

United States, leaving to be paid of the principal of the liquidated amount assumed by the United States the sum of \$1,519,604.76, together with the interest thereon. These several amounts of "liquidated" and unliquidated claims assumed by the United States, it is believed, may be paid as they fall due out of the accruing revenue, without the issue of stock or the creation of any additional public debt.

I can not too strongly recommend to Congress the importance of husbanding all our national resources, of limiting the public expenditures to necessary objects, and of applying all the surplus at any time in the Treasury to the redemption of the debt. I recommend that authority be vested in the Executive by law to anticipate the period of reimbursement of such portion of the debt as may not be now redeemable, and to purchase it at par, or at the premium which it may command in the market, in all cases in which that authority has not already been granted. A premium has been obtained by the Government on much the larger portion of the loans, and if when the Government becomes a purchaser of its own stock it shall command a premium in the market, it will be sound policy to pay it rather than to pay the semiannual interest upon it. The interest upon the debt, if the outstanding Treasury notes shall be funded, from the end of the last fiscal year until it shall fall due and be redeemable will be very nearly equal to the principal, which must itself be ultimately paid.

Without changing or modifying the present tariff of duties, so great has been the increase of our commerce under its benign operation that the revenue derived from that source and from the sales of the public lands will, it is confidently believed, enable the Government to discharge annually several millions of the debt and at the same time possess the means of meeting necessary appropriations for all other proper objects. Unless Congress shall authorize largely increased expenditures for objects not of absolute necessity, the whole public debt existing before the Mexican war and that created during its continuance may be paid off without any increase of taxation on the people long before it falls due.

Upon the restoration of peace we should adopt the policy suited to a state of peace. In doing this the earliest practicable payment of the public debt should be a cardinal principle of action. Profiting by the experience of the past, we should avoid the errors into which the country was betrayed shortly after the close of the war with Great Britain in 1815. In a few years after that period a broad and latitudinous construction of the powers of the Federal Government unfortunately received but too much countenance. Though the country was burdened with a heavy public debt, large, and in some instances unnecessary and extravagant, expenditures were authorized by Congress. The consequence was that the payment of the debt was postponed for more than twenty years, and even then it was only accomplished by the stern will and unbending policy of President Jackson, who made its payment a leading measure of

his Administration. He resisted the attempts which were made to divert the public money from that great object and apply it in wasteful and extravagant expenditures for other objects, some of them of more than doubtful constitutional authority and expediency.

If the Government of the United States shall observe a proper economy in its expenditures, and be confined in its action to the conduct of our foreign relations and to the few general objects of its care enumerated in the Constitution, leaving all municipal and local legislation to the States, our greatness as a nation, in moral and physical power and in wealth and resources, can not be calculated.

By pursuing this policy oppressive measures, operating unequally and unjustly upon sections and classes, will be avoided, and the people, having no cause of complaint, will pursue their own interests under the blessings of equal laws and the protection of a just and paternal Government. By abstaining from the exercise of all powers not clearly conferred, the current of our glorious Union, now numbering thirty States, will be strengthened as we grow in age and increase in population, and our future destiny will be without a parallel or example in the history of nations.

JAMES K. POLK.

WASHINGTON, *July 7, 1848.*

To the Senate of the United States:

For the reasons mentioned in the accompanying letter of the Secretary of War, I ask that the date in the promotion of Captain W. J. Hardee, Second Dragoons, to be major by brevet for gallant and meritorious conduct in the affair at Madellin, Mexico, be changed to the 25th of March, 1847, the day on which the action occurred.

JAMES K. POLK.

WAR DEPARTMENT,
Washington, July 7, 1848.

THE PRESIDENT OF THE UNITED STATES.

SIR: Captain W. J. Hardee, Second Dragoons, has been promoted to be major by brevet for gallant and meritorious conduct in the affair at Madellin, Mexico, to date from the 26th of March, 1847. As this affair took place on the 25th of that month, I respectfully recommend that the Senate be asked to change the date of Captain Hardee's brevet rank so as to correspond with the date of the action, to wit, the 25th of March, 1847. Brevets which have been conferred upon other officers in the same affair take the latter date.

Very respectfully, your obedient servant,

W. L. MARCY,
Secretary of War.

WASHINGTON, *July 12, 1848.*

To the Senate of the United States:

In compliance with a resolution of the Senate, of the 21st June, 1848, I herewith communicate to the Senate a report of the Secretary of War,

with the accompanying documents, containing the proceedings of a court of inquiry which convened at Saltillo, Mexico, January 12, 1848, and which was instituted for the purpose of obtaining full information relative to an alleged mutiny in the camp of Buena Vista, Mexico, on or about the 15th of August, 1847.

JAMES K. POLK.

WASHINGTON, *July 14, 1848.*

To the Senate of the United States:

In compliance with the resolution of the Senate of July 13, 1848, I transmit herewith a report of the Secretary of War and accompanying documents, containing all the proceedings of the two courts of inquiry in the case of Major-General Pillow, the one commenced and terminated in Mexico, the other commenced in Mexico and terminated in the United States.

JAMES K. POLK.

WASHINGTON, *July 24, 1848.*

To the House of Representatives of the United States:

In answer to the resolutions of the ~~H~~ouse of Representatives of the 10th instant, requesting information in relation to New Mexico and California, I communicate herewith reports from the Secretary of State, the ~~S~~ecretary of the ~~T~~reasury, the Secretary of War, and the Secretary of the ~~N~~avy, with the documents which accompany the same. These reports and documents contain information upon the several points of inquiry embraced by the resolutions. "The proper limits and boundaries of New Mexico and California" are delineated on the map referred to in the late treaty with Mexico, an authentic copy of which is herewith transmitted; and all the additional information upon that subject, and also the most reliable information in respect to the population of these respective Provinces, which is in the possession of the Executive will be found in the accompanying report of the Secretary of State.

The resolutions request information in regard to the existence of civil governments in New Mexico and California, their "form and character," by "whom instituted," by "what authority," and how they are "maintained and supported."

In my message of December 22, 1846, in answer to a resolution of the House of Representatives calling for information "in relation to the establishment or organization of civil government in any portion of the territory of Mexico which has or might be taken possession of by the Army or Navy of the United States," I communicated the orders which had been given to the officers of our Army and Navy, and stated the general authority upon which temporary military governments had been established over the conquered portion of Mexico then in our military occupation.

The temporary governments authorized were instituted by virtue of the rights of war. The power to declare war against a foreign country, and to prosecute it according to the general laws of war, as sanctioned by civilized nations, it will not be questioned, exists under our Constitution. When Congress has declared that war exists with a foreign nation, "the general laws of war apply to our situation," and it becomes the duty of the President, as the constitutional "Commander in Chief of the Army and Navy of the United States," to prosecute it.

In prosecuting a foreign war thus duly declared by Congress, we have the right, by "conquest and military occupation," to acquire possession of the territories of the enemy, and, during the war, to "exercise the fullest rights of sovereignty over it." The sovereignty of the enemy is in such case "suspended," and his laws can "no longer be rightfully enforced" over the conquered territory "or be obligatory upon the inhabitants who remain and submit to the conqueror. By the surrender the inhabitants pass under a temporary allegiance" to the conqueror, and are "bound by such laws, and such only, as" he may choose to recognize and impose. "From the nature of the case, no other laws could be obligatory upon them, for where there is no protection or allegiance or sovereignty there can be no claim to obedience." These are well-established principles of the laws of war, as recognized and practiced by civilized nations, and they have been sanctioned by the highest judicial tribunal of our own country.

The orders and instructions issued to the officers of our Army and Navy, applicable to such portions of the Mexican territory as had been or might be conquered by our arms, were in strict conformity to these principles. They were, indeed, ameliorations of the rigors of war upon which we might have insisted. They substituted for the harshness of military rule something of the mildness of civil government, and were not only the exercise of no excess of power, but were a relaxation in favor of the peaceable inhabitants of the conquered territory who had submitted to our authority, and were alike politic and humane.

It is from the same source of authority that we derive the unquestioned right, after the war has been declared by Congress, to blockade the ports and coasts of the enemy, to capture his towns, cities, and provinces, and to levy contributions upon him for the support of our Army. Of the same character with these is the right to subject to our temporary military government the conquered territories of our enemy. They are all belligerent rights, and their exercise is as essential to the successful prosecution of a foreign war as the right to fight battles.

New Mexico and Upper California were among the territories conquered and occupied by our forces, and such temporary governments were established over them. They were established by the officers of our Army and Navy in command, in pursuance of the orders and instructions accompanying my message to the House of Representatives of

December 22, 1846. In their form and detail, as at first established, they exceeded in some respects, as was stated in that message, the authority which had been given, and instructions for the correction of the error were issued in dispatches from the War and Navy Departments of the 11th of January, 1847, copies of which are herewith transmitted. They have been maintained and supported out of the military exactions and contributions levied upon the enemy, and no part of the expense has been paid out of the Treasury of the United States.

In the routine of duty some of the officers of the Army and Navy who first established temporary governments in California and New Mexico have been succeeded in command by other officers, upon whom light duties devolved; and the agents employed or designated by them to conduct the temporary governments have also, in some instances, been superseded by others. Such appointments for temporary civil duty during our military occupation were made by the officers in command in the conquered territories, respectively.

On the conclusion and exchange of ratifications of a treaty of peace with Mexico, which was proclaimed on the 4th instant, these temporary governments necessarily ceased to exist. In the instructions to establish a temporary government over New Mexico, no distinction was made between that and the other Provinces of Mexico which might be conquered and held in our military occupation.

The Province of New Mexico, according to its ancient boundaries, as claimed by Mexico, lies on both sides of the Rio Grande. That part of it on the east of that river was in dispute when the war between the United States and Mexico commenced. Texas, by a successful revolution in April, 1836, achieved, and subsequently maintained, her independence. By an act of the Congress of Texas passed in December, 1836, her western boundary was declared to be the Rio Grande from its mouth to its source, and thence due north to the forty-second degree of north latitude. Though the Republic of Texas, by many acts of sovereignty which she asserted and exercised, some of which were stated in my annual message of December, 1846, had established her clear title to the country west of the Nueces, and bordering upon that part of the Rio Grande which lies below the Province of New Mexico, she had never conquered or reduced to actual possession and brought under her Government and laws that part of New Mexico lying east of the Rio Grande, which she claimed to be within her limits. On the breaking out of the war we found Mexico in possession of this disputed territory. As our Army approached Sante Fe (the capital of New Mexico) it was found to be held by a governor under Mexican authority, with an armed force collected to resist our advance. The inhabitants were Mexicans, acknowledging allegiance to Mexico. The boundary in dispute was the line between the two countries engaged in actual war, and the settlement of it of necessity depended on a treaty of peace. Finding the Mexican

authorities and people in possession, our forces conquered them, and extended military rule over them and the territory which they actually occupied, in lieu of the sovereignty which was displaced. It was not possible to disturb or change the practical boundary line in the midst of the war, when no negotiation for its adjustment could be opened, and when Texas was not present, by her constituted authorities, to establish and maintain government over a hostile Mexican population who acknowledged no allegiance to her. There was, therefore, no alternative left but to establish and maintain military rule during the war over the conquered people in the disputed territory who had submitted to our arms, or to forbear the exercise of our belligerent rights and leave them in a state of anarchy and without control.

Whether the country in dispute rightfully belonged to Mexico or to Texas, it was our right in the first case, and our duty as well as our right in the latter, to conquer and hold it. Whilst this territory was in our possession as conquerors, with a population hostile to the United States, which more than once broke out in open insurrection, it was our unquestionable duty to continue our military occupation of it until the conclusion of the war, and to establish over it a military government, necessary for our own security as well as for the protection of the conquered people.

By the joint resolution of Congress of March 1, 1845, "for annexing Texas to the United States," the "adjustment of all questions of boundary which may arise with other governments" was reserved to this Government. When the conquest of New Mexico was consummated by our arms, the question of boundary remained still unadjusted. Until the exchange of the ratifications of the late treaty, New Mexico never became an undisputed portion of the United States, and it would therefore have been premature to deliver over to Texas that portion of it on the east side of the Rio Grande, to which she asserted a claim. However just the right of Texas may have been to it, that right had never been reduced into her possession, and it was contested by Mexico.

By the cession of the whole of New Mexico, on both sides of the Rio Grande, to the United States, the question of disputed boundary, so far as Mexico is concerned, has been settled, leaving the question as to the true limits of Texas in New Mexico to be adjusted between that State and the United States.

Under the circumstances existing during the pendency of the war, and while the whole of New Mexico, as claimed by our enemy, was in our military occupation, I was not unmindful of the rights of Texas to that portion of it which she claimed to be within her limits. In answer to a letter from the governor of Texas dated on the 4th of January, 1847, the Secretary of State, by my direction, informed him in a letter of the 12th of February, 1847, that in the President's annual message of December, 1846—

You have already perceived that New Mexico is at present in the temporary occupation of the troops of the United States, and the government over it is military in its character. It is merely such a government as must exist under the laws of nations

and of war to preserve order and protect the rights of the inhabitants, and will cease on the conclusion of a treaty of peace with Mexico. Nothing, therefore, can be more certain than that this temporary government, resulting from necessity, can never injuriously affect the right which the President believes to be justly asserted by Texas to the whole territory on this side of the Rio Grande whenever the Mexican claim to it shall have been extinguished by treaty. But this is a subject which more properly belongs to the legislative than the executive branch of the Government.

The result of the whole is that Texas had asserted a right to that part of New Mexico east of the Rio Grande, which is believed, under the acts of Congress for the annexation and admission of Texas into the Union as a State, and under the constitution and laws of Texas, to be well founded; but this right had never been reduced to her actual possession and occupancy. The General Government, possessing exclusively the war-making power, had the right to take military possession of this disputed territory, and until the title to it was perfected by a treaty of peace it was their duty to hold it and to establish a temporary military government over it for the preservation of the conquest itself, the safety of our Army, and the security of the conquered inhabitants.

The resolutions further request information whether any persons have been tried and condemned for "treason against the United States in that part of New Mexico lying east of the Rio Grande since the same has been in the occupancy of our Army," and, if so, before "what tribunal" and "by what authority of law such tribunal was established." ~~It appears~~ that after the territory in question was "in the occupancy of our Army" some of the conquered Mexican inhabitants, who had at first submitted to our authority, broke out in open insurrection, murdering our soldiers and citizens and committing other atrocious crimes. Some of the principal offenders who were apprehended were tried and condemned by a tribunal invested with civil and criminal jurisdiction, which had been established in the conquered country by the military officer in command. That the offenders deserved the punishment inflicted upon them there is no reason to doubt, and the error in the proceedings against them consisted in designating and describing their crimes as "treason against the United States." This error was pointed out, and its recurrence thereby prevented, by the Secretary of War in a dispatch to the officer in command in New Mexico dated on the 26th of June, 1847, a copy of which, together with copies of all communications relating to the subject which have been received at the War Department, is herewith transmitted.

The resolutions call for information in relation to the quantity of the public lands acquired within the ceded territory, and "how much of the same is within the boundaries of Texas as defined by the act of the Congress of the Republic of Texas of the 19th day of December, 1836." No means of making an accurate estimate on the subject is in the possession of the executive department. The information which is possessed will be found in the accompanying report of the Secretary of the Treasury.

The country ceded to the United States lying west of the Rio Grande, and to which Texas has no title, is estimated by the commissioner of the General Land Office to contain 526,078 square miles, or 336,689,920 acres.

The period since the exchange of ratifications of the treaty has been too short to enable the Government to have access to or to procure abstracts or copies of the land titles issued by Spain or by the Republic of Mexico. Steps will be taken to procure this information at the earliest practicable period. It is estimated, as appears from the accompanying report of the Secretary of the Treasury, that much the larger portion of the land within the territories ceded remains vacant and unappropriated, and will be subject to be disposed of by the United States. Indeed, a very inconsiderable portion of the land embraced in the cession, it is believed, has been disposed of or granted either by Spain or Mexico.

What amount of money the United States may be able to realize from the sales of these vacant lands must be uncertain, but it is confidently believed that with prudent management, after making liberal grants to emigrants and settlers, it will exceed the cost of the war and all the expenses to which we have been subjected in acquiring it.

The resolutions also call for "the evidence, or any part thereof, that the 'extensive and valuable territories ceded by Mexico to the United States constitute indemnity for the past.'"

—The immense value of the ceded country does not consist alone in the amount of money for which the public lands may be sold. If not a dollar could be realized from the sale of these lands, the cession of the jurisdiction over the country and the fact that it has become a part of our Union and can not be made subject to any European power constitute ample "indemnity for the past" in the immense value and advantages which its acquisition must give to the commercial, navigating, manufacturing, and agricultural interests of our country.

The value of the public lands embraced within the limits of the ceded territory, great as that value may be, is far less important to the people of the United States than the sovereignty over the country. Most of our States contain no public lands owned by the United States, and yet the sovereignty and jurisdiction over them is of incalculable importance to the nation. In the State of New York the United States is the owner of no public lands, and yet two-thirds of our whole revenue is collected at the great port of that State, and within her limits is found about one-seventh of our entire population. Although none of the future cities on our coast of California may ever rival the city of New York in wealth, population, and business, yet that important cities will grow up on the magnificent harbors of that coast, with a rapidly increasing commerce and population, and yielding a large revenue, would seem to be certain. By the possession of the safe and capacious harbors on the Californian coast we shall have great advantages in securing the rich commerce of the East, and shall thus obtain for our products new and increased markets and

greatly enlarge our coasting and foreign trade, as well as augment our tonnage and revenue.

These great advantages, far more than the simple value of the public lands in the ceded territory, "constitute our indemnity for the past."

JAMES K. POLK.

WASHINGTON, *July 28, 1848.*

To the Senate of the United States:

I have received from the Senate the "convention for the mutual delivery of criminals, fugitives from justice, in certain cases, concluded on the 29th of January, 1845, between the United States on the one part and Prussia and other States of the German Confederation on the other part," with a copy of their resolution of the 21st of June last, advising and consenting to its ratification, with an amendment extending the period for the exchange of ratifications until the 28th of September, 1848.

I have taken this subject into serious and deliberate consideration, and regret that I can not ratify this convention, in conformity with the advice of the Senate, without violating my convictions of duty. Having arrived at this conclusion, I deem it proper and respectful, considering the peculiar circumstances of the present case and the intimate relations which the Constitution has established between the President and Senate, to make known to you the reasons which influence me to come to this determination.

On the 16th of December, 1845, I communicated this convention to the Senate for its consideration, at the same time stating my objections to the third article. I deemed this to be a more proper and respectful course toward the Senate, as well as toward Prussia and the other parties to it, than if I had withheld it and disapproved it altogether. Had the Senate concurred with me in opinion and rejected the third article, then the convention thus amended would have conformed to our treaties of extradition with Great Britain and France.

But the Senate did not act upon it within the period limited for the exchange of ratifications. From this I concluded that they had concurred with me in opinion in regard to the third article, and had for this and other reasons deemed it proper to take no proceedings upon the convention. After this date, therefore, I considered the affair as terminated.

Upon the presumption that this was the fact, new negotiations upon the subject were commenced, and several conferences were held between the Secretary of State and the Prussian minister. These resulted in a protocol signed at the Department of State on the 27th of April, 1847, in which the Secretary proposed either that the two Governments might agree to extend the time for the exchange of ratifications, and thus revive the convention, provided the Prussian Government would previously intimate its consent to the omission of the third article, or he "expressed his

willingness immediately to conclude with Mr. Gerolt a new convention, if he possessed the requisite powers from his Government, embracing all the provisions contained in that of the 29th January, 1845, with the exception of the third article. To this Mr. Gerolt observed that he had no powers to conclude such a convention, but would submit the propositions of Mr. Buchanan to the Prussian Government for further instructions."

Mr. Gerolt has never yet communicated in writing to the Department of State the answer of his Government to these propositions, but the Secretary of State, a few months after the date of the protocol, learned from him in conversation that they insisted upon the third article of the convention as a *sine qua non*. Thus the second negotiation had finally terminated by a disagreement between the parties, when, more than a year afterwards, on the 21st June, 1848, the Senate took the original convention into consideration and ratified it, retaining the third article.

After the second negotiation with the Prussian Government, in which the objections to the third article were stated, as they had been previously in my message of the 16th December, 1845, a strong additional difficulty was interposed to the ratification of the convention; but I might overcome this difficulty if my objections to the third article had not grown stronger by further reflection. For a statement of them in detail I refer you to the accompanying memorandum, prepared by the Secretary of State by my direction.

I can not believe that the sovereign States of this Union, whose administration of justice would be almost exclusively affected by such a convention, will ever be satisfied with a treaty of extradition under which if a German subject should commit murder or any other high crime in New York or New Orleans, and could succeed in escaping to his own country, he would thereby be protected from trial and punishment under the jurisdiction of our State laws which he had violated. It is true, as has been stated, that the German States, acting upon a principle springing from the doctrine of perpetual allegiance, still assert the jurisdiction of trying and punishing their subjects for crimes committed in the United States or any other portion of the world. It must, however, be manifest that individuals throughout our extended country would rarely, if ever, follow criminals to Germany with the necessary testimony for the purpose of prosecuting them to conviction before German courts for crimes committed in the United States.

On the other hand, the Constitution and laws of the United States, as well as of the several States, would render it impossible that crimes committed by our citizens in Germany could be tried and punished in any portion of this Union.

But if no other reason existed for withholding my ratification from this treaty, the great change which has recently occurred in the organization of the Government of the German States would be sufficient. By the last

advices we learn that the German Parliament, at Frankfort, have already established a federal provisional Executive for all the States of Germany, and have elected the Archduke John of Austria to be "Administrator of the Empire." One of the attributes of this Executive is "to represent the Confederation in its relations with foreign nations and to appoint diplomatic agents, ministers, and consuls." Indeed, our minister at Berlin has already suggested the propriety of his transfer to Frankfort. In case this convention with nineteen of the thirty-nine German States should be ratified, this could amount to nothing more than a proposition on the part of the Senate and President to these nineteen States who were originally parties to the convention to negotiate anew on the subject of extradition. In the meantime a central German Government has been provisionally established, which extinguishes the right of these separate parties to enter into negotiations with foreign Governments on subjects of several interest to the whole.

Admitting such a treaty as that which has been ratified by the Senate to be desirable, the obvious course would now be to negotiate with the General Government of Germany. A treaty concluded with it would embrace all the thirty-nine States of Germany, and its authority, being coextensive with the Empire, fugitives from justice found in any of these States would be surrendered up on the requisition of our minister at Frankfort. This would be more convenient and effectual than to address such separate requisitions to each of the nineteen German States with which the convention was concluded.

I communicate herewith, for the information of the Senate, copies of a dispatch from our minister at Berlin and a communication from our consul at Darmstadt.

JAMES K. POLK.

WASHINGTON, July 29, 1848.

To the House of Representatives of the United States:

In answer to the resolution of the House of Representatives of the 17th instant, requesting the President "to communicate, if not inconsistent with the public interests, copies of all instructions given to the Hon. Ambrose H. Sevier and Nathan Clifford, commissioners appointed to conduct negotiations for the ratification of the treaty lately concluded between the United States and the Republic of Mexico," I have to state that in my opinion it would be "inconsistent with the public interests" to give publicity to these instructions at the present time.

I avail myself of this occasion to observe that, as a general rule applicable to all our important negotiations with foreign powers, it could not fail to be prejudicial to the public interest to publish the instructions to our ministers until some time had elapsed after the conclusion of such negotiations.

In the present case the object of the mission of our commissioners to

Mexico has been accomplished. The treaty, as amended by the Senate of the United States, has been ratified. The ratifications have been exchanged and the treaty has been proclaimed as the supreme law of the land. No contingency occurred which made it either necessary or proper for our commissioners to enter upon any negotiations with the Mexican Government further than to urge upon that Government the ratification of the treaty in its amended form.

JAMES K. POLK.

WASHINGTON, July 31, 1848.

To the Senate of the United States:

I communicate herewith a report from the Secretary of State, containing the information called for by the resolution of the Senate of the 24th of April, 1848, in relation "to the claim of the owners of the ship *Miles*, of Warren, in the State of Rhode Island, upon the Government of Portugal for the payment of a cargo of oil taken by the officers and applied to the uses of that Government."

JAMES K. POLK.

WASHINGTON, July 31, 1848.

To the Senate of the United States:

In compliance with the resolution of the Senate of the 28th instant, requesting the President to communicate to that body, "in confidence, if not inconsistent with the public interest, what steps, if any, have been taken by the Executive to extinguish the rights of the Hudsons Bay and Puget Sound Land Company within the Territory of Oregon, and such communications, if any, which may have been received from the British Government in relation to this subject," I communicate herewith a report from the Secretary of State, with the accompanying documents.

JAMES K. POLK.

WASHINGTON, August 1, 1848.

To the House of Representatives of the United States:

I communicate herewith a report from the Secretary of War, containing the information called for by the resolution of the House of Representatives of the 17th July, 1848, in relation to the number of Indians in Oregon, California, and New Mexico, the number of military posts, the number of troops which will be required in each, and "the whole military force which should constitute the peace establishment."

I have seen no reason to change the opinion expressed in my message to Congress of the 6th July, 1848, transmitting the treaty of peace with Mexico, that "the old Army, as it existed before the commencement of the war with Mexico, especially if authority be given to fill up the rank and file of the several corps to the maximum number authorized during

the war, will be a sufficient force to be retained in service during a period of peace."

The old Army consists of fifteen regiments. By the act of the 13th of May, 1846, the President was authorized, by "voluntary enlistments, to increase the number of privates in each or any of the companies of the existing regiments of dragoons, artillery, and infantry to any number not exceeding 100," and to "reduce the same to 64 when the exigencies requiring the present increase shall cease." Should this act remain in force, the maximum number of the rank and file of the Army authorized by it would be over 16,000 men, exclusive of officers. Should the authority conferred by this act be continued, it would depend on the exigencies of the service whether the number of the rank and file should be increased, and, if so, to what amount beyond the minimum number of 64 privates to a company.

Allowing 64 privates to a company, the Army would be over 10,000 men, exclusive of commissioned and noncommissioned officers, a number which, it is believed, will be sufficient; but, as a precautionary measure, it is deemed expedient that the Executive should possess the power of increasing the strength of the respective corps should the exigencies of the service be such as to require it. Should these exigencies not call for such increase, the discretionary power given by the act to the President will not be exercised.

