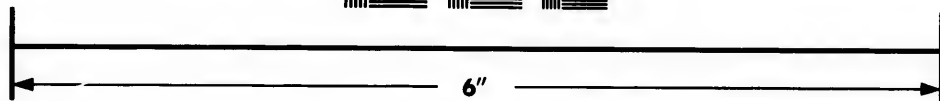
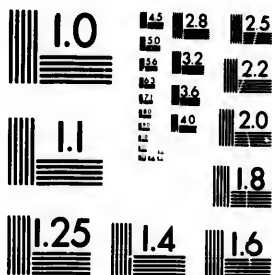


**IMAGE EVALUATION
TEST TARGET (MT-3)**



**Photographic
Sciences
Corporation**

23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503

1.5
1.6
1.8
1.9
2.0
2.2
2.5
2.8
3.2
3.6

**CIHM/ICMH
Microfiche
Series.**

**CIHM/ICMH
Collection de
microfiches.**



Canadian Institute for Historical Microreproductions / Institut canadien de microreproductions historiques

1.0
1.1
1.2
1.3
1.4

© 1981

Technical and Bibliographic Notes/Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming, are checked below.

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured covers/
Couverture de couleur
- Covers damaged/
Couverture endommagée
- Covers restored and/or laminated/
Couverture restaurée et/ou pelliculée
- Cover title missing/
Le titre de couverture manque
- Coloured maps/
Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black)/
Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations/
Planches et/ou illustrations en couleur
- Bound with other material/
Relié avec d'autres documents
- Tight binding may cause shadows or distortion along interior margin/
La reliure serrée peut causer de l'ombre ou de la distortion le long de la marge intérieure
- Blank leaves added during restoration may appear within the text. Whenever possible, these have been omitted from filming/
Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments:
Commentaires supplémentaires:

- Coloured pages/
Pages de couleur
- Pages damaged/
Pages endommagées
- Pages restored and/or laminated/
Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed/
Pages décolorées, tachetées ou piquées
- Pages detached/
Pages détachées
- Showthrough/
Transparence
- Quality of print varies/
Qualité inégale de l'impression
- Includes supplementary material/
Comprend du matériel supplémentaire
- Only edition available/
Seule édition disponible
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image/
Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below/
Ce document est filmé au taux de réduction indiqué ci-dessous.

| | | | | | |
|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|
| 10X | 14X | 18X | 22X | 26X | 30X |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 12X | 16X | 20X | 24X | 28X | 32X |

The copy filmed here has been reproduced thanks to the generosity of:

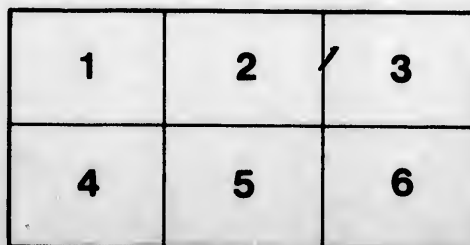
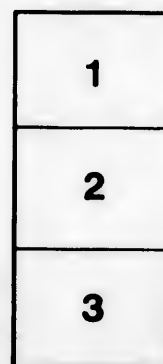
Library Division
Provincial Archives of British Columbia

The images appearing here are the best quality possible considering the condition and legibility of the original copy and in keeping with the filming contract specifications.

Original copies in printed paper covers are filmed beginning with the front cover and ending on the last page with a printed or illustrated impression, or the back cover when appropriate. All other original copies are filmed beginning on the first page with a printed or illustrated impression, and ending on the last page with a printed or illustrated impression.

The last recorded frame on each microfiche shall contain the symbol \rightarrow (meaning "CONTINUED"), or the symbol ∇ (meaning "END"), whichever applies.

Maps, plates, charts, etc., may be filmed at different reduction ratios. Those too large to be entirely included in one exposure are filmed beginning in the upper left hand corner, left to right and top to bottom, as many frames as required. The following diagrams illustrate the method:



L'exemplaire filmé fut reproduit grâce à la générosité de:

Library Division
Provincial Archives of British Columbia

Les images suivantes ont été reproduites avec le plus grand soin, compte tenu de la condition et de la netteté de l'exemplaire filmé, et en conformité avec les conditions du contrat de filmage.

Les exemplaires originaux dont la couverture en papier est imprimée sont filmés en commençant par le premier plat et en terminant soit par la dernière page qui comporte une empreinte d'impression ou d'illustration, soit par le second plat, selon le cas. Tous les autres exemplaires originaux sont filmés en commençant par la première page qui comporte une empreinte d'impression ou d'illustration et en terminant par la dernière page qui comporte une telle empreinte.

Un des symboles suivants apparaîtra sur la dernière image de chaque microfiche, selon le cas: le symbole \rightarrow signifie "A SUIVRE", le symbole ∇ signifie "FIN".

Les cartes, planches, tableaux, etc., peuvent être filmés à des taux de réduction différents. Lorsque le document est trop grand pour être reproduit en un seul cliché, il est filmé à partir de l'angle supérieur gauche, de gauche à droite, et de haut en bas, en prenant le nombre d'images nécessaire. Les diagrammes suivants illustrent la méthode.

errata
to

pelure,
on à

24P

G

TH

SPEECH

OF

GARRETT DAVIS, OF KENTUCKY,

ON

THE OREGON QUESTION,

DELIVERED IN

THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, FEB. 7, 1846.



WASHINGTON:

J. & G. S. GIDEON, PRINTERS.

1846.

Mwp

979.51

D261

The H
Foreign A
will termi
tion of th

MR.

Mr.

me a s
and the
sideratio
press, to
tion.

I stan
my opin
America
long-mo
be decie
and just
their res
be collec
members
nected v
neous an
an unne
that crim
fact, in
shall kn
and mee
false ch
versy, an
be throw
its autho
stand to
sures an
deem to
determin
its gover

The I
rapid bu
Britain
" All at
gress to
and prot
Oregon,
then ref
people o

SPEECH.

The House having under consideration the joint resolution reported by the Committee on Foreign Affairs, directing the President to give notice to Great Britain that the United States will terminate the convention between the two Governments, providing for the joint occupation of the Oregon territory, at the expiration of twelve months—

MR. DAVIS, of Kentucky, obtained the floor, and said—

MR. CHAIRMAN : I regret that the limit of the hour rule will not allow me a sufficient time to present my views upon this momentous question, and the various matters of interest which are connected with it. This consideration will, however, authorize me, if I prepare my remarks for the press, to amplify on some points of what must now be a hurried examination.

I stand here as a freeman, representing freemen, and I intend to speak my opinions in a spirit which becomes both them and me. The whole American people are looking to Congress for information, for facts, upon this long-mooted and intricate subject. All such questions must, sooner or later, be decided by public opinion, and that this public opinion may be wisely and justly formed and pronounced, the people should know their truth and their reality. Here, in the two Houses of Congress, this information is to be collected, and thence is to be disseminated throughout the nation. The member of Congress who misrepresents or suppresses important facts connected with this exciting subject, and thus aids in the formation of an erroneous and vitious public judgment, which may precipitate the country into an unnecessary and desolating war, commits a great crime. The guilt of that crime shall not attach to me. So far as I can attain to the truth, in fact, in public law, in argument and deduction, my constituency at least shall know it; and I intend here, in my place, to declare it to the country, and meet all the responsibility which may await me. Even if the foul and false charge of sympathizing with a foreign people in this Oregon controversy, and being impelled to it by excess of opposition to the Administration, be thrown at me, I will not shrink from my task, but will alike scorn it and its authors. No such denunciation will deter me from doing what I understand to be my duty. So long as the question is what shall be the measures and relations of our country with others, I will support such as I deem to be just, wise, and politic; when those measures and relations are determined upon, I stand by my country, and those who are charged with its government, be they right or be they wrong.

The President, in his message at the beginning of the session, gives a rapid but clear history of the diplomacy of the United States and Great Britain in relation to Oregon; upon which he comes to this conclusion: "All attempts at compromise having failed, it becomes the duty of Congress to consider what measures it may be proper to adopt for the security and protection of our citizens now inhabiting, or who may hereafter inhabit, Oregon, and for the maintenance of our just title to that territory." He then refers to the treaty between the two countries which secures to the people of both the temporary right of free access to all Oregon, and

particularly to the article which provides that either party may terminate it by giving the other twelve months' notice. The President adds, "this notice it would in my judgment be proper to give;" and he recommends that "provision may be made by law for giving it accordingly, and terminating the convention of the 6th of August, 1827." He states and admits the inhibition which this convention creates to the full and proper legislation of Congress for the assertion and maintenance of our rights to Oregon, as he sets them forth; and then clearly indicates his future policy in this significant paragraph: "At the end of the year's notice, should Congress think it proper to make provision for giving that notice, we shall have reached a period when the national rights in Oregon must either be abandoned or firmly maintained. That they cannot be abandoned without a sacrifice of both national honor and interest, is too clear to admit of doubt." He recommends at once the extension of the laws of the United States over American citizens in Oregon.

