

Address of Charles S. Hamlin

at the DINNER of the

Albany Chamber of
Commerce

AT ALBANY



Wednesday Evening, January 9th, 1907

Address of Charles S. Hamlin

at the DINNER of the

Albany Chamber of
Commerce

AT ALBANY



Wednesday Evening, January 9th, 1907

Address of Charles S. Hamlin

The invitation with which you have honored me was received and accepted with deep pleasure. If for no other than personal reasons it would always be gratifying to meet the citizens of Albany — a city constantly calling to my mind the most tender and sacred associations — a city also which represents the very best citizenship of this great Empire State of New York.

It is also most gratifying to have this opportunity of meeting the Chief Executive of the State, Governor Hughes. The people of the Old Bay State have acquired the habit of looking through political designations to the man beneath; we see there a strong, vigorous and forceful character, one who looks upon the holding of public office as an obligation imposed for the public good and not for individual or partisan benefit. We believe that his rule of action will be the greatest good of the greatest number; that his maxim will be, in the words of the Latin Poet — "*Tros Tyriusque mihi nullo discrimin' agetur.*" Which, being freely — very freely — translated, means — "Trojan and Albanian will be treated alike by me without discrimination."

"The Public Duties of the Citizen" is the subject assigned to me for this evening, and I shall speak as briefly as I can on the relation of the citizen to the State and to the Nation.

The citizen has various duties, just as he has various rights and privileges, but the burden of my theme,— the principal thought running through what I have to say to-night is that wherever there exists a civic right or privilege, there also is a corresponding duty or obligation; that the former is but the complement or the supplement of the latter; that the two together make a united whole.

The citizen owes allegiance to no personal sovereign or ruler:

he owes the highest allegiance to the government, State and National, which his fathers created for him. There is no conflict in this two-fold allegiance; it is recognized and affirmed in the United States Constitution. The citizen should render unto Cæsar the things which are Cæsar's.

At different times of our national life, popular attention has been concentrated, even for long periods of time, upon one of these dual systems of government to the partial or to the almost total eclipse, in the popular interest, at least, of the other. At the foundation of the government under the Constitution, the National idea, of necessity, came to the front, for a National Government had been created. The people of the Sovereign States surrendered with much reluctance a part of their sovereign power. The great builders of the Constitution created a new Nation and under the interpretation of the great jurists, Wilson, Marshall, Webster and others, its growth has been steady and sure.

While at times the national idea, so-called, has been obscured it as a whole has steadily broadened and developed. It finally came into conflict with the extreme States Rights Doctrine, and out of that collision came the Civil War, from which the national idea emerged triumphant. The so-called States Rights Doctrine no longer as once, marks the line of division between the two great political parties. In fact, to-day it serves, if the prevailing popular expression can be trusted, but as a kind of pound to hold in restraint or to furnish shelter to a few knights errant who have strayed from the ranks of the hosts of triumphant nationalism.

A striking example of this growth of the national idea is afforded by the use of the term "The United States." In the early years of the Nation these words were always used in the plural; in modern times, however, the words almost invariably take the singular. For example, article nine, of the Treaty of Peace with Great Britain, concluded in 1814, provided that "The United States of America engaged to put an end * * * to hostilities * * * with all the Indians with whom *they* may be at war.

On the other hand, article five of the Treaty of Peace between the United States and Spain, concluded in December, 1898, provided that: "The United States will * * * send back to Spain at *its* own cost, the Spanish soldiers."

This notable change in the usage of the words serves to illustrate well the change in the spirit of the people.

At this period of the year, following so closely the inauguration of the governors of many of the States, it would seem to be appropriate to pay some attention to the rights and duties of the states and of the citizens to their respective states.

We hear much at the present time as to the need of increased federal power, such increase to be accompanied necessarily with a corresponding decrease in power existing, or supposed to exist, in the individual states. Some earnest, public-spirited citizens believe that Federal power under the Constitution has been exhausted with the enactment of present laws, and that a more comprehensive grant of power is needed. Others believe that the power already possessed by the National Government is ample for present and future problems and that further exercise of this power is simply a question of national expediency. Others seem to wish State powers to be curtailed in spite of constitutional limitations, if any there be.

It is not my purpose to-night to discuss the scope of the commerce clause of the Constitution, nor the laws passed to carry out the purposes of that clause, as interpreted by the courts. Let it suffice to say that wherever there exists in fact interstate commerce, that commerce is subject to the constitutional control of the Federal Government. Furthermore, the principle of regulation of monopolies, so often advanced as the justification for Federal control over railroads in interstate commerce should be applied equally to all monopolies granted by the National Government. To this end, in my judgment, the time ought soon to come when monopolies in the form of patents granted by the National Government shall contain conditions prescribing reasonable prices for their sale or use.

Nor is it my purpose to discuss here to-night the legal proposition whether or not Congress has the present power to develop

along the lines of increasing centralization, apparently so dear to the hearts of many people. The theme I wish to discuss is the advisability of extending national control to subjects over which it has no present power. Such centralization, in my opinion, even if made lawful, as to concrete instances, would not, if applied generally, enure to the welfare of the people, but would inevitably result in radical, revolutionary changes in our government.

