

F  
786  
.W4



BANCROFT LIBRARY

*The Bancroft Library*

*No. 1112.*





Digitized by the Internet Archive  
in 2007 with funding from  
Microsoft Corporation



# REMARKS

174613

OF John B

## HON. MR. WELLER, OF CALIFORNIA,

ON

### THE MEXICAN BOUNDARY COMMISSION—THE RIVER AND HARBOR BILL—THE FUGITIVE SLAVE LAW, AND CALIFORNIA LAND TITLES.

DELIVERED IN THE SENATE OF THE UNITED STATES.

#### MEXICAN BOUNDARY COMMISSION.

FRIDAY, August 27, 1852.

The Civil and Diplomatic Appropriation bill being under consideration—

Mr. MASON said: Mr. President, I offer a further amendment to the bill, not, however, by instruction of the committee, but of my own motion. There is a provision in the bill "for running and marking the boundary line between the United States and Mexico under the treaty of Guadalupe Hidalgo, \$120,000. I propose to amend this clause by adding to it:

*Provided*, That no part of this appropriation shall be used or expended until it shall be made satisfactorily to appear to the President of the United States, that the southern boundary of New Mexico is not established by the Commissioner and Surveyor of the United States further north of the town called Paso than the same is laid down on Disturnell's map which is attached to the treaty.

Mr. WELLER said:

Mr. PRESIDENT, I regret very much that I am compelled to say anything to-night on this subject; but I am, from convictions of duty, driven to the necessity of moving to strike out this appropriation from the bill. There are many reasons which I could assign, if it were necessary, that the public interests demand that no further appropriation should now be made for this Commission. On the 22d day of March last, more than five months ago, I submitted a resolution to the Senate, (which was adopted,) calling upon the Secretary of the Interior for information as to the manner in which the appropriations heretofore made had been expended. There have been appropriations made by the Congress of the United States for the years 1850, 1851, and 1852—(I speak of the time which has elapsed since I headed that Commission)—amounting to the sum of \$365,000. Three hundred and sixty-five thousand dollars of the public money have been appropriated and expended. Early in the month of March last, I was anxious to ascertain the manner in which this money had been expended, in order that, if a call were made for further appropriations, we might be enabled to understand the propriety of making them. More than five months, as I have said, have elapsed since that resolution was adopted and sent to the Department of the Interior; and up to this hour the Secretary has refused to let this branch of the Government know how that money

has been expended! He seems to have assumed the ground, that under his Administration the people have no right to know what disposition has been made of their money. If this be the policy of the Whig party, I trust the people will see the necessity of ejecting them from power.

Mr. PEARCE. I would explain to the Senator that it has been communicated to me by the Secretary of the Interior—in reply to an inquiry which I addressed to him recently, after a conversation which I had with the Senator—that those accounts were not kept in the Department of the Interior, but that he had sent a direction, or a request, to the office in which they were kept, that copies of them should be made out and sent to the Senate.

Mr. WELLER. Well, sir, it is a matter of very little importance to me whether it be the fault of the Secretary or of the auditing officer of the Department. I am complaining of this Administration and of the Whig party, and they may divide the responsibility if they choose, between them.

When I was Boundary Commissioner, I was charged with "squandering the public money." Such an allegation was made by a Senator now on this floor, [Mr. SMITH,] who has not attempted to prove it, although I have challenged him to do so. A resolution was offered, calling for my accounts and all of my vouchers, in order that I might be convicted—as the accounts were then incomplete—of squandering the public money. How long do you think it took a Whig Administration then to answer that resolution? The record in my hand shows that the resolution was offered upon the 19th day of February, 1850, and upon the 27th day of the same month it was answered, transmitting the accounts, &c. It took precisely *eight days* to answer a call for all my vouchers and accounts. An answer was then promptly transmitted by the Department, showing a disbursement of nearly \$50,000. But here, now when I stand upon this floor and ask the Administration to give me an account of the manner in which my illustrious successor has expended the public moneys, five months have elapsed and they dare not give me the information! This unaccountable delay fully justifies the inference that the accounts would not bear public scrutiny. Do you call this honest and fair? Is this even-handed justice? Do the interests of the Whig party demand a suppression of the information called for?

F786

W4

The Senate will perceive that with this Administration, there is a very marked difference between a Democratic officer and a Whig officer! When they supposed that the production of those accounts of mine would enable them to sustain their charge against me of squandering the public money, and justify them in publishing me to the world as a "defaulter," those accounts were promptly sent here showing, as I have said, an expenditure of \$50,000. But after all their charges of "extravagance" and "defalcation," here and elsewhere, they were compelled to settle up my accounts and pay over a balance of some \$5,000 which they owed me!

But here has been an expenditure of \$365,000, and there is not a Senator on this floor who is permitted to know how one dollar of that money has been expended, and still they ask us now for \$120,000 more to prosecute this work! I must be satisfied that the amount heretofore appropriated has been honestly expended before I will consent to give you any more.

