the House by 48 to 30.¹¹⁷

Thus Tennessee was raised from the "depraved condition" of a Territory to the dignity of a State — the second to be formed in the West. Unfortunately one of the first of the two Senators which the new State elected was William Blount, who in the first session of his term was impeached for high crimes and misdemeanors,¹¹⁸ expelled from the Senate in 1797,¹¹⁹ and tried before the Senate in December, 1798.¹²⁰ The articles of impeachment charged him with fostering a conspiracy to lead a hostile expedition from the western country against the Spanish possessions of Louisiana and Florida.¹²¹ Although the people of Tennessee gave Blount a royal welcome on his return home after expulsion by the Senate, yet his conduct does not seem to have caused even the Federalist prosecutors of Blount to cast any doubt upon the fidelity or the loyalty of the western people.¹²²

¹¹⁶ *Annals of Congress*, 1st Session, 4th Congress, p. 1311.

¹¹⁷ *Annals of Congress*, 1st Session, 4th Congress, p. 1473. May 28, 1796. The Senate had already passed this bill, May 26, 1796. See p. 109.

¹¹⁸ *Annals of Congress*, 1st Session, 5th Congress, p. 459. July 7, 1797.

¹¹⁹ *Annals of Congress*, 1st Session, 5th Congress, p. 44. July 8, 1797.

¹²⁰ *Annals of Congress*, 3rd Session, 5th Congress, pp. 2245-2416. December 17, 1798, to January 14, 1799.

¹²¹ *Annals of Congress*, 1st Session, 5th Congress, p. 499.

¹²² Jefferson implies that even the anti-Republicans were somewhat lukewarm in their impeachment of Blount.—Ford's *The Writings of Thomas Jefferson*, Vol. VII, p. 190.

During this session, moreover, it was gravely asserted by some member that the western people little knew or understood the Constitution of the United States.¹²³ This assertion was made in the midst of the debate on the repeal of the Alien and Sedition Laws, and shortly after the adoption of the Kentucky Resolutions by the legislature of that State. Practically the only mention in Congress of these rather seditious resolutions was during this discussion opened by Mr. Robert Goodloe Harper, a Democrat from South Carolina, who in the House moved that the Alien and Sedition Laws be printed and distributed throughout the country because, as he went on to say, such "inflammatory resolutions" as these Kentucky Resolutions and "tumultuous assemblages of the people" were due to gross misrepresentations by politicians. He claimed that the people did not know what the laws were, and that the discontent which existed would be removed by their publication and general distribution.¹²⁴

Mr. William C. C. Claiborne of Tennessee thought that the expediency of the Alien and Sedition Laws had been a secondary consideration with the Kentucky people. Their primary objection was that these laws were violations of the Constitution of the United States. If the people have been misled on this point, said Mr. Claiborne, it is because of their ignorance of the Constitution; and so he supported an amendment to print and distribute copies of the Constitution.¹²⁵ Mr. George Thatcher, a bitter Massachusetts Federalist, agreed "with the gentleman who had just sat down, that the people in the Western country were greatly misinformed", yet he did not believe it was "either with

¹²³ *Annals of Congress*, 3rd Session, 5th Congress, p. 2449. December 14, 1798.

¹²⁴ *Annals of Congress*, 3rd Session, 5th Congress, p. 2430.

¹²⁵ *Annals of Congress*, 3rd Session, 5th Congress, p. 2450.

respect to the Constitution or the laws, but on moral subjects."¹²⁶

The Speaker called Mr. Thatcher to order for his remarks; but Mr. Thatcher contended that he was about to state facts from which he meant to draw an argument against the publication of the Constitution. "If any conclusion could be drawn from the speeches of their Governors, and Legislators, and public meetings, it is evident they are misinformed, and in a state of ignorance, not of the Constitution or of the laws in question, as, when they quote either, they quote them correctly. These speeches and resolutions have appeared in newspapers. . . . It was not political information which these people were in want of, but moral information, correct habits, and regular fixed characters." Mr. Nicholas interrupting inquired "whether the gentleman was in order." The Speaker replied that "very many of his remarks were not in order." Whereupon Mr. Thatcher, after blurting out some further observations "on the people's want of moral information", resumed his seat.

Mr. Gallatin objected to speaking of the assemblies of the people as "mobs", and maintained that the State legislature of Kentucky was respectable.¹²⁷ Little more than this was said in respect to the Kentucky Resolutions.

The open rebellion in the four western counties of Pennsylvania during the summer and fall of 1794 had been more serious than the Blount episode, and called forth stern disapproval from Congress. Although the insurgents in this "Whiskey Rebellion" were citizens of the State of Pennsylvania, yet they were pioneers inhabiting the extreme western part — an undeveloped and sparsely settled region so exposed to the attack of the Indians that in 1792 the inhabi-

¹²⁶ *Annals of Congress*, 3rd Session, 5th Congress, p. 2450.

¹²⁷ *Annals of Congress*, 3rd Session, 5th Congress, p. 2452.

tants appealed to the Governor of the State for protection from their barbarities and depredations.¹²⁸ When Congress assembled in November, some time after President Washington's vigilant suppression of the insurgent uprising, the President's address to the Senate and the House contained an account of the affair.¹²⁹ The addresses of the two houses in reply were decisive in their denunciation of the rebellion, the Senate referring to "our anxiety arising from the licentious and open resistance to the laws in the western counties of Pennsylvania",¹³⁰ and the House in its address regretted that "so flagrant a violation" had been committed on public order. "And we learn", read the address of the House, "with the greatest concern, that any misrepresentations whatever, of the Government and its proceedings, either by individuals or combinations of men, should have been made, and so far credited as to foment the flagrant outrage which has been committed on the laws."¹³¹ That the House considered other persons outside of the four western counties as implicated in the uprising is shown by the rejection of a motion made by William B. Giles of Virginia proposing an amendment adding "in the four Western counties of Pennsylvania" after the words "combinations of men".¹³² A member suggested that Mr. Giles should have added "and a county in Virginia."

Great streams of migration were passing these western counties of Pennsylvania for Kentucky and the new settlements on the Ohio, Scioto, and Muskingum rivers. The in-

¹²⁸ *American State Papers, Indian Affairs*, Vol. I, p. 216.

¹²⁹ Richardson's *Messages and Papers of the Presidents*, Vol. I, p. 162. November 19, 1794.

¹³⁰ *Journal of the Senate* (1820), Vol. II, p. 126.

¹³¹ *Journal of the House of Representatives* (1826), Vol. II, p. 244.

¹³² *Annals of Congress*, 2nd Session, 3rd Congress, p. 914. November 25, 1794.

creased and scattered population north of the river Ohio soon proved that the area of the Northwest Territory was too large for one local government. And so in March, 1800, Mr. William Craik of Maryland, from a special committee in the House, reported a bill to divide this Territory into two distinct and separate governments.¹³³ The committee reported that the Territory of the Northwest measured from southeast to northwest fifteen hundred miles, and "the actual distance of travelling from the places of holding courts the most remote from each other is thirteen hundred miles, and in a country so sparsely peopled, and so little reclaimed from its native wildness, this distance alone seems to present barriers almost insuperable against the exercise of the functions of Government." The report went on to say that "in the three western counties there has been but one court having cognizance of crimes in five years; and the immunity which offenders experience attracts, as to an asylum, the most vile and abandoned criminals, and at the same time deters useful and virtuous persons from making settlements in such society."¹³⁴

The committee recommended that the Territory of the Northwest be divided into two distinct and separate governments, by a line beginning at the mouth of the Great Miami River, and running through a north course, until it intersects the boundary line between the United States and Canada. This division would leave an eastern Territory with a population almost large enough to permit it to be formed into a new State. It was a Republican measure. The strong anti-Federal partisanship of Kentucky and Tennessee had long before indicated the political color of the West, so that a new State in the West was a promising prospect for the Republicans.

¹³³ *Annals of Congress*, 1st Session, 6th Congress, p. 635. March 20, 1800.

¹³⁴ *American State Papers, Miscellaneous*, Vol. I, p. 206.

General Arthur St. Clair, Governor of the Northwest Territory, was, however, a Federalist. Being an accomplished gentleman of strong character, and as aristocratic as Hamilton, he viewed the westerners in a manner perhaps too paternal. To his party friends in the Administration and in Congress, he wrote urging a three-fold division of the Territory — an eastern division with the capital at Marietta, a middle division with Cincinnati as capital, and a western division as the Territory of Indiana. He urged that this plan would delay Statehood. The people, he said, in a confidential letter to Senator James Ross, were not ready for this political promotion; they had no fixed principles of government; they were too ignorant to frame a suitable Constitution; many of them had left the East to escape debts; in some counties “almost all of them are democrats”, and if they became citizens of a State, they would prove to be as troublesome and seditious as the people of Kentucky.¹³⁵

Doubtless St. Clair's opinion of the Ohio people was not entertained by the opposite party. Indeed, the Democrats in the Territory ardently desired Statehood, claiming that much of the emigration which went to Kentucky would be directed to Ohio, should it be admitted in the Union; and to advance the interests of their faction before Congress they sent to Philadelphia one Thomas Worthington, a personal friend of Jefferson. A bill conforming to the desires of the Ohio Democrats was passed by the House, which adopted the Committee's report as to the boundary of the Territories, continued the government of the Old Northwest Territory in the eastern part, and established the Territory of Indiana in the west.¹³⁶ The Sen-

¹³⁵ William Henry Smith's *The St. Clair Papers* (Cincinnati, 1882), Vol. II, pp. 480-484. Governor St. Clair to James Ross. December, 1799.

¹³⁶ *Annals of Congress*, 1st Session, 6th Congress, p. 649. March 31, 1800.

ate was still more favorable. It amended the House bill by adopting a boundary slightly further west.¹³⁷ Congress, however, would not concede to one demand of the Ohio Democrats, namely, that a vacancy be declared in all the offices of the Old Northwest Territory. Thus St. Clair continued in the Governor's seat in the division of the east,¹³⁸ which retained the name of the Northwest Territory.

The Democrats of the Northwest Territory immediately began to advocate Statehood; but the Federalists determined to thwart this movement, and in December, 1801, put through the Territorial legislature an act declaring the consent of the legislature to the formation of a State with the western boundary only as far west as the Scioto River.¹³⁹ As the census returns, which were published in 1802, showed a population of but 45,028 for the whole Territory, such a limitation in area would long delay admission.¹⁴⁰ The Democrats denounced the plan, held meetings, presented numerous petitions and memorials to Congress, and sent east again as special agent, Thomas Worthington, the friend of Jefferson. Although the Territory contained only forty-five thousand inhabitants, yet this appeared no bar to Congress's granting consent for admission, which the friends of Statehood hoped to obtain.

In January, 1802, the Delegate from the Northwest Territory presented to Congress the act of the Territorial legislature proposing to limit the area of the eastern State and

¹³⁷ *Annals of Congress*, 1st Session, 6th Congress, p. 164. April 21, 1800. See also *United States Statutes at Large*, Vol. II, p. 58.

¹³⁸ William Henry Harrison, Delegate to Congress from the Northwest Territory, was appointed by President Adams as the first Governor of the Indiana Territory.

¹³⁹ Chase's *The Statutes of Ohio and of the Northwestern Territory*, Vol. I, p. 341.

¹⁴⁰ Compare *Twelfth Census of the United States*, 1900, Vol. I, Part 1, pp. 34-35.

moved to refer the same to a select committee.¹⁴¹ Mr. William B. Giles took the lead in advocating the Republican scheme for an early admission of Ohio as a State. He opposed referring the Territorial act to a select committee, observing "that the law [passed by the Territorial legislature] would place the people of that Territory in a very disagreeable situation, and it should be decided as early as possible." Indeed, he had in his hands, he said, petitions signed by above one thousand inhabitants of that Territory against the law; for the act would remove them further from a State government. Its result would be to perpetuate the office of Governor and the Territorial legislature.¹⁴² On motion of Thomas T. Davis of Kentucky the act was referred to a Committee of the Whole House, who a few days later reported that the assent of Congress should not be given, and on the same day the House concurred in this report and withheld its assent to the act.¹⁴³

A few days later Mr. Giles moved that the census of the inhabitants of the Northwest Territory be referred to a select committee with instructions as to what measures, if any, ought to be taken for enabling the people of that Territory to form a government for themselves and be admitted into the Union upon the same terms with the original States.¹⁴⁴ It was ordered that such a committee be appointed with Mr. Giles as Chairman. To this committee was also referred the numerous petitions and memorials from the Territory, all praying that the Territory (with the present area) be admitted as a State.¹⁴⁵ The Commit-

¹⁴¹ *Annals of Congress*, 1st Session, 7th Congress, p. 427. January 20, 1802.

¹⁴² *Annals of Congress*, 1st Session, 7th Congress, p. 427.

¹⁴³ *Annals of Congress*, 1st Session, 7th Congress, p. 466. January 27, 1802.

¹⁴⁴ *Annals of Congress*, 1st Session, 7th Congress, pp. 470, 471. January 29, 1802.

¹⁴⁵ *Annals of Congress*, 1st Session, 7th Congress, p. 471.

tee after consultation with Albert Gallatin, Secretary of the Treasury, reported four resolutions: (1) that the Territory should be admitted as a State after the adoption of a Constitution; (2) that the boundaries of the State should be practically the same as those of the Territory, save that the State should not include upper Michigan; (3) that provision by Congress should be made not only to call but to prescribe the manner of election of a constitutional convention; (4) that, if the State would agree not to tax public lands until after five years from date of purchase, Congress would grant a section in every township, a six-mile reservation for the use of the people, and one-tenth part of the net proceeds of the public land sales in the State to be applied to laying out roads leading from the East to and through the State.¹⁴⁶

The third resolution was the suggestion of Thomas Worthington, special agent. He warned the Republicans on the Committee that the Federalists still controlled the Territorial legislature. Congress should prescribe, he urged, the details of the Statehood Convention, such as defining the election districts, and proportioning the number of delegates to each, and not leave this power to the Territorial legislature. For this body might, at its own mere pleasure, so manage the districting as to assure a Republican defeat.¹⁴⁷

Against these resolutions a storm of protest was raised in Congress by the interested Federalists. The Delegate from the Northwest declared that Congress had nothing to do with the arrangements for calling of a convention. Neither did the Ordinance of 1787 require that the Territory, in order to be admitted into the Union, should form a Constitution. "By the compact, Congress can give their

¹⁴⁶ *Annals of Congress*, 1st Session, 7th Congress, p. 1097. March 30, 1802.

¹⁴⁷ Smith's *The St. Clair Papers*, Vol. II, p. 580, note.

assent to admit the Territory into the Union before the population amounts to sixty thousand. Their power extends no further. . . . Can Congress exercise powers given exclusively to the people?" He conceived it would be as great an encroachment upon their rights to say they shall meet together in convention and form a Constitution, as it would be to say so to any State in the Union.¹⁴⁸

A Connecticut Federalist declared that "This is not the first project started this session that goes to a consolidation and destruction of all the States." "If you interfere with the authority vested in others", he said, "you may proceed any length I do not inquire into the expediency of the measure. Let the people judge of this. If they wish a constitution, I have no objection; but I would not impose upon them what the compact does not warrant, nor would I impose arbitrary power any more upon them than upon any of the States."¹⁴⁹

To the fourth resolution it was objected that funds hitherto applied to extinguishing the national debt were to be applied to local purposes, benefiting simply the western people. It was even insinuated that the Secretary of the Treasury held lands which would be benefited by the proposed roads.

The remarks of the Democrats showed frankly a determination to overlook the Territorial legislature and to act on the suggestion of the numerous petitions and the urgings of the special agent. Mr. Joseph H. Nicholson of Maryland said: "The gentleman says that we ought to wait for the approbation of the Legislature. But if the government of the Territory were to remain organized as at this time, I believe we might wait till doomsday, before we obtained their approbation. Have we not seen a law

¹⁴⁸ *Annals of Congress*, 1st Session, 7th Congress, p. 1103.

¹⁴⁹ *Annals of Congress*, 1st Session, 7th Congress, p. 1105.

passed by that Legislature, not for bettering the condition of the people, but for dividing them in such a manner as to protract their admission into the Union, and thus enabling the present Governor and judges to hold their offices after the Territory, from its population, ought to become a State? I ask if, under these circumstances, it is to be expected that the Governor and Legislative Council would consent to the application of the petitioners?"¹⁵⁰

Mr. R. Williams called attention to the fact that "since Congress had rejected the law passed by the territorial Legislature for dividing it, more than twenty petitions had come on, signed by thousands of the inhabitants praying for a State government, and stating their grievances in the most respectful terms." Mr. Williams had no doubt but that "nine-tenths of those people were in favor and wished a State government. Nay, there was not a solitary petitioner to the contrary, except the member from the Territory, notwithstanding his great desire to defeat this measure, by opposing the will of the people whom he ought to represent on this floor."¹⁵¹ He advocated promotion from the Territory stage to Statehood as early as possible. "These territorial governments, which the United States have been obliged to resort to," he said, "were arbitrary at best, and ought not to exist longer than they could with propriety be dispensed with. They were opposed to the genius of the people of this country, and in direct hostility with their notions of government; of course we were not to suppose they would be satisfied under them any longer than they may be incapable of self-government."

The Speaker, Mr. Nathaniel Macon of North Carolina, declared that he disliked Territorial government so much that he wished "all the Territories were formed into States,

¹⁵⁰ *Annals of Congress*, 1st Session, 7th Congress, p. 1106.

¹⁵¹ *Annals of Congress*, 1st Session, 7th Congress, p. 1107.

that they might have a share in passing the laws by which they are governed."¹⁵²

In reply to the Federalist opposition to the fourth resolution Mr. Giles said that he was "sorry there was any part of the report that had a local aspect. But this was unavoidable. Local considerations were necessarily blended with principles of general utility." He recalled the passage of several bills for the erection of light houses at the public expense on the Connecticut shore. Mr. Giles believed that the devoting of one-tenth of the proceeds of the public lands to laying out roads would greatly enhance the value of remaining public lands, so that the Government would in the end be the gainer. In regard to the insinuation that the Secretary of the Treasury held lands that would be benefited by these roads, Mr. Giles declared that it might be so. He had not inquired, but he supposed "he did not hold all the lands. Congress may lay out these roads as they please. . . . It is a million to one that they would not touch his lands."¹⁵³

Thus was the question of the enabling act of Ohio entangled in the problems of internal improvements, States' rights, Territorial government, local politics, and national party conflicts. The Democrats had the best of the voting (as of the debating). The four resolutions after amendment, were adopted, and the select committee instructed to prepare a bill. When the bill was reported a few days later it was passed by a party vote.¹⁵⁴ The House bill went through much the same history in the Senate and was passed in April, 1802.¹⁵⁵

This was the first enabling act passed by Congress, and the custom thus established was thereafter frequently fol-

¹⁵² *Annals of Congress*, 1st Session, 7th Congress, p. 1117.