It will be seen from the report of the Secretary of War that a portion of the forces will be employed in Oregon, New Mexico, and Upper California; a portion for the protection of the Texas frontier adjoining the Mexican possessions, and bordering on the territory occupied by the Indian tribes within her limits. After detailing the force necessary for these objects, it is believed a sufficient number of troops will remain to afford security and protection to our Indian frontiers in the West and Northwest and to occupy with sufficient garrisons the posts on our northern and Atlantic borders.

I have no reason at present to believe that any increase of the number of regiments or corps will be required during a period of peace.

JAMES K. POLK.

WASHINGTON, *August 3, 1848.*

To the Senate of the United States:

I communicate herewith a report from the Secretary of War, together with the accompanying documents, in compliance with the resolution of the Senate of the 24th July, 1848, requesting the President "to transmit to the Senate the proceedings of the two courts of inquiry in the case of Major-General Pillow, the one commenced and terminated in Mexico, and the other commenced in Mexico and terminated in the United States."

JAMES K. POLK.

WASHINGTON, *August 5, 1848.*

To the Senate of the United States:

I nominate Andrew J. Donelson, of Tennessee, to be envoy extraordinary and minister plenipotentiary of the United States to the Federal Government of Germany.

In submitting this nomination I transmit, for the information of the Senate, an official dispatch received from the consul of the United States at Darmstadt, dated July 10, 1848. I deem it proper also to state that no such diplomatic agent as that referred to by the consul has been appointed by me. Mr. Deverre, the person alluded to, is unknown to me and has no authority to represent this Government in any capacity whatever.

JAMES K. POLK.

WASHINGTON, *August 5, 1848.*

To the House of Representatives of the United States:

I communicate herewith a report from the Secretary of War, together with the accompanying documents, in compliance with a resolution of the House of Representatives of the 17th of July, 1848, requesting the President to communicate to the House of Representatives "a copy of the proceedings of the court of inquiry in Mexico touching the matter which led to the dismissal from the public service of Lieutenants Joseph S. Pendée and George E. B. Singletary, of the North Carolina regiment of volunteers, and all the correspondence between the War Department and Generals Taylor and Wool in relation to the same."

JAMES K. POLK.

WASHINGTON, *August 8, 1848.*

To the Senate of the United States:

In reply to the resolution of the Senate of the 7th instant, requesting the President to inform that body "whether he has any information that any citizen or citizens of the United States is or are now preparing or intending to prepare within the United States an expedition to revolutionize by force any part of the Republic of Mexico, or to assist in so doing, and, if he has, what is the extent of such preparation, and whether he has or is about to take any steps to arrest the same," I have to state that the Executive is not in possession of any information of the character called for by the resolution.

The late treaty of peace with Mexico has been and will be faithfully observed on our part.

JAMES K. POLK.

WASHINGTON, *August 8, 1848.*

To the Senate and House of Representatives of the United States:

It affords me satisfaction to communicate herewith, for the information of Congress, copies of a decree adopted by the National Assembly

of France in response to the resolution of the Congress of the United States passed on the 13th of April last, "tendering the congratulations of the American to the French people upon the success of their recent efforts to consolidate the principles of liberty in a republican form of government."

JAMES K. POLK.

WASHINGTON, August 10, 1848.

To the Senate of the United States:

I communicate herewith a report of the Secretary of the Navy, together with the accompanying documents, in answer to a resolution of the Senate of the 18th July, 1848, requesting the President to communicate to that body "any information which may be in the possession of the Executive relating to the seizure or capture of the American ship *Admittance* on the coast of California by a vessel of war of the United States, and whether any, and what, proceedings have occurred in regard to said vessel or her cargo, and to furnish the Senate with copies of all documents, papers, and communications in the possession of the Executive relating to the same."

JAMES K. POLK.

WASHINGTON, August 11, 1848.

To the House of Representatives of the United States:

I communicate herewith reports from the Secretary of the Treasury and the Secretary of War, together with the accompanying documents, in answer to a resolution of the House of Representatives of the 17th of July, 1848, requesting the President to inform that body what amount of public moneys had been respectively paid to Lewis Cass and Zachary Taylor from the time of their first entrance into the public service up to this time, distinguishing between regular and extra compensation; that he also state what amount of extra compensation has been claimed by either; the items composing the same; when filed; when and by whom allowed; if disallowed, when and by whom; the reasons for such disallowance; and whether or not any items so disallowed were subsequently presented for payment, and, if allowed, when and by whom.

JAMES K. POLK.

WASHINGTON, August 14, 1848.

To the House of Representatives of the United States:

When the President has given his official sanction to a bill which has passed Congress, usage requires that he shall notify the House in which it originated of that fact. The mode of giving this notification has been by an oral message delivered by his private secretary.

Having this day approved and signed an act entitled "An act to establish the Territorial government of Oregon," I deem it proper, under

the existing circumstances, to communicate the fact in a more solemn form. The deeply interesting and protracted discussions which have taken place in both Houses of Congress and the absorbing interest which the subject has excited throughout the country justify, in my judgment, this departure from the form of notice observed in other cases. In this communication with a coordinate branch of the Government, made proper by the considerations referred to, I shall frankly and without reserve express the reasons which have constrained me not to withhold my signature from the bill to establish a government over Oregon, even though the two territories of New Mexico and California are to be left for the present without governments. None doubt that it is proper to establish a government in Oregon. Indeed, it has been too long delayed. I have made repeated recommendations to Congress to this effect. The petitions of the people of that distant region have been presented to the Government, and ought not to be disregarded. To give to them a regularly organized government and the protection of our laws, which, as citizens of the United States, they claim, is a high duty on our part, and one which we are bound to perform, unless there be controlling reasons to prevent it.

In the progress of all governments questions of such transcendent importance occasionally arise as to cast in the shade all those of a mere party character. But one such question can now be agitated in this country, and this may endanger our glorious Union, the source of our greatness and all our political blessings. This question is slavery. With the slaveholding States this does not embrace merely the rights of property, however valuable, but it ascends far higher, and involves the domestic peace and security of every family.

The fathers of the Constitution, the wise and patriotic men who laid the foundation of our institutions, foreseeing the danger from this quarter, acted in a spirit of compromise and mutual concession on this dangerous and delicate subject, and their wisdom ought to be the guide of their successors. Whilst they left to the States exclusively the question of domestic slavery within their respective limits, they provided that slaves who might escape into other States not recognizing the institution of slavery shall be "delivered up on the claim of the party to whom such service or labor may be due."

Upon this foundation the matter rested until the Missouri question arose.

In December, 1819, application was made to Congress by the people of the Missouri Territory for admission into the Union as a State. The discussion upon the subject in Congress involved the question of slavery, and was prosecuted with such violence as to produce excitements alarming to every patriot in the Union. But the good genius of conciliation, which presided at the birth of our institutions, finally prevailed, and the Missouri compromise was adopted. The eighth section of the act of Congress of the 6th of March, 1820, "to authorize the people of the

Missouri Territory to form a constitution and State government," etc., provides:

That in all that territory ceded by France to the United States under the name of Louisiana which lies north of $36^{\circ} 30'$ north latitude, not included within the limits of the State contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted, shall be, and is hereby, forever prohibited: *Provided always*, That any person escaping into the same from whom labor or service is lawfully claimed in any State or Territory of the United States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid.

This compromise had the effect of calming the troubled waves and restoring peace and good will throughout the States of the Union.

The Missouri question had excited intense agitation of the public mind, and threatened to divide the country into geographical parties, alienating the feelings of attachment which each portion of our Union should bear to every other. The compromise allayed the excitement, tranquilized the popular mind, and restored confidence and fraternal feelings. Its authors were hailed as public benefactors.

I do not doubt that a similar adjustment of the questions which now agitate the public mind would produce the same happy results. If the legislation of Congress on the subject of the other Territories shall not be adopted in a spirit of conciliation and compromise, it is impossible that the country can be satisfied or that the most disastrous consequences shall fail to ensue.

When Texas was admitted into the Union, the same spirit of compromise which guided our predecessors in the admission of Missouri a quarter of a century before prevailed without any serious opposition. The joint resolution for annexing Texas to the United States, approved March 1, 1845, provides that—

Such States as may be formed out of that portion of said territory lying south of $36^{\circ} 30'$ north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each State asking admission may desire; and in such State or States as shall be formed out of said territory north of the Missouri compromise line slavery or involuntary servitude (except for crime) shall be prohibited.

The Territory of Oregon lies far north of $36^{\circ} 30'$, the Missouri and Texas compromise line. Its southern boundary is the parallel of 42° , leaving the intermediate distance to be 330 geographical miles. And it is because the provisions of this bill are not inconsistent with the laws of the Missouri compromise, if extended from the Rio Grande to the Pacific Ocean, that I have not felt at liberty to withhold my sanction. Had it embraced territories south of that compromise, the question presented for my consideration would have been of a far different character, and my action upon it must have corresponded with my convictions.

Ought we now to disturb the Missouri and Texas compromises? Ought we at this late day, in attempting to annul what has been so long estab-

lished and acquiesced in, to excite sectional divisions and jealousies, to alienate the people of different portions of the Union from each other, and to endanger the existence of the Union itself?

From the adoption of the Federal Constitution, during a period of sixty years, our progress as a nation has been without example in the annals of history. Under the protection of a bountiful Providence, we have advanced with giant strides in the career of wealth and prosperity. We have enjoyed the blessings of freedom to a greater extent than any other people, ancient or modern, under a Government which has preserved order and secured to every citizen life, liberty, and property. We have now become an example for imitation to the whole world. The friends of freedom in every clime point with admiration to our institutions. Shall we, then, at the moment when the people of Europe are devoting all their energies in the attempt to assimilate their institutions to our own, peril all our blessings by despising the lessons of experience and refusing to tread in the footsteps which our fathers have trodden? And for what cause would we endanger our glorious Union? The Missouri compromise contains a prohibition of slavery throughout all that vast region extending twelve and a half degrees along the Pacific, from the parallel of $36^{\circ} 30'$ to that of 49° , and east from that ocean to and beyond the summit of the Rocky Mountains. Why, then, should our institutions be endangered because it is proposed to submit to the people of the remainder of our newly acquired territory lying south of $36^{\circ} 30'$, embracing less than four degrees of latitude, the question whether, in the language of the Texas compromise, they "shall be admitted [as a State] into the Union with or without slavery." Is this a question to be pushed to such extremities by excited partisans on the one side or the other, in regard to our newly acquired distant possessions on the Pacific, as to endanger the Union of thirty glorious States, which constitute our Confederacy? I have an abiding confidence that the sober reflection and sound patriotism of the people of all the States will bring them to the conclusion that the dictate of wisdom is to follow the example of those who have gone before us, and settle this dangerous question on the Missouri compromise, or some other equitable compromise which would respect the rights of all and prove satisfactory to the different portions of the Union.

Holding as a sacred trust the Executive authority for the whole Union, and bound to guard the rights of all, I should be constrained by a sense of duty to withhold my official sanction from any measure which would conflict with these important objects.

I can not more appropriately close this message than by quoting from the Farewell Address of the Father of his Country. His warning voice can never be heard in vain by the American people. If the spirit of prophecy had distinctly presented to his view more than a half century ago the present distracted condition of his country, the language which

he then employed could not have been more appropriate than it is to the present occasion. He declared:

The unity of government which constitutes you one people is also now dear to you. It is justly so, for it is a main pillar in the edifice of your real independence, the support of your tranquillity at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that from different causes and from different quarters much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth, as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can in any event be abandoned, and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have in a common cause fought and triumphed together. The independence and liberty you possess are the work of joint councils and joint efforts, of common dangers, sufferings, and successes.

* * * * *

With such powerful and obvious motives to union affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who in any quarter may endeavor to weaken its bands.

In contemplating the causes which may disturb our union it occurs as matter of serious concern that any ground should have been furnished for characterizing parties by *geographical* discriminations—*Northern* and *Southern*, *Atlantic* and *Western*—whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts is to misrepresent the opinions and aims of other districts. You can not shield yourselves too much against the jealousies and heartburnings which spring from these misrepresentations; they tend to render alien to each other those who ought to be bound together by fraternal affection.

JAMES K. POLK.

VETO MESSAGE.*

WASHINGTON, *December 15, 1847.*

To the House of Representatives:

On the last day of the last session of Congress a bill entitled "An act to provide for continuing certain works in the Territory of Wisconsin, and for other purposes," which had passed both Houses, was presented to me for my approval. I entertained insuperable objections to its becom-

* Pocket veto.

ing a law, but the short period of the session which remained afforded me no sufficient opportunity to prepare my objections and communicate them with the bill to the House of Representatives, in which it originated. For this reason the bill was retained, and I deem it proper now to state my objections to it.

Although from the title of the bill it would seem that its main object was to make provision for continuing certain works already commenced in the Territory of Wisconsin, it appears on examination of its provisions that it contains only a single appropriation of \$6,000 to be applied within that Territory, while it appropriates more than half a million of dollars for the improvement of numerous harbors and rivers lying within the limits and jurisdiction of several of the States of the Union.

At the preceding session of Congress it became my duty to return with my objections to the House in which it originated a bill making similar appropriations and involving like principles, and the views then expressed remain unchanged.

The circumstances under which this heavy expenditure of public money was proposed were of imposing weight in determining upon its expediency. Congress had recognized the existence of war with Mexico, and to prosecute it to "a speedy and successful termination" had made appropriations exceeding our ordinary revenues. To meet the emergency and provide for the expenses of the Government, a loan of \$23,000,000 was authorized at the same session, which has since been negotiated. The practical effect of this bill, had it become a law, would have been to add the whole amount appropriated by it to the national debt. It would, in fact, have made necessary an additional loan to that amount as effectually as if in terms it had required the Secretary of the Treasury to borrow the money therein appropriated. The main question in that aspect is whether it is wise, while all the means and credit of the Government are needed to bring the existing war to an honorable close, to impair the one and endanger the other by borrowing money to be expended in a system of internal improvements capable of an expansion sufficient to swallow up the revenues not only of our own country, but of the civilized world? It is to be apprehended that by entering upon such a career at this moment confidence at home and abroad in the wisdom and prudence of the Government would be so far impaired as to make it difficult, without an immediate resort to heavy taxation, to maintain the public credit and to preserve the honor of the nation and the glory of our arms in prosecuting the existing war to a successful conclusion. Had this bill become a law, it is easy to foresee that largely increased demands upon the Treasury would have been made at each succeeding session of Congress for the improvements of numerous other harbors, bays, inlets, and rivers of equal importance with those embraced by its provisions. Many millions would probably have been added to the necessary amount of the war debt, the annual interest on which must

also have been borrowed, and finally a permanent national debt been fastened on the country and entailed on posterity.

The policy of embarking the Federal Government in a general system of internal improvements had its origin but little more than twenty years ago. In a very few years the applications to Congress for appropriations in furtherance of such objects exceeded \$200,000,000. In this alarming crisis President Jackson refused to approve and sign the Maysville road bill, the Wabash River bill, and other bills of similar character. His interposition put a check upon the new policy of throwing the cost of local improvements upon the National Treasury, preserved the revenues of the nation for their legitimate objects, by which he was enabled to extinguish the then existing public debt and to present to an admiring world the unprecedented spectacle in modern times of a nation free from debt and advancing to greatness with unequalled strides under a Government which was content to act within its appropriate sphere in protecting the States and individuals in their own chosen career of improvement and of enterprise. Although the bill under consideration proposes no appropriation for a road or canal, it is not easy to perceive the difference in principle or ~~mischievous~~ tendency between appropriations for making roads and digging canals and appropriations to deepen rivers and improve harbors. All are alike within the limits and jurisdiction of the States, and rivers and harbors alone open an abyss of expenditure sufficient to swallow up the wealth of the nation and load it with a debt which may fetter its energies and tax its industry for ages to come.

The experience of several of the States, as well as that of the United States, during the period that Congress exercised the power of appropriating the public money for internal improvements is full of eloquent warnings. It seems impossible, in the nature of the subject, as connected with local representation; that the several objects presented for improvement shall be weighed according to their respective merits and appropriations confined to those whose importance would justify a tax on the whole community to effect their accomplishment.

In some of the States systems of internal improvements have been projected, consisting of roads and canals, many of which, taken separately, were not of sufficient public importance to justify a tax on the entire population of the State to effect their construction, and yet by a combination of local interests, operating on a majority of the legislature, the whole have been authorized and the States plunged into heavy debts. To an extent so ruinous has this system of legislation been carried in some portions of the Union that the people have found it necessary to their own safety and prosperity to forbid their legislatures, by constitutional restrictions, to contract public debts for such purposes without their immediate consent.

If the abuse of power has been so fatal in the States, where the systems of taxation are direct and the representatives responsible at short

periods to small masses of constituents, how much greater danger of abuse is to be apprehended in the General Government, whose revenues are raised by indirect taxation and whose functionaries are responsible to the people in larger masses and for longer terms.

Regarding only objects of improvement of the nature of those embraced in this bill, how inexhaustible we shall find them. Let the imagination run along our coast from the river St. Croix to the Rio Grande and trace every river emptying into the Atlantic and Gulf of Mexico to its source; let it coast along our lakes and ascend all their tributaries; let it pass to Oregon and explore all its bays, inlets, and streams; and then let it raise the curtain of the future and contemplate the extent of this Republic and the objects of improvement it will embrace as it advances to its high destiny, and the mind will be startled at the immensity and danger of the power which the principle of this bill involves.

Already our Confederacy consists of twenty-nine States. Other States may at no distant period be expected to be formed on the west of our present settlements. We own an extensive country in Oregon, stretching many hundreds of miles from east to west and seven degrees of latitude from south to north. By the admission of Texas into the Union we have recently added many hundreds of miles to our seacoast. In all this vast country, bordering on the Atlantic and Pacific, there are many thousands of bays, inlets, and rivers equally entitled to appropriations for their improvement with the objects embraced in this bill.

We have seen in our States ~~that~~ the interests of individuals or neighborhoods, combining against the general interest, have involved their governments in debts and bankruptcy; and when the system prevailed in the General Government, and was checked by President Jackson, it had begun to be considered the highest merit in a member of Congress to be able to procure appropriations of public money to be expended within his district or State, whatever might be the object. We should be blind to the experience of the past if we did not see abundant evidences that if this system of expenditure is to be indulged in combinations of individual and local interests will be found strong enough to control legislation, absorb the revenues of the country, and plunge the Government into a hopeless indebtedness.

What is denominated a harbor by this system does not necessarily mean a bay, inlet, or arm of the sea on the ocean or on our lake shores, on the margin of which may exist a commercial city or town engaged in foreign or domestic trade, but is made to embrace waters where there is not only no such city or town, but no commerce of any kind. By it a bay or sheet of shoal water is called a *harbor*, and appropriations demanded from Congress to deepen it with a view to draw commerce to it or to enable individuals to build up a town or city on its margin upon speculation and for their own private advantage.

What is denominated a river which may be improved in the system

is equally undefined in its meaning. It may be the Mississippi or it may be the smallest and most obscure and unimportant stream bearing the name of river which is to be found in any State in the Union.

Such a system is subject, moreover, to be perverted to the accomplishment of the worst of political purposes. During the few years it was in full operation, and which immediately preceded the veto of President Jackson of the Maysville road bill, instances were numerous of public men seeking to gain popular favor by holding out to the people interested in particular localities the promise of large disbursements of public money. Numerous reconnoissances and surveys were made during that period for roads and canals through many parts of the Union, and the people in the vicinity of each were led to believe that their property would be enhanced in value and they themselves be enriched by the large expenditures which they were promised by the advocates of the system should be made from the Federal Treasury in their neighborhood. Whole sections of the country were thus sought to be influenced, and the system was fast becoming one not only of profuse and wasteful expenditure, but a potent political engine.

If the power to improve a harbor be admitted, it is not easy to perceive how the power to deepen every inlet on the ocean or the lakes and make harbors where there are none can be denied. If the power to clear out or deepen the channel of rivers near their mouths be admitted, it is not easy to perceive how the power to improve them to their fountain head and make them navigable to their sources can be denied. Where shall the exercise of the power, if it be assumed, stop? Has Congress the power when an inlet is deep enough to admit a schooner to deepen it still more, so that it will admit ships of heavy burden, and has it not the power when an inlet will admit a boat to make it deep enough to admit a schooner? May it improve rivers deep enough already to float ships and steamboats, and has it no power to improve those which are navigable only for flatboats and barges? May the General Government exercise power and jurisdiction over the soil of a State consisting of rocks and sand bars in the beds of its rivers, and may it not excavate a canal around its waterfalls or across its lands for precisely the same object?

Giving to the subject the most serious and candid consideration of which my mind is capable, I can not perceive any intermediate grounds. The power to improve harbors and rivers for purposes of navigation, by deepening or clearing out, by dams and sluices, by locking or canalling, must be admitted without any other limitation than the discretion of Congress, or it must be denied altogether. If it be admitted, how broad and how susceptible of enormous abuses is the power thus vested in the General Government! There is not an inlet of the ocean or the Lakes, not a river, creek, or streamlet within the States, which is not brought for this purpose within the power and jurisdiction of the General Government.

Speculation, disguised under the cloak of public good, will call on Congress to deepen shallow inlets, that it may build up new cities on their shores, or to make streams navigable which nature has closed by bars and rapids, that it may sell at a profit its lands upon their banks. To enrich neighborhoods by spending within them the moneys of the nation will be the aim and boast of those who prize their local interests above the good of the nation, and millions upon millions will be abstracted by tariffs and taxes from the earnings of the whole people to foster speculation and subserve the objects of private ambition.

Such a system could not be administered with any approach to equality among the several States and sections of the Union. There is no equality among them in the objects of expenditure, and if the funds were distributed according to the merits of those objects some would be enriched at the expense of their neighbors. But a greater practical evil would be found in the art and industry by which appropriations would be sought and obtained. The most artful and industrious would be the most successful. The true interests of the country would be lost sight of in an annual scramble for the contents of the Treasury, and the Member of Congress who could procure the largest appropriations to be expended in his district would claim the reward of victory from his enriched constituents. The necessary consequence would be sectional discontents and heartburnings, increased taxation, and a national debt never to be extinguished.

In view of these portentous consequences, I can not but think that this course of legislation should be arrested, even were there nothing to forbid it in the fundamental laws of our Union. This conclusion is fortified by the fact that the Constitution itself indicates a process by which harbors and rivers within the States may be improved—a process not susceptible of the abuses necessarily to flow from the assumption of the power to improve them by the General Government, just in its operation, and actually practiced upon, without complaint or interruption, during more than thirty years from the organization of the present Government.

The Constitution provides that “no State shall, without the consent of Congress, lay any duty of tonnage.” With the “consent” of Congress, such duties may be levied, collected, and expended by the States. We are not left in the dark as to the objects of this reservation of power to the States. The subject was fully considered by the Convention that framed the Constitution. It appears in Mr. Madison’s report of the proceedings of that body that one object of the reservation was that the States should not be restrained from laying duties of tonnage for the purpose of clearing harbors. Other objects were named in the debates, and among them the support of seamen. Mr. Madison, treating on this subject in the *Federalist*, declares that—

The restraint on the power of the States over imports and exports is enforced by all the arguments which prove the necessity of submitting the regulation of trade to

the Federal councils. It is needless, therefore, to remark further on this head than that the manner in which the restraint is qualified seems well calculated at once to secure to the States a reasonable discretion in providing for the conveniency of their imports and exports, and to the United States a reasonable check against the abuse of this discretion.

The States may lay tonnage duties for clearing harbors, improving rivers, or for other purposes, but are restrained from abusing the power, because before such duties can take effect the "consent" of Congress must be obtained. Here is a safe provision for the improvement of harbors and rivers in the reserved powers of the States and in the aid they may derive from duties of tonnage levied with the consent of Congress. Its safeguards are, that both the State legislatures and Congress have to concur in the act of raising the funds; that they are in every instance to be levied upon the commerce of those ports which are to profit by the proposed improvement; that no question of conflicting power or jurisdiction is involved; that the expenditure, being in the hands of those who are to pay the money and be immediately benefited, will be more carefully managed and more productive of good than if the funds were drawn from the National Treasury and disbursed by the officers of the General Government; that such a system will carry with it no enlargement of Federal power and patronage, and leave the States to be the sole judges of their own wants and interests, with only a conservative negative in Congress upon any abuse of the power which the States may attempt.

Under this wise system the improvement of harbors and rivers was commenced, or rather continued, from the organization of the Government under the present Constitution. Many acts were passed by the several States levying duties of tonnage, and many were passed by Congress giving their consent to those acts. Such acts have been passed by Massachusetts, Rhode Island, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, and Georgia, and have been sanctioned by the consent of Congress. Without enumerating them all, it may be instructive to refer to some of them, as illustrative of the mode of improving harbors and rivers in the early periods of our Government, as to the constitutionality of which there can be no doubt.

In January, 1790, the State of Rhode Island passed a law levying a tonnage duty on vessels arriving in the port of Providence, "for the purpose of clearing and deepening the channel of Providence River and making the same more navigable."

On the 2d of February, 1798, the State of Massachusetts passed a law levying a tonnage duty on all vessels, whether employed in the foreign or coasting trade, which might enter into the Kennebunk River, for the improvement of the same by "rendering the passage in and out of said river less difficult and dangerous."

On the 1st of April, 1805, the State of Pennsylvania passed a law levying a tonnage duty on vessels, "to remove the obstructions to the navigation of the river Delaware below the city of Philadelphia."

On the 23d of January, 1804, the State of Virginia passed a law levying a tonnage duty on vessels, "for improving the navigation of James River."

On the 22d of February, 1826, the State of Virginia passed a law levying a tonnage duty on vessels, "for improving the navigation of James River from Warwick to Rocketts Landing."

On the 8th of December, 1824, the State of Virginia passed a law levying a tonnage duty on vessels, "for improving the navigation of Appomattox River from Pocahontas Bridge to Broadway."

In November, 1821, the State of North Carolina passed a law levying a tonnage duty on vessels, "for the purpose of opening an inlet at the lower end of Albemarle Sound, near a place called Nags Head, and improving the navigation of said sound, with its branches;" and in November, 1828, an amendatory law was passed.