The language of the President upon this subject is explicit. His position is, that our title to the whole of Oregon is clear and indisputable, and that he has demonstrated it so to be; that all efforts to negotiate a compromise of the controversy have failed, and it was manifest that the British Government would not concede any terms which ours ought to accept; that the subsisting convention between the two countries was the obstacle to measures necessary to the assertion and maintenance of our rights, and ought therefore to be terminated; and that, at the termination of the twelve months, when the consummation of this notice would have abrogated the convention, unless Congress should then firmly maintain the right of the United States to all Oregon, it would undoubtedly be guilty of a sacrifice of national interest and honor.

England claims to have as much right to all Oregon as she concedes to the United States; that it is a vacant unappropriated country, and open to the people of all the world. Her Government has repeatedly refused the proposition of ours to divide Oregon between them substantially by the 49th parallel. From the mouth of the Columbia, in $46^{\circ} 16'$, to the line $54^{\circ} 41'$, to which we claim as our northern boundary, there is not an American emigrant; and within that area there are twenty-three armed British posts, belonging to the Hudson Bay Company. This fact is well known to Mr. Polk. The English Government has contended inflexibly, in all its negotiations with previous Administrations, as well as with Mr. Polk, that their rights in part of Oregon are superior to those of the United States; and he has seen the solemn annunciation of that Government to the world that it is prepared and determined to maintain them. In view of the failure of all attempts to adjust the dispute by negotiation, of the rejection by our Government of the British proposition to refer it to arbitration, and of the notice being given, he means, and in substance recommends, that we then proceed to assert our right to the whole of Oregon, and establish our jurisdiction and laws over it. This can only be effected by the expulsion or subjugation of the British power in Oregon, and then comes the shock of arms.

Now, understanding the President's purposes and line of policy, it seems to me that every gentleman who supports the resolution for this notice adopts his position, that our title to all Oregon is clear and perfect; acquiesces in his conclusion that all attempts to settle the controversy by compromise have failed; and pledges himself to go with the President at the termination of

the n
sword
guage
nothin

If t
and e
the P
amica
would
notice
to be
comes
The
placed
that th
will l
measur
of poli
temer
certain
pause
the pr
yond a

At t
gress t
thority
merce
ternal
tional,
eign co
provisi
of the
It was
constit
both, a
To giv
making
of Eng
rizes th
could,
it a tre
tinuanc
treaty t
provisi
as they
final ad
signed,
power,
a single
ing fo
Congre

the notice, to assert our indisputable right to all Oregon at the point of the sword. Such is what the President contemplates, judging from the language of his message; and, unless he be a mere political trickster, he means nothing short of it.

If this notice be so formally given by the concurrence of the legislative and executive branches of the Government, after this explicit declaration by the President of what he intends it to lead to, and the dispute should not be amicably settled before the expiration of the twelve months, national honor would forbid Congress then to remain passive. The solemnity of such a notice would be an annunciation to England, and to the world, that it was to be followed up by other and vigorous measures; and when the crisis comes, to pause would justly subject us to universal derision and contempt. The President would revolt at his administration and the country being placed in any such humiliating position, and would unquestionably prefer that the notice should not be given. He and the public will regard, and will have the right to regard, the support of this, the first in his series of measures, as a committal to the whole. He recommends a particular course of policy, which cannot be adopted unless this first measure succeeds. Gentlemen who condemn what is to follow ought to make their opposition to it certain and effective, by the defeat of the initiatory measure. They should pause and carefully examine the ground which the President occupies, and the probable consequences, before they link themselves to him on it. Beyond all question they ought to be satisfied that it is both just and wise.

At the threshold, we ask ourselves why has the President appealed to Congress to pass a law authorizing him to give this notice? What is the proper authority to give it? With the exception of declaring war and regulating commerce with foreign nations, Congress is vested only with the power of internal legislation. The operation of this notice will be external, international, and its subject an existing treaty between our Government and a foreign country. That treaty itself provides for this notice, and without such provision it could not be given. The power to give it is the joint creation of the treaty-making authorities of two sovereign and independent nations. It was necessary that both England and the United States should concur in constituting the right to give this notice; because, acting upon and binding both, all the authority of either would have been insufficient to that end. To give the notice is not an act of legislation, but the exercise of the treaty-making function. The President and the Senate could, with the consent of England, add a provision to this treaty declaring the clause that authorizes this notice to be given void and inoperative; and the same authority could, when it was negotiated, and can at any time, add a provision making it a treaty to continue twelve months. Now, it is a treaty of indefinite continuance, with a clause that either party may so far alter it as to make it a treaty to exist from the time of such change for twelve months; and to this provision, thus authorizing it to be modified, both nations have consented, as they have to all its other stipulations. Instead of being the complete and final action of the treaty-making power of the two nations at the time it was signed, it is there agreed that each reserves the right, and is to have the power, at any future time, to modify the treaty as it was then drawn up in a single feature; and that is, to provide that the treaty, instead of continuing for an indefinite time, should exist but for twelve months. How is Congress clothed with authority to execute this suspended will of the treaty-

making power? Where is our warrant for adding substantially a new article to this treaty to change the effect of an existing one? The office of Congress is to enact laws, not to make or modify treaties with foreign nations. It does not and cannot act in concert and covenant with any foreign authority. All the validity and effect of its action results from its own properly published will. The operation of the treaty-making power is different, for it proceeds in conjunction with the Governments of other countries, and can produce nothing without them. It is made and constituted to act with them, and cannot act without them. If Congress could authorize and require this notice to be given by its law, it could do so of its own unaided will. The giving of it is the emanation of two wills—of the treaty-making power of both England and the United States. The will of each has in part acted beforehand, and been expressed. Each has stipulated that this notice shall be given and be obligatory upon her on the happening of a condition; which is, that the other shall decide to give it. The efficiency of the notice, if our authorities should decide to give it, will result as much from the Government of England as of the United States. If the notice should come from that Power, its force will emanate equally from our President and Senate as from her King. The concurrence of both will have been indispensable.

It will not be contended that both the law-making and treaty-making powers in our Government can decide that this notice shall be given. It is the business of one and not the other, and cannot belong to both. If the President and the Senate were to make a formal treaty with England that this notice should be given, the validity of such a stipulation could not be doubted. If the same authority were to make an arrangement to expunge the article providing for the notice from the treaty, all will concede that the treaty would become absolute. A like modification to postpone the notice for twenty years, or any length of time, would be of the same unequivocal authority. The treaty-making power provided originally for this notice, and it alone was competent to that purpose. It may give the notice, may eradicate it entirely from the treaty, may postpone it or modify it in any possible form. It has all power over the subject; Congress, in truth, has none. To give the notice would be, in substance and effect, and nothing more, than to modify the existing convention, to make it continue twelve months instead of an indefinite time. That proposition alone refutes the jurisdiction of Congress over the subject.

I do not intend to controvert the position that Congress might abrogate this treaty by a declaration of war. I concede also, that when one nation violates or disregards its treaty obligations in a substantial point, the treaty becomes forfeited, and the other party may declare herself absolved from the further observance of it. These are undeniable principles of national law, but they do not touch the present question. The position of the gentleman from Illinois, (Mr. McCLEARNAND,) that Congress can abrogate a treaty, is unsupported both by authority and morality. One nation has no more right or power to renounce its treaty than an individual has to repudiate his contract.