¹⁵³ *Annals of Congress*, 1st Session, 7th Congress, p. 1124.

¹⁵⁴ *Annals of Congress*, 1st Session, 7th Congress, p. 1161. April 9, 1802.

¹⁵⁵ *Annals of Congress*, 1st Session, 7th Congress, p. 296. April 28, 1802.

lowed in regard to the remaining Territories as from time to time they became eligible for admission.¹⁵⁶

In the meanwhile Territorial questions in the Southwest pressed upon Congress for attention. During the years following Gardoqui's offer of a commercial treaty for the abandonment of the navigation on the Mississippi, anxiety concerning this waterway increased in proportion as the settlement of the West increased; for the Mississippi then appeared as their only practical outlet to market, and with the mouth in possession of a foreign nation who denied the privilege of deposit, the situation in the West was somewhat exasperating.¹⁵⁷ While Livingston and Monroe were negotiating the treaty with France, which unexpectedly resulted in so large a purchase as the whole of Louisiana, Congress which was convened in December, 1802, consumed a large part of its time in discussions of Napoleon's rumored scheme of colonizing Louisiana.

On January 7, 1803, the House in secret session passed a resolution expressing confidence in the Executive's ability to vindicate the nation's claim to navigation on the Mississippi.¹⁵⁸ The Senate debate on this question, although it shows apparent concern for the western people on the part of the Federalists, can not conceal a desire to embarrass the administration by urging an undue haste in diplomatic procedure.

Senator James Ross of Pennsylvania, for instance, la-

¹⁵⁶ As provided in the enabling act, a constitutional convention was held which framed a State constitution, followed by an election of officers for the State. On February 19, 1803, an act of Congress was approved which provided for the execution of the laws of the United States within the State of Ohio, and as a State it was thus formally recognized.

¹⁵⁷ In 1802 Morales, the Spanish Intendant at New Orleans, prohibited the further exercise of the right of deposit by Americans, as stipulated in the treaty of 1795.—Compare *American State Papers, Foreign Relations*, Vol. II, p. 527.

¹⁵⁸ *Annals of Congress*, 2nd Session, 7th Congress, p. 339.

mented the calamity which threatened the western country. "More than half a million of your citizens", he said, "are by this cut off from a market. What would be the language, what would be the feelings of gentlemen in this House, were such an indignity offered on the Atlantic coast? Look at the memorial from the Legislature of the Mississippi Territory, now on your table: that speaks a language and displays a spirit not to be mistaken. Their lives and fortunes are pledged to support you. The same may with equal truth be asserted of Kentucky, Tennessee, and the western people of Virginia and Pennsylvania. Is this a spirit to be repressed or put to sleep by negotiation? If you suffer it to be extinguished, can you recall it in the hour of distress, when you want it? Let me warn gentlemen how they trifle with the feelings, the hopes and the fears of such a body of men, who inhabit the western waters. . . . These men have arms in their hands; the same arms with which they proved victorious over their savage neighbors [the Indians]. They have a daring spirit; they have ample means of subsisting; and they have men disposed to lead them on to revenge their wrongs. Are you certain they will wait the end of negotiation? When they hear that nothing has been done for their immediate relief, they will probably take their resolution and act. Indeed, from all we have heard, there is great reason to believe that they will, or that they may have already taken that resolution. . . . They know the weakness of the country; they are sure of present success, and they have a bold river to bear them forward to the place of action. They only want a leader to conduct them, and it would be strange, if with such means and such a spirit, a leader should not soon present himself. . . . They will never return to you, for you cannot protect them."¹⁵⁹ Mr. Ross made a two days' speech

¹⁵⁹ *Annals of Congress*, 2nd Session, 7th Congress, p. 83. February 14, 1803.

in this spirit, and then moved a resolution that the western militia be called out and the sum of five millions of dollars be appropriated to effect a control of the Mississippi River.¹⁶⁰

Senator Samuel White of Delaware resumed the argument. He declared that the western people had solid claims for the support of the government in this crisis. They had explored the wilderness. They had made out of a desert a cultivated region. They were "our fellow-citizens, our friends, and our brothers, and we are bound by every obligation of good faith, and every sentiment of honor, not to abandon them."¹⁶¹

The senior Senator from New Jersey, Jonathan Dayton, spoke as follows: "For the people of the western country I have long entertained an affection. . . . I have indeed, regarded them among the most meritorious portions of our citizens, because to them, we who sat in ease and security were indebted for extending our settlements into the wilderness, protecting an exposed frontier, and for enhancing the value of our territorial possessions; and because, but for them, but for their enterprise, their courage, and their industry, the waters of one of the finest rivers in the world would still flow useless to the ocean, or at least, without use or profit to the Atlantic States represented on this floor. These facts acknowledged, I ask whether we are not bound by the strongest moral and political obligations to make with these people a common cause, to feel their injuries as our own, and to avenge insults offered to them, as if directed immediately against ourselves?"¹⁶² To the

¹⁶⁰ *Annals of Congress*, 2nd Session, 7th Congress, p. 95.

¹⁶¹ *Annals of Congress*, 2nd Session, 7th Congress, p. 113.

¹⁶² *Annals of Congress*, 2nd Session, 7th Congress, p. 137. This is the same Jonathan Dayton who later appeared in the background of Aaron Burr's conspiracy and of General James Wilkinson's treason.

same effect spoke Gouverneur Morris, the able New York Federalist who was soon to retire from the Senate.¹⁶³

The Republicans were conservative and deprecated the Federalists' wild appeal to arms. Senator DeWitt Clinton of New York thought that the exaggerations by the Senator from Pennsylvania (Mr. Ross) were to be regretted. They were made with "the manifest design of exasperating our feelings, inflaming our passions, and prompting an immediate appeal to the sword." Mr. Clinton inquired whether our citizens in the Southwest "had not been concerned in illicit trade, and in violating the laws of the Spanish colonies." It was vain, said Mr. Clinton, to menace the government with threats of an insurrection of the western States and a dissolution of the Union. It was improper "to represent our Western brethren as a lawless, unprincipled banditti, who would at once release themselves from the wholesome restraints of law and order; forego the sweets of liberty, and either renounce the blessings of self-government, or, like the Goths and Vandals, pour down with the irresistible force of a torrent upon the countries below, and carry havoc and desolation in their train. A separation by a mountain, and a different outlet into the Atlantic, cannot create any natural collision between the Atlantic and Western States; on the contrary, they are bound together by a community of interests, and a similarity of language and manners — by the ties of consanguinity and friendship, and a sameness of principles. . . .

"If there be a portion of the United States *peculiarly* attached to republican government and the present Administration, I should select the Western States as that portion. Since the recent elections there is not a single Senator, or a single Representative in Congress, from that vast country, unfriendly to the present order of things, and, ex-

¹⁶³ *Annals of Congress*, 2nd Session, 7th Congress, p. 185.

cept in a part of the Mississippi Territory, and its whole population did not by the last census reach nine thousand souls, there is scarcely the appearance of opposition. To represent a people so republican, so enlightened, and so firm in their principles, as ready, without any adequate cause, (for no Government could watch over their interests with more paternal solicitude than the present, upon the present question,) to violate their plighted faith and political integrity — to detach themselves from the Government they love, and to throw themselves under the protection of nations whose political systems are entirely repugnant to their own, requires an extent of credulity rarely equalled".¹⁶⁴ Mr. Clinton was prodigal in his attempt to show the great attachment of the western people, the solicitous attitude of the general government, and produced further proofs of loyalty from Kentucky, the Mississippi Territory, and Ohio.

Senator Joseph Anderson of Tennessee exclaimed that the Federalists pressed the Mississippi question only to curry favor from the Westerners, but he thought the gentlemen would be disappointed. He was aware that the people whom he represented were dissatisfied, but they "respected their Government and themselves too much to countenance any means that were not honorable and just, to obtain the deposit right."¹⁶⁵ From time to time, complained Mr. Anderson, he had heard in the Senate and in other places "the most wanton and cruel aspersions cast upon the people of the western country." He did not know how the gentlemen could "reconcile their pretensions of regard for the western people, with the odious imputations which were constantly cast upon their attachment. . . . The late President of the United States [John Adams] had in a most unwarrantable manner told him, that

¹⁶⁴ *Annals of Congress*, 2nd Session, 7th Congress, pp. 121-134.

¹⁶⁵ *Annals of Congress*, 2nd Session, 7th Congress, p. 209.

the western people were ready to hold out their hands to the first foreigner that should offer them an alliance; the same sentiment is echoed here, only in different terms. But such vile imputations attach not to the western people, but to those who employed them. The western people are Americans, who wasted the spring-tide and summer of their days in the cause of their country; men who, having spent their patrimony in establishing their country's independence, travelled to the wilderness, to seek a homestead for themselves and children. Was it honorable, was it consistent with those labored efforts for their good, which we are told actuate gentlemen, to calumniate them in so unworthy a fashion? Gentlemen appear by their gestures to deny that they have been guilty of this calumny. But my charge against them is not of that evasive or double character which they deal in; the words they have used I have taken down — they are, 'The French would draw the western people into an alliance.' 'The western people would be influenced by the insidious emissaries of France.' 'Corruption would find its way among them, and be transferred even to that floor.' Is this not calumny of the darkest hue? Is this the way in which six hundred thousand men are to be stigmatized?"¹⁶⁶

¹⁶⁶ *Annals of Congress*, 2nd Session, 7th Congress, p. 212.

In a letter to Robert R. Livingston, February 3, 1808, Jefferson wrote: "A late suspension by the Intendant of N Orleans of our right of deposit there . . . has thrown this country into such a flame of hostile dispositions as can scarcely be described. The western country was peculiarly sensible to it as you may suppose. . . . The opposition caught it as a plank in a shipwreck, hoping it would enable them to tack the Western people to them. They raised the cry of war, were intriguing in all quarters to exasperate the Western inhabitants to arm & go down on their own authority & possess themselves of New Orleans, and in the meantime were daily reiterating, in new shapes, inflammatory resolutions for the adoption of the House. As a remedy to all this we determined to name a minister extraordinary to go immediately to Paris & Madrid to settle this matter. This measure being a visible one, and the person named [Monroe] peculiarly proper with the Western country, crushed at once & put an end to all further attempts on the Legislature. From that moment all

The debate ended in a party squabble. The result of all this was the passage of a bill a few days before adjournment authorizing the President to require the executives of the States, if necessary, to hold in readiness to march at a moment's warning a detachment of the militia, not exceeding eighty thousand.¹⁶⁷

The Congress which the President called to assemble on October 17, 1803, faced a unique change in the Mississippi situation. Instead of requiring a detachment of militia to hold part of the river, the entire stream was to become the possession of the United States if the Senate but confirmed the treaty of cession. Toward ratifying the Louisiana Treaty and making provision to carry it into effect there was, naturally, a show of opposition on the part of the Federalists, and portions of their debate bore directly upon the character of western settlers. When the bill authorizing the creation of the stock to carry into effect the convention of April 30, was under consideration, Senator Samuel White of Delaware solemnly declared that the settlement of Louisiana would be highly injurious and dangerous to the United States. The adventurous, roving, and enterprising western people could not be restrained from going there. The States to the east of Louisiana would be drained of population. A new State would arise on the Mississippi far from our capital. The people would be alienated from us. They would view us as strangers and would seek other alliances.¹⁶⁸

Senator James Jackson of Georgia spoke in reply. Louisiana, he said, would never become a grievance to us.

has become quiet; and the more readily in the Western country, as the sudden alliance of those new federal friends had of itself already begun to make them suspect the wisdom of their own course."—Ford's *The Writings of Thomas Jefferson*, Vol. VIII, p. 209.

¹⁶⁷ *United States Statutes at Large*, Vol. II, p. 241.

¹⁶⁸ *Annals of Congress*, 1st Session, 8th Congress, p. 34. November 2, 1803.

If the government thought best, even the most impetuous citizens could be restrained from crossing the Mississippi. The Indian frontier of his State was three hundred miles long. Only a handful of Dragoons was necessary to prevent the settlers from crossing and trespassing on the Indian lands although the provocation for doing so was great. "The frontier people", said the Georgia Senator, "are not the people they are represented; they will listen to reason, and respect the laws of their country".¹⁶⁹ It would be well, said Jackson, to move the troublesome Georgia Indians to Louisiana.

John Breckenridge, Senator from Kentucky, directed his urgent speech against the Federalists. "When the right of deposit was violated by a Spanish officer without authority from his Government", he said, "these gentlemen considered our national honor so deeply implicated, and the rights of the western people so wantonly violated, that no atonement or redress was admissible, except through the medium of the bayonet. Negotiation was scouted at. It was deemed pusillanimous, and was said to exhibit a want of fellow-feeling for the Western people, and a disregard to their essential rights. . . . The so much scouted process of negotiation was, however, persisted in, and instead of restoring the right of deposit, and securing more effectually for the future our right to navigate the Mississippi, the Mississippi itself was acquired, and everything which appertained to it. I did suppose that those gentlemen, who, at the last session so strongly urged war measures for the attainment of this object, upon an avowal that it was too important to trust to the tardy and less effectual process of negotiation, would have stood foremost in carrying the treaty into effect, and that the peaceful mode by which it

¹⁶⁹ *Annals of Congress*, 1st Session, 8th Congress, p. 41.

was acquired would not lessen with them the importance of the acquisition." ¹⁷⁰

It was further declared by Senator Breckenridge that the Union would be more in danger from Louisiana when colonized by Americans under control of some foreign rival nation than when populated by Americans under American jurisdiction. He did not hesitate to say that "the people of the Western States are as sincerely attached to the Confederacy, and to the true principles of the Constitution, as any other quarter of the Union. A great portion of them have emigrated from the Atlantic States, and are attached to them by all those ties which so strongly bind societies together." ¹⁷¹

Senator William Cocke of Tennessee resented the expressions by some members of fear "that the Western country will soon become too powerful for the East, and that a separation must inevitably take place between us. I ask gentlemen the ground on which they build their fears. It cannot be, sir, that we have paid less respect to the laws of the Union, than any other portion of our fellow-citizens; or have we in any instance shown less regard for our Government, or its honest administration? Is it then that gentlemen had determined in their own minds to treat us with such marked indifference, or injustice, as should rouse us to just resentment?" ¹⁷²

When the question was taken on the passing of the bill authorizing the creation of the stock, it was carried in the affirmative, twenty-six votes for it and five against. The five negative votes were cast by the Senators from Connecticut, the Senators from Delaware, and Senator Timothy Pickering of Massachusetts — all of them extreme Feder-

¹⁷⁰ *Annals of Congress*, 1st Session, 8th Congress, p. 58.

¹⁷¹ *Annals of Congress*, 1st Session, 8th Congress, p. 65.

¹⁷² *Annals of Congress*, 1st Session, 8th Congress, p. 72.

alists.¹⁷³ It was well known that their consistent opposition to the Louisiana acquisition was due largely to the desire to embarrass the President. The same sort of petty opposition appeared in the House. Here among the twenty-five votes cast against the resolution affirming that provision ought to be made for carrying into effect the purchase treaty of Louisiana, twenty of the votes were by New England and New York Federalists.¹⁷⁴ The affirmative vote was as high as ninety.

On January 16, 1804, Jefferson informed Congress that the formal transfer of Louisiana had taken place.¹⁷⁵ Already, in the Senate, a bill was under consideration for extending the laws of the United States over Louisiana and providing a Territorial government, which gave rise to extended debate. The bill for the government of Louisiana proposed to establish the Territory of Orleans in the southern part, and to place the northern part under the jurisdiction of the Governor and Judges of the Territory of Indiana. The section prohibiting the importation of slaves from abroad into the Territory of Orleans was debated several days, and was finally settled by agreeing to an amendment stipulating that no slaves should be introduced into the Territory except by a citizen of the United States moving to the Territory for actual settlement.¹⁷⁶ The bill provided that the legislative powers in the Territory of Orleans should be vested "in the Governor, and in thirteen of the most fit and discreet persons of the Territory", who

¹⁷³ *Annals of Congress*, 1st Session, 8th Congress, p. 73. The same five Senators were among the seven who on October 20, 1803, voted against the ratification of the Louisiana Treaty.—*Annals of Congress*, 1st Session, 8th Congress, p. 308.

¹⁷⁴ *Annals of Congress*, 1st Session, 8th Congress, p. 488. October 25, 1803.

¹⁷⁵ *Annals of Congress*, 1st Session, 8th Congress, p. 233.

¹⁷⁶ *Annals of Congress*, 1st Session, 8th Congress, p. 244. February 1, 1804. See also *Memoirs of John Quincy Adams*, Vol. I, pp. 292-294.

should be appointed annually by the President of the United States, from those holding real estate in the Territory, and that the Governor should convene and prorogue this legislature.¹⁷⁷

Such government as the one proposed was a wide departure from the principle of local self-government. Indeed, in regard to the prerogatives of the Governor, it was no less tyrannical than the colonial government of New York. For this reason it was opposed, especially by Senators John Quincy Adams of Massachusetts and Joseph Anderson of Tennessee, but with little effect. The bill passed the Senate on February 18, by a vote of twenty to five.¹⁷⁸

When the Louisiana government bill was sent to the House, it provoked an outburst of protest. Mr. Michael Leib of Pennsylvania declared that the power of prorogation vested in the Governor was "a royal appendage" which he did not like. If it were retained, he said, the people might as well have no legislature.¹⁷⁹ Mr. Andrew Gregg of Pennsylvania opposed granting to the President the power of appointing the members of the Territorial legislature. It was a "mere burlesque", he said. "How is the President to get information of the qualifications for office?"¹⁸⁰ Mr. Joseph B. Varnum of Massachusetts declared that the bill provided such a government as had never been known in the United States. He thought sound policy, no less than justice, dictated the propriety of making provision for the election of a legislative body by the people. There was, he said, not only the obligation of justice imposed upon Congress to do this, but they were bound by treaty.¹⁸¹

¹⁷⁷ *Annals of Congress*, 1st Session, 8th Congress, p. 1054.

¹⁷⁸ *Annals of Congress*, 1st Session, 8th Congress, p. 256.

¹⁷⁹ *Annals of Congress*, 1st Session, 8th Congress, p. 1055. February 28, 1804.

¹⁸⁰ *Annals of Congress*, 1st Session, 8th Congress, p. 1055.

¹⁸¹ *Annals of Congress*, 1st Session, 8th Congress, p. 1056.

