CESSION OF THE PUBLIC LANDS.

SPEECH OF MR. FELCH,

OF MICHIGAN,

In the Senate, *January* 13, 1851.

The Senate having proceeded to the consideration of Senate bill 85, to cede the Public Lands of the United States to the States respectively in which they are situated, on condition that the said States shall severally grant and convey the said lands to actual occupants only, in limited quantities, for cost of survey, transfer, and title muniments merely—

Mr. FELCH said: Mr. President, it cannot have escaped the attention of Senators that at the last session of Congress a much greater number of plans for the disposition and management of the public lands were presented, than at almost any former session. Neither can it have escaped the observation of the country that there has recently existed in the public mind a greater disposition than usual, not only to examine into the administration of the public lands, and the manner of disposing of them, but also in some quarters there has been exhibited a feverish anxiety to secure legislation of the Government, of an unusual character, upon that subject. This anxiety relating to the subject to which I refer—an anxiety to canvass the present, and devise some new method of disposing of the public domain, has thus been exhibited in various ways. In the first place, numerous petitions were presented to Congress at the last session, advising different plans for the disposition of the public domain, many of which proposed to abandon utterly and entirely the whole system which had heretofore guided the action of the Government on this subject. Public meetings were held in many portions of the country which had for their object what is denominated land reform—to bring about a change in the disposition of the public domain. Senators here, and Representatives in the other House also, presented various plans; some by bills exhibiting the views of the movers and submitting them for the action of Congress on the subject; some by resolutions pointing out different methods in which the public lands should be disposed of.

The attention of the Senate at the last session was bestowed upon many bills bearing upon this subject. Lands were granted to the pioneer settler of Oregon. Bills proposing grants for the purposes of education, and for roads and canals running through portions of the public domain, received the favorable action of this body. Some of these bills have received the sanction of the other branch of Congress; others still await the action of that honorable body. These, however, involve no principle at variance with the former course of action on the subject by the Government. On the contrary, they are in accordance with it, and do but carry out in a spirit of liberality well-settled principles.

The bill now under consideration is one of a different class. It proposes a radical change in the action of the Government on this subject, and a relinquishment of the system now in operation. We cannot enter on the consideration of this subject without feeling that a thorough examination and a careful scrutiny are demanded at our hands before taking this departure from principles heretofore regarded as just and beneficial.

There is at the present day no subject, in my opinion, more important, as connected with the duty and action of the Government of the United States, than that which pertains to the manner of disposing of the public domain. The system now in operation commenced at a day when the country was comparatively limited. Now our territory extends from the Atlantic to the Pacific, over countries rich and fertile; and through regions abounding in mineral resources, as well as in the toil-rewarding wealth which agriculture yields. It has become now an important system, extensive in its operations, and mingling itself, in a greater or less degree, with all the great interests of this country.

In considering this bill, we come to the class of cases thus presented to Congress, which involve a total change in the whole system of disposing of the public domain, and substituting another. It presents, in my opinion, a subject of so great importance, that I trust I may be excused for calling the attention of the Senate to some considerations with regard to it.

What, then, does this bill which we have before us propose? It proposes a series of changes, which requires us to abandon utterly and entirely all sales of the public domain, and the management of that domain under the present system, and which involves the ceding of the public domain to the States in which the lands lie. This bill, however, does not rest here. It not only adopts the principle of divesting the United States of the public domain, and the management of that domain, but it goes further; it annexes to this disposition of the public lands—this grant of it to the States—certain conditions, which require the careful attention and scrutiny of every one who, in public position, is called upon to act on this subject. The bill now under consideration proposes to grant to each State all the public lands lying within its limits; and this upon several conditions, one of which is that none of the said lands shall vest in either of the States until the Legislature thereof shall enter into a compact between such States and the United States—first, that such State will grant and convey the land so ceded to it to actual occupants only of the land to be conveyed, in a quantity to each occupant not exceeding one hundred and sixty acres, or a quarter section, and this tract shall be granted to the landless only. The second condition is, "that the land so to be granted to any such occupant shall be and remain forever exempt from forced sale, extent or levy, execution or decree, from or by any court of law or equity." The third condition is, that every such grantee shall be forbidden to sell or convey such land to any person or corporation who owns, or would thereby become the owner of, more than one hundred and sixty acres.

And, again, the law of the State within which the land lies shall require an actual residence upon the land of not less than one year before the title shall be conveyed to the settler. The general features of the bill involve, first, the divesting of the United States of all its interest in the public domain, and, secondly, the granting of the lands by the States to individuals on the conditions which I have named.

Mr. President, I do not undertake to say that the present land system is a perfect one, or that there are no new provisions which should be ingrafted upon the laws that relate to this subject. I make no opposition to the broadest liberality on the part of the General Government to the States within which these lands lie. I could not urge such an opposition without violating my own sense of propriety. That one Government should own the broad domains within the limits of another Government, is an anomaly which, in ordinary cases, could but conduce to evil. Under our organization, however, such deleterious consequences have been avoided by the wisdom displayed in the administration of the trust. This condition of things devolves upon the General Government the duty of so administering the public domain, as to induce an influx of industrious and intelligent settlers upon it, so as to avoid, as far as may be, everything which could conflict with the free and unembarrassed action of the States in which the land lies—as to secure, in the best possible manner, the progress of civilization and the building up in the wilderness of settlements which shall be flourishing, prosperous, and happy. Any modification of the law which shall produce such results will receive my hearty support.

But the proposition before the Senate involves an utter abandonment of the whole system under which we have heretofore acted. We are now to give away the public domain. It is very evident from the history of the past that we have been essentially benefited by the management of the public lands, and by the receipts into the Treasury from the sales. If the bill now under consideration shall receive the favorable action of Congress and go into operation as a law, its first effect will be felt in the financial department of the Government. The source of income into the Treasury from these sales will be at once cut off. The importance of this source of income should not be under-estimated. It is found in all the reports from the Treasury Department, from the first land sales to the present time, and uniformly as an item of no minor consequence. But, in order that we may see how it has mingled in the financial affairs of the country, and its comparative importance, I beg leave to refer to official statements on the subject, contained in the public documents.

In the year 1835 the receipts from customs were $19,391,310 59. The receipts from public lands during that year were $14,787,600 75. In 1836 the receipts from customs were $23,409,940 53, while the receipts from public lands were $24,877,179 86. During these two years more than one half the amount of revenue received into the Treasury was from this source. These years, however, do not afford a fair criterion of the comparative income from this and other sources. A reckless spirit of speculation, aided by a paper currency depreciated in value yet receivable at the public offices, operated to increase the sales at that time far beyond the amount which former years had exhibited, or which can again be expected.

Let us look at a more recent period, and one when these extraneous causes did not exist. During the four years preceding the 30th June, 1849, the total amount received from the public lands for the sales of those years was $10,210,409 79. During these years the amount derived from the sales was about one tenth of the entire receipts into the Treasury. Other years might be selected which would present a still more favorable result.

In the year ending with June last, according to the report of the Secretary of the Treasury, the cash receipts from the public lands were $1,859,894 25. During the last two years the Mexican bounty land warrants have diminished the sales for cash, or rather have taken the place of cash in the purchase of lands to a very considerable extent.

Under warrants of this class there were entered previous to the 30th September last, 7,840,440 acres, which, at the minimum price of land, would amount to $9,800,550. These warrants were issued by the Government in part compensation for the services of the soldiers who fought her battles.

But rejecting all these from our consideration, and looking only to the receipts in cash into the Treasury, as exhibited by official reports, we find them to average more than two and a half millions of dollars annually, and to constitute at least one tenth of the entire receipts.

If we look at the aggregate amount of these receipts from the first sales to the present year, we shall find an exhibit equally striking. From 1787 to January 1, 1850, the total amount thus received was $135,329,093 17.

During the same time there have been granted for schools, universities, internal improvements, and other purposes, over twenty-one millions of acres; which, at $1 25 per acre, would amount to over $26,000,000.

It is not pretended that the above is the net income of the sales of these lands, but the books at the Department show that while the total amount of sales for cash up to January, 1850, was $135,339,093 17, the cost to the Government was as follows:

Cost of purchase.....	$61,121,717 12
Cost of surveying.....	6,369,838 07
Cost of selling, and expense of land system to January 1, 1850.....	7,466,324 19
Making total of cost and expense to Government.....	$74,957,879 38

Deducting this amount from the aggregate received from the sales as above stated, we have $60,381,213 79 as the net proceeds of the public land received into the Treasury of the United States since the present system went into operation.

This statement clearly exhibits the importance, in a financial point of view, of the sale of the lands and the receipt of the proceeds into the public Treasury. We have relied upon it for its annual aid in paying the expenses of the Government.

If we are now to abandon the present system, under which the amount above indicated is received annually as a regular income into the Treasury, it is evident that we cause a deficit to precisely the same amount in the annual receipts. That deficit must be supplied from some other source. There is no possibility of withdrawing the income from this source and not supplying it by a similar amount from any other. As the financial system of the Government is now arranged, there lies at its foundation the principle of receiving into the Treasury only the amount which may be necessary to carry on the operations of the Government in the simplest form, and of drawing

SRP1045

no more from the people by taxation, direct or indirect, than is necessary for that purpose.

If, then, this is to be relinquished, we are compelled to seek some other source from which the Treasury is to be replenished. What other source is there from which the amount can be derived? If we look through the reports of the Secretary of the Treasury from early times to the present year, we find standing side by side the proceeds from customs and those from the public lands. These two items, always present and inseparable, exhibit the true sources, and the only sources of income to the Treasury of the United States. Other items may occasionally appear in the statement, but they are small in amount and incidental in their character. These two—the customs and the public lands—are the only fountains pouring their perennial streams into the public coffers. If the latter be cut off, we have no resource left but to force an increase of supply from the former. To accomplish this, an increase of the tariff of duties would be unavoidable. This proposition would open before Congress and the country one of those great subjects which have heretofore violently agitated the community. Sir, the amount which is derived from the customs is obtained by taxation of the people themselves; and it is an assessment which we in the far West feel as sensibly as those who live on the seaboard. We are consumers of the articles imported and subject to duties, which duties we pay with the price of the article. We use the articles manufactured in other portions of our own country, the prices of which are sustained by imposts on similar articles manufactured abroad. However distant their localities, and however variant their pursuits may be, the citizens of the whole country are subject to this effect; and to draw money from this source is to draw it from the pockets of the people themselves.

The amount now paid by the purchasers of the public land will, under the proposed system, no longer be paid by them; the burden of its payment will be transferred to another class of citizens. It will no longer be received as an equivalent for property transferred to the payer; it will become simply a tax on the consumers of dutiable articles.

It will not be the question who will buy land, but the inquiry will be, who consumes the articles subject to duties. While the public lands will be granted without cost to those who demand it, those who consume the foreign articles will be compelled to supply the deficit to the Treasury. This will be the necessary effect of the system proposed to be adopted. Under the present arrangement the settler who pays his hundred dollars for an eighty-acre lot of land receives by perfect title, property which is a full equivalent for his money, and which he may dispose of, not only at cost, but usually at an enhanced price.

In property of this kind, the purchaser may also add improvements to the capital invested, thereby securing a rich reward for his labor in its annual production, at the same time greatly increasing its value. For a small consideration in the original purchase, the settler soon becomes the occupant and owner of a valuable, cultivated farm. If he desires to make a change in his condition, the sale of his property not only brings him a return of the capital invested in the purchase, but a full compensation for his toil in changing it from its wilderness state to the productiveness and beauty of the well-cultivated homestead.

The man who pays money into the Treasury, collected through the imposition of duties, receives nothing in return; while he who purchases land is richly compensated for his investment. The one is the imposition of a tax demanded by the exigencies of the Government, and enforced by the power of legal enactments; the other is the voluntary payment by a purchaser for property which he desires to possess, and to which the Government gives him a title.

