

country. For all these reasons, I repeat that I look upon the introduction of this declaration into the message as the revival, for a very bad application of a very bad doctrine. Had it been ever so true, it had no bearing on this question, and could by no possibility have any effect towards that which was the great end—to smooth the way to a fair adjustment of the Oregon controversy. I must, however, now pass to other parts of the subject, and particularly to that of title, on which I consider it necessary briefly to explain myself.

In the opinion that our title ought not to be discussed on this floor, I cannot concur. We can no longer choose whether we shall discuss it or not. The Executive, by forcing us to consider whether or not we shall assert a claim to the whole of Oregon, war or no war, has forced us to look into our title, and determine how far it is valid. Better discuss it before war than after it; better any thing than encounter the public execration for having involved the country in war for that to which we have no title. It is my right, and I think it my duty, to canvass the question along with the other reasons that will govern my vote on the notice.

Sir, I have a very indifferent opinion of the right which either we or Britain has yet obtained to the exclusive possession of Oregon. I start with the proposition that, *in a legal sense*, there is no title acquired to an unoccupied country but by its regular and permanent occupation and possession; that Oregon was open to both us and England, as well as other nations, because it had remained, long after its discovery, unappropriated by any permanent settlement; that neither Astor's nor Nootka Sound were such settlements, but mere hunting and trading factories; that the existing convention barred, by express agreement, any proprietary right that would else have arisen, for either nation, from the settlements formed since 1818, its date; and that, even setting that aside, neither nation has yet created itself any territorial right, except just so far as its people are in regular possession. I say, then, that if Great Britain were as plaintiff before the Court of King's Bench to bring her action to oust the United States, she would be non-suited for want of being able to show title; and that, in the same way, if we were to proceed against her before our own Supreme Court, that high tribunal would dismiss the case, with costs for the defendant, on the ground that our title to be put into seisen had not been made out; while we may have demonstrated the weakness of the defendant's.

Sir, it is not my purpose to go at large into the question of title. Legal gentlemen on this floor have already elaborately examined the American and British titles to the Oregon territory. I will content myself with stating a few simple principles of national law, (about which there is no controversy,) with a few facts that admit of no dispute.

By the consent of civilized nations it is held that the first people discovering an uninhabited country may appropriate it. The intention to do so is signified by certain ceremonies of landing, displaying the national flag, and declaring the possession taken. But if this act is not followed up by a settlement proceeding speedily—that is, within such reasonable time as was sufficient to make it—from it, then, this inchoate right to complete your title in preference to any body else is lost, and any other people to whom the discovery may have become known, may, by greater diligence, pre-occupy the soil and perfect a title by making a regular settlement. It was thus that France, for instance, secured a fixed right in Louisiana, although Spain had discovered and taken formal possession of the mouth of the Mississippi, but without planting any settlement. This law of nations has, moreover, always considered as uninhabited all countries occupied only by savage tribes.

Now, we claim Oregon by two-fold discovery: the Spanish, transferred to us by the Florida treaty of 1819, and going back to an uncertain date, long before 1790, and that of Gray in 1792.