The Treaty of Paris contained the following provision: "The inhabitants

Dr. William Eustis of Massachusetts supported the bill. "From that knowledge of this people which I have been able to acquire, I have formed an opinion that authority should be constantly exercised over them, without severity, but in such a manner as to secure the rights of the United States and the peace of the country." Dr. Eustis admitted that "the government laid down in this bill is certainly a new thing in the United States; but the people of this country differ materially from the citizens of the United States. I speak of the character of the people at the present time. When they shall be better acquainted with the principles of our Government, and shall have become desirous of participating in our privileges, it will be full time to extend to them the elective franchise. . . . I am one of those who believe that the principles of civil liberty cannot be ingrafted on a people accustomed to a regimen of a directly opposite hue. The approach of such a people to liberty must be gradual. I believe them at present totally unqualified to exercise it."¹⁸²

Mr. John B. C. Lucas of Pennsylvania did not wish to reflect upon the character of the inhabitants of Louisiana, but he would say that "they are not prepared for a government like that of the United States. Governed by Spanish officers, exercising authority according to their whim, supported by a military force, it could not be said that a people thus inured to despotism, were prepared on a sudden to receive the principles of our Government."¹⁸³

of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States."—*American State Papers, Foreign Relations*, Vol. II, p. 507.

¹⁸² *Annals of Congress*, 1st Session, 8th Congress, p. 1058.

¹⁸³ *Annals of Congress*, 1st Session, 8th Congress, p. 1061.

Said Mr. James Holland of North Carolina: "Can gentlemen conceive the people of Louisiana, who have just thrown off their chains, qualified to make laws? Under the late system the people had no concern in the government, and it was even criminal for them to concern themselves with it; they were set at a distance from the government, and all required from their hands was, to be passive and obedient. Can it be supposed such a people made the subject of Government their study, or can it be presumed they know anything about the principles of the Constitution of the United States? It is a fact that many of the most respectable characters in the country conceive the principle of self-government a mere bubble, and they will not consider themselves aggrieved if it is not extended to them. Does the history of nations show that all men are capable of self-government? No such thing. It shows that none but an enlightened and virtuous people are capable of it; and if the people of Louisiana are not sufficiently enlightened, they are not prepared to receive it."¹⁸⁴

Mr. James Sloan of New Jersey acknowledged that he was ignorant of the situation of the people. "I only know their situation," he said, "from printed narrative, and historical or verbal accounts, and probably the greater part of the members of the present House are equally ignorant. But, Mr. Chairman, the only thing I want to know, to decide the present question, is, are they human beings possessed of rational understanding? If so, give them an opportunity to improve it."¹⁸⁵

¹⁸⁴ *Annals of Congress*, 1st Session, 8th Congress, p. 1073.

¹⁸⁵ *Annals of Congress*, 1st Session, 8th Congress, p. 1074.

Practically the only source of Congress's information outside the official documents communicated by Jefferson, was unreliable newspaper reports. November 14, 1803, the President transmitted a "Description of Louisiana", and on November 29 a "Digest of the Laws of Louisiana" and the census of 1785. "You will be sensible", said Jefferson in his message, "from the face of these

Mr. George Washington Campbell of Tennessee said that "It has been intimated that these people are unfit to govern themselves, but I am acquainted with no information that warrants this inference. . . . The best information assures us that a considerable proportion of the population is composed of American citizens, amounting perhaps to one-fourth or one-fifth of the whole. There are also many British subjects, not so ignorant as to be entirely insensible to the benefits of a free Government."¹⁸⁶

A vigorous attack on the measure was made by Mr. John G. Jackson of Virginia. "A great number of the inhabitants", he argued, "are Americans. Emigration has been carried to a great extent; many have gone from the West, from the East, and from the middle States; and I will ask gentlemen, whether those persons who have carried with them the habits of Americans, are not fit objects of free government? Surely they are; and yet these must be excluded from the benefits of self-government, if this bill pass in its present shape."¹⁸⁷

An amendment was introduced by Mr. Peter Early of Georgia, providing that after the expiration of one year the Territorial legislature should be elected by the free male population.¹⁸⁸ This amendment passed the House by a large majority vote. The Senate, however, disagreed to the proposed amendment, and a conference committee was accordingly appointed by both houses.

papers that they are not and could not be official, but are furnished by different individuals as the result of the best inquiries they had been able to make, and now given, as received from them."—*Annals of Congress*, 2nd Session, 8th Congress, pp. 1498-1578.

Niles' Register, as late as 1811, devoted a large amount of space to a description of the people of Louisiana. Vol. I, p. 243.

¹⁸⁶ *Annals of Congress*, 1st Session, 8th Congress, p. 1066.

¹⁸⁷ *Annals of Congress*, 1st Session, 8th Congress, p. 1070.

¹⁸⁸ *Annals of Congress*, 1st Session, 8th Congress, p. 1191.

On March 23, Mr. Joseph H. Nicholson of Maryland made a report from the managers on the part of the House, recommending that the House recede from the substitute amendment. The managers were informed, said Mr. Nicholson, that the election of a Legislative Council in Louisiana was impracticable, for the people lived in parishes composed entirely of either Spaniards, French, Germans, or Creoles, and thus the representatives of no two parishes would always speak the same language.¹⁸⁹ The report was agreed to. While there was reason for distrusting the loyalty of the inhabitants in the newly acquired and distant Louisiana, yet to tear from them even the slightest vestige of self-government, on the assumption that a Territorial legislature was impractical because of the diversity of language, would seem to indicate most extreme caution and conservatism, if not tyranny. Thus, keenly were the people of Louisiana made to realize that Congress viewed them as subjects, not citizens, of the United States.

At the opening of the next session of Congress, which was in November, 1804, the President informed Congress that the Territorial government of Louisiana had been duly effected; and he added that the government already established "having been considered but as temporary, and open to such future improvements as further information of the circumstances of our brethren there might suggest, it will of course be subject to your consideration."¹⁹⁰

In the House, on November 12, 1804, it was resolved that so much of the President's message as related to improving the Louisiana government should be referred to a committee, of which John Randolph was made chairman.¹⁹¹ To

¹⁸⁹ *Annals of Congress*, 1st Session, 8th Congress, p. 1229. March 23, 1804. The bill provided for only a temporary government, limited to one year's duration.— *United States Statutes at Large*, Vol. II, p. 283.

¹⁹⁰ Richardson's *Messages and Papers of the Presidents*, Vol. I, p. 371.

¹⁹¹ *Annals of Congress*, 2nd Session, 8th Congress, p. 684.

this committee was also referred a memorial of remonstrance from the inhabitants of Louisiana, signed by about 2000 heads of families.¹⁹² The language of this petition plainly exhibited the fear of the people that their morals and conduct had been misunderstood by Congress, and that they considered the government established by act of the last session as highly oppressive. Three agents from the country — Sauv , Derbigny, and Destr han, three Creole gentlemen of recognized families — waited upon Congress to press the cause of the inhabitants. They frankly expressed their dislike of Governor Claiborne, their dissatisfaction because of the prohibition of the slave trade in their Territory, and their grievance because of the dictatorial form of government thrust upon them. We early understood, read the memorial they presented, that we were to be American citizens, and this filled us with that happiness which arises from the anticipated enjoyment of a right long withheld, but we have been assigned to a legal status inconsistent with every principle of civil liberty.¹⁹³

On January 25, Mr. Randolph from the committee reported against permitting the foreign importation of slaves into Louisiana, but recommended that provision ought to be made for extending to the people of Louisiana the right of self-government.¹⁹⁴ The House adopted this report and accordingly ordered a bill for that purpose to be brought in. Before such a bill was reported the Senate passed a bill further providing for the government of the Territory of Orleans by granting the inhabitants a General Assembly (the lower house of which was to be elected by the people,

¹⁹² *Annals of Congress*, 2nd Session, 8th Congress, pp. 728, 1597-1608. December 3, 1804.

¹⁹³ *Memoirs of John Quincy Adams*, Vol. I, p. 321. *Annals of Congress*, 2nd Session, 8th Congress, p. 1597.

¹⁹⁴ *Annals of Congress*, 2nd Session, 8th Congress, pp. 1014-1019.

as provided in the Ordinance of 1787) and extending to them all the rights, privileges, and restrictions named in the Ordinance, save that the sixth article of compact prohibiting slavery was excepted.

Another Senate bill erected the District of Louisiana into a separate Territory, with a legislative body consisting of a Governor and three Judges appointed by the President.¹⁹⁵ In the Senate an effort was supported by John Quincy Adams and James Jackson of Georgia to secure an amendment authorizing the people of Louisiana to hold a convention which might form one or two Territorial governments in such manner as the people should desire, but the amendment was negatived by a vote of eight to twenty-four.¹⁹⁶

The two Senate bills passed the House with little debate late in the session, and when they went into operation, Orleans was raised to the second grade of Territorial government as provided in the ordinance of the Northwest, while Upper Louisiana was continued in the first grade.¹⁹⁷

At the opening of the session of Congress in December, 1806, the President's message related how boundary complications with Spain required a military force to be maintained in the southwest and that the government relied upon volunteer cavalry in the Territories of Orleans and Mississippi. Concerning the attitude of this section of the country toward the government, Jefferson went on to say: "I inform you, with great pleasure, of the promptitude with which the inhabitants of those Territories [Mississippi and Orleans] have tendered their services in defense of their country. It has done honor to themselves, entitled them to the confidence of their fellow-citizens in every part of the

¹⁹⁵ *Annals of Congress*, 2nd Session, 8th Congress, pp. 52, 69.

¹⁹⁶ *Annals of Congress*, 2nd Session, 8th Congress, p. 59.

¹⁹⁷ *Annals of Congress*, 2nd Session, 8th Congress, pp. 1211, 1215. *United States Statutes at Large*, Vol. II, pp. 322, 331.

Union, and must strengthen the general determination to protect them efficaciously under all circumstances which may occur."¹⁹⁸

President Jefferson wrote this with that "easy credulity of his temper" which so much exasperated Randolph. Meanwhile ugly suspicions and rumors, which have always been more or less conspicuously attached to the West, were being widely circulated, and with evident foundation for their veracity. The Aaron Burr conspiracy was no longer simply an open secret. On November 27 the President was forced to issue a proclamation directing the army to apprehend and seize all persons concerned in the scheme.¹⁹⁹ General Wilkinson's vague hints of treason and wild arrests in New Orleans began in December, and the same month saw Burr's flotilla dodging the President's proclamation on its way down the Mississippi.

The newspapers were filled with rumors of dangers to the safety and preservation of the Union, printing most alarming and absurd accounts concerning the extent of the conspiracy, the movements of Burr, the size of his following, and the disaffection of the western country and of the army.²⁰⁰ And enemies of the administration were loud in their complaints that the government was permitting a treasonable enterprise to be fostered openly without taking a step to suppress it. Through all this comical hubbub Jefferson maintained an outward calmness and confidence in the West. "A few days", he said, "will let us know whether the western state suppress that enterprise, or whether it is to require from us a serious national arma-

¹⁹⁸ Richardson's *Messages and Papers of the Presidents*, Vol. I, p. 406.

¹⁹⁹ Wilkinson's *Memoirs*, Vol. II, Appendix, No. xcii.

²⁰⁰ As examples of these extravagant newspaper accounts, see the *National Intelligencer*, November 7, 1806, and the *Palladium* (Frankfort, Kentucky), December 11, 1806.

ment.”²⁰¹ Congress also kept a rational attitude, although some members — discontents like John Randolph — professed themselves greatly excited.

On January 5, 1807, General Samuel Smith introduced in the Senate, with the consent of the President, a resolution proposing an increase in the military establishment of the United States.²⁰² To his brother-in-law, Wilson Cary Nicholas, he wrote a few days later: “I fear that Burr will go down the river and give us trouble. The proclamation, it seems, in the Western country is very little attended to. They, no doubt, seeing no exertion making, consider that it has originated from false information. The President has not yet given any kind of information to Congress, and gentlemen (Giles among the number) will not believe that there is any kind of danger. . . . Duane calls on Congress to act. How can Congress act? Would you force from the Executive the information they are unwilling to give?”²⁰³ Had not the conspiracy been disclosed, complained General Smith, “the President would have folded his arms and let the storm collect its whole strength.”

In the House it appears that Randolph could restrain his impatience no longer. He moved a resolution asking the President what information he possessed touching “any illegal combination of private individuals against the peace and safety of the Union,” and what he had done, or proposed to do, to defeat the same.²⁰⁴ Perhaps at this moment, he said, “the fate of the Western country may have been decided”. Mr. Willis Alston of North Carolina opposed the resolution, saying: “I have no apprehension and feel no dread of any force that can be brought against

²⁰¹ Ford's *The Writings of Thomas Jefferson*, Vol. VIII, p. 503.

²⁰² *Annals of Congress*, 2nd Session, 9th Congress, p. 27. January 5, 1807.

²⁰³ Quoted from Adams's *History of the United States*, Vol. III, p. 334.

²⁰⁴ *Annals of Congress*, 2nd Session, 9th Congress, p. 336. January 16, 1807.

us in the Western country. Our force there will be able to cope with any that shall be embodied against the United States and the moment the man at their head shall declare himself hostile to the Union, the very forces which he has raised will turn their bayonets against him: they will desert him." Mr. Alston credited newspaper information. "In a few days", he continued, "we shall probably receive another western mail, and if the information then received shall not be satisfactory, or serious danger appears to exist, we may call for that information which is not now necessary."

Mr. Joseph Clay of Pennsylvania said this was the first time "that he had ever heard it stated that newspaper information was proper for legislative action. For this reason we are to wait, it seems, until we get two or three more newspapers from the Western country."²⁰⁵

Mr. James Holland of North Carolina had no "apprehension for the peace and safety of the country. I have reason to believe that there are some desperate characters engaged in disturbing the peace of society, but I confide in the integrity of the people; and I believe the strength of the militia will always be found competent to the exigency." Said Mr. George Washington Campbell of Tennessee: "This conspiracy has been painted in stronger colors than there is reason to believe that it deserves. It has been stated as dangerous to the Union. On what grounds? There is no evidence that there is in any part of the United States two hundred persons collected for the purpose of carrying it into effect. . . . We have indeed newspaper evidence, that it was reported that the author of it was to march at the head of two thousand men, and that four thousand Kentuckians were to follow: At the same time,

²⁰⁵ *Annals of Congress*, 2nd Session, 9th Congress, p. 338.

however, that Kentucky is taking the most effectual means to crush it. So far from there being four thousand Kentuckians enlisted, I do not believe there are ten, unless, indeed, the stragglers passing through that State are so denominated.

“The gentleman from Pennsylvania has observed that the members from the Western country are either ignorant, or pretend to be so, of this plot. I cannot suppose the gentleman alluded to any member in this House. There is one circumstance on this head worthy of notice — the greater part of the men associated came from the Eastern country, and from the State of the gentlemen from Pennsylvania. With regard to the sentiments of the Western country, I believe they are as well affected towards the Union as those of any part of the confederacy. I do not conceive there is ground for the alarm that has gone forth.”²⁰⁶

In spite of these professions of confidence in the western situation the resolution passed by a large majority.²⁰⁷ Six days later (January 22) the President transmitted his reply on the Burr conspiracy, accompanied by the correspondence of General Wilkinson.²⁰⁸ Among other details the message narrates concerning Burr that “He collected from all the quarters where himself or his agents possessed influence, all the ardent, restless, desperate, and disaffected persons, who were ready for any enterprise analogous to their characters. He seduced good and well meaning citizens, some by assurances that he possessed the confidence of the Government, and was acting under its secret patronage, a pretense which procured some credit from the state of our differences with Spain; and others by offers of land in Bastrop’s claim on the Washita.”

²⁰⁶ *Annals of Congress*, 2nd Session, 9th Congress, p. 347.

²⁰⁷ *Annals of Congress*, 2nd Session, 9th Congress, p. 357.

²⁰⁸ *Annals of Congress*, 2nd Session, 9th Congress, pp. 39, 1008-1019.

The President was of the opinion that the enterprise would come to naught. "On the whole", he wrote, "the fugitives from the Ohio, with their associates from Cumberland, or any other place in that quarter, cannot threaten serious danger to the city of New Orleans." He related the drastic arrests by General Wilkinson in New Orleans, the great alarm excited in that city, and praised the patriotic zeal of the inhabitants — "the merchants of the place readily agreeing to the most laudable exertions and sacrifices for manning the armed vessels with their seamen; and the other citizens manifesting unequivocal fidelity to the Union and a spirit of determined resistance to their expected assailants." The message closed with the information that two suspected conspirators summarily arrested by Wilkinson were now embarked by him for Washington.

The Senate hastened to coöperate with the President. The next day William B. Giles introduced a bill suspending for a limited time the writ of *habeas corpus* in certain cases; and the necessity for prompt action so appealed to the Senate that the rules by unanimous consent were dispensed with and the bill came to the third reading on that same day and was passed.²⁰⁹

On Monday the Senate bill was delivered to the House. If Jefferson expected the House to give their assent to this bill, the incident affords an exception to his usual personal control of that body. His own son-in-law, Mr. John W. Eppes of Virginia, moved its rejection;²¹⁰ while Mr. William A. Burwell of Virginia exclaimed: "Nothing but the most imperious necessity would excuse us in confiding to the Executive, or any person under him, the power of seizing and confining a citizen, upon bare suspicion, for three months, without responsibility." And, added Mr. Burwell,

²⁰⁹ *Annals of Congress*, 2nd Session, 9th Congress, p. 44. January 23, 1807.

²¹⁰ *Annals of Congress*, 2nd Session, 9th Congress, p. 403.

it seems that the country is perfectly safe, and the conspiracy nearly annihilated.²¹¹

The bill was rejected promptly by a vote of one hundred thirteen to nineteen.²¹² Hardly a month later Chief Justice Marshall discharged the prisoners sent to Washington by Wilkinson, upon a writ of *habeas corpus*.²¹³ In the subsequent indictment and trial of Burr the conspiracy passes from the pages of Congressional history to the field of the Supreme Court and the Executive. But traces of the episode occur in the Congressional records for many years following.

Considerable attention was devoted in that same session and in several following sessions to measures for punishing persons who should engage in an unauthorized military enterprise or conspiracy. The entire proceedings of the Aaron Burr trial was communicated to the Senate at the opening of Congress in November, 1807;²¹⁴ and the same session witnessed the investigation of Senator John Smith of Ohio, by a committee of the Senate, for alleged association with the Burr conspiracy.²¹⁵ The state of investigation and denunciation could never be complete without John Randolph as chief accuser, and he did not shirk his usual course. On December 31 he moved the resolution requesting the President to communicate what information might be held concerning the conduct of General James Wilkinson, in relation to his having ever received a pension from the King of Spain.²¹⁶

²¹¹ *Annals of Congress*, 2nd Session, 9th Congress, p. 405.

