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Webster, Nationalism and the Reply to Hayne

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WEBSTER, NATIONALISM AND THE REPLY TO HAYNE

by

Donald William Smythe, S.J.

**A Thesis Submitted to the Faculty of the Graduate School
of Loyola University in Partial Fulfillment of
the Requirements for the Degree of
Master of Arts**

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1955

APPROVAL SHEET

The thesis submitted by Donald W. Smythe, S.J. has been read and approved by three members of the Department of History

The final copies have been examined by the director of the thesis and the signature which appears below verifies the fact that any necessary changes have been incorporated, and that the thesis is now given final approval with reference to content, form, and mechanical accuracy.

The thesis is therefore accepted in partial fulfillment of the requirements for the degree of Master of Arts.

April 21, 1955
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LIFE

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PART I

WEBSTER FAVORS STRONG CENTRAL GOVERNMENT

Among those who have stamped their character upon the American scene and made our political system what it is today, a place must certainly be accorded Daniel Webster. Called "Expounder of the Constitution" by one of his admirers,¹ his function as interpreter of the Constitution is said to have been of hardly less importance than that document's original drafting by the Founding Fathers. Of Webster's work as defender of the Union and expounder of national rights, Fuess says, "If he had done nothing more than this, he would have earned the eternal gratitude of his country."²

As an outstanding example of Webster's nationalism we have selected Webster's speech of January 26, 1830, delivered on the floor of the United States Senate. It is known the country over as the Webster-Hayne Debate or the Reply to Hayne, and it has been said of this speech, "He never surpassed it, he never equalled it afterwards."³

The problem of the thesis is to determine what influenced Webster's

1 Everett P. Wheeler, Daniel Webster, the Expounder of the Constitution, New York, 1905.

2 Claude Moore Fuess, Daniel Webster, Boston, 1930, I, 267. Fuess's book is the best life of Webster.

3 Ibid., 375, quoting Henry Cabot Lodge.

stand for strong central government in that speech. The thesis divides itself into two parts. Part I poses the problem, Part II solves it. Part I sets the stage for the speech (chapter I) and shows definitely that in it Webster came out for strong central government (chapter II). The problem is to determine why he did this? What influenced him? What factors were brought to bear on Webster making it likely that he would speak for strong central government in the Reply to Hayne? That is the problem. Part II solves the problem. It discovers three general factors which influenced Webster—political (chapter III), economic (chapter IV), and intellectual (chapter V). The political factor was New England Federalism; the economic factor, the interest of Webster's constituents; the intellectual factor, the character of Webster.

CHAPTER I

SETTING THE STAGE

January 26, 1830 was a day of excitement in Washington. For the past two or three days crowds of strangers had been pouring into the city, overflowing the hotels and taking every available living quarter. As early as nine o'clock that morning little groups of people began to hurry up the Capitol steps. All that morning the flow of people continued. Their destination was the Senate Chamber; their purpose was to hear the Great Debate.

By noon the Senate Chamber was filled to utmost capacity. Extra chairs were set and the crowd extended into the corridors and down the staircases. Representatives were there as well as Senators, women as well as men. They had come, all of them, drawn as a moth is drawn to a bright light, to hear one of America's greatest orators speak in one of his greatest speeches. They waited expectantly.¹

While they waited, their eyes turned to various personages assembled on the Senate floor. In the Speaker's chair they saw the Vice-President, the spare, shaggy-haired, bushy-browed, John C. Calhoun.² Leader and spokesman

¹ Charles W. March, Reminiscences of Congress, New York, 1850, 132. Most accounts of the Great Debate rely to a large extent on March's narrative.

² At the time of the Great Debate Calhoun, as Vice-President of the United States, was presiding officer of the Senate.

of the aristocratic South, he sat there rigid and unsmiling, his gaunt frame and long black locks giving the impression of dynamic intensity. Did these onlookers realize how vitally important was Calhoun in the Webster-Hayne debate? They had come to hear Webster speak, but did they realize that were it not for that inflexible, pensive South Carolinian who sat in the Speaker's chair there might never have been the famous Reply to Hayne? Yes, John C. Calhoun, the man who in the Webster-Hayne debate never uttered a single word, was, more than any other man, the ultimate reason for that debate. For John C. Calhoun was the intelligence behind Hayne's silver-tongued oratory. Hayne was the Voice of the South but Calhoun was its Mind. Calhoun had penned the South Carolina Exposition, and it was precisely to oppose that Exposition that Webster entered the Senate January 26, 1830.

Calhoun's South Carolina Exposition³ furnished abundant matter for Webster to oppose. In it Calhoun contended that the Constitution was a compact between states and that each state retained the right to judge for itself of infractions of that compact. On Calhoun's hypothesis the national government was but an agent of the states, and the union "a union of States as communities, and not a union of individuals." The states, therefore, could declare void an act of the national government and take whatever steps they felt necessary to protect their citizens against the encroachments of that government. This is Calhoun's famous doctrine of nullification.⁴

³ Printed in full in The Works of John C. Calhoun, New York, 1857, VI, 1-58.

⁴ Homer C. Hockett, Constitutional History of the United States, New York, 1939, II, 30-35.

Near Calhoun the spectators saw Senator Samuel Augustus Foote.⁵ He too, like Calhoun, was responsible for the Webster-Hayne debate, although in a different way. Foote provided the occasion. On December 29, 1829 he had introduced a resolution on limiting the sale of public lands:

Resolved, that the Committee on Public Lands be instructed to inquire into the expediency of limiting, for a certain period, the sales of the Public Lands to such lands as have hitherto been offered for sale, and are subject to entry at the minimum price. And also, whether the office of Surveyor General, may not be abolished, without detriment to the public interest.⁶

On the surface the resolution appeared innocent enough, but in reality it was highly inflammable, for the West was particularly sensitive about any attempt to curtail settlement of its regions. Foote's resolution seemed such an attempt. It seemed a scheme of New England's manufacturing interests to insure an abundance of cheap labor by preventing migration across the Alleghenies. Add to this that the problem of western lands was inextricably entangled with such explosive issues as internal improvements, the tariff, and negro slavery, and a situation exists lacking only a spark to set off a conflagration.⁷

⁵ Samuel Augustus Foote (1780-1846), a Yale graduate and later merchant in New Haven, served for some years in the Legislature and also the national House of Representatives. He was a Senator from Connecticut for one term and later Governor of that state. His name is often printed as Foot, but the Biographical Dictionary of the American Congress uses the spelling Foote.

⁶ Later the resolution was modified by the addition of the following clause: "Or whether it be expedient to adopt measures to hasten the sales and extend more rapidly the surveys of the public lands." This addition did not affect the real issue.

⁷ Fuess, Webster, I, 363.

Senator Thomas H. Benton was the spark.⁸ Fiery and pugnacious,⁹ Benton had on January 13, 1830 made an incendiary speech calculated to inflame the West and South against the Northeast. Taking Foote's resolution as his springboard, he instanced it as but one more instance of Eastern hostility towards the West, another attempt of the seaboard states to block immigration to the interior river valleys. Benton, in a speech carefully prepared to excite sectional animosities, went on to search history for grievances against New England. It was a defiant speech, fiery and provocative; it could not be left unanswered. Benton, like Calhoun and Foote, was there today to hear Webster's reply.

And then there was Hayne. Robert Young Hayne,¹⁰ tall and slender, the Voice of Southern nullification, sat smiling and confident. He was of sallow complexion, with light brown hair and grey eyes, full of animation and fire. While not distinguished-looking, his features were expressive, and his jaunty air of self-confidence lent weight to whatever he said. Intrepid,

⁸ Benton (1782-1858), Webster's almost exact contemporary, served in the War of 1812, and was elected in 1820 as one of the first two senators from the newly formed state of Missouri. A strong Democrat, he remained in the Senate for nearly thirty consecutive years, the longest continuous service up to that time. He was irrepressibly contentious.

⁹ For a first-hand description of Benton and his manner of speaking, see March, Reminiscences, 97-99.

¹⁰ Hayne (1791-1839), grandnephew of a Revolutionary hero, lawyer, and army officer, early became conspicuous in politics. Chosen as United States senator in 1823 when barely of the minimum legal age, he became a friend and ally of Calhoun. In December, 1831, he left the Senate to become Governor of South Carolina, in which position he openly defied the national government. For a first-hand observation of Hayne's character and style of speech, see March, Reminiscences, 100-102.

mercurial and resourceful, he was a man to be reckoned with, and in opposing Webster, Fuess says he was "not unevenly matched."¹¹

Hayne, as spectators watched him that January day in 1830, was riding a crest of popularity. The day before he had made a speech,¹² a brilliant speech, in which he had all but dismantled Webster. With telling wit he had criticized Webster's conversion to protectionism and pointed a shaming finger at Northern Federalists for their lack of patriotism in the War of 1812. With biting sarcasm he contrasted the patriotism of South Carolina with the near-treason of Massachusetts, quoting with obvious delight Federalist expressions of disunion and rebellion during the war years of 1812-1814.

Most important of all, Hayne had publicly espoused Calhoun's doctrine of nullification. He had maintained that each state, in assenting to the Constitution, had reserved the right to interpret that document for itself. Thus, if it felt itself wronged by an act of the federal government, any state could declare that act null and void, it could nullify Federal legislation. Following Calhoun, Hayne denied any right of the Supreme Court to be the final arbiter of constitutional disputes, saying specifically,

As to the doctrine that the federal government is the exclusive judge of the extent as well as the limitations of its powers, it seems to me utterly subversive of the sovereignty and independence of the States. It makes but little difference, in my estimation, whether Congress or the Supreme Court are invested with this power.¹³

¹¹ Fuess, Webster, I, 367.

¹² Printed in full in The World's Great Classics: Orations of American Orators, revised edition, New York, 1900, II, 97-147.

¹³ Ibid., 144-145.

"The South," said Hayne, "is acting on a principle she has always held sacred,—resistance to unauthorized taxation." While not openly espousing disunion, Hayne nevertheless preached a "firm, manly, and steady resistance against usurpation", and warned the North not to hurry the South "beyond the bounds of a cool and calculating prudence." Should this ever take place, threatened Hayne, "you must pardon something to the spirit of liberty!"¹⁴ On this ominous note Hayne closed his speech.

Its effect was tremendous. March says that Southerner and Northerner could be distinguished that evening by their countenances; the former, "by his buoyant, joyous expression, and confident air"; the latter, "by his timid, anxious eye, and depressed bearing. One walked with a bold determined step, that courted observations; the other, with a hesitating, shuffling gait, that seemed to long for some dark corner, some place to hear and see, and be unseen."¹⁵

Even Webster's friends were apprehensive lest he be unfairly matched.¹⁶ Hayne had uncovered some inconsistencies in Webster's past and dwelt on them to the utmost. The reporter of the New York Courier and Enquirer said,

14. Ibid., 145.

15 March, Reminiscences, 125.

16 Ibid., 127.

I will not pretend to give you even a hint of the tremendous punishment which, for one hour, Mr. Hayne inflicted on the 'god-like' man. . . . He turned, he twisted, he leaned back, leaned forward, took notes, sometimes audibly dissented, and appeared indeed to be put to the rack.¹⁷

Hayne had reason indeed to feel self-confident.

But it was not Hayne the spectators in the galleries were regarding at the particular moment. No, not Hayne, nor Benton, nor Foote, nor even the sad-eyed Calhoun was the object of attention. Rather it was the broad-shouldered Senator from Massachusetts who was arranging his notes¹⁸ before rising to speak. They saw a man of stern, portentous dignity, whose every action was stamped with a slow stateliness and power. His hair was jet black, his forehead broad, and his eyes, perhaps the most striking feature of his countenance, dark and lustrous. Their penetrating gaze gave him a mysterious strength. "Massive and leonine" were adjectives that were used to describe him. His head seemed abnormally large even for his wide, robust shoulders, and his two hundred pounds were well proportioned throughout his five feet, ten inch frame. He was handsome and impressive. Perhaps he could best be described by the phrase born to command. He wore a blue coat and buff vest—the Revolutionary War colors of buff and blue—with a white cravat;— a costume

¹⁷ Fuess, Webster, 370n. Fuess admits, however, that evidence on Webster's reaction to Hayne's speech is conflicting.

¹⁸ Webster seldom referred to the notes during his speech. Ibid., 375.

whose patriotic significance could not but have a dramatic effect.¹⁹

And now he was ready to speak. Humor had it that he was little perturbed at the prospect of facing up to Hayne. When Judge Story called on Webster the night before to help him look up material, the latter replied, "Give yourself no uneasiness, Judge Story! I will grind him as fine as a pinch of snuff."²⁰ Edward Everett, who also had visited Webster that same night, remarked that he had never seen him "more calm and self-possessed, or in better spirits."²¹ When Everett asked if he had taken notes, Webster took from his vest pocket a slip of paper no bigger than the palm of his hand. "Yes, I have it all. That is his speech."²² Senator Iredell, of North Carolina, more cautious than his Southern confreres in their jubilation over Hayne's dismantling of Webster, issued a prophetic admonition: "He [Hayne] has started the lion,—but wait til we hear his roar, and feel his claws."²³

Webster's entrance into the Senate that morning seemed to confirm rumors of his confidence. Striding up the Capitol steps like a warrior, he encountered Senator Clayton, who asked him, "Are you well charged?" "Seven

19 March remarks that Webster was a master at dress and its use as a powerful auxiliary to speech. In his opinion Webster's choice of garb added "no little to the influence of his manner and appearance." Reminiscences, 143n.

20 Peter Harvey, Reminiscences and Anecdotes of Daniel Webster, Boston, 1878, 156.

21 March, Reminiscences, 126.

22 Harvey, Reminiscences and Anecdotes, 150-151.

23 March, Reminiscences, 124-125.

fingers!" answered Webster--a reference to the charge of a muzzle-loading gun, for which four fingers were generally considered sufficient.²⁴

The Vice-President banged the desk with his gavel. An ominous silence fell upon the Senate. As with one motion the attention of all those present was riveted on the dark-eyed, broad-chested senator from New England. Daniel Webster was about to begin his reply to Hayne.