On the 21st of December, 1804, the State of South Carolina passed a law levying a tonnage duty, for the purpose of "building a marine hospital in the vicinity of Charleston," and on the 17th of December, 1816, another law was passed by the legislature of that State for the "maintenance of a marine hospital."

On the 10th of February, 1787, the State of Georgia passed a law levying a tonnage duty on all vessels entering into the port of Savannah, for the purpose of "clearing" the Savannah River of "wrecks and other obstructions" to the navigation.

On the 12th of December, 1804, the State of Georgia passed a law levying a tonnage duty on vessels, "to be applied to the payment of the fees of the harbor master and health officer of the ports of Savannah and St. Marys."

In April, 1783, the State of Maryland passed a law laying a tonnage duty on vessels, for the improvement of the "basin" and "harbor" of Baltimore and the "river Patapsco."

On the 26th of December, 1791, the State of Maryland passed a law levying a tonnage duty on vessels, for the improvement of the "harbor and port of Baltimore."

On the 28th of December, 1793, the State of Maryland passed a law authorizing the appointment of a health officer for the port of Baltimore, and laying a tonnage duty on vessels to defray the expenses.

Congress has passed many acts giving its "consent" to these and other State laws, the first of which is dated in 1790 and the last in 1843. By the latter act the "consent" of Congress was given to the law of the legislature of the State of Maryland laying a tonnage duty on vessels for the improvement of the harbor of Baltimore, and continuing it in force until the 1st day of June, 1850. I transmit herewith copies of such of the acts of the legislatures of the States on the subject, and also the acts of Congress giving its "consent" thereto, as have been collated.

That the power was constitutionally and rightfully exercised in these cases does not admit of a doubt.

The injustice and inequality resulting from conceding the power to both Governments is illustrated by several of the acts enumerated. Take that for the improvement of the harbor of Baltimore. That improvement is paid for exclusively by a tax on the commerce of that city, but if an appropriation be made from the National Treasury for the improvement of the harbor of Boston it must be paid in part out of taxes levied on the commerce of Baltimore. The result is that the commerce of Baltimore pays the full cost of the harbor improvement designed for its own benefit, and in addition contributes to the cost of all other harbor and river improvements in the Union. The facts need but be stated to prove the inequality and injustice which can not but flow from the practice embodied in this bill. Either the subject should be left as it was during the first third of a century, or the practice of levying tonnage duties by the States should be abandoned altogether and all harbor and river improvements made under the authority of the United States, and by means of direct appropriations. In view not only of the constitutional difficulty, but as a question of policy, I am clearly of opinion that the whole subject should be left to the States, aided by such tonnage duties on vessels navigating their waters as their respective legislatures may think proper to propose and Congress see fit to sanction. This "consent" of Congress would never be refused in any case where the duty proposed to be levied by the State was reasonable and where the object of improvement was one of importance. The funds required for the improvement of harbors and rivers may be raised in this mode, as was done in the earlier periods of the Government, and thus avoid a resort to a strained construction of the Constitution not warranted by its letter. If direct appropriations be made of the money in the Federal Treasury for such purposes, the expenditures will be unequal and unjust. The money in the Federal Treasury is paid by a tax on the whole people of the United States, and if applied to the purposes of improving harbors and rivers it will be partially distributed and be expended for the advantage of particular States, sections, or localities at the expense of others.

By returning to the early and approved construction of the Constitution and to the practice under it this inequality and injustice will be avoided and at the same time all the really important improvements be made, and, as our experience has proved, be better made and at less cost than they would be by the agency of officers of the United States. The interests benefited by these improvements, too, would bear the cost of making them, upon the same principle that the expenses of the Post-Office establishment have always been defrayed by those who derive benefits from it. The power of appropriating money from the Treasury for such improvements was not claimed or exercised for more than thirty years after the organization of the Government in 1789, when a more latitudinous construction was indicated, though it was not broadly asserted and exercised until 1825. Small appropriations were first made

in 1820 and 1821 for surveys. An act was passed on the 3d of March, 1823, authorizing the President to "cause an examination and survey to be made of the obstructions between the harbor of Gloucester and the harbor of Squam, in the State of Massachusetts," and of "the entrance of the harbor of the port of Presque Isle, in Pennsylvania," with a view to their removal, and a small appropriation was made to pay the necessary expenses. This appears to have been the commencement of harbor improvements by Congress, thirty-four years after the Government went into operation under the present Constitution. On the 30th of April, 1824, an act was passed making an appropriation of \$30,000, and directing "surveys and estimates to be made of the routes of such roads and canals" as the President "may deem of national importance in a commercial or military point of view or necessary for the transportation of the mails." This act evidently looked to the adoption of a general system of internal improvements, to embrace roads and canals as well as harbors and rivers. On the 26th May, 1824, an act was passed making appropriations for "deepening the channel leading into the harbor of Presque Isle, in the State of Pennsylvania," and to "repair Plymouth Beach, in the State of Massachusetts, and thereby prevent the harbor at that place from being destroyed."

President Monroe yielded his approval to these measures, though he entertained, and had, in a message to the House of Representatives on the 4th of May, 1822, expressed, the opinion that the Constitution had not conferred upon Congress the power to "adopt and execute a system of internal improvements." He placed his approval upon the ground, not that Congress possessed the power to "adopt and execute" such a system by virtue of any or all of the enumerated grants of power in the Constitution, but upon the assumption that the power to make appropriations of the public money was limited and restrained only by the discretion of Congress. In coming to this conclusion he avowed that "in the more early stage of the Government" he had entertained a different opinion. He avowed that his first opinion had been that "as the National Government is a Government of limited powers, it has no right to expend money except in the performance of acts authorized by the other specific grants, according to a strict construction of their powers," and that the power to make appropriations gave to Congress no discretionary authority to apply the public money to any other purposes or objects except to "carry into effect the powers contained in the other grants." These sound views, which Mr. Monroe entertained "in the early stage of the Government," he gave up in 1822, and declared that—

The right of appropriation is nothing more than a right to apply the public money to this or that purpose. It has no incidental power, nor does it draw after it any consequences of that kind. All that Congress could do under it in the case of internal improvements would be to appropriate the money necessary to make them. For every act requiring legislative sanction or support the State authority must be relied on. The condemnation of the land, if the proprietors should refuse to sell it, the

establishment of turnpikes and tolls, and the protection of the work when finished must be done by the State. To these purposes the powers of the General Government are believed to be utterly incompetent.

But it is impossible to conceive on what principle the power of appropriating public money when in the Treasury can be construed to extend to objects for which the Constitution does not authorize Congress to levy taxes or imposts to raise money. The power of appropriation is but the consequence of the power to raise money; and the true inquiry is whether Congress has the right to levy taxes for the object over which power is claimed.

During the four succeeding years embraced by the Administration of President Adams the power not only to appropriate money, but to apply it, under the direction and authority of the General Government, as well to the construction of roads as to the improvement of harbors and rivers, was fully asserted and exercised.

Among other acts assuming the power was one passed on the 20th of May, 1826, entitled "An act for improving certain harbors and the navigation of certain rivers and creeks, and for authorizing surveys to be made of certain bays, sounds, and rivers therein mentioned." By that act large appropriations were made, which were to be "applied, under the direction of the President of the United States," to numerous improvements in ten of the States. This act, passed thirty-seven years after the organization of the present Government, contained the first appropriation ever made for the improvement of a navigable river, unless it be small appropriations for examinations and surveys in 1820. During the residue of that Administration many other appropriations of a similar character were made, embracing roads, rivers, harbors, and canals, and objects claiming the aid of Congress multiplied without number.

This was the first breach effected in the barrier which the universal opinion of the framers of the Constitution had for more than thirty years thrown in the way of the assumption of this power by Congress. The general mind of Congress and the country did not appreciate the distinction taken by President Monroe between the right to appropriate money for an object and the right to apply and expend it without the embarrassment and delay of applications to the State governments. Probably no instance occurred in which such an application was made, and the flood gates being thus hoisted the principle laid down by him was disregarded, and applications for aid from the Treasury, virtually to make harbors as well as improve them, clear out rivers, cut canals, and construct roads, poured into Congress in torrents until arrested by the veto of President Jackson. His veto of the Maysville road bill was followed up by his refusal to sign the "Act making appropriations for building light-houses, light-boats, beacons, and monuments, placing buoys, improving harbors, and directing surveys;" "An act authorizing subscriptions for stock in the Louisville and Portland Canal Company;" "An act for

the improvement of certain harbors and the navigation of certain rivers;" and, finally, "An act to improve the navigation of the Wabash River." In his objections to the act last named he says:

The desire to embark the Federal Government in works of internal improvement prevailed in the highest degree during the first session of the first Congress that I had the honor to meet in my present situation. When the bill authorizing a subscription on the part of the United States for stock in the Maysville and Lexington Turnpike Company passed the two Houses, there had been reported by the Committees of Internal Improvements bills containing appropriations for such objects, inclusive of those for the Cumberland road and for harbors and light-houses, to the amount of \$106,000,000. In this amount was included authority to the Secretary of the Treasury to subscribe for the stock of different companies to a great extent, and the residue was principally for the direct construction of roads by this Government. In addition to these projects, which had been presented to the two Houses under the sanction and recommendation of their respective Committees on Internal Improvements, there were then still pending before the committees and in memorials to Congress presented but not referred different projects for works of a similar character, the expense of which can not be estimated with certainty, but must have exceeded \$100,000,000.

Thus, within the brief period of less than ten years after the commencement of internal improvements by the General Government the sum asked for from the Treasury for various projects amounted to more than \$200,000,000. President Jackson's powerful and disinterested appeals to his country appear to have put down forever the assumption of power to make roads and cut canals, and to have checked the prevalent disposition to bring all rivers in any degree navigable within the control of the General Government. But an immense field for expending the public money and increasing the power and patronage of this Government was left open in the concession of even a limited power of Congress to improve harbors and rivers—a field which millions will not fertilize to the satisfaction of those local and speculating interests by which these projects are in general gotten up. There can not be a just and equal distribution of public burdens and benefits under such a system, nor can the States be relieved from the danger of fatal encroachment, nor the United States from the equal danger of consolidation, otherwise than by an arrest of the system and a return to the doctrines and practices which prevailed during the first thirty years of the Government.

How forcibly does the history of this subject illustrate the tendency of power to concentration in the hands of the General Government. The power to improve their own harbors and rivers was clearly reserved to the States, who were to be aided by tonnage duties levied and collected by themselves, with the consent of Congress. For thirty-four years improvements were carried on under that system, and so careful was Congress not to interfere, under any implied power, with the soil or jurisdiction of the States that they did not even assume the power to erect light-houses or build piers without first purchasing the ground, with the consent of the States, and obtaining jurisdiction over it. At length, after

the lapse of thirty-three years, an act is passed providing for the examination of certain obstructions at the mouth of one or two harbors almost unknown. It is followed by acts making small appropriations for the removal of those obstructions. The obstacles interposed by President Monroe, after conceding the power to appropriate, were soon swept away. Congress virtually assumed jurisdiction of the soil and waters of the States, without their consent, for the purposes of internal improvement, and the eyes of eager millions were turned from the State governments to Congress as the fountain whose golden streams were to deepen their harbors and rivers, level their mountains, and fill their valleys with canals. To what consequences this assumption of power was rapidly leading is shown by the veto messages of President Jackson, and to what end it is again tending is witnessed by the provisions of this bill and bills of similar character.

In the proceedings and debates of the General Convention which formed the Constitution and of the State conventions which adopted it nothing is found to countenance the idea that the one intended to propose or the others to concede such a grant of power to the General Government as the building up and maintaining of a system of internal improvements within the States necessarily implies. ~~Whatever~~ the General Government may constitutionally create, it may lawfully protect. If it may make a road upon the soil of the States, it may protect it from destruction or injury by penal laws. So of canals, rivers, and harbors. If it may put a dam ~~in a~~ river, it may protect that dam from removal or injury, in direct opposition to the laws, authorities, and people of the State in which it is situated. If it may deepen a harbor, it may by its own laws protect its agents and contractors from being driven from their work even by the laws and authorities of the State. The power to make a road or canal or to dig up the bottom of a harbor or river implies a right in the soil of the State and a jurisdiction over it, for which it would be impossible to find any warrant.

The States were particularly jealous of conceding to the General Government any right of jurisdiction over their soil, and in the Constitution restricted the exclusive legislation of Congress to such places as might be "purchased with the consent of the States in which the same shall be, for the erection of forts, magazines, dockyards, and other needful buildings." That the United States should be prohibited from purchasing lands within the States without their consent, even for the most essential purposes of national defense, while left at liberty to purchase or seize them for roads, canals, and other improvements of immeasurably less importance, is not to be conceived.

A proposition was made in the Convention to provide for the appointment of a "Secretary of Domestic Affairs," and make it his duty, among other things, "to attend to the opening of roads and navigation and the facilitating communications through the United States." It was referred to a committee, and that appears to have been the last of it. On a subsequent occasion a proposition was made to confer on Congress the power

to "provide for the cutting of canals when deemed necessary," which was rejected by the strong majority of eight States to three. Among the reasons given for the rejection of this proposition, it was urged that "the expense in such cases will fall on the United States and the benefits accrue to the places where the canals may be cut."

During the consideration of this proposition a motion was made to enlarge the proposed power for "cutting canals" into a power "to grant charters of incorporation when the interest of the United States might require and the legislative provisions of the individual States may be incompetent;" and the reason assigned by Mr. Madison for the proposed enlargement of the power was that it would "secure an easy communication between the States, which the free intercourse now to be opened seemed to call for. The political obstacles being removed, a removal of the natural ones, as far as possible, ought to follow."

The original proposition and all the amendments were rejected, after deliberate discussion, not on the ground, as so much of that discussion as has been preserved indicates, that no direct grant was necessary, but because it was deemed inexpedient to grant it at all. When it is considered that some of the members of the Convention, who afterwards participated in the organization and administration of the Government, advocated and practiced upon a very liberal construction of the Constitution, grasping at many high powers as implied in its various provisions, not one of them, it is believed, at that day claimed the power to make roads and canals, or improve rivers and harbors, or appropriate money for that purpose. Among our early statesmen of the strict-construction class the opinion was universal, when the subject was first broached, that Congress did not possess the power, although some of them thought it desirable.

President Jefferson, in his message to Congress in 1806, recommended an amendment of the Constitution, with a view to apply an anticipated surplus in the Treasury "to the great purposes of the public education, roads, rivers, canals, and such other objects of public improvement as it may be thought proper to add to the constitutional enumeration of Federal powers." And he adds:

I suppose an amendment to the Constitution, by consent of the States, necessary, because the objects now recommended are not among those enumerated in the Constitution, and to which it permits the public moneys to be applied.

In 1825 he repeated, in his published letters, the opinion that no such power has been conferred upon Congress.

President Madison, in a message to the House of Representatives of the 3d of March, 1817, assigning his objections to a bill entitled "An act to set apart and pledge certain funds for internal improvements," declares that—

"The power to regulate commerce among the several States" can not include a power to construct roads and canals and to *improve the navigation of water courses*

in order to facilitate, promote, and secure such a commerce without a latitude of construction departing from the ordinary import of the terms, strengthened by the known inconveniences which doubtless led to the grant of this remedial power to Congress.

President Monroe, in a message to the House of Representatives of the 4th of May, 1822, containing his objections to a bill entitled "An act for the preservation and repair of the Cumberland road," declares:

Commerce between independent powers or communities is universally regulated by duties and imposts. It was so regulated by the States before the adoption of this Constitution, equally in respect to each other and to foreign powers. The goods and vessels employed in the trade are the only subjects of regulation. It can act on none other. A power, then, to impose such duties and imposts in regard to foreign nations and to prevent any on the trade between the States was the only power granted.

If we recur to the causes which produced the adoption of this Constitution, we shall find that injuries resulting from the regulation of trade by the States respectively and the advantages anticipated from the transfer of the power to Congress were among those which had the most weight. Instead of acting as a nation in regard to foreign powers, the States individually had commenced a system of restraint on each other whereby the interests of foreign powers were promoted at their expense. If one State imposed high duties on the goods or vessels of a foreign power to countervail the regulations of such power, the next adjoining States imposed lighter duties to invite those articles into their ports, that they might be transferred thence into the other States, securing the duties to themselves. This contracted policy in some of the States was soon counteracted by others. Restraints were immediately laid on such commerce by the suffering States; and thus had grown up a state of affairs disorderly and unnatural, the tendency of which was to destroy the Union itself and with it all hope of realizing ~~those blessings which we had anticipated from the glorious Revolution which had been so recently achieved.~~ From this deplorable dilemma, or, rather, certain ruin, we were happily rescued by the adoption of the Constitution.

Among the first and most important effects of this great Revolution was the complete abolition of this pernicious policy. The States were brought together by the Constitution, as to commerce, into one community, equally in regard to foreign nations and each other. The regulations that were adopted regarded us in both respects as one people. The duties and imposts that were laid on the vessels and merchandise of foreign nations were all uniform throughout the United States, and in the intercourse between the States themselves no duties of any kind were imposed other than between different ports and counties within the same State.

This view is supported by a series of measures, all of a marked character, preceding the adoption of the Constitution. As early as the year 1781 Congress recommended it to the States to vest in the United States a power to levy a duty of 5 per cent on all goods imported from foreign countries into the United States for the term of fifteen years. In 1783 this recommendation, with alterations as to the kind of duties and an extension of this term to twenty-five years, was repeated and more earnestly urged. In 1784 it was recommended to the States to authorize Congress to prohibit, under certain modifications, the importation of goods from foreign powers into the United States for fifteen years. In 1785 the consideration of the subject was resumed, and a proposition presented in a new form, with an address to the States explaining fully the principles on which a grant of the power to regulate trade was deemed indispensable. In 1786 a meeting took place at Annapolis of delegates from several of the States on this subject, and on their report a convention was formed at Philadelphia the ensuing year from all the States, to whose deliberations we are indebted for the present Constitution.

In none of these measures was the subject of internal improvement mentioned or

even glanced at. Those of 1784, 1785, 1786, and 1787, leading step by step to the adoption of the Constitution, had in view only the obtaining of a power to enable Congress to regulate trade with foreign powers. It is manifest that the regulation of trade with the several States was altogether a secondary object, suggested by and adopted in connection with the other. If the power necessary to this system of improvement is included under either branch of this grant, I should suppose that it was the first rather than the second. The pretension to it, however, under that branch has never been set up. In support of the claim under the second no reason has been assigned which appears to have the least weight.

Such is a brief history of the origin, progress, and consequences of a system which for more than thirty years after the adoption of the Constitution was unknown. The greatest embarrassment upon the subject consists in the departure which has taken place from the early construction of the Constitution and the precedents which are found in the legislation of Congress in later years. President Jackson, in his veto of the Wabash River bill, declares that "to inherent embarrassments have been added others resulting from the course of our legislation concerning it." In his vetoes on the Maysville road bill, the Rockville road bill, the Wabash River bill, and other bills of like character he reversed the precedents which existed prior to that time on the subject of internal improvements. When our experience, observation, and reflection have convinced us that a legislative precedent is either unwise or unconstitutional, it should not be followed.

No express grant of this power is found in the Constitution. Its advocates have differed among themselves as to the source from which it is derived as an incident. In the progress of the discussions upon this subject the power to regulate commerce seems now to be chiefly relied upon, especially in reference to the improvement of harbors and rivers.

In relation to the regulation of commerce, the language of the grant in the Constitution is:

Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

That to "regulate commerce" does not mean to make a road, or dig a canal, or clear out a river, or deepen a harbor would seem to be obvious to the common understanding. To "regulate" admits or affirms the preexistence of the thing to be regulated. In this case it presupposes the existence of commerce, and, of course, the means by which and the channels through which commerce is carried on. It confers no creative power; it only assumes control over that which may have been brought into existence through other agencies, such as State legislation and the industry and enterprise of individuals. If the definition of the word "regulate" is to include the provision of means to carry on commerce, then have Congress not only power to deepen harbors, clear out rivers, dig canals, and make roads, but also to build ships, railroad cars, and other vehicles, all of which are necessary to commerce. There is no

middle ground. If the power to regulate can be legitimately construed into a power to create or facilitate, then not only the bays and harbors, but the roads and canals and all the means of transporting merchandise among the several States, are put at the disposition of Congress. This power to regulate commerce was construed and exercised immediately after the adoption of the Constitution, and has been exercised to the present day, by prescribing general rules by which commerce should be conducted. With foreign nations it has been regulated by treaties defining the rights of citizens and subjects, as well as by acts of Congress imposing duties and restrictions embracing vessels, seamen, cargoes, and passengers. It has been regulated among the States by acts of Congress relating to the coasting trade and the vessels employed therein, and for the better security of passengers in vessels propelled by steam, and by the removal of all restrictions upon internal trade. It has been regulated with the Indian tribes by our intercourse laws, prescribing the manner in which it shall be carried on. Thus each branch of this grant of power was exercised soon after the adoption of the Constitution, and has continued to be exercised to the present day. If a more extended construction be adopted, it is impossible for the human mind to fix on a limit to the exercise of the power other than the will and discretion of Congress. It sweeps into the vortex of national power and jurisdiction not only harbors and inlets, rivers and little streams, but canals, turnpikes, and railroads—every species of improvement which can facilitate or create trade and intercourse “with foreign nations, and among the several States, and with the Indian tribes.”

Should any great object of improvement exist in our widely extended country which can not be effected by means of tonnage duties levied by the States with the concurrence of Congress, it is safer and wiser to apply to the States in the mode prescribed by the Constitution for an amendment of that instrument whereby the powers of the General Government may be enlarged, with such limitations and restrictions as experience has shown to be proper, than to assume and exercise a power which has not been granted, or which may be regarded as doubtful in the opinion of a large portion of our constituents. This course has been recommended successively by Presidents Jefferson, Madison, Monroe, and Jackson, and I fully concur with them in opinion. If an enlargement of power should be deemed proper, it will unquestionably be granted by the States; if otherwise, it will be withheld; and in either case their decision should be final. In the meantime I deem it proper to add that the investigation of this subject has impressed me more strongly than ever with the solemn conviction that the usefulness and permanency of this Government and the happiness of the millions over whom it spreads its protection will be best promoted by carefully abstaining from the exercise of all powers not clearly granted by the Constitution.

JAMES K. POLK.

PROCLAMATION.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a treaty of peace, friendship, limits, and settlement between the United States of America and the Mexican Republic was concluded and signed at the city of Guadalupe Hidalgo on the 2d day of February, 1848, which treaty, as amended by the Senate of the United States, and being in the English and Spanish languages, is word for word as follows:

[Here follows the treaty.]

And whereas the said treaty, as amended, has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Queretaro on the 30th day of May last by Ambrose H. Sevier and Nathan Clifford, commissioners on the part of the Government of the United States, and by Señor Don Luis de la Rosa, minister of relations of the Mexican Republic, on the part of that Government:

Now, therefore, be it known that I, James K. Polk, President of the United States of America, have caused the said treaty to be ~~made~~ public, to the end that the same and every clause and article thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof ~~I~~ have hereunto set my hand and caused the seal of the United States to be affixed.

[SEAL.] Done at the city of Washington, this 4th day of July, 1848, and of the Independence of the United States the seventy-third.

JAMES K. POLK.

By the President:

JAMES BUCHANAN, *Secretary of State.*

EXECUTIVE ORDER.

GENERAL ORDERS, No. 9.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 24, 1848.

I. The following orders of the President of the United States and Secretary of War announce to the Army the death of the illustrious ex-President John Quincy Adams:

BY THE PRESIDENT OF THE UNITED STATES.

WASHINGTON, *February 24, 1848.*

It has pleased Divine Providence to call hence a great and patriotic citizen. John Quincy Adams is no more. At the advanced age of more

than fourscore years, he was suddenly stricken from his seat in the House of Representatives by the hand of disease on the 21st, and expired in the Capitol a few minutes after 7 o'clock on the evening of the 23d of February, 1848.

He had for more than half a century filled the most important public stations, and among them that of President of the United States. The two Houses of Congress, of one of which he was a venerable and most distinguished member, will doubtless prescribe appropriate ceremonies to be observed as a mark of respect for the memory of this eminent citizen.

The nation mourns his loss; and as a further testimony of respect for his memory I direct that all the executive offices at Washington be placed in mourning and that all business be suspended during this day and to-morrow.

JAMES K. POLK.

WAR DEPARTMENT, *February 24, 1848.*

The President of the United States with deep regret announces to the Army the death of John Quincy Adams, our eminent and venerated fellow-citizen.

While occupying his seat as a member of the House of Representatives, on the 21st instant he was suddenly prostrated by disease, and on the 23d expired, without having been removed from the Capitol. He had filled many honorable and responsible stations in the service of his country, and among them that of President of the United States; and he closed his long and eventful life in the actual discharge of his duties as one of the Representatives of the people.

From sympathy with his relatives and the American people for his loss and from respect for his distinguished public services, the President orders that funeral honors shall be paid to his memory at each of the military stations.

The Adjutant-General will give the necessary instructions for carrying into effect the foregoing orders.

W. L. MARCY,
Secretary of War.

II. On the day succeeding the arrival of this general order at each military post the troops will be paraded at 10 o'clock a. m. and the order read to them, after which all labors for the day will cease.

The national flag will be displayed at half-staff.

At dawn of day thirteen guns will be fired, and afterwards, at intervals of thirty minutes between the rising and setting sun, a single gun, and at the close of the day a national salute of twenty-nine guns.

The officers of the Army will wear crape on the left arm and on their swords and the colors of the several regiments will be put in mourning for the period of six months.

By order:

R. JONES,
Adjutant-General.

FOURTH ANNUAL MESSAGE.

WASHINGTON, *December 5, 1848.**Fellow-Citizens of the Senate and of the House of Representatives:*

Under the benignant providence of Almighty God the representatives of the States and of the people are again brought together to deliberate for the public good. The gratitude of the nation to the Sovereign Arbiter of All Human Events should be commensurate with the boundless blessings which we enjoy.

Peace, plenty, and contentment reign throughout our borders, and our beloved country presents a sublime moral spectacle to the world.

