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IN CONGRESS OF THE U. STATES.

Thirty-First Congress—First Session.

FRIDAY, AUGUST 9, 1850.

[IN CONTINUATION.]

SENATE.

THE BOUNDARIES OF TEXAS.

The Senate resumed the consideration of the bill proposing to the State of Texas the establishment of her northern and western boundaries, the relinquishment by said State of all territory claimed by her exterior to said boundaries, and of all her claims upon the United States—the question pending being upon the following amendment, submitted yesterday by Mr. WINTHROP:

At the point in the middle of the deepest channel in the Rio Grande del Norte, where the same is crossed by the one hundred and second degree of longitude west from the meridian of Greenwich; thence north along that longitude to the thirty-fourth degree of north latitude; thence eastwardly to the point at which the one hundredth degree of west longitude crosses the Red river.

Mr. WINTHROP. Mr. President, I believe that when the Senate adjourned last evening, the amendment pending was one offered by myself. I believe, also, that the yeas and nays had not been ordered upon the amendment. It will therefore be my privilege to withdraw it, in case I should see fit to do so. Before doing so, however, I desire to be indulged in a very few words.

The Senate will bear me witness that, in submitting this amendment to their consideration last evening, I stated distinctly that I did so, not so much with the view of pressing any precise line upon their attention, as for the purpose of re-opening the boundary question, and giving us all an opportunity for its further consideration. I stated also, not less distinctly, that I had no purpose of making a set or formal speech upon the subject; and certainly there is nothing in the state of the atmosphere, or of my own health to-day, to induce me to change that intention in any respect. No one is more conscious than myself of the extreme desirableness of bringing this debate to a close. No one is more deeply sensible than myself that the great vice and evil of the times is the proneness of us all, in these legislative assemblies, to indulge in prolonged and excessive discourse. No one is more deeply sensible than myself of the importance of bringing all these questions, which have so long agitated the country and paralyzed the action of Congress, to a decision, and more especially of bringing to a decision and a settlement of some sort the precise question embraced in the bill now under consideration.

Sir, I agree on this subject with almost every word of the late Executive message, to which allusion has been made in the course of this debate, and of which I hold a copy at this moment in my hand. I hold, sir, unhesitatingly to the right and the duty of the Executive, which has been so strongly asserted in this message, to maintain the possession of this disputed territory as it existed prior to the adoption of the treaty with Mexico. But while I hold to this power and to this obligation, I hold also, in the language of the message, that "it is exceedingly desirable that no occasion should arise for the exercise of the powers thus vested in the President by the constitution and the laws."

I most cordially respond to the expression given by the President of "his deep and earnest conviction of the importance of an immediate decision, or arrangement, or settlement of the question of boundary between Texas and the Territory of New Mexico." I agree with the President, also, as to the extreme inexpediency of leaving this question to the slow processes of a judicial tribunal, or to the hardly more expeditious adjustment of a board of commissioners. I hold also, sir, to use again the language of the message, that "numerous and weighty reasons conspire to show that this divisional line should be established by Congress, with the assent of the government of Texas;" and that "the government of the United States would be justified in allowing an indemnity to Texas, not unreasonable and extravagant, but fair, liberal, and awarded in a just spirit of accommodation."

It was not, then, Mr. President, with any view of embarrassing or defeating this bill, but rather from a sincere and earnest hope that I might find myself able to support it in some other form, if not in this, that I yesterday objected to the summary and precipitate manner in which it seemed about to be pressed to a vote.

For one, I acknowledge that my attention had not been seriously turned to the precise provisions of the bill, until after the adjournment last evening. I had presumed—and all of us had a right so to presume—that final action on this subject would not have been demanded until the bill providing for the admission of California was disposed of; and I confess that I have been quite unable to understand upon what principle of parliamentary equity or propriety that bill was so unceremoniously displaced to make way for this. It would really seem as if the right time was never to be permitted to arrive, either here or elsewhere, for the admission of California as a State into this Union.

But, sir, I will not be diverted by any criminations or complaints on this score, from a brief consideration of the bill now before us. I have only suggested the point, as furnishing a reason why some of us were not ready to give a vote upon this bill, at a moment when we had so little reason to expect that final action was about to be forced upon it.