²¹² *Annals of Congress*, 2nd Session, 9th Congress, p. 424.

²¹³ *Ex parte Bollman and Swartwout*, 4 Cranch 75.

²¹⁴ *Annals of Congress*, 1st Session, 10th Congress, pp. 33, 385. November 23, 1807.

²¹⁵ *Annals of Congress*, 1st Session, 10th Congress, p. 55. *Memoirs of John Quincy Adams*, Vol. I, pp. 481-528.

²¹⁶ *Annals of Congress*, 1st Session, 10th Congress, p. 1261.

Without attempting to give the history of these episodes it is worthy of attention to note the expressions that they called forth concerning the loyalty of the western people.

It was unfortunate for the reputation of the West that a Senator like John Smith of Ohio should have been so deeply implicated in the conspiracy. Easterners, although aware of the participation by a former Vice President, and by members of Congress and army officers — all from the Atlantic States — might naturally think that there was insurrectionary spirit in the West itself when prominent men in that section united and coöperated with the conspirators. Senator William H. Crawford declared that east of the Alleghanies the artful traitor (Burr) had dared address himself only to the enemies of the administration, but west of the mountains he endeavored to convince *every* man that it was the interest of the western country to separate from the Atlantic States. "Here", said Crawford, "he addresses himself to the most respectable and influential characters, who stood high in the estimation of the public, who had no cause of complaint against the Administration."²¹⁷

John Quincy Adams, Chairman of the investigating committee, certainly held no suspicions concerning the fidelity of the western people and yet his sensible speech in opening the John Smith case bristled with passages which might be interpreted as unfavorable to them. He spoke of the character and purpose of Burr as being early well known in the West; that "Blannerhasset was filling the newspapers with rebellion, and engaging men for war," while Burr "was obtruding almost upon every stranger and transient acquaintance, that he found, in his way, the opinions which were suitable to his purpose", and how he was widely en-

²¹⁷ *Annals of Congress*, 1st Session, 10th Congress, p. 314. April 9, 1808.

tertained by respectable citizens to whom he broached "all his doctrines respecting the imbecility of the present Administration, and the right, the interest, and the provocations which the western people had to separate them from the Atlantic States."²¹⁸

The debate in the House upon Randolph's resolutions of December 31, was somewhat acute as well as rambling. All through it appears a thread of intimation that treason and infidelity still lurked in the West. Mr. John Rowan of Kentucky, while vehemently denouncing Wilkinson, defended the Kentuckians. It was well known, he said, that Spain was furnishing arms and money to the western country, but the Court of Spain addressed itself only to high characters like Wilkinson; "humble characters would not suit their purpose."²¹⁹ Mr. John Smilie sarcastically referred to the patriotism of Kentucky. The legislature of Kentucky did well to inquire into the conduct of a certain Judge Sebastian in receiving a pension from the Spanish government; but, said Mr. Smilie, it is strange that they never communicated their information to the Washington government.²²⁰ Mr. Randolph's resolution was adopted by the House,²²¹ and the President accordingly responded on January 20, 1808.²²²

But this did not end the affair. For several sessions General Wilkinson's conduct in the western country proved a fruitful subject for investigation, and cast more or less reflection upon western loyalty. One example of such inti-

²¹⁸ *Annals of Congress*, 1st Session, 10th Congress, pp. 253, 251.

John Quincy Adams was the manager of the trial of Senator Smith. The resolution to expel him lacked but one vote of the necessary two-thirds.—*Annals of Congress*, 1st Session, 10th Congress, p. 324.

²¹⁹ *Annals of Congress*, 1st Session, 10th Congress, p. 1372. January 8, 1808.

²²⁰ *Annals of Congress*, 1st Session, 10th Congress, p. 1374.

²²¹ *Annals of Congress*, 1st Session, 10th Congress, p. 1458. January 13, 1808.

²²² *Annals of Congress*, 1st Session, 10th Congress, p. 2726. January 20, 1808.

mations will suffice to illustrate the suspicions of the East. In 1810 when a resolution to appoint a committee to further inquire into the conduct of General Wilkinson was before the House, Mr. Erastus Root of New York in the course of an argument said: "As long ago as 1786 or 1787, when the mouths of the Mississippi were held by Spain, the inhabitants on its waters were taking measures, if not for independence of the United States, at least for a connexion with Spain."²²³

It may be asked, what effect the Aaron Burr conspiracy and its accompanying episodes exerted in years following upon the eastern opinion of the western people's loyalty to the Union? In the early days of the government it was a frequent occurrence to make invidious comparisons between the loyalty of different sections of the country. To attack the western people in this respect was no new thing. Indeed, the first Congress witnessed such insinuations. Senator William Maclay recorded in his journal on April 16, 1789, the following observations:

New phantoms for the day must be created. Now a dangerous and dreadful conspiracy is discovered to be carrying on between the people of Kentucky and the Spaniards. King [Senator Rufus King of New York] unfolded this mysterious business, adding that he conceived his fears were well founded. He firmly believed there was a conspiracy; that it was dangerous to put arms into the hands of the frontier people for their defense, lest they should use them against the United States.

I really could scarce keep my seat and hear such base subterfuges made use of one after another. I rose, demanded what right gentlemen had to monopolize information. If they had it, let them come forward with it and give other people an opportunity of judging of the authenticity of the information, as well as the persons in possession of it, declared I could not tamely sit and hear the charac-

²²³ *Annals of Congress*, 3rd Session, 11th Congress, p. 440. December 18, 1810.

ters of the people on the Western waters traduced by the lump. . . . I felt disposed to wipe King hard, and certainly did so.²²⁴

There were not wanting those who, unlike Maclay, were willing to cherish and promulgate such opinions for political purposes, although they must have realized their exaggerations at the time, and events later proved their untruth. However, like evidence, presented to a jury which is decided out of order by the court, has nevertheless produced an effect on the jury which no rulings by the court can entirely eradicate: so the intimations of disloyalty, insurrection, insubordination and lawlessness of the western people stood upon the records of the national legislature and left unfortunate impressions in the Atlantic States for many years.

At the time of the Burr conspiracy there probably were no States more strongly attached to the Union than Kentucky, Tennessee, and the young State of Ohio. Certainly New England was not more so, for at the time four Federalist Senators (Plumer of New Hampshire, Tracy and Hillhouse of Connecticut, and Pickering of Massachusetts) not only expressed their opinion that a dissolution of the Union was inevitable, but together with other New England members in Congress attempted in 1804 to foster a movement in their States looking towards such a dissolution.²²⁵ Such machinations in populous States were overshadowed by western conspiracies, because, the international possibilities of developments in the West and the romance and speculation that surrounded them, invited interest and curiosity, and thereby gained an unwarranted notoriety for the section of country where they culminated.

As a contradiction to this adverse eastern opinion west-

²²⁴ *Journal of William Maclay* (1890), p. 240.

²²⁵ Compare Plumer's *Life of William Plumer*, pp. 284-311, and Plumer's *New England Federalism*, pp. 106, 146, 342.

ern members to Congress during a score or more of sessions felt it a part of their official duty to their constituents to inform Congress of the attachment of the West to the general government; and the Congressional records abound with these declarations of loyalty, more or less oratorical, but always sincere, until the time came when the West had grown so large and prosperous and powerful that such professions were no longer necessary.

While the Burr conspiracy was holding the interest of the East the government which Congress provided for the Territory of Orleans by the act of March 3, 1805, was proving by no means satisfactory to the people of that Territory. The colony of Louisiana had been most tenderly reared by its European guardians. The Creoles, French, and Spanish of New Orleans numbered many cultured and educated families who considered themselves, and not without reason, as above the American emigrants to that Territory. These people had expected to be granted, soon after the transfer of Louisiana, the right of admission as a State into the Union. Great was their disappointment and chagrin to be relegated to the lower grade of Territorial government. The story of their feeble remonstrance carried to Congress by the three Creole gentlemen has already been related.

It was not until 1811 that Congress acted upon their petition. A bill was reported in the House to enable the people of Orleans Territory to form a State government and be admitted into the Union, and came to the third reading on January 9. For seven years this privilege had been denied them, contrary to the obligation contracted by the treaty of cession with France. Should Congress now refuse to perform this solemn engagement? The remnants of the Federalist party said yes, and opposed the bill in the bitterest spirit, much to the disgust of the Delegate from the Territory of Mississippi who took part in the debate. There was

no question of the loyalty of the Louisiana people, he declared. Then why should they not be raised to the status of citizenship in a State?²²⁶

The more the Federalists realized that they were fighting their last battle against westward expansion, the more vindictive became their argument.

Mr. Sheffey, a Federalist of Virginia, said that while he was disposed to treat the inhabitants of the Orleans Territory as brothers, and not as vassals, he was not ready "to transfer the inheritance purchased by the blood of our fathers to foreigners."²²⁷

Mr. Laban Wheaton of Massachusetts declared that "The great Napoleon may have more land to sell, and Spain now possesses what she cannot retain. May we not, in time, have the whole of South America, [or] some of the West India islands? . . . And if so, upon the same principle that we form the Territory of Orleans into a State, we may form these Territories into as many separate States as we please, and admit them into the Union, with all the powers and privileges that any of our States now possess and enjoy. Then what will become of the Old United States, who first entered into the compact contained in the Constitution, and for whose benefit alone that instrument was made and executed? Instead of these new States being annexed to us, we shall be annexed to them, lose our independence, and become altogether subject to their control."²²⁸

On January 14 a speech was delivered against the bill which attracted attention over the entire Nation. Mr. Josiah Quincy of Massachusetts was the speaker, and he said: "I am compelled to declare it as my deliberate opinion, that, if this bill passes, the bonds of this union are virtually

²²⁶ *Annals of Congress*, 3rd Session, 11th Congress, p. 555. January 15, 1811.

²²⁷ *Annals of Congress*, 3rd Session, 11th Congress, p. 484.

²²⁸ *Annals of Congress*, 3rd Session, 11th Congress, p. 494.

dissolved; that the States which compose it are free from their moral obligations, and that, as it will be the right of all, so it will be the duty of some, to prepare definitely for a separation — amicably if they can, violently if they must.”²²⁹ After several minutes of confusion on the floor of the House, Mr. Quincy continued: “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, and the Red River country. And whenever it is attempted to be stretched over them, it will rend asunder. . . . 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, or with the mixed, though more respectable race of Anglo-Hispano-Gallo Americans, who bask on the sands, in the mouth of the Mississippi.”

Mr. Richard M. Johnson of Kentucky saw in this speech a slur cast upon the people he represented. “I wish on this occasion,” he said, “to do justice to the people of Kentucky, by asserting their inviolable attachment to the Union, more especially since in this House its sacredness has been profaned in a manner not to be forgotten. If the people of the West and beyond the mountains have any political idol, it is the union of the States. . . . Their union is never profaned by conversations or speculations about disunion. You never hear disunion mentioned in private circles, much less in public bodies. A professor of religion to deny the existence of an over-ruling Providence, would not be more disgraced in the estimation of the real Christian, than a statesman would be disgraced, politically, by even doubting the advantages of the union of the States. The word disunion,

²²⁹ *Annals of Congress*, 3rd Session, 11th Congress, p. 525.

as applied to the States, would produce a heart-rending pang in the bosom of a Western patriot. . . . As a people they cherish and harbor no jealousy about large and small States, of commercial monopolies, &c. Nor are they thus attached to the Union from selfish and interested motives — no, sir, their attachment to the Union arises from noble and generous affection, a magnanimous and disinterested display of patriotism, and love of independence. We have given many proofs of this. At a time when this people were agitated and alarmed at the prospect of having some of their most essential rights interrupted, and when they declared their determination to support those rights [the Kentucky Resolutions], the gold and silver of Spain, in the hands of Spanish emissaries, could not alienate the affections of this people, with all the influence of arch intriguers; and the treason of Aaron Burr had as little effect upon the minds of this virtuous and happy people.”²³⁰

Mr. Nathaniel Macon of North Carolina observed that he was as willing now to make Orleans a State as he had been to make Ohio a State. “The great object is to make us one people; to make this nation one. . . . The people of Orleans possessed certainly as strong an attachment to the nation as could be expected from the time they had belonged to it. When the Spaniard invaded the Territory, they stepped forward to repel them”.²³¹

Mr. John Rhea of Tennessee warmly espoused the cause of the Territory. “Give them,” he said, “all the rights of freemen and citizens”.²³²

The bill passed the House on January 15, 1811, by a vote of seventy-seven yeas and thirty-six nays, twenty-one of the

²³⁰ *Annals of Congress*, 3rd Session, 11th Congress, p. 721.

²³¹ *Annals of Congress*, 3rd Session, 11th Congress, p. 485.

²³² *Annals of Congress*, 3rd Session, 11th Congress, p. 501.

negative votes coming from New England.²³³ In a few weeks the Senate concurred.²³⁴ The precedent established by the passage of this bill left no doubt as to the ultimate political status of trans-Mississippi Territories. The Constitution and Statehood were to extend to them as they had in the case of the Northwest and the Southwest Territories.

Two years previous to this last debate upon Louisiana Statehood occurred the final settlement in the Territory of Indiana of a long struggle to introduce slavery. By the sixth article of the compact of the Northwest Ordinance slavery was forbidden. It appears that after the enactment of this statute by the Congress of the Confederation, the French slave-owners in the Illinois country and at Detroit, Kaskaskia, and Vincennes feared that the article was intended to be retroactive. A certain Bartholomew Tardiveau from that country addressed Congress and the President, praying for a declaration that the Ordinance was not intended to free slaves previously held in the Territory. In a letter to Governor St. Clair sometime later he claimed to have been assured by members in Congress "that the intention of the obnoxious resolution had been solely to prevent the future importation of slaves into the Federal country; that it was not meant to affect the rights of the ancient inhabitants; and promised to have a clause inserted in it explanatory of its real meaning, sufficient to ease the apprehensions of the people".²³⁵ Congress passed no interpreting clause, but Governor St. Clair upon his arrival in the Territory issued a proclamation declaring that the sixth article was not

²³³ *Annals of Congress*, 3rd Session, 11th Congress, p. 577.

²³⁴ *Annals of Congress*, 3rd Session, 11th Congress, p. 127. February 7, 1811. Louisiana was formally admitted as a State by Act of April 8, 1812.—*United States Statutes at Large*, Vol. II, p. 701.

²³⁵ Smith's *The St. Clair Papers*, Vol. II, p. 117. Bartholomew Tardiveau to Governor St. Clair, June 30, 1789.

intended to free slaves already held, but to prohibit the future importation of slaves.²³⁶

A large class of the American settlers emigrating to the Territory were people also accustomed to hold slaves in their native States, and accordingly there began a spirited demand for the abolishment of the restricting sixth article. On April 25, 1796, the first petition for this advantage came to the House.²³⁷ The petitioners, four in number who claimed to represent the inhabitants of two counties in the Illinois country, contended that by the Common Law and by former promises of the State of Virginia, when that State's jurisdiction extended over part of the land in question, they were legally entitled to hold slaves in the Territory. They recounted the economic necessity of slavery there. Laborers cannot be procured, they wrote, to assist in cultivating the grounds under one dollar per day. Tradesmen demand two dollars, and there were few to be got even at those exorbitant prices.²³⁸ Therefore they prayed that the sixth article be repealed.

The House Committee to whom this petition was referred reported on May 12 that the petition ought not to be granted, there being no evidence that the four petitioners expressed the wish of the majority of the inhabitants.²³⁹

After the division of the Northwest Territory in 1800, a new and vigorous agitation for slavery appeared in the Indiana Territory. The new government (which was of the first grade as provided in the Ordinance of 1787) had hardly been organized by Governor Harrison before a petition

²³⁶ Smith's *The St. Clair Papers*, Vol. I, pp. 120 note, 205-206. Compare St. Clair's letter to Luke Decker of Vincennes.—*The St. Clair Papers*, Vol. II, p. 318.

²³⁷ *Annals of Congress*, 1st Session, 4th Congress, p. 1170.

²³⁸ *American State Papers, Public Lands*, Vol. I, p. 69.

²³⁹ *Annals of Congress*, 1st Session, 4th Congress, p. 1349.

from the Illinois country was sent to the Senate.²⁴⁰ The petitioners prayed Congress to adopt the plan of permitting slaves to be introduced into any Territory, "who when admitted shall continue in a state of Servitude during their natural lives, but that all their children born in the Territory shall serve, the males until thirty-one and the females until twenty-eight, at which time they are to be absolutely free."²⁴¹ The Senate ordered the petition to lie on the table, and that was the end of it.

The people of Indiana were not discouraged by the inattention of Congress to their petition. The politicians decided upon two moves: first, to petition the Governor and Judges for the second stage of Territorial government, which would entitle them to a Delegate to Congress;²⁴² and, second, it was urged that Congress would respect a memorial for slavery more than a mere petition, and therefore a convention for that purpose should be held. The first movement Harrison was shrewd enough to cause to be abandoned, for he realized that the establishment of an elective Territorial legislature would weaken the Governor's influence. The second plan he fostered, and a convention was duly called at Vincennes and organized on December 20, 1802. The convention adopted a memorial which declared that the prohibition of slavery in the Territory had prevented the country from populating, and they prayed a suspension of the sixth article for a period of ten years.²⁴³ The Speaker laid the memorial before the House, on February 8, 1803, where it was referred to a committee of Messrs. Randolph, Roger Griswold of Connecticut, Robert

²⁴⁰ *Annals of Congress*, 1st Session, 6th Congress, p. 735. January 23, 1801.

²⁴¹ Quoted from Dunn's *Indiana: A Redemption from Slavery*, p. 297.

²⁴² Smith's *The St. Clair Papers*, Vol. II, p. 533. J. Edgar to Governor St. Clair, April 11, 1801.

²⁴³ Dunn's *Indiana: A Redemption from Slavery*, pp. 305, 306.

Williams of North Carolina, Lewis R. Morris of Vermont, and William Hoge of Pennsylvania.²⁴⁴

On March 2 Randolph, from the committee, reported that it was inexpedient to suspend the operation of the article in question, and accompanied the report with a dissertation on private economy and ethics which was instructive if not irritating to the memorialists.²⁴⁵ "The rapid population of the State of Ohio", reads the report, "sufficiently evinces, in the opinion of your committee, that the labor of slaves is not necessary to promote the growth and settlement of colonies in that region. That this labor, demonstrably the dearest of any, can only be employed to advantage in the cultivation of products more valuable than any known to that quarter of the United States. That the committee deem it highly dangerous and inexpedient to impair a provision wisely calculated to promote the happiness and prosperity of the Northwestern country, and to give strength and security to that extensive frontier. In the salutary operation of this sagacious and benevolent restraint, it is believed that the inhabitants of Indiana will, at no very distant day, find ample remuneration for a temporary privation of labor and of emigration."²⁴⁶

The session was too far advanced to admit of debating this report, and adjournment took place before it could be brought up in Committee of the Whole House. At the next session, however, the memorial and Mr. Randolph's report were recommitted to a committee consisting of Mr. Caesar Rodney of New York, Mr. John Boyle of Kentucky, and Mr. John Rhea of Tennessee.²⁴⁷ This committee reported on February 17, 1804, recommending a suspension for ten

²⁴⁴ *Annals of Congress*, 2nd Session, 7th Congress, p. 473.