I can come to no other conclusion, Mr. Speaker, than that the giving of this notice is not a legislative act, but purely executive; and, under our Constitution, is referrible to the President and the Senate, as the sole depositaries of the treaty-making power. If the President had made a confi-

dent
that
advise
prop
the
Senat
ters.
all t
prop
an e
the r
shou
send
prop
infor
be a
ordin
over
ampl
with
have
the I
vious
volvi
tation
tion f
raem
tween
Presi
are to
by hi
is no
a par
imm
whol
after
partis
the I
whic
form
as it
is an
part
tion
the c
cont
jecte
conc
Pres
the
same

a new article
 office of Con-
 igned nations.
 foreign autho-
 own properly
 different, for
 untries, and
 l to act with
 rize and re-
 own unaided
 eaty-making
 each has in
 that this
 ng of a con-
 efficiency of
 lt as much
 f the notice
 om our Pre-
 h will have

eaty-making
 iven. It is
 th. If the
 ngland that
 ould not be
 to expunge
 ede that the
 e the notice
 unequivocal
 this notice,
 notice, may
 y it in any
 a truth, has
 nd nothing
 ue twelve
 refutes the

nt abrogate
 one nation
 , the treaty
 olved from
 of national
 of the gen-
 abrogate a
 tion has no
 as to repu-

e giving of
 nder our
 sole depen-
 dence a confi-

dential executive communication to the Senate, and had recommended to that body to concur with him in giving the notice, and two-thirds had so advised him, it will not be controverted that he might constitutionally and properly have given it without even communicating with the House upon the subject. It is fit, as well as constitutional, that it should be so. The Senate are the constitutional advisers of the President about all such matters. Not so the House. He has secret confidential relations with them in all transactions relating to subjects of this character; not with us. He may properly go to the Senate for counsel upon this subject of notice. To give an enlightened and just decision upon it, the authentic and exact state of the negotiations and diplomatic correspondence between the two countries should be known. The whole of this the President would be required to send up to the Senate. All protocols, papers, and notes exchanged, all propositions pending and rejected, verbal or written, the entire budget of information relating to this subject which the President possessed, he would be and ought to be required to lay before the Senate, that they, being coordinate constitutional powers, might enter upon the solution of a question over which they held concurrent jurisdiction, each possessed of the same amplitude of information. How stands the case with this House? Until within the last few hours, the only information upon the subject which we have possessed is what was communicated in the documents accompanying the President's message at the beginning of the session, and what was previously before the world. We have been considering this great subject, involving, as most persons think, the issues of peace and war, upon the invitation of the President for more than a month. We have no communication from him during the greater part of this period. About a week since, members of this House heard, by rumor, that diplomatic intercourse between the two Governments had been resumed. A call is made upon the President for this correspondence; and only to-day, a few hours before we are to vote upon this important measure, it is sent to us. We are not told by him, in his note to the Speaker accompanying it, that what he transmits is not the whole correspondence, and that he has suppressed and withheld a part. The House, in its eagerness to know the contents, directs it to be immediately read; and, as it is read by the Clerk, it appears to be the whole. The impression is made that it is complete, and continues until after it is printed; and then it appears, by a great number of asterisks, that parts, and doubtless important parts, have been suppressed and withheld by the President. This was the time, and the mode, and the only mode, in which the House was informed that it had been furnished with garbled information. Surely, this course of the President reflects as much upon him as it is unjust and uncourteous to the House. But that it has been done, is another argument in support of the position, that to give this notice is no part of the business of the House. This important executive communication reveals to us the fact that the British Government had twice renewed the offer, before made to Mr. Tyler's administration, to arbitrate this whole controversy; and that both renewed offers were promptly and decidedly rejected, notwithstanding the last was made in a mode eminently suitable to conciliate the favor of our Government and people. This information the President was not bound to impart to us, and he has done so only upon the suggestion of his own high pleasure. He has, in the exercise of this same pleasure, reserved other parts of the correspondence, which, for aught

we know, may be still more important and necessary to enlighten us. Away with the proposition that it is our affair and our duty to direct this notice! Suppose Congress were to provide for it, and the President, as the medium of communication with foreign States, would not give it? Suppose that the House were to resolve that the notice ought not to be given; but the President and the Senate, having a different judgment, would give it? They could act independently of the House; the notice would be valid; and we would have no redress but to be ridiculed.

It may be pointedly asked, why has the President withdrawn from the decision of the Senate in appropriate Executive session this great subject, and thrust it upon Congress? The answer is plain. There is some cause and fitness for it, produced by his termination of all negotiations for the settlement of the controversy; but still he is not fully satisfied of its propriety, and especially that it will receive the popular favor. To give the notice would be a bold, hazardous, and experimental move. He is resolved, if possible, to get up a great and popular American question, which will result in his own glorification, and he thinks this is the right subject and the right time. But he shrinks from breasting the storm which he himself is conjuring up; and he calls upon Congress to assume its responsibility, to leap into its perils, and to aid him to ride it grandly. He thinks, by making an issue with a foreign nation, and particularly with England, members of Congress will be deterred from opposing his course, even though it violate truth and justice, and put in peril the peace and character of the country. He wants the impetuous weight of his great majority in the House to beat down the sober sense and calm purposes of the Senate. He wants the arena of both Houses to be irregularly flung open in the face of the nation, that perverted facts and phrenzied declamation, sweeping wide in thunder-tones from these halls, may lash a quiet people up to the war fury. He is determined this notice shall be given, and knowing that it could not command the votes of two-thirds of the Senate, he surreptitiously withdraws the decision of the question from the quiet and constitutional judgment of that co-ordinate branch of the treaty-making power, and throws it into the stormy debates of Congress. Here is another instance of the triumphant march of faction, headed by the Chief Executive officer of the Government, upon the checks and partition of power established by the Constitution. The House take part in the affair of a treaty, assist in modifying one of its stipulations; the House "authorize," "empower," the President to give this notice! Preposterous! That power exists separate from and independent of the House, in the President and two-thirds of the Senate. We may aid him in doing violence to the Constitution, by dispensing with this unattainable majority of two-thirds of the co-ordinate branch of the treaty-making power, but that is all we can effect. The notice could be properly given in defiance of all the opposition we can make.

It has occurred often that the House has expressed its judgment on great public questions in the form of its separate resolution. This is proper, and often salutary. But unless the subject be legislative, and come within the scope of its powers, it arrogates no jurisdiction over it; and especially it pretends to delegate none to any other branch of the Government. On such occasions it professes only to utter its own opinion, and to claim for it no authority but its moral power. If I now believed it was wise and timely for the House to give utterance to its opinion upon this

mon
form
noti
of c
only
to d
tion
vanc
B
port
that
Pres
purp
Ores
who
in o
in d
prop
Pres
days
the
the
cate
bold
porti
point
volv
W
so th
that
of A
lowe
natio
by V
"
" the
" tak
" inf
" an
" be
" co
" wi
" na
" wa
" wh
" its
" gr
" dif
" me
" wh
" in

momentous question, I never could or would support any of the numerous forms proposed; all of which assume that we have jurisdiction over the notice, and propose to empower and direct the President with the execution of our will in relation to it. He wants neither our authority or advice; he only requests our endorsement of what he has done, and what he proposes to do. He wishes to make instruments of us to overthrow the constitutional and impassable barrier of two-thirds of the Senate to his further advance; and, for one, I shall not consent to be so used.

But this subject has other interesting relations, and among the most important is the question of the title to Oregon. It would certainly be better that this branch of it should not be discussed in Congress; but when the President has improperly obtruded this subject upon us, and his palpable purpose is to bring Congress and the country to the decision to fight for all Oregon, there is no escape from an examination of the point whether the whole of that country belongs to us. This debate may produce mischief in our relations with a foreign nation; it has already produced vast mischief in disturbing the business of the country. It was unnecessary and improper in its origin; it can do no good, and all its fruits will be evil. The President and his advisers only are responsible for it. Until the last few days of the debate there has been but one fair and elaborate examination of the question of title. The able gentleman from Georgia (Mr. Toombs) was the first to cast a broad light upon it. All the gentlemen who have advocated the notice, except him, have not demonstrated, but have only assumed boldly, our title to the whole country. He admits that our title to a large portion of it is liable to be seriously questioned. I propose to examine this point somewhat in detail, as I deem it to be one of the most important involved in the debate.

We acquired the Spanish title of Oregon by the treaty of Florida in 1819, so that we combine that with our own previous right. The world concedes that the Spaniards were the first European discoverers of the northwest coast of America. Discovery of itself does not give title to a country; but, if followed up with certain acts by the discoverers, it does. The principle of national law applicable to such cases is concisely but perspicuously stated by Vattel, page 99:

“All mankind have an equal right to things that have not yet fallen into the possession of any one; and those things belong to the person who first takes possession of them. When, therefore, a nation finds a country uninhabited, and without an owner, it may lawfully take possession of it; and, after it has sufficiently made known its will in this respect, it cannot be deprived by another nation. Thus, navigators going on voyages of discovery, furnished with a commission from their sovereign, and meeting with islands or other lands in a desert state, have taken possession in the name of their nation; and this title has been usually respected, provided it was soon after followed by a real possession. But it is questionable whether a nation can, by the bare act of taking possession, appropriate to itself countries which it does not really occupy, and thus engross a much greater extent of territory than it is able to people or cultivate. It is not difficult to determine that such a pretension would be an absolute infringement of the natural rights of man, and repugnant to the views of Nature, which, having destined the whole earth to supply the wants of mankind in general, gives no nation a right to appropriate to itself a country, except

‘ for the purpose of making use of it, and not of hindering others from deriving advantages from it. The laws of nations will, therefore, not acknowledge the property and sovereignty of a nation over any uninhabited countries, except those of which it has really taken actual possession, in which it has formed settlements, or of which it makes actual use. In effect, when navigators have met with desert countries, in which those of other nations had, in their transient visits, erected some monument to show their having taken possession of them, they have paid as little regard to that empty ceremony as to the regulation of the Popes, who divided a great part of the world between the crowns of Castile and Portugal.’