Upon which of the two classes thus situated should the burden of supplying to the Treasury the amount in question fall? Should the future grantees of the public domain be released from all payments of purchase-money, and the amount be assessed upon others to make it good? Should the citizens of the whole country, receiving no benefit in return, be called upon to pay two and a half millions of money annually, to enable the Government gratuitously to distribute the public domain?

But it would be a narrow view of this subject to regard this as the only effect of the principle ingrafted upon this bill which it is now proposed to adopt.

It must not be supposed that the public domain, now or heretofore possessed by the Government of the United States, has cost nothing. It is not a possession obtained by gratuitous grant, which may be given away without return and without expense. It has been obtained at a price by the Government which holds the title as an owner by purchase, and not by gift or by the naked right of sovereignty, and which cannot divest itself of it under the operation of this bill without a sacrifice of the amount expended upon it.

In order to show how expensive to the United States the grant of the public domain without consideration or price would be, I wish to refer the Senate to some statistics upon this subject.

In the twelve land States there are still remaining unsold 283,715,713 acres. This quantity, at the average rate per acre for purchase and survey of the land by the Government, cost the Treasury the sum of $16,756,349 50. By reference to the recent report of the Commissioner of the General Land Office, this amount has all been paid from the Treasury, excepting for the survey of 116,615,123 acres, the cost of the survey of which, being $2,413,943 80, is yet to be paid before the land could be distributed in gratuitous grants to settlers. There must, therefore, be expended about two millions and a half more, in order to bring the land into a position to be occupied by those who would be entitled to the benefit of this new system of distributions.

There are also portions of this domain to which the Indian title is not yet extinguished, which none but the General Government can purchase. The importance of this item will be seen when it is stated that, in such extinguishments heretofore made, about thirty-five and a half millions of dollars have been paid.

By reference to the recent report of the Commissioner of the General Land Office, it will be seen that the average expense per acre to the Government of the public domain, including original purchase, extinguishment of Indian title, cost of survey, and of selling and managing the same, is about twenty-two cents an acre. At this estimate, the cost of a final disposition of the portion still unsold in the limits of the organized States, if carried out into grants to individuals by the General Government, would be $62,417,460 82. Interest on the advances added would swell the sum to nearly $90,000,000.

But, as this bill proposes a grant of all the land to the States in which they lie, and the subsequent disposition of them by State authorities, a portion of this amount would be avoided by the United States. Taking, then, the sum first above mentioned as the cost to the Government.....$46,756,349 50
And add interest on the advances,
not less than..... 26,605,449 87

we have an aggregate cost to the
Treasury of..... 73,361,799 37
which, at the least, would be the cost of the proposed grants.

But these remarks and estimates apply only to that portion of the public domain situated within the twelve land States. These States embrace comparatively a very small portion of the domain now held by Government. By the recent acquisition of territory, we have extended our boundaries far to the south of their former position, and on the west to the waters of the Pacific. The principles of this bill, if adopted, must, as soon as States are organized beyond the limits of the present States, apply also to the entire territory held by the Government, and in the mean time the expenses of survey, management of the lands, and extinguishment of Indian title must not be abandoned by the Government. Applying the same estimate of cost and expense, as in the other case, to the land without the limits of the States, we find that Oregon has an estimated surface of 218,536,320 acres. The cost of title, survey, and management would amount to $47,640,917 76. The Northwest Territory (exclusive of Iowa, the portion of Minnesota west of the Mississippi river, and Indian exchange lands) contains 424,053,760 acres, amounting to $92,443,719 68. Upper California and New Mexico (west of the Rio Grande) have an estimated surface of 336,689,920 acres, amounting to $73,398,402 56, making a total of 979,280,000 acres, at a cost of title, survey, and management, of $213,483,040. This exhibits, so far as I have been able to ascertain from public documents, the condition of things, if the principle of free grants be adopted and carried by the Government into effect throughout these wide domains. Add to this the sum above stated, for the expense of the unsold lands within the limits of the organized States, and you have the aggregate expense to the Government of $286,844,839 37. Of this amount, some $200,000,000 is yet to be expended from the Treasury. Estimates of this kind can, of course, be but an approximation, and are not presented as entirely accurate data. It will occur also to every one that the actual expenditures by the Government must depend in some degree on the time, in reference to the surveys and disposition of the land, when the title shall pass into the States. These exhibits are, however, sufficient to show the magnitude of the subject as connected with the system which is here proposed. It presents the great question whether we are prepared, not only to yield that which has already been expended for the purchase of land held by the Government, but to proceed with the accumulation of expense till it reaches the sum thus indicated, in order to carry out the principle of gratuitous distribution. It will be observed that this bill does not propose to release the General Government from the management and care of the public domain until after the organization of States, and the cession thereof to their authorities. Indeed I apprehend that no person desires that the United States should relinquish the survey and care of the public domain. Nothing is more important than that the surveys should be made in the most accurate manner, and that the simplicity of titles, easily traced to the Government as a grantor, which eminently characterizes our system, should be preserved.

It sometimes is supposed that there is in this Government, somehow or other, a title to the public lands by virtue of eminent or public domain, or of its right merely as a Government. No supposition could be more erroneous than this. There is no portion of the public lands, so far as I know, belonging to the United States which has not been obtained by purchase. The titles to western lands obtained from the original States were received on certain conditions, to be performed as a consideration by the General Government, and which the latter is now carrying out according to their true spirit.

Since the cession of these lands, territory has been acquired by treaty from France, from Spain, and from Mexico, all of which yield not merely jurisdiction, but convey specifically the title to the soil itself.

The treaty with France of 1803 cedes "all public lots and squares, vacant lands and public buildings," which are not private property, for fifteen millions of dollars.

The cession by Spain of 1819 conveys, for five millions of dollars, "in full property and sovereignty, all the territories," &c., specifying "all public lots and squares, vacant lands," &c., not private property.

The cession by Mexico of 1848 cedes the broad territory of California and New Mexico in nearly the same terms, in consideration of fifteen millions of dollars.

It might be well also to take another view of this subject, in reference to the expense of the gratuitous cession of the public domain. Let us see by another estimate what it would cost the Government to bestow tracts of one hundred and sixty acres of land to every settler. The average cost to the Government per acre, as before stated, is twenty-two cents: making for each grant of one hundred and sixty acres $32 20, unremunerated expense to the grantor; and, as it is proposed to distribute the entire public domain in this manner, let us carry our estimate a little further, and ascertain how much it would require to proceed with settlements at this rate.

It would cost to *give away* the unsold portion of

Wisconsin.....	26,327,679	acres.....	$5,792,089
Iowa,.....	27,153,265	"	5,973,718
Michigan.....	24,864,963	"	5,470,029
Missouri.....	29,216,173	"	6,427,558

SRP1046

Minnesota, now just opening for settlement, and where scarcely an acre has been sold, 53,120,000 acres, $11,686,400.

These are sufficient as examples, merely to present an exhibition of the effect of the principle.

It is true the bill proposes to require each grantee to pay for title deeds, &c., a sum not exceeding five dollars; but this sum, disproportionate as it is to the cost of the land, is paid to the State, and not to the United States. The former is to pay to the latter only the cost of transcribing the records, with no compensation for previous costs and expenditures.

I have thus, Mr. President, endeavored to show, so far as official data would enable me, both the cost of the public domain in the aggregate to the Government, and the expense of the disposal of that domain in the manner under consideration.

Whatever our own views may be in regard to the propriety or impropriety of the measure, I hold we all are bound to examine the question in detail and with figures. Let us know how far we are to go. I am disposed to be as liberal as any man can consistently be in regard to this great subject: but I desire to know the truth and examine the facts, for the purpose of ascertaining the result to which our action must lead.

There is another consideration connected with the financial part of this subject to which I must not omit to refer. I allude to the relation which the public domain bears at the present time to the debt of the United States. The proceeds of the sales of the public lands are all specifically pledged for the redemption and payment of the United States stock, issued by virtue of an act approved January 28, 1847. According to official statements, the amount still outstanding and unpaid, and for which the proceeds of the public domain are thus pledged, was on the 6th of June last $27,935,350. The annual interest on this sum is $1,736,121. This is just about equal to the amount of cash receipts from the annual sales of public lands for the last two or three years.

During these years the receipts have been less than usual; but under the present system the annual sales can safely be relied upon for sufficient, at least, to cancel the interest on this debt.

It is for gentlemen to consider how far it is consistent with the obligations of this pledge thus to dispose by a single act of the public domain.

The ordinary manner of sale, and the well-settled custom of liberal grants for objects heretofore recognized in the practice of the Government, are not at variance with the spirit of the pledge; but action which proposes to abandon the right of the other party, and to transfer the property to another, needs to be scrutinized. It may be and probably is true that the pledging party being the Government itself, no legal remedy exists to enforce such a pledge; it may be and certainly is true that the prompt payment of all the obligations of the Government is beyond a contingency: still, the public faith once plighted can never be withdrawn without the consent of all interested in the matter. If the legal remedies afforded in transactions of the same character between individuals are wanting, so much the more should the most scrupulous good faith be kept—so much the more carefully should we abstain from every act which can suffer a suspicion of disregard to the rights and interests of the creditor. Without his consent to depart from the ordinary manner of administering the property thus pledged, we are bound to make no important change, and least of all, disregarding his rights and our own honor, to transfer it to another.

Mr. President, I have referred as far as I desired to the financial part of this subject. But perhaps I shall be told that, under the present aspect of things, all this is an idle and a profitless speculation.

It has become customary, here and elsewhere, to assert that the public domain is already dissipated, and that we can in future hope for nothing from this as a source of revenue; that by our own acts the fountain is dried up, and will never again yield its accustomed supply. These assertions have been so often and so confidently made, that their influence begins to be felt on our action here.

In the report of the Secretary of the Treasury, presented a few days since, it is asserted that "over sixteen years will be required to absorb and satisfy the warrants yet to be issued, as estimated under the several bounty land acts now in force," and that the sales of land "should not hereafter be relied upon with any certainty, or to any considerable extent, in estimating the receipts into the Treasury." The honorable Senator from Missouri [Mr. Benton] stated a few days since, in his place here, not only that we could not rely upon this as a source of income for the future, but that the cost of administering the land system would not be remunerated by the sales. This cost, in his opinion, to the amount of some $700,000 annually, would be a burden unremunerated by any corresponding income upon the Treasury.

Now, I have looked carefully over the statements presented by the Secretary of the Treasury, from which he is led to the conclusion I have stated.

Annexed to his report is a table exhibiting the estimated number of acres granted by acts of Congress, yet to be located on the public domain, and which, in his opinion, will take the place of sales for cash for the next sixteen years.

The exhibit is as follows:

	Acres.
Act of September 4, 1841.....	977,724
Mexican war bounties.....	6,036,960
Internal improvements.....	66,486
War of 1812.....	30,086
Bounties, act of September 28, 1850..	48,000,000
Swamp lands.....	20,785,327
Railroad from Chicago to Mobile....	3,025,920
	78,932,513

It will be seen at a glance that the two principal items in this table, which peculiarly distinguish it, and which swell the amount of outstanding and unlocated grants beyond those of former periods, are the bounties under the act of September last, and the grant of swamp lands to the States. These amount to a fraction less than sixty-nine millions of acres, while the aggregate of all the other items is only a fraction over ten millions.