²⁴⁵ *Annals of Congress*, 2nd Session, 7th Congress, p. 613.

²⁴⁶ *Annals of Congress*, 2nd Session, 7th Congress, p. 1353.

²⁴⁷ *Annals of Congress*, 1st Session, 8th Congress, p. 779. December 15, 1803.

years of the anti-slavery article so as to permit the introduction of slaves, but further provided that the descendants of such slaves should be free at the age of twenty-five years, if males, and at the age of twenty-one years, if females.²⁴⁸ The report was referred to the Committee of the Whole House on the Monday next, but was never called up during the session; so the struggle for slavery in the Territory again failed to impress Congress.

The next step of the pro-slavery politicians in the Illinois country had already been accomplished before the Rodney committee report was made. This manoeuvre consisted in petitioning Congress to attach the western part of Indiana Territory to the new government to be established in Upper Louisiana — which the petitioners rightly judged, would not be placed under the operation of the Ordinance of 1787. This petition was presented to the House on October 26, 1803.²⁴⁹ Instead of accepting this suggestion, Congress by act of March 26, 1804, extended over Upper Louisiana the executive and legislative power vested in the Governor and Judges of the Indiana Territory.²⁵⁰

On December 5, 1804, by proclamation of Governor Harrison, Indiana Territory was finally erected into a Territory of the second grade of government. Among the first acts passed by the new legislature was one, contradictory to the Ordinance of 1787, permitting the qualified introduction of slaves into the Territory under the form of indentured servants.²⁵¹ Although this flagrant Territorial law was widely denounced as a violation of the Ordinance, yet Congress did not annul it. However, after the division of

²⁴⁸ *Annals of Congress*, 1st Session, 8th Congress, p. 1024.

²⁴⁹ *Annals of Congress*, 1st Session, 8th Congress, p. 489.

²⁵⁰ *United States Statutes at Large*, Vol. II, p. 283.

²⁵¹ *Acts of the First Session of the First General Assembly of the Territory of Indiana*, pp. 5-24.

the Territory in 1809 when the Illinois country, the seat of the most ardent advocates of slavery in the Territory, was cut off, this statute was repealed.²⁵²

The account has already been given of how the organic act of the Orleans Territory prohibited the introduction of slaves from abroad, and required that slaves introduced from other parts of the United States should be the property of actual settlers, and how the agents of the Territory (Messrs. Sauv , Derbigny and Destr han) unsuccessfully protested against this provision. At the same time, while they were protesting in Washington, a remonstrance signed by representatives elected by the freemen in the District of Louisiana was presented to Congress.²⁵³ This petition prayed both for the establishment of a separate Territory in the District and that "the free possession of our slaves" and the right of importing slaves into the Territory be granted by Congress. On January 10, 1805, it was referred to the committee already mentioned, which had under consideration the petition from the Orleans Territory and of which John Randolph was chairman.²⁵⁴ When the committee reported on January 25 it recommended that self-government be extended to both the Territory and the District, but added that "In recommending the extension of this privilege to the people of that country, it is not the intention of the committee that it should be unaccompanied by wise and salutary restrictions. Among them may be numbered a prohibition of the importation of foreign slaves, a measure equally dictated by humanity and policy."²⁵⁵ But, the bill erecting the District of Louisiana into the Territory, which was framed in the Senate and passed the House on

²⁵² *Laws of the Territory of Indiana*, p. 54.

²⁵³ *Annals of Congress*, 2nd Session, 8th Congress, p. 1608. January 4, 1805.

²⁵⁴ *Annals of Congress*, 2nd Session, 8th Congress, p. 957.

²⁵⁵ *Annals of Congress*, 2nd Session, 8th Congress, p. 1016.

the second of March, 1805, contained no provision concerning slavery.²⁵⁶

Seven years later, June 4, 1812, the act providing for the government of the Territory of Missouri, was approved.²⁵⁷ It neither prohibited slavery nor further restricted its introduction by American settlers.

In another seven years the Territory was ready for Statehood. December 18, 1818, the petition of the Territorial legislature for admission as a State into the Union was presented to the House.²⁵⁸ Two months later the matter was brought before the Committee of the Whole in the usual form of a bill. Mr. James Tallmadge of New York then precipitated the vital question by moving that the further introduction of slaves into that State be prohibited and that the issue of all slaves held in the Territory should be freed at the age of twenty-five.²⁵⁹ Quickly came the southern reply to this proposition. The admission of States could not be conditioned by Congress, argued Mr. Philip P. Barbour of Virginia, as he stated the position of the South.²⁶⁰

After a short, sharp debate the northern amendment prevailed by the slightest majority. But in the Senate the vote was reversed.²⁶¹ Then both houses insisted on their respective amendments, and the session adjourned without coming to any agreement.

In the next session the opponents to the proposed limitation on Missouri held a distinct advantage, for Maine had

²⁵⁶ *Annals of Congress*, 2nd Session, 8th Congress, pp. 69, 1215.

²⁵⁷ *United States Statutes at Large*, Vol. II, p. 743.

²⁵⁸ *Annals of Congress*, 2nd Session, 15th Congress, p. 418.

²⁵⁹ *Annals of Congress*, 2nd Session, 15th Congress, p. 1170. February 15, 1819.

²⁶⁰ *Annals of Congress*, 2nd Session, 15th Congress, p. 1185.

²⁶¹ *Annals of Congress*, 2nd Session, 15th Congress, pp. 1214, 273. February 16, 1819, February 27, 1819.

applied for admission as a State. In the Senate, the majority for slavery joined the Maine and the Missouri bills and forced upon the House the alternative of either insisting upon their Missouri limitation and delaying the admission of both States, or relinquishing their restriction and allowing the admission of the two States.²⁶² Furthermore, the Senate added to the Missouri bill a section by which Congress virtually renounced its right to forbid slavery south of the line 36° 30' in the western Territories.²⁶³ The adjournment of Congress approached with little indication of a settlement. But at last in the evening before the third of March the free soil advocates yielded to the contention of the South. The two clauses restricting slavery were stricken out.²⁶⁴

This, briefly stated, is the history of the Missouri enabling act. The debates thereon were acute and detailed, and held the attention of all the Nation, but they revealed no new attitude of Congress toward the people of the West. The treaty obligations of the United States to the inhabitants of the ceded territory of Louisiana had already been canvassed in the fight for the admission of the first State from that country, although in the Missouri debate the question centered upon the property rights of the citizens; while the Louisiana debates covered the whole range of political rights. In regard to the placing of certain conditions upon admission into the Union there was precedent for both the action and the debate. Ohio, Louisiana, Indiana, and Illinois had been admitted under certain expressed conditions, and in the case of Ohio it has been noted that some opposition appeared thereto.

²⁶² *Annals of Congress*, 1st Session, 16th Congress, p. 424. February 16, 1820.

²⁶³ *Annals of Congress*, 1st Session, 16th Congress, p. 469. March 2, 1820.

²⁶⁴ *Annals of Congress*, 1st Session, 16th Congress, p. 1586.

Missouri's insolent attitude in the proceedings was at first overlooked in Congress, although indeed John Tyler of Virginia asked what if Missouri should "sever [itself] from the union?"²⁶⁵ And a Georgia representative threatened that Missouri might throw off the yoke of attachment and laugh the Union to scorn.²⁶⁶ But when Missouri presented to Congress, in November, 1820, a constitution containing a gross infraction of the Constitution of the United States, northern members could no longer contain their disgust or anger, and it taxed the genius of Clay severely to effect a compromise.²⁶⁷

Throughout the whole debate, however, the fact is conspicuous that in the view of Congress western local interests were absorbed in the great national side of the struggle — the conflict between the slave power and slavery opponents. From the standpoint of local self-government the Southerners, indeed, stood upon the broader ground. The logic of Charles Pinckney of South Carolina appeared statesmanlike. Basing his argument upon the assumption that the rights of the original thirteen States, after the adoption of the Constitution, were absolutely equal, and that the Constitution provided that "new States may be admitted into this Union", he maintained that new States should enjoy all the rights of the original thirteen. The original States have enjoyed, he said, and still enjoy the power to forbid or allow slavery. Therefore the people of Missouri must necessarily enjoy the same power when admitted as a State.²⁶⁸

²⁶⁵ *Annals of Congress*, 1st Session, 16th Congress, p. 1394.

²⁶⁶ *Annals of Congress*, 1st Session, 16th Congress, p. 1030.

²⁶⁷ *Annals of Congress*, 2nd Session, 16th Congress, p. 440. November 16, 1820.

²⁶⁸ *Annals of Congress*, 1st Session, 16th Congress, p. 1310. February 14, 1820.

Northern argument touched upon the Westerners in justifying the prohibition of the expansion of slavery. John W. Taylor of New York for one said that he did not wish to oppress the settlers of the West by seemingly depriving them of an economic convenience. "We wish to leave them," he said, "in the full enjoyment of all their rights; we only forbid them to practice wrongs; we invite them to the territory in question, but we forbid their bringing into it a population which can not but prove its misfortune and curse; a population which, if once introduced, will fasten like an incubus upon all its energies, and from which it can never be relieved."²⁶⁹

Anti-slavery members in Congress, who denounced slaveholding in the Territories, directed their disapproval no more toward slave owners in the West than in the South. They spoke in general, not in particular terms. Nor was it any implication against the political intelligence of the Missouri people that these members insisted upon certain conditions being placed upon their admission into the Union. The capacity of the people for self-government was by no means doubted. But their slavery inclinations were known, and to frustrate a slavery victory in Missouri, as well as in all the Territorial West, the opponents of slavery were led to oppose even local self-government in regard to this question.

III

NATIONAL DEFENSE AND FRONTIER PROTECTION

Although the Treaty of 1783 recognized the unconditional jurisdiction of the United States over all the country west of the original States and east of the Mississippi River, the new government from the beginning treated the Indian oc-

²⁶⁹ *Annals of Congress*, 2nd Session, 15th Congress, p. 1223. February 17, 1819.

cupants as sovereign nations with valid claims to the same territory. From 1778 to 1789 no less than nine treaties were made with the chief men of Indian nations, by which the tribes acknowledged themselves as under the protection of the United States and granted certain lands in exchange for presents.²⁷⁰ In the Northwest such treaties were made with the Iroquois, the Wyandot, Delaware, Chippewa, and Ottawa nations, and with the Shawnees. But there were other large and warlike tribes who resisted all proposals by the agents of Congress. With the Miami, the Kickapoo, the Pottawattamie, and the Wea tribes no treaties could be made. They were of the mind to grant no lands to the white man, and they were probably encouraged in this resistance by the commandants of the English forts still held in American territory.

The rush of emigration to the Ohio, following the settlement of Marietta in 1787, produced the inevitable result — an Indian war. The first year of Washington's administration had not passed before it was found necessary to instruct General Arthur St. Clair, Governor of the Northwest Territory, to ascertain whether the Indians of the Wabash and Illinois intended to continue their depredations on the frontier.²⁷¹ If they persisted in their warlike actions, he was instructed to call upon the militia of Virginia, Pennsylvania, and the local districts. Following out these instructions St. Clair found that all attempts for peace failed. "The English commandant is our father", said the Indians on the Maumee River.²⁷² And so, on September 26, 1790, an expedition under General Harmar set out for the Wabash.

²⁷⁰ *United States Statutes at Large*, Vol. VII, pp. 13-28.

²⁷¹ Smith's *The St. Clair Papers*, Vol. II, pp. 125-126. The President to Governor St. Clair, October 6, 1789.

²⁷² *Mr. Gamelin's Journal in American State Papers, Indian Affairs*, Vol. I, p. 94.

There were only three hundred and twenty regulars in his army, while the poorly disciplined and incompetently officered militia numbered eleven hundred men.²⁷³ Due partly to the insubordination of this militia and to the petty jealousies of its officers, the campaign resulted in failure and was soon followed by a bold and cruel Indian attack upon a remote settlement.²⁷⁴ The settlements on the Ohio became much alarmed over the Indian menace. "Unless", wrote Rufus Putnam in an appeal to Washington, "[the] Government speedily send a body of troops for our protection, we are a ruined people."²⁷⁵

The news of the increasing dangers on the frontier reached Philadelphia before Congress assembled on December 6, 1790. The President's address urgently called attention to the late aggressions and crimes of the Indians on the western settlements.²⁷⁶ Already the lives of valuable citizens have been sacrificed, said Washington. After the President had retired and the two houses separated, the Senate appointed Oliver Ellsworth chairman of the committee to draft a reply. This reply was reported and adopted four days later. While we regret, read the reply, the increase of Indian depredations which distress our northwestern frontiers, we approve the intentions of the Executive to suppress the same, and we shall undertake what legislative action is necessary to secure the peace and safety of our frontier settlements.²⁷⁷

Madison, Fisher Ames of Massachusetts, and Thomas Tudor Tucker of South Carolina comprised the committee

²⁷³ *American State Papers, Indian Affairs*, Vol. I, pp. 104-106.

²⁷⁴ *American State Papers, Indian Affairs*, Vol. I, p. 121.

²⁷⁵ *American State Papers, Indian Affairs*, Vol. I, p. 122.

²⁷⁶ *Annals of Congress*, 3rd Session, 1st Congress, p. 1771.

²⁷⁷ *Annals of Congress*, 3rd Session, 1st Congress, p. 1775. December 10, 1790.

to prepare the House reply. The report of this committee was read on December 11, 1790; and concerning the western expedition against the Indians it contained the following clause: "Whilst we regret the necessity which has produced offensive hostilities against some of the Indian tribes Northwest of the Ohio, we sympathise too much with our Western brethren, not to behold with approbation the watchfulness and vigor which have been exerted by the Executive authority, for their protection; and which, we trust, will make the aggressors sensible that it is their interest to merit, by a peaceable behavior, the friendship and humanity which the United States are always ready to extend to them."²⁷⁸

The reading at this point was interrupted by Mr. James Jackson of Georgia. He was a vindictive, ill-tempered man, whom Fisher Ames described as talking so loudly in the hall of the House that the Senate in the adjoining hall were obliged to shut their windows to keep out the din.²⁷⁹ Mr. Jackson at this time observed that he well appreciated the importance of an Indian war and of protecting the defenseless frontiers of the West. He approved the measures to punish the Indians on the Ohio. But he said that as a Representative from the State of Georgia he would think himself inexcusable if he did not then protest against the address of the President because it contained no mention whatever of the recent treaty with the Creek Nation — which treaty, he said, ceded to the Indians more than three million acres of the State's lands. He would not now engross the attention of the House further but he hoped at some future time to call up the Creek Treaty.²⁸⁰ The reply was adopted with no further debate on this clause, and evi-

²⁷⁸ *Annals of Congress*, 3rd Session, 1st Congress, pp. 1835, 1838, 1844-1846.

²⁷⁹ Ames's *Works of Fisher Ames* (1854), Vol. I, p. 87.

²⁸⁰ *Annals of Congress*, 3rd Session, 1st Congress, p. 1839.

dently was highly satisfactory to the majority of both houses.

Before the session closed, the promise of the lower House to protect the frontier was fulfilled by an act adding another regiment to the small army of the United States and authorizing the President to employ the militia on such terms as he deemed expedient.²⁸¹ During this session no determined opposition to protective measures for the frontier settlers appeared. Congress, or at least the Federalist members, accepted the view held by the administration, namely, that the Indians in the Northwest were the aggressors, that they had unwarrantably murdered innocent settlers, and that the government should protect these settlers, even at the heaviest cost. To end these hostilities and open the way for a peaceful settlement of the West was one of the objects close to the heart of Washington and is revealed in his letters to Secretary Knox and Governor St. Clair.²⁸²

Too soon, however, there arose occasion for sharp criticism. Late one evening in December, 1791, the President received the first tidings of St. Clair's disastrous defeat on the Wabash.²⁸³ Thereafter the public indignation against the war increased intensely. "The news probably comes at its worst, but the truth is doubtless bad enough",

²⁸¹ *United States Statutes at Large*, Vol. I, p. 222.

²⁸² Compare Spark's *Writings of George Washington* (1858), Vol. X, pp. 119, 130, 149, 151, 196, 293, 299, 303, 308, 329. While Washington was in deep sympathy with the western frontier people yet he was well aware that Indian hostilities were sometimes caused by their encroachments. On August 19, 1792, in a letter to Henry Knox he mentions "the turbulent disposition of the settlers on the western frontier of Georgia, and their endeavours . . . to oppose the measures of the general government, and to bring on a war between the United States and the Creek nation". And again he urges "the necessity of restricting the licenses of traders, and passes to people of other descriptions, who, under various pretences, but oftentimes with bad intentions, go into the Indian villages".

²⁸³ Compare Richard Rush's *Washington in Domestic Life* (1857), pp. 557-576.

wrote Fisher Ames, a close friend of the administration.²⁸⁴

In Congress bitter attacks upon the government's activity in defending the frontiers were not long in appearing. The friends of the administration proposed a bill to increase the regular army for the purpose of more effectually protecting the western country, which was violently attacked by the anti-Federalists.²⁸⁵ The Indian war was unjustly undertaken, they said. The settlers were largely responsible for the hostilities; since they were the aggressors, not only encroaching upon the Indian lands, but frequently making depredations upon the Indians and treating them harshly. The settlers were so greedy for the best lands, said these critics, that they refused to remain on the edge of civilization, but advanced out into the Indian country and there seized the most desirable places. The Indians could never be overcome by force. Treaties should be made; and, "Instead of being ambitious to extend our boundaries, it would answer a much better national purpose to check the roving disposition of the frontier settlers, and prevent them from too suddenly extending themselves to the Western waters. If kept closer together, and more nearly connected with the old settlements, they would be more useful to the community at large, and would not so frequently involve us in unnecessary and expensive wars with the Indians; but if permitted to rove at pleasure, they will keep the nation embroiled in perpetual warfare as long as the Indians have a single acre of ground to rest upon."²⁸⁶

The friends of the administration defended the character of the pioneers. They said: "The white people, it is true, have sometimes committed depredations on the Indians;

²⁸⁴ Ames's *Works of Fisher Ames* (1854), Vol. I, p. 107. Fisher Ames to Thomas Dwight, December 9, 1791.

