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March 6: 200th Anniversary of the Missouri Compromise

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"What is the political attitude of nations towards each other, supposed by a balance of power? Hostility. What is the effect of hostility? War. A balance of power is therefore the most complete invention imaginable for involving one combination of states, in a war with another."

— John Taylor, Construction Construed and Constitutions Vindicated (1820)

Today, March 6, is the 200th anniversary of the signing of the act known as the Missouri Compromise and for nearly that long, the cause and effect of that bill have been misunderstood.

On February 3, 1819, the House of Representatives began deliberating Missouri's petition for statehood. The bill sailed along rather smoothly and along a predictable trajectory until Representative James Tallmadge, Jr. of New York introduced an amendment to the bill that would send the Congress and the country along a new trajectory, one toward a sectional war.

Tallmadge's amendment would require that Missouri only be allowed to enter the union if slavery was prohibited. Tallmadge's measure read: "Provided, that the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall have been fully convicted; and that all children born within the said State will be executed after the admission thereof into the Union, shall be free at the age of twenty-five years."

Instantly, representatives were divided into "restrictionists," those who opposed the expansion of slavery into the Louisiana Territory (of which Missouri was a part); and "antirestrictionists," those who argued that the Constitution did not grant to Congress the authority to interfere in the laws of states, including laws regarding slavery.

As the House of Representatives took the Tallmadge amendment under consideration, it became clear that the underlying issue was not the morality of slavery, but the balance of power in the Senate, which had been at a stalemate between states where slavery was legal and states where it had been outlawed.

The possibility of a senatorial stalemate was created by Article I, Section 3 of the U.S. Constitution which provided that: "The Senate of the United States shall be composed of two Senators from each State."

The perpetuation, then, of the safety of that stalemate was protected by the equal number of states where slavery existed and states where it was no longer legal. With the application for statehood submitted by Missouri, that balance was placed on a precarious point.

Lawmakers looking to restrict slavery from being introduced into the territories of the Louisiana

Purchase argued that the Constitution granted to Congress the power to legislate in territories and that any statute in force in a territory when and if that territory achieved statehood would remain in full force.

On the other side, those who insisted that among the powers granted to the legislative branch in the U.S. Constitution was not found the power to dictate the legal status of slavery. Pointing, then, to the 10th Amendment, this bloc believed that such authority, not being granted to the government of the United States was retained by the states themselves.

And some of those congressmen and senators seeking to prevent slavery from spreading to any additional states brought up the Northwest Ordinance's prohibition on slavery. Opponents of this position pointed out that the Northwest Ordinance was passed by the government functioning under the Articles of Confederation and thus it was not binding on the government created by the Constitution that came into force in 1789.

What has often been overlooked in the academic effort to examine the motivations of those involved in the legislative wrangling that resulted in the Missouri Compromise is that slavery already existed in the territory of Missouri and any congressional decision enforcing abolition on the people of Missouri would require some sort of federal force be used to carry out the will of Congress.

Rancor and bitterness boiled over as Congress continued debating the Tallmadge amendment and the underlying issue of federal authority to dictate law to states.

During the deliberations, Representative Tallmadge rose and with full-throated zeal, threatened, "If a dissolution of the Union must take place, let it be so! If civil war, which gentlemen so much threaten, must come, I can only say, let it come!"

In response, Representative Thomas Cobb of Georgia, warned Tallmadge of the potential impact of his bellicose threats. "You have kindled a fire which all the waters of the ocean cannot put out, which seas of blood can only extinguish," Cobb said.

Ultimately, the House of Representatives passed the Tallmadge amendment and its enabling act, but the legislation failed to achieve the approval of the Senate. The stalemate between the upper and lower house of the federal legislature persisted and finally the issue was kicked down the road, requiring the next ongress to take up the matter of Missouri, statehood, and sovereignty.

The next Congress took up the issue of statehood for Missouri and Maine and the familiar fault lines reappeared.

To end the tug-of-war, Representative Jesse Thomas of Illinois offered an amendment that would outlaw slavery in any new territory above 36 degrees, 30 minutes latitude — the southern boundary of Missouri, except for Missouri itself.

In order to ensure the delicate balance of power in the Senate, the admission of Missouri as a slave state would be offset by the admission of Maine as a state without slavery. This would prevent one section or the other from being the beneficiary of a majority in the senate.

This time, the House and Senate agreed on admitting Missouri as a slave state, Maine as a nonslave state, and in favor of the Thomas amendment. Passed by both houses, the bill was sent to the desk of President James Monroe who signed the act into law on March 6, 1820, 200 years ago today.

There can be no debate on the issue of the morality of slavery: It is immoral and it never should have been introduced into the British colonies that became independent republics that in 1789 would unite

under the Constitution ratified by those very republics.

Likewise, there can be no debate that the states who created the union in the Constitution did not grant to the federal government the power to force laws for domestic policy on the states. Furthermore, it is equally irrefutable that the under the terms of the 10th Amendment, the states explicitly retained all powers not delegated to the government of the United States.

As John Taylor wrote in his book *Construction Construed and Constitutions Vindicated*:

> The boundaries of the states were respected, and the right of internal self-government reserved to them by the federal constitution, to remove the temptations arising from a natural dissimilarity of circumstances, which might seduce them into the ruinous system of partial combinations; and congress were only invested with powers reaching interests which were common to all the states, to prevent a possibility of geographical partialities, which would certainly operate as provocations towards the chief danger which menaced the glory and happiness of the United States. From this policy, intended to avert the greatest misfortune the United States can sustain, the policy of an interference by congress with an interest not common among all the states, of exciting local feelings and manufacturing mutual provocations, and of establishing two great combinations of states, is a complete departure; and it cannot therefore produce the effects, which the policy of the constitution laboured [*sic*] to accomplish.

Heedless of these facts, Congress passed and the president signed the Missouri Compromise. It would be legislatively repealed by the Kansas-Nebraska Act in 1854, but it remains a signal moment in American history and for precisely the reason set out above by John Taylor.

Congressman ignored the Constitution's grant of very limited powers to the federal government and the retention of sovereignty in most matters by the states that created that agent, the federal government. States and territories stood by as mute witnesses as Washington, D.C., debated whether or not to force legislation on states, states that, as territories, had already rejected the laws passed by the general government. This was a revolution. This was the purposeful perversion of the "more perfect union" established by the Constitution. This was a realignment of power that would, as noted above, culminate in a bloody rupture of the union.

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