This officer was instructed to return his vouchers quarterly. Is there any difficulty in showing us these accounts, if all is honest and fair? How long will it take the accounting officer to make out the returns, and transmit them to the Senate? If they cannot transmit all, why not send us his settlements for some of the quarters of the past two years? If they cannot account for the whole appropriation, why not show us how some portion of it has been expended? If they cannot do either, why not honestly avow it? If the charges which your Whig Administration falsely made against me, are true as to my successor, depend upon it the day of exposure will come. And yet, whilst we are kept in the most profound ignorance, we are called upon to appropriate \$120,000, which, together with appropriations unaccounted for, will make nearly a *half million of dollars!* To this fact I desire to call the attention of the Senate and the country. It may enable the people to see how public affairs are managed by those now in power. It may seem to enlighten them as to their duty in the coming contest.

There is another thing connected with this matter to which I desire to allude. I found very recently, for the first time, that the Mexican Minister in this city had addressed a letter to the Secretary of State, under date of April 20, 1850, in which he complained of the delay of the American Commission in the prosecution of that work. I will read you a short extract from that letter:

"From the information and data which the Government of the undersigned has collected together, it must be confessed that if the task of defining the boundary line has been suspended and postponed until the month of November of the present year, it has resulted entirely from the fact that the Commissioners of the United States have frequently been absent in California, and that latterly the said Commissioners, with some exceptions, have not participated in the operations of settling the boundary. It was these same Commissioners of the United States who proposed as the only means by which these important labors could be continued, that the prosecution of the same should be delayed until next November. General Garcia Condé, chief of the Mexican Commissioners, in agreeing to this proposition, only yielded to the force of necessity, and although this chief found himself encompassed with difficulty to continue in the discharge of his duty, yet he was determined, as he intimated it to the United States Commissioners, not to interrupt the operation, the management of which had been intrusted to him by his Government."

Now, sir, I am not aware that the Secretary of

State ever responded to this allegation. He was quite willing that I should be censured. Here was a grave complaint—a complaint preferred by the representative of a foreign Government, that the Commissioner (he seems to have forgotten that there was but one) on the part of the United States was delaying the prosecution of that important work. To this letter, I say, the Secretary of State never made any response, although the Department of the Interior had then in its possession abundant testimony to show that it was utterly false and unfounded. They seemed to be quite willing that I should be convicted of delaying the work.

Mr. CLARKE. Will the honorable Senator tell me what Commissioner is alluded to in the letter?

Mr. WELLER. I am the man. I am the Commissioner alluded to. By the way, however, there is another letter from the Mexican Minister which I might read, complaining of a much more grievous offense on the part of my illustrious successor, whom my friend has so often defended. In that letter the Mexican Minister has complained that he (the American Commissioner) has organized parties for the purpose of exploring the country, examining its minerals, and hunting up all the bugs in the country! I believe he has parties in the field examining the geology and mineralogy of that country, and to this I presume the Mexican Minister alludes. The appropriations have been made for the sole purpose of running and marking the boundary line between the two Republics, and it would, perhaps, be somewhat difficult to justify the Commissioner in organizing these parties. If the accounts had been sent in under the call of the Senate we might have been enabled to ascertain how much money has been expended in this way.

But I was speaking of the letter complaining of my delay. The record then in the Department of the Interior showed that, so far from delaying the prosecution of the work, the delay had been the fault of the other side. I reached San Diego, the point fixed upon by the terms of the treaty, on the 31st of May,—one day after the time agreed upon,—and the Mexican Commissioner and his party did not arrive until the third day of July; and the Joint Commission was organized on the 6th. I was, therefore, compelled to remain five weeks after the time fixed upon for the meeting, wholly inactive, because of the failure of the Mexican Commissioner to meet me. As I was fully aware of the sensitiveness of the Mexican nation, I would not suffer my party to make any movements whatever in executing the work, until the representative of that Government arrived. I did not intend to give them the slightest pretext for complaint. Of these facts the Department had official knowledge, at the time the complaints were made.

But there is another point in this letter of the Mexican Minister, to which I invoke the attention of the Senate. He says that it was the fault of the American Commissioner that the Commission was adjourned in February to meet at El Paso on the 1st of November following. This is wholly unfounded, as I can readily show. In a letter addressed by me to the Department, under date of February 3, 1850, (which I find in the printed document before me,) and which was on file at the time this complaint was made, I used the following language:



"The Joint Commission to run and mark the boundary between the United States and the territories of Mexico, have agreed to adjourn to meet again at El Paso in the State of Chihuahua, on the first Monday in November next. I desired that the meeting should take place at an earlier day; but as it is understood that during the rainy season in New Mexico—(July, August, and September),—no successful operations could be carried on in the field, nothing perhaps would be lost by the delay."