A night has now intervened, Mr. President, and we have come, I hope, a little better prepared this morning to pronounce upon its merits. I cannot say that I am altogether satisfied with its provisions. I have been able to find no good reason for arranging the boundary line between New Mexico and Texas more liberally towards Texas than was proposed by the late Compromise bill. For one, I wish that that compromise line could again have been proposed to us. I wish still more that the line offered to us yesterday by the honorable senator from Ohio [Mr. EWING] might have met with the acceptance of the Senate. And I may add, sir, that there is a third line which, for myself, I should, in many respects, prefer to either of them—I mean the line which has been designated by the convention of New Mexico in the constitution which they have formed for that State.

I am quite aware, sir, as the President has told us, that this constitution is at present "*a nullity;*" but I most heartily hope that it is not one of that sort of nullities to which the old Latin maxim is forever to apply, *ex nihilo, nihil fit*. I hope the day is not very far distant—although it may not be included within the limits of the present session, or even of the present Congress—when the national legislature will give its sanction to that constitution, and when New Mexico, as well as California, shall be admitted to the American family of States. And, sir, I will say that nothing would give me greater satisfaction at this moment than to prepare the way for such a consummation, by the recognition and adoption of the line designated in that constitution. We must remember, however, that the only hope of accomplishing such a result at all must depend on the establishment of a boundary of some sort, and that, too, at an early day.

And, after all, Mr. President, I must do the justice to the honorable senator from Maryland to say, that, after such examination as I have been able to give to the line he has proposed in the bill under consideration, I find it less objectionable than I had imagined, and that that examination has rather tended to diminish than increase my reluctance to its adoption. Believing, then, since the rejection of the amendment of the honorable senator from Ohio, that no other line so good will be likely to meet with the assent of the Senate, I have determined to withdraw the amendment which I yesterday proposed. It will have answered its full purpose in having afforded an opportunity to some of us to examine the subject a little more carefully and dispassionately, and to come to a decision with a better understanding of the proposition before us.

I must say, however, Mr. President, that this bill to my mind offers a most exorbitant remuneration to Texas for the acceptance of a boundary like this. Sir, we gave fifteen millions of dollars to Mexico for the whole of this territory, including California, Utah, and New Mexico, and embracing as we supposed the very territory which we are about to pay for over again to Texas.

Mr. SMITH, (in his seat.) And five millions more on account of Mexican claims.

Mr. WINTHROP. And five millions more, as I am reminded by the senator from Connecticut, making twenty millions in the whole. And now it is proposed to pay ten millions of dollars for what so many of us believe to be an apocryphal claim to this little fragment of territory. Sir, I do not forget the claim of the Texan bondholders, and I cannot deny that there is some equity in the appeal made to us in their behalf. I have been unable to resist the force of a little pamphlet placed in my hands a few days since by a distinguished citizen of South Carolina, now in my eye. Indeed, Mr. President, it was all along maintained by the opponents of the annexation of Texas, that to this complexion we must come at last. We know the predictions in which they indulged in regard to this measure. In the first place, a war was predicted as the result, and we have had it, to our heart's content. In the next place, domestic strife and contention were predicted as the result, and we see at this hour the lamentable evidence that this prophecy, also, was but too true. In the third place, it was predicted that we should have to submit to the assumption of the Texan debts, and that prediction seems now on the very verge of fulfilment. Sir, I remember at the time when the question of the annexation of Texas was talked of, there was, in a remonstrance before the Massachusetts legislature, an accidental transposition of the vowels in the word *Texas*, so as to make it read "A remonstrance against the annexation of TAXES." For some months afterwards it was a standing joke. But when we come to consider the whole facts of the case—the sixty or seventy millions of dollars which the war cost us, the fifteen or twenty millions which the peace cost us, and the ten millions which we are now called upon to give for this disputed territory—I think they will go far to verify the old adage that "there is many a true word spoken in jest."