The swamp lands ceded to the States comprise only such as are officially reported to be overflowed and unfit for cultivation. They were ceded for the reason that from their quality and location they could not command a sale. Gradual settlements around them, ditching and embankments, and other means of reclamation, will gradually bring many of them into market at reduced prices; but it seems to me absurd to suppose they are to be taken instead of Government lands for new farms, and compete at once with the Government sales. On the contrary, a large portion of them will never be fit for that purpose, and the gradual absorption of those which will eventually find purchasers will scarcely have an appreciable influence. The same remark will apply, to a considerable extent, to the 3,025,920 acres granted for the Chicago and Mobile railroad.

The bounties for soldiers under the act of 28th September last, estimated at 48,000,000 acres, deserves a more extended consideration.

From examination of documents, and information obtained at the Adjutant General's Office principally, and from the Pension Office, I have prepared a table, which I will read for the purpose of showing the probable quantity of land which will be required to fulfill the terms of the law, and how greatly, in my opinion, that quantity has been over-estimated:

	Officers.	Men.	Aggregate.
Military and volunteers in the last war with Great Britain, (1812).....	31,210	440,412	471,622
Seminole war, (1817 & 1818)..	413	5,498	5,911
Black Hawk war, (1832)....	491	4,540	5,031
Florida war, (1836 to 1842)..	1,621	28,332	29,953
Creek disturbances, (1836)..	794	11,689	12,483
Southwestern frontier disturbances, (1836).....	161	2,642	2,803
Cherokee country, (1836–'37)	236	3,690	3,926
Officers in Mexican war, (militia and volunteers).....	3,131	-	3,131
Regular army, in the war of 1812, not entitled to bounty land under former law.....	-	-	17,000
Officers in the regular army, in the Mexican war.....	1,500	-	1,500
Regular army, after the war of 1812, and before the Mexican war.....	-	-	3,000
Wayne's army, (1794–'95)..	-	-	2,843
			559,203

This statement is believed to embrace all who can by possibility come within the law.

In order to ascertain the quantity of land required under the law, we must determine, first, the number of beneficiaries who may be entitled to the benefit of the provisions; and, secondly, the number in the several classes entitled, respectively, to one hundred and sixty, eighty, and forty acres, or the average quantity of all.

The militia and volunteers in the war of 1812 constitute by far the largest class in the above table, amounting to more than five sixths of the whole number.

Fortunately we are not without authentic sources of information in regard to the services of this large class. An official and detailed report on this subject will be found in House document No. 20, 2d session 24th Congress. This document I have examined with care, and have caused the several classes to be ascertained therefrom, and the quantity of land to which they would be entitled under the law, according to the length of service. I find that the whole number mustered into service in that war was 471,622. Of these, 145,447 served less than one month, and are therefore not entitled by the law to bounty. Of the remainder, only 9,431 served nine months and over. That number, then, only would be entitled to one hundred and sixty acres of land each, giving 1,508,960 acres to all. Of those who served four months, and less than nine, there were 97,278, and who, being entitled to eighty acres each, would receive, in all, 7,782,240 acres. The number who served one month, and less than four months, was 219,466, and were entitled to forty acres each, and an aggregate of 8,778,640 acres. The whole number of acres thus required for all would be 18,069,840. This is an average to each man entitled to land of fifty-five acres.

Thus far, and in relation to five sixths of the whole number of beneficiaries, we have accurate data. The same ratio applied to those on the list engaged in other service would not vary far from a true result. In regard to most of the others also, we have official information, not so definite as the above, but sufficiently accurate for practical purposes. Thus, of the soldiers in the Seminole war of 1817 and 1818, it appears by a report in the American State Papers, (Military Affairs, vol. 2, p. 104,) that part were Indians, part would be entitled to no bounty land, and that most of them served less than four months. In House document No. 271, Twenty-fifth Congress, second session, returns are made of service in the Black Hawk and Florida wars, and the disturbances among the Creeks in 1836, on the southwestern frontier in 1836, and in the Cherokee country in 1836 and 1837. These returns show the service to have been from three to six months.

We cannot, I apprehend, be far from the truth if we suppose the ratio of fifty-five acres on an average to each man, found to be correct in the volunteer and militia service of 1812, to apply to the service in all the wars embraced by the terms of the act.

Applying this average to the whole list in the table, we find that the whole number of men engaged in all the wars enumerated was, as I have stated, 559,203; from which number we are to deduct 145,447, who are not entitled to bounty land; and the remainder, or 413,756 men, being entitled to fifty-five acres each, would require 22,756,580 acres of land.

But this calculation is based on the supposition that all whose services might entitle them to the land are yet alive to receive it at the hands of the Government. We must remember that some thirty-five years have elapsed since the close of the last war with Great Britain, and some fifty-five years since Wayne's expedition. The soldiers of the former could not now be less than sixty, nor of the latter less than about eighty years of age. The casualities of the service, and the great length of time since elapsed, have left but a small remnant alive to enjoy the bounty, and their widows and minor heirs entitled to it are few. The proportion of all mustered into service, who will claim and receive their land, has been variously estimated from one fourth to one half of the original number. If one half of these men apply for their land, they would receive 11,378,290 acres; but if only one fourth are living to receive it, then only 5,689,145 acres

SRP1047

would be required, instead of 48,000,000, as estimated by the Secretary of the Treasury. The error in the estimate referred to has been made by basing the calculation on the supposition that all were to receive one hundred and sixty acres of land each; while, in truth, as I have shown, only a small proportion of them are entitled to that quantity. The Secretary estimates the number of men entitled to land under the act at 300,000. If we take the average amount, which I have shown to be correct, of fifty-five acres to each man, the whole amount will be only 16,500,000 acres. Whatever estimate we may make, based on the facts and documents in the case, I apprehend it will be found that not more than eight or ten millions of acres can be required under the act.

Making deductions from the official estimate above mentioned corresponding with these views, the result is materially changed. In the single item of bounties under the law of September last, more than one half of the whole quantity of acres yet to be located, as estimated in the report, is to be deducted. Instead of supplying the entire demand for sixteen years to come, and thus cutting off all income in cash far sales, we have no reason to believe the cash receipts will fall below those of some former years. There has always been a strong competition for supplying the market in land by those holding under Government grants. The table above referred to shows that, within the last three years, over eleven millions of acres have been located under such grants, exhausting most of the old donation rights; yet the sales for cash, although diminished, have not been inconsiderable. It is probable that there will be yet a further diminution of the amount of cash receipts; but, if legislation remains in its present state, I do not believe the amount will be very materially decreased. This makes a very great difference, with regard to the amount required, from that as estimated by the Secretary of the Treasury.

I would not be understood to doubt that large quantities of land thrown into the market under grants for bounties, or other purposes, will affect the sales by the Government. This I know to be its legitimate effect. Grants of this character may be so excessive as to prevent nearly all sales by the public authorities. I do not doubt this tendency of such grants; but the question presented is, whether the grants now outstanding and unlocated are so excessive as to produce this consequence. The substance of the argument urged upon us is, that the lands are already legislated away, and no further proceeds from the sales can come into the Treasury; that the subject is now beyond the control of Congress, and plans for a gratuitous distribution of the public domain may be adopted without detriment. I do not apprehend, sir, that this is our true condition. The subject is yet within the control of Government, and we are yet free, by wise legislation, to exercise a discriminating judgment, and to carry out a judicious system in our administration of this great subject. There is nothing in the present state of things to require us to abandon a well-tried system, and to rush into new and hazardous experiment. It should rather caution us to return to ancient prudence. Legislation, it is true, has been most liberal to the States in which the public lands are located, and to the soldiers who have fought the battles of the country; it has been liberal in fostering the extension of knowledge and the settlement of the territory, and in carrying out the just designs of all government. I rejoice at this liberality; neither do I believe it has yet gone beyond those bounds within which we are enabled to act according to the best dictates of our judgment. We are yet free to adopt the plan recommended by the Senator from Wisconsin, or to pursue the even tenor of our way under the present system, which was adopted at an early day, and upon which the wisdom of long experience has been ingrafted.

But the consequences of granting the public domain without compensation would not be felt alone by the Treasury of the United States. It would have an influence abroad in the country, and would materially affect the value of the property of individuals who are now landholders by purchase made under the Government. It would render valueless, to a considerable extent, if not altogether, the uncultivated lands in the new parts of the country. It will be seen, if we cast our eyes over the new States, that the settlements are widely scattered through their extensive territories. Immigration does not advance in one solid column. It does not proceed into the forest in unbroken phalanx, occupying and improving every acre of land to which it arrives. Precisely the reverse is the case. The motives which induce immigration are various. While the object of one induces him to buy land adjoining a settlement, and enjoy the society of neighbors and friends, another seeks solitude in the wilderness, where the smoke of another man's cabin cannot be seen. Whatever may be the cause, the fact is undeniable that the settlements are scattered all over the country. One settler selects his land here, and another there; while in the intermediate spaces, the lands belonging to the Government remain for years unsold. It has been a subject of serious lamentation to some gentlemen that the surveys are made in advance of the settlements, and new lands are offered for sale before those in market are exhausted.

Now, let us look for a moment at the effect which must necessarily follow if we adopt the system proposed in this bill. The man who holds one hundred and sixty acres lying in the midst of the Government land would find the domain around him offered as a gift to all who would receive it for settlement. The almost boundless region thus offered would put an end to all value of lands. The settler who might be disposed to change his place or his business (and none changes oftener than the settler on the frontier) would find his farm valueless and a sale impracticable. And, indeed, why should any one purchase land of an individual at two, or three, or ten, or twenty dollars an acre, when lying by its side, with the same advantages of location, and with the same richness of soil, he can receive land offered by the Government without payment?

To show that I am right in this view of the matter, and to exhibit its extent, let us look at some of the new States. In Illinois there are some 14,000,000 of acres not settled, or nearly one half of the whole area. In Indiana about 3,000,000 of acres, or one seventh of the whole territory, is in the same condition. These are among the most densely settled of the new States, and their population is extended over the whole surface; yet the intermediate unsold land bears the proportion to that owned by the settlers above indicated. In Missouri three fourths of the whole area yet remains in the Government. In Wisconsin there are some 27,000,000 acres, or nearly six sevenths of the entire surface, yet to be settled. A small portion, compared with the whole, is occupied by settlers; and yet the last-named State is one to which population has been flocking for some years past, in greater numbers, perhaps, than to any other State in this Union. This reference establishes the truth of my assertion, that the people are scattered far and wide over the territory, and the property owned by individuals is in the midst of that owned by the United States.

So intimately is the value of the homestead of the settler involved with the sales of the public domain, that they are inseparable; and it would be to forget our duties to the landowners of the West—one of the greatest interests of this great Republic—to overlook this consideration in our legislation. Before bestowing gratuities on a favored class, we should see to it that the rights of others are not put in jeopardy.

Warrants for bounty land issued to the soldiers for their service in the Mexican war—a portion of the stipulated compensation—to the amount of some six millions of acres, are yet unlocated. Of what value will be these grants under the system proposed? Since the organization of the Government, grants have been made to the several States, to the amount of some twenty millions of acres, for purposes of education, internal communication, and other objects of public utility, some of which are still unlocated, and much of the land not yet settled. These must follow the condition of the public lands; and if the latter are the subject of gratuitous grant, the former will lose their value.

Of the above-mentioned grants to the States, some ten millions of acres were bestowed for the purpose of common schools. This noble dedication consists of a single section, located in the centre of each township, and, thus distributed through the whole public domain, every portion of it is surrounded by public land. If the premises bordering upon and surrounding it on every side are to be had without price, who will pay his money for this?

I apprehend, Mr. President, that the new States would look with great distrust upon any kind of legislation which should tend to destroy or impair the value of the property devoted to this object. If such a thing could be done as to destroy the value of the lands belonging to the public schools, and by a single dash of the pen to abolish the fund depending upon them, where would be our hopes connected with the spread of knowledge for the future? Where our boast that no Government on earth has performed for education as much as ours? Where our repeated assertion that while the Government is founded upon the intelligence of the people, and can be sustained only by that, we have performed our whole duty in laying a broad foundation for the intelligence of future generations?