²⁴ Sydney George Fisher, The True Daniel Webster, Philadelphia, 1911, 261.

CHAPTER II

THE REPLY TO HAYNE

Mr. President,—when the mariner has been tossed for many days in thick weather, and on an unknown sea, he naturally avails himself of the first pause in the storm, the earliest glance of the sun, to take his latitude, and ascertain how far the elements have driven him from his true course. Let us imitate this prudence, and, before we float farther on the waves of this debate, refer to the point from which we departed, that we may at least be able to conjecture where we now are. I ask for a reading of the resolution before the Senate.¹

Thus began Daniel Webster on January 26, 1830. Setting everyone at ease by his low, impressive tone, he called for a reading of Foote's original resolution. Then, after remarking rather humorously that practically everything had been debated except that resolution,² he spoke for three hours without a pause. At an appropriate time he stopped, asked an adjournment, and finished his speech on the following day.

The Reply to Hayne fills seventy-three pages in the National Edition of Webster's works.³ It was delivered with remarkably little bodily movement, the steady up and down motion of Webster's right arm being his only gesture. In content, however, it was extremely varied. Many oratorical devices, banter;

1 Daniel Webster, "Second Speech on Foote's Resolution," The Writings and Speeches of Daniel Webster, National Edition, Boston, 1903, VI,3.

2 Ibid., 4.

3 Ibid., 3-76.

scorn, irony, pathos, and sarcasm, were used. His notes for the speech, a scant five pages of letter paper, lay practically unused on his desk. He had no need to refer to them. "All I had ever known," he said later, "seemed to be floating before me."⁴

Webster devoted two-thirds of his speech, filling the first day, to a defence of himself and his section, New England, against the attacks of Hayne. He showed that, by and large, New England had been favorable to Western expansion and had not attempted to retard emigration to the Mississippi Valley. He spoke of slavery, on which Hayne had touched, as "one of the greatest evils, both moral and political,"⁵ but reassured the South that he considered its settlement a problem entirely in the hands of state governments. On the tariff, he defended his conversion to protectionism by saying that he frankly regarded the tariff as a matter of expediency, his principle being to vote in accord with the economic interests of his constituents. His conversion, he said, was merely "a change of position to meet new circumstances."⁶ In the midst of his remarks on the tariff, Webster broke off, and the Senate adjourned until the following day.

At noon on January 27, Webster resumed. After summing up his position on the tariff in a few crisp sentences, he turned to a defence of New England Federalism, arguing that, while individual Federalists may have been

4 Fisher, True Daniel Webster, 261

5 Webster, "Second Speech on Foote's Resolution," Writings, VI, 12.

6 Ibid., 37-38.

guilty of disloyalty in the War of 1812, this was not true of Federalists as a party. As for the Hartford Convention, he said that if it had convened for "breaking up the Union," it was "obnoxious to censure."⁷ This section closed with a glowing encomium upon Massachusetts, during which some of its citizens "shed tears like girls."⁸

Webster now devoted himself in the final portion of his speech to an analysis of the Constitution and the nature of the Federal Union. It was here that Webster took his stand for a strong central government. Hayne had weakened the national government in two ways: by making the Union a confederation and not a sovereign government,⁹ and by advocating state nullification of national laws.¹⁰ Webster then, in opposing Hayne, would strengthen the nation-

7 Ibid., 48.

8 March, Reminiscences, 142.

9 Hayne said that the "true friends of the Union [were those] who would make this a federal and not a national union"; its enemies, those "who sacrifice the equal rights which belong to every member of the confederacy." In another place, speaking of the protective tariff, he declared it unconstitutional and "a violation of the compact between the States and the Union." Hayne, "Sale of Public Lands," World's Classics: Orations, II, 137 and 119.

10 Ibid., 141-142. Hayne quoted with approval the Kentucky Resolutions, which declared: "That the government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge, for itself, as well of infractions as of the mode and measure of redress."

"That the general government is the exclusive judge of the extent of the powers delegated to its, stop [s] nothing short of despotism That the several States who formed that instrument [the Constitution], being sovereign and independent, have the unquestionable right to judge of its infraction, and that a nullification, by those sovereignties, of all unauthorized acts done under color of that instrument, is the rightful remedy."

al government by denying precisely what Hayne affirmed. He would consider the Union as a true government and not a Confederation; he would deny the right of state nullification, and vest the ultimate right of constitutional interpretation in the Federal Supreme Court.

The national government is not a confederation, it is a sovereign government; it is a Union of peoples; it is not a Union of states. This is the essence of Webster's constitutional philosophy and the cornerstone of his strong central government edifice. In its origin the people created the federal government.¹¹ In its continuance it is the instrument of the people, entrusted by them with the exercise of certain delegated powers.¹² In the exercise of those powers it is responsible to the people alone. No state government has the right to interfere; to do so would be to thwart the will of the people expressed through their duly elected national representatives. "It is," cried Webster, "the people's Constitution, the people's government, made for the people, made by the people, and answerable to the people."¹³ "It is not the creature of the State government."¹⁴ The people had quite enough of such type of government under the Articles of Confederation. They

11 Webster, "Last Remarks on Foote's Resolution," Writings, VI, 79. Hayne had quoted the Virginia Resolutions of 1798, which viewed the powers of the federal government "as resulting from the compact to which the States are parties." Hayne, "Sale of Public Lands," World's Classics: Orations, II, 139.

12 Webster, "Second Speech on Foote's Resolution," Writings, VI, 66.

13 Ibid., 54.

14 Ibid., 66.

became dissatisfied with it; they "undertook to form a general government, which should stand on a new basis; not a confederacy, not a league, not a compact between states, but a Constitution."¹⁵

Having stated his principle that the Union is a government, not a confederation, a Union of peoples, not of states, Webster went on to present his arguments in support of his position. They are positive and negative. He argued positively, from the words of the Constitution, negatively, from the absurdity of the compact theory.

They very words of the Constitution prove the Federal Union is a Union of peoples. Turn to the Preamble; what do you read? "We, the people . . . do ordain and establish this Constitution of the United States."¹⁶ Notice that it does not say, "We, the states," nor even "We, the people of the following states," but a flat, patent, uncontestable, "We, the people." The Constitution itself, in its very wording, refutes the idea of confederation.¹⁷

Secondly, the compact theory leads to absurdity, and this on two counts; it sets the country back forty years, it makes practical government impossible. The compact theory¹⁸ sets the country back forty years for it puts

15 Webster, "Last Remarks," Writings, VI, 79.

16 Preamble to the Constitution of the United States.

17 Webster, "Last Remarks," Writings, VI, 79.

18 The compact theory held that the Union was a confederation, resulting from a compact of the states among themselves. Modern examples of such compacts are the League of Nations and the United Nations.

America back in the days of the Articles of Confederation.¹⁹ The national government under those Articles was indeed a union of states and not of people. It was in very truth founded on the compact theory. The national government was not sovereign; it was a creature of the states and subject to them. It could not command; it could only entreat, suggest, exhort.²⁰

Are we, then, asked Webster, back where we were before 1789? Did the fifty-five men who met at Independence Hall in Philadelphia effect nothing new? Is the Constitution nothing more than the Articles of Confederation dressed up in different language? Was the long, bitter struggle for ratification an empty ceremony? Was it ratifying for a second time what had already been ratified before? Can we conceive that the writers of the Constitution, the people who ratified it, those who opposed it, did not think that they were dealing with a document much stronger than the old Articles of Confederation? Such a supposition is unthinkable. How then, asked Webster, can Nullifiers say that the Union is a union of states, that the national government is a state tool, that its enactments must pass the tribunal of state approval? Is this not to put us back in the days of the Articles of Confederation?²¹

Furthermore, how explain certain sovereign powers of the national government if it is nothing more than a confederacy? The power to make war, the power to coin money, the power to make treaties—these are manifestations

19 Webster, "Last Remarks," Writings, VI, 79.

20 Ibid.

21 Webster, "Second Speech," Writings, VI, 64.

of sovereign power and all of these are reserved exclusively to the national government.²² Hence, argued Webster, "either the laws of the Union are beyond the discretion and beyond the control of the States; or else we have no Constitution of general government, and are thrust back again to the days of the Confederation."²³

Secondly, the compact theory makes effective government impossible. If, as Nullifiers say, the national government is the creature of the states, it follows then that it is the creature of each of the states severally. Each of them has the right to determine which laws are constitutional and which are not. Instead of one interpreter of the Constitution, we have twenty-four;²⁴ instead of one master, many. The absurdity of such a situation, for Webster calls it no less, is shown from a practical case. South Carolina finds the tariff unconstitutional; it may therefore nullify it and refuse to pay the duties. Pennsylvania, on the other hand, find the tariff very constitutional. It therefore abides by the law and pays the duties. "And yet," exclaimed Webster, "we live under a government of uniform laws, and under a Constitution too, which contains an express provision, as it happens, that all duties shall be equal in all the states."²⁵

This brought Webster to the second point on which he wished to oppose Hayne, the question of who has the ultimate right of constitutional

22 Ibid., 55. See also 66.

23 Ibid., 64.

24 In 1830 the Union consisted of twenty-four states.

25 Webster, "Second Speech," Writings, VI, 57.

interpretation. Hayne placed the right in each individual state legislature. Webster denied this and declared that only the national government had this power.

Having constituted the government, and declared its powers, the people have further said, that, since somebody must decide on the extent of these powers, the government shall itself decide; subject, always, like other popular governments, to its responsibility to the people.²⁶

Having made this assertion, Webster went on to present his arguments supporting it. Again they are of two kinds: positive, from the words of the Constitution; negative; from the practical difficulties of nullification.

The very words of the Constitution prove that the federal government alone is invested with power to interpret it.

The Constitution declares, that the laws of Congress passed in pursuance of the Constitution shall be the supreme law of the land . . . It declares, also, with equal plainness and precision, that the judicial power of the United States shall extend to every case arising under the laws of Congress. . . . Here is a law, Then, which is declared to be supreme; and here is a power established, which is to interpret that law.²⁷

Thus the very words of the Constitution make the federal government the supreme and final arbiter of the Constitution.

Secondly, nullification leads to chaos, anarchy, and rebellion.

²⁶ Ibid., 68. Hayne's position on this was not without weight. "If the federal government, in all, or any of its departments, are to prescribe the limits of its own authority, and the States are bound to submit to the decision, . . . this is practically a 'government without limitation of powers.' The States are at once reduced to mere petty corporations, and the people are entirely at your mercy." Hayne, "Sale of Public Lands," World's Classics: Orations, II, 145.

²⁷ Webster, "Last Remarks," Writings, VI, 78.

In a series of rhetorical questions, which for power and persuasiveness, are seldom equalled in his speeches, Webster asks,

[If] we look to the general nature of the case, could any thing have been more preposterous, than to make a government for the whole Union, and yet leave its powers subject, not to one interpretation, but to thirteen or twenty-four interpretations? Instead of one tribunal, established by all, responsible to all, with power to decide for all, shall constitutional questions be left to four-and-twenty popular bodies, each at liberty to decide for itself, and none bound to respect the decision of others; and each at liberty, too, to give a new construction on every new election of its own members? Would any thing, with such a principle in it, or rather with such a destitution of all principle, be fit to be called a government? No, Sir, It should not be denominated a Constitution. It should be called rather a collection of topics for everlasting controversy; heads of debate for a disputatious people. It would not be a government. It would not be adequate to any practical good, or fit for any country to live under.²⁸

Because it "would not be fit for any country to live under," such a condition could not have been intended by the Founding Fathers. They must have intended that there be a "power to settle such questions, independent of . . . the States." Otherwise the Union is but "a rope of sand." Otherwise we are "Thrown back again . . . upon the old Confederation."²⁹ Therefore, said Webster, "one of two things is true; either the laws of the Union are beyond the discretion and beyond the control of the States; or else we have no constitution of general government, and are thrust back again to the days of the Confederation."³⁰

28 Webster, "Second Speech," Writings, VI, 69.

29 Ibid., 57.

30 Ibid., 64.

In summary this may be said of the Reply to Hayne. Webster flatly opposed Hayne's two leading propositions, namely, that the national government was a union of states, and that each state was its own Supreme Court. He showed the practical difficulties inherent in the nullification doctrine and demonstrated that ultimately it meant secession and civil war. For his part, Webster advanced the thesis that the national government was not a confederation, but a government, formed by the people rather than by the states, and that the people had entrusted the ultimate power of determining the constitutionality of a given law, not to individual state legislatures, but to the federal government—specifically, the federal Supreme Court. Both facets of Webster's thesis have one thing in common—they tend to strengthen the national government.

PART II

FACTORS INFLUENCING WEBSTER

Part I has narrated the circumstances of Webster's Reply to Hayne and presented Webster's stand for strong central government. Part II will investigate the factors that influenced Webster's stand.

But first a word about terms. By factor is meant any person, place or thing that could in any way incline a man to one course of action rather than another. In Webster's life, as we shall see, such factors varied. Sometimes the factor was a person, such as Webster's constituents; sometimes it was Webster himself, with his own peculiar disposition and character traits. Sometimes it was a place, such as the city of Portsmouth, New Hampshire, Webster's home for seven years. Sometimes it was a thing, such as the Federalist Party, in which Webster was an active member. The dictionary defines the word influence as: to alter or move in respect to character, conduct, or the like; to sway, persuade, affect.¹

With these preliminaries finished, the way is open to investigate why Webster wanted strong central government in 1830. The investigation will uncover three main reasons: political—New England Federalism, economic—constituents' interest, intellectual—the particular bent of Webster's mind.

¹ Webster's New International Dictionary of the English Language, 2nd Edition, Springfield, Mass., 1950, 1276.