Now, sir, there was the distinct declaration made in that letter which was on file in the Department at the time, that I had desired that an earlier day should be fixed upon for the meeting of the Joint Commission. Such was the fact. In fixing upon the time for adjournment, I proposed July. General Garcia Condé insisted on November, as it was impossible to carry on field operations during the summer months; and I confess that I was therefore struck with surprise, that the Mexican Minister should have addressed a letter to the Secretary of State, complaining of my delay! The journal of the Joint Commission will explain the whole matter. It reads thus—

"It was determined, as nothing remains to be done on this side of the line, except that which has already been provided for, and as it is impracticable, in the present condition of California, to advance from this direction beyond the mouth of the Gila, and towards the frontier of New Mexico, that the Commission should adjourn to meet at El Paso, in the State of Chihuahua, on the first Monday of November next."—*Extract from Journal, 15th Feb., 1850.*

It is true that my drafts had been protested, the appropriation exhausted, and no means whatever left to prosecute the work; still I did not choose to let the Mexican Commissioner know my real situation. I did not choose that he should know of the infamous course pursued by the party in power towards me. I did not choose that he should know that my drafts, drawn in conformity with instructions, and within the appropriation, had been protested, and that my party was suffering for their pay. Hence it was, as the journal shows, it was mutually agreed to adjourn, and for the reasons stated in the extract which I have just read. I had too much pride as an American to confess my inability, for want of funds, to go on with the work.

Mr. PRATT. Mr. President, the chairman of the Committee on Finance called the Senator from Rhode Island to order, because he was speaking of a subject not connected with the amendment.

Mr. WELLER. My proposition is to strike out the appropriation for the boundary, and that brings up the whole question.

Mr. PRATT. I think the honorable Senator is out of order. I think the rules of the Senate ought to be applied to one side of the Chamber as well as the other.

The PRESIDING OFFICER, (Mr. BRIGHT in the chair.) It is the impression of the Chair that the debate has taken a very wide range; but the Senate must judge whether or not the Senator from California is in order.

Mr. PRATT. I think that it is the duty of the Chair to judge.

The PRESIDING OFFICER. Then the Chair feels constrained to say that the whole debate has gone beyond the bounds of order.

Mr. WELLER. I am compelled to submit to the decision of the Chair, of course; but I think it is very remarkable that I should not be allowed to proceed. I have shown, however, by the record, that the charge of the Mexican Minister

against me is wholly unfounded. There were many things introduced by the Senator from Maryland [Mr. PEARCE] connected with this Administration so far as this boundary survey is concerned, to which I desire to refer.

Mr. PRATT. Mr. President—

Mr. WELLER. I do not wish to be interrupted.

Mr. PRATT. I choose to interrupt the Senator. I rise to a point of order. If the decision of the Chair is to be conformed to, the Senator from California must conform to it as well as the rest of us. I do not see why he should say to me that he did not choose to be interrupted when my object must be evident to everybody. I listen to the Senator with as much pleasure as to any one, but I think that at this time of the night, when it is near eleven o'clock, it is of no use to be going into these questions. I listened to the gentleman attentively for four hours in defending himself, and I must say that he did defend himself very successfully against the charges which had been brought against him. But I do not want a repetition of these matters to-night, at this late hour.

Mr. WELLER. The gentleman has exaggerated the length of time which it took me to defend myself. I believe I never spoke four hours in my life at one time; and I am sure I never occupied more than two hours in addressing the Senate. Besides, I am not responding to the charges to which I then replied.

Mr. PRATT. Then I made a small mistake as to time; that is all.

Mr. WELLER. I ask no exemption from the rules by which other Senators are governed, and will put myself in order by speaking to the point that is raised by the amendment. If I were to attempt to discuss the questions presented here by the amendment proposed by the Senator from Virginia, I should occupy much more time than I would have occupied in explaining a matter somewhat personal to myself. It is not often that Senators are interrupted here, when they are speaking of matters in which their own honor or their own reputation is involved.

I wish to say a word or two to the Senator from Maryland who sits furthest from me, [Mr. PEARCE.] I agree with him that there is a distinction between the Commissioner and the Surveyor, but I should never have undertaken, as Commissioner on that boundary, to have determined any point on that line without consulting with the Surveyor. His advice would have been implicitly relied upon, unless it was plainly and palpably wrong. The instructions to which the Senator referred, places the Commissioner at the head, and thus makes a distinct difference between the two officers. Under date of January 24, 1849, (the first instructions,) you will find that in organizing the Commission, Secretary Buchanan says:

"You are referred for any information which you may deem necessary, to Andrew B. Gray, Esq., who has been appointed Surveyor under the treaty."

It certainly was the intention of the Department to draw a distinction between the power of the Commissioner and that of the Surveyor. I considered myself as the head of the Commission—no doubt about that. I held myself responsible for the movements of all the parties who went out into the field; but I relied implicitly on the judg-

ment of the Surveyor for the determination of any point upon the face of the earth in the running of the boundary. So I relied implicitly upon the chief astronomer in determining the geographical position of any point desired. The one had charge of the linear surveys—the other of the astronomical lines.

I have perhaps detained the Senate too long. I regret very much that I have been compelled to inflict upon my friend from Maryland [Mr. PRATT] the remarks which I have made. I considered it necessary, and that is reason enough so far as I am concerned. I am sure that when he gets up in the Senate to speak of a matter in which his own reputation is involved, or where he has been grossly misrepresented at the bar of public opinion, I shall interpose no objection to his proceeding. In this respect I will return good for evil.