The troubled and unsettled condition of some of the principal European powers has had a necessary tendency to check and embarrass trade and to depress prices throughout all commercial nations, but notwithstanding these causes, the United States, with their abundant products, have felt their effects less severely than any other country, and all our great interests are still prosperous and successful.

In reviewing the great events of the past year and contrasting the agitated and disturbed state of other countries with our own tranquil and happy condition, we may congratulate ourselves that we are the most favored people on the face of the earth.—While the people of other countries are struggling to establish free institutions, under which man may govern himself, we are in the actual enjoyment of them—a rich inheritance from our fathers. While enlightened nations of Europe are convulsed and distracted by civil war or intestine strife, we settle all our political controversies by the peaceful exercise of the rights of freemen at the ballot box.

The great republican maxim, so deeply engraven on the hearts of our people, that the will of the majority, constitutionally expressed, shall prevail, is our sure safeguard against force and violence. It is a subject of just pride that our fame and character, as a nation continue rapidly to advance in the estimation of the civilized world.

To our wise and free institutions it is to be attributed that while other nations have achieved glory at the price of the suffering, distress, and impoverishment of their people, we have won our honorable position in the midst of an uninterrupted prosperity and of an increasing individual comfort and happiness.

I am happy to inform you that our relations with all nations are friendly and pacific. Advantageous treaties of commerce have been concluded within the last four years with New Granada, Peru, the Two Sicilies, Belgium, Hanover, Oldenburg, and Mecklenburg-Schwerin. Pursuing our example, the restrictive system of Great Britain, our principal foreign customer, has been relaxed, a more liberal commercial policy has

been adopted by other enlightened nations, and our trade has been greatly enlarged and extended. Our country stands higher in the respect of the world than at any former period. To continue to occupy this proud position, it is only necessary to preserve peace and faithfully adhere to the great and fundamental principle of our foreign policy of noninterference in the domestic concerns of other nations. We recognize in all nations the right which we enjoy ourselves, to change and reform their political institutions according to their own will and pleasure. Hence we do not look behind existing governments capable of maintaining their own authority. We recognize all such actual governments, not only from the dictates of true policy, but from a sacred regard for the independence of nations. While this is our settled policy, it does not follow that we can ever be indifferent spectators of the progress of liberal principles. The Government and people of the United States hailed with enthusiasm and delight the establishment of the French Republic, as we now hail the efforts in progress to unite the States of Germany in a confederation similar in many respects to our own Federal Union. If the great and enlightened German States, occupying, as they do, a central and commanding position in Europe, shall succeed in establishing such a confederated government, securing at the same time to the citizens of each State local governments adapted to the peculiar condition of each, with unrestricted trade and intercourse with each other, it will be an important era in the history of human events. Whilst it will consolidate and strengthen the power of Germany, it must essentially promote the cause of peace, commerce, civilization, and constitutional liberty throughout the world.

With all the Governments on this continent our relations, it is believed, are now on a more friendly and satisfactory footing than they have ever been at any former period.

Since the exchange of ratifications of the treaty of peace with Mexico our intercourse with the Government of that Republic has been of the most friendly character. The envoy extraordinary and minister plenipotentiary of the United States to Mexico has been received and accredited, and a diplomatic representative from Mexico of similar rank has been received and accredited by this Government. The amicable relations between the two countries, which had been suspended, have been happily restored, and are destined, I trust, to be long preserved. The two Republics, both situated on this continent, and with coterminous territories, have every motive of sympathy and of interest to bind them together in perpetual amity.

This gratifying condition of our foreign relations renders it unnecessary for me to call your attention more specifically to them.

It has been my constant aim and desire to cultivate peace and commerce with all nations. Tranquillity at home and peaceful relations abroad constitute the true permanent policy of our country. War, the

scourge of nations, sometimes becomes inevitable, but is always to be avoided when it can be done consistently with the rights and honor of a nation.

One of the most important results of the war into which we were recently forced with a neighboring nation is the demonstration it has afforded of the military strength of our country. Before the late war with Mexico European and other foreign powers entertained imperfect and erroneous views of our physical strength as a nation and of our ability to prosecute war, and especially a war waged out of our own country. They saw that our standing Army on the peace establishment did not exceed 10,000 men. Accustomed themselves to maintain in peace large standing armies for the protection of thrones against their own subjects, as well as against foreign enemies, they had not conceived that it was possible for a nation without such an army, well disciplined and of long service, to wage war successfully. They held in low repute our militia, and were far from regarding them as an effective force, unless it might be for temporary defensive operations when invaded on our own soil. The events of the late war with Mexico have not only undeceived them, but have removed erroneous impressions which prevailed to some extent even among a portion of our own countrymen. That war has demonstrated that upon the breaking out of hostilities not anticipated, and for which no previous preparation had been made, a volunteer army of citizen soldiers equal to veteran troops, and in numbers equal to any emergency, can in a short period be brought into the field. Unlike what would have occurred in any other country, we were under no necessity of resorting to drafts or conscriptions. On the contrary, such was the number of volunteers who patriotically tendered their services that the chief difficulty was in making selections and determining who should be disappointed and compelled to remain at home. Our citizen soldiers are unlike those drawn from the population of any other country. They are composed indiscriminately of all professions and pursuits—of farmers, lawyers, physicians, merchants, manufacturers, mechanics, and laborers—and this not only among the officers, but the private soldiers in the ranks. Our citizen soldiers are unlike those of any other country in other respects. They are armed, and have been accustomed from their youth up to handle and use firearms, and a large proportion of them, especially in the Western and more newly settled States, are expert marksmen. They are men who have a reputation to maintain at home by their good conduct in the field. They are intelligent, and there is an individuality of character which is found in the ranks of no other army. In battle each private man, as well as every officer, fights not only for his country, but for glory and distinction among his fellow-citizens when he shall return to civil life.

The war with Mexico has demonstrated not only the ability of the Government to organize a numerous army upon a sudden call, but also

to provide it with all the munitions and necessary supplies with dispatch, convenience, and ease, and to direct its operations with efficiency. The strength of our institutions has not only been displayed in the valor and skill of our troops engaged in active service in the field, but in the organization of those executive branches which were charged with the general direction and conduct of the war. While too great praise can not be bestowed upon the officers and men who fought our battles, it would be unjust to withhold from those officers necessarily stationed at home, who were charged with the duty of furnishing the Army in proper time and at proper places with all the munitions of war and other supplies so necessary to make it efficient, the commendation to which they are entitled. The credit due to this class of our officers is the greater when it is considered that no army in ancient or modern times was ever better appointed or provided than our Army in Mexico. Operating in an enemy's country, removed 2,000 miles from the seat of the Federal Government, its different corps spread over a vast extent of territory, hundreds and even thousands of miles apart from each other, nothing short of the untiring vigilance and extraordinary energy of these officers could have enabled them to provide the Army at all points and in proper season with all that was required for the most efficient service.

It is but an act of justice to declare that the officers in charge of the several executive bureaus, all under the immediate eye and supervision of the Secretary of War, performed their respective duties with ability, energy, and efficiency. They have reaped less of the glory of the war, not having been personally exposed to its perils in battle, than their companions in arms; but without their forecast, efficient aid, and cooperation those in the field would not have been provided with the ample means they possessed of achieving for themselves and their country the unfading honors which they have won for both.

When all these facts are considered, it may cease to be a matter of so much amazement abroad how it happened that our noble Army in Mexico, regulars and volunteers, were victorious upon every battlefield, however fearful the odds against them.

The war with Mexico has thus fully developed the capacity of republican governments to prosecute successfully a just and necessary foreign war with all the vigor usually attributed to more arbitrary forms of government. It has been usual for writers on public law to impute to republics a want of that unity, concentration of purpose, and vigor of execution which are generally admitted to belong to the monarchical and aristocratic forms; and this feature of popular government has been supposed to display itself more particularly in the conduct of a war carried on in an enemy's territory. The war with Great Britain in 1812 was to a great extent confined within our own limits, and shed but little light on this subject; but the war which we have just closed by an honorable peace evinces beyond all doubt that a popular representative government is equal to any emergency which is likely to arise in the affairs of a nation.

The war with Mexico has developed most strikingly and conspicuously another feature in our institutions. It is that without cost to the Government or danger to our liberties we have in the bosom of our society of freemen, available in a just and necessary war, virtually a standing army of 2,000,000 armed citizen soldiers, such as fought the battles of Mexico. But our military strength does not consist alone in our capacity for extended and successful operations on land. The Navy is an important arm of the national defense. If the services of the Navy were not so brilliant as those of the Army in the late war with Mexico, it was because they had no enemy to meet on their own element. While the Army had opportunity of performing more conspicuous service, the Navy largely participated in the conduct of the war. Both branches of the service performed their whole duty to the country. For the able and gallant services of the officers and men of the Navy, acting independently as well as in cooperation with our troops, in the conquest of the Californias, the capture of Vera Cruz, and the seizure and occupation of other important positions on the Gulf and Pacific coasts, the highest praise is due. Their vigilance, energy, and skill rendered the most effective service in excluding munitions of war and other supplies from the enemy, while they secured a safe entrance for abundant supplies for our own Army. Our extended commerce was nowhere interrupted, and for this immunity from the evils of war the country is indebted to the Navy.

High praise is due to the officers of the several executive bureaus, navy-yards, and stations connected with the service, all under the immediate direction of the Secretary of the Navy, for the industry, foresight, and energy with which everything was directed and furnished to give efficiency to that branch of the service. The same vigilance existed in directing the operations of the Navy as of the Army. There was concert of action and of purpose between the heads of the two arms of the service. By the orders which were from time to time issued, our vessels of war on the Pacific and the Gulf of Mexico were stationed in proper time and in proper positions to cooperate efficiently with the Army. By this means their combined power was brought to bear successfully on the enemy.

The great results which have been developed and brought to light by this war will be of immeasurable importance in the future progress of our country. They will tend powerfully to preserve us from foreign collisions, and to enable us to pursue uninterruptedly our cherished policy of "peace with all nations, entangling alliances with none."

Occupying, as we do, a more commanding position among nations than at any former period, our duties and our responsibilities to ourselves and to posterity are correspondingly increased. This will be the more obvious when we consider the vast additions which have been recently made to our territorial possessions and their great importance and value.

Within less than four years the annexation of Texas to the Union has

been consummated; all conflicting title to the Oregon Territory south of the forty-ninth degree of north latitude, being all that was insisted on by any of my predecessors, has been adjusted, and New Mexico and Upper California have been acquired by treaty. The area of these several Territories, according to a report carefully prepared by the Commissioner of the General Land Office from the most authentic information in his possession, and which is herewith transmitted, contains 1,193,061 square miles, or 763,559,040 acres; while the area of the remaining twenty-nine States and the territory not yet organized into States east of the Rocky Mountains contains 2,059,513 square miles, or 1,318,126,058 acres. These estimates show that the territories recently acquired, and over which our exclusive jurisdiction and dominion have been extended, constitute a country more than half as large as all that which was held by the United States before their acquisition. If Oregon be excluded from the estimate, there will still remain within the limits of Texas, New Mexico, and California 851,598 square miles, or 545,012,720 acres, being an addition equal to more than one-third of all the territory owned by the United States before their acquisition, and, including Oregon, nearly as great an extent of territory as the whole of Europe, Russia only excepted. The Mississippi, so lately the frontier of our country, is now only its center. With the addition of the late acquisitions, the United States are now estimated to be nearly as large as the whole of Europe. It is estimated by the Superintendent of the Coast Survey in the accompanying report that the extent of the seacoast of Texas on the Gulf of Mexico is upward of 400 miles; of the coast of Upper California on the Pacific, of 970 miles, and of Oregon, including the Straits of Fuca, of 650 miles, making the whole extent of seacoast on the Pacific 1,620 miles and the whole extent on both the Pacific and the Gulf of Mexico 2,020 miles. The length of the coast on the Atlantic from the northern limits of the United States around the capes of Florida to the Sabine, on the eastern boundary of Texas, is estimated to be 3,100 miles; so that the addition of seacoast, including Oregon, is very nearly two-thirds as great as all we possessed before, and, excluding Oregon, is an addition of 1,370 miles, being nearly equal to one-half of the extent of coast which we possessed before these acquisitions. We have now three great maritime fronts—on the Atlantic, the Gulf of Mexico, and the Pacific—making in the whole an extent of seacoast exceeding 5,000 miles. This is the extent of the seacoast of the United States, not including bays, sounds, and small irregularities of the main shore and of the sea islands. If these be included, the length of the shore line of coast, as estimated by the Superintendent of the Coast Survey in his report, would be 33,063 miles.

It would be difficult to calculate the value of these immense additions to our territorial possessions. Texas, lying contiguous to the western boundary of Louisiana, embracing within its limits a part of the navigable tributary waters of the Mississippi and an extensive seacoast, could

not long have remained in the hands of a foreign power without endangering the peace of our southwestern frontier. Her products in the vicinity of the tributaries of the Mississippi must have sought a market through these streams, running into and through our territory, and the danger of irritation and collision of interests between Texas as a foreign state and ourselves would have been imminent, while the embarrassments in the commercial intercourse between them must have been constant and unavoidable. Had Texas fallen into the hands or under the influence and control of a strong maritime or military foreign power, as she might have done, these dangers would have been still greater. They have been avoided by her voluntary and peaceful annexation to the United States. Texas, from her position, was a natural and almost indispensable part of our territories. Fortunately, she has been restored to our country, and now constitutes one of the States of our Confederacy, "upon an equal footing with the original States." The salubrity of climate, the fertility of soil, peculiarly adapted to the production of some of our most valuable staple commodities, and her commercial advantages must soon make her one of our most populous States.

New Mexico, though situated in the interior and without a seacoast, is known to contain much fertile land, to abound in rich mines of the precious metals, and to be capable of sustaining a large population. From its position it is the intermediate and connecting territory between our settlements and our possessions in Texas and those on the Pacific Coast.

Upper California, irrespective of the vast mineral wealth recently developed there, holds at this day, in point of value and importance, to the rest of the Union the same relation that Louisiana did when that fine territory was acquired from France forty-five years ago. Extending nearly ten degrees of latitude along the Pacific, and embracing the only safe and commodious harbors on that coast for many hundred miles, with a temperate climate and an extensive interior of fertile lands, it is scarcely possible to estimate its wealth until it shall be brought under the government of our laws and its resources fully developed. From its position it must command the rich commerce of China, of Asia, of the islands of the Pacific, of western Mexico, of Central America, the South American States, and of the Russian possessions bordering on that ocean. A great emporium will doubtless speedily arise on the Californian coast which may be destined to rival in importance New Orleans itself. The depot of the vast commerce which must exist on the Pacific will probably be at some point on the Bay of San Francisco, and will occupy the same relation to the whole western coast of that ocean as New Orleans does to the valley of the Mississippi and the Gulf of Mexico. To this depot our numerous whale ships will resort with their cargoes to trade, refit, and obtain supplies. This of itself will largely contribute to build up a city, which would soon become the center of a great and rapidly increasing commerce. Situated on a safe harbor, sufficiently capacious for all the navies as well

as the marine of the world, and convenient to excellent timber for ship-building, owned by the United States, it must become our great Western naval depot.

It was known that mines of the precious metals existed to a considerable extent in California at the time of its acquisition. Recent discoveries render it probable that these mines are more extensive and valuable than was anticipated. The accounts of the abundance of gold in that territory are of such an extraordinary character as would scarcely command belief were they not corroborated by the authentic reports of officers in the public service who have visited the mineral district and derived the facts which they detail from personal observation. Reluctant to credit the reports in general circulation as to the quantity of gold, the officer commanding our forces in California visited the mineral district in July last for the purpose of obtaining accurate information on the subject. His report to the War Department of the result of his examination and the facts obtained on the spot is herewith laid before Congress. When he visited the country there were about 4,000 persons engaged in collecting gold. There is every reason to believe that the number of persons so employed has since been augmented. The explorations already made warrant the belief that the supply is very large and that gold is found at various places in an extensive district of country.

Information received from officers of the Navy and other sources, though not so full and minute, confirms the accounts of the commander of our military force in California. It appears also from these reports that mines of quicksilver are found in the vicinity of the gold region. One of them is now being worked, and is believed to be among the most productive in the world.

The effects produced by the discovery of these rich mineral deposits and the success which has attended the labors of those who have resorted to them have produced a surprising change in the state of affairs in California. Labor commands a most exorbitant price, and all other pursuits but that of searching for the precious metals are abandoned. Nearly the whole of the male population of the country have gone to the gold districts. Ships arriving on the coast are deserted by their crews and their voyages suspended for want of sailors. Our commanding officer there entertains apprehensions that soldiers can not be kept in the public service without a large increase of pay. Desertions in his command have become frequent, and he recommends that those who shall withstand the strong temptation and remain faithful should be rewarded.

This abundance of gold and the all-engrossing pursuit of it have already caused in California an unprecedented rise in the price of all the necessaries of life.

That we may the more speedily and fully avail ourselves of the undeveloped wealth of these mines, it is deemed of vast importance that a branch of the Mint of the United States be authorized to be established

at your present session in California. Among other signal advantages which would result from such an establishment would be that of raising the gold to its par value in that territory. A branch mint of the United States at the great commercial depot on the west coast would convert into our own coin not only the gold derived from our own rich mines, but also the bullion and specie which our commerce may bring from the whole west coast of Central and South America. The west coast of America and the adjacent interior embrace the richest and best mines of Mexico, New Granada, Central America, Chili, and Peru. The bullion and specie drawn from these countries, and especially from those of western Mexico and Peru, to an amount in value of many millions of dollars, are now annually diverted and carried by the ships of Great Britain to her own ports, to be recoined or used to sustain her national bank, and thus contribute to increase her ability to command so much of the commerce of the world. If a branch mint be established at the great commercial point upon that coast, a vast amount of bullion and specie would flow thither to be recoined, and pass thence to New Orleans, New York, and other Atlantic cities. The amount of our constitutional currency at home would be greatly increased, while its circulation abroad would be promoted. It is well known to our merchants trading to China and the west coast of America that great inconvenience and loss are experienced from the fact that our coins are not current at their par value in those countries.

The powers of ~~Europe~~ Europe, far removed from the west coast of America by the Atlantic Ocean, which intervenes, and by a tedious and dangerous navigation around the southern cape of the continent of America, can never successfully compete with the United States in the rich and extensive commerce which is opened to us at so much less cost by the acquisition of California.

The vast importance and commercial advantages of California have heretofore remained undeveloped by the Government of the country of which it constituted a part. Now that this fine province is a part of our country, all the States of the Union, some more immediately and directly than others, are deeply interested in the speedy development of its wealth and resources. No section of our country is more interested or will be more benefited than the commercial, navigating, and manufacturing interests of the Eastern States. Our planting and farming interests in every part of the Union will be greatly benefited by it. As our commerce and navigation are enlarged and extended, our exports of agricultural products and of manufactures will be increased, and in the new markets thus opened they can not fail to command remunerating and profitable prices.

The acquisition of California and New Mexico, the settlement of the Oregon boundary, and the annexation of Texas, extending to the Rio Grande, are results which, combined, are of greater consequence and

will add more to the strength and wealth of the nation than any which have preceded them since the adoption of the Constitution.

But to effect these great results not only California, but New Mexico, must be brought under the control of regularly organized governments. The existing condition of California and of that part of New Mexico lying west of the Rio Grande and without the limits of Texas imperiously demands that Congress should at its present session organize Territorial governments over them.

Upon the exchange of ratifications of the treaty of peace with Mexico, on the 30th of May last, the temporary governments which had been established over New Mexico and California by our military and naval commanders by virtue of the rights of war ceased to derive any obligatory force from that source of authority, and having been ceded to the United States, all government and control over them under the authority of Mexico had ceased to exist. Impressed with the necessity of establishing Territorial governments over them, I recommended the subject to the favorable consideration of Congress in my message communicating the ratified treaty of peace, on the 6th of July last, and invoked their action at that session. Congress adjourned without making any provision for their government. The inhabitants by the transfer of their country had become entitled to the benefit of our laws and Constitution, and yet were left without any regularly organized government. Since that time the very limited power possessed by the Executive has been exercised to preserve and protect them from the inevitable consequences of a state of anarchy. The only government which remained was that established by the military authority during the war. Regarding this to be a *de facto* government, and that by the presumed consent of the inhabitants it might be continued temporarily, they were advised to conform and submit to it for the short intervening period before Congress would again assemble and could legislate on the subject. The views entertained by the Executive on this point are contained in a communication of the Secretary of State dated the 7th of October last, which was forwarded for publication to California and New Mexico, a copy of which is herewith transmitted. The small military force of the Regular Army which was serving within the limits of the acquired territories at the close of the war was retained in them, and additional forces have been ordered there for the protection of the inhabitants and to preserve and secure the rights and interests of the United States.

No revenue has been or could be collected at the ports in California, because Congress failed to authorize the establishment of custom-houses or the appointment of officers for that purpose.

The Secretary of the Treasury, by a circular letter addressed to collectors of the customs on the 7th day of October last, a copy of which is herewith transmitted, exercised all the power with which he was invested by law.

In pursuance of the act of the 14th of August last, extending the benefit of our post-office laws to the people of California, the Postmaster-General has appointed two agents, who have proceeded, the one to California and the other to Oregon, with authority to make the necessary arrangements for carrying its provisions into effect.

The monthly line of mail steamers from Panama to Astoria has been required to "stop and deliver and take mails at San Diego, Monterey, and San Francisco." These mail steamers, connected by the Isthmus of Panama with the line of mail steamers on the Atlantic between New York and Chagres, will establish a regular mail communication with California.

It is our solemn duty to provide with the least practicable delay for New Mexico and California regularly organized Territorial governments. The causes of the failure to do this at the last session of Congress are well known and deeply to be regretted. With the opening prospects of increased prosperity and national greatness which the acquisition of these rich and extensive territorial possessions affords, how irrational it would be to forego or to reject these advantages by the agitation of a domestic question which is coeval with the existence of our Government itself, and to endanger by internal strifes, geographical divisions, and heated contests for political power, or for any other cause, the harmony of the glorious Union of our confederated States—that Union which binds us together as one people, and which for sixty years has been our shield and protection against every danger. In the eyes of the world and of posterity how trivial and insignificant will be all our internal divisions and struggles compared with the preservation of this Union of the States in all its vigor and with all its countless blessings! No patriot would foment and excite geographical and sectional divisions. No lover of his country would deliberately calculate the value of the Union. Future generations would look in amazement upon the folly of such a course. Other nations at the present day would look upon it with astonishment, and such of them as desire to maintain and perpetuate thrones and monarchical or aristocratical principles will view it with exultation and delight, because in it they will see the elements of faction, which they hope must ultimately overturn our system. Ours is the great example of a prosperous and free self-governed republic, commanding the admiration and the imitation of all the lovers of freedom throughout the world. How solemn, therefore, is the duty, how impressive the call upon us and upon all parts of our country, to cultivate a patriotic spirit of harmony, of good-fellowship, of compromise and mutual concession, in the administration of the incomparable system of government formed by our fathers in the midst of almost insuperable difficulties, and transmitted to us with the injunction that we should enjoy its blessings and hand it down unimpaired to those who may come after us.

In view of the high and responsible duties which we owe to ourselves

and to mankind, I trust you may be able at your present session to approach the adjustment of the only domestic question which seriously threatens, or probably ever can threaten, to disturb the harmony and successful operations of our system.

The immensely valuable possessions of New Mexico and California are already inhabited by a considerable population. Attracted by their great fertility, their mineral wealth, their commercial advantages, and the salubrity of the climate, emigrants from the older States in great numbers are already preparing to seek new homes in these inviting regions. Shall the dissimilarity of the domestic institutions in the different States prevent us from providing for them suitable governments? These institutions existed at the adoption of the Constitution, but the obstacles which they interposed were overcome by that spirit of compromise which is now invoked. In a conflict of opinions or of interests, real or imaginary, between different sections of our country, neither can justly demand all which it might desire to obtain. Each, in the true spirit of our institutions, should concede something to the other.

Our gallant forces in the Mexican war, by whose patriotism and unparalleled deeds of arms we obtained these possessions as an indemnity for our just demands against Mexico, were composed of citizens who belonged to no one State or section of our Union. They were men from slaveholding and nonslaveholding States, from the North and the South, from the East and the West. They were all companions in arms and fellow-citizens of the same common country, engaged in the same common cause. When prosecuting that war they were brethren and friends, and shared alike with each other common toils, dangers, and sufferings. Now, when their work is ended, when peace is restored, and they return again to their homes, put off the habiliments of war, take their places in society, and resume their pursuits in civil life, surely a spirit of harmony and concession and of equal regard for the rights of all and of all sections of the Union ought to prevail in providing governments for the acquired territories—the fruits of their common service. The whole people of the United States, and of every State, contributed to defray the expenses of that war, and it would not be just for any one section to exclude another from all participation in the acquired territory. This would not be in consonance with the just system of government which the framers of the Constitution adopted.

The question is believed to be rather abstract than practical, whether slavery ever can or would exist in any portion of the acquired territory even if it were left to the option of the slaveholding States themselves. From the nature of the climate and productions in much the larger portion of it it is certain it could never exist, and in the remainder the probabilities are it would not. But however this may be, the question, involving, as it does, a principle of equality of rights of the separate and several States as equal copartners in the Confederacy, should not be disregarded.

In organizing governments over these territories no duty imposed on Congress by the Constitution requires that they should legislate on the subject of slavery, while their power to do so is not only seriously questioned, but denied by many of the soundest expounders of that instrument. Whether Congress shall legislate or not, the people of the acquired territories, when assembled in convention to form State constitutions, will possess the sole and exclusive power to determine for themselves whether slavery shall or shall not exist within their limits. If Congress shall abstain from interfering with the question, the people of these territories will be left free to adjust it as they may think proper when they apply for admission as States into the Union. No enactment of Congress could restrain the people of any of the sovereign States of the Union, old or new, North or South, slaveholding or nonslaveholding, from determining the character of their own domestic institutions as they may deem wise and proper. Any and all the States possess this right, and Congress can not deprive them of it. The people of Georgia might if they chose so alter their constitution as to abolish slavery within its limits, and the people of Vermont might so alter their constitution as to admit slavery within its limits. Both States would possess the right, though, as all know, it is not probable that either would exert it.