CHAPTER III

NEW ENGLAND FEDERALISM

New England Federalism influenced Webster in his Reply to Hayne. Federalism, by its very nature, inclined toward a strong central government. Webster then, as a member of the Federalist Party, could not but be influenced in that direction. Such is the argument in brief; now to fill in the detail.

Daniel Webster was a Federalist. Coming from a family which was ardent in its allegiance to the party, one might almost say he was born into Federalism. As a youth he attended Dartmouth College, where most of the faculty and students were Federalists.¹ There he wrote papers with a strong Federalist bias² and became a member of the Federalist Club.³ In 1805, while still a young lawyer, he wrote a Federalist pamphlet, An Appeal to the Old Whigs of New Hampshire.⁴ In 1807 he moved to Portsmouth where, as Fuess says, he "identified himself" with the Federalists in that city.⁵ In 1810 he was

1 Fuess, Webster, I, 55.

2 Ibid., 52.

3 Ibid., 55.

4 Writings, XV, 522-532

5 Fuess, Webster, I, 132

appointed Chairman of a committee to arcuse Federalist enthusiasm in Portsmouth and its environs.⁶ In 1812 he was elected as a Federalist member of Congress, and in 1814 was reelected on the same ticket by an overwhelming majority. As a member of Congress he steadily adhered to the Federalist party line in its opposition to the War of 1812. In 1813 he was appointed to a Federalist steering committee to control party matters in the House.⁷ As long as the party endured in American life, Webster was its faithful adherent.

The Federalist Party, by its very nature, tended to strong central government. Its basic principles have been defined as "a nationalization of the new central government to the full extent warranted by a broad construction of [its] powers," and "a correspondingly strict construction of the powers reserved to the states and the citizens."⁸ John Marshall, an outstanding Federalist, said that the party "contemplated America as a Nation, and laboured incessantly to invest the federal head with powers."⁹ Charles Grove Haines lists among the prime features of Hamiltonian Federalism the principle of "a strong federal government whose powers were to be expanded."¹⁰ Party policy,

6 Ibid., 133.

7 Ibid., 178.

8 Anonymous, "Federalist Party," Encyclopaedia Britannica, 14th. ed., London, 1929, IX, 135-136.

9 John Marshall, Life of George Washington, Philadelphia, 1804, V, 87, as quoted in Charles Grove Haines, The Role of the Supreme Court in American Government and Politics, 1789-1835, Berkeley, California, 1944, 84.

10 Haines, Role of the Supreme Court, 84.

according to Haines, was "the subordination of the rights and privileges of the states to the authority of the national government."¹¹ Foremost among its doctrines, he says, "was the notion there should be a single, strong, central government,"¹² so that Federalists conceived it their duty "to foster nationalism as against State rights."¹³

Given the fact that Webster was a Federalist and that the Federalist Party desired a strong central government, it should not be amiss to conclude to some connection between the two. Being a Federalist, Webster would naturally think as Federalist did--in terms of strong central government. This is confirmed by the fact that Webster possessed, to an outstanding degree, three characteristics peculiar to Federalism: a strong sense of nationalism, an exaggerated sense of property, and a tendency to conservatism. Each of them by itself would have been enough to induce Webster to strong central government, and, taken together, they show how deep and sincere was his Federalism. What follows is an analysis of these three characteristics in Webster's life.

11 Ibid., 308.

12 Ibid., 79.

13 Ibid., 80. This Federalist bias towards the national government is quite understandable. By and large Federalist ranks were filled by those who stood most to profit from such a strong central government--those interested in business, in commerce, in a stable money market, in settling the question of western lands, and in redemption of government securities. It was the aim of these groups to have a strong government to protect property and contracts at home and to secure the confidence of nations abroad. Whatever expanded trade and commerce helped them. Webster, it will be seen, was the trusted representative of such groups. Haines, The Role of the Supreme Court, 119.

Webster had a strong sense of nationalism. By nationalism is meant a devotion to the nation as a whole, as opposed to the local and provincial. In Webster's case it meant an allegiance to the Union, a consciousness of being an American and a pride in it, an awareness of being a citizen, not just of a state, but of a nation. Webster possessed this national sense in an eminent degree. It is shown in his attitude towards Washington, towards the Constitution, and towards the Union.

Washington was from the South and Webster from the North, but Webster held him up to the people of New England as their very own and the object of their heart's affection. He eulogized Washington as "the hero," "the man who gave us freedom." He called him the country's "political saviour" and humanity's "favorite son."¹⁴ He pointed to Washington's principles as the "true principles of our government," and to his administration as "the best practical development and application of those principles."¹⁵

Webster's nationalistic sentiment is also shown in his praise of the Constitution, that document which binds together the diverse peoples of America. In Webster's mind it is "excellent."¹⁶ It is the "greatest approximation towards human perfection the political world ever yet experienced,"

¹⁴ Webster, "Oration at Hanover, New Hampshire, July 4, 1800," Writings, XV, 481.

¹⁵ Webster, "Address before the Washington Benevolent Society, Portsmouth, July 4, 1812," Writings, XV, 584.

¹⁶ Webster, "Fourth of July Oration, Fryeburg, 1802," Writings, XV, 518.

and will, perhaps, "forever stand in the history of mankind, without a parallel."¹⁷ In it are embodied "the wisdom and experience of all ages and all nations."¹⁸ It is richer than the proverbially rich American soil; ¹⁹ it is "the last hope of desponding human nature."²⁰

Because it is so valuable, so "excellent," the Constitution must be preserved at all costs. We must "guard it. . .as we would guard the seat of life."²¹ We must beware of changing it, for it is practically perfect-- "essential errors it cannot possess."²² Even its "inconsiderable errors" had better be tolerated than meddle with an instrument" on which rests the happiness of ourselves and posterity."²³ "To the preservation of the Constitution every system of policy should ultimately tend. It should be considered as the sacred and inviolable palladium, ready to wither that hand which would lay hold on it with violence."²⁴

17 Webster, "Oration at Hanover, New Hampshire, July 4, 1800," Writings, XV, 479.

18 Webster, "Oration, July 5, 1802," Writings, XV, 509.

19 Webster, "Fourth of July Oration, Fryeburg, 1802," Writings, XV, 519.

20 Webster, "Address at Concord, New Hampshire, July 4, 1806," Writings, XV, 537.

21 Ibid.

22 Webster, "Oration, July 5, 1802," Writings, XV, 511.

23 Ibid.

24 Webster, "Oration, July 5, 1802," Writings, XV, 509.

What Webster said of the Constitution, he said also of the Union, that glorious Union, "our present excellent system of government."²⁵ The advantages derived from the Union are "utterly incalculable";²⁶ the day of its creation "shall stand on the catalogue of American anniversaries, second to none but the birthday of Independence."²⁷ What a wonderful thing to be an American; what a glory to fall in defence of one's country!²⁸ What prosperity has resulted from the Union, prosperity such as "its most ardent friends could not well have hoped from it";²⁹ "Heaven grant that the bonds of our federal union may be strengthened. . .and that the stars and stripes of United Columbia may wave triumphant" over all its enemies.³⁰

Thus spoke Webster of the Union on different occasions in his public life. On no occasion, however, was his nationalism more patent than in his speech on the Senate floor, January 26, 1830. In that speech, the Reply to Hayne, Webster declared that he had hitherto "kept steadily in view the prosper-

25 Webster, "Address at Concord, New Hampshire, July 4, 1806," Writings, XV, 538.

26 Webster, "Oration at Hanover, New Hampshire, July 4, 1800," Writings, XV, 480.

27 Ibid.

28 Webster, "Address at Concord, New Hampshire, July 4, 1806," Writings, XV, 547.

29 Webster, "The First Settlement of New England, Plymouth, December 22, 1820," Writings, I, 223.

30 Webster, "Letter to Mr. Bingham, February 5, 1800," Writings, XVII, 79.

ity and honor of the whole country, and the preservation of our Federal Union."

It is to that Union that we owe our safety at home, and our consideration and dignity abroad. It is to that Union that we are chiefly indebted for whatever makes us most proud of our country. . . . It has been to us all a copious fountain of national, social, and personal happiness.³¹

Then came Webster's famous peroration, a panegyric on the Union.

While the Union lasts, we have high, exciting, gratifying prospects spread out before us, for us and our children. . . . When my eyes shall be turned to behold for the last time the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union; on States dissevered, discordant, belligerent; on a land rent with civil feuds, or drenched, it may be, in fraternal blood! Let their last feeble and lingering glance rather behold the gorgeous ensign of the republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original lustre, not a stripe erased or polluted, nor a single state obscured, bearing for its motto, no such miserable interrogatory as 'What is all this worth?' nor those other words of delusion and folly, 'Liberty first and Union afterwards'; but everywhere, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart, — Liberty and Union, now and forever, one and inseparable!³²

In summary, Daniel Webster was a nationalist. This nationalism^{is} found in 1802 when he exclaimed, "Every voice is, this day, tuned to the accents of Liberty! Washington! My Country!"³³ It is found in 1850 when he began the seventh of March speech with the memorable words, "I wish to speak today, not

31 Webster, "Second Speech on Foote's Resolution, Writings, VI, 74-75.

32 Ibid., 75

33 Webster, "Fourth of July Oration, Fryeburg, 1802, Writings,

as a Massachusetts man, nor as a Northern man, but as an American."³⁴ It is found in 1812, although in a considerably diminished degree, when at a most trying time for New England, Webster assured the government "that the tie that binds us to the Union, will never be broken, by us."³⁵ And it is found in 1830 in the Reply to Hayne, where Webster closed his stirring peroration with the "sentiment, dear to every American heart,--Liberty and Union, now and forever, one and inseparable!"³⁶ This nationalism was a factor which influenced Webster to favor strong central government.

The second characteristic of Federalism which Daniel Webster exhibited was a strong sense of property. "Strong" is perhaps too weak a word; "exaggerated" might be better. The sympathetic Fuess admits that Webster attached "perhaps an undue importance to material possession."³⁷ The not-so-sympathetic Emerson takes Webster to task in the following fashion: "He obeys his powerful animal nature;--and his finely developed understanding only works freely and with all its force, when it stands for animal good; that is, for property. He believes, in so many words, that government exists for the pro-

³⁴ Webster, "The Constitution and the Union, March 7, 1850," Writings, I, 57.

³⁵ Webster, "The Rockingham Memorial, August, 1812," Writings, IV, 610.

³⁶ Webster, "Second Speech on Foote's Resolution," Writings, VI, 75.

³⁷ Fuess, Webster, I, 278.

tection of property."³⁸ Gamaliel Bradford says that property for Webster was "prudence, character, respectability, --it might almost be said that property was virtue."³⁹

That Webster would have such a strong sense of property is easily understandable considering that he was a product of upper-class New England society. He was the authentic and trusted representative of Boston's merchants, bankers, and professional men. They were his clients and his daily associates. Thrown in with the rich, the cultured, and the well-born, his political philosophy could not but have been profoundly affected. As Fuess remarks,

He was, at times a very independent thinker, but he was also peculiarly susceptible to his surroundings, and he was profoundly affected by Massachusetts traditions. Webster helped to mould public opinion in Boston, but he was also moulded by it. He carried into the Senate a message to the nation from State Street and Beacon Hill.⁴⁰

Examples of Webster's strong regard for property and men of property are not difficult to find. He was the rich man's lawyer, defender of his interests, guardian of his corporations. At the time of the Reply to Hayne he was in court for John Jacob Astor. Parrington says he was the greatest corporation lawyer of the day, "certain to be found defending vested interests, never on the side of the leaner purse."⁴¹ Webster's success in the Dartmouth

38 Ralph Waldo Emerson, "The Fugitive Slave Law," quoted in Vernon Louis Parrington, Main Currents in American Thought, New York, 1930, II, 315.

39 Gamaliel Bradford, As God Made Them, Boston, 1929, 41.

40 Fuess, Webster, I, 199.

41 Parrington, Main Currents, II, 316.

College Case laid the foundation for the rise of our modern corporations. On this, the same author remarks,

By engrafting upon the Constitution the principle that a contract lies beyond the reach of legislative power to annul, the decision assured greater security for private property than exists under any other judicial system in the world. Alexander Hamilton could not have asked for more.⁴²

Further evidence of Webster's regard for property is provided in two key speeches, both delivered in 1820. In the first, he flatly declared that "in the absence of military force, political power naturally goes into the hands which hold the property."⁴³ Quoting Harrington with approval, Webster maintained that "a government founded on property is legitimately founded; and that a government founded on a disregard of property is founded in injustice."⁴⁴ Nothing is "so evident and demonstrable a truth as that property [is] the true basis and measure of power."⁴⁵ The purpose of government is to protect property, and Massachusetts is to be commended in that "no violent measures affecting property have been attempted. Stop laws, suspension laws, tender laws, all the tribe of these arbitrary and tyrannical interferences between creditor and debtor. . .are strangers to our statute book."⁴⁶

42 Ibid.

43 Webster, "Basis of the Senate, December 15, 1820," Writings V, 15.

44 Ibid., 14.

45 Ibid., 14.

46 Ibid., 19.

The second speech confirmed and reiterated what Webster said in the first. "In the absence of military power, the nature of government must essentially depend on the manner in which property is holden and distributed." There is "a natural influence" belonging to property, said Webster, "and it is on the right of property that both despotism and unrestricted popular violence ordinarily commence their attacks." "A republican form of government," he said, "rests no more on political constitutions, than on those laws which regulate the descent and transmission of property."⁴⁷

Because of this strong sense of property, it is natural that Webster should favor a strong central government to protect it. This becomes clear when one recalls the misfortunes of the propertied class under the weaker⁴⁸ central government of the Confederation. Faced with a lack of good money and overwhelmed by the clamor of debtors for relief, some states began printing paper money as fast as the presses would run it off and declared this unsupported script legal tender. "Stay" laws were passed, enacting a moratorium on debt collection. The merchants and creditors, in utter consternation, were stormed by debtors attempting to force the worthless script into their hands. Many of them shut up shop and fled across the state line, where they found

47 Webster, "The First Settlement of New England, Plymouth, December 22, 1820, Writings, I, 211.

48 For a treatment of the strength of the Confederation see Merrill Jensen, the Articles of Confederation, Madison, Wisconsin, 1940 and his later work, the New Nation, New York, 1950.



what money they had worthless in another state.⁴⁹

In addition, the propertied class feared a social revolution. In 1787 Daniel Shays led sixteen thousand men in a popular uprising in Massachusetts against taxes, courts, and government itself. General Knox wrote Washington of discontented men who thought "that the property of the United States . . . ought to be the common property of all." Knox was convinced that they were "determined to annihilate all debts, public and private."⁵⁰

For these reasons the propertied class abhorred the Confederation and wanted it strengthened. As Albert Beveridge says,

Too much emphasis cannot be put upon the fact that the mercantile and financial interests were the weightiest of all the influences for the Constitution; the debtors and agricultural interests the strongest groups against it. . . . [T]hose who owed debts were generally against the Constitution and practically all to whom debts were due were for the new Government.⁵¹

49 Nathan Schachner, Alexander Hamilton, New York, 1946, 184, S.E. Morison, Oxford History of the United States, 1783-1917, London, 1928, I, 79. Livingston found it a "loss to shop in New York with [New] Jersey Money at the unconscionable discount which [New York] brokers and merchants exact; and it is as damning to deal with our merchants here [New Jersey] in that currency, since they proportionably advance the price of their commodities." Fithian in Virginia wrote, "In the evening I borrowed of Ben Carter 15/ — I have plenty of money with me but it is in Bills of Philadelphia Currency and will not pass at all here." Quoted in Albert J. Beveridge, The Life of John Marshall, Boston, 1919, I, 296.