Discovery is the first inception of title, but it lapses unless followed up within a reasonable time by possession. Grotius and some of the earlier writers required cultivation in addition. Occupancy, and the exercise of dominion, are indispensable; and if, after discovery, the country has remained a long time without them, it is again open to all mankind. This is the law both of God’s providence and man’s reason. Spain was unquestionably the first European Power to make settlements upon the northern as well as the southern division of this continent, and at many distant points. That Power, in conjunction with Portugal, took formal possession of the entire new world—continent, oceans, and islands; and, in perpetuation of it, erected monuments in numerous places. Those two nations afterwards divided this vast dominion by an imaginary line drawn from pole to pole, and procured Pope Alexander VI. to confirm it. Spain, particularly, insisted upon this extravagant claim for ages, but the rest of the world regarded it with contempt, and treated the vast unsettled regions of the entire western hemisphere as open to their colonization and settlements.

In 1535, the Spaniards, under Cortez, sailed into the bay of California, and anchored in a port now called La Paz, in about the 24th degree of north latitude. In 1543 Ferrello explored the coast as far north as 44°. In 1596 there are some traditional accounts that Fuca, a Greek sailor, under Spanish colors, sailed through the strait now bearing his name, and which is situated between Vancouver’s Island and the continent, and extends from about 48° to 51° of latitude. Vizcaino, in 1603, explored the coast as far north as 43°, and then returned to Mexico. From that time until 1768, the entire western shore of America, north of Acapulco, was almost totally neglected by the Spaniards. Their settlements upon it were all below the 20th degree of latitude until 1770. In 1702 the Jesuits had formed missionary establishments on the eastern shore of California bay, up to about the head of the peninsula, in latitude 32°; and in 1767 they were expelled from the dominions of Spain, even from those distant possessions. In 1769, their jealousy being then stimulated by the frequent voyages of English and Dutch ships into those seas, the Spaniards again turned an active attention to this coast, and, between that year and 1774, sent out several expeditions of exploration and settlement, and successively founded San Diego, Monterey, and San Francisco. The last mentioned town, being in latitude 38° 40’, is the most northern settlement which the Spaniards ever made. In 1774 Perez, at the head of one of their expeditions, discovered and anchored in Nootka Sound, on the Island of Vancouver, in 49° 30’ north, having previously explored the coast as high as 54°. The Spaniards commanded by Heceta, whilst coasting along in 1775, discovered the mouth of the Columbia river. He lay by a day to enter it,

but was prevented by the strong current which rushed out from it. He gave it the name of the Rio de San Roque. He then returned to Mexico, having coasted up as far as 50° . In the same year Bodega and Maurella reached as high a point on the coast as 65° . These were exploring expeditions, undertaken by the Government of Spain with a view to obtain particular knowledge of the coast, and to assert her right to it. At many places, to the extremest point of their examinations, these explorers took formal possession of the country in the name of their sovereign, and set up crosses and other mementoes as evidences of his dominion. But no emigration or settlement ensued.

In 1788, Meares, an English trader, anchored in Nootka Sound, and with the consent of the Indian king, formed an establishment there for the rendezvous of two or three small ships in the fur trade. The Viceroy of Mexico learning this fact, in the following year sent an expedition, under Martinez and Haro, to assert, peaceably and courteously, the paramount rights of the King of Spain to that place and the adjacent coast. Meares was absent on a trading voyage to China when Martinez sailed into Nootka Sound; and, after some days' delay, the Spanish commander took possession of his ships and the place, and hoisted upon it the Spanish flag. This was a remnant of the old Spanish pretension to the whole of North America. The English colonies upon the Atlantic slope had pushed it to the western shore, and to the Pacific. But England, Holland, and France, never had recognised it to extend rightfully beyond the immediate neighborhood of Spanish settlements, and had always claimed and asserted the perfect freedom of the seas. They sent their trading ships into the Pacific, and upon the coasts where there were no Spanish colonies, at pleasure. This sovereignty which Spain claimed over ocean, and an almost boundless unpeopled forest, was, during the long period that it was set up, equally, and every where, contemned and disregarded by all the Powers of the world, as their settlements or trade brought them into conflict with it. It was the great distance of the northwestern coast of America from the business and civilization of Europe, its being sparsely peopled by poor savages, and having no Spanish authorities resident within its wide limits, that deferred so long, and rendered so rare, overt acts of resistance by other Powers to this claim of Spain.

In 1740 the Russians commenced their expeditions of discovery and exploration on the extreme northwest coast of America. The celebrated Behring, in that year, conducted an expedition from Kamschatka to the opposite shore of this continent, and coasted along as far as Mount St. Elias, under the 60th parallel. He ran down south in view of the Aliaska Mountains in 56° , and then passed the Aleutian archipelago nearly under the 53d parallel. Other expeditions were undertaken, and settlements were formed by the Russians, and pushed on south in the direction of the Spanish power, but still far distant from any of its seats, under the auspices of Catherine II. Her son Paul, in 1798, granted to a Russian company the *entire use and control*, for twenty years, of the coasts of America on the Pacific, from the 55th degree of latitude to Behring's Strait, together with the adjacent isles. All this was in disregard of the assumed rights of Spain to the whole of the northwest coast of America; nor was the march of the Russian Power south limited but by its own will.

The English, under Drake, in 1579, sailed around Cape Horn, and displayed their ensigns in the Western ocean; for the sole purpose of warring

against the rights which Spain arrogated in that quarter of the globe, and preying upon her commerce. He swept their ships from the seas, and left a name terrible alike to coast, island, and ocean. He struck the American shores under the 43d parallel, and coasted along until he found a harbor in about 38. He saw here no settlements or vestiges of civilized man. He remained some weeks, and refitted his ship; during which time the natives conferred upon him the country, and crowned him its king. He received its cession for the benefit of his sovereign, Queen Elizabeth, set up monuments to perpetuate the transaction, named the country New Albion, and sailed for England. Cavendish made a cruise in the Pacific in 1587, having objects similar to those of Drake. He lay in wait for the Manilla galleon Santa Anna, near Cape San Lucas, the southern extremity of California, captured, plundered, and burnt her, and left her crew on the desert coast. In his cruise he was only less formidable to Spanish commerce than Drake. The opposition of the English to these pretensions of Spain, so early and vigorously manifested, never, through the long tract of time which has subsequently ensued, in any degree relaxed. They were well seconded by the Dutch. The Governments of both countries, with equal earnestness, protested against these inordinate Spanish assumptions, as being in derogation, not only of their own rights, but those of mankind. Their traders never treated them with any regard; and when relations between the respective countries were at all unsettled, their cruisers were ready to avenge the affront of the claim. But in the latter half of the last century the British Government began to give a more serious and connected attention to the Pacific and its North American coast. In 1776 an expedition was fitted out, and that great navigator, Captain Cook, appointed to its command. He was instructed to proceed, by the way of the Cape of Good Hope, New Zealand, and across the Pacific, to the coast of New Albion, which he was to attempt to reach in latitude 45°. On his way thither he was specially instructed not to touch, if he could avoid it, any part of the Spanish dominions on the western continent of America. This enterprise was enveloped in some secrecy in consequence of the American Revolution having just then broken out. Cook was further directed, when he should arrive at New Albion, to refit, and then proceed northward along the coast as high as 65°; and from that point he was to commence a search for the northwest passage into the Atlantic. All uninhabited countries which he might visit he was "to take possession of for his sovereign, by setting up proper marks and inscriptions, as first possessors and discoverers." Cook made the coast about the 40th parallel, and commenced greatly the most minute and accurate examination of it that yet had been made. On the 7th March, 1778, he anchored in Friendly Cove, in latitude 49½°, and remained there nearly the whole month of April, refitting. He continued his examinations of the coast with signal perseverance and fidelity, taking possession of the numerous places at which he landed for the crown of Great Britain, and giving English names to the bays, inlets, sounds, rivers, mountains, and islands; and eventually reached a point on the American shore as high as 70° 29'. Cook perished in 1779, on his return voyage to England, at Owyhee, in an affray with the natives; and the results of his voyage were not made public until after the war of the American Revolution. Within a few years after the voyage of Cook, a considerable English trade sprung up between the northwest coast and India and China, carried on by

the Ea
with P
it was
Meares
the fla
in 178
the tw
trade;
Spanis
Nootka
Wh
Govern
were i
erme
place s
redres
Govern
iards s
had be
of vio
establi
parties
disturb
the Pa
seas in
comm
At the
it cont
and b
rights
rightf
that t
to her
formi
cogni
rights
there
ion;
condi
the n
the u
natio
any p
ing n
but b
the c
and
by c
a ho
V
were

the East India Company, the South Sea Company, and private traders with Portuguese licenses; to evade the monopoly of those corporations; and it was prosecuted from Nootka Sound and other points with great activity. Meares made his first adventure to those regions, with three others, all under the flag of the East India Company, in 1786. His second voyage he made in 1788, with Portuguese papers, to escape the exactions and forfeitures of the two great associations which claimed an exclusive monopoly of this trade; and it was during his absence with a cargo of furs in China that the Spanish authorities seized his remaining ships and his establishment at Nootka Sound.