²⁸⁵ *Annals of Congress*, 1st Session, 2nd Congress, p. 337. January 26, 1792.

²⁸⁶ *Annals of Congress*, 1st Session, 2nd Congress, p. 338.

but the instances have been rare of their making unjust attacks upon the savages; nor did they, on these occasions, commence hostilities against them till exasperated by the strongest provocations that could possibly stimulate the human heart." They told of Indian insults, threats, murders and depredations; of the power of the twenty-three great tribes in the Northwest, and how treaties always failed to tame these savages. "We cannot, without impeachment both to our justice and our humanity, abandon our fellow-citizens on the frontier to the rage of their savage enemies. And although the excise may be somewhat unpopular, what is the excise? what is money, when put in competition with the lives of our friends and brethren?"²⁸⁷ To defend the frontier properly, they said, the militia was not enough. They lacked experience and discipline. The regular army should therefore be considerably increased.

The opposition to an increase in the army again argued that a standing army would increase internal taxation, oppress the people, and endanger the rights and liberties of the people. The burden of the protection of the frontiers they proposed to throw upon the frontier militia. Indeed, they claimed that the militia were far superior in Indian warfare to regular troops.²⁸⁸ On this point they conveniently entertained a higher opinion of the pioneers as militiamen than as settlers seeking to cultivate the West. So a plan for organizing the militia as a substitute for a standing army was strongly urged. Said Mr. Joseph McDowell of North Carolina in favor of this measure: "The militia of the frontiers, who knew the country, and whose habits of life made them perfectly acquainted with the character of the enemy whom they had to encounter, were the only

²⁸⁷ *Annals of Congress*, 1st Session, 2nd Congress, pp. 343-345.

²⁸⁸ *Annals of Congress*, 1st Session, 2nd Congress, p. 339.

proper forces to oppose the Indians, with success.”²⁸⁹ In speaking of the militia in St. Clair’s unfortunate campaign one member exclaimed, “Poor fellows, [they] died like regulars.”²⁹⁰

On the other hand it was claimed that the militia lacked order and discipline, and involved great waste and expense. “A whole brigade of regular troops”, said a Connecticut member of the House, “would not cost so much as one regiment of militia”.²⁹¹ A Pennsylvania member observed: “I have a high opinion of the backwoods rifle-men, but I am confident that we cannot certainly rely upon their turning out as often as they might be wanted”.²⁹² Mr. William Findley of Pennsylvania thought it impossible to expect the unfortunate militia at Marietta to be able to protect the whole frontier against the united force of the Indians. “Do gentlemen consider the consequences of throwing all internal defense and distant expeditions upon the militia? Is it not enough that they already stand as a piquet guard to their brethren who live at ease; that they eat their bread in the fear of their lives, and are frequently embittered with the view of mournful accidents; but that we must lay a deliberate plan for increasing the number of their fatherless children and childless parents?”²⁹³

Before the question of increasing the army for the purpose of carrying on the Indian war came to a vote in the House, Fisher Ames wrote to his friend Thomas Dwight: “I believe that the war will be pursued against the Indians; that the public will be made to see that the charges of violence and oppression on the part of the United States, the

²⁸⁹ *Annals of Congress*, 1st Session, 3rd Congress, p. 776. June 6, 1794.

²⁹⁰ *Annals of Congress*, 2nd Session, 2nd Congress, p. 795. January 5, 1793.

²⁹¹ *Annals of Congress*, 2nd Session, 2nd Congress, p. 776.

²⁹² *Annals of Congress*, 2nd Session, 2nd Congress, p. 779.

²⁹³ *Annals of Congress*, 2nd Session, 2nd Congress, p. 789.

disturbance of the Indian possession of their lands, and a hundred others, are Canterbury tales. Little of the cause, the history, the object, or the prospect of this confounded war have been known abroad. Those who knew nothing, wished to know, and of course believed, a good deal. A good deal has been offered them to believe. The foes of government have seized the occasion, a lucky one for them. The foes of the Secretary at War [General Knox] have not been idle. Even the views of the western people, whose defence has been undertaken by the government, have been unfriendly to the Secretary at War, and to the popularity of the government. They wish to be hired as volunteers, at two thirds of a dollar a day, to fight the Indians. They would drain the Treasury. They are adverse to regulars. Besides, it looks not only like taking the war out of the hands of the back settlers, but so many troops there will look as if [the] government could not be resisted, and the excise perhaps would be less trifled with. All these, and many other causes, have swelled the clamor against the war."²⁹⁴

On February 1 the bill to increase the army for the frontier protection, passed the House by a vote of twenty-nine to nineteen.²⁹⁵ The Senate finally passed the bill in March,²⁹⁶ and thus in the end Congress sustained the administration in its policy of protecting the frontiers with a regular army as well as with the militia.

Anthony Wayne was appointed by the President in 1792 to lead the new expedition against the Indians. In 1794 this western campaign resulted in a complete defeat of the

²⁹⁴ Ames's *Works of Fisher Ames* (1854), Vol. I, p. 109. Fisher Ames to Thomas Dwight, January 13, 1792. Henry Knox, Secretary of War, defended the policy of the administration in a report, January 26, 1792.—*Annals of Congress*, 1st Session, 2nd Congress, pp. 1046-1052.

²⁹⁵ *Annals of Congress*, 1st Session, 2nd Congress, p. 355.

²⁹⁶ *Annals of Congress*, 1st Session, 2nd Congress, p. 99.

Indians, and in 1795 the conquered tribes relinquished their right to a vast territory north of the Ohio, thus establishing comparative security for the Northwest settlements.²⁹⁷

While Indian hostilities in the Northwest were being suppressed by the energetic Wayne, stories of continued trouble were coming up from the South, especially from Georgia.²⁹⁸ It is impossible within the limits of this paper to go into the details of Georgia's long controversy over Indian lands. Suffice it to say that Georgia claimed jurisdiction over the lands of the Creeks and other tribes of Indians, and was very eager to acquire full title to these lands, while the Indians were as determined to retain them. Settlements in Georgia and Tennessee approached these tribes from almost all directions, and conflicts between the two races were also here inevitable. In connection with this question of the southwest frontier which came up in several sessions some congressmen blamed the whites for inciting the troubles. Others were exasperated with the Indians and held that the pioneer people were innocent. After describing in detail how the Creeks murdered settlers without provocation, and stole their horses, Representative Thomas P. Carnes of Georgia exclaimed that he "would not give the life of one white man for those of fifty Indians." "Within the last seven years," he said, "there has not been a single instance of an Indian killed, by a white man, unless when the Indians themselves began the quarrel."²⁹⁹

In the next year, 1795, when a resolution was under consideration, proposing to provide for the conviction and punishment of persons unauthorizedly armed in "lands westward of the lines established by treaties with the Indian tribes", Representative Joseph McDowell of South Caro-

²⁹⁷ *United States Statutes at Large*, Vol. VII, p. 49.

²⁹⁸ *American State Papers, Indian Affairs*, Vol. I, p. 325 *et seq.*

²⁹⁹ *Annals of Congress*, 1st Session, 3rd Congress, p. 778. June 6, 1794.

lina said that daily murders were committed by the Creeks in the Southwestern Territory.³⁰⁰ And he asked: "Do the United States avenge these murders? No. Do they demand back the property carried off? No. Instead of any satisfaction to the people, their characters are abused on this floor. The frontier people know that their happiness consists in peace, and, therefore, cultivate it as much as they can."

Mr. Giles of Virginia, although he opposed an increase of the army, nevertheless on this occasion said that he disliked "the harsh style assumed by some gentlemen in speaking of the frontier settlers. An hundred years hence these people would preponderate over this part of the Continent." While he represented an Atlantic State he would at the same time, avoid anything that might offend the western people. "The first settlers in this country", he continued, "were, when they first landed, frontier settlers." For his own part, he believed that the war between the whites and the Indians would be eternal.³⁰¹ Mr. Jeremiah Wadsworth of Connecticut added that he believed the settlers on the Atlantic coast to have been neither better nor worse than the present western settlers who were in the same situation. Mr. Scott of Pennsylvania denounced the resolution as tyrannical. When the savages have carried off a man's wife and children must he be denied the liberty of pursuing them, he asked. The frontier people of Georgia, lamented Abraham Baldwin (a Representative of that State), have been left to protect themselves. Their calls for protection on a very extensive and turbulent frontier were always repelled with reproaches.³⁰²

³⁰⁰ *Annals of Congress*, 2nd Session, 3rd Congress, p. 1265. February 28, 1795.

³⁰¹ *Annals of Congress*, 2nd Session, 3rd Congress, p. 1265.

³⁰² *Annals of Congress*, 3rd Session, 5th Congress, p. 2550.

What were the accusations against the settlers? There was a general impression in the East, and it was echoed in Congress, that Indian depredations were largely provoked by the encroachments of the settlers themselves. Some took a sentimental view of the Indian question and blamed the settlers entirely. Their conception of the pioneers was dark. According to their view the Westerners were greedy for land and seized desirable tracts whether or not the Indian title was extinguished. They believed all the stories told that the pioneers abused the Indians, selling them poor whiskey, and cheating them in trade, and that they drove the game out of the forests, and chased the Indians with dogs.³⁰³

Criticism of the pioneers, in Congress, was not confined to the enemies of frontier protection. For instance, Secretary Knox, in a report which was communicated to the Senate in December, 1793, told of the murders of Cherokee Indians on the Tennessee River, and added: "This violent outrage, so disgraceful to the United States, has been followed by several others, and the Southwestern territory is involved in a war with the Cherokees; which, as it relates to the above event, must be considered as highly unjust. . . . From the prejudice against the Indians on the frontiers, it is but too probable that the perpetrators of these violences will escape unpunished."³⁰⁴

Mr. Ames who advocated an increase in the army said that to turn loose a frontier militia to guard the Southwest was an act of slaughter and of desolation. It was to make a potter's field a hundred thousand miles in extent! It was

³⁰³ It is to be noted that while people of the Atlantic States hotly repudiated such slanderous accounts as the review, appearing in the *London Quarterly Review*, January, 1814, of Inchiquen's *Favourable View of the United States*, yet often they considered western pioneers in the same manner as this article pictures all of the Americans.

³⁰⁴ *American State Papers, Indian Affairs*, Vol. I, p. 363.

a system to extirpate the Indians. The militia were not the people to prevent those kind of injuries against the Indians which were the cause of hostilities.³⁰⁵ "When an exasperated militia went out, what were we to expect, but that the first man with a red skin whom they met would be shot?" Mr. Harper, a Representative of South Carolina, denied that the Indians ever committed any murders without previous provocation. "The process is shortly this: An Indian crosses the line and steals a horse. And as long as Indians exist they will always steal horses. The man to whom the horse belonged collects as many of his neighbors as he thinks sufficient, pursues the Indian, and, not contented with recovering his horse, he kills the thief. The Indians who have no such sacred ideas of property, immediately come over the line, and in revenge murder a number of innocent people. Indian murders are not unprovoked. They are not of that stamp."³⁰⁶ Mr. Harper said that he was personally acquainted with the frontiers. He had "a high respect for the inhabitants, there were many very worthy people among them, but likewise many others of a very different kind." Mr. W. V. Murray of Maryland applied the term "semi-savages" to some of the frontier people; confining, as he explained, "the import of this expression exclusively to those upon the frontier who lead an unstationary life — who press forward into the deeper wilderness, by the new waves of advancing population, and live the life of savages without their virtues."³⁰⁷

Mr. Peleg Wadsworth of Massachusetts remarked that there had not been one instance of a white man condemned

³⁰⁵ *Annals of Congress*, 2nd Session, 3rd Congress, p. 1075. January 12, 1795.

³⁰⁶ *Annals of Congress*, 2nd Session, 3rd Congress, p. 1268. February 28, 1795.

³⁰⁷ *Annals of Congress*, 2nd Session, 3rd Congress, p. 1266.

and hanged by white men, on the frontier, for the murder of an Indian since the first landing in America. He had been told by judges, upon the frontier, that "it was no matter what evidence of a murder of an Indian, was brought into court. No jury would bring the criminal in guilty." It was but very lately, said Mr. Wadsworth, that a cool and unprovoked murder of an Indian had been committed near the borders of Pennsylvania. The evidence was clear. Nobody pretended to doubt it. The judge gave an earnest charge to the jury; but all to no purpose: they found "not guilty".³⁰⁸

It is to be noted that these accusations were as a rule directed at a specific element in the frontier population and were not intended by the authors to impeach the character of all on the frontier. But, as the transgressions of a few inhabitants may bring reproach upon a whole neighborhood, so the fact that even a very small part of the western people could be harshly criticised for their treatment of the Indians led eastern opinion to broadly class all of them as rascals seeking every means to torment the Indians. It must be said, however, that the sympathies of the House often overlooked full justice to the Indians. In February, 1795, a Senate bill to prevent depredations on the Indians south of the river Ohio was rejected by the House.³⁰⁹ In that year also a large part of the military establishment which had previously been provided to carry on the war in the Northwest was authorized to be continued, with the main purpose of protecting the frontier.³¹⁰

The rise of the Republican party was followed, in 1802, by a reduction in the army.³¹¹ Indian hostilities both in the Northwest and in the Southwest still required consider-

³⁰⁸ *Annals of Congress*, 2nd Session, 3rd Congress, p. 1254.

³⁰⁹ *Annals of Congress*, 2nd Session, 3rd Congress, p. 1256.

³¹⁰ *United States Statutes at Large*, Vol. I, pp. 430, 438.

³¹¹ *United States Statutes at Large*, Vol. II, p. 132.

able force to police the frontier. Before Jefferson's administration came to a close the leaders among the Republicans proposed an increase. This was in 1808. Besides the dispute with England, other causes — affecting the West — were urged as reasons for such an increase. One member of the House insinuated that the West was not entirely free from treason. He said: "We know the situation of the Western country, and very lately a rebellion has been attempted under Aaron Burr. If he had not been arrested as he was in his career, his project might certainly have led to the establishment of a separate government at New Orleans. I apprehend as much danger from Aaron Burr at this time as at any time since he first determined on the attempt."³¹²

Mr. John Rowan of Kentucky thought it was important that there should be a force established at New Orleans for awhile. "It is the key to the whole Western country. Men may talk of patriotism; but it must be known, that any Power which possesses the mouth of the Mississippi river, will possess the whole Western country. The *amor patriae* will do very well in theory; but in practice it often yields to private interest. The people in that country are much disaffected; their habits are not American or Republican, but lead them to favor monarchical Governments. In addition to this they have various causes of discontent."³¹³ Mr. Desha of Kentucky held similar views concerning the monarchical tendencies of the New Orleans people.

To these indictments Daniel Clark, Delegate from the Orleans Territory, replied that he hoped the gentlemen spoke more from report than from their own knowledge of the country. Was there ever an instance when the people showed a spirit unfavorable to the United States? "When

³¹² *Annals of Congress*, 1st Session, 10th Congress, p. 1517. January 26, 1808.

³¹³ *Annals of Congress*, 1st Session, 10th Congress, p. 1518.

the possession of the Territory was transferred to the United States, the people knew and prized the benefits which they would enjoy by an exchange." Since that time have not the militia volunteered their services against the Spanish forces? And did they not prepare to repel the conspirators of 1806?³¹⁴

In opposition to the bill to increase the army, it was again urged that greater dependence should be placed on the militia. "Against the inroads of the savages, it is upon the militia of Kentucky, Tennessee, and Ohio, that you must rely, and not upon men picked up in the streets, recruited in ale-houses, and disciplined on the next common", said John Randolph.³¹⁵ On the other hand, Mr. William Findley of Pennsylvania denounced the western militia as incompetent and unable to guard the country.³¹⁶ In this lengthy debate much was said both for and against the militia; and on the whole it was merely a repetition of the arguments advanced in 1792. The bill increasing the army to ten thousand men passed both houses by a large majority in each vote.³¹⁷

This was not the last debate upon the efficiency of the militia, and hereafter few opportunities to sound their praise were lost. President Madison in communicating to Congress the letters of Governor Harrison concerning his expedition against the Indians on the Wabash in 1811 wrote: "Congress will see, with satisfaction, the dauntless spirit and fortitude victoriously displayed by every description of the troops engaged. . . . The families of those brave and patriotic citizens who have fallen in this severe conflict, will, doubtless, engage the favorable attention of

³¹⁴ *Annals of Congress*, 1st Session, 10th Congress, p. 1521.

³¹⁵ *Annals of Congress*, 1st Session, 10th Congress, p. 1910.

³¹⁶ *Annals of Congress*, 1st Session, 10th Congress, p. 1882.

³¹⁷ *United States Statutes at Large*, Vol. II, p. 481.

Congress."³¹⁸ The prowess of these frontier volunteers furnished the subject for many encomiums by members in both the Senate and the House. They are "the shield of the nation", said one member; and, "inhale the holy flame of patriotism", said another.³¹⁹

The President's annual message, November 4, 1812, contained a eulogy of the volunteers from the Territory of Michigan who were present at the Detroit affair;³²⁰ and again his message in the following year contained a warm commendation of the militia in the North, under Major General Harrison, and of the Kentucky and Tennessee volunteers under the gallant command of Major General Andrew Jackson, "an officer equally distinguished for his patriotism and his military talents."³²¹ And the message in September, 1814, again commended "the bold and skilful operations of Major General Jackson", who, conducting the militia from Tennessee, subdued the principal hostile tribes of savages in the Southwest.³²²

It was immediately following the battle of New Orleans that Congress passed several resolutions, one of which expressed the high sense entertained by Congress of the patriotism and good conduct of the people of Louisiana and of New Orleans. Another expressed the thanks of Congress to Major General Jackson and the troops under his command for their "gallantry and good conduct, conspicuously displayed against the enemy". The greater portion of these troops, continued the resolution, consisted of militia

³¹⁸ *Annals of Congress*, 1st Session, 12th Congress, p. 85. December 19, 1811.

³¹⁹ *Annals of Congress*, 1st Session, 12th Congress, pp. 731, 729.

³²⁰ *Annals of Congress*, 2nd Session, 12th Congress, p. 11. November 4, 1812.

³²¹ *Annals of Congress*, 2nd Session, 13th Congress, p. 540. December 7, 1813.