### THE FUGITIVE SLAVE LAW.

THURSDAY, August 26, 1852.

Mr. SUMNER submitted the following amendment to the Civil and Diplomatic Appropriation Bill:

*Provided*, That no such allowance shall be authorized for expense incurred in executing the act of September 18, 1850, for the surrender of fugitives from service or labor, which said act is hereby repealed.

Mr. WELLER. Mr. President, I certainly do not desire to weary the Senate, at this late hour, by attempting to discuss the question which has been obtruded upon it to day. But I may be allowed briefly to express my opinion, as I am now, for the first time, called on to vote upon it in the Senate.

I will say, sir, at the outset, that this is the first time in the course of my life that I have listened to the whole of an Abolition speech. I did not know that it was possible that I could endure a speech for over three hours upon the subject of the abolition of slavery. But this oration of the Senator from Massachusetts, [Mr. SUMNER,] today, has been so handsomely embellished with poetry, both Latin and English, so full of classical allusions and rhetorical flourishes, as to make it much more palatable than I supposed it could have been made. I do not see what object the Senator from Massachusetts could have had in view unless it was to excite in the free States of this Union a forcible resistance to the enactment of the last Congress known as "the fugitive slave law." In the exercise of that power which is vested in you under the Constitution, you have attempted to give security to one of the institutions that exist in a portion of the States of this Confederacy. Does any man suppose that this Union can be maintained unless every section of it is secured in the enjoyment of its constitutional rights? Can the Union be maintained if one portion of the Confederacy is permitted to trample upon the rights of another? I apprehend it is too late in the day to discuss the constitutionality of the fugitive law. The power of Congress to legislate on the subject is, in my opinion, unquestionable. The former law of 1793, containing provisions similar to those found in this act, was passed by the fathers of the Republic, who understood, perhaps, the Constitution quite as well as the Senator from Massachusetts.

Sir, I look to no "higher law" than the Constitution of the United States in ascertaining the political rights of the members of this Confederacy. I find that here is an institution fastened upon this country, recognized by the Constitution, and I am willing to throw around it all the guarantees necessary to give it protection. Now that Congress, in the exercise of the power conferred by the Constitution, have legislated, and the public mind has become settled down, and there is a peaceable and quiet execution of the law in almost every section of the Union, the Senator from Massachusetts, by an inflammatory speech, indirectly, at least, counsels forcible resistance. Why this attempt to show the resemblance between the fugitive slave law and the stamp act, which our revolutionary fathers resisted? The stamp act was resisted by revolution, by bloodshed.

Mr. SUMNER. The stamp act was not resisted forcibly.

Mr. WELLER. It was one of the acts which brought about the Revolution, which did result in bloodshed. It was one of the acts which our fathers refused to execute. And is the Senator from Massachusetts prepared for this? Does he counsel the people of Massachusetts, as he has to-day, to resist the execution of the law? Does he not know that, if his counsel is taken, bloodshed is inevitable? Sir, I would rather be the lowest and humblest slave in all the land, than to have the blood of murdered men upon my hands. If the constituents of the Senator from Massachusetts follow his direction, if they obey his counsels, murder, I repeat, is inevitable; and upon your hands, sir, ay, upon your hands, [addressing Mr. SUMNER,] must rest the blood of those murdered men. Are you prepared for that? Would your conscience sustain you in this? This forcible resistance is not only calculated to strike at the very foundation of our republican institutions by dissolving the Union, but to bring upon the head of the learned Senator from Massachusetts the blood of murdered men. He who counsels murder is himself a murderer! Does he think that any officer, who is charged with the execution of the law of the land, will not execute it? Does he not know that force will be met by force? Does he approve of the murders at Christiana? Would a repetition of that horrible tragedy gratify his taste?

The Senator from Massachusetts has denounced the slave-hunter as if he were a monster of most hideous mien! Who is the "slave-hunter?" A man who resides in one of the States of this Union, in the possession of certain property—property around which the guarantees of legislation have been thrown. That property escapes into a free State, and the owner pursues it. He goes, then, under the law of Congress, for the purpose of recovering that which is regarded as property; and the Senator counsels the good people of Massachusetts to regard that law as similar to the stamp act, and to resort to revolution in order to resist it! Does the Senator fully comprehend and properly appreciate the responsibility resting upon him?

Mr. SUMNER. Allow me to correct the Senator. I run a parallel between the slave act and the stamp act; and in doing that I showed historically how our fathers opposed the stamp act, and my language was precisely this: That they

rallied the country in *peaceful phalanx against the execution of the act*; that, within the bounds of the law and the Constitution, to that object they dedicated the patriot energies of the land. Such was the language I employed, as near as I can recollect; and let me say, that not one word has fallen from my lips to-day, suggesting, in any way, a resort to force.

Mr. WELLER. Then I entirely misunderstood the character of his speech, and the whole tenor of his oration.

Mr. SUMNER. Most certainly you did.