50 General Henry Knox, "Letter to Washington, October 28, 1786," The Writings of George Washington, ed. by John C. Fitzpatrick, Washington, 1939, XXIX, 51.

51 Beveridge, Marshall, I, 312-313. In 1788 a Virginia agent wrote to his creditor, "I have little prospect of bringing Banks [a debtor] to terms as the Law of this State now stands, but I hope when the New Federal constitution is adopted that the Laws will be put upon a better footing. . . . Three fourths of the people that oppose it [the Constitution] are those that are deeply in debt & do not wish to pay." Minton Collins at Richmond to Stephen Collins at Philadelphia, May 8, 1788; MS., Lib. Cong. Quoted in Beveridge, Marshall, I, 313.

Alexander Schachner remarks that "by and large, the convention delegates spoke for the conservative, propertied classes of the country."⁵² Harold Faulkner places the movement for the Constitution with "the commercial, financial, creditor, and speculating classes who were eager to safeguard and strengthen the rights of property."⁵³ "The Constitution," says Charles Beard,

was not created by 'the whole people,' as the jurists have said; neither was it created by 'the states,' as Southern nullifiers long contended; but it was the work of a consolidated group whose interests knew no state boundaries and were truly national in their scope.⁵⁴

Because of this we believe that Webster's keen regard for property influenced his championing of strong central government. Since the property class had suffered under a weaker government, had called into existence the new and stronger government, and Webster was a member of and spokesman for this class, it is natural that he should oppose Hayne in 1830 as he did. As Fuess says, Hayne's position of nullification would have made the Union no more closely knit than the old Confederation of 1781-1789.⁵⁵ Webster's sense of property, therefore, is another factor that influenced Webster in the Reply

52 Schachner, Hamilton, 196.

53 Harold Underwood Faulkner, American Economic History, 5th ed., New York, 1943, 153.

54 Charles Beard, An Economic Interpretation of the Constitution, New York, 1921, 325.

55 Fuess, Webster, I, 372n.

to Hayne.

The third characteristic of Federalism in the life of Daniel Webster was a tendency to conservatism. Webster seems to have been temperamentally a lover of the status quo. He preferred familiar objects and long travelled roads. He had no truck with Jefferson's radical ideas on science, religion and society; he instinctively distrusted reformers, heretics, and rebels. By nature he was an institutionalist, a supporter of family, church, and country. Fuess says "he liked, indeed probably overvalued, tradition, law and regularity."⁵⁶ Parrington depicts him as "a Yankee squire, a descendant of some fox-hunting master of broad English acres, who by a freak of fortune had got born into the family of a New Hampshire yeoman. No Englishman was ever more English than he."⁵⁷

What nature had bestowed, environment confirmed. His innate convictions hardened as he became more and more identified with the prosperous and established elements of the community, and his tendency was to resist change. He shunned innovation and preferred the tried and true. To his admirers he was the very symbol of stability.

This conservatism was manifested in his opposition to changes of the United States Constitution. Speaking at Fryeburg on July 4, 1802, the whole burden of his address was "to present such a view of your Constitution

⁵⁶ Fuess, Webster, I, 123.

⁵⁷ Parrington, Main Currents, II, 304.

and your Union as shall convince you that you have nothing to hope from a change."⁵⁸ "Beware! Be cautious!" said Webster. "You have everything to lose; you have nothing to gain."⁵⁹ Speaking in the same vein on the following day, Webster held up the Constitution as a near-perfect instrument. "Essential errors it cannot possess."⁶⁰ Any alteration of it was serious business, "not to be undertaken without obvious necessity, nor conducted without caution, deliberation and diffidence."⁶¹ Commenting on these words, Fuess remarks,

Caution, deliberation, and diffidence! These are strange words on the lips of a young man just out of college. This is not the rashness which we condone in 'flaming youth.' Henry Clay, in his 'salad days,' flung prudence to the winds, and Andrew Jackson as a mature statesman was not precisely discreet. Even the sedate John Quincy Adams had his radical moments. But critics had no occasion to call Webster 'reckless' or 'impulsive.'⁶²

Webster's conservatism was also shown in 1820 in the convention held to revise the Massachusetts State Constitution. During the Convention, Webster sided with the moderate conservatives, "keeping a critical eye on any radical changes" in the Constitution.⁶³ Writing to Mason concerning the convention Webster said, "[T]here was a good deal of inflammable matter, and some

58 Webster, "Fourth of July Oration, Frysburg, 1802," Writings, XV, 514.

59 Ibid., 520.

60 Webster, "Oration, July 5, 1802," Writings, XV, 511.

61 Ibid.

62 Fuess, Webster, I, 123-124. In his address before the Washington Benevolent Society, Portsmouth, New Hampshire, July 4, 1812, Webster spoke of the Constitution as "an instrument of preservation, not of change." Webster, Writings, XV, 586.

63 Fuess, Webster, I, 274.

radicalism in it. We were extremely fortunate in finding a considerable number of gentlemen well disposed, who might otherwise have occasioned much trouble.⁶⁴

Fuess says of Webster's work in the meeting, "His personality dominated the assembly. . . . When anybody tried to rock the Ship of State, his was the voice to cry, 'Steady! Steady!'"⁶⁵

Given this conservative bent in Webster, it was natural that he should oppose Hayne in 1830. For Hayne was just the opposite of Webster; Hayne was dissatisfied with the status quo; Hayne called for a radical revision of the national-state government relationship; Hayne wished a return to the Articles of Confederation—if not in so many words, at least in practice. Under Hayne's theory a state deciding against Congress could compel that body to ask for an amendment to the Constitution, requiring the consent of three-quarters of the states. Thus one-fourth of the states could invalidate any legislation. This was virtually the weak central government of the old Confederation.

Webster recognized this. In his Reply to Hayne he pointed out that "unless there be. . . a power to settle [questions] independent of. . . the States" the whole Union was but "a rope of sand" and they were "thrown back again. . . upon the old Confederation."⁶⁶ "One of two things is true," said

64 Webster, "Letter to Jeremiah Mason, January 12, 1821," Writings, XVI, 60.

65 Fuess, Webster, I, 274-275.

66 Webster, "Second Speech on Foote's Resolution," Writings, VI, 57.

Webster, "either the laws of the Union are beyond the discretion and beyond the control of the States; or else we have no constitution of general government, and are thrust back again to the days of the Confederation."⁶⁷

Since the ratification of the Constitution in 1789, there had been a steady increase of the powers of the national government over the powers of the States. Marbury v. Madison, Fletcher v. Peck, and Martin v. Hunter's Lessee had enlarged Federal supremacy. Then came cases in which Webster himself had participated; McCulloch v. Maryland, Cohens v. Virginia, Osborn v. Bank of the United States, Gibbons v. Ogden, Dartmouth College v. Woodward. All these had added up to a stronger national government. Now Hayne wished to change all this. Hayne wished to set the clock back forty years. Hayne was overturning the established order. To a mind as conservative as Webster's, this was insufferable and dangerous. Granted his predilection for the status quo, he could not but oppose Hayne in 1830 as he did. Webster's conservatism, we submit, is another factor that influenced him in the Reply to Hayne.

So much for the three outstanding Federalist characteristics in Webster's life. Before concluding this chapter, however, one further problem remains, a problem which must be solved if we wish a complete treatment of the factors which influenced Webster's championing of the national government in 1830. The problem is: What influenced Webster to become a Federalist?

The importance of the problem should be apparent. Thus far we have

67 Ibid., 64.

seen that Webster was a Federalist and that Federalism influenced his militant nationalism in 1830. But the further question spontaneously and necessarily arises: What influenced Webster to become a Federalist in the first place? Until we have answered this question our investigation of the factors which influenced Webster is incomplete and, in a sense, superficial. To answer the question we shall investigate Webster's early environment, namely, his family, his schooling, and his friends.

Webster's family, specifically his father and brother, influenced his political allegiance. Both were strong Federalists, and both, by their temperament and the place they held in Daniel's heart, were such as to influence the impressionable young Webster.

Webster's father, Ebenezer, was a soldier and officer in the Revolutionary War, served under Washington, and admired him almost to the point of worship. He recited to young Daniel how he had guarded Washington's tent at Dorchester Heights, how the general had on one occasion questioned him regarding patriotism in New Hampshire, and how he had concluded by giving him some refreshment and warmly shaken his hand.⁶⁸ He told also how, the night after Benedict Arnold's attempted betrayal of West Point, Washington had said earnestly, "Captain Webster, I believe I can trust you."⁶⁹ He told how Washington's name on the Constitution was a guarantee of its quality and how he had said in a speech approving it, "I have followed the lead of Washington through

68 Harvey, Reminiscences, 5-6.

69 Ibid., 7.

seven years of war, and I have never been misled. His name is subscribed to this Constitution. He will not mislead us now. I shall vote for its adoption."⁷⁰

Like Washington, his idol, Ebenezer Webster was a Federalist to the core. Once when he was taken suddenly ill in a village which had cast its vote for Jefferson, Ebenezer cried out, "Carry me back home. I don't want to die in a Republican town!"⁷¹

Passionate Federalist that his father was, he influenced Daniel in his choice of a political party. Ebenezer was a strong personality, easily the type that could influence others. Daniel said he had "a decisive air and bearing" and was a man of "firmness" and "decision."⁷² "His manner [was] such as gave him influence with those around him."⁷³ Furthermore, the deep affection between father and son, would make Daniel more than ready to receive his father's advice and counsel. Of his father's self-sacrifice in sending him to college, Daniel wrote years later,

The very idea [of college] thrilled my whole frame. . . . I remember that I was quite overcome, and my head grew dizzy. The thing appeared to me so high, and the expense and sacrifice it was to cost my father, so great, I could only press his hands and shed tears. Excellent, excellent parent! I cannot think of him, even now, without turning child again.⁷⁴

70 George Ticknor Curtis, Life of Daniel Webster, New York, 1, 96-10.

71 Fuess, Webster, I, 122.

72 Webster, "Autobiography of Daniel Webster," Writings, XVII, 16.

73 Ibid.

74 Ibid., 10.

Finally, Daniel's very temperament made him open to a father's influence. As has been noted, he was temperamentally a conservative. He was not the type to revolt against parental dogmatism out of sheer perversity. He was more inclined to accept a dogma and make it his own.

This being true, it seems reasonable to conclude that the Federalism of Ebenezer influenced the Federalism of Daniel. Fuess concludes this.⁷⁵

Edwin Sanborn does also:

He [Webster] was educated a Federalist by his father, a Whig of 1776, of the old school, a soldier and an officer in the war of the Revolution, who inculcated upon his sons a profound respect for 'the father of his country,' and for his political opinions. . . . From the principles which he advocated, they never swerved.⁷⁶

Daniel's brother, Ezeiel, also influenced him in his Federalism.

Ezeiel, like his father, was a staunch Federalist. Fuess describes him as "uncompromising" in his Federalism, and Sanborn says that his "political sentiments amounted almost to religious convictions."⁷⁷ "His conscientious adherence to the unpopular principles of the Federalists left him, for many years, in the minority in his own State," says Sanborn. It "effectually prevented his election to Congress, or his appointment to any post of honor or trust under the General Government."⁷⁸

75 Fuess, Webster, I, 70.

76 Edwin Sanborn, "Biographical Sketch of Ezeiel Webster," Writings, XVII, 38.

77 Fuess, Webster, I, 357. Sanborn, "Sketch," Writings, XVII, 38.

78 Ibid.

Believing in Federalism as tenaciously as he did, it would be only natural for Ezekiel to preach Federalist doctrine to whomever he could. Daniel was a likely subject. He and Ezekiel were remarkably close. Fletcher Webster, Daniel's son, has written of the "extraordinary intimacy and more than usual brotherly affection" which existed between them.⁷⁹ Sanborn adds that there existed between these brothers

a remarkable unity of opinion, sentiment, and affection. They were never known to disagree, upon any matter of importance, in youth, or manhood. . . . They loved each other with the intensity, fervor, and constancy of woman's devotion.^{79A}

Daniel dedicated the first volume of his works "that the name of my brother may be associated with mine so long as anything written or spoken by me shall be regarded or read."⁸⁰ When Ezekiel died it was one of the severest blows that Daniel ever had to bear.⁸¹ Because of the above, i. e., Ezekiel's passionate devotion to Federalism and Daniel's great love and regard for Ezekiel, it seems only logical to conclude that the latter has some influence on Daniel's becoming a Federalist.