The reservations of public domain for this purpose have been made in the unbroken forest, and long in advance of the arrival of the settler. Their benefits were designed for the future, and were intended to cease only with civilized society. They are regarded as an earnest of good, and a fund too sacred for desecration. Let no legislation of ours impair this inheritance. Let us carefully scan every proposition which may have that effect, and yield to nothing which will produce such a result.

The various propositions which have been presented here, contemplating a change in the present land system, and the little discussion which has been had upon them, disclose two principal objects sought to be secured by those who urge this change.

The first object is to give homes to those who do not own lands, or, in the words of the petitioners, "to give homes to the landless," and to facilitate the settlement of the country by inducing them to become agriculturists. The second is to preclude the purchase of lands in large quantities by speculators. These embrace the two most important objects to be accomplished by the proposed change. I wish, therefore, to say a few words in regard to these two points.

It is supposed that by a grant of land in the manner which is here proposed to the landless, in tracts of one hundred and sixty acres each, large numbers of people residing out of the new States may be induced to change their residence, to become settlers in the West and cultivators of the soil. I think the views entertained by gentlemen on this point should receive some modification. Great changes in the industrial pursuits of a community can never be effected either suddenly or by slight causes. The merchants, the mechanics, the laboring men of the cities, the sailors upon the ocean, as classes of individuals, seek success in the employments to which they are accustomed; and no inducements such as are here offered will persuade them to change their location and their avocations, and to attempt the cultivation of the soil in a distant region. A large portion of the community who are not land-owners are so from choice, and not from necessity. Their interest is best subserved by investing their means in business where it will be more profitable to them, and, guided by this interest, from choice they are landless.

Now, let us suppose that, instead of offering one hundred and sixty acres as an inducement to settle upon and cultivate the public lands, we were to change the nature of the proposition, and tender an equivalent in money. This proposition would give $200 in cash to every individual who would emigrate to the new States, on condition that he should buy land, for which he would pay the same amount, and become a settler. The inducement thus offered would be so little enticing, I apprehend, that very few would be found to yield to its influence. The great masses of the people would deem it of too little moment to induce them to incur the expense and hazard of a change to a business and a climate to which they were unaccustomed. Occasionally an individual might accept the offer and fulfill the terms. But in its national aspect this is not a question of influence on a few individuals; it is a

SRP1048

proposition to induce by the offer an important change in the industrial pursuits of our citizens—to induce masses of men to remove from one portion of the country to another, and to devote themselves to agricultural labor. For this purpose there can be little doubt that the offer would be found almost entirely ineffectual.

But again, sir, those who know anything of the settlement of a new country, are well aware how delusive is the idea that every person is fitted for success in cultivating a farm in the wilderness. Here, as elsewhere, he secures success who has the means, mental, physical, and moral, to command it. Economy, industry, and energy must be his constant attendants. He must become inured to toil, and secure the strength of muscle and the vigor of constitution which his labor requires. For the want of these, it not unfrequently happens that individuals, settled on their newly-purchased land, find themselves unequal to the task which they have undertaken. Rich as is the reward of success, and great as are the inducements for settling the productive lands belonging to the Government, these qualifications are indispensable to those who undertake the task. They who have watched the current of emigration must have remarked that the successful settlers of a new country are generally sons of the hardy farmers of the East. The State of New York has sent more men to the West who have successfully contended with the difficulties incident to the settlement of a new country than almost any State of the Union. The New England States have also furnished settlers in great numbers, who are distributed throughout the new States. They were principally young men, inured to toil at home, whose character was made up of energy, skill, and economy, and whose indomitable perseverance would not yield in any pursuit until it had secured success. I do assure gentlemen who suppose the settlement of a new country such an easy matter, and think so many qualified to succeed in building up new States, that they have not carefully watched the progress of emigration to the western country.

I apprehend that few individuals, if any, are deterred from emigrating to the West on account of the present price of the public lands. The high price of wages in this country will soon furnish the requisite sum to him who has an arm and a will for toil. The present price of land is one of the least difficulties in the way of settling the public domain. If we were to reduce the price of land or bestow it gratuitously in one State, and charge the price now fixed by law for it in every other, I know very well the tide of emigration would be turned to that particular point. If this should be done with the lands in my own State, I have no doubt that emigration would rapidly flow in and settle the public domain; but it would be chiefly withdrawn from the emigration which was seeking settlements somewhere. This inducement would direct its course, but it would not create the tide. The stream may easily, and by slight means, be diverted to the right hand or the left, but you cannot easily elevate the fountain to increase its volume of water.

In the case of the sale of the public domain the general law of purchase applies, and the demand will always regulate the quantity which will be sold. There are many causes other than the price which operate to increase or diminish the number of settlers. The loss of a ship at sea, having on board emigrants from a foreign country to this, carries terror to their friends at home, and suppresses the desire of seeking a home among us. The burning of a steamer on the lakes, or an explosion on the river, always operates as a check to immigration. Oppression in the governments of Europe, wars, famine, and heavy taxation, always increase immigration to this country. A thousand causes operating throughout the world, with little apparent connection with the subject, exert their influences upon the immigration, upon which the demand for land greatly depends.

The general uniformity of this demand of land for settlement is exhibited by the annual returns of the Department. When large quantities are in market, under grants to the States, or for bounties or other purposes, the annual sales by Government are diminished; when these are absorbed, it returns to its original amount. The demand gradually increases year by year; but, with the data at our command, the uniformity of the demand for actual settlement is apparent.

The causes which produce this uniform and irrepressible tide of settlers on the public domain are numerous and complicated, among which the price of the land is but as the dust in the balance. Whether diminished, abolished, or retained at its present sum, its effect will scarcely be perceptible in the grand result.

Government has heretofore made a partial experiment of the system of granting portions of the public domain, hoping thereby to facilitate its settlement. It would be an interesting labor, if the facts could be ascertained, to determine how far the settlement of the country was promoted thereby.

To the soldiers in the war of 1812 bounty lands were granted under terms which required the title to be taken in the name of the soldier himself, and valuable lands were assigned to them. It was the design of the Government not merely to bestow a reward for services, but to carry out the object of this bill by giving him a home in the new portion of the country. It is not now possible to ascertain how many of them settled on their lands. It is a part of the history of the country, however, that the lands assigned for this purpose were tardy in their settlements; that the soldier, in many instances, refused to migrate and settle upon them, and sold his right for a trifle; that many of the titles were lost by sales for unpaid taxes, and few of the grantees ever became occupants of them.

In the Mexican war, bounty land sufficient for a farm of 160 acres was granted to each soldier. In this case, as in the other, it was the design of the Government to afford those who fought in Mexico an opportunity of becoming settlers without cost on the public domain, as well as to bestow a reward for their patriotic services. The right in this case was made assignable before the issue of the patent. Now, I have taken the pains to ascertain, as far as is in my power, how many of these soldiers actually settled on the land. In March last 12,642 patents had been issued for lands granted as a bounty to the soldiers of the Mexican war. Of these, 11,478 were issued to assignees, and only 1,164 to the soldiers themselves; or 184,080 acres of land to the soldiers themselves, and 1,643,480 acres to assignees. And even of this small quantity, entered in the name of the soldiers, a part only will ever be occupied by them, while the large entries by assignees are in the hands of others; and even this exhibition of the quantities entered by the soldiers and by the assignees does not show the just proportions of each, when all the warrants shall be located. The soldier who designed to settle on his land made his selection at an early day, while the warrants which were sold passed into the hands of speculators, and have become a subject of traffic as Government scrip, and will be tardy in coming to the office for land. It has been estimated that at least one half of all the lands which will ever be entered by the soldiers themselves under these warrants were presented as early as the date of the above statement. If this be so, out of the whole quantity of land granted for these bounties—13,877,400 acres—only 368,160 acres will be entered by the soldiers, and these entries would be made by 2,328 individuals out of about 90,000 who were entitled to bounty land.

The experience of the British Government in disposing of their public lands in Canada is also instructive on this subject. Among the parliamentary documents is a report made by Lord Durham, in 1839, in which he gives a history of the disposition of the public domain in the British provinces, and exhibits some very striking instances of ineffectual efforts to promote immigration and settlement by giving away the land. In Upper Canada, of some four hundred and fifty thousand acres granted to the soldiers of 1775, and of the last war with the United States, under condition of settlement, scarcely an acre was settled by the soldier. In 1833 land in Upper Canada was given to "discharged soldiers," who also received from the Government a gratuity in money—one half paid in England and the other half on arrival in America—to aid them in making a settlement. The money received by them was expended, while very few established themselves as settlers on the land. These are instances where a more favorable opportunity was presented than is presented by this bill.

Numerous gratuitous grants in the fertile portions of that province were made on condition of settlement; but the inducement was found to be ineffectual, and the plan a failure. In some cases provisions and implements of husbandry were furnished to the poor. In 1832, in Bathurst district, a settlement under these auspices was commenced, and many settlers were induced to come in. In advances made to them the Government spent £30,000; out the effort ultimately failed, and the settlement was abandoned.

The second object which this proposed change is designed to accomplish is the prevention of speculation, by non-residents, in the public lands. In 1835, '36, and '37 an evil of this kind was sorely felt by the country. Large quantities of the public lands were purchased by capitalists on speculation and for resale. These remained unsettled for many years, and were subsequently brought into market to compete with the sales of Government lands. Where the purchaser was particularly fortunate in his selection, and found an early sale while prices were high, he made money on his investment; but in most instances, where the property remained in the hands of the purchaser, the advance of price was less than the interest on the investment. It has therefore proved a disastrous speculation to those who did not at once make sale of the domain which they had purchased. Indeed, it is doubtful whether at this day the land thus purchased on speculation, and retained by the purchasers to the present time, would bring in the aggregate the amount originally paid for it, together with a return of taxes, interest, agencies, and other expenses.

Recent legislation extends the provision of law in favor of the actual settler, to the exclusion of the speculator. The act of Congress passed in 1841 made material changes in the disposition of the public domain, so far as the interests and rights of these two classes of purchasers were concerned. This act abolished to a very great extent—I may say almost fully abrogated—every inducement to the kind of speculation which is here deprecated. This act authorizes any citizen to go on the public domain whenever it is surveyed, and to make his settlement upon it. As the surveys progress in a district of country, and from the time they are made up to the time when the land is offered under proclamation at public sale, he has the exclusive right to preëmption. The whole region is thrown open to the actual settler, and within it he may make his own choice of a homestead. If there is valuable water power on it, he has the privilege of securing it. If there is a valuable location for a village or a city, the pioneer settler can select it. If there are gold, or silver, or copper mines, or anything giving peculiar value to a location, it is in the power of the settler to secure it. From all these privileges in the mean time the non-resident speculator is excluded. To him it is forbidden territory, in which he can make no purchase and secure no right. And even after the offer of land at the public sales, the law still extends its discriminating benefits to the settler. He may occupy a portion of land selected by himself, and, with the exclusive right of possession, may complete his purchase at any time within a year.

These simple provisions of the law of 1841 have done more to check the spirit of speculation and to encourage settlements than anything else. The fact that land is subject to taxation as soon as entered has made it onerous to hold it in its unproductive condition. The individual who buys uncultivated land, not intending to occupy it, must be fortunate, indeed, if, after the payment of taxes, and all expenses of agency and of managing his property, he shall find in the increase of its value more than a fair compensation for his services and the use of his capital.