Mr. WELLER. Then I must plead guilty to the humiliating charge of not being able to comprehend the English language. My friend from North Carolina [Mr. BADGER] read extracts from a speech of the Senator from Massachusetts, delivered before he came here, in which, while he seems to have said ironically, "I do not counsel you to resistance," uses language calculated to lead directly to the forcible resistance of the law. If that is not to be inferred from his speech to-day; if any other construction can be fairly placed upon it, then I am unable to understand the force of English words. If, as he affirms, this act of Congress is a violation of the law of God, of the Constitution of the United States, a "wicked, infamous, devilish law, abhorrent to every principle of religion and morality," then a forcible resistance would be justifiable.

So that the Senator cannot escape from the conclusion. But, Mr. President, I hold that it is not only your duty to throw around this institution of slavery all the guarantees which legislation demands, in accordance with the power given by the Constitution, but you are bound as good citizens to avoid all agitation of that question in the free States. You are bound to prevent as far as possible any state of feeling from being engendered calculated to prevent a just and fair execution of the law. You are under a solemn obligation as citizens of the Republic to abstain from pursuing any course in the free States which is calculated to defeat the recovery of the property which may escape from the owner. You do not legislate upon the subject, it is true. You pass no law in Massachusetts prohibiting the slave-owner from going there in pursuit of his property—and why? Because you know that the Supreme Court of the United States would declare that all that sort of legislation was unconstitutional and void. But you do more; you manufacture by the sort of speeches we have heard here to-day, a state of public feeling which more effectually shuts out the slaveholder than any legislation you could adopt. Is that good faith amongst men and amongst States, all confederated together in one common Union? Does not common honesty require that we shall pursue that course toward each other which is calculated to preserve the peace and quiet of the whole?

But, Mr. President, I do not intend to discuss this subject; I only rose to express briefly my opinions, and to give utterance to the feelings of my heart. Perhaps it was not necessary that I should have expressed them—certainly not with regard to those gentlemen with whom I have been associated in public life, and to whom I am personally known. My opinions upon the subject have been well understood by them. I avowed them in 1848, when I had the high satisfaction of

being beaten for Governor in the State of Ohio. Upon the Western Reserve, the hot-bed of abolitionism—that section of my native State where the sentiments avowed by the Senator from Massachusetts will be appreciated—there I told his Abolition friends that if I were elected by two votes, and ascertained that two abolitionists had voted for me, I would resign the office and go home. You may infer from that, sir, what my sentiments have been toward the Abolitionists. And now, sir, let me say in *conclusion*, that I am content with the Constitution as it is. It has made us a great and prosperous nation—a happy and free people—contented at home, respected abroad. I desire to devote all the energies of my soul to its perpetuity; but I cannot see how it can be perpetuated except by securing to each State the undisturbed enjoyment of its constitutional rights.

## RIVER AND HARBOR BILL.

TUESDAY, AUGUST 24, 1852.

The River and Harbor Bill being under consideration—

Mr. WELLER said: I desire to say a word or two before the question is taken. I know that Senators are exceedingly anxious to vote, and I shall not detain them long. I merely rise for the purpose of stating my position in as few words as possible. I have never been very friendly to this system of internal improvements by the Federal Government, even as advocated by a considerable portion of my political friends. There are Senators on this floor much more latitudinous in their construction of the Federal Constitution than I am. When I was a Representative in the other branch of Congress, I felt myself bound by convictions of duty to vote uniformly against appropriations to improvements which may be regarded as local in their character. I have seen nothing to induce me to change the opinion which I then entertained; but on the contrary, the experience of the past few years has demonstrated satisfactorily to my mind that in order to preserve the peace and quiet of this Union, aside from constitutional obligations, it is of the last importance that this question of internal improvement should be taken out of the arena of Federal politics. If I had been here, therefore, on yesterday, I should have voted for the proposition introduced by my friend from Illinois, [Mr. DOUGLAS,] for I hold that man a public benefactor who takes out of the arena of Federal politics any one of those questions which are calculated in their nature to divide and distract the people. He who can diminish the number of questions upon which the States are divided, is entitled to the thanks of every well-wisher of the Republic. A policy which prevents as much as possible the States from being brought in collision with each other commands my support.

Sir, this question above all others, in my judgment, is calculated to disturb the peace and harmony of the States. Just so long as the General Government exercises the power of carrying on a system of internal improvements in the States by appropriations from the Federal Treasury, just so long must there be a struggle between the States as to the amount of money which they shall receive. You make the States the mere stipendiaries of the Federal Government. We have seen, during the progress of this bill through the Senate,

one Senator reproaching another for having obtained for his State more than its proper proportion of Federal plunder! Such a contest is the necessary result of the system. The smaller States may contribute more than their share to the Federal Treasury, but the larger ones will take care to use their numbers in the other branch of Congress to appropriate it within their own limits. In other words, you may find California exceedingly useful in replenishing your Treasury by contributing more than \$3,000,000 per year, but when the "grabbing" comes for internal improvements, the great States of New York, Pennsylvania, and Ohio, will take care to demand the lion's share. In this way the people of the small States, through their commerce, may be taxed, and thus compelled to carry on a system of internal improvements within the limits of the larger ones. This, in my opinion, is calculated to engender bad feeling, and so lessen the affection which ought to exist amongst the several members of this Confederacy. It would, perhaps, be impossible to adopt any system which would not operate unjustly upon some portions of the Republic. This must lead to dissensions difficult to be reconciled—to quarrels disastrous in their results.