³²² *Annals of Congress*, 3rd Session, 13th Congress, p. 13. September 20, 1814.

and volunteers, suddenly collected together in the West.³²³

The adoption of these encomiums gave opportunity for some eloquence in Congress upon the pioneer character. Senator James Brown of Louisiana delivered in a long speech the following sentiments:—"The citizens of Kentucky, since the commencement of our present struggle, have obtained a character so elevated for patriotism and devotion to the best interests of their country, that it can receive no additional lustre from any expressions I can employ. The State of Tennessee has exalted claims to the approbation of the nation. To that State we are indebted for the safety of our country when threatened by our savage neighbors, and the part which her citizens have acted on the late ever memorable occasion, will afford to their latest posterity a rich repast in the page of impartial history. One-third of the militia of this State . . . cheerfully left their friends and their families and flew to the assistance of Louisiana. Generous people! on behalf of those you have succored in the hour of peril, I thank you — from my heart I thank you!"³²⁴

The junior Senator from Louisiana, Elijus Fromentin, was no less appreciative of the commander of these troops. He said:—"Mr. President, we have often been called upon, since the beginning of this war, to give thanks to the intrepidity of our military leaders, and the undaunted bravery of their troops. We have just now, by a unanimous vote, awarded the same tribute to Jackson and to his followers. To Jackson — this name henceforth wants none of the meretricious epithets of courtesy — to Jackson, whose laurels on the ever memorable 8th of January will adorn the fairest page of American military history:— to Jackson,

³²³ *Annals of Congress*, 3rd Session, 13th Congress, p. 1966. February 22 and 27, 1815.

³²⁴ *Annals of Congress*, 3rd Session, 13th Congress, p. 240.

whose unheard of achievements, having no precedents in the past, seem to bid defiance to the future. Through this beloved General we gave [give] the same unanimous thanks to his followers.”³²⁵

When the resolutions which were first adopted in the Senate came up in the House the flourish of bombast was again in evidence. Said Mr. Thomas Bolling Robertson of Louisiana: “Hasty levies of half-armed undisciplined militia, from the interior of our vast continent, from the banks of the Tennessee, the Cumberland, and the Ohio, traversing wide and trackless regions, precipitate themselves to the scene of conflict, resolute to defend their brethren from the dangers with which they are menaced. There the hardy sons of the West, with the yeomanry of the adjacent territory and the invaded State, with a handful of regulars and a few armed vessels, constituted that force from which the tremendous armament of our enemy was to experience the most signal overthrow the world has ever witnessed. But Jackson was their leader”.³²⁶

Mr. George M. Troup of Georgia said that “he congratulated the House on the return of peace . . . on the glorious termination of the most glorious war ever waged by any people. To the glory of it General Jackson and his gallant army have contributed not a little. I cannot, sir, perhaps language cannot, do justice to the merits of General Jackson, and the troops under his command . . . It is a fit subject for the genius of Homer. . . . The disparity of the loss, the inequality of force, the difference in the character of the force, all combine to render the battle of the eighth of January at once the most brilliant and extraordinary of modern times. Nothing can account for it

³²⁵ *Annals of Congress*, 3rd Session, 13th Congress, p. 241.

³²⁶ *Annals of Congress*, 3rd Session, 13th Congress, p. 1157.

but the rare merits of the commanding General, and the rare patriotism and military ardor of the troops under his command." ³²⁷

While these resolutions were adopted by a unanimous vote, the expressions of enthusiasm came almost entirely from western members. But compared with the newspaper accounts and similar resolutions adopted by State legislatures throughout the Nation the outbursts of oratory upon this occasion in Congress would seem by no means out of place.³²⁸ However, they were undoubtedly tiring to the silent members of the New England delegation, the majority of whom were not in sympathy with the new spirit of nationalism so strongly displayed in the West.

The rising genius of the West could not brook the conservatism of New England. The West possessed an optimism which accepted the constitutional government without weighing the scruples of State Rights. Their loyalty and enthusiasm for the Union was seldom tainted by Hartford Conventions or reluctant militias.

As great as the Westerner's love for the Union were his expectations in the material growth of the West. Pioneer imagination saw the Indians pacified; erected populous and prosperous cities in the midst of dry deserts; built bridges over swamps and streams, steamships on rivers, and roads and canals over endless prairies. Such a spirit could tolerate no opposition from either Indian foes or natural obstructions. If there were rapids in a navigable river, they should be blasted away. If Indians persisted in stealing horses or refused to cede their lands — they should be sum-

³²⁷ *Annals of Congress*, 3rd Session, 13th Congress, p. 1156.

³²⁸ For instance, *Niles' Register*, Vol. XVI, p. 25. The State legislatures of New York and Pennsylvania adopted profuse resolutions of approbation. Compare James Parton's *Life of Andrew Jackson*, Vol. II, "A Chapter of Glory", p. 557.

marily punished. The frontiersmen have never been given to consulting precedents, nor to carefully weighing abstract justice. To them the end was often greater than the means, and mere success too often was their ideal.

One unique instance of an attempt in Congress to reprove this western spirit closes the first chapter on Frontier Protection. On February 24, 1819, a select committee in the Senate, to whom were referred the documents concerning the Seminole Indian War, made their report.³²⁹ It was a sharp criticism of the conduct of General Jackson on four grounds: First, for organizing the Tennessee militia without applying to the Governor of Tennessee, as he had been distinctly ordered to do by the War Department; second, for extreme cruelty to Indian prisoners; third, for the arbitrary trial and execution of Arbuthnot and Ambrister; and fourth, for crossing into the Spanish territory of Florida and reducing Spanish garrisons without instructions from the War Department. Almost a month before this report was made in the Senate the Military Committee in the House had made a report on the same question through Mr. Thomas M. Nelson, chairman of the committee. This committee recommended that the House resolve to disapprove the trial and execution of Arbuthnot and Ambrister.³³⁰

Mr. Richard M. Johnson of Kentucky, also of the Military Committee, submitted a minority report. In this report he recited how the lives of peaceful citizens on the Georgia frontier had, for years, been jeopardized through murders by Indians and negroes, which were instigated by foreign traders and adventurers. When pursued for punishment

³²⁹ *Annals of Congress*, 2nd Session, 15th Congress, p. 256. The Committee consisted of Senators Abner Lacock of Pennsylvania, Chr., John Henry Eaton of Tennessee, John Forsyth of Georgia, Rufus King of New York, and James Burrill of Rhode Island.

³³⁰ *Annals of Congress*, 2nd Session, 15th Congress, p. 516. January 12, 1819.

these desperate characters had been accustomed to seek protection across the Spanish line in Florida. But at last, in the Seminole War, General Jackson defeated and routed these Indians and negroes, who fled before him into the Spanish territory. Determined to completely stamp out these banditti Jackson had crossed the boundary line, completely subdued the savages and fugitive slaves near the forts of the Spanish, and punished two English instigators of notorious memory. "Thus gloriously terminated the Seminole war," read the report, "a war reluctantly entered into, but urged by dire necessity, to protect from the tomahawk and scalping-knife of the most ruthless savages our peaceful frontier settlers . . . a war in which our citizens and soldiers, with their usual fortitude and valor under their persevering and determined commander, endured long and difficult marches, submitted to painful privations, subdued a brave and merciless enemy, without suffering one defeat, or betraying a solitary mark of dismay to tarnish the lustre of their country's glory."³³¹

Thus eagerly did the minority report support the conduct of General Jackson. His friends in the House took up the

³³¹ *Annals of Congress*, 2nd Session, 15th Congress, p. 521. The sentiment of this minority report was also expressed by hundreds of newspapers. The *Franklin Gazette* on January 9, 1819, printed an article from the *American Watchman* reading: "From the commencement of the *Seminole War* until its termination, the movements of Gen. Jackson have been invidiously watched, step by step, and followed by a clamour which accumulated in weight and bitterness with every foot of his progress. . . . To us, there is no character so vile, so wantonly wicked, as the cool base stimulator of an Indian war, the greatest scourge that can befall humanity. General Jackson found in the town of Francis *fifty fresh* scalps of women and children! It was to deeds like these, that those incendiaries prompted the Indians whom they had deluded by their arts. And is it to be supposed, when the fortune of war had placed these men alive in the power of General Jackson, that he would permit them to escape the punishment their crimes so richly deserved? In the name of justice and humanity, we thank Genral Jackson that he did not, and that he has been the first to punish as it deserves a crime against society, for which we know no appellation sufficiently expressive of its enormity."

issue immediately. A few speeches were made to apologize for his conduct. His execution of the Englishmen was called "a wrong mode of doing the right thing." Other speeches, however, boldly applauded the affair. A great number of these were made by western members. Andrew Jackson was their idol. He typified the new spirit in American politics — the West. He represented the rapidly developing pioneer districts in their realization of their power in national affairs. This rising West was indeed a little arrogant, a little uncouth, a little contemptuous of precedent, of course; but it was nevertheless successful. It was domineering and over-persistent, because it was a conqueror of nature.

Henry Clay, the Speaker of the House, was like Jackson a western man; and he was also like Jackson in that he was fully capable of bringing things to pass, as his diplomatic mission to Europe had indicated. But he differed from Jackson in being many degrees refined from such frontier brusqueness. Clay represented the conservative West.

On the second day of the debate Clay spoke.³³² He denied that the report of the Military Committee cast censure on General Jackson, save what was merely consequential. Indeed, his name did not appear in any of the resolutions. Every one, said Clay, must regret the late Indian war. He feared, however, that its origin could be traced to the treaty at Fort Jackson, of August, 1814. This treaty was humiliating to the Indians: it was full of arbitrary demands by the United States government, one of which was the surrender of all Indian prophets to the United States. Who would not revolt at such despotism?

The war was furthermore instigated by the border set-

³³² *Annals of Congress*, 2nd Session, 15th Congress, pp. 631-655. January 20, 1819. On the morning that Clay spoke the rules for the admission of persons within the hall of the House were suspended.

tlers, said Clay. He read evidence to show that these people had carried off the cattle of the Indians and killed those who would interfere. In the conduct of the war, also, General Jackson was dishonorable. He ensnared Indian chiefs by deception and hung them. Seldom before in our history had such retaliations occurred. No Kentuckian, Mr. Clay was glad to say, would stain his hands with such enormities. Vengeance was its motive.

Then in the execution of Arbuthnot and Ambrister, Jackson ignored the law of nations. A foreigner who connects himself with a belligerent becomes an enemy, subject to whatever the enemy is subject and entitled to what rights the enemy is entitled. Not only was perpetrated this outrage to international law, but Jackson had altered the verdict of his *own* court martial! And the crossing the Spanish boundary line — which event closely followed — was without orders and unnecessary.

There are two topics, continued Clay, which in Europe are constantly employed by the friends and minions of monarchy against our country. The one is an inordinate spirit of aggrandizement. The other is the treatment which we extend to the Indians. Against both these charges the negotiators at Ghent³³³ endeavored to vindicate our country, and he hoped with some degree of success. But what the condition of future negotiators would be upon this head he knew not, after the unhappy executions upon our Southern border.

We are fighting, said Mr. Clay, a great moral battle for the benefit, not only of our country, but of all mankind. The eyes of the whole world are in fixed attention upon us. One, and the largest portion of it, is gazing with contempt, with jealousy, and with envy; the other portion, with hope,

³³³ Henry Clay was one of the ministers who negotiated the Treaty of Ghent, December 24, 1814.

with confidence, and with affection. Do you expect to uphold democracy by trampling, or suffering to be trampled down law, justice, the Constitution, and the rights of other people? By exhibiting examples of inhumanity, and cruelty, and ambition? When the minions of despotism in Europe heard of the Seminole War how they did laugh and chide the admirers of our institutions, tauntingly pointing to the demonstration of a spirit of injustice and aggrandizement made by our country.

He hoped the gentlemen would deliberately survey the awful import of the case. They might bear down all wise counsel; they might vote the General the public thanks; they might carry him triumphantly through the House. "But, if they do, in my humble judgment, it will be a triumph of the principle of insubordination — a triumph of the military over the civil authority — a triumph over the powers of this House — a triumph over the Constitution of the land."

Such a stinging rebuke called forth most vehement replies. Three weeks of debate followed, full of speeches defending the conduct of the war by the friends of General Jackson and the friends of the western idea of doing things. It was said that the Indian nature was such as to ever be a thorn in the flesh of border civilization, and that the Seminole Indians had continually harassed and exasperated the settlers. That was all very true, as also was the fact that the settlers had exasperated the Indians. It was said that Arbuthnot and Ambrister were notorious villains who instigated the Indians to all manner of atrocities and whose death was a great blessing to the country. This also was true. And it was said that since Spanish authorities in Florida harbored marauding Indians the Seminole campaign would have been weakly incomplete if legal scruples

had not been cast aside and the boundary line crossed. It was a question of expediency opposed to abstract rights.

Jackson's friends won. The resolution to disapprove of the trial and execution of Arbuthnot was voted down by a ballot of sixty-two to one hundred and eight. The same resolution in reference to Ambrister was also disagreed to.³³⁴ And thereby the honor of General Jackson was vindicated, and the House placed its stamp of approval upon the decisive character of western pioneers as represented in that General. The Senate took no action upon the report made by its select committee.

IV

INTERNAL IMPROVEMENTS IN THE WEST

It is not the purpose of the writer to discuss in this chapter the rise and growth of the public policy of internal improvements, nor its purely political and constitutional aspects. But in a study of the peculiar relationship between the legislature of the United States and the frontier sections of this country the question of internal improvements appears for many years with a certain bearing upon the western development which cannot be overlooked.

As early as 1785 the Continental Congress passed an ordinance reserving in the western lands for sale a section in every township for the maintenance of public schools.³³⁵ Again in 1787 Congress, in the "Powers to the Board of Treasury to Contract for the Sale of the Western Territory", ordered that two townships might be given to the pioneer Territory on the Ohio for the purpose of a univer-

³³⁴ *Annals of Congress*, 2nd Session, 15th Congress, p. 1135. February 8, 1819.

³³⁵ *Journals of the American Congress, from 1774 to 1788* (1823), Vol. IV, p. 521.

sity.³³⁶ These grants of lands, being a part of the broad educational program of Nathan Dane, Jefferson, Washington, and Madison, were voted with no thought of the material aggrandizement of the Northwest. The sacredness of the trust vested in Congress by the States in ceding their lands was deeply felt; and these lands were to be disposed of to the mutual benefit of all the States. But against the application of certain portions of it to the fostering of schools which would be of direct service only to the Northwest there appeared little opposition, either in the Congress of the Confederation or throughout the States.

The story of Ohio's admission into the Union has already been told. Jefferson's Secretary of the Treasury, Albert Gallatin, was the author of the third article of the compact between the new State and the general government. Gallatin suggested that ten per cent of the sales of public lands in the State be appropriated by the Federal government for the laying out of public roads from the navigable rivers, emptying into the Atlantic, to the Ohio River, and to and through the State of Ohio. In the Senate the ten per cent fund was reduced to five per cent by an almost equal vote. No persistent objection, however, was opposed to granting this fund, since probably in accepting this grant the State was to pledge itself not to tax public lands until five years after their sale.³³⁷

By a subsequent act the Secretary of the Treasury was directed to place, quarterly, three-fifths of the five per cent fund at the disposal of the State legislature for the building of roads within the State.³³⁸ In 1805 the remaining two-fifths of the fund had accumulated to the amount of

³³⁶ *Journals of the American Congress, from 1774 to 1788*, Vol. IV, Appendix, p. 17.

³³⁷ *Annals of Congress*, 1st Session, 7th Congress, p. 294. April 27, 1802.

³³⁸ *United States Statutes at Large*, Vol. II, p. 225.

twelve thousand dollars.³³⁹ A bill to appropriate this fund in the construction of the Cumberland Road was presented in the Senate and passed. It met but faint opposition in the House and was passed on March 24, 1806.³⁴⁰

President Jefferson's message when Congress assembled again in December contained traces of his ambitious vision of national development.³⁴¹ He mentioned the successful termination of the Lewis and Clark expedition on the Missouri, and Lieutenant Pike's explorations on the Mississippi, and suggested the need of further exploring. He hoped that there would be an early settlement of the most exposed and vulnerable parts of the country. He urged the making of new channels of communication between the States, and recommended that surpluses in the Federal treasury be applied to the great purposes of public education, roads, rivers, and canals.

In the following March the Senate called upon the Secretary of the Treasury to prepare a report concerning means in the power of Congress to open roads and make canals.³⁴² In his report, which was communicated to the Senate, April 6, 1808, Gallatin outlined Jefferson's scheme of internal development of navigation and roadways, requiring an expenditure of some twenty million dollars.³⁴³ Among other features a system of communication between the headwaters of the rivers flowing into the Atlantic, with the rivers flowing westward was outlined. It was proposed thus to connect the Susquehannah, the Potomac, the James, and the Savannah rivers, with the Alleghany, the Monongahela, the Kanhawa, and the Tennessee.

³³⁹ *Annals of Congress*, 1st Session, 9th Congress, p. 22.

³⁴⁰ *Annals of Congress*, 1st Session, 9th Congress, pp. 43, 200, 840.

³⁴¹ *Annals of Congress*, 2nd Session, 9th Congress, p. 14. December 2, 1806.

³⁴² *Annals of Congress*, 2nd Session, 9th Congress, p. 97. March 2, 1807.

³⁴³ *American State Papers, Miscellaneous*, Vol. I, pp. 724-741.

From such a policy of internal improvement sectional jealousies and embarrassments were sure to arise, and Gallatin met the situation frankly. He admitted that to open these four routes between the West and the East, while it would be of great value to the western and middle Atlantic States, would not benefit directly the northern and the southern Atlantic States. Great streams of commerce would pass through the Middle States to the West and never touch New England or the South. Since the expense must be defrayed from the Federal funds, said Gallatin, justice, and policy no less than justice, would require the undertaking of many *local* improvements in those States not directly interested in these inland communications.

Gallatin further stated that, excluding Louisiana, the Government possessed in trust for the people of the United States, about one hundred millions of acres, fit for cultivation, north of the river Ohio, and nearly fifty millions south of the State of Tennessee. "For the disposition of these lands", he continued, "a plan has been adopted, calculated to enable every industrious citizen to become a freeholder to obtain a national revenue, and, above all, to suppress monopoly. Its success has surpassed that of every former attempt, and exceeded the expectations of its authors. . . . It is believed that nothing could be more gratifying to the purchasers, and to the inhabitants of the Western States generally, or better calculated to remove popular objections than the application of the proceeds of the sales to improvements conferring general advantages on the nation, and an immediate benefit on the purchasers and inhabitants themselves. It may be added, that the United States, considered merely as owners of the soil, are also deeply interested in the opening of those communications which must necessarily enhance the value of

their property. Thus the opening an inland navigation from tide water to the great lakes, would immediately give to the great body of lands bordering on those lakes as great value as if they were situated at the distance of one hundred miles by land from the seacoast. And if the proceeds of the first ten millions of acres which may be sold were applied to such improvements, the United States would be amply repaid in the sale of the other ninety millions."³⁴⁴

Gallatin was well qualified to inform the Senate upon the needs of internal improvements in the West. Added to his opportunity as Secretary of the Treasury to gain detailed information were many years of actual experience with lands in the West.³⁴⁵ On this score it has already been seen that Gallatin was criticised by Federalists as having ulterior motives in urging measures for benefiting the West. It was well known that while yet a youth he had wandered as a surveyor up and down the Ohio, through Western Virginia and Pennsylvania. And upon receiving an inheritance of some \$25,000 from France, he had invested all in land, the greater part of which he still held. Gallatin, indeed, entered into enterprises in the western country with all his native *esprit*; unlike other foreign born lawyers and financiers of his day he had established his residence upon a western river, and stood out among his associates, Jefferson, Madison, Monroe and John Quincy Adams, as a distinctly western man. In one phase of his life Gallatin was indeed a pioneer.