It is fortunate for the peace and harmony of the Union that this question is in its nature temporary and can only continue for the brief period which will intervene before California and New Mexico may be admitted as States into the Union. From the tide of population now flowing into them it is highly probable that this will soon occur.

Considering the several States and the citizens of the several States as equals and entitled to equal rights under the Constitution, if this were an original question it might well be insisted on that the principle of noninterference is the true doctrine and that Congress could not, in the absence of any express grant of power, interfere with their relative rights. Upon a great emergency, however, and under menacing dangers to the Union, the Missouri compromise line in respect to slavery was adopted. The same line was extended farther west in the acquisition of Texas. After an acquiescence of nearly thirty years in the principle of compromise recognized and established by these acts, and to avoid the danger to the Union which might follow if it were now disregarded, I have heretofore expressed the opinion that that line of compromise should be extended on the parallel of $36^{\circ} 30'$ from the western boundary of Texas, where it now terminates, to the Pacific Ocean. This is the middle ground of compromise, upon which the different sections of the Union may meet, as they have heretofore met. If this be done, it is confidently believed a large majority of the people of every section of the country, however widely their abstract opinions on the subject of slavery may differ, would cheerfully and patriotically acquiesce in it, and peace and harmony would again fill our borders.

The restriction north of the line was only yielded to in the case of Missouri and Texas upon a principle of compromise, made necessary for the sake of preserving the harmony and possibly the existence of the Union.

It was upon these considerations that at the close of your last session I gave my sanction to the principle of the Missouri compromise line by approving and signing the bill to establish "the Territorial government of Oregon." From a sincere desire to preserve the harmony of the Union, and in deference for the acts of my predecessors, I felt constrained to yield my acquiescence to the extent to which they had gone in compromising this delicate and dangerous question. But if Congress shall now reverse the decision by which the Missouri compromise was effected, and shall propose to extend the restriction over the whole territory, south as well as north of the parallel of $36^{\circ} 30'$, it will cease to be a compromise, and must be regarded as an original question.

If Congress, instead of observing the course of noninterference, leaving the adoption of their own domestic institutions to the people who may inhabit these territories, or if, instead of extending the Missouri compromise line to the Pacific, shall prefer to submit the legal and constitutional questions which may arise to the decision of the judicial tribunals, as was proposed in a bill which passed the Senate at your last session, an adjustment may be effected in this mode. If the whole subject be referred to the judiciary, all parts of the Union should cheerfully acquiesce in the final decision of the tribunal created by the Constitution for the settlement of all questions which may arise under the Constitution, treaties, and laws of the United States.

Congress is earnestly invoked, for the sake of the Union, its harmony, and our continued prosperity as a nation, to adjust at its present session this, the only dangerous question which lies in our path, if not in some one of the modes suggested, in some other which may be satisfactory.

In anticipation of the establishment of regular governments over the acquired territories, a joint commission of officers of the Army and Navy has been ordered to proceed to the coast of California and Oregon for the purpose of making reconnoissances and a report as to the proper sites for the erection of fortifications or other defensive works on land and of suitable situations for naval stations. The information which may be expected from a scientific and skillful examination of the whole face of the coast will be eminently useful to Congress when they come to consider the propriety of making appropriations for these great national objects. Proper defenses on land will be necessary for the security and protection of our possessions, and the establishment of navy-yards and a dock for the repair and construction of vessels will be important alike to our Navy and commercial marine. Without such establishments every vessel, whether of the Navy or of the merchant service, requiring repair must at great expense come round Cape Horn to one of our Atlantic yards for that purpose. With such establishments vessels, it is believed,

may be built or repaired as cheaply in California as upon the Atlantic coast. They would give employment to many of our enterprising ship-builders and mechanics and greatly facilitate and enlarge our commerce in the Pacific.

As it is ascertained that mines of gold, silver, copper, and quicksilver exist in New Mexico and California, and that nearly all the lands where they are found belong to the United States, it is deemed important to the public interest that provision be made for a geological and mineralogical examination of these regions. Measures should be adopted to preserve the mineral lands, especially such as contain the precious metals, for the use of the United States, or, if brought into market, to separate them from the farming lands and dispose of them in such manner as to secure a large return of money to the Treasury and at the same time to lead to the development of their wealth by individual proprietors and purchasers. To do this it will be necessary to provide for an immediate survey and location of the lots. If Congress should deem it proper to dispose of the mineral lands, they should be sold in small quantities and at a fixed minimum price.

I recommend that surveyors-general's offices be authorized to be established in New Mexico and California and provision made for surveying and bringing the public lands into market at the earliest practicable period. In disposing of these lands, I recommend that the right of pre-emption be secured and liberal grants made to the early emigrants who have settled or may settle upon them.

It will be important to extend our revenue laws over ~~these~~ territories, and especially over California, at an early period. There is already a considerable commerce with California, and until ports of entry shall be established and collectors appointed no revenue can be received.

If these and other necessary and proper measures be adopted for the development of the wealth and resources of New Mexico and California and regular Territorial governments be established over them, such will probably be the rapid enlargement of our commerce and navigation and such the addition to the national wealth that the present generation may live to witness the controlling commercial and monetary power of the world transferred from London and other European emporiums to the city of New York.

The apprehensions which were entertained by some of our statesmen in the earlier periods of the Government that our system was incapable of operating with sufficient energy and success over largely extended territorial limits, and that if this were attempted it would fall to pieces by its own weakness, have been dissipated by our experience. By the division of power between the States and Federal Government the latter is found to operate with as much energy in the extremes as in the center. It is as efficient in the remotest of the thirty States which now compose the Union as it was in the thirteen States which formed our Constitution. Indeed, it may well be doubted whether if our present population had been confined within the limits of the original thirteen States the

tendencies to centralization and consolidation would not have been such as to have encroached upon the essential reserved rights of the States, and thus to have made the Federal Government a widely different one, practically, from what it is in theory and was intended to be by its framers. So far from entertaining apprehensions of the safety of our system by the extension of our territory, the belief is confidently entertained that each new State gives strength and an additional guaranty for the preservation of the Union itself.

In pursuance of the provisions of the thirteenth article of the treaty of peace, friendship, limits, and settlement with the Republic of Mexico, and of the act of July 29, 1848, claims of our citizens, which had been "already liquidated and decided, against the Mexican Republic" amounting, with the interest thereon, to \$2,023,832.51 have been liquidated and paid. There remain to be paid of these claims \$74,192.26.

Congress at its last session having made no provision for executing the fifteenth article of the treaty, by which the United States assume to make satisfaction for the "unliquidated claims" of our citizens against Mexico to "an amount not exceeding three and a quarter millions of dollars," the subject is again recommended to your favorable consideration.

The exchange of ratifications of the treaty with Mexico took place on the 30th of May, 1848. Within one year after that time the commissioner and surveyor which each Government stipulates to appoint are required to meet "at the port of San Diego and proceed to run and mark the ~~said~~ boundary in its whole course to the mouth of the Rio Bravo del Norte." It will be seen from this provision that the period within which a commissioner and surveyor of the respective Governments are to meet at San Diego will expire on the 30th of May, 1849. Congress at the close of its last session made an appropriation for "the expenses of running and marking the boundary line" between the two countries, but did not fix the amount of salary which should be paid to the commissioner and surveyor to be appointed on the part of the United States. It is desirable that the amount of compensation which they shall receive should be prescribed by law, and not left, as at present, to Executive discretion.

Measures were adopted at the earliest practicable period to organize the "Territorial government of Oregon," as authorized by the act of the 14th of August last. The governor and marshal of the Territory, accompanied by a small military escort, left the frontier of Missouri in September last, and took the southern route, by the way of Santa Fe and the river Gila, to California, with the intention of proceeding thence in one of our vessels of war to their destination. The governor was fully advised of the great importance of his early arrival in the country, and it is confidently believed he may reach Oregon in the latter part of the present month or early in the next. The other officers for the Territory have proceeded by sea.

In the month of May last I communicated information to Congress that an Indian war had broken out in Oregon, and recommended that

authority be given to raise an adequate number of volunteers to proceed without delay to the assistance of our fellow-citizens in that Territory. The authority to raise such a force not having been granted by Congress, as soon as their services could be dispensed with in Mexico orders were issued to the regiment of mounted riflemen to proceed to Jefferson Barracks, in Missouri, and to prepare to march to Oregon as soon as the necessary provision could be made. Shortly before it was ready to march it was arrested by the provision of the act passed by Congress on the last day of the last session, which directed that all the noncommissioned officers, musicians, and privates of that regiment who had been in service in Mexico should, upon their application, be entitled to be discharged. The effect of this provision was to disband the rank and file of the regiment, and before their places could be filled by recruits the season had so far advanced that it was impracticable for it to proceed until the opening of the next spring.

In the month of October last the accompanying communication was received from the governor of the temporary government of Oregon, giving information of the continuance of the Indian disturbances and of the destitution and defenseless condition of the inhabitants. Orders were immediately transmitted to the commander of our squadron in the Pacific to dispatch to their assistance a part of the naval forces on that station, to furnish them with arms and ammunition, and to continue to give them such aid and protection as the Navy could afford until the Army could reach the country.

It is the policy of humanity, and one which has always been pursued by the United States, to cultivate the good will of the aboriginal tribes of this continent and to restrain them from making war and indulging in excesses by mild means rather than by force. That this could have been done with the tribes in Oregon had that Territory been brought under the government of our laws at an earlier period, and had other suitable measures been adopted by Congress, such as now exist in our intercourse with the other Indian tribes within our limits, can not be doubted. Indeed, the immediate and only cause of the existing hostility of the Indians of Oregon is represented to have been the long delay of the United States in making to them some trifling compensation, in such articles as they wanted, for the country now occupied by our emigrants, which the Indians claimed and over which they formerly roamed. This compensation had been promised to them by the temporary government established in Oregon, but its fulfillment had been postponed from time to time for nearly two years, whilst those who made it had been anxiously waiting for Congress to establish a Territorial government over the country. The Indians became at length distrustful of their good faith and sought redress by plunder and massacre, which finally led to the present difficulties. A few thousand dollars in suitable presents, as a compensation for the country which had been taken possession of by our citizens,

would have satisfied the Indians and have prevented the war. A small amount properly distributed, it is confidently believed, would soon restore quiet. In this Indian war our fellow-citizens of Oregon have been compelled to take the field in their own defense, have performed valuable military services, and been subjected to expenses which have fallen heavily upon them. Justice demands that provision should be made by Congress to compensate them for their services and to refund to them the necessary expenses which they have incurred.

I repeat the recommendation heretofore made to Congress, that provision be made for the appointment of a suitable number of Indian agents to reside among the tribes of Oregon, and that a small sum be appropriated to enable these agents to cultivate friendly relations with them. If this be done, the presence of a small military force will be all that is necessary to keep them in check and preserve peace. I recommend that similar provisions be made as regards the tribes inhabiting northern Texas, New Mexico, California, and the extensive region lying between our settlements in Missouri and these possessions, as the most effective means of preserving peace upon our borders and within the recently acquired territories.

The Secretary of the Treasury will present in his annual report a highly satisfactory statement of the condition of the finances.

The imports for the fiscal year ending on the 30th of June last were of the value of ~~\$154,977,876~~, of which the amount exported was \$21,128,010, leaving \$133,849,866 in the country for domestic use. The value of the exports for the same period was \$154,032,131, consisting of domestic productions amounting to \$132,904,121 and \$21,128,010 of foreign articles. The receipts into the Treasury for the same period, exclusive of loans, amounted to \$35,436,750.59, of which there was derived from customs \$31,757,070.96, from sales of public lands \$3,328,642.56, and from miscellaneous and incidental sources \$351,037.07.

It will be perceived that the revenue from customs for the last fiscal year exceeded by \$757,070.96 the estimate of the Secretary of the Treasury in his last annual report, and that the aggregate receipts during the same period from customs, lands, and miscellaneous sources also exceeded the estimate by the sum of \$536,750.59, indicating, however, a very near approach in the estimate to the actual result.

The expenditures during the fiscal year ending on the 30th of June last, including those for the war and exclusive of payments of principal and interest for the public debt, were \$42,811,970.03.

It is estimated that the receipts into the Treasury for the fiscal year ending on the 30th of June, 1849, including the balance in the Treasury on the 1st of July last, will amount to the sum of \$57,048,969.90, of which \$32,000,000, it is estimated, will be derived from customs, \$3,000,000 from the sales of the public lands, and \$1,200,000 from miscellaneous and incidental sources, including the premium upon the loan,

and the amount paid and to be paid into the Treasury on account of military contributions in Mexico, and the sales of arms and vessels and other public property rendered unnecessary for the use of the Government by the termination of the war, and \$20,695,435.30 from loans already negotiated, including Treasury notes funded, which, together with the balance in the Treasury on the 1st of July last, make the sum estimated.

The expenditures for the same period, including the necessary payment on account of the principal and interest of the public debt, and the principal and interest of the first installment due to Mexico on the 30th of May next, and other expenditures growing out of the war to be paid during the present year, will amount, including the reimbursement of Treasury notes, to the sum of \$54,195,275.06, leaving an estimated balance in the Treasury on the 1st of July, 1849, of \$2,853,694.84.

The Secretary of the Treasury will present, as required by law, the estimate of the receipts and expenditures for the next fiscal year. The expenditures as estimated for that year are \$33,213,152.73, including \$3,799,102.18 for the interest on the public debt and \$3,540,000 for the principal and interest due to Mexico on the 30th of May, 1850, leaving the sum of \$25,874,050.35, which, it is believed, will be ample for the ordinary peace expenditures.

The operations of the tariff act of 1846 have been such during the past year as fully to meet the public expectation and to confirm the opinion heretofore expressed of the wisdom of the change in our revenue system which was effected by it. The receipts under it into the Treasury for the first fiscal year after its enactment exceeded by the sum of \$5,044,403.09 the amount collected during the last fiscal year under the tariff act of 1842, ending the 30th of June, 1846. The total revenue realized from the commencement of its operation, on the 1st of December, 1846, until the close of the last quarter, on the 30th of September last, being twenty-two months, was \$56,654,563.79, being a much larger sum than was ever before received from duties during any equal period under the tariff acts of 1824, 1828, 1832, and 1842. Whilst by the repeal of highly protective and prohibitory duties the revenue has been increased, the taxes on the people have been diminished. They have been relieved from the heavy amounts with which they were burthened under former laws in the form of increased prices or bounties paid to favored classes and pursuits.

The predictions which were made that the tariff act of 1846 would reduce the amount of revenue below that collected under the act of 1842, and would prostrate the business and destroy the prosperity of the country, have not been verified. With an increased and increasing revenue, the finances are in a highly flourishing condition. Agriculture, commerce, and navigation are prosperous; the prices of manufactured fabrics and of other products are much less injuriously affected than was to have been anticipated from the unprecedented revulsions which during

the last and the present year have overwhelmed the industry and paralyzed the credit and commerce of so many great and enlightened nations of Europe.

Severe commercial revulsions abroad have always heretofore operated to depress and often to affect disastrously almost every branch of American industry. The temporary depression of a portion of our manufacturing interests is the effect of foreign causes, and is far less severe than has prevailed on all former similar occasions.

It is believed that, looking to the great aggregate of all our interests, the whole country was never more prosperous than at the present period, and never more rapidly advancing in wealth and population. Neither the foreign war in which we have been involved, nor the loans which have absorbed so large a portion of our capital, nor the commercial revulsion in Great Britain in 1847, nor the paralysis of credit and commerce throughout Europe in 1848, have affected injuriously to any considerable extent any of the great interests of the country or arrested our onward march to greatness, wealth, and power.

Had the disturbances in Europe not occurred, our commerce would undoubtedly have been still more extended, and would have added still more to the national wealth and public prosperity. But notwithstanding these disturbances, the operations of the revenue system established by the tariff act of 1846 have been so generally beneficial to the ~~Govern-~~ment and the business of the country that no change in its provisions is demanded by a wise public policy, and none is recommended.

The operations of the constitutional treasury established by the act of the 6th of August, 1846, in the receipt, custody, and disbursement of the public money have continued to be successful. Under this system the public finances have been carried through a foreign war, involving the necessity of loans and extraordinary expenditures and requiring distant transfers and disbursements, without embarrassment, and no loss has occurred of any of the public money deposited under its provisions. Whilst it has proved to be safe and useful to the Government, its effects have been most beneficial upon the business of the country. It has tended powerfully to secure an exemption from that inflation and fluctuation of the paper currency so injurious to domestic industry and rendering so uncertain the rewards of labor, and, it is believed, has largely contributed to preserve the whole country from a serious commercial revulsion, such as often occurred under the bank deposit system. In the year 1847 there was a revulsion in the business of Great Britain of great extent and intensity, which was followed by failures in that Kingdom unprecedented in number and amount of losses. This is believed to be the first instance when such disastrous bankruptcies, occurring in a country with which we have such extensive commerce, produced little or no injurious effect upon our trade or currency. We remained but little affected in our money market, and our business and industry were still prosperous and progressive.

During the present year nearly the whole continent of Europe has been convulsed by civil war and revolutions, attended by numerous bankruptcies, by an unprecedented fall in their public securities, and an almost universal paralysis of commerce and industry; and yet, although our trade and the prices of our products must have been somewhat unfavorably affected by these causes, we have escaped a revulsion, our money market is comparatively easy, and public and private credit have advanced and improved.

It is confidently believed that we have been saved from their effect by the salutary operation of the constitutional treasury. It is certain that if the twenty-four millions of specie imported into the country during the fiscal year ending on the 30th of June, 1847, had gone into the banks, as to a great extent it must have done, it would in the absence of this system have been made the basis of augmented bank paper issues, probably to an amount not less than \$60,000,000 or \$70,000,000, producing, as an inevitable consequence of an inflated currency, extravagant prices for a time and wild speculation, which must have been followed, on the reflux to Europe the succeeding year of so much of that specie, by the prostration of the business of the country, the suspension of the banks, and most extensive bankruptcies. Occurring, as this would have done, at a period when the country was engaged in a foreign war, when considerable loans of specie were required for distant disbursements, and when the banks, the fiscal agents of the Government and the depositories of its money, were suspended, the public credit must have sunk, and many millions of dollars, as was the case during the War of 1812, must have been sacrificed in discounts upon loans and upon the depreciated paper currency which the Government would have been compelled to use.

Under the operations of the constitutional treasury not a dollar has been lost by the depreciation of the currency. The loans required to prosecute the war with Mexico were negotiated by the Secretary of the Treasury above par, realizing a large premium to the Government. The restraining effect of the system upon the tendencies to excessive paper issues by banks has saved the Government from heavy losses and thousands of our business men from bankruptcy and ruin. The wisdom of the system has been tested by the experience of the last two years, and it is the dictate of sound policy that it should remain undisturbed. The modifications in some of the details of this measure, involving none of its essential principles, heretofore recommended, are again presented for your favorable consideration.

In my message of the 6th of July last, transmitting to Congress the ratified treaty of peace with Mexico, I recommended the adoption of measures for the speedy payment of the public debt. In reiterating that recommendation I refer you to the considerations presented in that message in its support. The public debt, including that authorized to be

negotiated in pursuance of existing laws, and including Treasury notes, amounted at that time to \$65,778,450.41.

Funded stock of the United States amounting to about half a million of dollars has been purchased, as authorized by law, since that period, and the public debt has thus been reduced, the details of which will be presented in the annual report of the Secretary of the Treasury.

The estimates of expenditures for the next fiscal year, submitted by the Secretary of the Treasury, it is believed will be ample for all necessary purposes. If the appropriations made by Congress shall not exceed the amount estimated, the means in the Treasury will be sufficient to defray all the expenses of the Government, to pay off the next installment of \$3,000,000 to Mexico, which will fall due on the 30th of May next, and still a considerable surplus will remain, which should be applied to the further purchase of the public stock and reduction of the debt. Should enlarged appropriations be made, the necessary consequence will be to postpone the payment of the debt. Though our debt, as compared with that of most other nations, is small, it is our true policy, and in harmony with the genius of our institutions, that we should present to the world the rare spectacle of a great Republic, possessing vast resources and wealth, wholly exempt from public indebtedness. This would add still more to our strength, and give to us a still more commanding position among the nations of the earth.

The public expenditures should be economical, and be confined to such necessary objects as are clearly within the powers of Congress. All such as are not absolutely demanded should be postponed, and the payment of the public debt at the earliest practicable period should be a cardinal principle of our public policy.

For the reason assigned in my last annual message, I repeat the recommendation that a branch of the Mint of the United States be established at the city of New York. The importance of this measure is greatly increased by the acquisition of the rich mines of the precious metals in New Mexico and California, and especially in the latter.

I repeat the recommendation heretofore made in favor of the graduation and reduction of the price of such of the public lands as have been long offered in the market and have remained unsold, and in favor of extending the rights of preemption to actual settlers on the unsurveyed as well as the surveyed lands.

The condition and operations of the Army and the state of other branches of the public service under the supervision of the War Department are satisfactorily presented in the accompanying report of the Secretary of War.

On the return of peace our forces were withdrawn from Mexico, and the volunteers and that portion of the Regular Army engaged for the war were disbanded. Orders have been issued for stationing the forces of our permanent establishment at various positions in our extended country where troops may be required. Owing to the remoteness of some

of these positions, the detachments have not yet reached their destination. Notwithstanding the extension of the limits of our country and the forces required in the new territories, it is confidently believed that our present military establishment is sufficient for all exigencies so long as our peaceful relations remain undisturbed.

Of the amount of military contributions collected in Mexico, the sum of \$769,650 was applied toward the payment of the first installment due under the treaty with Mexico. The further sum of \$346,369.30 has been paid into the Treasury, and unexpended balances still remain in the hands of disbursing officers and those who were engaged in the collection of these moneys. After the proclamation of peace no further disbursements were made of any unexpended moneys arising from this source. The balances on hand were directed to be paid into the Treasury, and individual claims on the fund will remain unadjusted until Congress shall authorize their settlement and payment. These claims are not considerable in number or amount.

I recommend to your favorable consideration the suggestions of the Secretary of War and the Secretary of the Navy in regard to legislation on this subject.

Our Indian relations are presented in a most favorable view in the report from the War Department. The wisdom of our policy in regard to the tribes within our limits is clearly manifested by their improved and rapidly improving condition.

A most important treaty with the Menomonies has been recently negotiated by the Commissioner of Indian Affairs in person, by which all their land in the State of Wisconsin—being about 4,000,000 acres—has been ceded to the United States. This treaty will be submitted to the Senate for ratification at an early period of your present session.

Within the last four years eight important treaties have been negotiated with different Indian tribes, and at a cost of \$1,842,000; Indian lands to the amount of more than 18,500,000 acres have been ceded to the United States, and provision has been made for settling in the country west of the Mississippi the tribes which occupied this large extent of the public domain. The title to all the Indian lands within the several States of our Union, with the exception of a few small reservations, is now extinguished, and a vast region opened for settlement and cultivation.

The accompanying report of the Secretary of the Navy gives a satisfactory exhibit of the operations and condition of that branch of the public service.

A number of small vessels, suitable for entering the mouths of rivers, were judiciously purchased during the war, and gave great efficiency to the squadron in the Gulf of Mexico. On the return of peace, when no longer valuable for naval purposes, and liable to constant deterioration, they were sold and the money placed in the Treasury.

The number of men in the naval service authorized by law during the war has been reduced by discharges below the maximum fixed for the peace establishment. Adequate squadrons are maintained in the several quarters of the globe where experience has shown their services may be most usefully employed, and the naval service was never in a condition of higher discipline or greater efficiency.

I invite attention to the recommendation of the Secretary of the Navy on the subject of the Marine Corps. The reduction of the Corps at the end of the war required that four officers of each of the three lower grades should be dropped from the rolls. A board of officers made the selection, and those designated were necessarily dismissed, but without any alleged fault. I concur in opinion with the Secretary that the service would be improved by reducing the number of landsmen and increasing the marines. Such a measure would justify an increase of the number of officers to the extent of the reduction by dismissal, and still the Corps would have fewer officers than a corresponding number of men in the Army.

The contracts for the transportation of the mail in steamships, convertible into war steamers, promise to realize all the benefits to our commerce and to the Navy which were anticipated. The first steamer thus secured to the Government was launched in January, 1847. There are now seven, and in another year there will probably be not less than seventeen afloat. While this great national advantage is secured, our social and commercial intercourse is increased and promoted with Germany, Great Britain, and other parts of Europe, with all the countries on the west coast of our continent, especially with Oregon and California, and between the northern and southern sections of the United States. Considerable revenue may be expected from postages, but the connected line from New York to Chagres, and thence across the Isthmus to Oregon, can not fail to exert a beneficial influence, not now to be estimated, on the interests of the manufactures, commerce, navigation, and currency of the United States. As an important part of the system, I recommend to your favorable consideration the establishment of the proposed line of steamers between New Orleans and Vera Cruz. It promises the most happy results in cementing friendship between the two Republics and extending reciprocal benefits to the trade and manufactures of both.

The report of the Postmaster-General will make known to you the operations of that Department for the past year.

It is gratifying to find the revenues of the Department, under the rates of postage now established by law, so rapidly increasing. The gross amount of postages during the last fiscal year amounted to \$4,371,077, exceeding the annual average received for the nine years immediately preceding the passage of the act of the 3d of March, 1845, by the sum of \$6,453, and exceeding the amount received for the year ending the 30th of June, 1847, by the sum of \$425,184.

The expenditures for the year, excluding the sum of \$94,672, allowed by Congress at its last session to individual claimants, and including the sum of \$100,500, paid for the services of the line of steamers between Bremen and New York, amounted to \$4,198,845, which is less than the annual average for the nine years previous to the act of 1845 by \$300,748.

The mail routes on the 30th day of June last were 163,208 miles in extent, being an increase during the last year of 9,390 miles. The mails were transported over them during the same time 41,012,579 miles, making an increase of transportation for the year of 2,124,680 miles, whilst the expense was less than that of the previous year by \$4,235.

The increase in the mail transportation within the last three years has been 5,378,310 miles, whilst the expenses were reduced \$456,738, making an increase of service at the rate of 15 per cent and a reduction in the expenses of more than 15 per cent.