Sir, this is inevitable under that system. If the General Government is to engage in a system of internal improvements of a local character, you bring the States directly in conflict with each other; you produce bitterness of feeling, which, in the end, must, as I have already said, alienate them from each other. This I hold to be the necessary result. How long do you suppose the Government will stand after the States have lost all affection for each other? Destroy that bond of love, of sympathy, which now binds them together, and the Union will soon cease to exist. A scramble for the public money will soon place the States in antagonism to each other.

With that party to which I belong, or at least that portion of the Democratic party who believe in extending our institutions until they have covered the whole American continent, it is of the last importance that we should confine the Federal Government to the few powers that have been delegated to it by the Constitution. Sir, at an early age in the history of this Republic, it was supposed that, however well adapted our form of government was to the control of a small portion of territory, yet by extending its limits and bringing into the Union antagonistical States, or at all events, States whose interests were, to some extent, in conflict with each other, you would endanger the Government and weaken the bond that bound the States together. If the doctrine of the Whig party were carried out, it would be dangerous, I grant you, to enlarge the number of States; but, under the Democratic doctrine, if you confine the General Government to the few and simple powers given to it by the Constitution, and if you take care that every State in the Union *studiously abstains from intermeddling with the affairs of their neighbors*, you may go on and increase the number of States until you have covered the whole American continent, and the Union will be stronger than it is now. But the salvation of the whole depends upon this. Therefore, if I believed in this extended system of internal improvements by the General Government within the States, I should deprecate the extension of our territory, because, when you bring

those States together with conflicting interests, it will be almost impossible to adopt a system of improvements which shall do justice to each, and thus preserve the peace and the harmony of the whole. But, sir, if you leave this question to the States, if you give them, as was proposed by my friend from Illinois, power to levy tonnage duties for the purpose of improving their harbors and navigable rivers within their limits, you would take away from the Federal Government one of those questions which, in my judgment, more than any other, is calculated to divide and distract the people of this Union.

It was for that reason that I was anxious to have recorded my vote for the proposition of the Senator from Illinois. There are many States in this Union that have no harbors, no navigable rivers, and it is somewhat difficult to explain to the Representatives of those States how it is that they are directly interested in the improvement of harbors and of rivers within the limits of other States. For instance, it is a very difficult matter to satisfy my friend from South Carolina [Mr. BUTLER] that it is right to take a portion of the Federal funds which belong to his people, and appropriate them to the improvement of a harbor or river in the State of Ohio. It is wrong in principle. I am, however, in favor of those improvements which are of a general and national character, and calculated, in their nature, to bind the States more closely together. The construction of a great national railroad, connecting the Atlantic with our Pacific possessions, whilst it would be clearly within the powers granted to the Federal Government, would bring the remote States into more intimate connection with the central States, and thus lay a permanent foundation for the prosperity and happiness of the people. I trust the day is not far distant when this important national work will be undertaken and completed by the Government.

But whenever the improvement is within the limits of a single State, or wherever the commerce to be affected is local in its character, I do not consider that of such national importance as to justify Congress in appropriating the Federal funds to it. It is better, therefore, in every view of the case, to leave this question to the States; and I trust I shall live to see the day when the principle asserted in the amendment introduced on yesterday by my friend from Illinois, shall be the policy of this Government. But if you are to carry on this system of internal improvements, if it is to be the settled policy of this Government, then, for one, I should be compelled to abandon a favorite policy—I mean the doctrine of extending the limits of this Union; for I should be afraid to increase the number of States where such a system was recognized by the Government. There are already sufficient elements of discord to endanger our safety, and if this policy, which must necessarily be partial in its operations, were introduced, it would be difficult, indeed, to preserve the Union. In such an event, the larger the number of States the more difficult it would be to reconcile conflicting interests and maintain the Union. As an extensionist, as a Union man, I am opposed to this policy.

I shall, without the slightest hesitation, vote against this bill. It is true it makes a small appropriation to the improvement of a harbor in the State from which I come; but the fact cannot be concealed that this bill is the entering wedge to a

system of local improvements which, if pursued, must bankrupt the Treasury, array the States against each other, and ultimately divide the Union. This bill makes appropriations to works of internal improvements which are, in my judgment, exclusively local in their character, and which are not calculated to advance the general interests of the people.

The power of Congress to improve harbors, or to prosecute a national work which in its nature is calculated to bring distant States more closely together, and thus strengthen the ligaments which bind them into one Union, is undeniable. So long as the power is confined to these general and national works, the most beneficial results may be anticipated; but when it is carried within the limits of a State by the Federal Government, and thus extended to local improvements, it must be disastrous.

If you will authorize the State of California to impose tonnage duties upon all vessels coming into her harbors or navigating her rivers, we would soon have all we desire. With the duties thus collected, we could remove all the obstructions in our navigable rivers, and make our harbors what the commerce of the country demands. Under such a system, those who use your harbors and rivers would pay for their improvement. Where the commerce of the country required harbors, there the best would be found; and millions would not—as has been the case—be expended in efforts to make them where nature never intended there should be any.