Turning now from family to schooling, we ask, "What influence did Webster's education have on his political allegiance"? Who were his teachers? What did he read? What influence did this have on his Federalism?

79 Sanborn, "Sketch," Writings, XVII, 30.

79A Ibid., 32.

80 Webster, "Introductory Note," Writings, XVII, 30.

81 Bradford, As God Made Them, 28.

Unfortunately, no satisfactory answers can be given to these questions. The Salisbury schools which Daniel attended as a boy were irregular and migratory,⁸² and the teachers inept.⁸³ Nothing was taught save reading and writing, and as to the former, Webster relates that he could generally perform that better than the teacher.⁸⁴

After Salisbury, Webster attended Exeter Academy, May-December, 1796. While we know the names of his teachers and friends, we know precious little of their political affiliations and their influence on Webster. Most of them are just names, people who never achieved any national significance. Even the one or two exceptions yield little help to our investigation. Benjamin Abbot, the principal, was called by Webster an "excellent man,"⁸⁵ and praised by him at the Abbot Festival in 1838; but what was Abbot's political creed in 1796 and what influence did he have on Webster? The same might be asked about Lewis Cass, who was also a student at Exeter during Webster's stay. Finally, the stay itself was so short that little influence could have been exerted, especially since Webster was rather retiring and kept to himself.⁸⁶

After Exeter, Webster attended Dartmouth College from 1797-1801.

82 Russ, Webster, I, 23.

83 Webster, "Autobiography," Writings, XVII, 7.

84 Webster, "Autobiography," Writings, XVII, 7.

85 Ibid., 9.

86 James Bingham, "Letter to Professor Sanborn, November 25, 1852," Writings, XVII, 55.

Here we encounter the same difficulty. Most of Webster's teachers and friends are just names, and those who are not afford no help toward solving our problem. John Wheelock, the President, had once been a Federalist, ⁸⁷ but he was a stiff, formal person and none of the students felt on easy terms with him. James Bingham was Webster's best friend, but no one knows his political sentiments. The same may be said of Roswell Shurtleff, who took Webster in tow when he came to Dartmouth. Again, Webster kept much to himself and was "not intimate with many"⁸⁸

Much of education is reading. What influence did Webster's reading have on his becoming a Federalist? Apparently very little. By 1804, when Webster was twenty-two, he had read Paley, Political Philosophy, Burlamaqui, Principles of the Natural Law, Vattel, The Law of Nations, Montesquieu, The Spirit of Laws, Blackstone, Commentaries, Adams, Defense of the American Constitution, Ward, Law of Nations, and Ames, Speech on the Jay Treaty. There is little evidence that they influenced Webster to champion strong central government. What evidence there is is tenuous and remote. Vattel, for example, says that to attack a Constitution is a great evil, and he preaches against changes in a Constitution.⁸⁹ Montesquieu speaks against equality in a democracy,⁹⁰ and

87 Fuess, Webster, I, 218.

88 Fuess, Webster, I, 48.

89 Monsieur de Vattel, The Law of Nations, edited by Joseph Chitty, London, 1834, 9.

90 Montesquieu, The Spirit of Laws, translated by Thomas Nugent, Cincinnati, 1873, VIII, 2.

he has a chapter on "How the smallest change of the Constitution is attended with the ruin of its Principles."⁹¹ This is the closest the evidence comes—and this is not very close. Lastly, what influence did Webster's friends have on his becoming a Federalist?⁹² Here there is positive evidence of influence. Almost invariably Webster's friends were Federalists and, in some cases, leaders of the party. Among them the following should be mentioned. There was Thomas W. Thompson, influential New Hampshire Federalist, under whom Webster read law as a youth. Webster "respected and admired him and was influenced by his unadulterated Federalism."⁹³ There was Christopher Gore, one of the inner circle of Boston Federalists, under whom Webster also read law. They became fast friends, and Webster's tributes to him are in glowing terms. "Undoubtedly," says Fuess, "Webster's Federalism was strengthened by association with a man of Gore's conservative tendencies."⁹⁴ There was Rufus King, whom Webster met one day in Gore's law office, where there began a friendship which endured through life. King was an unswerving Federalist. There was Jeremiah Mason, Federalist lawyer, against whom Webster so often appeared in court. Thrown together in their travel on the circuit, they soon were the best of

91 Ibid., 14.

92 Friends here means primarily those with whom Webster was intimate in later life. While it is true that Webster became friends with them after he had become a Federalist, such friendship undoubtedly had a strong confirmatory influence on his Federalism.

93 Fuess, Webster, I, 31

94 Ibid., 79

friends. Of this Federalist associate, Webster, once wrote, "If there be in the country a stronger intellect, if there be a mind of more native resources, if there be a vision that sees quicker, or sees deeper into whatever is intricate, or whatsoever is profound, I must confess I have not known it."⁹⁵ There was Jeremiah Smith, Webster's friend and patron, an outstanding Federalist. There was Joseph Story, Federalist champion, Webster's friend both in and out of court. Of his nationalistic sentiments, Warren says, "[N]o Judge on the Court was more devoted to the liberal and Nationalistic interpretation of the Constitution and to the maintenance of National supremacy."⁹⁶ There was John Marshall, stalwart of the Federalist Party, who upheld its doctrines from his throne of power long after Federalism had perished as a political force. Webster respected him greatly, corresponded with him, and as early as 1814 wrote, "There is no man in the court that strikes me like Marshall. . . . I have never seen a man of whose intellect I had a higher opinion."⁹⁷

In this chapter we have analysed New England Federalism as a factor which influenced Webster's championing of strong central government in the Reply to Hayne. We have seen that strong central government was an essential feature of the Federalist Party, and that Webster was a member and important leader in that Party. We have seen how deep-rooted was Webster's Federalism by a consideration of three of its predominant characteristics in his life—

95 Webster, "Autobiography of Daniel Webster," Writings, XVII, 24.

96 Charles Warren, The Supreme Court in United States History, Boston, 1922, I, 419.

97 Webster, "Letter to Ezekiel Webster, March 28, 1814," Writings, XVII, 244.

nationalism, regard for property, and conservatism. Webster's nationalism was demonstrated in his high esteem for Washington, the Constitution, and the Union. Webster's glowing encomium on the Union in the Reply to Hayne was but a re-statement of what he had been saying more or less all his life. Webster's regard for property was demonstrated by his close association with men of wealth and means, and by his public pronouncements on the importance of property rights. Webster's conservatism was shown in his preference for the status quo, his distrust of change, his opposition to amendments to the Constitution.

Each of the above, besides revealing the ardor of Webster's Federalism, gives an explanation of why Webster would rally to the national government in 1830. Being nationalistic, he would naturally tend to defend and support the national government. Because of a keen regard for property, he would naturally favor a strong government to protect property and to guard against the economic distress of the weak Confederation. As a conservative, he would naturally resist Hayne's efforts to change the status quo, to turn the clock back on forty years of continued nationalistic ascendancy. New England Federalism, therefore, is a major factor in explaining Webster's championing of strong central government in 1830.

Because it is such a major factor we pushed our investigation one step further, inquiring what influenced Webster to become a Federalist in the first place. We saw that both his father and brother were Federalists of the most ardent type, and that both, by their position and the place they held in Daniel's heart, could easily influence him in the formulation of his political philosophy. We examined his education and saw little evidence of any influ-

ence on Webster from that source, either from his teachers or from his reading. We also looked at Webster's friends and saw that, by and large, they were almost invariably Federalists and often outstanding men in the party. These friends certainly had some influence on Webster's Federalism, either in formulating it or in solidifying it after it had been formulated. Among them we enumerated Thompson, Gore, King, Mason, Smith, Story and Marshall.

CHAPTER IV

WEBSTER: GUARDIAN OF CONSTITUENTS' INTERESTS

This chapter may be epitomized by the following syllogism:

Webster's constituents favored a strong central government.
Webster was influenced by his constituents.
Therefore Webster favored a strong central government.

The major of the syllogism is easily proved. Consequently most of the chapter will be devoted to proving the minor, namely, that Webster was sensitive to the wishes of his constituents. This will be proved from the fact that Webster, whose financial sense was practically nil, borrowed heavily from these constituents, thus obligating himself to respect and pursue their interests. It will also be shown that in at least two instances, namely, his conduct during the War of 1812 and his conversion on the tariff, Webster did an abrupt about-face, changing his politics when his constituents' interests changed.

We have already seen who were Webster's constituents.¹ They were the cultured and influential, the social upper class—merchants, bankers, men of means. As at Portsmouth,² so at Boston, Webster was associated with men of

1 Chapter three, pages 31-32.

2 Webster's Portsmouth acquaintances included Governor John Langdon and Captain William Rice, both prosperous merchants.

money. One of his closest friends was Captain Israel Thorndike, said to be the richest man in Boston, who at his death left an estate valued at nearly \$1,200,000.³ Among his clients were many of Boston's foremost citizens, including Harrison Gray Otis, George Crowninshield, James Otis, Samuel Hubbard, George Blake, John Brooks, and others. He was retained by John Jacob Aster in 1819, and he made a note on January 2 of that year of having received from him \$400 "of Causa Extraordinarius"—a reference which has never been explained.⁴

We have also seen how Webster's constituents felt about strong central government. We noted in Chapter III that it was the propertied class, such men as Astor and Thorndike, which had suffered most under a weaker central government and had demanded and called forth the Constitution. As Faulkner has noted, "Behind the movement for a new Constitution, then, were the commercial, financial, creditor, and speculating classes who were eager to safeguard and strengthen the rights of property."⁵ It was the moneyed class, among others, that profited from a strong central government, for it meant sound money, enforcement of debts, and revitalized industry.

³ Thorndike was Webster's next-door neighbor. Webster became so intimate with him that a connecting passage was built between the two houses so that they could be used together for large receptions.

⁴ Other distinguished Bostonians with whom Webster was on rather intimate terms include Francis Cabot Lowell, George Cabot, and Christopher Gore. Thomas J. Perkins, who headed the Federalist committee which drafted Webster for Congress in 1822, was one of Boston's most successful merchants.

⁵ Faulkner, American Economic History, 153.

So much for the major of our syllogism, namely, that Webster's friends and constituents profited by a strong national government. It remains now to show that Webster was sensitive to such interests and influenced by them. This is suggested, we believe, by the fact that Webster was heavily indebted to such constituents.

Daniel Webster it seems was just born to be in debt. It seemed his nature, the way God made him. Fuess describes him as "absolutely without a money sense"⁶ and "temperamentally incapable. . . of saving money."⁷ Judge Jeremiah Smith, who knew Webster well and admired him, remarked, "He does not know the value of money, and never will."⁸ "Property was something," said Frank B. Sanborn, "which Webster could acquire, but never retain."⁹

Some explanation for Webster's financial unfitness may perhaps be found in the fact that he in a sense inherited it. Fuess seems to suggest this when he says that Daniel became so used to debt from his father's household that he was very little disturbed all through life over owing money.

6 Fuess, Webster, II, 384.

7 Ibid., I, 340

8 William Flumer quoting Jeremiah Smith, "Reminiscences of Daniel Webster," Writings, XVII, 547.

9 Quoted without source in Fuess, Webster, I, 118.

Strangely enough, Webster, while peculiarly inept in managing his own financial affairs, was remarkably proficient in running those of the nation. He could say with pardonable pride on one occasion, "The subject of currency, gentlemen, has been the study of my life." Webster, Works of Webster, New York, 1853, II, 134. Quoted in Bradford, As God Made Them, 23.

Even at the age of twenty we find him owing small debts which he was unable to repay.¹⁰ He went through Dartmouth on borrowed funds. When his Portsmouth residence burned down in 1813, he had no insurance and consequently lost seven thousand dollars; and when he left Portsmouth his debts there amounted to thousands.¹¹ His judgment in investments was seldom wise and he usually bought and sold at the wrong time. Fuess described him as often living "from hand to mouth"¹² and says his financial difficulties were "oppressive."¹³

In debt, Webster turned to his friends and constituents for help. In 1813 he wrote Charles March, a New York merchant, "You must contrive some way for me to get rich as soon as there is a peace."¹⁴ Later in the same year he wrote, "shall draw on you today or tomorrow," and on November 20 he drew on March, with the latter's consent, for nine hundred dollars. In 1817 his Boston friends paid off his Portsmouth debts, which amounted to thousands. In

10 Fuess, Webster, I, 73.

11 Ibid., 118n.

12 Ibid., II, 384.

13 Ibid., 385.

Webster's financial troubles were further increased when he resigned his lucrative law practice to take a seat in Congress in 1822, where his salary was a scant \$1800 per year. Webster's first wife exercised a salutary restraining influence on his capacity for spending, but after she died in 1828, Webster became more extravagant. Gamaliel Bradford remarks, "He liked to spend, he liked to give, profusely, carelessly, and the money had to come from somewhere. . . . His farms cost money, his entertaining cost money. As time went on, the difficulties and the indulgence increased." Bradford, As God Made Them, 30-31.

14 Webster, "Letter to Charles March, June 14, 1813," Writings, 21

1823 he borrowed \$3254 from Alfred Curtis, and in 1824, \$6030.¹⁵ After 1824, says Russ, "There was no period in his career when he was not under financial obligation to his friends."¹⁶

This financial dependence, we believe, had some influence on Webster's political life. Others concur in this opinion. Farrington says that he "was no longer a free man but was deep in the subsidies of financial interest."¹⁷ Theodore Parker asserted that Webster's "later speeches smell of bribes."¹⁸ Hayne, in his debate with Webster, dealt some telling blows when speaking of Webster's conversion on the tariff, and he implied that it was due to patronage. "The power of conferring favors creates a crowd of dependents," he said. "When the morsel was bestowed, the expectation of the favors of tomorrow kept

15 Russ, Webster, I, 340.

16 Ibid.

This dependence on others for financial assistance is even more striking after 1830. While it does not bear directly on the Reply to Hayne, as it was subsequent to it, nevertheless it is valuable in showing the extent of Webster's dependence and the tacit agreement that seems to have existed between Webster and his clients of a quid pro quo. His account with Samuel Frothingham shows loans up to \$17,000. His borrowings from the Bank of the United States for a three year period from 1838-1841 totaled \$93,361. In 1846 he borrowed \$38,331 from the Bank in a single lump sum. In 1846 a group of leading Bostonians, headed by David Sears, raised \$37,000 as a trust fund to be paid to Webster semi-annually. In 1850 Franklin Haven seems to have made a tacit agreement that money should be provided for Webster's urgent needs. See Russ, Webster, II, 387, 389-390.