There are many to-day who demand Federal control over insurance; others plead for a national divorce law; others clamor to have the National Government take over the control of all forms of corporate activity, ultimately resulting in interstate commerce, even to the point of controlling production within the States, thus interfering with the most important domestic relations between the States and the individual citizens.

In short, to many estimable citizens there seems to be an eternal, hopeless conflict between the National and the State Governments, which can be abated only by reducing the States to a condition of subordination scarcely consistent with any sovereign rights. Is such radical centralization necessary for the welfare of the people? Is it necessary to our salvation that power should be given to or exercised by the Federal Government to lay down uniform rules as to individual conduct, controlling even the minutest details of the life of the individual citizen?

At the outset, we must recognize that laws which might be highly advisable for old, settled communities, might prove almost disastrous to young, growing States. Even in the individual States it is difficult enough to fix any standard which may not bear severely upon one section at the expense of the other. On almost all questions affecting the people as a whole there is the widest diversity of opinion and of individual need among the several States.

Yet the fact must be recognized that apparently many would welcome almost an obliteration of State lines creating one State instead of forty-five. Such a change might indeed be convenient,

along the lines of uniformity, but it would absolutely overthrow the existing form of government.

Let us briefly consider where the application of this specious rule of uniformity would carry us.

We should have to take away from the States the right to fix the qualifications of those who vote for national representatives and for presidential electors. The Constitution gives to the people in the States the right to prescribe those qualifications and they have exercised it in such manner that the basis of suffrage differs radically. In some States aliens who have declared their intention to become citizens can vote for national representatives and for presidential electors; in most of the States they are excluded from the suffrage. In some States women can and do vote in elections for Congress and for presidential electors; in most States this obligation has not yet been imposed upon them.

We should also have to enact national laws covering all relations of contract between citizens of different States, wiping out all conflicts of law which now give the courts so much difficulty.

We should have to provide for the service of legal process of any court throughout the United States.

We should have to frame a national code of criminal law to supersede the laws of the individual States.

We should have to take under national control all production, whether corporate or private, in any way contemplating interstate commerce, and to do this effectively, every kind of production would have to be taken over, regulated and supervised by the Federal Government.

We should have to regulate the private lives of the people of the United States by enacting national marriage and divorce laws.

We should have to enact a national law as to the descent of property, as to which there is a great lack of uniformity among the several States.

Finally, we should have to enact laws reserving to the Na-

tional Government the right of imposing all taxation, direct and indirect, in order to do away with the painful lack of uniformity now existing, giving back to the States such portions of the taxes collected as, in the wisdom of our national legislators, is deemed necessary for their purely local needs and purposes.

If this uniformity could be secured by constitutional changes we would secure what, apparently, many would like — a single government, in effect, over the whole extent of the United States.

Would such a government be for the best interests of our people? I believe not. On the contrary, to quote the words of that eminent expounder of the Constitution, James Wilson, whose words have lately been quoted by the highest authority,—

“To support with vigor a single government over the whole extent of the United States, would demand a system of the most unqualified and the most unremitted despotism.”

Every citizen should consider carefully whether modern tendencies are not drifting along this path declared to be so dangerous to the future of our government by this great expounder of the Constitution.

If, however, such an extraordinary increase of power should be granted by the people to the Federal Government by Constitutional changes, where could such power safely be reposed? While Congress could enact the necessary laws, these laws must be left to the executive departments for administration and execution. Can it be that these departments are so idle at the present moment that such extraordinary, new duties could properly be imposed upon them? Just the contrary is the truth.

The War Department, engrossed with the management of the army, with river and harbor improvements and with other public works, is fairly staggering under the additional burdens of the Philippines, the Canal Zone, and Cuba, not to mention Santo Domingo.

The Interior Department has all it can do to manage the public matters now assigned to it, among which are pensions,

Indian affairs, patents, Alaska, and the other Territories, not to mention the public land system, with the vast fraud and corruption recently unearthed.

The Department of Commerce and Labor is well occupied with the census, bureau of navigation, lighthouse service, coast survey, fisheries, immigration, Chinese exclusion, the bureau of labor, the investigation of corporations, and other important branches.

The Treasury Department, almost broken down with work, has only recently had to be relieved by giving many of its duties to the new department of Commerce and Labor.

The State Department seems fairly well occupied in managing the foreign affairs of the country.

It may be replied that new departments could be created. A little reflection, however, must surely satisfy one that such new departments, necessitating the employment of perhaps thousands of national officers and inspectors, would not be, in the long run, for the best interests of our people.

It should not be forgotten that there may be almost as much danger to the Republic from national centralization carried to the extreme limits as from the extreme expression of the States Rights doctrine which so nearly overthrew the Republic.