#### LAND CLAIMS IN CALIFORNIA.

MONDAY, August 2, 1852.

The Bill to ascertain and settle Private Land Claims in California, being before the Senate, in reply to some remarks of Mr. GWIN,

Mr. WELLER said: As my colleague has given notice that he does not intend to press the consideration of this bill to-day, I will content myself on this occasion by saying that I regret very much that I am not able to bring my mind to the conclusion that this bill is calculated to advance the real interests of the people of California. I cannot get rid of the opinion that the first section of the bill conflicts with the treaty of Guadalupe Hidalgo. I cannot divest my mind, I say, of that impression, because, if these claims which may be presented before the land commissioners are valid, they should be confirmed. In the decision of that question—the question of the validity of the claims—the board must be governed by the rules laid down by the act of Congress passed on the 3d March, 1851. This requires that the board shall be governed by the treaty of Guadalupe Hidalgo, by the law of nations, together with the usages and customs formerly existing under the Spanish and Mexican Governments, and by the principles of justice and equity. I can readily imagine that a claim may be presented to the board of commissioners, which is incomplete, in which the grantee may not have performed all the requirements of the Spanish and Mexican laws; but that person may have a just and equitable title through the occupation, improvement, and enjoyment of that which is covered by the original grant. I believe that after a grant has been made to any person—no matter what may be the extent of that

grant—if he has taken possession in good faith, and enjoyed, improved, and occupied it, thus substantially complying with the terms of the grant, he is entitled to have it confirmed. The Government of the United States should do what justice and honesty would have required from the Mexican Government. If that Government, under the usages and customs which prevailed, would have been required to secure the land to the grantee, then our Government is bound to respect it. The extent of the grant cannot affect the question.

I need not say that I believe it would be manifestly unwise for the Government of the United States to make large grants of the public domain to individuals. I am entirely opposed to that policy, and the records of the past will show, so far as I have been connected with public affairs, that no one has been more favorable to those measures which would tend to the benefit of the actual settlers than I have. My opinions were fully expressed more than eleven years ago, on that subject, in the House of Representatives, of which I was then a member.

The following is an extract from a speech made by me in the House of Representatives, February 3, 1841, (Congressional Appendix, vol. 9, page 145:)

“There is another subject introduced by the gentleman from Tennessee, [Mr. BELL,] to which I beg leave to refer. I allude to the ‘prospective preemption law,’ which I rejoice to learn was passed by the Democratic party in the Senate on yesterday, and is now in this House for its action. It has been denounced here as a ‘humbug, designed to catch votes,’ and gentlemen have volunteered the assertion that we did not desire its passage. Now, sir, what is this bill? It is simply a proposition to give the settler upon the public lands the right of preemption, and differs only from the law heretofore passed in the fact that it is *prospective* in its operation. It does not propose to give the public domain to the settler, but to allow him to take that portion on which he has settled and built a log cabin at the Government price, within a limited period. It is a measure for the benefit of the poor man—for the humble tenants of the log cabins; for those who may be driven by poverty from the older States, and who may go with no bank-bills perhaps in their pockets, but with strong arms and honest hearts to hunt for themselves and their families a home in the far West. Sir, if this was a measure for the advancement of the pecuniary interest of speculators or bankers, it would not meet with the opposition it does from Whig gentlemen. Although loud in their professions of attachment to the poor man when office is to be obtained, in their *legislation* little regard is paid to their interests. Gentlemen have denounced these settlers as ‘lawless squatters,’ and ‘land pirates,’ and told us that the United States marshal ought to be sent with a military force to dispossess them. Sir, if a banker (as is the case every day) swindles the community out of millions, the act goes unwhipped of justice; but if a poor man settles down upon the public land, and endeavors by his industry and frugality to procure a livelihood for his children, you would raise a military force to turn him off and deprive him of the little improvement he had made. This may be Whig policy, and Whig justice; but I venture the assertion, the American people are not prepared for such doctrine. In the estimation of these Whig orators, to cut down a few trees in a dense and almost unbroken forest belonging to the Government, for the purpose of cultivating a few acres of corn, is a most heinous offense; whilst they suffer the bankers to violate the laws, make sport of their legislation, acquire wealth by their villainies, and ride in proud triumph over the ruin and desolation of the laboring man. Sir, there is a point beyond which forbearance ceases to be a virtue; and the time will come when this great money power, which is eating out the substance of the people, must be checked by legislation, or the land will be deluged in blood. The day of retribution is at hand, and we be to that legislator who seeks to aggrandize the few by the oppression of the many.