17 Farrington, Main Currents, II, 309.

18 Quoted without source in Russ, Webster, II, 393.

up the subjection of to-day."¹⁹

It might be objected that such quotations are unfair in that all of them were uttered by men who opposed or disliked Webster. True enough, but even those who are sympathetic with him feel obliged to concede that Webster's indebtedness to others did not leave him entirely free. Arthur Cole speaks of him as "a virtual pensioner dependent upon their bounty."²⁰ Gamaliel Bradford, after asserting that "[i]t is not for one moment to be supposed that Webster deliberately violated his political conscience," adds significantly, "but it is a profound remark of Webster himself that 'there are means of influence not generally esteemed positively corrupt, which are competent to produce great effects.'"²¹ Russ, Webster's definitive biographer, states,

Webster's carelessness in money matters was sometimes not far from moral delinquency. . . . By living beyond his means he fell into debt, and, obliged to borrow, drifted into financial dependence on

19 Hayne, "Sale of Public Lands," World's Classics: Orations, II, 138. Webster's carelessness in business dealings seems frequently to have left him open to charges of corruption. Calhoun in 1842 wrote, "There is no confidence in him [Webster]. His integrity is questioned by almost all of any party. Calhoun to Clemson, April 3, 1842, The Private Correspondence of Daniel Webster, 2 vols, (American Historical Association), 508. Quoted in Bradford, As God Made Them, 32.

20 Arthur Cole, "Daniel Webster," Dictionary of American Biography, New York, 1943, XIX, 590.

21 Bradford, As God Made Them, 31. Quoting a letter of Webster to his son, Fletcher, July 29, 1846.

men. . . whose influence was dangerous to any statesman.²²

In our opinion Webster was influenced by those men, at least to some extent. It would have been most unusual had he not been. All the evidence points to some such influence, some feeling of obligation to give a quid pro quo. As his most recent biographer has said,

It is essential to keep in mind that Daniel Webster became the authentic and trusted representative of the merchants, the bankers, and the professional men who were clustered in offices around State Street More and more he was thrown, through his profession, with the rich, the cultured, and the well-born, and his attitude toward current problems was thereby profoundly affected.

He carried into the Senate a message to the nation from State Street and Beacon Hill.²³

What we have just said about the influence of some of Webster's constituents on his political philosophy is confirmed by two instances where Webster changed politically when his constituents did. The first is his attitude toward the federal government during the embargo and the War of 1812.

22 Fuess, Webster, II, 393-394.

An illustration of this influence of money on policy is furnished by Webster's conduct towards the Bank of the United States. Webster was heavily indebted to it at a time when the Bank was under fire by those who wished to destroy it. The Washington Globe asserted on August 23, 1823, without any denial by Webster, that the latter's borrowings from the Bank totaled \$32,000. Commenting on Webster's support of the Bank, Fuess observes, "There is no evidence that he was bribed, but an implied understanding must have existed. His relations with the Bank were such that he was bound to rush to its defence." Fuess, Webster, II, 9. Elsewhere the same author admits that Webster clearly did not place himself above suspicion as he should and that "from a standpoint of present-day legal ethics, it is difficult to excuse Webster's attitude." Ibid., 21.

23 Fuess, Webster, I, 204-205, 199.

When his constituents, the shipping interests of New England began to lose money because of the Embargo and the War, Webster changed his nationalistic tune, opposed the federal government, and talked like a state's rights man.

New England's shipping suffered terribly during the administrations of Jefferson and Madison. From 1803 to 1812, more than nine hundred American ships were captured by the British, and more than five hundred by the French. The American Embargo, far from relieving the plight of American shippers, only made it worse. Morison says that by 1808 "no sensible man in the United States doubted that the embargo was a failure. It had destroyed the commerce and impoverished the sailors and ship-owners it was supposed to protect."²⁴ Fuess says that the embargo "was as if an army should turn its machine guns on its own troops in an effort to annihilate the enemy."²⁵ One of the most enthusiastic toasts drunk by Boston Federalists during the War of 1812 was: "The Existing War—the child of Prostitution. May no American Acknowledge It Legitimate!"²⁶

When his constituents suffered thus at the hands of the federal government, we notice a curious shift in the hitherto nationalistic Webster.²⁷

²⁴ Samuel Eliot Morison, The Life and Letters of Harrison Gray Otis, Boston, 1913, II, 1. Quoted in Fuess, Webster, I, 131n.

²⁵ Fuess, Webster, I, 129.

²⁶ Salem Gazette, July 7, 1812. Quoted in Beveridge, Life of John Marshall, IV, 30.

²⁷ Fuess maintains that Webster's political conduct during the War of 1812 was guided chiefly by two factors — his instinctive antagonism to Republican principles and his regard for the financial interests of his own section of the country. Fuess, Webster, I, 155 and 175.

With premeditated malice, he became a gadfly to the Madison administration, prepared to sting whenever a vulnerable spot was exposed. Although his country was obviously in peril from a foreign foe, he preferred to hamper rather than help those who were entrusted with its defense.^{27A}

We find Webster opposing both the Embargo and the War. We find him opposing a bill for substituting military courts for civil in cases of treason. We find him voting against the repeal of a part of the Embargo on the grounds that it never was a law in the first place and therefore could not logically be repealed. We find him voting against a much-needed tax bill for the prosecution of the War.²⁸ Thus we observe a strange shift in a man known as one of America's foremost nationalists. As Fuess says,

In opposing the Embargo and the War, Webster was thinking in terms, not of the nation from the Atlantic to the Mississippi, but of New England. Professor Van Tyne was not far wrong in styling him a "local politician," for there was indisputably a provincial feeling in all that he had to say on the fateful issues of that period.²⁹

Not only did Webster oppose the national government in practice but also in theory; he began to philosophize like a states' rights man. In a pamphlet written on the Embargo Laws he spoke of the formation of the Union in terms of the compact theory, asserting that "the individual States were originally complete sovereignties" and that "by the Constitution, they mutually agreed to form a General Government, and to surrender a part of their powers,

27A Fuess, Webster, I, 161.

28 In fairness to Webster it must be said that he justified his vote by the fact that the bill was certain to pass anyway and that, by opposing it, he could voice his disapproval without injuring the American cause. Fuess, Webster, I, 167.

29 Fuess, Webster, I, 175.

not the whole, into the hands of this Government."³⁰ The word they in the quotation is important, for later Webster will maintain the Union was formed, not by a compact of the states, but of the people.

Five years later, in the midst of the War of 1812, Webster drafted the Rockingham Memorial, a protest to the President against the war, in which appear threats of secession.

We are, sir, from principle and habit attached to the union of the States. But our attachment is to the substance, and not to the form. It is to the good which this union is capable of producing, and not the evil, which is suffered unnaturally to grow out of it.

.....
 We shrink from the separation of the states, as an event fraught with incalculable evils, and it is among our strongest objections to the present course of measures, that they have, in our opinion, a very dangerous and alarming bearing on such an event. If a separation of the states ever should take place, it will be, on some occasion, when one portion of the country undertakes to control, to regulate, and to sacrifice the interest of another.³¹

Again, two years later (1814) in a speech on a conscription bill, Webster held out for a strict interpretation of the Constitution, alleging that "the general nature and object of the Constitution impose as rigid a restriction on the means of exercising power as could be done by the most explicit injunctions."³² In words which are remarkably like those which Hayne would quote against him in the debate in 1830, Webster said in 1814,

³⁰ Webster, "Considerations on the Embargo Laws, 1808," Writings, XV, 364.

³¹ Webster, "The Rockingham Memorial," Writings, XV, 609.

³² Webster, "Speech on the Conscription Bill, December 9, 1814," Writings, XIV, 63.

For if it is to be assumed, that all powers were granted, which might by possibility become necessary, and that government itself is the judge of this possible necessity, then the powers of government are precisely what it chooses they should be.³³

In the same speech, Webster carried his anti-administration theories to the farthest extreme; he advocated nullification. Opposing conscription as unconstitutional, as "an abominable doctrine," "an infamous expedient," and a "horrible lottery," Webster ventured,

In my opinion it ought not to be carried into effect. The operation of measures thus unconstitutional and illegal ought to be prevented by a resort to other measures which are both constitutional and legal. It will be the solemn duty of the State Governments to protect their own authority over their own militia, and to interpose between their citizens and arbitrary power. These are among the objects for which the State Governments exist; and their highest obligations bind them to the preservation of their own rights and the liberties of their people.³⁴

Webster seems clearly to have had in mind here the nullification of national laws by state intervention. Fuess says it is impossible to draw any other conclusion.³⁵ Thus we find Webster, under the pressure of constituents' interests,³⁶ advocating in 1814 a theory which he would flatly oppose in 1830.

33 Ibid., 64.

Hayne's words in 1830 were: "That the general government is the exclusive judge of the extent of the powers delegated to it, stop[s] nothing short of despotism; since the discretion of those who administer the government, and not the constitution, would be the measure of their powers." Hayne, quoting the Kentucky Resolution of 1799, "On the Sale of Lands," World's Classics: Orations, II, 141-142.

34 Webster, "Speech on Conscription Bill," Writings, XIV, 68.

35 Fuess, Webster, I, 168.

36 This is not to say that Webster was insincere in his conduct or acting without conviction. Nevertheless Webster's regard for the legitimate interests of his constituents was a strong influence in forming that conviction.

The other instance of Daniel Webster's responsiveness to constituents interests is his about-face on the tariff. For years, from 1812 to 1824, he was an outspoken enemy of the tariff; then, of a sudden, we find him supporting and praising it. It makes an interesting story; the details follow.

In 1814, in a speech on the repeal of the Embargo, Daniel Webster publicly questioned the constitutionality of the protective tariff. Its effect, he said, was to force people out of one industry, shipping, and into another, manufacturing. He doubted whether this was "the true spirit of the Constitution." It did not, in his opinion, "confer on the Government the power of changing the occupations of the people of different States and sections, and of forcing them into other employments."^{36A} As for manufactures, he said he was not "for rearing them, or any other interests, in hot-beds." "I am not in haste to see Sheffields and Birminghams in America."³⁷ Waxing eloquent on the value of farming over manufacturing, Webster said in a lyric passage:

I am ~~not~~ anxious to accelerate the approach of the period when the great mass of American labor shall not find its employment in the field; when the young men of the country shall be obliged to shut their eyes upon external nature, upon the heavens and the earth, and immerse themselves in close and unwholesome workships; when they shall be obliged to shut their ears to the bleating of their

^{36A} Webster, "On the Repeal of the Embargo, April 6, 1814," Writings, XIV, 45. Webster had even previously questioned the constitutionality of the tariff. In the "Rockingham Memorial" of 1812 he, on behalf of New England, asserted "the right of judging for ourselves. . . what pursuits and occupations, best comport with our interests," saying that they "have never yet delegated to any government the power of deciding [this] for us." Webster, "The Rockingham Memorial, August, 1812," Writings, XV, 600.

³⁷ Webster, "On the Repeal of the Embargo," Writings, XIV, 43.

own flocks, upon their own hills, and to the voice of the lark that cheers them at the plough, that they may open them in dust, and smoke, and steam, to the perpetual whirl of spools and spindles, and the grating of rasps and saws."³⁸

Six years later, in 1820, Webster rose in Faneuil Hall, Boston, to make clear that he had not in the meantime changed his opinion on the tariff. On the contrary, he was even more firmly set against it. In the very first words of his speech on that occasion, Webster again questioned the tariff's constitutionality, doubting whether Congress had the power "to control . . . the pursuits and occupations of individuals in their private concerns—a power to force great and sudden changes, both of occupation and property, upon individuals."³⁹

But questioning the tariff's constitutionality was only the beginning of Webster's opposition to it. The tariff establishes "a system of artificial government protection [which] leads the people to too much reliance on government."⁴⁰ It leads to class struggle for "by its systems of bounties and preferences" there results "a perpetual contest, carried on between the different interests of society."⁴¹ That is one reason why "the most enlightened nations which have adopted this artificial system are tired of it."⁴²

Tinkering with the economic system never does any good. "[T]he

38 Ibid., 45.

39 Webster, "Speech on the Tariff, Faneuil Hall, Boston, October 2, 1820," Writings, XIII, 5.

40 Ibid., 8.

41 Ibid.

42 Ibid.

principle of leaving such things very much to their own course, in a country like ours, is the only true policy."⁴³ "Every man in the community not immediately benefited by the new duties would suffer a double loss."⁴⁴ One tax will lead to another.⁴⁵ Webster thought there were "great evils" in manufacturing.⁴⁶ He had no doubt that agriculture excelled it in "individual responsibility and happiness."⁴⁷ Under no conditions, he said, should the present tariff duties be increased.⁴⁸

Thus spoke Webster in 1820. Four years later he rose in the House of Representatives in Washington to make clear that he was still opposed to a protective tariff. In a speech which occupies more than fifty pages in the National Edition, he assailed Henry Clay's "American System", and he closed the following indictment against the tariff of 1824:" [It] appears to me so destitute of all justice, so burdensome and so dangerous to that interest which has steadily enriched, gallantly defended, and proudly distinguished us [shipping], that nothing can prevail upon me to give it my support."⁴⁹

So spoke Webster in 1824. Clearly there is no doubt how he feels

43 Ibid., 9.

44 Ibid., 12.

45 Ibid., 13.

46 Ibid., 16.

47 Ibid., 17.

48 Ibid., 19.

49 Webster, "Speech on the Tariff, April 1-2, 1824," Writings, V, 149.

about the tariff; his position is but a reiteration of all that he has been saying on the subject since 1814. Daniel Webster does not like the tariff. That much is clear.