When the news of this seizure reached England it greatly aroused the Government and the people. The most active and powerful preparations were immediately made for war, and Pitt demanded of the Spanish Government ample indemnity for the property, and immediate restitution of the place seized, and threatened, if they were withheld, to obtain immediate redress by the sword. The consequence was, the formation by the two Governments of the famous Nootka Sound treaty. By its terms the Spaniards stipulated to restore the *buildings and tracts of land* of which Meares had been dispossessed by their authority, to make just reparation for the acts of violence and hostility committed upon his ships, his other property, and establishment, and upon the persons of those who had charge of it. The parties further mutually "agreed that their respective subjects should not be disturbed or molested, either in navigating or carrying on their fisheries in the Pacific ocean or in the South seas, or in landing on the coast of those seas in places not already occupied, for the purpose of carrying on their commerce with the natives of the country, or of *making settlements* there." At the time of this treaty the most northern Spanish settlement was still, as it continued ever afterwards to be, at San Francisco, in latitude 37° 48'; and by its terms Spain acknowledged, in effect, that she had no exclusive rights north of this point; that the British establishment at Nootka was rightfully formed, and the seizure by the Spanish authorities wrongful; and that the entire coast northward was open to the English subjects, as well as to her own, for navigation, fishing, landing, trading with the natives, and forming settlements. These are the mutual rights which those powers recognised each other to possess in the country of Oregon. They are such rights as are universally incident to all uninhabited vacant countries, where there are neither settlements, nor people, nor laws, nor officers, nor dominion; and, in relation to Oregon at that time, and all countries in its then condition, these rights belonged not to England and Spain only, but to all the nations of the world. The earth is the common heritage of mankind, the universal gift of a bounteous God. It is alike the law of reason and of nations, that such portions of it as are not occupied may be appropriated by any people; and Oregon, in 1790, when this Nootka treaty was made, having no people, no government, no laws, no political authority of any kind, but being in a state of unbroken, unsubjected, primeval solitude, except the occasional landing of traders upon the coast to traffic with the savages, and having so continued for more than two centuries since it was first visited by civilized man from Europe, was open to any race who might seek it for a home and subsistence, to establish their hearths and their altars.

Vancouver; on the part of the English, and Quadraga, for the Spaniards, were appointed commissioners to superintend the execution of this conven-

tion; and the Spanish authorities either formally surrendered Nootka to a British officer, who was commissioned to receive it, or they informally abandoned it in fulfilment of their stipulations. They also paid Meares a most ample pecuniary indemnity for the confiscation of his ships and property. Vancouver made the coast of America in April, 1792, near Cape Mendocino. He met Gray in those seas, and received from him an account of his discovery of the mouth of the Columbia, but did not credit it. He struck into Fuca Strait, and there came across Galiano and Valdez, who led the last Spanish exploring expedition into that region. Vancouver united with the Spanish navigators, and they conjointly conducted the further examination of the strait through a considerable part of it, when the Spaniards desisted. He continued and completed a survey of the whole strait, with all its principal sinuosities, and made charts thereof with a degree of care and accuracy remarkable for that day. He gave English names to most of the objects of interest noted in his work. On his return from the more northern coast, learning certainly that Gray had discovered the Columbia river, Vancouver dispatched Broughton to examine it. He entered the Columbia, and explored it about one hundred miles up, and named the highest point which he reached Vancouver. He took possession formally of both shores for the crown of Great Britain.

In 1792, Sir Alexander Mackenzie, the superintending proprietor of the British Northwest Company, ascended Peace river, from Athabasca lake, east of the Rocky Mountains, to the head springs on their summit. Within a half mile of one of them, and just across the apex of the mountain, and near the fifty-fourth parallel, he embarked on one of the head branches of a river, which has since been called Fraser's river, and floated down it in canoes about two hundred and fifty miles. He then left this river, and proceeded about two hundred miles over land, and struck the Pacific at the mouth of an inlet, in latitude $52^{\circ} 20'$, which had been surveyed a few weeks before by Vancouver, and named by him Cascade Canal. The most northern sources of Fraser's river are about under the parallel of 56° , and it disembogues into Fuca Strait in or near 49° . Its general and very direct course is from north to south, and it divides the portion of Oregon north of 49° into something like equal parts.

The expedition of Lewis and Clarke, which started for the Pacific in 1805, attracted the attention of the British Northwest Company, and stimulated it to attempt settlements west of the Rocky Mountains; and in that year M. Laroque was dispatched by it to establish trading posts on the Columbia river. He failed; and in the year following, 1806, Fraser was sent on an expedition for the same purpose. He followed the general route which had been pioneered previously by Mackenzie, and established a trading post above latitude 54° on a small lake, which now bears his name, and which communicates with one of the head branches of Fraser's river. Other settlements were formed in the same country, and the inhabitants and traders in 1808 named it new Caledonia. From time to time these settlements were extended down this river to near its mouth, where Fort Langly was established. They spread wide over the country, until they numbered twenty-three, and dotted, at distant but consecutive points, even the northern margin of the Columbia. They have been uninterruptedly maintained to this day; and no civilized people, except the English, have ever had a post or settlement north of that great river. The laws of

Canada
1820, a
another

Let
Oregon
graham
1788.

up to th
lumbia
ed the

Fuca S
ton on

Colum
his disc
1792, l

to enter
bia twe
made s

proceed
ish con

Mr.
acquisi
subject

Houses
Clarke

then to
the Co

the mo
the pu

and u
Bonap

serious
yond t

Clarke
countr

sumed
of the

over,
Clark

it dow
thenc
to its
comm

river
elevat
chiefs
explo
the R
plorin
of th
for a

Canada were extended over the British settlement of Oregon in the year 1820, and man, in that remote and still untamed land, has never known another code.

Let us now take a view of the title which the United States set up to Oregon previous to the acquisition of the rights of Spain. Gray and Ingraham sailed from Boston on a trading expedition to the northwest coast in 1788. Gray spent the following summer at Nootka Sound, and in running up to that port saw an opening which was probably the mouth of the Columbia river, and which he attempted unsuccessfully to enter. He explored the coast east of Queen Charlotte's Sound, penetrated some distance into Fuca Strait, and then returned to the United States. In 1791 he left Boston on a second trafficking voyage for this shore of the Pacific, in the ship *Columbia*, and having met with Vancouver on the coast informed him of his discovery of the Columbia during his previous voyage; and in May, 1792, he again discovered the mouth of that river, was the first white man to enter it, and called it by the name of his ship. He sailed up the Columbia twenty-five miles, and remained some days in it, during which time he made several attempts to get back into the ocean before he succeeded. He proceeded to Nootka Sound, gave information of his discovery to the Spanish commandant, and returned to the United States.

Mr. Jefferson originated the expedition of Lewis and Clarke before our acquisition of Louisiana. On the 18th of January, 1803, he brought the subject to the attention of Congress in a confidential message, and the two Houses having approved of his enterprise, he commissioned Lewis and Clarke to explore the river Missouri and its branches to their sources, and then to seek and trace to its termination in the Pacific some river, "whether the Columbia, the Oregon, the Colorado, or any other which might offer the most direct and practicable water communication across the continent for the purposes of commerce." It is true that, when Mr. Jefferson conceived and undertook this project, he was negotiating the Louisiana treaty with Bonaparte with every prospect of success; but he never, nor any person, seriously contended that the western boundary of Louisiana extended beyond the summit of the Rocky Mountains. The expedition of Lewis and Clarke crossed the Mississippi in May, 1804, and encamped in the Mandan country, up the Missouri, the ensuing winter. In the spring of 1805 it resumed its explorations of the head branches of that river, and traced some of them to their springs in the Rocky Mountains. Lewis and Clark passed over, and at the beginning of their western slope fell in with the sources of Clarke river, the great southern branch of the Columbia. They pursued it down to its confluence with Lewis river, or the northern branch, and thence to where their united streams disemboque into the Pacific, and close to its beach they passed the winter of 1805-'6. In the spring of 1806 they commenced their return to the United States. They ascended this mighty river of the Far West to the Great Rapids, and from thence crossed over elevated plains, and struck into and passed the Rocky Mountains. The two chiefs here separated, each with a division of their company, and severally explored some of the tributaries of Clarke river. They reunited east of the Rocky Mountains, and brought this most arduous and important exploring expedition to a close. From this epoch the Government and people of the United States have claimed to have rights in Oregon, and have never for a moment abandoned the purpose of making permanent settlements in

it. In 1808 the Missouri Fur Company was formed, and, soon after, it established a trading post, under the superintendence of Henry, on a branch of Lewis river. In 1810 the Pacific Fur Company was constituted in New York, under the auspices of John Jacob Astor, and by it Astoria was founded in October, 1811, at the mouth of the Columbia. That place was captured by the English in the war which immediately ensued, and its restitution was insisted upon by our Government, and made by the English in October, 1818, as an American possession, under a general provision in the treaty of Ghent. A short time before, and in the progress of the negotiation which resulted in the treaty concerning Oregon, in 1818, between the United States and Great Britain, Mr. Monroe solemnly offered to terminate the controversy by dividing the whole of Oregon between the two Powers on the forty-ninth parallel, Great Britain to have in addition a common right to navigate the Columbia. By the Florida treaty, in 1819, we acquired not the territory of Oregon, but only such right, title, and interest as Spain had. There was no transfer of fortifications and other public property; there was no exchange of authorities; no delivery of possession consequent upon that treaty.