Nor should we forget that if these subjects should be given over to the national government every State law governing these matters would be null and void. National laws, as is well known, are often the product of compromise. Out of the conflict between rival claimants for the dredging of local rivulets, for example, there might be evolved a Federal insurance law which, in efficiency, might fall far below the present high standards of the laws of Massachusetts, New York, or of many other sovereign States.

What guarantee, however, is there that such a vast increase in Federal power would result in more efficacious control than is to-day afforded or could be afforded by the individual States? In my judgment, in the long run, national control is bound to be less effective than State control. Influences are more easily

evoked to delay action at the capital of the Nation, perhaps thousands of miles from the locality affected, than in the home State. The gain from uniformity would be, to my judgment, swallowed up in the loss of local State control, always more effective when called into action in response to public sentiment.

There is another problem for thoughtful citizens to consider — is it prudent or safe to increase in this extraordinary manner the powers of the Chief Executive of the Nation?

The statement is often made that the President of the United States is the representative, the only representative of the whole American people, and that accordingly it is fitting to place in his hands the almost illimitable powers which increased centralization would entail. The claim that President Jackson was the representative of the whole American people was thus answered by Daniel Webster in a speech delivered in New York city —

“In addition to the establishment of this power of unlimited and causeless removal, another doctrine has been put forth, more vague it is true, but altogether unconstitutional, and tending to like dangerous results. In some loose, indefinite and unknown sense the President has been called the representative of the whole American people. He has called himself so repeatedly and been so denominated by his friends a thousand times. Acts for which no specific authority has been found either in the Constitution or laws, have been justified on the ground that the President is the representative of the whole American people. Certainly this is not constitutional language. Certainly the Constitution nowhere calls the President the universal representative of the people. The constitutional representatives of the people are in the House of Representatives, exercising powers of legislation. The President is an executive officer, appointed in a particular manner and clothed with prescribed limited powers. It may be thought to be of no great consequence that the President calls himself, or that others should call him, the sole representative of the people, although he has no such appellation or character in the Constitution. But, in these matters, words are things. If he is the people's representative, and as such may exercise power, without any other ground, what is the limit to that power? And what may not an unlimited representative of the people do? When the Constitution expressly created representatives, as members of Congress, it regulates, defines and limits their authority. But if the Executive Chief Magistrate, merely because he is the Executive Chief Magistrate, may assume to himself another character, and call himself the representative of the whole people, what is to limit or restrain this representative power in his hands?”

Nor can I believe that there exists any necessity for further centralization of power. I believe that the people of New York or Massachusetts or the other sovereign States, if aroused to the necessity of such action, are competent to stamp out filth in the establishments in those States, or to purify the food supplies used in those States, or to put the citizens of all States on a parity with their own citizens as to regulations for the public health or for matters of business concerning which legislation is enacted to control its own citizens.

Each State, however, should carry out faithfully its duties and its responsibilities under the National and the State Constitutions. If a State deliberately refuses to exercise its power and permits the stream of interstate commerce to be fouled by its inaction, in my judgment it would be better for the National Government to exclude its products from interstate commerce, if it has that power, until the State performs its duty, than to enter the State and perform this duty by National inspectors.

It may be well for a time to cease talking of States' rights and to talk of States' duties; to cease discussing individual rights and to take up the subject of individual obligations. Let each State enact constitutional laws for the greatest good of the greatest number of its people; if those laws are found to conflict with the laws of other States, it will be for the most part, because different conditions prevail which no uniformity imposed from without could effectually control.

What then is the duty of the citizen in the present state of affairs?

He should strengthen in every way the government of his State to restore to it the balance of power which, under the constitution, belongs to it.

He should respect and render obedience to the laws of the land.

He should have sympathy for public officers and respect for authority.

He should attend the primaries with the same interest with which he attends to his private business.

He should see that his vote is recorded at elections as an almost sacred duty.

He should faithfully discharge the obligation imposed upon him of jury service.

He should never forget that the so-called right of suffrage is not a political right at all; it is a duty imposed for the public good rather than for his private benefit.

Yet we see many men at the present time who deliberately elect to keep aloof from all participation in civic affairs; many there are who never attend a primary, and with whom failure to vote at elections is the rule rather than the exception.

No citizen has a right to refuse to perform his civic duties.

Such refusal should be visited with indignation and contempt; he should be lashed to the polls with the indignant voice of public opinion.

If a State should refuse to participate in constitutional government it would amount to secession; the duty imposed upon the State is of no greater obligation than that imposed upon the individual citizen.

The citizen, also, at this time of increasing national centralization, should insist that all representatives of the people should be elected directly by the people, and to this end we should insist that United States Senators be elected directly by popular vote, the necessary constitutional changes being made for this purpose. This method of election was advocated by James Wilson, and thoughtful people will be forced to the conviction that such a change at the present time would be beneficial.

There are many signs today that there has been an awakening; popular interest in civic duties was never keener. The citizen realizes more and more keenly the necessity for personal participation in civic matters and out of this aroused public sentiment will surely follow increased civic prosperity, both to the individual States and to our great national Republic.