During the past year there have been employed, under contracts with the Post-Office Department, two ocean steamers in conveying the mails monthly between New York and Bremen, and one, since October last, performing semimonthly service between Charleston and Havana; and a contract has been made for the transportation of the Pacific mails across the Isthmus from Chagres to Panama.

Under the authority given to the Secretary of the Navy, three ocean steamers have been constructed and sent to the Pacific, and are expected to enter upon the mail service between Panama and Oregon and the intermediate ports on the 1st of January next; and a fourth has been engaged by him for the service between Havana and Chagres, so that a regular monthly mail line will be kept up after that time between the United States and our territories on the Pacific.

Notwithstanding this great increase in the mail service, should the revenue continue to increase the present year as it did in the last, there will be received near \$450,000 more than the expenditures.

These considerations have satisfied the Postmaster-General that, with certain modifications of the act of 1845, the revenue may be still further increased and a reduction of postages made to a uniform rate of 5 cents, without an interference with the principle, which has been constantly and properly enforced, of making that Department sustain itself.

A well-digested cheap-postage system is the best means of diffusing intelligence among the people, and is of so much importance in a country so extensive as that of the United States that I recommend to your favorable consideration the suggestions of the Postmaster-General for its improvement.

Nothing can retard the onward progress of our country and prevent us from assuming and maintaining the first rank among nations but a disregard of the experience of the past and a recurrence to an unwise public policy. We have just closed a foreign war by an honorable peace—a war rendered necessary and unavoidable in vindication of the national

rights and honor. The present condition of the country is similar in some respects to that which existed immediately after the close of the war with Great Britain in 1815, and the occasion is deemed to be a proper one to take a retrospect of the measures of public policy which followed that war. There was at that period of our history a departure from our earlier policy. The enlargement of the powers of the Federal Government by *construction*, which obtained, was not warranted by any just interpretation of the Constitution. A few years after the close of that war a series of measures was adopted which, united and combined, constituted what was termed by their authors and advocates the "American system."

The introduction of the new policy was for a time favored by the condition of the country, by the heavy debt which had been contracted during the war, by the depression of the public credit, by the deranged state of the finances and the currency, and by the commercial and pecuniary embarrassment which extensively prevailed. These were not the only causes which led to its establishment. The events of the war with Great Britain and the embarrassments which had attended its prosecution had left on the minds of many of our statesmen the impression that our Government was not strong enough, and that to wield its resources successfully in great emergencies, and especially in war, more power should be concentrated in its hands. This increased power they did not seek to obtain by the legitimate and prescribed ~~mode~~—an amendment of the Constitution—but by *construction*. They saw Governments in the Old World based upon different orders of society, and so constituted as to throw the whole power of nations into the hands of a few, who taxed and controlled the many without responsibility or restraint. In that arrangement they conceived the strength of nations in war consisted. There was also something fascinating in the ease, luxury, and display of the higher orders, who drew their wealth from the toil of the laboring millions. The authors of the system drew their ideas of political economy from what they had witnessed in Europe, and particularly in Great Britain. They had viewed the enormous wealth concentrated in few hands and had seen the splendor of the overgrown establishments of an aristocracy which was upheld by the restrictive policy. They forgot to look down upon the poorer classes of the English population, upon whose daily and yearly labor the great establishments they so much admired were sustained and supported. They failed to perceive that the scantily fed and half-clad operatives were not only in abject poverty, but were bound in chains of oppressive servitude for the benefit of favored classes, who were the exclusive objects of the care of the Government.

It was not possible to reconstruct society in the United States upon the European plan. Here there was a written Constitution, by which orders and titles were not recognized or tolerated. A system of measures was therefore devised, calculated, if not intended, to withdraw power gradu-

ally and silently from the States and the mass of the people, and by *construction* to approximate our Government to the European models, substituting an aristocracy of wealth for that of orders and titles.

Without reflecting upon the dissimilarity of our institutions and of the condition of our people and those of Europe, they conceived the vain idea of building up in the United States a system similar to that which they admired abroad. Great Britain had a national bank of large capital, in whose hands was concentrated the controlling monetary and financial power of the nation—an institution wielding almost kingly power, and exerting vast influence upon all the operations of trade and upon the policy of the Government itself. Great Britain had an enormous public debt, and it had become a part of her public policy to regard this as a “public blessing.” Great Britain had also a restrictive policy, which placed fetters and burdens on trade and trammelled the productive industry of the mass of the nation. By her combined system of policy the landlords and other property holders were protected and enriched by the enormous taxes which were levied upon the labor of the country for their advantage. Imitating this foreign policy, the first step in establishing the new system in the United States was the creation of a national bank. Not foreseeing the dangerous power and countless evils which such an institution might entail on the country, nor perceiving the connection which it was designed to form between the bank and the other branches of the miscalled “American system,” but feeling the embarrassments of the Treasury and of the business of the country consequent upon the war, some of our statesmen who had held different and sounder views were induced to yield their scruples and, indeed, settled convictions of its unconstitutionality, and to give it their sanction as an expedient which they vainly hoped might produce relief. It was a most unfortunate error, as the subsequent history and final catastrophe of that dangerous and corrupt institution have abundantly proved. The bank, with its numerous branches ramified into the States, soon brought many of the active political and commercial men in different sections of the country into the relation of debtors to it and dependents upon it for pecuniary favors, thus diffusing throughout the mass of society a great number of individuals of power and influence to give tone to public opinion and to act in concert in cases of emergency. The corrupt power of such a political engine is no longer a matter of speculation, having been displayed in numerous instances, but most signally in the political struggles of 1832, 1833, and 1834 in opposition to the public will represented by a fearless and patriotic President.

But the bank was but one branch of the new system. A public debt of more than \$120,000,000 existed, and it is not to be disguised that many of the authors of the new system did not regard its speedy payment as essential to the public prosperity, but looked upon its continuance as no national evil. Whilst the debt existed it furnished aliment to the

national bank and rendered increased taxation necessary to the amount of the interest, exceeding \$7,000,000 annually.

This operated in harmony with the next branch of the new system, which was a high protective tariff. This was to afford bounties to favored classes and particular pursuits at the expense of all others. A proposition to tax the whole people for the purpose of enriching a few was too monstrous to be openly made. The scheme was therefore veiled under the plausible but delusive pretext of a measure to protect "home industry," and many of our people were for a time led to believe that a tax which in the main fell upon labor was for the benefit of the laborer who paid it. This branch of the system involved a partnership between the Government and the favored classes, the former receiving the proceeds of the tax imposed on articles imported and the latter the increased price of similar articles produced at home, caused by such tax. It is obvious that the portion to be received by the favored classes would, as a general rule, be increased in proportion to the increase of the rates of tax imposed and diminished as those rates were reduced to the revenue standard required by the wants of the Government. The rates required to produce a sufficient revenue for the ordinary expenditures of Government for necessary purposes were not likely to give to the private partners in this scheme profits sufficient to satisfy their cupidity, and hence a variety of expedients and pretexts were resorted to for the purpose of enlarging the expenditures and thereby creating a necessity for keeping up a high protective tariff. The effect of this policy was to interpose artificial restrictions upon the natural course of the business and trade of the country, and to advance the interests of large capitalists and monopolists at the expense of the great mass of the people, who were taxed to increase their wealth.

Another branch of this system was a comprehensive scheme of internal improvements, capable of indefinite enlargement and sufficient to swallow up as many millions annually as could be exacted from the foreign commerce of the country. This was a convenient and necessary adjunct of the protective tariff. It was to be the great absorbent of any surplus which might at any time accumulate in the Treasury and of the taxes levied on the people, not for necessary revenue purposes, but for the avowed object of affording protection to the favored classes.

Auxiliary to the same end, if it was not an essential part of the system itself, was the scheme, which at a later period obtained, for distributing the proceeds of the sales of the public lands among the States. Other expedients were devised to take money out of the Treasury and prevent its coming in from any other source than the protective tariff. The authors and supporters of the system were the advocates of the largest expenditures, whether for necessary or useful purposes or not, because the larger the expenditures the greater was the pretext for high taxes in the form of protective duties.

These several measures were sustained by popular names and plausible arguments, by which thousands were deluded. The bank was represented to be an indispensable fiscal agent for the Government; was to equalize exchanges and to regulate and furnish a sound currency, always and everywhere of uniform value. The protective tariff was to give employment to "American labor" at advanced prices; was to protect "home industry" and furnish a steady market for the farmer. Internal improvements were to bring trade into every neighborhood and enhance the value of every man's property. The distribution of the land money was to enrich the States, finish their public works, plant schools throughout their borders, and relieve them from taxation. But the fact that for every dollar taken out of the Treasury for these objects a much larger sum was transferred from the pockets of the people to the favored classes was carefully concealed, as was also the tendency, if not the ultimate design, of the system to build up an aristocracy of wealth, to control the masses of society, and monopolize the political power of the country.

The several branches of this system were so intimately blended together that in their operation each sustained and strengthened the others. Their joint operation was to add new burthens of taxation and to encourage a largely increased and wasteful expenditure of public money. It was the interest of the bank that the revenue collected and the disbursements made by the Government should be large, because, being the depository of the public money, the larger the amount the greater would be the bank profits by its use. It was the interest of the favored classes, who were enriched by the protective tariff, to have the rates of that protection as high as possible, for the higher those rates the greater would be their advantage. It was the interest of the people of all those sections and localities who expected to be benefited by expenditures for internal improvements that the amount collected should be as large as possible, to the end that the sum disbursed might also be the larger. The States, being the beneficiaries in the distribution of the land money, had an interest in having the rates of tax imposed by the protective tariff large enough to yield a sufficient revenue from that source to meet the wants of the Government without disturbing or taking from them the land fund; so that each of the branches constituting the system had a common interest in swelling the public expenditures. They had a direct interest in maintaining the public debt unpaid and increasing its amount, because this would produce an annual increased drain upon the Treasury to the amount of the interest and render augmented taxes necessary. The operation and necessary effect of the whole system were to encourage large and extravagant expenditures, and thereby to increase the public patronage, and maintain a rich and splendid government at the expense of a taxed and impoverished people.

It is manifest that this scheme of enlarged taxation and expenditures,

had it continued to prevail, must soon have converted the Government of the Union, intended by its framers to be a plain, cheap, and simple confederation of States, united together for common protection and charged with a few specific duties, relating chiefly to our foreign affairs, into a consolidated empire, depriving the States of their reserved rights and the people of their just power and control in the administration of their Government. In this manner the whole form and character of the Government would be changed, not by an amendment of the Constitution, but by resorting to an unwarrantable and unauthorized construction of that instrument.

The indirect mode of levying the taxes by a duty on imports prevents the mass of the people from readily perceiving the amount they pay, and has enabled the few who are thus enriched, and who seek to wield the political power of the country, to deceive and delude them. Were the taxes collected by a direct levy upon the people, as is the case in the States, this could not occur.

The whole system was resisted from its inception by many of our ablest statesmen, some of whom doubted its constitutionality and its expediency, while others believed it was in all its branches a flagrant and dangerous infraction of the Constitution.

That a national bank, a protective tariff—levied not to raise the revenue needed, but for protection merely—internal improvements, and the distribution of the proceeds of the sale of the public lands are measures without the warrant of the Constitution would, upon the maturest consideration, seem to be clear. It is remarkable that no one of these measures, involving such momentous consequences, is authorized by any express grant of power in the Constitution. No one of them is “incident to, as being necessary and proper for the execution of, the specific powers” granted by the Constitution. The authority under which it has been attempted to justify each of them is derived from inferences and constructions of the Constitution which its letter and its whole object and design do not warrant. Is it to be conceived that such immense powers would have been left by the framers of the Constitution to mere inferences and doubtful constructions? Had it been intended to confer them on the Federal Government, it is but reasonable to conclude that it would have been done by plain and unequivocal grants. This was not done; but the whole structure of which the “American system” consisted was reared on no other or better foundation than forced implications and inferences of power, which its authors assumed might be deduced by construction from the Constitution.

But it has been urged that the national bank, which constituted so essential a branch of this combined system of measures, was not a new measure, and that its constitutionality had been previously sanctioned, because a bank had been chartered in 1791 and had received the official signature of President Washington. A few facts will show the just

weight to which this precedent should be entitled as bearing upon the question of constitutionality.

Great division of opinion upon the subject existed in Congress. It is well known that President Washington entertained serious doubts both as to the constitutionality and expediency of the measure, and while the bill was before him for his official approval or disapproval so great were these doubts that he required "the opinion in writing" of the members of his Cabinet to aid him in arriving at a decision. His Cabinet gave their opinions and were divided upon the subject, *General Hamilton* being in favor of and *Mr. Jefferson* and *Mr. Randolph* being opposed to the constitutionality and expediency of the bank. It is well known also that President Washington retained the bill from Monday, the 14th, when it was presented to him, until Friday, the 25th of February, being the last moment permitted him by the Constitution to deliberate, when he finally yielded to it his reluctant assent and gave it his signature. It is certain that as late as the 23d of February, being the ninth day after the bill was presented to him, he had arrived at no satisfactory conclusion, for on that day he addressed a note to General Hamilton in which he informs him that "this bill was presented to me by the joint committee of Congress at 12 o'clock on Monday, the 14th instant," and he requested his opinion "to what precise period, by legal interpretation of the Constitution, can the President retain it in his possession before it becomes a law by the lapse of ten days." If the proper construction was that the day on which the bill was presented to the President and the day on which his action was had upon it were both to be counted inclusive, then the time allowed him within which it would be competent for him to return it to the House in which it originated with his objections would expire on Thursday, the 24th of February. General Hamilton on the same day returned an answer, in which he states:

I give it as my opinion that you have ten days exclusive of that on which the bill was delivered to you and Sundays; hence, in the present case if it is returned on Friday it will be in time.

By this construction, which the President adopted, he gained another day for deliberation, and it was not until the 25th of February that he signed the bill, thus affording conclusive proof that he had at last obtained his own consent to sign it not without great and almost insuperable difficulty. Additional light has been recently shed upon the serious doubts which he had on the subject, amounting at one time to a conviction that it was his duty to withhold his approval from the bill. This is found among the manuscript papers of *Mr. Madison*, authorized to be purchased for the use of the Government by an act of the last session of Congress, and now for the first time accessible to the public. From these papers it appears that President Washington, while he yet held the bank bill in his hands, actually requested *Mr. Madison*, at that time a member of the House of Representatives, to prepare the draft of a veto

message for him. *Mr. Madison*, at his request, did prepare the draft of such a message, and sent it to him on the 21st of February, 1791. A copy of this original draft, in *Mr. Madison's* own handwriting, was carefully preserved by him, and is among the papers lately purchased by Congress. It is preceded by a note, written on the same sheet, which is also in *Mr. Madison's* handwriting, and is as follows:

February 21, 1791.—Copy of a paper made out and sent to the President, at his request, to be ready in case his judgment should finally decide against the bill for incorporating a national bank, the bill being then before him.

Among the objections assigned in this paper to the bill, and which were submitted for the consideration of the President, are the following:

I object to the bill, because it is an essential principle of the Government that powers not delegated by the Constitution can not be rightfully exercised; because the power proposed by the bill to be exercised is not expressly delegated, and because I can not satisfy myself that it results from any express power by fair and safe rules of interpretation.

The weight of the precedent of the bank of 1791 and the sanction of the great name of Washington, which has been so often invoked in its support, are greatly weakened by the development of these facts.

The experiment of that bank satisfied the country that it ought not to be continued, and at the end of twenty years Congress refused to recharter it. It would have been fortunate for the country, and saved thousands from bankruptcy and ruin, had our public men of 1816 resisted the temporary pressure of the times upon our financial and pecuniary interests and refused to charter the second bank. Of this the country became abundantly satisfied, and at the close of its twenty years' duration, as in the case of the first bank, it also ceased to exist. Under the repeated blows of *President Jackson* it reeled and fell, and a subsequent attempt to charter a similar institution was arrested by the veto of *President Tyler*.

Mr. Madison, in yielding his signature to the charter of 1816, did so upon the ground of the respect due to precedents; and, as he subsequently declared—

The Bank of the United States, though on the original question held to be unconstitutional, received the Executive signature.

It is probable that neither the bank of 1791 nor that of 1816 would have been chartered but for the embarrassments of the Government in its finances, the derangement of the currency, and the pecuniary pressure which existed, the first the consequence of the War of the Revolution and the second the consequence of the War of 1812. Both were resorted to in the delusive hope that they would restore public credit and afford relief to the Government and to the business of the country.

Those of our public men who opposed the whole "American system" at its commencement and throughout its progress foresaw and predicted that it was fraught with incalculable mischiefs and must result in

serious injury to the best interests of the country. For a series of years their wise counsels were unheeded, and the system was established. It was soon apparent that its practical operation was unequal and unjust upon different portions of the country and upon the people engaged in different pursuits. All were equally entitled to the favor and protection of the Government. It fostered and elevated the money power and enriched the favored few by taxing labor, and at the expense of the many. Its effect was to "make the rich richer and the poor poorer." Its tendency was to create distinctions in society based on wealth and to give to the favored classes undue control and sway in our Government. It was an organized money power, which resisted the popular will and sought to shape and control the public policy.

Under the pernicious workings of this combined system of measures the country witnessed alternate seasons of temporary apparent prosperity, of sudden and disastrous commercial revulsions, of unprecedented fluctuation of prices and depression of the great interests of agriculture, navigation, and commerce, of general pecuniary suffering, and of final bankruptcy of thousands. After a severe struggle of more than a quarter of a century, the system was overthrown.

The bank has been succeeded by a practical system of finance, conducted and controlled solely by the Government. The constitutional currency has been restored, the public credit maintained unimpaired even in a period of a foreign war, and the whole country has become ~~satisfied~~ ~~that~~ banks, national or State, are not necessary as fiscal agents of the Government. Revenue duties have taken the place of the protective tariff. The distribution of the money derived from the sale of the public lands has been abandoned and the corrupting system of internal improvements, it is hoped, has been effectually checked.

It is not doubted that if this whole train of measures, designed to take wealth from the many and bestow it upon the few, were to prevail the effect would be to change the entire character of the Government. One only danger remains. It is the seductions of that branch of the system which consists in internal improvements, holding out, as it does, inducements to the people of particular sections and localities to embark the Government in them without stopping to calculate the inevitable consequences. This branch of the system is so intimately combined and linked with the others that as surely as an effect is produced by an adequate cause, if it be resuscitated and revived and firmly established it requires no sagacity to foresee that it will necessarily and speedily draw after it the reestablishment of a national bank, the revival of a protective tariff, the distribution of the land money, and not only the postponement to the distant future of the payment of the present national debt, but its annual increase.

I entertain the solemn conviction that if the internal-improvement branch of the "American system" be not firmly resisted at this time the

whole series of measures composing it will be speedily reestablished and the country be thrown back from its present high state of prosperity, which the existing policy has produced, and be destined again to witness all the evils, commercial revulsions, depression of prices, and pecuniary embarrassments through which we have passed during the last twenty-five years.

To guard against consequences so ruinous is an object of high national importance, involving, in my judgment, the continued prosperity of the country.

I have felt it to be an imperative obligation to withhold my constitutional sanction from two bills which had passed the two Houses of Congress, involving the principle of the internal-improvement branch of the "American system" and conflicting in their provisions with the views here expressed.

This power, conferred upon the President by the Constitution, I have on three occasions during my administration of the executive department of the Government deemed it my duty to exercise, and on this last occasion of making to Congress an annual communication "of the state of the Union" it is not deemed inappropriate to review the principles and considerations which have governed my action. I deem this the more necessary because, after the lapse of nearly sixty years since the adoption of the Constitution, the propriety of the exercise of this undoubted constitutional power by the President has for the first time been drawn seriously in question by a portion of my fellow-citizens.

The Constitution provides that—

Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States. If he approve he *shall* sign it, but if not he *shall* return it with his objections to that House in which it shall have originated, who shall enter the objections at large on their Journal and proceed to reconsider it.

The preservation of the Constitution from infraction is the President's highest duty. He is bound to discharge that duty at whatever hazard of incurring the displeasure of those who may differ with him in opinion. He is bound to discharge it as well by his obligations to the people who have clothed him with his exalted trust as by his oath of office, which he may not disregard. Nor are the obligations of the President in any degree lessened by the prevalence of views different from his own in one or both Houses of Congress. It is not alone hasty and inconsiderate legislation that he is required to check; but if at any time Congress shall, after apparently full deliberation, resolve on measures which he deems subversive of the Constitution or of the vital interests of the country, it is his solemn duty to stand in the breach and resist them. The President is bound to approve or disapprove every bill which passes Congress and is presented to him for his signature. The Constitution makes this his duty, and he can not escape it if he would. He has no election. In

deciding upon any bill presented to him he must exercise his own best judgment. If he can not approve, the Constitution commands him to return the bill to the House in which it originated with his objections, and if he fail to do this within ten days (Sundays excepted) it shall become a law without his signature. Right or wrong, he may be overruled by a vote of two-thirds of each House, and in that event the bill becomes a law without his sanction. If his objections be not thus overruled, the subject is only postponed, and is referred to the States and the people for their consideration and decision. The President's power is negative merely, and not affirmative. He can enact no law. The only effect, therefore, of his withholding his approval of a bill passed by Congress is to suffer the existing laws to remain unchanged, and the delay occasioned is only that required to enable the States and the people to consider and act upon the subject in the election of public agents who will carry out their wishes and instructions. Any attempt to coerce the President to yield his sanction to measures which he can not approve would be a violation of the spirit of the Constitution, palpable and flagrant, and if successful would break down the independence of the executive department and make the President, elected by the people and clothed by the Constitution with power to defend their rights, the mere instrument of a majority of Congress. A surrender on his part of the powers with which the Constitution has invested his office would effect a practical alteration of that instrument without resorting to the prescribed process of amendment.

With the motives or considerations which may induce Congress to pass any bill the President can have nothing to do. He must presume them to be as pure as his own, and look only to the practical effect of their measures when compared with the Constitution or the public good.

But it has been urged by those who object to the exercise of this undoubted constitutional power that it assails the representative principle and the capacity of the people to govern themselves; that there is greater safety in a numerous representative body than in the single Executive created by the Constitution, and that the Executive veto is a "one-man power," despotic in its character. To expose the fallacy of this objection it is only necessary to consider the frame and true character of our system. Ours is not a consolidated empire, but a confederated union. The States before the adoption of the Constitution were coordinate, co-equal, and separate independent sovereignties, and by its adoption they did not lose that character. They clothed the Federal Government with certain powers and reserved all others, including their own sovereignty, to themselves. They guarded their own rights as States and the rights of the people by the very limitations which they incorporated into the Federal Constitution, whereby the different departments of the General Government were checks upon each other. That the majority should govern is a general principle controverted by none, but they must govern according to the Constitution, and not according to an undefined and unrestrained discretion, whereby they may oppress the minority.

The people of the United States are not blind to the fact that they may be temporarily misled, and that their representatives, legislative and executive, may be mistaken or influenced in their action by improper motives. They have therefore interposed between themselves and the laws which may be passed by their public agents various representations, such as assemblies, senates, and governors in their several States, a House of Representatives, a Senate, and a President of the United States. The people can by their own direct agency make no law, nor can the House of Representatives, immediately elected by them, nor can the Senate, nor can both together without the concurrence of the President or a vote of two-thirds of both Houses.

Happily for themselves, the people in framing our admirable system of government were conscious of the infirmities of their representatives, and in delegating to them the power of legislation they have fenced them around with checks to guard against the effects of hasty action, of error, of combination, and of possible corruption. Error, selfishness, and faction have often sought to rend asunder this web of checks and subject the Government to the control of fanatic and sinister influences, but these efforts have only satisfied the people of the wisdom of the checks which they have imposed and of the necessity of preserving them unimpaired.

The true theory of our system is not to govern by the acts or decrees of any one set of representatives. The Constitution interposes checks upon all branches of the Government, in order to give time for error to be corrected and delusion to pass away; but if the people settle down into a firm conviction different from that of their representatives they give effect to their opinions by changing their public servants. The checks which the people imposed on their public servants in the adoption of the Constitution are the best evidence of their capacity for self-government. They know that the men whom they elect to public stations are of like infirmities and passions with themselves, and not to be trusted without being restricted by coordinate authorities and constitutional limitations. Who that has witnessed the legislation of Congress for the last thirty years will say that he knows of no instance in which measures not demanded by the public good have been carried? Who will deny that in the State governments, by combinations of individuals and sections, in derogation of the general interest, banks have been chartered, systems of internal improvements adopted, and debts entailed upon the people repressing their growth and impairing their energies for years to come?

After so much experience it can not be said that absolute unchecked power is safe in the hands of any one set of representatives, or that the capacity of the people for self-government, which is admitted in its broadest extent, is a conclusive argument to prove the prudence, wisdom, and integrity of their representatives.

The people, by the Constitution, have commanded the President, as

much as they have commanded the legislative branch of the Government, to execute their will. They have said to him in the Constitution, which they require he shall take a solemn oath to support, that if Congress pass any bill which he can not approve "he shall return it to the House in which it originated with his objections." In withholding from it his approval and signature he is executing the will of the people, constitutionally expressed, as much as the Congress that passed it. No bill is presumed to be in accordance with the popular will until it shall have passed through all the branches of the Government required by the Constitution to make it a law. A bill which passes the House of Representatives may be rejected by the Senate, and so a bill passed by the Senate may be rejected by the House. In each case the respective Houses exercise the veto power on the other.

Congress, and each House of Congress, hold under the Constitution a check upon the President, and he, by the power of the qualified veto, a check upon Congress. When the President recommends measures to Congress, he avows in the most solemn form his opinions, gives his voice in their favor, and pledges himself in advance to approve them if passed by Congress. If he acts without due consideration, or has been influenced by improper or corrupt motives, or if from any other cause Congress, or either House of Congress, shall differ with him in opinion, they exercise their *veto* upon his recommendations and reject them; and there is no appeal from their decision but to the people at the ballot box. These are proper checks upon the Executive, wisely interposed by the Constitution. None will be found to object to them or to wish them removed. It is equally important that the constitutional checks of the Executive upon the legislative branch should be preserved.

If it be said that the Representatives in the popular branch of Congress are chosen directly by the people, it is answered, the people elect the President. If both Houses represent the States and the people, so does the President. The President represents in the executive department the whole people of the United States, as each member of the legislative department represents portions of them.