Yet just four years later, in 1828, we find Daniel Webster favoring the tariff. We find him casting his ballot in support of it,⁵⁰ and saying,

I am decidedly in favor of a measure which shall uphold and support, in behalf of the manufacturers, the law of 1824, and carry its benefits to the full extent intended. [I vote for its enactments] in the belief that they will answer an essentially important and necessary purpose."⁵¹

Four years later, in 1832, when an opportunity came to reduce the tariff, Webster opposed it. That same year, on a sheet of paper entitled "Principles," drawn up as rule of conduct, we find listed: "Not to give up, or compromise, the principle of protection; nor to give any pledges, personal or public, for its abandonment at any time hereafter."⁵² Thus, by a strange shift, the tariff of 1824, once "so destitute of justice" became for Webster "essentially important and necessary." Thus the tariff, against which he had constitutional scruples in 1812, was raised and dignified to the status of a "principle" in 1832. What is the explanation?

It is not hard to discover. Really it is very simple. It is just that New England, which had previously been engaged mostly in shipping and commerce, had now gone over to manufacturing. When shipping was supreme New-

50 Nathaniel Silsbee, the other Senator from Massachusetts, voted against it.

51 Webster, "Second Speech on the Tariff, May 9, 1828," Writings, V, 243.

52 Webster, "Principles, December, 1832," Writings, XV, 104.

England opposed the tariff. When manufacturing supplanted shipping New England favored it. New England's interest changed; therefore Webster did too. Shipping was king in New England until 1825 and it was the interests of shipping that Daniel Webster had in mind whenever he spoke on economic matters.

In those early days the mercantile interest commanded his loyalty far more readily than the manufacturing interests. Next to his Marshfield farm he loved a full-rigged ship, and the thought of Yankee skippers plowing the seven seas in well-freighted bottoms fired his imagination and kindled his patriotism.⁵³

After 1825 all that changed. After the tariff of 1824 New England business men sank more and more money into industry. As long as the government seemed committed to a policy of protection, they reasoned, there was nothing to do but go along and capitalize on the situation. As Webster said (in trying to explain his change on the tariff), "They. . . ventured investments in objects requiring a large outlay of capital; in mills, houses, water-works, and expensive machinery."⁵⁴ Having thus committed their wealth to industry, they were loud in demanding protection. They were fearful lest the government after calling industries into being, so to speak, by the encouragement of a protective tariff, should suddenly reverse its policy and abolish or lower the tariff, to their consequent detriment. Webster was uttering the exact truth when he wrote to a friend in 1830,

[T]he New England States, though not originally in favor of the protecting policy, having now become deeply interested in manufacturing establishments, are not inclined to change back again. All New England, or all with few exceptions, voted against the tariff of 1824.

53 Parrington, Main Currents, II, 308.

54 Webster, "Second Speech on the Tariff," Writings, V, 242.

It is now nearly unanimous against repeal or reduction.⁵⁵

This explains Webster's conversion on the tariff. His constituents' interests changed; therefore he did too.

This chapter has presented the economic factors which influenced Webster's championing of the strong central government in the Reply to Hayne. It began by pointing out that Webster's constituents had very much to gain from a strong central government. It recalled that many of Webster's constituents were the propertied class, that class which had suffered under a weaker central government and had been largely instrumental in creating the Constitution. It then went on to establish that Webster was sensitive to the pulse of New England's moneyed interests, so that their desire for a strong central government would likely be his desire. This it did by pointing out that Webster was chronically in debt, that he was in debt to those who profited by a strong central government, and that this indebtedness, by its very nature, would tend to influence him. It alleged as confirmation two examples from Webster's political life--his conduct in the War of 1812 and his conversion to protectionism. It recalled that when his constituents suffered under the Embargo and the war with England, Webster, formerly a nationalist, became very sectionalistic. He opposed the federal government by every means possible and talked like a states' rights man. As for the tariff, it pointed out that, while for years Webster had opposed it, he suddenly favored it, voted for it, and

55 Webster, "Letter to J. Evelyn Denison," Writings, XVI, 203.

elevated it in his own political life to the level of a principle. The explanation for this mystifying behavior was found in the fact that Webster's constituents during the 1820's sunk their money more into industry and withdrew from shipping. Thus when industry supplanted shipping as New England's number one interest, Webster adjusted his stand on the tariff accordingly.

CHAPTER V

THE MIND OF DANIEL WEBSTER

The previous two chapters have considered the political and economic factors which influenced Webster's championing of the national government in 1830. It now remains to treat the intellectual factors. These are four: Webster's habit of literal interpretation of the printed word, his pragmatism, his record of utterances in favor of strong central government, and his sincere conviction.

Daniel Webster had a passion for the literal. "What does a document say," Webster would ask? "Whatever it says, that's what it means." The words of a document are the main criterion of its meaning, not what its authors may have actually intended, but what the document itself actually says. Such a literal bent is understandable in a man of Webster's background. He was a lawyer. Lawyers traditionally make much of words. Much of their life deals with documents, statutes, decisions and briefs. They are word conscious to a degree beyond the ordinary man. Webster was no exception. He was a stickler for language, a man who loved to argue from the meaning of words.

This is perhaps best seen in a speech against Calhoun entitled "The Constitution Not A Compact Between Sovereign States."¹ In it Webster argued

1 Webster, Writings, VI, 181-239.

that "in our American political grammar, CONSTITUTION is a noun substantive; . . . it is not to be turned into a [n] . . . adjective."² Whether the Constitution be a compact between States. . . is a question which must be mainly argued from what is contained in the instrument itself.³ I intend to hold the gentleman [Calhoun] to the written record. . . . I intend to impose upon him the restraints of constitutional language."⁴

With this by way of preface, Webster went on to argue that the Constitution was a sovereign government and not a confederation. Much of his argument was from words, i. e., from the meaning of terms. The following are examples of Webster's technique. "The Constitution speaks of that political system which is established as 'the government of the United States.' Is it not doing strange violence to language to call a league or a compact between sovereign powers a government?"⁵ The old Confederation was expressly called a league. . . . Why was not similar language used in the Constitution, if a similar intention had existed?⁶ They [the people] say that they ordain and establish [the Constitution] We do not speak of ordaining leagues and compacts.⁷ Does it [the Constitution] call itself a 'compact'? Certainly

2 Webster, "The Constitution Not a Compact Between Sovereign States" Writings, VI, 185-186.

3 Ibid., 198.

4 Ibid., 190.

5 Ibid., 200.

6 Ibid., 199.

7 Ibid., 199.

not. . . . Does it call itself a 'league,' a 'confederacy,' a subsisting treaty between the States'? Certainly not. . . . It declares itself a CONSTITUTION. What is a constitution? Certainly not a league, a compact, or a confederacy."⁸

With such a tendency to take the literal at its face value, it is easy to see how this would affect Webster's attitude toward the federal government. The Constitution was worded in terms of strong central government. For Webster then this was what it meant. Hence it was perfectly natural that in the Reply to Hayne Webster should argue from words. He quoted the Preamble of the Constitution, "We, the people. . .do ordain and establish. . .", and he argued that these words demonstrated that the national government was formed by the people and not by the States.⁹ He quoted the Constitution, that the laws of Congress should be the supreme law of the land, and that the judicial power should extend to every case arising under the laws of Congress, and argued that these words established the Supreme Court as the ultimate tribunal of constitutional disputes.¹⁰

Hayne rejected this argument from words and argued that the Constitution should not be interpreted so literally, but should be "construed." This was heresy to Webster. He cried out in exasperation,

The Constitution declares, that the laws of Congress passed in pursuance of the Constitution shall be the supreme law of the land. No construction is necessary here. It declares, also, with equal plainness and precision, that the judicial power of the United

8 Ibid., 198-199.

9 Webster, "Third Speech on Foote's Resolution," Writings, VI, 79.

10 Ibid., 79.

States shall extend to every case arising under the laws of Congress. This needs no construction. Here is a law, then, which is declared to be supreme; and here is a power established, which is to interpret that law. Now, Sir, how has the gentleman Hayne met this? Suppose the Constitution to be a compact, yet here are its terms; and how does the gentleman get rid of them? He cannot argue the seal off the bond, nor the words out of the instrument. Here they are.¹¹ . . . I show him the grant. I turn him to the very words.

Webster's literalism, we believe, influenced him to favor a strong central government. Respecting the printed word as he did, he was led to take those clauses of the Constitution about national supremacy at their face value, however much such a literal interpretation might be contrary to fact.¹²

Another characteristic of Webster was his pragmatism. Webster was no pie-in-the-sky dreamer. He was no theorist. Rather he was a man of the

¹¹ Webster, "Last Remarks on Foote's Resolution," Writings, VI, 78.

¹² Fuess remarks that "Webster's legalistic mind led him to a peculiar and too literal interpretation of the language of the Constitution." Fuess, Webster, I, 379. William MacDonald says of Webster's theory of the people as the parties to the formation of the national government: "No theory could have had a slighter historical foundation. From the beginning of the ratification of the Constitution to the end, there never was a moment when 'the people of the whole United States' acted' in their collective capacity,' or in any other manner than as 'people of the several States.' 'The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same,' is the declaration of the Constitution. If anything is clear beyond peradventure in the history of the United States, it is that the Constitution was established by the states, acting through conventions authorized by the legislatures thereof, and not by 'the people of the United States' in any such sense as Webster gives to that phrase. . . . [Webster's theory] was a glorious fiction, and it has entered into the warp and woof of our constitutional creed; but it was a fiction, nevertheless." William MacDonald, Jacksonian Democracy, 1829-1837, vol 15 in The American Nation: A History, ed. by Albert Bushnell Hart, New York, 1906, 110-111.

world, this world, alive to the conditions of the times as they really were. He was endowed with a hard-headed practicality, a "ruthless practicality," one author calls it,¹³ and he was interested in finding a system that would work. He was much less interested in precedents than in logic; he was much less interested in what the law actually was than in what it should be. As Fuess remarks, "He had the utmost confidence in the power of common sense. To him, precedents, no matter how numerous, were not as convincing as logic. He was seeking the wise and just solution, whether there was any past decision to sustain him or not."¹⁴

Moved by this pragmatism, Webster saw clearly the practical difficulties with nullification. He saw the impossibility of having twenty-four masters, each with full power to decide finally and ultimately the meaning of a given law. As Webster said so well in the Reply to Hayne,

Sir, if we look to the general nature of the case, could any thing have been more preposterous than to make a government for the whole Union, and yet leave its powers subject, not to one interpretation, but to thirteen or twenty-four interpretations? instead of one tribunal, established by all, responsible to all, with power to decide for all, shall constitutional questions be left to four-and-twenty popular bodies, each at liberty to decide for itself, and none bound to respect the decision of others; and each at liberty, too, to give a new construction on every new election of its own members;

13 Fuess, Webster, I, 266.

14 Ibid. See also 106 and 112 and II, 409.

Webster's pragmatism was probably a direct outgrowth of his early training as a barnstorming lawyer. Travelling the circuit as a young man, it was obviously impossible for him to carry a large library, so that he often found himself trying cases without reference to statutes and cases. In such circumstances he was forced to rely not on precedents, but on logic, not on what the books said the law had been, but on what common sense dictated the law should be.

Would any thing, with such a principle in it, or rather with such a destitution of all principle, be fit to be called a government? No, Sir. It should not be denominated a Constitution. It should be called, rather, a collection of topics for everlasting controversy; heads of debate for a disputatious people. It would not be a government. It would not be adequate to any practical good, or fit for any country to live under.¹⁵

To demonstrate in a concrete manner the practical difficulties of nullification, Webster acted out a humorous incident in the Reply to Hayne. Let us suppose, said Webster, that South Carolina feels that the tariff is unconstitutional. Suppose that South Carolina passes a law nullifying it and sends her militia to the customs station to stop the United States Marshall from collecting any further duties. Suppose Senator Hayne is at their head, since it just so happens that he is in charge of the militia in that district. What will happen? The United States Marshall will be adamant. He will show them the law of Congress and his oath of office. They will show him their nullifying law. An impasse will result. In such a situation it will be natural for the militia to ask Senator Hayne for a clarification on a point of law. The dialogue would go something like this:

Militia: Is it not dangerous to resist a law of the United States?

What would be the nature of our offense if we resist the execution of a federal law in South Carolina and it should turn out in the end that the law was constitutional?

¹⁵ Webster, "Second Speech on Foote's Resolution," Writings, VI, 69.

Six years earlier, in treating of interstate commerce in Gibbons v. Ogden, Webster had shown the confusion and chaos which would result were each state to retain control over commerce. Here too he argued from logic, i.e., that the only workable solution was that such power be exclusively with the national government.

Hayne: Treason.

Militia: How then do you propose to defend us? We are not afraid of bullets, but treason has a way of taking people off that we do not much relish. How do you propose to defend us?

Hayne: Look at my floating banner. See there the nullifying law!

Militia: Is it your opinion, gallant commander, that, if we should be indicted for treason, that same floating banner of yours would make a good plea in bar?

Hayne: South Carolina is a sovereign state.

Militia: That is true; but would the judge admit our plea?

Hayne: These tariff laws are unconstitutional, palpably, deliberately, dangerously.

Militia: That may all be so; but if the tribunal should not happen to be of the opinion, shall we swing for it? We are ready to die for our country, but it is rather an awkward business, this dying without touching the ground! After all, that is a sort of hemp tax worse than any part of the tariff.