I have given a rapid, but, I think, a fair and just view of the Spanish, English, and American title to Oregon, as it is to be deduced from discovery, exploration, and settlement. The Spanish title has stood exploded for generations, by the laws of nations and the unalienable rights of mankind. The English disregarded it uniformly for more than two centuries. Russia made successive and large encroachments upon it, and never definitely recognised it any where. The United States, from the time of Mr. Jefferson's elevation to the Presidency down to the period of the Florida treaty, always treated the Spanish title as shadowy, unsubstantial, obsolete, of no validity; and even offered to divide the country with England without any reference to it. Our exploration of Oregon with an armed body of men, continuing through two years; our settlements on its eastern and western confines; the capture of one of these settlements by our public enemy with whom we were at war; our demand of its restitution under an article of the treaty of peace, and its public and formal re-delivery to our authorities; our protracted negotiation with England, in which we asserted title to the whole of Oregon, prior to the treaty between her and the United States in relation to it in 1818; and our offer to that Power to sever Oregon with her, without any allusion to, much less the recognition of, any rights in Spain, all utter the distinct and irreversible judgment of the United States against the Spanish title. That Spain witnessed all this, and made no complaint, no protest, and took no measures to assert any right to Oregon, proves that she acquiesced in the rightfulness of that judgment. The manner and terms in which she ceded this title in the Florida treaty, strongly indicate that she had ceased to attach any consideration to it. Our right results from exploration and settlements in a vacant and unappropriated country: the acquisition from Spain quiets a pretended claim, but adds nothing to the strength of title.

The position that the British title to the country drained by Fraser's river is as strong as ours to the valley of the Columbia, cannot be successfully controverted. Suppose that England, instead of the United States, had obtained this antiquated title of Spain, which never, in truth, had a legal or valid existence; and, connecting that with her explorations of the Fraser

river course
issue wi
England
first ent
tlement
to these
this, on
bia in 1
of its co
Pacific
tence w
formatio
crease,
to the o
ken con
possessi
Oregon
facts ma
ernmen
and pos
Americ
lions of
Is there
the wh
title ove
such a t
an abse
But o
sert tha
Gray di
by an e
of a riv
the wh
whom
demon
had dis
to ente
noted o
had of
public
try dra
versed
site of
Englis
try dra
ed and
source
mont;
at the
sent S

river country, her prior, many, and continued settlements along the whole course of that stream, in exclusion of all other people, should make an issue with us of title to the valley of the Columbia: that all the right which England could make out to the latter country resulted from her ship having first entered the mouth of Fraser's river, her early explorations and settlement upon it, although lofty mountains rise between the two streams; and to these circumstances was added this simulation of a title from Spain. To this, on the other hand, we opposed the discovery of the mouth of the Columbia in 1792; the exploration of its sources and of the stream for about a third of its course, and then a further exploration of the country between it and the Pacific in 1793; the establishment of a trading post, the first that had existence west of the Rocky Mountains, upon its head-waters in 1806, and the formation of others lower down in 1808 and 1810; their progressive increase, until they numbered twenty-three, studded the margin of the river to the ocean, and had spread wide from it over the country; the unbroken continuity of these settlements from their origin; and no other people possessing or having ever attempted to make any settlement in that part of Oregon. If we could and did array such a title to this valley as all these facts make out against the right of England, as before stated, and her Government were to take the position that "her title to the country thus held and possessed by us was clear and indisputable," would it not strike every American with indignant amazement? Is there a mind in our twenty millions of people which could be convinced that our title was not the best? Is there an American heart in this broad land who would not prefer to peril the whole of Oregon upon the wager of battle, sooner than yield our solid title over more than half of it to this ridiculous English pretension? Just such a title has England to the country upon Fraser's river, and just such an absence of title do the United States exhibit to that part of Oregon.

But other grounds and facts have been relied upon by gentlemen who assert that we have a perfect title to all Oregon. It is assumed that Robert Gray discovered the mouth of the Columbia in an American ship, and that, by an established principle of the law of nations, the discovery of the mouth of a river enures to the Government of him who made it, and carries title to the whole country drained by it. Gray was certainly the first navigator, of whom there is any record, who sailed into the mouth of the Columbia, and demonstrated that it was the debouchement of a great river. But Heceta had discovered it in 1774. He lay by some time endeavoring ineffectually to enter it, and named it "The River San Roque." Other navigators had noted one of the capes at the mouth, and the coast north and south of it had often been examined and was well known. Neither is it a principle of public law that the discovery of the mouth of a river gives title to the country drained by it. The Spaniards, under Hernando de Soto, in 1543, traversed the country from Florida to the Mississippi, striking that river near the site of Memphis, and, descending it, passed out into the Gulf. Neither the English nor the Dutch conceded that this gave title to Spain to all the country drained by the Mississippi; but both those Powers afterwards appropriated and settled sections of the country in which its head branches have their sources. The Hudson has some of its tributaries to take their rise in Vermont; and the English never recognised the settlement of New Amsterdam at the mouth of the Hudson, and the country attached, constituting the present State of New York, as giving Holland the right to Vermont. The

Delaware and the Susquehanna have their sources in New York; and yet the discovery of the mouth of those rivers by the English was not afterwards regarded by the Hollanders as giving them the title to Western New York, which was appropriated notwithstanding by the Dutch, and became a possession of Holland; nor was this resisted by England. The French discovered the mouth of the St. Lawrence and settled Quebec long before the English had discovered any of its head branches; yet she afterwards pushed her colonies into and held large sections of the country drained by its tributaries, without question from France. Other cases as strongly in conflict with this assumed principle of the laws of nations might be adduced from the history of the early settlement of other portions of this continent. Nations have contended for or resisted its authority as their circumstances and interests prompted: it has not yet been incorporated into their code.

Continuity and contiguity have also been relied upon to give us title to Oregon. These grounds are open to the same objection taken to the right deduced from the discovery of the mouth of a river. To them, indeed, it applies in unbroken strength, as there is no respectable authority that gives to continuity or contiguity any such effect. In their very nature they are too vague and indefinite ever to be adopted as rules to determine the rights of conflicting empire. But, if their existence and application were admitted, what would be the consequence? Spain unquestionably discovered and made settlements before any other European nation, both upon the northern and southern division of this continent. The argument of continuity would have given all America to Spain, and have made all other nations that planted colonies on it trespassers upon her rights. Contiguity would confer Oregon upon Mexico, Russia, and England, in exclusion of the United States, as it binds upon their possessions also; and each of these powers had prior settlements nearer to it than those of the United States.

Such, Mr. Chairman, are the titles of the United States and Great Britain to Oregon, as I have been able to trace them. These titles, in all their facts, in their points of strength and weakness, are just as well known, and have been for the last thirty years, to English statesmen, as they are in the American Congress or the President's Cabinet. The question arises, should they, in all their details, be discussed before the American people at this momentous crisis? The President has repeated, in the most solemn form to Congress and to the world, that "no compromise of this controversy which the United States ought to accept can be effected;" that he has "asserted our title to the whole of Oregon, and he believes has maintained it by irrefragable facts and arguments;" and that "our rights in Oregon cannot be abandoned without a sacrifice of both national honor and interest, is too clear to admit of doubt." To sustain the right of the United States to the whole of Oregon, which he declares to be "clear and unquestionable," he invokes Congress to stand by him in taking the initiative of war. The English Government have heretofore steadily refused us the half of Oregon, upon our propositions to partition it. Before we can obtain the whole, we must count upon an expenditure of blood and treasure which we have never yet known. Where national honor or manifest national right made war necessary, I should be as prompt to resort to it as any man. But as a private citizen, and especially as an American Representative, I never would evoke this most comprehensive and terrible of all scourges as the means of seizing upon what does not belong to us. The American people

are too ju
sure. T
rightful c
of wrong
gon; a w
the great
which, t

Accor
against p
all Oreg
truthfull
dishonor
ed, as it
both fro
just jud
subject,
as far as
ing into
fundity

From
four hu
parallel
square
was con
the wh
such a
recogni
Mr. Pe
this Or
good fe
ment t
saying
to wha
that pr
Admir
them y
as the
mise, p
last of
right o
firmly
that, i
would
was n
his pr
menc
ruptly
had b
bia to
to con
had t

are too just and moral to tolerate their own Government in any such measure. Though there is no sacrifice to which they would not submit in a rightful cause, they would never consent to pay the frightful cost of a war of wrongful aggression with England. Such would be a war for *all Oregon*; a war, too, as impolitic and unnecessary as unjust; which would prove the greatest calamity that could befall my country, and in comparison with which, the re-election of Mr. Polk would be a priceless blessing.