Mr. President, I now ask the consideration of the Senate upon a subject which I think is of vital importance to the interest of the country, in reference to the tenure of lands to be ceded by the General Government. It will be observed that this bill not only provides for the giving away of the public domain, but for doing it in a manner somewhat peculiar; requiring, in the first instance, the donation to be made to the State governments

SRP1049

under certain conditions. The performance of these conditions is to be secured by legislative action of the State before the title is to vest in the State authorities. These conditions pertain not merely to the gift, or the land itself, but to subjects connected with the internal regulation of the affairs of the State.

The novel and important character of these conditions requires that they should be carefully examined. The bill proposes to grant the lands under a tenure entirely new and unknown to us. Hitherto the grants by the United States have been of the most perfect and absolute character—unembarrassed by any conditions. A more perfect tenure than is secured by them, I may safely assert, is unknown to the law of any other Government. It gives absolute and full control over the property in the hands of the grantees and all those who may hold under them. The purchase of the public domain, limited to no class in community, is the privilege of all. Every one may, by such purchase, make himself a freeholder, with all the rights and privileges of this perfect tenure, and may convey on the same unconditional terms to any other person. Under the proposition contained in the bill, land is not to be sold indiscriminately to all, but only to those who become actual occupants—that occupancy to be proved in the first instance to have continued one year prior to the right to obtain a title. It is limited in the sale to quantities not exceeding one hundred and sixty acres to each individual; and by one of the sections of the bill it is exempt forever from execution, levy, and forced sale. Again, there is a limitation upon the transfer of title from one individual to another, declaring that they only shall have the right to purchase who are (as denominated in the petitions) "landless," or who are not possessed of one hundred and sixty acres of land. These are the principal conditions annexed to this grant, and required to be assented to and established by the action of the several Legislatures, which the bill declares shall be a compact between the Government of the United States and the State governments. It provides, however, that, upon the enactment of such a law, the title to the land shall vest absolutely in the State, and copies of the title papers shall be delivered over, and thereupon "all acts of Congress inconsistent with or repugnant to this act shall stand and be repealed; and all right, title, and interest of the United States to and in the said lands shall cease, and the same shall vest in such State."

It must be observed by every one, upon a casual view of this matter, that these provisions which I have narrated, brief as they are, involve some of the most important considerations in reference to the tenure of the lands of this country. They present a question as to the power of the General Government to limit the free action of the States by annexing such conditions to the tenure and transfer of land within their limits, and to control future legislation by present legislative stipulations. We have a stipulation in all the new States, I believe, that they shall not interfere with the primary disposal of the public lands by the United States, and this is also the spirit of the Constitution. When the lands are once disposed of by the General Government if they afterwards revert or escheat upon the failure of heirs, or from any other cause, they revert to the State, and not to the Government of the United States. There is no power or authority in the General Government, which enables it to reclaim the lands situated in any of the States, after they have once been conveyed; the independent jurisdiction of the State over the subject forbids it. At an early day in the colonial history of Massachusetts, the question was presented whether, upon failure of heirs, the land should revert to the British Government across the waters, or should become the property of the colony; and the principle was recognized and concurred in, that the Home Government, as it was denominated, could not take the land, but that it vested in and became the property of the local government. The effect of the provision in this bill, that the lands shall be exempt from execution, levy, or forced sale, is one which involves the question of the right upon the part of the General Government to interfere with the legislative action of the States upon this subject. I know that the bill does not purport to interfere directly and positively with the action of the State Legislatures; it would be too absurd for any man to contend that the General Government had the power, by enactment, to determine what should or should not be taken upon execution, levy, or forced sale, or what should be the law of distribution or the law of tenure in a State. This bill does not purport to do that directly, and in so many words; but it annexes as a condition to the grant that there shall be legislation of a specified character in reference to this subject, which shall be irrepealable. It seems to me that a principle of this kind is totally inconsistent with the relations existing between the two governments. What is the power of the United States over the disposition of the public domain lying within the States? It is the power, as I understand it, to make the primary disposition of that public land by conveyance. After that it can never again come back, except by purchase, into the hands of the United States. If we may go as far as is proposed in this bill—to determine what lands shall or shall not be taken by execution or by levy, and to prohibit a sale under an order of a court of chancery directing it—why may we not go further? Why not undertake, through the means of such conditions, to control and mould the general legislation of the State? Courts of special jurisdiction have sometimes been established with exclusive power to decide cases arising among the occupants of certain lands; these special jurisdictions savor of the favoritism of monarchy. May we require the establishment of such courts by these conditions? May our legislative action thus form and control the judiciary of a State?

The power of the State is supreme and perfect over the private domain required for public purposes, under the general principles of law recognized throughout the country. The occasion upon which it may be taken, and the manner of ascertaining its value and making compensation for it, are determined by State authorities. Ought the General Government to interpose in the manner here suggested, and declare what the legislation on the subject shall be? If in these instances it may be done, there is no subject within the power of State legislation that we may not seek thus to control.

There is no subject upon which legislation by the States is usually, and of right should be, more unshackled than upon the enforcing of contracts, the collection of debts, and the transfer of property, both personal and real. True policy may render it expedient to expose real estate to forced sale at one time and not at another. It may be expedient to subject it to legal process in cases of fraud or trespass, and not for breach of contract. The requirements of public interest in reference to the whole subject, should be left for the decision of the State authorities. But this bill abolishes all discretion upon the subject, by withdrawing the property from such legislative action forever.

In some respects, this indirect method of controlling legislative action in the States, is more objectionable than direct legislation on the subject by Congress. Required by the condition to the grant, the legislation of the State is to become irrepealable. It is the beauty of a popular government that the laws are made to conform to the present condition of things, and may be modified when expedient. Under this system, however, whatever change long experience might suggest or public interest require, it should not be effected if in derogation of this condition. The legislature, curtailed in its power of action, would be pointed to these old conditions for the limit of their authority. By their terms, too, they would seem to defy control even by the provisions of a State constitution, establishing certain rights and powers within the limits of the State which may not afterwards be changed without the consent of Congress.

I will not here discuss the effect of a collision of interests growing out of these conditions. My object is accomplished when I show that it is a kind of legislation complicated in its character and dangerous to the independent action of the States. While our hands are clear of it, let us avoid such restrictive interference with their action. Let us not complicate the relations between us, nor lay a foundation for difficulties to be settled hereafter.

If we adopt the new system which is here proposed, we shall then have in the new States two kinds of tenure—one of them free and unconditional, under the grants already made, and the other of the limited and conditional character defined in this bill.

This difference in the manner in which property will be held must naturally lead to much confusion. I have here a statement of the quantity of lands in the several States, to which each of the two tenures would apply.

Thus, in Florida, 3,383,730 acres would be subject to this anomalous tenure, while a little over four millions would be held by unconditional titles. In Iowa, twenty-eight millions would be subject to the conditions, and a little over four millions would be exempt from them. In Michigan, they would attach to the title of twenty-five millions, while eleven millions would be held under present titles. In Wisconsin, twenty-seven millions would be subject to the conditions, while seven millions would be held by unconditional grant. These examples are sufficient to show how the two kinds of tenure would extend through the States, and be applied to lands intermingled and lying side by side.

These conditions also limit the conveyance and descent of real estate. As only persons with specified qualifications can take or hold land, rules and regulations must be adopted, and officers appointed, in order to determine who have the requisite qualifications. Constant failures in the conditions, and consequent reversion of the title to the land granted, must occur. This state of things must involve both the General and State Governments in unavoidable and complicated questions of right under the conditions.

I have looked over this bill for the purpose of determining in my own mind as to the precise condition of the title, and of the effect of a failure in the performance of the condition by which the titles of the individual settler should be forfeited. If the land should fall into the possession of persons not qualified under the law to hold it, will it revert to the State, or become again the property of the United States? If by the transfer of the title to the State, under this bill, the General Government is divested absolutely of title, and can rely only on the contract of the State to see to the performance of the conditions, then it must revert to the State on the well-settled principle before adverted to. If the United States, on the contrary, make only a grant for a particular purpose, and the accomplishment of that purpose is a condition of the tenure, upon breach of that condition the property would seem to return to the original grantor. The last clause of the bill, however, would seem to indicate that the reversion would be to the State, and not to the United States. If that is so, let us look at the consequences. The State, being the owner by indefeasible title, would have the power to repeal the law passed in accordance with the condition, and make any other disposition of the property, leaving to the United States the undefined remedy for a breach of contract entered into by a State.

The repeal of the legislative act, carrying into effect the design of the grant in the disposition of the land, would at once defeat the whole object of the Government. The benefit designed for the landless settler, the equalization of property, and the free gift to the poor contemplated by the friends of this measure, would at once be defeated. The State would become the owner of ther poperty, holding the absolute and indefeasible title, depriving the United States of the property, without yielding in return the benefit contemplated by the condition. In such a state of things there would necessarily arise a controversy, fruitful of difficulties, contention, and troubles.

But suppose it should be determined that the United States had parted only with a conditional title—with the right to follow its transmission, and to reclaim the premises whenever they came into hands not authorized to retain them, for a failure of the condition: it would then be necessary for the United States to take general superintendence of the possession and transfer of property throughout the wide public domain. The interest at stake would be a most important one, and require no slight attention. Whenever land was transferred by a State to an individual, the Government would need to ascertain, through its offi-

SRP1050

ers, whether it passed into the hands of a man who owned any other land to the amount of one hundred and sixty acres. The inquiry must constantly recur, whether the grantee has cultivated the land for a year, and in case of sale from one individual to another, whether the proposed transferee has other lands which disqualify him to receive and hold the title, and whether subsequent acquisitions of other lands have, in any instances, defeated the title of present holders of the domain. A careful guard must be kept over the matter, to see that the provisions of the law are complied with. We shall be obliged to adopt a system altogether more complicated than the present simple system of sales, for the purpose of seeing that the conditions are performed, and enforcing the rights of the Government in case of their failure. We could not, with justice to ourselves or to the object sought to be attained by this new legislation, or with justice to the interests of the community, should the bill become a law, perform our duty under it, except by a careful surveillance of the whole matter of transfer and tenure in all the new States. And the reversion of property under these conditions would also bring with it complicated questions as to the rights and duties of the Government, and an expensive system for the disposal of the land. I think, sir, in whatever view we may regard this matter, we cannot fail to see that we shall involve ourselves in a labyrinth of difficulty, from which we could scarcely expect to be released.

I may remark here, that we have never yet departed from the general and great principles of the land system as it now stands, and turned aside to meet the exigencies of special cases by experimental legislation in the disposition of the public domain, without impairing the harmony of the system, and occasioning an expense to the Government with little or no advantage to individuals.

So extensive is the subject, that we can never manage the public domain except under general rules forming a system. They must be of a character to insure the most perfect and unconditional titles; they must secure the utmost simplicity in the action of the Government; they must require the agency of as few persons as possible in administering the system; they must demand little or no surveillance over the transactions of this great country in the disposition and management of real estate.

It is a dangerous experiment for us, in my humble judgment, to step beyond this. I will not trouble the Senate by dwelling longer upon the conditions annexed to the grants proposed in this bill, or on their effects on the public weal.

One great object is desired by the petitioners upon this subject, and by the Senator who introduced this bill, which is founded upon the supposed right of everybody to occupy and inherit land. This great principle lies at the foundation of their request. I have before me a very brief petition, which exhibits not only the reasoning but the prayer of the petitioners, indicating the evil to be avoided and the good to be accomplished:

"The undersigned respectfully represent that, in their opinion, the right to life includes the right to a place to live."

In accordance with this opinion, they pray for the freedom of the public lands.

I shall enter on no metaphysical discussion here upon the subject of the absolute or natural rights of citizens, or of any supposed duty of Government to furnish a farm, without cost, to every individual who will occupy it. But if that principle is worth anything—if it has the importance which gentlemen suppose, who, both here and elsewhere, urge its consideration with so much zeal upon the Government—if it is an inalienable right pertaining to man as man, the duty of the Government is a broad and imperious one. It is required by it that all who are without land shall be supplied. The natural right to live, and the consequent right of a place in which to live, imposes upon Government, according to these doctrines, the duty of providing by law, as in the bill before us, for a gratuitous grant of one hundred and sixty acres of land to every individual.