(Webster interrupts the dialogue at this point. He says in deadly seriousness:)

Mr. President, the honorable gentleman [Hayne] would be in a dilemma, like that of another great general. He would have a knot before him which he could not untie. He must cut it with his sword. He must say to his followers, 'Defend yourselves with your bayonets'; and this is war,—civil war.¹⁶

Thus did Webster show the practical difficulties with nullification.

16 Webster, "Second Speech on Foote's Resolution," Writings, VI, 70-71.

He showed that its inevitable result could only be direct collision between force and force, disunion, civil commotion, revolution. A mind as pragmatic as Webster's could not but oppose such a doctrine. In opposing it he was championing the national government.¹⁷

Thirdly, Webster's past record virtually necessitated his favoring of strong central government in 1830. All his life with only one exception, from his first public appearance at the Independence Day address at Hanover in 1800, right up to the debate with Hayne in 1830, Webster had talked in terms of strong central government. For him suddenly in 1830 to have done a complete about-face would have been the most glaring of inconsistencies, and inconsistencies are the last thing in the world that a politician wants; especially when, like Webster, he aspires to the Presidency. With Webster's record, he could not logically have made any other stand than for strong central government.

Commenting on Webster's Independence Day speech in 1800, Fuess remarks,

It would have fitted perfectly into the Reply to Hayne. The dominating theme of the oration was what Lodge called 'the necessity and the nobility of the union of the States,' and this, in varying tones and degrees of emphasis, was Webster's text from youth to age.¹⁸

¹⁷ For Webster's arguments against nullification as leading to revolution, see Writings, VI, 53-54, 63, 72, 80.

¹⁸ Fuess, Webster, I, 56.

For a sample of Webster's federalist position in that first public speech, see "Oration at Hanover," (July 4, 1800), Writings, XV, 479-480.

Webster's unpatriotic actions during the War of 1812 were an example of the "varying tones and degrees of emphasis" which Russ speaks of. Immediately after the war, however, his nationalism reasserted itself, for he argued in The Town of Pawlet v. Daniel Clark et. al. (1815) for a liberal interpretation of the Constitution and an extension of Supreme Court powers. In 1818 he successfully argued in the Dartmouth College Case, which declared void an act of a sovereign state and greatly strengthened the authority of the national government.¹⁹ In McCulloch v. Maryland (1819) Webster said, "It is essential to the existence and the preservation of the government that Congress should be able to exercise its constitutional powers, at its own discretion, without being subject to the control of State legislation." In Gibbons v. Ogden (1824) Webster held that the people's intent in ratifying the Constitution was to convert a league into a government, and he argued for a broad interpretation of the Constitution.

Professor Channing lists seven leading cases which, from 1803 to 1824, "announced the supremacy of the federal government over the States of the Union."²⁰ The first three, Marbury v. Madison (1803), Fletcher v. Peck (1810), and Martin v. Hunter's Lessee (1816), came up before Webster began to practice before the Supreme Court. In each of the remaining four, however, McCulloch v. Maryland, Cohens v. Virginia, Osborn v. Bank of the United States, and Gibbons

¹⁹ The Dartmouth College Case won for Webster the title: Defender of the Constitution.

²⁰ Edward Channing, A History of the United States, New York, 1933, V, 309.

v. Orden, Webster had an important part, not to mention his influence in the epoch-making Dartmouth College v. Woodward, which Channing does not include.

Fuess comments on Webster's part in these cases,

The stand which Webster. . . took in favor of a liberal construction of Constitutional phraseology and a strong central government made him the legitimate successor to those men who, during the Federal Convention and afterwards, had insisted that the individual states must yield many of their earlier privileges to a higher authority.²¹

Lastly, in any attempt to discover what influenced Webster in 1830 we must not overlook one motive that is very easily overlooked because it is so obvious, i. e., the motive of truth. When all is said, the ultimate explanation why any man holds any particular doctrine at any particular time, assuming the man is honest, is summed up in the very simple phrase—because he thinks that it is true.

When Webster strode into the Senate on the fateful afternoon of January 26, 1830 to begin his reply to Hayne he first called Senator Bell aside into the cloak room and said, "You know my constitutional opinion. There are among my friends in the Senate some who may not concur in them. What shall do?" Bell, with much warmth, urged him to speak out openly. "It is a critical moment," said Bell, "and it is time, it is high time, that the people of this country should know what this Constitution is." "Then, by the blessing of Heaven," answered Webster solemnly, "they shall learn, this day, before the sun goes down, what I understand it to be."²²

²¹ Fuess, Webster, I, 267.

²² March, Reminiscences of Congress, 132. Harvey, Reminiscences and Anecdotes, 150-151.

If this incident means anything it means that Webster rose that January 26, 1830 to expound an interpretation of the Constitution which presented itself to his mind as true. By reason of Webster's background—his pragmatism, his legalism, his whole Federalist environment and tradition, his conservatism, his sense of property, it would only be natural that strong central government should seem to him the only reasonable interpretation of the Constitution.

CHAPTER VI

SUMMARY AND CONCLUSION

This thesis has sought to answer the question: What factors influenced Daniel Webster to champion strong central government in his Reply to Hayne in 1830. To answer that question, the thesis was treated in two parts. Part I posed the question, Part II answered it.

We began by describing the excitement in Washington that fateful day, January 26, 1830, when all Washington, official and unofficial, seemed to converge on the Senate Chamber to hear one of America's greatest orators in one of his greatest speeches. It recounted the various personages the spectators saw assembled on the floor below them as they waited for Webster to put in his appearance, and how each of these personages was somehow responsible for Webster's great speech. First, there was John C. Calhoun, Speaker of the Senate, who had penned the famous South Carolina Exposition, in which he had set forth his doctrine of nullification, that doctrine which held that individual state legislatures were the proper judges of constitutional questions, and that they might declare null and void an act of Congress which they deemed unconstitutional. It was precisely to oppose this doctrine that Webster entered the Senate Chamber that day. Then there was Samuel A. Foote, who had introduced a resolution for limiting the sale of Western lands. This resolution was the occasion for the Webster-Hayne debate, for Thomas H. Benton, the fiery Senator

from Missouri, used it as a springboard for an invective against the North. Lastly, there was Robert Y. Hayne, popular Senator from South Carolina, who had publicly proclaimed Calhoun's nullification doctrine from that very Senate floor and made a personal attack on Webster and New England. His speech had been exceedingly effective and even Webster's friends feared that he might be outmatched in facing up to Hayne. Webster, however, seemed little worried, and he strode up the Senate steps that afternoon like a warrior ready to vanquish his enemy. Dressed in the patriotic Revolutionary War colors of buff and blue, he rose confidently to answer Hayne.

Webster set everyone at ease by calling in a low, calm voice for a reading of Foote's original resolution. After pointing out rather humorously that practically everything in the world had been debated except the resolution, Webster went on to speak of New England's interest in Western development, of slavery, of the tariff, and of New England Federalism. Finally he arrived at the most important part of his speech, an analysis of the nature of the Federal Union and an attack against the sectional doctrines of Hayne. Hayne had weakened the federal government on two counts: he had talked of the Union as a Confederation and not as a sovereign government, and he had asserted that the individual state legislatures were the proper and ultimate tribunal of constitutional questions. Webster accordingly bolstered the federal government by asserting the diametric opposite of Hayne. He asserted that the Union was a true government and not just a Confederation, and that the ultimate authority to decide constitutional questions was vested in an organ of the federal government itself, specifically the United States Supreme Court. To prove his first assertion, the sovereignty of the Union, Webster argued from the

words of the Constitution, from the sovereign powers exercised by the national government, and from the absurdity of the opposite, i. e., the compact theory. To prove his second assertion, the authority of the Supreme Court to decide constitutional questions, Webster argued from the words of the Constitution, from the practical difficulties of nullification, and from the fact that otherwise the Constitution was no different from the old Articles of Confederation. Both these assertions strengthen the position of the national government and it was on this note that Webster closed his speech—"Liberty and Union, now and forever, one and inseparable!"

The purpose of Part II was to solve the problem raised in the first part, namely, what factors influenced Webster to favor strong central government as he did? Factor was defined as any person place or thing that could in any way influence a man to one course of action rather than another. Influence was defined as to alter or move in respect to character, conduct, or the like; to sway, persuade, affect. Three main factors were discovered in Part II: political or New England Federalism, economic or constituents' interest, and intellectual or the mind of Webster himself.

First we treated the political factors. We began by pointing out that Webster was a Federalist. He was a member of the Federalist Club at Dartmouth, wrote Federalist pamphlets later, worked for the Federalist party at Portsmouth, was elected a Federalist member of Congress in 1812 and 1814, served on a Federalist steering committee in that body, and followed the party line during the war. We also pointed out that the Federalist Party by its very

nature favored strong central government. We concluded that Federalism must have had some influence on Webster's allegiance to the national government. Being a Federalist, he would naturally think the way the Federalists did, i.e., in terms of strong national government.

We also showed that Webster embodied to an outstanding degree three Federalist characteristics—nationalism, regard for property, and conservatism. Each of them, taken separately, would have been enough to incline Webster toward national government supremacy, and, taken together, they show how sincere and deep-rooted his Federalism was.

The first characteristic was nationalism. Webster, with only one exception was a nationalist, and a rabid one, all through his life. His nationalism is shown in his attitude toward George Washington, towards the Constitution and towards the Union. This nationalism would incline him to favor strong national government.

The second characteristic was regard for property. Webster had a strong, perhaps an exaggerated sense of property. Much of this may have been due, no doubt, to his continued association with men of culture, influence and means. Examples of this sense of property were found in his work as the greatest corporation lawyer of his day, in his public statements to the effect that "in the absence of military force, political power naturally goes into the hands which hold the property."¹ This regard for property would influence Webster to champion the national government since property had suffered under

1 Webster, "Basis of the Senate, December 15, 1820," Writings, V, 15.

the weak national government of the Confederation.

The third characteristic was conservatism. Webster was temperamentally a conservative, preferring familiar objects and long-travelled roads. He distrusted change. He was by nature an institutionalist, a supporter of family, of church and of country. "Caution, deliberation, and diffidence!" were his watchwords even as a young man, and the reason why he opposed changes in the United States Constitution and the Massachusetts Constitution. This conservatism influenced his support of the national government and his opposition to Hayne, for Hayne's doctrine of nullification called for a radical revision of the status quo, a virtual return to the weak government of the Articles of Confederation.

After showing that Webster was an ardent Federalist and that Federalism influenced his militant nationalism in 1830, we went on to ask the further question: What influenced Webster to become a Federalist in the first place? To answer our query we considered Webster's family, education, and friends.

Webster's family, specifically his father and elder brother, influenced his political allegiance. His father, Ebenezer, was a passionate Federalist, an ardent admirer of Washington, a man who refused to die in a Republican town. His strong personality, the affection that Daniel bore him, and Daniel's conservativeness, all influenced Daniel's becoming a Federalist.

So too with Daniel's brother, Ezeiel. He too was a staunch Federalist, uncompromising in his politics, a man whose "political sentiments a-

mounted almost to religious convictions."² For him Daniel had a most remarkable brotherly affection and a desire that "the name of my brother may be associated with mine so long as anything written or spoken by me shall be regarded or read."³ Loving and respecting Ezeiel as he did, it seems natural that Webster should have been influenced by his Federalism.

So too with Webster's friends. Invariably they were Federalists and, in many cases, outstanding men in the party. Thompson, Gore, King, Smith, Mason, Story, and Marshall are but a few who were mentioned. All of them were influential either in forming or confirming Webster's Federalism.

Webster's education, on the other hand, revealed little direct influence on his political convictions.

Next we studied the economic factors which affected Webster's nationalism in the Reply to Hayne. We pointed out that Some of Webster's constituents profited by a strong central government, since they were the rich, and it was the rich who had suffered under the weaker central government of the Articles of Confederation, and who had been instrumental in the creation of the Constitution. We also pointed out that Webster respected and was influenced by his constituents' interests. He was chronically in debt, borrowed heavily from these constituents, and thus obligated himself to them. That his con-

2 Sanborn, "Sketch of Ezeiel Webster," Writings, XVII, 38.

3 Webster, "Introductory Note," Writings, XVII, 30.

stituents interests⁴ had some influence on his politics is shown from two instances where Webster changed when his constituents did. In the first, the War of 1812, when Webster's constituents, the New England shipping interests, suffered at the hands of the national government, Webster changed his nationalistic tune, opposed Federal policy and became an advocate of state's rights. In the second, the tariff, when Webster's constituents sank their money into manufacturing, Webster, hitherto a confirmed enemy of the protective tariff, suddenly became its friend, opposed a reduction of its rates, and elevated it to the level of a "Principle."

In turn we considered the intellectual factors behind Webster's Reply to Hayne. Webster had a very legalistic mind. He delighted in arguing from the meaning of words, and he was much inclined to take a document at its face value. Since the Constitution was worded in terms of strong central government, Webster inclined to that interpretation of it. Webster also had a very pragmatic mind. This pragmatism saw clearly the practical difficulties with nullification. Hence Webster opposed it, and in opposing it, championed national supremacy. Moreover, Webster had a long record of national government partisanship, and therefore could hardly have said anything but what he

4 The point of the argument is not that Webster was indebted to his constituents but that Webster, as a good congressman, would incline to look out for his constituents' interest and that these interests were favorable to a strong central government. The argument does not maintain that Webster was influenced solely by economic considerations but only that these considerations had some influence on Webster. I in no way imply that this is derogatory or unworthy of Webster.

did say in the Reply to Hayne without laying himself open to a charge of inconsistency. Lastly, strong central government appeared to Webster to be the only true interpretation of the Constitution. "By the blessing of Heaven, they shall learn, this day, before the sun goes down, what I understand it the Constitution to be," said Webster, the mement before he rose to reply to Hayne.⁵ Considering Webster's background, his pragmatism, his legalism, his whole Federalist environment and tradition, his conservatism, his sense of property, it would be only natural that strong central government should seem to him the only reasonable interpretation of the Constitution.

⁵ March, Reminiscences in Congress, 132.

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