According to my opinion, the Administration and its friends have assumed, against plain and incontrovertible facts, that we have a just and clear title to *all Oregon*. This is the important point, which ought to be rightfully and truthfully decided before we take a position that will render war or national dishonor inevitable. When this great issue of *War or all Oregon* is presented, as it has been by the President, to the American people, they have a right, both from the Executive and Congress, to the facts, to enable them to form a just judgment. I have no higher duty to perform than to present this whole subject, including the question of title, in its naked truth and reality; and, as far as I can, I intend fully to acquit myself of this duty. Before leaping into a yawning abyss, I will first attempt to look into its terrible profundity.

From the best geographical accounts, Oregon comprehends upwards of four hundred thousand square miles; and the part of it north of the 49th parallel contains an area of about one hundred and seventy-five thousand square miles, and is five times as large as the State of Ohio. If my reason was convinced that the United States had a clear and indisputable title to the whole of Oregon, I never would sanction any proposition to surrender such an extent of it to a Power having no right to any part of it, for her recognition of our title to the residue. If such be the honest conviction of Mr. Polk, and his position that the integrity of our territory is so sacred that this Oregon question cannot become the subject of arbitration be taken in good faith, how can he stand justified for his offer to the English Government to divide the country by the 49th parallel? He excuses himself by saying he made his proposition to compromise the controversy "in deference to what had been done by his predecessors," and especially in consideration that propositions of compromise had been thrice made by two preceding Administrations to adjust the question on the parallel of 49°, in two of them yielding to Great Britain the free navigation of the Columbia; and, as the pending negotiation had been commenced on the basis of compromise, he deemed it to be his duty not abruptly to break it off. The two last of the three propositions to which the President adverts, included the right of England to the free navigation of the Columbia, yet they were all firmly and absolutely rejected by her. Mr. Polk had no reason to believe that, in producing the proposition again, even in its most liberal form, it would be more favorably received by the Government of Great Britain. He was not hearty in making it, and did so only in deference to the course of his predecessors, and because the pending negotiation having been commenced on the basis of compromise, he deemed it to be his duty not abruptly to break it off. Yet Mr. Polk withdrew from the proposition, as it had been twice made by his predecessors, the free navigation of the Columbia to England. Did he think that the tendency of this variation would be to continue and bring to a successful close the pending negotiation, which had been commenced on the basis of compromise, since he withheld so im-

portant a stipulation, which left a proposition that could only be presumed to result in the surprise and irritation of the English Government? Why did he propose at all to cede almost one half of Oregon?— Why did he do this, since our title to the large part which he offered to surrender was clear and indisputable, and the territorial rights of the United States were of too sacred a character to be the subject of arbitration? He says: “The right of ‘any foreign Power to the free navigation of any of our rivers, through the ‘heart of our country, was one which I was unwilling to concede;’” and yet he proposes to give to the English Fraser’s river, having a course of a thousand miles, and a country five times greater than the State of Ohio.

But the President further tells Congress: “Had this been a new question, ‘coming under discussion for the first time, this proposition would not have ‘been made. The extraordinary and wholly inadmissible demands of the ‘British Government, and the rejection of the proposition made in *deference* ‘*alone* to what had been done by my predecessors, and the *implied obligation* which their acts seemed to impose, afford satisfactory evidence that no ‘compromise which the United States ought to accept can be effected. With ‘this conviction, the *proposition of compromise* which had been made and ‘rejected, was, by my direction, subsequently withdrawn, and our title to ‘the whole Oregon territory asserted, and, as is believed, maintained by ‘irrefragable facts and arguments.”

If we form an opinion upon the President’s language, he made this proposition of compromise to the British Government with much reluctance, and would not have made it except that it had been repeatedly offered by his predecessors. If he felt at liberty to absolve himself from so important a term as the navigation of the Columbia, with his convictions of our perfect right and of the inviolability of our territory, he would have been equally justifiable to have made no overture to divide the country. Why should *he make* one when the British Government had thrice rejected such a proposition? A total omission on his part would have produced less surprise and dissatisfaction with the British Government than a reproduction of the proposition stripped of their right of the free navigation of the Columbia. A friend of the Administration (Mr. PRESTON KING) has said in a speech which he made on this floor, in reference to this subject, that no person could have believed the President’s proposition would have been accepted by the British Government; and that it was not made with the expectation or wish that it should be. Certainly this statement is strongly corroborated, if not clearly established, by the character of the proposition itself, and what the President has said in explanation of his offer of it. It does look very much like the President and his Premier were not offering a proposition for the *acceptance* of the British Government, but were making up a case upon which demagogues might gull and inflame the people. If, however, he has acted in this business seriously and fairly, he must feel greatly relieved that his, the fourth proposition on the part of our Government for the compromise of this question with England, has failed; and now, with *his convictions and opinions*, I cannot conceive how he can, with the preservation of his patriotism and honor, ever again consent to so large a sacrifice of the rights of the United States in Oregon. Monroe, Adams, and Clay, successively, and with the approval of the American people, made this offer; but nothing, save their perfect persuasion that the title of the United States to a large portion of Oregon was involved in doubt

and unce
them. I
Messrs. P
ministrati
lieved of
to settle t
acting in
doubt of
without c
and inter
ures whic
right to t
on a bloc
even in a
I should
above th
aggressio
a clear a
direct co
British p
planted
of honor
us upon
But t
judgmen
of the co
be unav
If the r
an unse
of lofty
ocean, v
Horn, t
gon wo
and we
quate to
points,
gon.
man ex
paralle
Alth
erthele
British
distrus
history
at the
langua
as soon
ufactu
object
crumb
her sc

and uncertainty, if it was not even inferior to that of England, can justify them. It may be safely assumed, that they were as wise and patriotic as Messrs. Polk and Buchanan; but upon this great subject, the present Administration must think and act for itself, especially as it is now fairly relieved of all obligation resulting from the fruitless effort of its predecessors to settle this controversy. If I come to the conclusion that the President is acting in singleness of heart and purpose; that his mind is satisfied beyond doubt of our perfect title to all Oregon; that this title to the *whole* cannot, without question, be abandoned short of the sacrifice both of national honor and interest; that this notice ought to be given to clear the way for measures which cannot otherwise be adopted to enable him to assert our perfect right to the whole of Oregon, and which will inevitably and speedily bring on a bloody and terrible war with England, I could not nor I would not, even in a proper form, vote for a resolution advising the notice to be given. I should be totally unwilling to plunge the country into a war for Oregon above the 49th parallel, because I believe it would be a war of territorial aggression and without right. To that line, substantially, I think we have a clear and unquestionable title, and it would be the continuation, in a direct course, of the boundary line between the United States and the British possessions east of the Rocky Mountains. Our Government has planted itself so long and so tenaciously upon it as to have made it a matter of honor as well as right; and whenever war becomes necessary to maintain us upon it, I am ready to unsheath the sword.

But there are other considerations opposed to this notice, which, in my judgment, ought to have great weight. If it be given, a peaceable settlement of the controversy, or war about the time of the expiration of the notice, will be unavoidable. Things could not long continue without one or the other. If the result be war, we could not possibly send military supplies through an unsettled country of two thousand miles in extent, one-half consisting of lofty and steril mountains; and the English having command of the ocean, would cut us off from the only water communication around Cape Horn, the sailing distance by which is about eighteen thousand miles. Oregon would be certainly and early subjugated and held by a British army, and we could neither send nor maintain a force on so distant a theatre adequate to its reconquest. We would have to strike the British power at other points, and might be forced to come out of the struggle stripped of all Oregon. But if war could be averted by a settlement of the dispute, no sane man expects more favorable terms than a division of the country by the 49th parallel, and thus we should unquestionably lose near one-half of it.