It is not enough to make free the transfer of such property; to abolish classes and exclusive privileges; to throw wide open the door to enterprise, economy, and labor, to enable every man to provide for himself by his own moderate exertions: Government must go further, and offer to every one this kind of property free of cost.

If this doctrine be correct in its full extent, it seems to me that the bill we have now under consideration falls very far short of securing the rights of those persons interested in this matter.

What do we propose by it to do, in order to carry out the great principle of human rights? We propose to make a distribution of the public domain among persons who are not the owners of one hundred and sixty acres of land. This distribution is to be continued for the period during which the Government may be possessed of the public domain. But, sir, that period must inevitably be short. And is the principle to die when the public lands are disposed of? After the first distribution, is it to be thrown away and abandoned? Is this right to be urged for the present generation and denied for the next or the remote? Is a man to retain his right to live and be deprived of his right to a place in which to live, or its sequence, the grant of land, when that time shall have expired? If it be a natural right of man, it belongs to future generations as well as to the present. It will not terminate with the sale of our public lands, nor cease when we shall have nothing to distribute. Looking at the subject in this light, I cannot but think that all the propositions which have been presented here fall very far short of accomplishing the object which is intended to be secured, and which it is alleged will be secured, by this bill. Some of these propositions have looked a little further into this matter; and though they have not provided for future generations, yet, with more gallantry than the author of this measure, their movers have embraced the gentler sex within their liberal provisions.

After all the speculation which has been had upon the right of all to the gratuitous occupation of land, the possession of the rightful grantee to specified portions of territory has in all civilized Governments been regarded as exclusive, carrying with it the power of disposing in some manner of the property to another, under the same guarantee of exclusive and indefeasible enjoyment. This bill proposes the same thing in principle; but although it provides for the first distribution, yet it secures nothing beyond the mere partition of the land of which we are now the owners.

When this first distribution shall be made, the poor and the landless will be left as at the present time. There are no provisions here to transmit the property or a share of it to those who hereafter may be without a homestead. They must be purchasers, or they cannot possess. None but the landless can be permitted to buy the land, but the poor and the landless are not to be supplied with it; nor can they possess, unless they can obtain the means to buy. In this respect, after the first distribution, the present state of things will return, with this difference—that the title now obtained by purchase, and which is absolute, will then be conditional.

The plan before us is, then, a mere temporary arrangement—a gratuitous distribution of the land now possessed by the United States—and not the establishment of a great system commensurate with the wants of the class intended to be benefited. The great principle of alleged natural right, on which this new system has been urged, is neither carried out nor applied by it; on the contrary, after the first distribution, the principle is abandoned, and under its operation the landless will be as much excluded from the possession of land as at the present time.

Mr. President, I have already alluded for a few moments to the provision contained in this bill which proposes to connect an influence upon the legislation of the States, through conditions, with the grant of the lands lying within their borders. I wish, however, to make one or two general remarks further upon the subject of the power and duty of the General Government in disposing of the domain within the States. At the last session of Congress, a discussion was had in this body in which my friend from Illinois [Mr. Douglas] and the then Senator from Massachusetts, [Mr. Webster,] now transferred to another branch of the Government, took part, involving some of the principles which are now under consideration. It was a discussion, I must be permitted to say, which afforded much information upon the important subject of the public lands.

Mr. Webster, in the course of his argument, made the following remark:

"The Government of the United States holds the land only for one great purpose—that is, to sell. It holds it in trust to sell for the benefit of the Government and people of the United States; and every acre, as soon as sold, falls under the dominion of the municipal sovereign, and is subject to all the rules and regulations prescribed by the local government."

Now, sir, this power to sell necessarily implies a duty on the part of the Government in regard to the manner of disposing of the public domain. The early cessions of land from the original States to the General Government clearly contemplated the settlement of the territory ceded, and its growth into independent organizations as States. The act of cession by Virginia required the territory to be laid out into States by the Government; and "that 'the States so formed should be distinct republi-'can States, and admitted members of the Feder-'al Union, having the same rights of sovereignty, 'freedom, and independence as the other States." It was foreseen that emigration would seek the rich soil of the ceded country, and that large communities would people its territories. In accepting the cession of "both the soil and jurisdiction," with the express declaration of this duty, the Government virtually pledged itself to that kind of action which would not only tend to build up and people that wilderness country, but would best promote the interest of the inhabitants, and lay the broadest foundation for their independence and prosperity.

It assumed the important duty of superintending the growth of the new republics, and preparing them to become worthy members of this great Confederacy. These objects could never be accomplished without adopting a course of action towards them which should strike off every shackle and make them safe in the enjoyment of their property and their personal freedom, and mould their institutions in the spirit of true liberty.

Every man must have observed the great influence of the land system of a country on its welfare. It takes deep hold of every interest and every relation of society; it forms the institutions and character of the people, and sometimes modifies the Government itself. A memorable instance of this influence is found in the history of the feudal system. Let any man trace it from its origin, in the obscurity of early history, in its growth and in its progress over different nations of Europe; let him observe its effect in this nation and in that, upon individuals, upon communities, and upon Governments, and he will admit that there is connected with the tenure of real estate an influence which, beyond almost everything else, moulds and forms the characteristics of a people, and makes or mars their happiness. Where in its progress did this system ever pass that it did not crush civil liberty and establish vassalage? Where did it fail to elevate the powerful few, and humble in the dust the great masses? To check or subdue its claims, to break its oppressive bonds, and to recover the free enjoyment and independence of unencumbered real property, has been the great labor of modern times.

The duty of the Government, in my humble opinion, in the disposal of the public domain, is clearly marked out. It requires sales to be made indiscriminately to all, and the granting of the most perfect title to the purchaser. It rejects all embarrassments, services, and conditions. It requires the purchaser to be endowed with the most perfect freedom from all restraint connected with his title, or with the use or sale of his property. When these sales are made, and States are organized in the new territory, the power of legislation on all subjects not yielded to the United States by the Constitution vests in the State authorities. No greater injustice could be committed than to attempt to curtail the free action of the legislature, or impair the unembarrassed enjoyment and transfer of property, or influence the character of their State polity, by restrictive conditions on the title to their lands. The undeniable duty of administering the public domain in reference to the independent States to be formed by the settlers upon them requires that the landholder shall be the free and independent citizen, and that the community shall be built up in a spirit of true liberty.

SRP1051

Hitherto the general action of the Government in the disposition of the public lands has been in accordance with this view of the subject. In a few instances we have unfortunately departed from these principles; but in every such case the error has been soon discovered and a return speedily effected. Thus, in the lead-bearing lands of Missouri and Illinois, instead of sales, a system of leasing was adopted and continued for some years. It proved a fruitful source of embarrassment, difficulty, and expense, and was ultimately abolished. In the northern part of my own State—Michigan—by the action of one of the departments, although without the authority of Congress, a similar system was put into operation. Before a single settler had placed his foot upon that peninsula, or an acre of land had been sold, permits were issued for the selection of the valuable copper mines, and long leases, with rights of renewal, were granted. These leases covered a large extent of country, and if continued, would have placed no inconsiderable part of Michigan in the hands of the tenantry of the United States. The manifest injustice of such a method of administering the public lands was so apparent, and the evil consequences so evident, that the State earnestly remonstrated against its continuance. If the system had been carried out to its full extent, not an independent freeholder—the owner of his homestead—would have been found on the peninsula—not an acre of land would have been subject to taxation under State authorities; while the burdens of the enforcement of the law, the execution of police regulations, and the administration of justice over the country, would have been unavoidable. The Government, becoming the landlord of a wide-spread community, would have received in rents the profits of their labor, and would have built up within the bosom of a State a system at war with the genius of our institutions, the prosperity of the settlers, and the independence of the State.

Sir, when this matter was presented to Congress, the whole system was at once repudiated, and a return was had to the simple and unconditional sales required by the general laws on the subject. Of the tendency of those general laws to promote the harmony and best interests both of the Union and of the several States, no doubt is entertained.

But, again, all restrictions by conditions upon tenures, tend invariably to prevent the settlement of the country. The enterprising citizen would not buy lands under such restriction. He will seek the prosperity which free titles will secure to him, and refuse to settle where he cannot procure them. Such conditions have also the effect to retard improvements of a country. They are restrictive of its business and its industry. If, as is proposed by this bill, no farm could exceed one hundred and sixty acres of land, upon some branches of industry the restriction would be found a most serious check. In the wheat-growing country such a farm, with a proper alternation of crops, and the necessary reservations for pasturage and fuel, would be found inconveniently small. In cotton and sugar-growing regions the restriction would amount almost to a prohibition.

The effect of conditions such as are proposed upon the value of property is also perfectly apparent. If the State were settled under this tenure, let me ask, where would the owner of land desiring to sell find a purchaser? The entire area of the State being divided into farms of one hundred and sixty acres each, all the owners of these allotments would be prohibited by the law from purchasing more. The restrictions upon the transfer would materially affect the value of property, and prevent permanent improvements upon it.

Mr. President, the numerous propositions recently made to annex terms and conditions to tenures of land, such as have never been presented before, give importance to this consideration of the subject.

Now, sir, a little attention to the history of tenures in this country will show any man that from the earliest settlement of the country to the present time, the great struggle has been to strike off all conditions, to make free the transfer of real estate, to prevent its descending in any particular line, to make the holder of it free to keep or dispose of his domain at his pleasure, and by methods nearly as simple as those which apply to personal property. Sir, we have obtained our tenures from the French Government, the Spanish, the British, and recently from the Mexican Government. Now, sir, among all these there is scarcely a single class that can be named that was free and untrammeled—scarcely any of them that were unconditional tenures—and yet the Government has never required the performance of those conditions. On the contrary, the course of action on the part of our Government has been to strike them off wherever they have been found to exist. To the French tenures, known as seigniories, there were annexed most onerous provisions. The grantee must carry his grain to be ground to the public mill. He must perform certain services at the military post. In one grant which I have examined he was required, on the first of every May, to erect a maypole before the house of the principal officer of the village. He must never transfer his property without his consent, nor enter into trade without permission, and from certain kinds of business he was forever excluded. The Spanish also contain conditions of an onerous character. Many grants in California, designed originally for the purpose of grazing and of a pastoral life, have conditions annexed to them similar, in many respects, to those above-named. The property cannot be transferred except by consent of certain authorities, and upon paying a fine. The premises are subject, under certain circumstances, to be entered by individuals for the purpose of cultivation, the culling of timber, and the taking of minerals.

The course of the Government in relation to these conditional titles has been uniform. On the acquisition of the territory over which they extended, this Government has proceeded at once to investigate them—not for the purpose of enforcing the conditions, nor for the purpose of claiming a reversion through a breach of them, but for the purpose of striking off all the restrictions and giving a free and perfect title. Whenever the seal of the United States has been attached to a patent confirming such grants, it has carried with it a title absolute, unconditional, and indefeasible. Sir, the whole course of the Government in this matter has exhibited an anxiety to abolish all such conditions, and to make free and independent every man who is the owner of the soil.

The older States of the Union have also legislated for the same purpose. Many of them have specifically provided by law for the abolition of every condition that was annexed to the tenure of real estate within their borders. Thus, New York, in 1787, passed an act abolishing all military tenures. And in 1830, by a still more sweeping act, they provided that all the lands in that State should be held in indefeasible estate, whatever may have been the original tenure or the terms annexed to the grant by the former Government. The repeated action of the States on this subject exhibits clearly how important it has been always regarded, under our Government, to abolish every such condition. The anxiety to accomplish the same great object prompted the abolition of the entailment of property. So timid was the first action in departing from the old system of English law on this subject that Massachusetts, in relinquishing it, provided for a double portion of the estate to the eldest son of the proprietor. This invidious discrimination was soon after abolished, and the unrestricted descent among all the heirs adopted in its stead.