Sir, for myself, I must say that it would seem to me that the sum of five or six millions of dollars would have been a most ample remuneration to Texas for any claim which can be set up in her behalf. I think that such a sum would have quite fulfilled the suggestion of the President that we should give to Texas "an indemnity, not unreasonable or extravagant, but fair, liberal, and awarded in a just spirit of accommodation." But, sir, although I have these objections to the bill, objections to the boundary, and objections to the price, although I think there is quite too little land given to the United States, and quite too much money given to Texas, I am not yet ready to declare my absolute intention to vote against this measure. I know not how that vote may be given in the end. If I should vote against this bill as it now stands, it will be with the most earnest hope, with the most entire confidence, that the bill will be revived in some modified and less objectionable form, in which it may be possible for me hereafter to participate in its passage. If, on the contrary, I should vote for it, I shall feel that it is one of the largest concessions which it would be in my power to make to that spirit of conciliation and forbearance which I have ever been disposed to cherish in regard to these sectional subjects. It will be from the most earnest desire to remove every cause of contention from our midst, and to restore harmony and concord to our country and to its public councils. It will be from a devoted attachment to this Union, and from a willingness to sacrifice to its preservation everything—everything but principle.

Mr. UNDERWOOD. I wish to move an amendment. I wish to substitute in place of the boundary given in the bill reported by my friend from Maryland the boundary reported by the Committee of Thirteen. The first clause of the bill now under consideration reads:

The State of Texas will agree that her boundary on the north shall commence at the point at which the 100 deg., &c.

I move to strike out all after the word "commence," and insert the boundary which was reported by the Committee of Thirteen, as follows:

At the point on the Rio del Norte, commonly called El Paso, and running up that river twenty miles, measured by a straight line thereon, and thence eastwardly to a point where the hundredth degree of west longitude crosses Red river, being the southwest angle in the line designated between the United States and Mexico, and the same angle in the line of the territory set apart for the Indians by the United States.

Mr. CLEMENS. I have been for some time past a very quiet member of the Senate, and I hoped to be able to continue so to the end of the session. But I have heard to-day opinions advanced which I do not choose to listen to without controverting. The senator from Massachusetts [Mr. WINTHROP] has told us that he approves of every word in the proclamation (or the letter) of the President of the United States submitted to us a few days since. He intimates that it is right and proper in his judgment to employ FORCE to deprive a sovereign State of her rights; for that is the whole matter in plain English. Sir, this doctrine of the employment of force against a sovereign State has become quite too common of late. We have heard too much of it. I now take occasion to say that when such language is used, if used by a tyrant or the minion of a tyrant, it may well become him, but it does not become a freeman or the representative of freemen. The history of the senator's own State should have reminded him that this was ground upon which he ought not to tread. I recollect something of resolutions passed by the legislature of Massachusetts, announcing that the Union was already dissolved. I recollect, too, something of a celebrated proclamation issued by Mr. Adams, and very possibly signed by that senator himself, who, I believe, was then one of his colleagues, in which it was announced that the Union was dissolved and ought to be dissolved, in consequence of the annexation of Texas to this Union.

Mr. WINTHROP. Will the senator permit me? I expressly declined to sign that paper, because it contained that expression.

Mr. CLEMENS. Well, sir, it was signed by Mr. Adams, and signed by a large number of the representatives of his State. I say that when he recurs to these facts in the history of his own State, he ought to be cautious how he talks about the employment of force to compel other States to submission. Sir, there is not one of us who doubts the right, the power, and the duty of the general government to employ force to put down insurrection. None of us doubt this. But the question assumes a very different aspect when you say it is the right of the government to employ force upon a State. Individuals they have a right to compel to submission. But there is nothing in the compact which binds us together, nothing in our laws, which can give them that right in respect to States; and the very moment that you attempt to exercise that right, you make this government the most complete despotism on earth. Let this government employ force upon a State and succeed, and then it is no longer a republic. Freedom is at an end, and might makes right.

But, sir, the senator says that he is surprised at the anxiety that is manifested to get this question of Texan boundary settled in preference to California. In his judgment, California ought to be acted on first. Now, what is the overruling necessity for action in the case of California? Is there any danger of collision there, any threatened outbreak there, any probability that a few days, a few weeks, a few months, or a few years even, should the matter be delayed for that length of time, would lead to any act of violence? No; not the least. Why, then, should our anxiety to settle a question of admitted danger first excite surprise?

But, sir, there is something in connexion with this matter which may well create that feeling of surprise. How does it happen that the senator is so exceedingly anxious to get a democratic State into this Union, so anxious to get a *free trade* State admitted? I can well account for the anxiety of northern *democrats* to get this State into the Union. But how do northern whigs account for his anxiety to get California admitted? Sir, the slavery question is at the bottom of it all; and but for that anti-slavery clause, there would be no such hot haste manifested here to have this State added to the thirty already composing this Union.