Communication between the East and the West was arduous and expensive. Three cities on the Atlantic coast rivaled each other for control of the westward trade. They were New York, Philadelphia, and Baltimore, and each corresponded to a route toward the West. From New York,

³⁴⁴ *American State Papers, Miscellaneous*, Vol. I, p. 741.

³⁴⁵ Adams's *Life of Albert Gallatin*, pp. 25, 45-75.

the Hudson, Mohawk, and Oswego rivers already served as a passage for some little commerce to the lake region. But this was limited. During low water season the Mohawk could scarcely float boats laden with three or four tons.³⁴⁶ In 1796 it cost seventy-five dollars to transport a hogshead of rum from New York City to Detroit.³⁴⁷ This charge was at the time considered low when compared to the cost of delivering the same article from Philadelphia overland to Pittsburg, which in this case amounted to \$187.50. Even as late as 1817 the land carriage from Philadelphia to this frontier town was as high as one hundred and twenty dollars to two hundred dollars per ton.³⁴⁸

Pittsburg was the chief outfitting station in the western country. Several turnpikes were in time built to it across the State of Pennsylvania, and large amounts of goods were freighted there by wagon to supply the needs of immigrants. But the cost of transportation was too great to permit of eastward shipments of wheat and corn. Of the three chartered turnpikes from Baltimore, none in the year 1808 extended further west than the town of Carlisle in Pennsylvania.³⁴⁹ The Baltimore and Fredericktown Turnpike Road was planned to reach Cumberland in Maryland, and twenty miles of it were already constructed. The toll for every ten miles was twenty-five cents for a wagon and two horses, thirty-seven and a half cents for a wagon and four horses, and twenty-five cents for a score of cattle. Beyond the Alleghanies there were few roads, and they were straggling and rough — mere pathways in the wilderness and prairies.

In the same session (1806), when the first Cumberland

³⁴⁶ See extract from Christian Schultz's *Travels* in Munsell's *Annals of Albany*, Vol. V, p. 244.

³⁴⁷ Munsell's *Annals of Albany*, Vol. III, p. 137.

³⁴⁸ Birkbeck's *Notes on a Journey in America*, p. 165.

³⁴⁹ *American State Papers, Miscellaneous*, Vol. I, p. 900.

appropriation was voted out of the five per cent fund of Ohio, another appropriation of some eighteen thousand dollars was made to construct a road from the frontier of Georgia to New Orleans, and to construct two other roads in the western country.³⁵⁰ Three sessions later an appropriation of twenty-five thousand dollars was voted to complete the canal of Carondelet in Louisiana.³⁵¹ These measures were avowedly for military purposes, the last mentioned was included in an act entitled "to complete fortifications", and provided that the canal from Lake Ponchartrain to New Orleans be made "sufficiently deep throughout to admit an easy and safe passage to gunboats." Yet no one claimed that the canal, once deepened at Federal expense, should not be used by commerce or that the military roads on the frontier should not be highways for the pioneers.

Far from this, many members were boldly demanding internal improvements not under the guise of military equipments nor post roads but frankly for the purpose of commerce and intercourse. To this growing impetus the West, of course, contributed her strength. In February, 1810, Congress voted another appropriation out of the five per cent fund toward constructing the Cumberland Road.³⁵²

In the same month Mr. Peter B. Porter, a Representative from western New York, made a strong plea for the West.³⁵³

³⁵⁰ *United States Statutes at Large*, Vol. II, p. 396. April 21, 1806.

³⁵¹ *United States Statutes at Large*, Vol. II, p. 516. February 10, 1809.

³⁵² *United States Statutes at Large*, Vol. II, p. 555. February 14, 1810.

³⁵³ *Annals of Congress*, 2nd Session, 11th Congress, pp. 1385-1401. February 8, 1810.

Peter B. Porter is a type of the educated eastern man in the West. After graduating from Yale and studying law in Litchfield he came to western New York. Here he was engaged in a transportation enterprise which enjoyed the monopoly of carrying goods from Lake Ontario around Niagara Falls. He served in Congress from western New York in 1809-1813 and 1815-1816, and was chairman of the Committee on Foreign Relations which reported resolutions for the immediate preparation for war. In 1813 he was appointed Major-

The people of the United States, he said, are divided into two geographical sections — those who live on the Atlantic side of the Alleghany Mountains and are chiefly merchants, manufacturers and agriculturists, and those who live on the west side of the mountains and are exclusively agriculturists. Ultimate disunion of the Republic has been prophesied because of this great geographical expanse and diversity of interests. But Mr. Porter maintained that this very diversity, if skillfully managed, would be the means of producing a closer union of the States. For the West needed the manufactured goods of the East and the merchants of the East could in time use the produce of western lands. "The great evil under which the inhabitants of the Western country labor, arises from the want of a market. There is no place where the great staple articles for the use of civilized life can be produced in greater abundance or with greater ease. And yet, as respects most of the luxuries and many of the conveniences of life, the people are poor. They have no vent for their produce at home; because, being all agriculturists, they produce alike the same articles with the same facility; and such is the present difficulty and expense of transporting their produce to an Atlantic port, that little benefits are realized from that quarter. The single circumstance, of the want of a market, is already beginning to produce the most disastrous effects, not only on the industry but upon the morals of the inhabitants. Such is the fertility of their lands, that one half of their time spent in labor is sufficient to produce every article, which their farms are capable of yielding in sufficient quantities, for their own consumption, and there is nothing to incite them to produce more. They are, therefore, nat-

General, and commanded the New York State troops. He was a commissioner under the Treaty of Ghent and in 1828 was appointed Secretary of War in the cabinet of John Quincy Adams.

urally led to spend the other part of their time in idleness and dissipation. Their increase in numbers, and the ease with which children are brought up and fed, far from encouraging them to become manufacturers for themselves, put at a great distance the time when, quitting the freedom and independence of masters of the soil, they will submit to the labor and confinement of manufacturers. This, sir, is the true situation of the western agriculturist. It becomes then an object of national importance to inquire whether the evils incident to this state of things may not be removed, by opening a great navigable canal from the Atlantic to the Western States”.

Mr. Porter then described the great natural obstruction — the Alleghanies — and discussed the best means whereby the West and the East might be connected. He urged the building of a canal in the Mohawk valley. He reiterated the argument used by Gallatin to prove how the land sales and thereby the revenue of the United States might be increased by the judicious expenditure of money in opening up the public lands with roads and canals. There was at present, he said, no incentive to the farmer around the Great Lakes to raise wheat because its transportation to New York consumed all the profits. If a canal by way of the Mohawk valley were constructed wheat raising would become profitable, the lands would more than double in value, and the fifty millions of acres of public lands around the lakes could be sold at twice the present price.

A large number of the settlers in the West, said Mr. Porter, are now debtors to the United States. They are a part of the great mass of yeomanry of this country, among whom is to be found most of the real patriotism, as well as the real strength of the Nation. The honor and honesty of these settlers is unimpeachable; it is their interest and their

wish to pay their debts, and to discharge all their duties to the government as good and faithful citizens. But let me ask, Mr. Porter exclaimed, how is it possible for these settlers to pay the government fifty or a hundred millions of dollars in specie, when they have no other resources than their agriculture, which is worthless for the lack of markets? The means of the citizens of the western country are inadequate to undertake the construction of canals, for the obvious reason that they are already deeply in debt to you for their lands, and they must continue so until this great work is executed for them. They will then not only be able to pay you for their lands, but will remunerate you for the expense of canals by paying tolls. "In the advantages which these outlets for their produce will give them, and on which their prosperity must so essentially depend, you will have a pledge for their future attachment and fidelity to your Government, and which they will never forfeit."

Although Mr. Porter so clearly stated the unfortunate trade situation of the western country, and although his canal project was by no means more unreasonable than the system of canals proposed by Gallatin in his report in 1808, yet his words fell upon barren ground. Approaching war and reduced treasury receipts are enough to overbear great canal schemes, even if constitutional objections fail at the same purpose. Mr. Porter was made chairman of a committee of twenty to consider his projects — and that was the last of them in that session.³⁵⁴ An attempt by the legislature of New York, two years later, to interest Congress in a canal connecting the Great Lakes and the Hudson River failed partly for the same reasons.³⁵⁵ On the whole Congress was not prepared to allow the policy of internal

³⁵⁴ *Annals of Congress*, 2nd Session, 11th Congress, p. 1401.

³⁵⁵ *Annals of Congress*, 1st Session, 12th Congress, p. 2166.

improvements to go so far as to undertake such large enterprises as the building of canals. And, indeed, it is probably true that few bills for constructing roads in the West, up to the time of Monroe's administration, would have been passed, had Congress not been pledged to appropriate five per cent of Ohio's land sales to this purpose. The same concession was made to Louisiana in 1811, to Indiana in 1816, and to other western States in the acts enabling them to form a State government.³⁵⁶

When Madison's administration came to an end the policy of internal improvements at Federal expense had gained prestige by eleven laws passed since 1809, making appropriations for constructing roads, all of which were either in the western country or leading to the western country. Seven hundred and eight thousand dollars had been thus appropriated, compared to appropriations in the same period of some eight hundred thousand dollars for lighthouse establishments — an almost distinctively eastern benefit.³⁵⁷

The complexion of Congress by the year 1817 concerning the general policy of Federal internal improvements was indicated by Calhoun's bill to set apart and pledge, as a permanent fund for internal improvement, the bonus of the national bank and the United States' share of its dividends. This bill passed the House by a vote of eighty-four to eighty-six, and the Senate by fifteen to twenty.³⁵⁸ Madison vetoed it upon purely constitutional grounds.³⁵⁹

In the speeches on this bill the argument of roads and

³⁵⁶ *United States Statutes at Large*, Vol. II, p. 641; Vol. III, p. 289.

³⁵⁷ *United States Statutes at Large*. For appropriations for roads see Vol. II, pp. 555, 661, 668, 670, 730, 829; Vol. III, pp. 206, 282, 315, 318, 377. For lighthouse equipment see Vol. II, pp. 561, 611, 646, 657, 690, 691, 828; Vol. III, pp. 110, 210, 282, 316, 357, 360.

³⁵⁸ *Annals of Congress*, 2nd Session, 14th Congress, pp. 934, 191.

³⁵⁹ *Annals of Congress*, 2nd Session, 14th Congress, p. 1059. March 3, 1817.

canals binding the West and the East and the South together into one union was again prominent. Said Calhoun: "Those who understand the human heart best, know how powerfully distance tends to break the sympathies of our nature. . . . Let us then . . . bind the Republic together with a perfect system of roads and canals. Let us conquer space. It is thus the most distant parts of the Republic will be brought within a few days travel of the centre; it is thus that a citizen of the West will read the news of Boston still moist from the press."³⁶⁰ Mr. Thomas R. Gold of New York declared that it was by roads and canals that the North and South, East and West were to be preserved in a lasting union.³⁶¹

The New England delegation was well aware of the significance of Calhoun's bill. They realized that the construction of lighthouses on the Atlantic coast by the general government was inevitable — indeed, already a well established custom dating back to a declaration by Congress in 1789, and plainly falling under constitutional power to regulate and control commerce.³⁶² Lighthouses were beneficial to New England; not so canals and turnpikes connecting the East and the West. In spite of promises of

³⁶⁰ *Annals of Congress*, 2nd Session, 14th Congress, p. 854.

³⁶¹ *Annals of Congress*, 2nd Session, 14th Congress, p. 880.

In 1805 the Senate committee which recommended the application of a part of Ohio's five per cent fund to the construction of the Cumberland Road, ended its report: "Rivers unite the interests and promote the friendship of those who inhabit their banks; while mountains, on the contrary, tend to the disunion and estrangement of those who are separated by their intervention. In the present case, to make the crooked ways straight, and the rough ways smooth, will, in effect, remove the intervening mountains, and by facilitating the intercourse of our Western brethren with those on the Atlantic, substantially unite them *in interest*, which, the committee believe, is the most effectual cement of union applicable to the human race."—*Annals of Congress*, 1st Session, 9th Congress, p. 25.

³⁶² *United States Statutes at Large*, Vol. I, p. 53. August 7, 1789.

equal distribution of favors it was clear that the whole policy of internal improvements at Federal expense would be peculiarly advantageous to the middle Atlantic States and to the West. It was impossible to connect New England and the West with canals, and little would New England be benefited by national highways. The Middle States and the West would gain in population and wealth at her expense. In the House, of the thirty-seven votes cast by New England members in the vote on Calhoun's bill, thirty-four were in the negative. Timothy Pickering and Jeremiah Nelson of Massachusetts and Daniel Webster of New Hampshire alone voted in the affirmative. The southern States quite consistently supported Calhoun's plan, while the Middle States of New York, and Pennsylvania voted almost solidly for it. Virginia was divided, six for and fourteen against.

Concerning the Senate vote the same story might be told. Only one Senator from New England voted for the bill. New York, Pennsylvania, Virginia, and Maryland voted for it.

For many years New England continued to oppose the policy of internal improvements at Federal expense, and there is something to be said for her attitude. A Massachusetts Representative exclaimed in the course of a speech: "What are the real objects for which the people and their money are to be sacrificed? We have heard this day, sir — the grand canal from Lake Ontario to the Hudson; to build up the already overgrown State of New York. And what direct interest have the citizens of New Hampshire and Massachusetts, and other remote States, in building up that great and powerful State? . . . Or for the one, sir, which you mentioned yesterday, of constructing locks and canals around the falls of the Ohio? . . . The

post roads in New England are now good. If they are not so elsewhere, let those concerned make them so.”³⁶³

This sectional criticism was not confined to the New England delegation. In answering a strong speech by Henry Clay, in March, 1818, Mr. Lemuel Sawyer of North Carolina said: “As to the detention of the Western mail for several days, which the gentleman so feelingly describes, whose fault is that? If the ways of the Western people are so bad, it is high time for them to mend them. Do the people of Kentucky mean to look on and see the other States making turnpike roads, and expending their wealth and industry in improving the face of the country, and then call upon the General Government to furnish them with means to make similar improvements? Do they wish to tax other States to make their turnpike roads and canals? If the gentleman’s wagon stick in the mud let him apply his own shoulders to the wheel before he calls on Hercules. . . . See Jersey, Pennsylvania, Maryland, and other States, intersected with turnpike roads and canals in every direction. Would it be fair, now that they have made such progress in these works, by their own means, that their money should be taken out of the common stock, and given to other States, who have supinely looked on and made no exertions?”³⁶⁴ Unfortunately this same Representative tried to show that Kentucky trade owed much to lighthouses (erected at Federal expense) on the Atlantic coast.

The veto on the Bonus Bill was among the last official acts of Madison. If there was any doubt concerning the incoming President’s attitude upon this question, it was dispelled by his first message to Congress, in which he

³⁶³ *Annals of Congress*, 2nd Session, 14th Congress, p. 913.

³⁶⁴ *Annals of Congress*, 1st Session, 15th Congress, p. 1272.

frankly stated his constitutional scruples to be the same as Madison's.³⁶⁵ This *obiter dictum* challenged the friends of the policy in Congress. While it was apparent that no two-thirds majority could be arrayed against the new President's veto, it was decided to test the House with a resolution to revive the principal feature of Calhoun's bill.³⁶⁶ In the Committee of the Whole this resolution was replaced by four others, one resolving that Congress had the power to appropriate money for the construction of canals and roads, and another resolving that Congress had the power to construct roads and canals for commerce.³⁶⁷

Calhoun being now in the Cabinet the burden of the leadership fell upon Clay, the Speaker. Clay spoke for the West. Seldom before was her relationship to the East so sharply expressed. "Would it be contended", said Clay, "that, in respect to the twenty-five millions to which our revenue has risen . . . there is no object in the interior worthy of the application of any part of it, but that it must all be lavished on the margin of the ocean? That Boston, and Norfolk, and New York, and Portsmouth, were to be left to scramble on the great questions of naval depots, for the fruits of the expenditures of those national establishments, and that the great agricultural body of the country was to be the passive spectator of the gains of the seaboard from the labor of the interior?"³⁶⁸

Clay also spoke for the consolidation of the Union. Combat, he said, the physical separation of our people by the mountains with physical force. Let roads and canals bind the East and the West, since there is no stronger tie to connect the various portions of so broad a republic than free

³⁶⁵ *Annals of Congress*, 1st Session, 15th Congress, p. 17. December 2, 1817.

³⁶⁶ *Annals of Congress*, 1st Session, 15th Congress, p. 460. December 15, 1817.

³⁶⁷ *Annals of Congress*, 1st Session, 15th Congress, p. 1380. March 13, 1818.

³⁶⁸ *Annals of Congress*, 1st Session, 15th Congress, p. 1177. March 7, 1818.

intercourse. At present, said Clay, the East and the West are united by bonds of consanguinity, for the people of the West have migrated from the Atlantic States. But when society becomes settled down, as it will before long be, these moral connections will lose their effect. Therefore, the strongest bonds — commercial interests, fostered by roads and canals — are necessary to preserve the Union.

On March 14 the first resolution passed the House by a vote of seventy-five against ninety. But the last resolution was voted down, forty-six to one hundred and twenty.³⁶⁹

Exactly one month after this rejection of the policy by the House the sum of three hundred and twelve thousand dollars was appropriated to meet existing contracts on the Cumberland Road.³⁷⁰ Again, a year later, March 3, 1819, five hundred and thirty-five thousand dollars were applied to the construction of this national roadway.³⁷¹ Although these appropriations came out of the five per cent funds of Ohio, Indiana, and Illinois the deluge of western improvements had already begun.

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³⁶⁹ *Annals of Congress*, 1st Session, 15th Congress, pp. 1385, 1387. March 14, 1818.

³⁷⁰ *United States Statutes at Large*, Vol. III, p. 426. April 14, 1818.

³⁷¹ *United States Statutes at Large*, Vol. III, p. 500.