An examination of the legislative acts of the several States of the Union would show a constant effort, from the earliest organization, to abolish all such conditions, and to establish free and untrammeled tenures. It may well be the policy of arbitrary and monarchical Governments to prescribe conditions which tend to give power to the few, and eventually to return the property to the hands of the sovereign; but with us a different interest prevails. The benefit of all is found in the independent condition of the many, in presenting the widest field for industry, energy, and talent to secure its just rewards, and in establishing that freedom which makes the man, in the best sense of the word, a man.

I am certain, Mr. President, that if Senators will consider this matter, they will upon full investigation come to the conclusion that the land system which we have adopted here, the principles of which it is now proposed by this bill to abandon, has done more than almost every other cause to promote the prosperity of the country. They will find it, moreover, to be the parent of the greatest blessings, and the origin of many of our most distinguished national characteristics.

In its simple yet efficient operation it has attracted the attention of foreign Governments, and by the liberal-minded has been regarded with admiration. More than one nation has caused its details to be examined by their representatives here, with a view to apply the principles, so far as the different forms of their government would permit, in the management and disposition of their own public domain. Such examination has uniformly resulted in the highest commendation of the system.

It will not do, therefore, according to my impression of the matter, for us to relinquish it. With occasional amendments, suggested by experience, it has stood the test of sixty years. It has built up new States; it has aroused the energies of this nation; it has entered the wilderness and founded republics throughout the western country; it has peopled the States with a yeomanry more independent, more industrious, more prosperous, and more liberty-loving than any other people existing on the face of the earth.

A few years ago, the subject of the public lands in her provinces received the careful attention of the British Government. The system of disposing of the public domain in Canada, in Nova Scotia, and New Brunswick, under the colonial relation, had become complicated, contradictory, and unwieldy. A commissioner was appointed by the British Government, in the person of Lord Durham, who proceeded to the provinces for the purpose of investigating the subject of land titles, of ascertaining the extent of the evils growing out of their system, and recommending some method by which to avoid them in future. His examination was most thorough. It was made with the aid of official documents, and the examination, under oath, of the surveyors and others who had been in any way connected with the management of the public domain, an examination in person of the country granted, and repeated interviews with the settlers. To his report, published among the parliamentary documents of 1839, I have had occasion before to allude. It is a most instructive volume, both as regards the views presented by the commissioner, and in reference to the facts developed by the testimony, and the documents therein referred to. It exhibits, however, a state of things disastrous in the extreme to the interests of the settlers and of the Government, growing out of a vicious system of disposing of the public domain. With all the inducements to settlers which had been offered by Government, by the gratuitous grants of lands, and in some instances, of the means in money of settling them, the fact that the system has been a total failure is evident.

Lord Durham pursued his examination further, and has presented a comparison between the prosperity which has attended the policy of this Government in regard to its public lands and the failure of success under efforts of his own. Multitudes who came to settle lands offered gratuitously in the province, deserting their own, became purchasers of public lands within our jurisdiction, and worthy settlers upon them. A stronger contrast could not be presented than that which is exhibited between the new settlements of our own country and those of the neighboring provinces.

Now, sir, I am not unaware that disaffection with the laws and policy of the mother country has had something to do with this result. Neither am I callous to the fact that the blessings of our Government are such as to afford inducements to the emigrants to prefer this to their own or any other soil. At the same time we cannot conceal from ourselves, if we would, that the different systems of disposing of the public lands have had a most important bearing in bringing about the contrast between the two. I desire to take a moment of time for the purpose of reading from the report referred to an extract describing the advantages of our own system in the most terse and comprehensive language. The following are his words:

"The system of the United States appears to combine all the chief requisites of the greatest efficiency. It is uniform throughout the vast federation; it is unchangeable save by

SRP1052

Congress, and never has been materially altered; it renders the acquisition of new land easy, and yet, by means of a price, restricts appropriation to the actual wants of the settler; it is so simple as to be readily understood; it provides for accurate surveys and against needless delays; it gives an instant and secure title; and it admits of no favoritism, but distributes the public property among all classes and persons upon precisely equal terms. That system has promoted an amount of immigration and settlement of which the history of the world affords no other example, and it has produced to the United States a revenue which has averaged about half a million sterling per annum, and has amounted in one twelvemonth to about four millions sterling, or more than the whole expenditure of the Federal Government."

These are the expressions of one who can be suspected of no partiality in our behalf upon this subject. They are the views of a man competent to judge, who, from a distance as well as in nearer proximity, has watched the practical operation of the system in its effect upon the weal of the country and the prosperity of the community. They are the results of a careful examination, made in an official capacity, for the purpose of obtaining knowledge on the subject for practical use in the proposed reorganization of the system in his own country.

When this bill was before under consideration, near the close of the last session, the honorable Senator from Wisconsin [Mr. Walker] proclaimed that we are in danger of falling into the condition of the countries of the Old World, where castes and classes are elevated and the masses of population degraded; that the real estate of the country would inevitably fall into the hands of the few, to the exclusion and consequent poverty and degradation of the many. In order to avoid this consequence, the Senator proposes to limit every landholder to one hundred and sixty acres.

Mr. President, I have little confidence in the efficiency of special restrictions of this character, and much less in their beneficial influence. For my own part, I look in another direction for immunity from the evil referred to. I expect it as a legitimate result from the spirit and genius of our free government, from the nature of our free institutions, from the enterprising character of our population, and from the general legislation of government affecting the public weal.

Looking across the waters to the countries of the eastern hemisphere, where the evils which the Senator depicts exist, having their foundations in the early and semi-barbarous ages, and sustained by a system of government, institutions, and laws the opposite of our own, he sounds the alarm as if the calamity had fixed itself upon us. If the same causes existed here that operate in those countries, making the same results inevitable among us, we might well be alarmed, and no man would go further than I would in efforts to resist the destroyer.

But let no false alarm prevent our examining the facts, and inquiring whether the sources of these evils exist among us.

Most of the countries of the Old World were portioned out at an early period among the nobility, with extended territorial limits, and under condition of rendering service of various kinds to the sovereign. The grant usually carried with it the control of the lord over the tenants on the estate, and established a perfect system of power on the one side, and abject servitude on the other.

Added to these was the entailment of these estates, and the perpetuity of the inheritance, with all its incidents of power, in the heirs of the possessor forever. Under this system estates are now possessed which have remained unbroken for centuries. In our own country no such state of things exists. The commencement of the Government itself is in modern times—almost in our own day—and no grants of large tracts of land have been made by it; no entailment is recognized; no subserviency of others to the purchaser attaches as an incident to his tenure.

In the countries to which reference has been made, especially in England, large portions of territory accumulated in the hands of ecclesiastical corporations, which under their system never died—where, in the quaint language of the times, they were held by a *death-clutch* forever. An amelioration of this evil, after a great struggle, was obtained, but its consequences are not eradicated.

But nothing of the kind exists here. The corporations of this country are the offspring of legislative action, and are limited to a term of years. This limit is usually so short as scarcely to equal the average life of man.

In holding real estate they are restricted to a small quantity, usually only such as is indispensable for prosecuting the business for which their organization is allowed; and at the termination of their corporate existence it must revert to the original grantor, or pass into other hands.

Thus we have a safeguard against this fruitful source of evil existing in some of the countries of Europe. We are not only happily free from these causes operating so powerfully abroad, but the action of all the authorities of our Government has repudiated everything tending to such a result, and has established principles conducing to the general distribution of property and to the equal privileges of all. We have no restriction on the conveyance of real estate. All may become purchasers, and every owner may divide his property as he pleases, may devise or sell at his pleasure, and may transfer his title with little expense or formality.

Under this system real estate becomes like personal property. Readily converted into money, it is regarded almost in the light of available capital, and passes from owner to owner so readily and so frequently as to prevent its remaining for a long time in large quantities in the hands of any one man. For this purpose it would be comparatively unproductive property, and it therefore naturally finds its way in small quantities into the hands of those who will cultivate it.

We have the distribution of his landed property among all his heirs on the decease of the owner. This division of property is constantly in operation, and is of itself a cause sufficient to defeat overgrown landed estates. By its simple operation the whole real estate of the country, in periods of but a few years' duration, is distributed into other hands.

The sale of property by execution and other legal process tends to the same general result, and must be regarded as one of the means of securing a healthy state of things in reference to the distribution of real estate among those who may desire to cultivate it.

Wherever it has been the policy to lock up real estate, and to perpetuate the title in family inheritances, strong opposition has been made to subjecting this class of property to judicial sale. Its effect on that policy was foreseen, and therefore resisted. In England the opposition to relaxation of the old rules was long and violent. It was a contest between the growing mercantile interests of the country—the interests of the great body of the people on the one hand, and the powerful aristocracy on the other.

These causes which I have mentioned, with others of a kindred character, are the efficient workers, under our system of Government, in warding off the evils that others have suffered, and securing the general good. They operate silently, and with oppression to none; yet do they secure the great object with tenfold more certainty than any restrictive condition which can be placed upon the power of individuals to purchase or to hold property. They secure the result upon great and noble principles—the same principles which propose, as the object of government, the most unrestricted freedom and the greatest prosperity of all. With their foundations laid deep in our constitutions and our laws, cherished in the hearts of the people as sources of true prosperity, there is little danger of their abandonment.

Well, then, does the land system of this country deserve, in its general principles, the encomium pronounced upon it by Lord Durham. Its origin is but as yesterday—its results are like the works of ages. A few years since the eye might have traced the great basin of the Mississippi, bringing within its ken nothing but an unbroken wilderness. The woodman's axe was not heard, and the plough had not touched its soil; the cabin of the settler was not there; its lakes had not been disturbed by the keel of the vessel; and its rivers ran their course in solitude. But the scene is changed. An energetic and intelligent population has extended itself over the country; the rich soil of the wilderness has become the cultivated farm; villages are scattered over the whole expanse of the country; and flourishing cities are built on the borders of the lakes and rivers. Its productions are those of almost every climate, and their abundance such that you may trace them in almost every port to which the mercantile relations of the nation extend. On the waters bordering the great valley on the north and on the south, and on the rivers intersecting its area, commerce and navigation abound. In no country, in so short a time, has such results been effected. In none are such abundant elements of prosperity exhibited—in none such noble monuments of the results of individual energy, and toil, and intellect.

The organized States of this region, extending from the great lakes to the waters of the Gulf of Mexico, cover a belt of land from the northern to the southern limits of the nation, and embrace every variety of climate, and almost every sectional interest known in the country. Proud of their country and of its institutions, the heart of that great people is true and patriotic. These States are one and inseparable. They will allow no sectional question to alienate their affections from their Government, and no line of division, intended to mark new boundaries, to cross the great valley. They are equally strong in their attachments to the other States in the Confederacy. With all of them, in their interests and feelings, they are intimately united. Claiming relationship alike to the younger sister State on the Pacific and the Old Thirteen on the Atlantic, they will be the last to depart from the principles which bind them together.