The doctrine of restriction upon legislative and executive power, while a well-settled public opinion is enabled within a reasonable time to accomplish its ends, has made our country what it is, and has opened to us a career of glory and happiness to which all other nations have been strangers.

In the exercise of the power of the veto the President is responsible not only to an enlightened public opinion, but to the people of the whole Union, who elected him, as the representatives in the legislative branches who differ with him in opinion are responsible to the people of particular States or districts, who compose their respective constituencies. To deny to the President the exercise of this power would be to repeal that provision of the Constitution which confers it upon him. To charge that

its exercise unduly controls the legislative will is to complain of the Constitution itself.

If the Presidential veto be objected to upon the ground that it checks and thwarts the popular will, upon the same principle the equality of representation of the States in the Senate should be stricken out of the Constitution. The vote of a Senator from Delaware has equal weight in deciding upon the most important measures with the vote of a Senator from New York, and yet the one represents a State containing, according to the existing apportionment of Representatives in the House of Representatives, but one thirty-fourth part of the population of the other. By the constitutional composition of the Senate a majority of that body from the smaller States represent less than one-fourth of the people of the Union. There are thirty States, and under the existing apportionment of Representatives there are 230 Members in the House of Representatives. Sixteen of the smaller States are represented in that House by but 50 Members, and yet the Senators from these States constitute a majority of the Senate. So that the President may recommend a measure to Congress, and it may receive the sanction and approval of more than ~~three-fourths~~ of the House of Representatives and of all the Senators from the large States, containing more than three-fourths of the whole population of the United States, and yet the measure may be defeated by the votes of the Senators from the smaller States. None, it is presumed, can be found ready to change the organization of the Senate on this account, or to strike that body practically out of existence by requiring that its action shall be conformed to the will of the more numerous branch.

Upon the same principle that the *veto* of the President should be practically abolished the power of the Vice-President to give the casting vote upon an equal division of the Senate should be abolished also. The Vice-President exercises the *veto* power as effectually by rejecting a bill by his casting vote as the President does by refusing to approve and sign it. This power has been exercised by the Vice-President in a few instances, the most important of which was the rejection of the bill to recharter the Bank of the United States in 1811. It may happen that a bill may be passed by a large majority of the House of Representatives, and may be supported by the Senators from the larger States, and the Vice-President may reject it by giving his vote with the Senators from the smaller States; and yet none, it is presumed, are prepared to deny to him the exercise of this power under the Constitution.

But it is, in point of fact, untrue that an act passed by Congress is conclusive evidence that it is an emanation of the popular will. A majority of the whole number elected to each House of Congress constitutes a quorum, and a majority of that quorum is competent to pass laws. It might happen that a quorum of the House of Representatives, consisting of a single member more than half of the whole number elected to

that House, might pass a bill by a majority of a single vote, and in that case a fraction more than one-fourth of the people of the United States would be represented by those who voted for it. It might happen that the same bill might be passed by a majority of one of a quorum of the Senate, composed of Senators from the fifteen smaller States and a single Senator from a sixteenth State; and if the Senators voting for it happened to be from the eight of the smallest of these States, it would be passed by the votes of Senators from States having but fourteen Representatives in the House of Representatives, and containing less than one-sixteenth of the whole population of the United States. This extreme case is stated to illustrate the fact that the mere passage of a bill by Congress is no conclusive evidence that those who passed it represent the majority of the people of the United States or truly reflect their will. If such an extreme case is not likely to happen, cases that approximate it are of constant occurrence. It is believed that not a single law has been passed since the adoption of the Constitution upon which all the members elected to both Houses have been present and voted. Many of the most important acts which have passed Congress have been carried by a close vote in thin Houses. Many instances of this might be given. Indeed, our experience proves that many of the most important acts of Congress are postponed to the last days, and often the last hours, of a session, when they are disposed of in haste, and by Houses but little exceeding the number necessary to form a quorum.

Besides, in most of the States the members of the House of Representatives are chosen by pluralities, and ~~not~~ by majorities of all the voters in their respective districts, and it may happen that a majority of that House may be returned by a less aggregate vote of the people than that received by the minority.

If the principle insisted on be sound, then the Constitution should be so changed that no bill shall become a law unless it is voted for by members representing in each House a majority of the whole people of the United States. We must remodel our whole system, strike down and abolish not only the salutary checks lodged in the executive branch, but must strike out and abolish those lodged in the Senate also, and thus practically invest the whole power of the Government in a majority of a single assembly—a majority uncontrolled and absolute, and which may become despotic. To conform to this doctrine of the right of majorities to rule, independent of the checks and limitations of the Constitution, we must revolutionize our whole system; we must destroy the constitutional compact by which the several States agreed to form a Federal Union and rush into consolidation, which must end in monarchy or despotism. No one advocates such a proposition, and yet the doctrine maintained, if carried out, must lead to this result.

One great object of the Constitution in conferring upon the President a qualified negative upon the legislation of Congress was to protect minorities from injustice and oppression by majorities. The equality of their representation in the Senate and the veto power of the President are the

constitutional guaranties which the smaller States have that their rights will be respected. Without these guaranties all their interests would be at the mercy of majorities in Congress representing the larger States. To the smaller and weaker States, therefore, the preservation of this power and its exercise upon proper occasions demanding it is of vital importance. They ratified the Constitution and entered into the Union, securing to themselves an equal representation with the larger States in the Senate; and they agreed to be bound by all laws passed by Congress upon the express condition, and none other, that they should be approved by the President or passed, his objections to the contrary notwithstanding, by a vote of two-thirds of both Houses. Upon this condition they have a right to insist as a part of the compact to which they gave their assent.

A bill might be passed by Congress against the will of the whole people of a particular State and against the votes of its Senators and all its Representatives. However prejudicial it might be to the interests of such State, it would be bound by it if the President shall approve it or it shall be passed by a vote of two-thirds of both Houses; but it has a right to demand that the President shall exercise his constitutional power and arrest it if his judgment is against it. If he surrender this power, or fail to exercise it in a case where he can not approve, it would make his formal approval a mere mockery, and would be itself a violation of the Constitution, and the dissenting State would become bound by a law which had not been passed according to the sanctions of the Constitution.

The objection to the exercise of the *veto* power is founded upon an idea respecting the popular will, which, if carried out, would annihilate State sovereignty and substitute for the present Federal Government a consolidation directed by a supposed numerical majority. A revolution of the Government would be silently effected and the States would be subjected to laws to which they had never given their constitutional consent.

The Supreme Court of the United States is invested with the power to declare, and has declared, acts of Congress passed with the concurrence of the Senate, the House of Representatives, and the approval of the President to be unconstitutional and void, and yet none, it is presumed, can be found who will be disposed to strip this highest judicial tribunal under the Constitution of this acknowledged power—a power necessary alike to its independence and the rights of individuals.

For the same reason that the Executive veto should, according to the doctrine maintained, be rendered nugatory, and be practically expunged from the Constitution, this power of the court should also be rendered nugatory and be expunged, because it restrains the legislative and Executive will, and because the exercise of such a power by the court may be regarded as being in conflict with the capacity of the people to govern themselves. Indeed, there is more reason for striking this power of the

court from the Constitution than there is that of the qualified veto of the President, because the decision of the court is final, and can never be reversed even though both Houses of Congress and the President should be unanimous in opposition to it, whereas the veto of the President may be overruled by a vote of two-thirds of both Houses of Congress or by the people at the polls.

It is obvious that to preserve the system established by the Constitution each of the coordinate branches of the Government—the executive, legislative, and judicial—must be left in the exercise of its appropriate powers. If the executive or the judicial branch be deprived of powers conferred upon either as checks on the legislative, the preponderance of the latter will become disproportionate and absorbing and the others impotent for the accomplishment of the great objects for which they were established. Organized, as they are, by the Constitution, they work together harmoniously for the public good. If the Executive and the judiciary shall be deprived of the constitutional powers invested in them, and of their due proportions, the equilibrium of the system must be destroyed, and consolidation, with the most pernicious results, must ensue—a consolidation of unchecked, despotic power, exercised by majorities of the legislative branch.

The executive, legislative, and judicial each constitutes a separate coordinate department of the Government, and each is independent of the others. In the performance of their respective duties under the Constitution neither can in its legitimate action control the others. They each act upon their several responsibilities in their respective spheres. But if the doctrines now maintained be correct, the executive must become practically subordinate to the legislative, and the judiciary must become subordinate to both the legislative and the executive; and thus the whole power of the Government would be merged in a single department. Whenever, if ever, this shall occur, our glorious system of well-regulated self-government will crumble into ruins, to be succeeded, first by anarchy, and finally by monarchy or despotism. I am far from believing that this doctrine is the sentiment of the American people; and during the short period which remains in which it will be my duty to administer the executive department it will be my aim to maintain its independence and discharge its duties without infringing upon the powers or duties of either of the other departments of the Government.

The power of the Executive veto was exercised by the first and most illustrious of my predecessors and by four of his successors who preceded me in the administration of the Government, and it is believed in no instance prejudicially to the public interests. It has never been and there is but little danger that it ever can be abused. No President will ever desire unnecessarily to place his opinion in opposition to that of Congress. He must always exercise the power reluctantly, and only in cases where his convictions make it a matter of stern duty, which he can

not escape. Indeed, there is more danger that the President, from the repugnance he must always feel to come in collision with Congress, may fail to exercise it in cases where the preservation of the Constitution from infraction, or the public good, may demand it than that he will ever exercise it unnecessarily or wantonly.

During the period I have administered the executive department of the Government great and important questions of public policy, foreign and domestic, have arisen, upon which it was my duty to act. It may, indeed, be truly said that my Administration has fallen upon eventful times. I have felt most sensibly the weight of the high responsibilities devolved upon me. With no other object than the public good, the enduring fame, and permanent prosperity of my country, I have pursued the convictions of my own best judgment. The impartial arbitrament of enlightened public opinion, present and future, will determine how far the public policy I have maintained and the measures I have from time to time recommended may have tended to advance or retard the public prosperity at home and to elevate or depress the estimate of our national character abroad.

Invoking the blessings of the Almighty upon your deliberations at your present important session, my ardent hope is that in a spirit of harmony and concord you may be guided to wise results, and such as may redound to the happiness, the honor, and the glory of our beloved country.

JAMES K. POLK.

SPECIAL MESSAGES.

WASHINGTON, *December 12, 1848.*

To the Senate of the United States:

I nominate Second Lieutenant Ulysses S. Grant (since promoted first lieutenant), of the Fourth Regiment of Infantry, to be first lieutenant by brevet for gallant and meritorious services in the battle of Chapultepec, September 13, 1847, as proposed in the accompanying communication from the Secretary of War.

JAMES K. POLK.

WAR DEPARTMENT, *December 11, 1848.*

THE PRESIDENT OF THE UNITED STATES.

SIR: The brevet of captain conferred on Second Lieutenant Ulysses S. Grant (since promoted first lieutenant), of the Fourth Regiment of Infantry, and confirmed by the Senate on the 13th of July, 1848, "for gallant and meritorious conduct in the battle of Chapultepec, September 13, 1847," being the result of a misapprehension as to the grade held by that officer on the 13th of September, 1847 (he being then a second lieutenant), I have to propose that the brevet of captain be canceled

and that the brevet of first lieutenant "for gallant and meritorious services in the battle of Chapultepec, September 13, 1847," be conferred in lieu thereof.

I am, sir, with great respect, your obedient servant,

W. L. MARCY.

WASHINGTON, *December 12, 1848.*

To the Senate of the United States:

I transmit herewith, for the consideration and advice of the Senate with regard to its ratification, a treaty concluded on the 6th of August, 1848, by L. E. Powell, on the part of the United States, and the chiefs and headmen of the confederated bands of the Pawnee Indians, together with a report of the Commissioner of Indian Affairs and other papers explanatory of the same.

JAMES K. POLK.

WASHINGTON, *December 12, 1848.*

To the Senate of the United States:

I transmit herewith, for the consideration and advice of the Senate with regard to its ratification, a treaty concluded on the 18th of October, 1848, by William Medill, Commissioner of Indian Affairs, on the part of the United States, and the chiefs and headmen of the Menomonee Indians, together with a report of the Commissioner of Indian Affairs and other papers explanatory of the same.

JAMES K. POLK.

WASHINGTON, *December 27, 1848.*

To the House of Representatives:

In compliance with the resolution of the House of the 11th instant, requesting the President to inform that body "whether he has received any information that American citizens have been imprisoned or arrested by British authorities in Ireland, and, if so, what have been the causes thereof and what steps have been taken for their release, and if not, in his opinion, inconsistent with public interest to furnish this House with copies of all correspondence in relation thereto," I communicate herewith a report of the Secretary of State, together with the accompanying correspondence upon the subject.

JAMES K. POLK.

WASHINGTON, *December 27, 1848.*

To the Senate of the United States:

I communicate herewith, in compliance with the request contained in the resolution of the Senate of the 19th instant, a report of the Secretary of the Treasury, with the accompanying statement, prepared by the Register of the Treasury, which exhibits the annual amount appropriated on account of the Coast Survey from the commencement of said Survey.

JAMES K. POLK.

WASHINGTON, January 2, 1849.

To the House of Representatives of the United States:

In answer to the resolution of the House of Representatives of the 18th of December, 1848, requesting information "under what law or provision of the Constitution, or by what other authority," the Secretary of the Treasury, with the "sanction and approval" of the President, established "a tariff of duties in the ports of the Mexican Republic during the war with Mexico," and "by what legal, constitutional, or other authority" the "revenue thus derived" was appropriated to "the support of the Army in Mexico," I refer the House to my annual message of the 7th of December, 1847, to my message to the Senate of the 10th of February, 1848, responding to a call of that body, a copy of which is herewith communicated, and to my message to the House of Representatives of the 24th of July, 1848, responding to a call of that House. The resolution assumes that the Secretary of the Treasury "established a tariff of duties in the ports of the Mexican Republic." The contributions collected in this mode were not established by the Secretary of the Treasury, but by a military order issued by the President through the War and Navy Departments. ~~For~~ his information the President directed the Secretary of the Treasury to prepare and report to him a scale of duties. That report was made, and the President's ~~military order~~ of the 31st of March, 1847, was based upon it. The documents communicated to Congress with my annual message of December, 1847, show the true character of that order.

The authority under which military contributions were exacted and collected from the enemy and applied to the support of our Army during the war with Mexico was stated in the several messages referred to. In the first of these messages I informed Congress that—

On the 31st of March last I caused an order to be issued to our military and naval commanders to levy and collect a military contribution upon all vessels and merchandise which might enter any of the ports of Mexico in our military occupation, and to apply such contributions toward defraying the expenses of the war. By virtue of the right of conquest and the laws of war, the conqueror, consulting his own safety or convenience, may either exclude foreign commerce altogether from all such ports or permit it upon such terms and conditions as he may prescribe. Before the principal ports of Mexico were blockaded by our Navy the revenue derived from import duties under the laws of Mexico was paid into the Mexican treasury. After these ports had fallen into our military possession the blockade was raised and commerce with them permitted upon prescribed terms and conditions. They were opened to the trade of all nations upon the payment of duties more moderate in their amount than those which had been previously levied by Mexico, and the revenue, which was formerly paid into the Mexican treasury, was directed to be collected by our military and naval officers and applied to the use of our Army and Navy. Care was taken that the officers, soldiers, and sailors of our Army and Navy should be exempted from the operations of the order, and, as the merchandise imported upon which the order operated must be consumed by Mexican citizens, the contributions exacted were in effect the seizure of the public revenues of Mexico and the applica-

tion of them to our own use. In directing this measure the object was to compel the enemy to contribute as far as practicable toward the expenses of the war.

It was also stated in that message that—

Measures have recently been adopted by which the internal as well as the external revenues of Mexico in all places in our military occupation will be seized and appropriated to the use of our Army and Navy.

The policy of levying upon the enemy contributions in every form consistently with the laws of nations, which it may be practicable for our military commanders to adopt, should, in my judgment, be rigidly enforced, and orders to this effect have accordingly been given. By such a policy, at the same time that our own Treasury will be relieved from a heavy drain, the Mexican people will be made to feel the burdens of the war, and, consulting their own interests, may be induced the more readily to require their rulers to accede to a just peace.

In the same message I informed Congress that the amount of the "loan" which would be required for the further prosecution of the war might be "reduced by whatever amount of expenditures can be saved by military contributions collected in Mexico," and that "the most rigorous measures for the augmentation of these contributions have been directed, and a very considerable sum is expected from that source." The Secretary of the Treasury, in his annual report of that year, in making his estimate of the amount of loan which would probably be required, reduced the sum in consideration of the amount which would probably be derived from these contributions, and Congress authorized the loan upon this reduced estimate.

In the message of the 10th of February, 1848, to the Senate, it was stated that—

No principle is better established than that a nation at war has the right of shifting the burden off itself and imposing it on the enemy by exacting military contributions. The mode of making such exactions must be left to the discretion of the conqueror, but it should be exercised in a manner conformable to the rules of civilized warfare.

The right to levy these contributions is essential to the successful prosecution of war in an enemy's country, and the practice of nations has been in accordance with this principle. It is as clearly necessary as the right to fight battles, and its exercise is often essential to the subsistence of the army.

Entertaining no doubt that the military right to exclude commerce altogether from the ports of the enemy in our military occupation included the minor right of admitting it under prescribed conditions, it became an important question at the date of the order whether there should be a discrimination between vessels and cargoes belonging to citizens of the United States and vessels and cargoes belonging to neutral nations.

In the message to the House of Representatives of the 24th of July, 1848, it was stated that—

It is from the same source of authority that we derive the unquestioned right, after the war has been declared by Congress, to blockade the ports and coasts of the enemy, to capture his towns, cities, and provinces, and to levy contributions upon him for the support of our Army. Of the same character with these is the right to subject to our temporary military government the conquered territories of our

enemy. They are all belligerent rights, and their exercise is as essential to the successful prosecution of a foreign war as the right to fight battles.

By the Constitution the power to "declare war" is vested in Congress, and by the same instrument it is provided that "the President shall be Commander in Chief of the Army and Navy of the United States" and that "he shall take care that the laws be faithfully executed."

When Congress have exerted their power by declaring war against a foreign nation, it is the duty of the President to prosecute it. The Constitution has prescribed no particular mode in which he shall perform this duty. The manner of conducting the war is not defined by the Constitution. The term *war* used in that instrument has a well-understood meaning among nations. That meaning is derived from the laws of nations, a code which is recognized by all civilized powers as being obligatory in a state of war. The power is derived from the Constitution and the manner of exercising it is regulated by the laws of nations. When Congress have declared war, they in effect make it the duty of the President in prosecuting it, by land and sea, to resort to all the modes and to exercise all the powers and rights which other nations at war possess. He is invested with the same power in this respect as if he were personally present commanding our fleets by sea or our armies by land. He may conduct the war by issuing orders for fighting battles, besieging and capturing cities, conquering and holding the provinces of the enemy, or by capturing his vessels and other property on the high seas. But these are not the only modes of prosecuting war which are recognized by the laws of nations and to which he is authorized to resort. The levy of contributions on the enemy is a right of war well established and universally acknowledged among nations, and one which every belligerent possessing the ability may properly exercise. The most approved writers on public law admit and vindicate this right as consonant with reason, justice, and humanity.

No principle is better established than that—

We have a right to deprive our enemy of his possessions, of everything which may augment his strength and enable him to make war. This everyone endeavors to accomplish in the manner most suitable to him. Whenever we have an opportunity we seize on the enemy's property and convert it to our own use, and thus, besides diminishing the enemy's power, we augment our own and obtain at least a partial indemnification or equivalent, either for what constitutes the subject of the war or for the expenses and losses incurred in its prosecution. In a word, we do ourselves justice.

"Instead of the custom of pillaging the open country and defenseless places," the levy of contributions has been "substituted."

Whoever carries on a just war has a right to make the enemy's country contribute to the support of his army and toward defraying all the charges of the war. Thus he obtains a part of what is due to him, and the enemy's subjects, by consenting to pay the sum demanded, have their property secured from pillage and the country is preserved.

These principles, it is believed, are uncontroverted by any civilized nation in modern times. The public law of nations, by which they are recognized, has been held by our highest judicial tribunal as a code which is applicable to our "situation" in a state of war and binding on the United States, while in admiralty and maritime cases it is often the governing rule. It is in a just war that a nation has the "right to make the enemy's country contribute to the support of his army." Not doubting that our late war with Mexico was just on the part of the United States, I did not hesitate when charged by the Constitution with its prosecution to exercise a power common to all other nations, and Congress was duly informed of the mode and extent to which that power had been and would be exercised at the commencement of their first session thereafter.

Upon the declaration of war against Mexico by Congress the United States were entitled to all the rights which any other nation at war would have possessed. These rights could only be demanded and enforced by the President, whose duty it was, as "Commander in Chief of the Army and Navy of the United States," to execute the law of Congress which declared the war. In the act declaring war Congress provided for raising men and money to enable the President "to prosecute it to a speedy and successful termination." Congress prescribed no mode of conducting it, but left the President to prosecute it according to the laws of nations as his guide. Indeed, it would have been impracticable for Congress to have provided for all the details of a campaign.

The mode of levying contributions must necessarily be left to the discretion of the conqueror, subject to be exercised, however, in conformity with the laws of nations. It may be exercised by requiring a given sum or a given amount of provisions to be furnished by the authorities of a captured city or province; it may be exercised by imposing an internal tax or a tax on the enemy's commerce, whereby he may be deprived of his revenues, and these may be appropriated to the use of the conqueror. The latter mode was adopted by the collection of duties in the ports of Mexico in our military occupation during the late war with that Republic.

So well established is the military right to do this under the laws of nations that our military and naval officers commanding our forces on the theater of war adopted the same mode of levying contributions from the enemy before the order of the President of the 31st of March, 1847, was issued. The general in command of the Army at Vera Cruz, upon his own view of his powers and duties, and without specific instructions to that effect, immediately after the capture of that city adopted this mode. By his order of the 28th of March, 1847, heretofore communicated to the House of Representatives, he directed a "temporary and moderate tariff of duties to be established." Such a tariff was established, and contributions were collected under it and applied to the uses

of our Army. At a still earlier period the same power was exercised by the naval officers in command of our squadron on the Pacific coast. * * * Not doubting the authority to resort to this mode, the order of the 31st of March, 1847, was issued, and was in effect but a modification of the previous orders of these officers, by making the rates of contribution uniform and directing their collection in all the ports of the enemy in our military occupation and under our temporary military government.

The right to levy contributions upon the enemy in the form of import and export duties in his ports was sanctioned by the treaty of peace with Mexico. By that treaty both Governments recognized * * * and confirmed the exercise of that right. By its provisions "the custom-houses at all the ports occupied by the forces of the United States" were, upon the exchange of ratifications, to be delivered up to the Mexican authorities, "together with all bonds and evidences of debt for duties on importations and exportations *not yet fallen due;*" and "all duties on imports and on exports collected at such custom-houses or elsewhere in Mexico by authority of the United States" before the ratification of the treaty by the Mexican Government were to be retained by the United States, and only the net amount of the duties collected after this period was to be "delivered to the Mexican Government." By its provisions also all merchandise "imported ~~previously~~ to the restoration of the custom-houses to the Mexican authorities" or "exported from any Mexican port whilst in the occupation of the forces of the United States" was protected from confiscation and from the payment of any import or export duties to the Mexican Government, even although the importation of such merchandise "be prohibited by the Mexican tariff." The treaty also provides that should the custom-houses be surrendered to the Mexican authorities in less than sixty days from the date of its signature, the rates of duty on merchandise imposed by the United States were in that event to survive the war until the end of this period; and in the meantime Mexican custom-house officers were bound to levy no other duties thereon "than the duties established by the tariff found in force at such custom-houses at the time of the restoration of the same." The "tariff found in force at such custom-houses," which is recognized and sustained by this stipulation, was that established by the military order of the 31st of March, 1847, as a mode of levying and collecting military contributions from the enemy.

The right to blockade the ports and coasts of the enemy in war is no more provided for or prescribed by the Constitution than the right to levy and collect contributions from him in the form of duties or otherwise, and yet it has not been questioned that the President had the power after war had been declared by Congress to order our Navy to blockade the ports and coasts of Mexico. The right in both cases exists under the laws of nations. If the President can not order military contributions

to be collected without an act of Congress, for the same reason he can not order a blockade; nor can he direct the enemy's vessels to be captured on the high seas; nor can he order our military and naval officers to invade the enemy's country, conquer, hold, and subject to our military government his cities and provinces; nor can he give to our military and naval commanders orders to perform many other acts essential to success in war.

If when the City of Mexico was captured the commander of our forces had found in the Mexican treasury public money which the enemy had provided to support his army, can it be doubted that he possessed the right to seize and appropriate it for the use of our own Army? If the money captured from the enemy could have been thus lawfully seized and appropriated, it would have been by virtue of the laws of war, recognized by all civilized nations; and by the same authority the sources of revenue and of supply of the enemy may be cut off from him, whereby he may be weakened and crippled in his means of continuing or waging the war. If the commanders of our forces, while acting under the orders of the President, in the heart of the enemy's country and surrounded by a hostile population, ~~possess~~ none of these essential and indispensable powers of war, but must halt the Army at every step of its progress and wait for an act of Congress to be passed to authorize them to do that which every other nation has the right to do by virtue of the laws of nations, then, indeed, is the Government of the United States in a condition of imbecility and weakness, which must in all future time render it impossible to prosecute a foreign war in an enemy's country successfully or to vindicate the national rights and the national honor by war.

The contributions levied were collected in the enemy's country, and were ordered to be "applied" in the enemy's country "toward defraying the expenses of the war," and the appropriations made by Congress for that purpose were thus relieved, and considerable balances remained undrawn from the Treasury. The amount of contributions remaining unexpended at the close of the war, as far as the accounts of collecting and disbursing officers have been settled, have been paid into the Treasury in pursuance of an order for that purpose, except the sum "applied toward the payment of the first installment due under the treaty with Mexico," as stated in my last annual message, for which an appropriation had been made by Congress. The accounts of some of these officers, as stated in the report of the Secretary of War accompanying that message, will require legislation before they can be finally settled.