“The preemption bill is a favorite measure with me, and enlists all the sympathies of my nature. It affords me the most sincere pleasure to do all in my power to advance the

interests of the hardy and enterprising emigrant, who, abandoning the home of his fathers, the worn-out, worn-eaten land of his nativity, has taken up his abode in the rich valleys of the far West. Sir, I would rather be recognized as the champion of such men than hold the highest office within the gift of my country. Let these men have the encouragement of the Government—the promise that within a limited period they shall be permitted, at the present price, to purchase the land on which they reside; and with industry and enterprise, the rude cabin will soon give way to the comfortable dwelling, and the ‘wilderness be made to bloom and blossom as the rose.’ By the passage of this act, many in the old States of this Union, who now feel from day to day the cutting lash of penury and want, and who have families growing up around them without the ability to supply them with even the necessaries of life, would emigrate to the West, settle down on your lands, and soon surround themselves with all the comforts of life. In this way you would not only contribute to their happiness, but in making them the owners of the soil, increase and strengthen their attachment to the Union, and thus lay the foundation for the permanent prosperity of the country broad and deep in the affections of the people. I would much rather, for my own part, make a gift of the public domain to *actual bona fide* settlers who would improve the country, than to see it falling at the Government price into the hands of speculators.”

But that policy which would be unwise and impolitic in the present condition of the affairs of this Government, might have been both wise and politic in California when under the dominion of Spain. It was a very difficult thing to settle that country at that time, as well as when under the government of Mexico; and it might be necessary to the cultivation of these lands that large grants should be made, for they were almost worthless, and used chiefly for pastoral or grazing purposes. Such a policy, however necessary or proper then, would, beyond all question, be unwise and impolitic now. The wants and necessities of our people demand an entirely different policy, as we are desirous to have as many landholders as possible.

By the terms of the treaty of peace, we agreed to see that the people were protected in the enjoyment of all their just rights. We have undertaken, by the terms of the treaty of Guadalupe Hidalgo, to say that the people in California shall be protected in the free enjoyment of their legal and equitable rights; that the title of their property shall not be disturbed; in other words, that property which they fairly and justly held under Mexico, should be respected by us.

The first provision of the bill which my colleague has submitted, is, that although the title may be confirmed, if there be a defect or any informality in that title, although the Board of Commissioners may have decided in favor of it, upon the principles of equity, yet if the settler has occupied and improved eighty acres, he shall hold it; and the grantee shall have a floating title given him to eighty acres elsewhere. I think this would violate the spirit, if not the letter of that treaty which we made with Mexico. Now, I think if these grants are confirmed, the grantee is entitled to the possession of the particular land which is covered by that title. There may be reasons why the original grant would be desired; for we all know that we attach oftentimes a fictitious value to property because of its location, its natural position, or simply because it suits us. If these grants have been made in good faith by the proper authority, and have been occupied and enjoyed by the proprietor, although he may not have complied with all the technical provisions of the law, I hold that it is the duty of the Government

to protect him in his right to the particular land which is covered by his title.

There is the point in regard to which my colleague and myself differ. There may be, and probably there are, fraudulent grants in that country. There are many grants, I know, in California, the boundaries of which are indefinite, undefined, and uncertain; and wherever a discretion is left to be exercised in adjusting the boundaries, I would have that discretion so exercised as to bring down the grants to the very smallest portion, acting upon the principle that it is against the public policy that land should be held in large tracts.

But if the title be a good one, you are under the highest of all obligations of a political character, the pledged faith of the Government, to confirm it. If it be fraudulent, or tainted with fraud, unjust, or of a doubtful character, it should be rejected. A Government, no more than an individual, can maintain its character for integrity by taking advantage of a mere technical defect in a title.

There are titles which will be found incomplete in some particulars. If there are substantial defects the title must be rejected. In regard to the grant made in the Suisun valley, to which my colleague has referred, I have only a remark to make. There are between two and three hundred settlers there, and I believe the grant contains some twenty-four thousand acres, a considerable portion of which has been settled upon, and they have had the undisturbed enjoyment of all the fruits of that rich and valuable land for two years. But I will not discuss the title to this grant, for the reason that I am in the position of counsel myself for the settlers, and must, as such, resist in the courts the confirmation of it. It is not becoming in me, therefore, to express my opinion as to the legality or validity of that title. But if it be a good title, made by competent authority, and the grantee took possession and improved in good faith, and has complied with all the substantial requisitions of the law, that board must confirm it. But what will be his position under this bill if his title should be confirmed? He will find all the land susceptible of cultivation in the occupancy of other persons, and he must take his certificate for twenty-four thousand acres, (if that be the amount of the grant,) and locate it upon the public domain. Could he find land as rich and valuable unoccupied elsewhere in that State? I am confident he could not. Would this be a substantial compliance with the terms of the treaty, “to maintain and protect him in the free enjoyment of his property?” I think not. To compel him to locate lands elsewhere than the place covered by his grant would, in my judgment, be a violation of our treaty obligations. It would be a breach of pledged faith.

This is the first time I have been compelled, from a sense of duty, to differ with my colleague, whose time and energies have been devoted to our State. There is much, very much, in the argument of my colleague which receives my cordial assent. I know the difficulties under which we labor in that country, and it is natural that we should sometimes be unable to see alike in respect to the best method of meeting those difficulties. But I do not wish to discuss this subject unless it should be pressed upon the Senate. For the respect I only desire to put myself right before our common constituency.