Mr. President, in the rise and growth of this country, the operation of our land system has been constantly exhibited, forming its institutions, developing its best characteristics, and promoting its greatest prosperity. That system has as its concomitant a spirit of great liberality, in administering the public domain towards objects of the utmost importance to the settlers of the country. Grants for purposes of intercommunication in the new country, grants for State buildings, for universities, for common schools, have so repeatedly been made as to become a part of the system. At the last session of Congress a bill was passed giving the swamp and overflowed lands to the States in which they lie. This bill went beyond the former practice of the Government, but upon principles correct as well as liberal. They are a class of lands needing draining or embankments before they can be made of use or of much value. They require in their management a more minute attention and preparation than could be given under an organization embracing a territory so wide as our public domain. There are undoubtedly other lands, mountainous or barren, lying within the States, which will not command the minimum price of Government lands. In some of the States the public lands will soon be, and perhaps now are, reduced to so small a remnant as scarcely to remunerate the expense of sustaining the expenditure incident to the sales. In all such cases the relinquishment of the lands to the States in which they lie is, in my opinion, required both by policy as regard the Government and justice to the State. They cannot be profitably administered by the General Government—to the States they are of importance.

The liberality of the grants to the several States has been richly rewarded by the increased extent and power of the nation, and the addition to its wealth and its resources. Let the same generous policy be pursued—let the hand that gives be still more ready, in like manner and for like objects, to bestow. The public weal has found and will find by it its advancement.

Mr. President, I regard the proposition to abandon the principles of the present system, and to adopt the plan proposed by the bill under consideration, as fraught with especial evil to the new States. If the present law is found in any respect imperfect or inefficient, let us amend it; if the present price of land is too high, let us reduce it. But as one of the representatives of one of these States, I cannot consent by my vote to abandon a system which has so long produced rich and abundant fruit, for the purpose of adopting another which may bear only the apples of Sodom.

Mr. President, I have trespassed too long on the attention of the Senate—I trust, however, not so long as not to receive their pardon. The importance of the subject as it presented itself to my mind, seemed to demand a reference to facts and statistics bearing upon it, and an expression of my

SRP1053

views upon the policy and the effect of the proposed legislation. I regret that I have not been able to present the matter in a manner more worthy the subject and the occasion.

POSTAGE REFORM.

SPEECH OF HON. S. R. THURSTON,

OF OREGON,

In the House of Representatives,

Thursday, *January* 16, 1851.

The House being in Committee of the Whole on the state of the Union, and having under consideration the "bill to reduce and modify the rates of postage in the United States," Mr. Potter, chairman of the Committee on the Post Office and Post Roads, offered the following amendment as an additional section to the bill:

Sec. 6. *And be it further enacted*, There shall be charged upon all letters transported in the mails from any of the Atlantic ports in the United States to any of the ports of the United States upon the Pacific, or from any of the ports of the United States upon the Pacific to any of the Atlantic ports in the United States, which shall be transported through any foreign country, four times the usual rates; and upon all newspapers, pamphlets, periodicals, magazines, books, or other printed matter herein provided for, three times the usual rates.

Mr. THURSTON moved (*pro forma*) to amend by inserting instead of "four times the usual rates," three cents; and said:

Mr. Chairman: I extremely regret that the gentleman from Ohio [Mr. Potter] has deemed it his duty to bring this question before the committee again, and in this direct and formal manner. From the very first moment this bill was brought under discussion, till now, I have been every moment in my seat, and watched with anxious solicitude the temper and feeling of members upon the direct and specific question which now, for the first time during the progress of the bill, is to be passed upon as a sole issue, disconnected with any and all other questions. It is now to stand or fall upon its merits, this committee being judge.

At a very early stage of the discussion of this bill, I found, as I then thought, a very perceptible, and, to me, a very alarming inclination to the idea, that we on the Pacific, as had been urged by the Postmaster General, and foreshadowed by the distinguished chairman of the Committee on the Post Office and Post Roads, in his substitute to this bill, ought to be taxed very much higher for all our mailable matter, going by way of the Isthmus, than was proposed on matter carried any distance inland. I therefore deemed it a solemn duty I owed to my constituents, on the second day of the discussion of the bill, to call the attention of the House to this matter, and, if possible, to awaken in the minds of members such a train of reflection as would lead them to see not only its impolicy, but the flagrant injustice such a course would operate upon my constituents. This I did, as I said before, on the second day of the discussion of this bill, and from that very day I became sanguine that the judgment of the House would be right upon the matter, and that its decision would place us in a position from which the amendment of the gentleman [Mr. Potter] seeks to wrest us. On that occasion I announced our willingness to come in under a scale of graduations which would operate upon all within the different grades alike, though, from our peculiar condition, nearly all our correspondence being covered by the largest scale, and consequently the highest rate of postage, it would press upon us with a heavy hand, and wring from us with an unrelenting grasp more money than we ought to be called upon to pay. On day before yesterday the gentleman from Virginia [Mr. Parker] offered an amendment to this bill, proposing to establish a scale of three grades—of three, five, and ten cents prepaid, and double that sum in each case if not prepaid. I also deemed that a fitting occasion again to formally call the attention of the House to the matter, giving my reasons why the amendment should not prevail. The amendment was rejected by a very decisive vote. Another proposition more favorable to our coast, but yet proposing the scale of graduations, was subsequently voted down, and the committee, having gone over the whole bill, have decided at last in favor of uniformity of postage, and against the graduated principle. We on the Pacific, as the rest of the country to which we belong, are provided for in this bill as it now stands, and the measure is one of uniformity, contemplating that a whole nation, many in one, may partake, in common, of its rich fruits, which I trust ere long will be ripe for the harvest; and I, sir, as an American citizen, but a moment ago contemplating the grandeur and blessings of our system of government, felt my heart enlarge and grow warm within me at the thought that our laws, like the sun from heaven, shed their heavenly influence within their sphere everywhere and equally upon all. But in the very enjoyment of that pleasant reverie this amendment came like a spectre, to frighten me, and, like the destroying angel of night, to pick me and my people out, not for mercy, but for destruction! It being so, the committee must bear with me while I labor to arrest the evil which now impends over the people I represent.

The reasons assigned by the advocates of higher postage on all mailable matter going to or coming from the Pacific by way of the Isthmus, are, 1st. The cost of transportation across the Isthmus; 2d. The expense of maintaining the lines from New York to Chagres and from Panama to Oregon; 3d. The great distance the mailable matter has to be carried; and, 4th. That unless the postage is higher on matter by that route, the proceeds of revenue will not pay the expense of the route. These reasons, I believe, cover the whole ground, and form, when amplified, the argument in support of the new section proposed by the gentleman from Ohio, [Mr. Potter.] None of these reasons I hold to be good, and if I am able to make it so appear, I shall expect to receive, as I desire to receive, the rejection of the amendment by the judgment and vote of the committee.

The first reason assigned is the expense of transportation across the Isthmus. The gentleman from Ohio [Mr. Potter] says that he has a list of expense of transportation of mails across the Isthmus, paid to the Government of New Granada, which amounts to $5,050, and that every pound of mailable matter transported over the Isthmus costs our Government twenty-one cents and seventy-one hundredths of a cent. But he did not tell you, at the same time, either the amount of revenue accruing on that matter which had cost our Government $5,050 to transport over the Isthmus, nor the amount of mailable matter—particularly of letters—with its accruing revenue, per hundred pounds. I hold in my hand, sir, an official statement from J. W. Farrelly, Esq., Auditor of the Post Office Department, a very significant statement, too, on this head. It reads as follows:

Postages which have accrued on the New York and Chagres lines from December 1, 1848 to September 3, 1850.

From December 1, 1848, to September 3, 1850:		
Mails sent	$223,690 96	
Mails received	178,699 67	
		$402,590 63
Prepaid	69,749 04	
Unpaid	332,841 59	
		402,590 63

Or as follows:

From Dec. 1, 1848, to June 30, 1849:		
Mails received	6,727 89	
Mails sent	16,907 14	
		23,635 03
Prepaid	5,243 39	
Unpaid	18,391 64	
		23,635 03
From July 1, 1849, to June 30, 1850:		
Mails received	109,263 26	
Mails sent	140,095 64	
		249,358 90
Prepaid	37,083 05	
Unpaid	212,185 85	
		249,358 90
From July 1, 1850, to Sept. 30, 1850:		
Mails received	54,630 57	
Mails sent	75,056 13	
		129,686 70
Prepaid	41,650 14	
Unpaid	88,036 56	
		129,686 70

By this it will be seen that in one year and nine months, the accrued postage on this route amounted to $402,590 63. If from this sum you deduct the expenses of transportation across the Isthmus, you will have left $397,540 63 as the net revenue on that mailable matter which had cost $5,050 for transportation over the Isthmus. And while on this exhibit, it may be profitable to notice the rapid increase of business on this line since it went into operation, for the purpose, among other things, of showing what it will do hereafter. From December 1, 1848, to June 20, 1849—over six months and a half—the accrued postage amounted to less than $24,000. For the year next succeeding June, 1849, the accrued postage amounted to nearly $250,000. By this it will be seen, that proportionately, there was over five times the amount of mail business done on this route the second year that there was the first. But, during the next three months subsequent to June 30, 1850, the accrued postage amounted to $129,686 70. And I see by a statement lately made in the New York Herald, taken, of course, from the books of the New York post office, that, for the quarter ending on the 31st December, 1850, there were sent from the New York post office alone to the Pacific 127,048 letters, and received at the same office from the Pacific, 123,919 letters. The postage on these alone, at present rates, would amount to $100,386 80. This includes none of the papers, and other mailable matter, nor does it include any part of the mailable matter sent from, or received at, the post office in Charleston, South Carolina, Savannah, Georgia, or New Orleans, Louisiana. Reckoning the whole postage on matter received at and sent from all four of these offices, for the quarter stated above, and I question whether it would fall much short of a quarter of a million of dollars. But supposing the next nine months subsequent to September, 1850, should witness no increase on the business of the three preceding months, the accruing postage on this line, or route, for the year ending June 30, 1851, would amount to $518,746 80. There is more probability that it would reach a million. These facts and calculations set forth, in a strong light, the rapid increase of business on this route, and they prove satisfactorily to the reflecting mind, that of all mail routes in the United States, this is to become the most gigantic, and will continue so till the great national road shall span the Republic inland. And if you reduce the rates to three cents, but a few years will elapse before the revenue of the route will, in my judgment, pay the whole expense of keeping it in operation.

But now as to the amount of mailable matter per hundred pounds, each pound of which is said to cost the Government over twenty-one cents for transportation. I find upon experiment that it takes at least thirty-five single letters in envelops to weigh a pound, or eighteen large newspapers. On an average, I think it would take at least twenty newspapers to the pound; one hundred pounds, therefore would contain thirty-five hundred letters, or two thousand newspapers. At the present rate, the postage on these letters would amount to $1,400, and on these papers, if transient, to $60. Deduct from these several sums the cost of transportation, and you have the net postage. But reckoning the postage on these letters and papers as proposed to be established by this amendment, and the postage on each hundred weight of letters would be $420, and on each hundred weight of papers, estimated as above, $60. Every family upon the Pacific may desire to take one or more newspapers from the Atlantic; but if they should take but one apiece, this amendment will take from them for each paper, $1 56 cents per annum. Reckoning one hundred thousand families on the Pacific—a number which a few years will witness—this amendment would take from that coast for postage on newspapers alone, providing that number of papers is taken, which is by no means improbable, $156,000 per annum. On the supposition I make, even if the bill pass in its present shape, it would take $52,000 per annum. Should this amendment be rejected, and the bill pass as it is, the amount of postage on one hundred pounds of letters would be $105, and on one hundred pounds of papers $20. In this case, admitting the gentleman's statement as to the cost of transportation to be true, the cost of transportation of newspapers would exceed the postage by only $1 71 cents per hundred pounds, but the postage on letters would exceed the expense of transportation by $83 29 cents per hundred pounds; and one cannot fail to see that, reduce the rates of postage even as low as now provided for in the bill, its operation will be to draw away our currency, and produce a pressure in our money market; for every cent which is paid by us in this way, except the pittance to postmasters, will be with

SRP1054