Although I do not believe that we have a perfect title to all Oregon, nevertheless I want all of it. Especially I do not desire to see it continue a British possession. I cherish no feelings of hatred for England, yet I am distrustful of her grasping selfishness and her dominating propensity. Her history proves that she never foregoes an opportunity to aggrandize herself at the expense of any people; and though we are so closely allied to her by language, by history, and by blood, her onward and relentless spirit would as soon make a victim of the United States as any more alien nation. Manufacturing, colonial, naval, and commercial supremacy have been the great objects of her ambition and her policy for centuries. Her throne has once crumbled and been reconstructed; a new dynasty has oftentimes grasped her sceptre; she has experienced all the vicissitudes of peace and war; her

contending political parties have met in the fiercest contests and overthrown each other without number; antagonist ministers have encountered with warring systems, and in the deadliest enmity; her constitution, her laws, her policy, in all else, has been subjected to mutability; but in relation to those great objects it has known "no variableness, neither shadow of turning." Whatever was the nature or extent of the revolution, just where they were left did the succeeding power or influence take them up, and with the same trueness and constancy press them forward. Whoever or whatever has aspired to rule England, has found that devoted service to those great national ends was the law of their being; and they illustrate the story of all her wars and all her statesmanship. Look at the mighty results of a long course based upon a practical knowledge of the relations of things, both internally and externally, and a sleepless, never-ending exertion of the Government and the people to make the most of them, in promoting the manufacturing, colonial, naval, and commercial supremacy of England—a policy almost as firmly fixed as the sea-girt isle itself. From this small spot, almost unknown to the ancient world, and which now, but for the extraordinary achievements of her mind and her courage, would hardly be observed by the rest of the world, in the midst, as she is, of the surf of the northern seas, has sprung the most wonderful fabric of political empire that man has ever reared. In the annals of the world there is but one instance of a nation exercising a great and controlling influence in all the important movements of the affairs of every race and country of people, savage and civilized, inhabiting the globe. That nation is England, and she directs the destinies of mankind. Her great people have won this pre-eminence by the most persevering exercise of the highest physical, moral, and intellectual faculties for ages; and when I hear my countrymen exulting in the superiority of the Anglo-Saxon race, I turn to the parent stock, and, with mingled sentiments of pride, gratitude, and wonder, contemplate the glorious manner in which it has vindicated its just title to that distinction. I observe the wise, far-seeing, noble constancy with which she adheres to a system that has made her so great and so renowned, and then contrast it with our fickleness and crudities. What a valuable lesson does the teeming experience and the ripe wisdom of the mother, in this respect, read to the daughter, if she would but hearken to it. Let us be true to ourselves, and move steadily on to that greatness which destiny opens before us in the future. An American policy, wisely founded upon our peculiar condition and circumstances, comprehending the proper protection of all our great industrial interests, the general improvement of our physical condition, and the perfect evolvment of our vast and still slumbering resources, ought to be the one great object of our people and our statesmen. Whoever sets himself against such a system should "fall, like Lucifer, to rise no more."

This North America is our own world, and time will enable the Anglo-American race to occupy it, and to outstrip far that older one which our ancestors left behind, if that race be but true to itself. Our system is one of peace and progress. There will be no restriction to our conquests and achievements, whilst they continue to be bloodless. On the defence, too, we would have resources equal to the assault of the combined Powers of the earth. The greatness of the exterior pressure would act upon our union as upon an arch, adding to it compactness and strength. Military aggression on our part would result in dismemberment and ruin. It is to our injury and in-

security
continent
possessio
vide the
marked
we must
inactivi
"wise a
declaring
near thi
in that
settleme
of sever
and dur
ward.
erable.
the swe
tens of
tection
give the
derness
would
conflict
addition
settlers,
The
intrinsic
gress of
should v
versy?
title. I
and the
the mos
is there
what go
sure, pr
vince m
shall ha
gested i
settlers,
ated by
them.
people,
the floo
and flo
ments v
ng Am
most ha
English
more in
The dis

security for any European Power to be strongly felt in the concerns of this continent; and it is in the course of things that all of them will lose their possessions and influence here. What the United States have to do is, to bide their time, and await the natural development of events. Nature has marked out the limits which we are to occupy, and they are so ample that we must grow a long time and much to fill them. In relation to Oregon, inactivity on our part, except natural progress, would certainly have been "wise and masterly." The treaty between England and the United States, declaring Oregon to be open to the people of both countries, has existed for near thirty years. When it was made there was not an American emigrant in that country. It is only since 1843 that our people have begun to form settlements west of the Rocky Mountains, and now they number upwards of seven thousand souls. Last year the emigration exceeded four thousand, and during the present it is not doubted that a larger wave still will roll westward. On the contrary, the increase of the English population is inconsiderable. We now have thousands where they have hundreds; and, whilst the swell of their numbers would be barely perceptible, ours would become tens of thousands. Our policy was to throw the ægis of our laws and protection over these pioneers, to erect posts, and have mounted riflemen to give them security against the Indians on their journeying through the wilderness, and to postpone this question with England. Time and emigration would certainly have conquered the whole of Oregon for us. Or, if the conflict of arms for it should be brought on, each year would give important additions to our military power there, by the increase of the brave and hardy settlers, of agricultural productions, and the means of subsistence.

The strength of all claims of a nation upon others depends not upon their intrinsic justice, but its ability to maintain them; and when the rapid progress of things is greatly to increase ours, both generally and locally, why should we hasten to bring on a crisis with England in this Oregon controversy? Every day's delay adds strength to us, and consequently to our title. Her statesmen and her press perceive this to be the posture of affairs, and therefore desire a prompt settlement of the question. The present is the most favorable time for her; each revolving sun makes it less so. What is there now to render this notice so urgent for us? What important end, what good do we expect to accomplish by it? We will certainly defeat those sure, progressive, and peaceable advantages to which I have referred. Convince me that our interests or honor requires the notice to be given, and it shall have my prompt approval. Almost the only ground for it even suggested is an apprehension of collisions between the American and English settlers, and this controversy should be settled and the inhabitants be separated by the ascertained territorial boundaries of the two nations to prevent them. The Columbia divides, and would continue to separate, the two people, until the southern part of Oregon was comparatively filled, and then the flood of American population would break over this great natural limit and flow up to the Russian border. The almost stationary English settlements would before many years be displaced, or be merged into the teeming American family. The two people have yet had no collision, and a most harmonious and neighborly spirit seems to exist between them. The Englishmen are so few even now, and are so rapidly becoming relatively more inconsiderable, that they could not produce any serious difficulties. The disputed territory on the northeastern boundary had within it for a great

many years both English and American settlements. They were in different sections of the country, and got along quite amicably. The only disturbances resulted from the conflict of the civil authorities of Maine and New Brunswick; and in Oregon similar occurrences would be avoided by the laws of the United States operating exclusively upon our citizens, and those of Canada upon British subjects. But if these local difficulties should spring up and threaten the peace of the country, it would be time to think of a remedy when they were present; their anticipation is certainly a very insufficient reason for now giving this notice. Things have been in their present condition for a whole generation, except the great improvement which the last few years have made for us: why should we court war by making so important a change in them? It will be averted if this notice be withheld; and if such would be the consequence without any injury to national interests or national honor, by all the rights of humanity let it be done. It is probably our fate to have another war with England, but let it be kept off until it become necessary. We are now much more equal to a contest with her than we were in 1812; and when another comes, if come it must, I want every advantage that intervening growth and resources, position, circumstances, and a forecaste of it can give us. I desire my country then to be in such strength and condition that we will be able to meet and vanquish her at every point on this continent. When we unsheath the sword against her again, come it soon or come it late, if it be in my time, will be opposed to returning it to the scabbard until we drive her from the shores of America to her island home. I have a great horror of war, and want but one more with England, and, so far as the subjugation of her colonial power in America could remove cause of future wars, I would go for it at any cost of blood and treasure and suffering. Demagogues are the devils of Republics, and faction their multiform curse. These are the mischievous influences that have so untimely agitated this question, to jeopard the peace of the country and blast its prosperity: devotion to national interests and honor are but hollow pretexs. If war do now ensue from the Oregon question, it will fix upon those who rule, both in England and in the United States, a great and horrible crime. If it were a law of man's destiny that those charged with the affairs of nations, who sport with the lives and happiness of millions to minister to the lust of their own criminal ambition, were to be the first to meet the miseries and slaughter of war, what an incalculable amount of woe would the world have escaped! Such an ordeal would at this conjuncture save both nations from the ravages of this grim Moloch!

were in differ-
The only dis-
Maine and New
avoided by the
ens, and those
culties should
time to think
certainly a very
been in their
t improvemen
e court war by
f this notice b
y injury to na
manity let it b
land, but leti
more equal to
comes, if com
resources, po
sire my coun
e able to mee
e unsheath th
in my time,
e her from th
r of war, and
tion of her col
I would go fo
gogues are th
se are the mi
ion, to jeopar
national inte
ensue from th
England and i
a law of man
sport with th
r own crimina
ughter of wa
scaped! Suc
t the ravages