In the late war with Mexico it is confidently believed that the levy of contributions and the seizure of the sources of public revenue upon which the enemy relied to enable him to continue the war essentially contributed to hasten peace. By those means the Government and people of Mexico were made to feel the pressure of the war and to realize

that if it were protracted its burdens and inconveniences must be borne by themselves. Notwithstanding the great success of our arms, it may well be doubted whether an honorable peace would yet have been obtained but for the very contributions which were exacted.

JAMES K. POLK.

WASHINGTON, *January 4, 1849.*

To the Senate of the United States:

I transmit to the Senate, for their consideration and advice with regard to its ratification, a convention between the United States of America and the Government of Her Britannic Majesty, for the improvement of the communication by post between their respective territories, concluded and signed at London on the 15th December last, together with an explanatory dispatch from our minister at that Court.

JAMES K. POLK.

WASHINGTON, *January 29, 1849.*

To the Senate of the United States:

I communicate herewith a report of the Secretary of State, with the accompanying documents, in answer to a resolution of the Senate of the 21st December, 1848, requesting the President "~~to communicate to the Senate~~ (if, in his opinion, not incompatible with the public service) a copy of the dispatches transmitted to the Secretary of State in August last by the resident minister at Rio de Janeiro in reference to the service and general conduct of Commodore G. W. Storer, commander in chief of the United States naval forces on the coast of Brazil."

JAMES K. POLK.

WASHINGTON, *January 29, 1849.*

To the House of Representatives of the United States:

I communicate herewith reports from the Secretary of War and the Secretary of the Navy, together with the accompanying documents, in answer to a resolution of the House of Representatives of December 20, 1848, requesting the President "to communicate to the House the amount of moneys and property received during the late war with the Republic of Mexico at the different ports of entry, or in any other way within her limits, and in what manner the same has been expended or appropriated."

JAMES K. POLK.

WASHINGTON, *February 1, 1849.*

To the Senate of the United States:

I communicate herewith reports from the Secretary of State, the Secretary of the Treasury, the Secretary of War, and the Secretary of the

Navy, together with the accompanying documents, in answer to a resolution of the Senate of the 15th January, 1849, "that the petition and papers of John B. Emerson be referred to the President of the United States, and that he be requested to cause a report thereon to be made to the Senate, wherein the public officer making such report shall state in what cases, if any, the United States have used or employed the invention of said Emerson contrary to law, and, further, whether any compensation therefor is justly due to said Emerson, and, if so, to what amount in each case."

JAMES K. POLK.

WASHINGTON, *February 5, 1849.*

To the Senate of the United States:

I transmit herewith, for the consideration and advice of the Senate with regard to its ratification, a treaty concluded on the 24th day of November, 1848, by Morgan L. Martin and Albert G. Ellis, commissioners on the part of the United States, and the sachem, councilors, and headmen of the Stockbridge tribe of Indians, together with a report of the Commissioner of Indian Affairs and other papers explanatory of the same.

JAMES K. POLK.

WASHINGTON, *February 8, 1849.*

To the House of Representatives of the United States:

In reply to the resolutions of the House of Representatives of the 5th instant, I communicate herewith a report from the Secretary of State, accompanied with all the documents and correspondence relating to the treaty of peace concluded between the United States and Mexico at Guadalupe Hidalgo on the 2d February, 1848, and to the amendments of the Senate thereto, as requested by the House in the said resolutions.

Amongst the documents transmitted will be found a copy of the instructions given to the commissioners of the United States who took to Mexico the treaty as amended by the Senate and ratified by the President of the United States. In my message to the House of Representatives of the 29th of July, 1848, I gave as my reason for declining to furnish these instructions in compliance with a resolution of the House that "in my opinion it would be inconsistent with the public interests to give publicity to them at the present time." Although it may still be doubted whether giving them publicity in our own country, and, as a necessary consequence, in Mexico, may not have a prejudicial influence on our public interests, yet, as they have been again called for by the House, and called for in connection with other documents, to the correct understanding of which they are indispensable, I have deemed it my duty to transmit them.

I still entertain the opinion expressed in the message referred to, that—

As a general rule applicable to all our important negotiations with foreign powers, it could not fail to be prejudicial to the public interests to publish the instructions to our ministers until *some time* had elapsed after the conclusion of such negotiations.

In these instructions of the 18th of March, 1848, it will be perceived that—

The task was assigned to the commissioners of the United States of consummating the treaty of peace, which was signed at Guadalupe Hidalgo on the 2d day of February last, between the United States and the Mexican Republic, and which on the 10th of March last was ratified by the Senate with amendments.

They were informed that—

This brief statement will indicate to you clearly the line of your duty. You are not sent to Mexico for the purpose of negotiating any new treaty, or of changing in any particular the ratified treaty which you will bear with you. None of the amendments adopted by the Senate can be rejected or modified except by the authority of that body. Your whole duty will, then, consist in using every honorable effort to obtain from the Mexican Government a ratification of the treaty in the form in which it has been ratified by the Senate, and this with the least practicable delay. * * * For this purpose it may, and most probably will, become necessary that you should explain to the Mexican minister for foreign affairs, or to the authorized agents of the Mexican Government, the reasons which have influenced the Senate in adopting these several amendments to the treaty. This duty you will perform as much as possible by personal conferences. Diplomatic notes are to be avoided unless in case of necessity. These might lead to endless discussions and indefinite delay. Besides, they could not have any practical result, as your mission is confined to procuring a ratification from the Mexican Government of the treaty as it came from the Senate, and does not extend to the slightest modification in any of its provisions.

The commissioners were sent to Mexico to procure the ratification of the treaty *as amended by the Senate*. Their instructions confined them to this point. It was proper that the amendments to the treaty adopted by the United States should be explained to the Mexican Government, and explanations were made by the Secretary of State in his letter of the 18th of March, 1848, to the Mexican minister for foreign affairs, under my direction. This dispatch was communicated to Congress with my message of the 6th of July last, communicating the treaty of peace, and published by their order. This dispatch was transmitted by our commissioners from the City of Mexico to the Mexican Government, then at Queretaro, on the 17th of April, 1848, and its receipt acknowledged on the 19th of the same month. During the whole time that the treaty, as amended, was before the Congress of Mexico these explanations of the Secretary of State, and these alone, were before them.

The President of Mexico, on these explanations, on the 8th day of May, 1848, submitted the amended treaty to the Mexican Congress, and on the 25th of May that Congress approved the treaty as amended, without modification or alteration. The final action of the Mexican Congress had taken place before the commissioners of the United States had been officially received by the Mexican authorities, or held any confer-

ence with them, or had any other communication on the subject of the treaty except to transmit the letter of the Secretary of State.

In their dispatch transmitted to Congress with my message of the 6th of July last, communicating the treaty of peace, dated "City of Queretaro, May 25, 1848, 9 o'clock p. m.," the commissioners say:

We have the satisfaction to inform you that we reached this city this afternoon at about 5 o'clock, and that the treaty, as amended by the Senate of the United States, passed the Mexican Senate about the hour of our arrival by a vote of 33 to 5. It having previously passed the House of Deputies, nothing now remains but to exchange the ratifications of the treaty.

On the next day (the 26th of May) the commissioners were for the first time presented to the President of the Republic and their credentials placed in his hands. On this occasion the commissioners delivered an address to the President of Mexico, and he replied. In their dispatch of the 30th of May the commissioners say:

We inclose a copy of our address to the President, and also a copy of his reply. Several conferences afterwards took place between Messrs. Rosa, Cuevas, Conto, and ourselves, which it is not thought necessary to recapitulate, as we inclose a copy of the protocol, which contains the substance of the conversations. We have now the satisfaction to announce that the exchange of ratifications was effected to-day.

This dispatch was communicated with my message of the 6th of July last, and published by order of Congress.

The treaty, as amended by the Senate of the United States, with the accompanying papers and the evidence that in that form it had been ratified by Mexico, was received at Washington on the 4th day of July, 1848, and immediately proclaimed as the supreme law of the land. On the 6th of July I communicated to Congress the ratified treaty, with such accompanying documents as were deemed material to a full understanding of the subject, to the end that Congress might adopt the legislation necessary and proper to carry the treaty into effect. Neither the address of the commissioners, nor the reply of the President of Mexico on the occasion of their presentation, nor the memorandum of conversations embraced in the paper called a protocol, nor the correspondence now sent, were communicated, because they were not regarded as in any way material; and in this I conformed to the practice of our Government. It rarely, if ever, happens that all the correspondence, and especially the instructions to our ministers, is communicated. Copies of these papers are now transmitted, as being within the resolutions of the House calling for all such "correspondence as appertains to said treaty."

When these papers were received at Washington, peace had been restored, the first installment of three millions paid to Mexico, the blockades were raised, the City of Mexico evacuated, and our troops on their return home. The war was at an end, and the treaty, as ratified by the United States, was binding on both parties, and already executed in a great degree. In this condition of things it was not competent for the

President alone, or for the President and Senate, or for the President, Senate, and House of Representatives combined, to abrogate the treaty, to annul the peace and restore a state of war, except by a solemn declaration of war.

Had the protocol varied the treaty as amended by the Senate of the United States, it would have had no binding effect.

It was obvious that the commissioners of the United States did not regard the protocol as in any degree a part of the treaty, nor as modifying or altering the treaty as amended by the Senate. They communicated it as the substance of conversations held after the Mexican Congress had ratified the treaty, and they knew that the approval of the Mexican Congress was as essential to the validity of a treaty in all its parts as the advice and consent of the Senate of the United States. They knew, too, that they had no authority to alter or modify the treaty in the form in which it had been ratified by the United States, but that, if failing to procure the ratification of the Mexican Government otherwise than with amendments, their duty, imposed by express instructions, was to ask of Mexico to send without delay a commissioner to Washington to exchange ratifications here if the amendments of the treaty proposed by Mexico, on being submitted, should be adopted by the Senate of the United States.

I was equally well satisfied that the Government of Mexico had agreed to the treaty as amended by the Senate of the United States, and did not regard the protocol as modifying, enlarging, or diminishing its terms or effect. The President of that Republic, in submitting the amended treaty to the Mexican Congress, in his message on the 8th day of May, 1848, said:

If the treaty could have been submitted to your deliberation precisely as it came from the hands of the plenipotentiaries, my satisfaction at seeing the war at last brought to an end would not have been lessened as it this day is in consequence of the modifications introduced into it by the Senate of the United States, and which have received the sanction of the President. * * * At present it is sufficient for us to say to you that if in the opinion of the Government justice had not been evinced on the part of the Senate and Government of the United States in introducing such modifications, it is presumed, on the other hand, that they are not of such importance that they should set aside the treaty. I believe, on the contrary, that it ought to be ratified upon the same terms in which it has already received the sanction of the American Government. My opinion is also greatly strengthened by the fact that a new negotiation is neither expected nor considered possible. Much less could another be brought forward upon a basis more favorable for the Republic.

The deliberations of the Mexican Congress, with no explanation before that body from the United States except the letter of the Secretary of State, resulted in the ratification of the treaty, as recommended by the President of that Republic, in the form in which it had been amended and ratified by the United States. The conversations embodied in the paper called a protocol took place after the action of the Mexican Congress was complete, and there is no reason to suppose that the Government of Mexico ever submitted the protocol to the Congress, or ever treated or regarded it as in any sense a new negotiation, or as operating

any modification or change of the amended treaty. If such had been its effect, it was a nullity until approved by the Mexican Congress; and such approval was never made or intimated to the United States. In the final consummation of the ratification of the treaty by the President of Mexico no reference is made to it. On the contrary, this ratification, which was delivered to the commissioners of the United States, and is now in the State Department, contains a full and explicit recognition of the amendments of the Senate just as they had been communicated to that Government by the Secretary of State and been afterwards approved by the Mexican Congress. It declares that—

Having seen and examined the said treaty and the modifications made by the Senate of the United States of America, and having given an account thereof to the General Congress, conformably to the requirement in the fourteenth paragraph of the one hundred and tenth article of the federal constitution of these United States, that body has thought proper to approve of the said treaty, with the modifications thereto, in all their parts; and in consequence thereof, exerting the power granted to me by the constitution, I accept, ratify, and confirm the said treaty with its modifications, and promise, in the name of the Mexican Republic, to fulfill and observe it, and to cause it to be fulfilled and observed.

Upon an examination of this protocol, when it was received with the ratified treaty, I did not regard it as material or as in any way attempting to modify or change the treaty as it had been amended by the Senate of the United States.

The first explanation which it contains is: ————

That the American Government, by suppressing the ninth article of the treaty of Guadalupe and substituting the third article of the treaty of Louisiana, did not intend to diminish in any way what was agreed upon by the aforesaid article (ninth) in favor of the inhabitants of the territories ceded by Mexico. Its understanding is that all of that agreement is contained in the third article of the treaty of Louisiana. In consequence, all the privileges and guaranties—civil, political, and religious—which would have been possessed by the inhabitants of the ceded territories if the ninth article of the treaty had been retained will be enjoyed by them without any difference under the article which has been substituted.

The ninth article of the original treaty stipulated for the incorporation of the Mexican inhabitants of the ceded territories and their admission into the Union "as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights of citizens of the United States." It provided also that in the meantime they should be maintained in the enjoyment of their liberty, their property, and their civil rights now vested in them according to the Mexican laws. It secured to them similar political rights with the inhabitants of the other Territories of the United States, and at least equal to the inhabitants of Louisiana and Florida when they were in a Territorial condition. It then proceeded to guarantee that ecclesiastics and religious corporations should be protected in the discharge of the offices of their ministry and the enjoyment of their property of every kind, whether individual or corporate, and, finally, that there should be a free communication between

the Catholics of the ceded territories and their ecclesiastical authorities. "even although such authority should reside within the limits of the Mexican Republic as defined by this treaty."

The ninth article of the treaty, as adopted by the Senate, is much more comprehensive in its terms and explicit in its meaning, and it clearly embraces in comparatively few words all the guaranties inserted in the original article. It is as follows:

Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution, and in the meantime shall be maintained and protected in the free enjoyment of their liberty and property and secured in the free exercise of their religion without restriction.

This article, which was substantially copied from the Louisiana treaty, provides equally with the original article for the admission of these inhabitants into the Union, and in the meantime, whilst they shall remain in a Territorial state, by one sweeping provision declares that they "shall be maintained and protected in the free enjoyment of their liberty and property and secured in the free exercise of their religion without restriction."

This guaranty embraces every kind of property, whether held by ecclesiastics or laymen, whether belonging to corporations or individuals. It secures to these inhabitants the free exercise of their religion without restriction, whether they choose to place themselves under the spiritual authority of pastors resident within the Mexican Republic or the ceded territories. It was, it is presumed, to place this construction beyond all question that the Senate superadded the words "without restriction" to the religious guaranty contained in the corresponding article of the Louisiana treaty. Congress itself does not possess the power under the Constitution to make any law prohibiting the free exercise of religion.

If the ninth article of the treaty, whether in its original or amended form, had been entirely omitted in the treaty, all the rights and privileges which either of them confers would have been secured to the inhabitants of the ceded territories by the Constitution and laws of the United States.

The protocol asserts that "the American Government, by suppressing the tenth article of the treaty of Guadalupe, did not in any way intend to annul the grants of lands made by Mexico in the ceded territories;" that "these grants, notwithstanding the suppression of the article of the treaty, preserve the legal value which they may possess; and the grantees may cause their legitimate titles to be acknowledged before the American tribunals;" and then proceeds to state that, "conformably to the law of the United States, legitimate titles to every description of property, personal and real, existing in the ceded territories are those which were legitimate titles under the Mexican law in California and New Mexico up to the 13th of May, 1846, and in Texas up to the 2d of March, 1836."

The former was the date of the declaration of war against Mexico and the latter that of the declaration of independence by Texas.

The objection to the tenth article of the original treaty was not that it protected legitimate titles, which our laws would have equally protected without it, but that it most unjustly attempted to resuscitate grants which had become a mere nullity by allowing the grantees the same period after the exchange of the ratifications of the treaty to which they had been originally entitled after the date of their grants for the purpose of performing the conditions on which they had been made. In submitting the treaty to the Senate I had recommended the rejection of this article. That portion of it in regard to lands in Texas did not receive a single vote in the Senate. This information was communicated by the letter of the Secretary of State to the minister for foreign affairs of Mexico, and was in possession of the Mexican Government during the whole period the treaty was before the Mexican Congress; and the article itself was reprobated in that letter in the strongest terms. Besides, our commissioners to Mexico had been instructed that—

Neither the President nor the Senate of the United States can ever consent to ratify any treaty containing the tenth article of the treaty of Guadalupe Hidalgo, in favor of grantees of land in Texas or elsewhere.

And again:

Should the Mexican Government persist in retaining this article, then all prospect of immediate peace is ended; and of this you may give them an absolute assurance.

On this point the language of the protocol is free from ambiguity, but if it were otherwise is there any individual American or Mexican who would place such a construction upon it as to convert it into a vain attempt to revive this article, which had been so often and so solemnly condemned? Surely no person could for one moment suppose that either the commissioners of the United States or the Mexican minister for foreign affairs ever entertained the purpose of thus setting at naught the deliberate decision of the President and Senate, which had been communicated to the Mexican Government with the assurance that their abandonment of this obnoxious article was essential to the restoration of peace.

But the meaning of the protocol is plain. It is simply that the nullification of this article was not intended to destroy valid, legitimate titles to land which existed and were in full force independently of the provisions and without the aid of this article. Notwithstanding it has been expunged from the treaty, these grants were to "preserve the legal value which they may possess." The refusal to revive grants which had become extinct was not to invalidate those which were in full force and vigor. That such was the clear understanding of the Senate of the United States, and this in perfect accordance with the protocol, is manifest from the fact that whilst they struck from the treaty this unjust article, they

at the same time sanctioned and ratified the last paragraph of the eighth article of the treaty, which declares that—

In the said territories property of every kind now belonging to Mexicans not established there shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract shall enjoy with respect to it guaranties equally ample as if the same belonged to citizens of the United States.

Without any stipulation in the treaty to this effect, all such valid titles under the Mexican Government would have been protected under the Constitution and laws of the United States.

The third and last explanation contained in the protocol is that—

The Government of the United States, by suppressing the concluding paragraph of article 12 of the treaty, did not intend to deprive the Mexican Republic of the free and unrestrained faculty of ceding, conveying, or transferring at any time (as it may judge best) the sum of the \$12,000,000 which the same Government of the United States is to deliver in the places designated by the amended article.

The concluding paragraph of the original twelfth article, thus suppressed by the Senate, is in the following language:

Certificates in proper form for the said installments, respectively, in such sums as shall be desired by the Mexican Government, and transferable by it, shall be delivered to the said Government by that of the United States.

From this bare statement of facts the meaning of the protocol is obvious. Although the Senate had declined to create a Government stock for the \$12,000,000, and issue transferable certificates for the amount in such sums as the Mexican Government might desire, yet they could not have intended thereby to deprive that Government of the faculty which every creditor possesses of transferring for his own benefit the obligation of his debtor, whatever this may be worth, according to his will and pleasure.

It can not be doubted that the twelfth article of the treaty as it now stands contains a positive obligation, "in consideration of the extension acquired by the boundaries of the United States," to pay to the Mexican Republic \$12,000,000 in four equal annual installments of three millions each. This obligation may be assigned by the Mexican Government to any person whatever, but the assignee in such case would stand in no better condition than the Government. The amendment of the Senate prohibiting the issue of a Government transferable stock for the amount produces this effect and no more.

The protocol contains nothing from which it can be inferred that the assignee could rightfully demand the payment of the money in case the consideration should fail which is stated on the face of the obligation.

With this view of the whole protocol, and considering that the explanations which it contained were in accordance with the treaty, I did not deem it necessary to take any action upon the subject. Had it

varied from the terms of the treaty as amended by the Senate, although it would even then have been a nullity in itself, yet duty might have required that I should make this fact known to the Mexican Government. This not being the case, I treated it in the same manner I would have done had these explanations been made verbally by the commissioners to the Mexican minister for foreign affairs and communicated in a dispatch to the State Department.

JAMES K. POLK.

WASHINGTON, February 9, 1849.

To the Senate of the United States:

In compliance with the resolution of the Senate of the 6th instant, requesting the President to cause to be laid before that body, in "executive or open session, in his discretion, any instructions given to Ambrose H. Sevier and Nathan Clifford, commissioned as ministers plenipotentiary on the part of the United States to the Government of Mexico, or to either of said ministers, prior to the ratification by the Government of Mexico of the treaty of peace between the United States and that Republic," and certain correspondence and other papers specified in the said resolution, I communicate herewith a report from the Secretary of State, together with copies of the documents called for.

Having on the 8th instant, in compliance with a resolution of the House of Representatives in its terms more comprehensive than that of the Senate, communicated these and all other papers appertaining to the same subject, with a message to that House, this communication is made to the Senate in "open" and not in "executive" session.

JAMES K. POLK.

WASHINGTON, February 12, 1849.

To the Senate of the United States:

I communicate herewith a report from the Secretary of the Treasury, with the accompanying documents, in answer to the resolution of the Senate of December 28, 1848, requesting "to be informed of the number of vessels annually employed in the Coast Survey, and the annual cost thereof, and out of what fund they were paid; also the number of persons annually employed in said Survey who were not of the Army and Navy of the United States; also the amount of money received by the United States for maps and charts made under such Survey and sold under the act of 1844."

JAMES K. POLK.

WASHINGTON, February 14, 1849.

To the Senate of the United States:

I transmit herewith a report from the Secretary of War, together with the accompanying papers, in compliance with a resolution of the

Senate of the 12th instant, requesting the President to communicate to that body the proceedings under the act of Congress of the last session to compensate R. M. Johnson for the erection of certain buildings for the use of the Choctaw academy; also the evidence of the cost of said buildings.

JAMES K. POLK.

WASHINGTON, *February 23, 1849.*

To the Senate of the United States:

I communicate herewith a report of the Secretary of State, together with the accompanying documents, in compliance with a resolution of the Senate of the 23d ultimo, requesting the President "to transmit to the Senate, so far as is consistent with the public service, any correspondence between the Department of State and the Spanish authorities in the island of Cuba relating to the imprisonment in said island of William Henry Rush, a citizen of the United States."

JAMES K. POLK.

WASHINGTON, *February 27, 1849.*

To the Senate of the United States:

I communicate herewith a report from the Secretary of State, in compliance with a resolution of the Senate of the 3d ultimo, requesting the President to communicate to the Senate a list of all the treaties of commerce and navigation between the United States and foreign nations conferring upon the vessels of such nations the right of trading between the United States and the rest of the world in the productions of every country upon the same terms with American vessels, with the date of the proclamation of such treaties; also a list of the proclamations conferring similar rights upon the vessels of foreign nations issued by the President of the United States under the provisions of the first section of the act entitled "An act in addition to an act entitled 'An act concerning discriminating duties on tonnage and impost and to equalize the duties on Prussian vessels and their cargoes,'" approved May 24, 1828.

JAMES K. POLK.

WASHINGTON, *March 2, 1849.*

To the House of Representatives of the United States:

I communicate herewith a report of the Secretary of State, together with the accompanying papers, in compliance with the resolution of the House of Representatives of the 23d of December, 1848, requesting the President "to cause to be transmitted to the House, if compatible with the public interest, the correspondence of George W. Gordon, late, and Gorham Parks, the present, consul of the United States at Rio de Janeiro,

with the Department of State on the subject of the African slave trade; also any unpublished correspondence on the same subject by the Hon. Henry A. Wise, our late minister to Brazil.”

JAMES K. POLK.

WASHINGTON, *March 2, 1849.*

To the House of Representatives of the United States:

I communicate herewith a report of the Secretary of State, together with the accompanying papers, in compliance with the resolution of the House of Representatives of the 20th ultimo, requesting the President to communicate to that House a list of all consuls, vice-consuls, and commercial agents now in the service of the United States, their residence, distinguishing such as are citizens of the United States from such as are not, and to inform the said House whether regular returns of their fees and perquisites and the tonnage and commerce of the United States within their respective consulates or agencies have been regularly made by each, and to communicate the amount of such fees and perquisites for certain years therein specified, together with the number of vessels and amount of tonnage which entered and cleared within each of the consulates and agencies for the same period; also the number of seamen of the United States who have been provided for and sent home from each of the said consulates for the time aforesaid.

JAMES K. POLK.

WASHINGTON, *March 2, 1849.*

To the Senate of the United States:

I herewith transmit a communication from the Secretary of the Treasury, accompanying a report from the Solicitor of the Treasury presenting a view of the operations of that office since its organization.

JAMES K. POLK.

PROCLAMATIONS.

[From Senate Journal, Thirtieth Congress, second session, p. 349.]

WASHINGTON, *January 2, 1849.*

To the Senators of the United States, respectively.

SIR: Objects interesting to the United States requiring that the Senate should be in session on Monday, the 5th of March next, to receive and act upon such communications as may be made to it on the part of the Executive, your attention in the Senate Chamber, in this city, on that day at 10 o'clock in the forenoon is accordingly requested.

JAMES K. POLK.

BY THE PRESIDENT OF THE UNITED STATES.

A PROCLAMATION.

Whereas by an act of the Congress of the United States of the 10th January, 1849, entitled "An act to extend certain privileges to the town of Whitehall, in the State of New York," the President of the United States, on the recommendation of the Secretary of the Treasury, is authorized to extend to the town of Whitehall the same privileges as are conferred on certain ports named in the seventh section of an act entitled "An act allowing drawback upon foreign merchandise exported in the original packages to Chihuahua and Santa Fe, in Mexico, and to the British North American Provinces adjoining the United States," passed 3d March, 1845, in the manner prescribed by the proviso contained in said section; and

Whereas the Secretary of the Treasury has duly recommended to me the extension of the privileges of the law aforesaid to the port of Whitehall, in the collection district of Champlain, in the State of New York:

Now, therefore, I, James K. Polk, President of the United States of America, do hereby declare and proclaim that the port of Whitehall, in the collection district of Champlain, in the State of New York, is and shall be entitled to all the privileges extended to the other ports enumerated in the seventh section of the act aforesaid from and after the date of this proclamation.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

[SEAL.] Done at the city of Washington, this 2d day of March, A. D. 1849, and of the Independence of the United States of America the seventy-third.

JAMES K. POLK.

By the President:

JAMES BUCHANAN,
Secretary of State.