He tells us, too, that the sum proposed to be paid to Texas is enormous; that it is ten millions of dollars; and the whole territory acquired from Mexico cost just fifteen millions. Does he take into his estimate the expenses of the war by which that territory was acquired, and then tell us that it cost only fifteen millions of dollars? Why, sir, it cost us more than fifteen times that much. But, independent of that, Texas has a claim upon us, which we, as just men, cannot disregard. Her debt was contracted to establish her independence. We have received the fruits of that independence. The territory is ours, and we ought to pay the amount which it cost. I would vote freely to assume her whole debt, without taking one foot of her territory. The senator says that we have already lost enough by this annexation; that, in addition to the amount of money paid, it has brought discord and dissension among us! Why, I have heard this before; but I know—and you know—there is not one word of truth in the declaration. If we had never got one foot of this territory, this dissension would have existed. It existed before the acquisition, and would have continued to exist, with or without Texas. The senator, and others like him, would have been warring upon the institutions of the South in the District of Columbia—the slave trade between the States. The acquisition of the territory only changes the point of attack. It is idle for him now to get up here and say that this acquisition has been the whole cause of dissension among us. It was bad men at the North; and these bad men would have been operated upon by bad motives, whether we had Texas or not. That only changes the point of attack.

The question being then taken upon the amendment, it was rejected—yeas 24, nays 25—as follows:

YEAS—Messrs. Baldwin, Bradbury, Bright, Chase, Clarke, Cooper, Dodge of Wisconsin, Ewing, Felch, Greene, Hale, Hamlin, Norris, Phelps, Seward, Shields, Smith, Spruance, Underwood, Upham, Wales, Walker, Whitcomb, and Winthrop—24.

NAYS—Messrs. Atchison, Badger, Barnwell, Bell, Benton, Berrien, Butler, Cass, Clemens, Davis of Mississippi, Dawson, Dickinson, Dodge of Iowa, Foote, Houston, Hunter, King, Mason, Morton, Pearce, Rusk, Sebastian, Soulé, Sturgeon, and Turney—25.

Mr. MASON. I wish to offer an amendment to the bill as a substitute for the whole bill. It is the joint resolutions which I submitted on the 30th of July relative to the boundaries of Texas. I move, sir, to strike out all after the enacting clause, and to insert the following:

That by the joint resolution approved March 1, 1845, "for annexing Texas to the United States," it being ordained that "the territory properly included within and rightfully belonging to the republic of Texas" might be erected into a new State and admitted into the Union, it is the opinion and judgment of Congress that the admission of Texas into the Union, with the boundaries prescribed by the laws thereof, not objected to by the United States at the time of such annexation, is conclusive as against the United States of the right of Texas to all territory included within such boundaries.

2. *Be it resolved,* That when in a state of war, and in the absence of actual State authority anywhere within the limits of a State, military possession is taken by the United States of such part of the territory of a State, such possession can rightfully be considered as taken and held only in subordination to the authorities of such State, to be surrendered forthwith on the demand of such State, when the war is ended.

3. *Be it further resolved,* That it is the duty of the United States forthwith to surrender to the constituted authorities of the State of Texas all and any territories within the limits of that State, as the same are prescribed by the laws thereof, which may have been temporarily in the military occupation of the United States during the late war with Mexico.

Mr. FOOTE. I rise to a point of order. It seems to me that these resolutions cannot be properly moved as an amendment to the bill—at least not in the mode adopted by the senator from Virginia, [Mr. MASON.] It simply makes nonsense of the whole affair. If I understand it, the amendment is to strike out all after the enacting clause. It will then read "Be it enacted, resolved," &c. In my opinion, sir, that cannot be a parliamentary proceeding.

The PRESIDENT. The senator from Mississippi is mistaken in the idea he has advanced. The title of the bill being subject to amendment after the bill has gone to its third reading, this makes no difference whatever. The adjustment of the title to the bill can be made, whatever may be the nature of the bill.

Mr. FOOTE. I think the Chair has misunderstood the remark I made. I did not refer to the title of the bill. I am aware that is of no consequence; but I believe the proposition is to strike out all after the enacting clause. The enacting clause, of course, will be left. The amendment begins "Resolved," and the whole will then read as I have suggested, which is, to my apprehension, a piece of legislative nonsense.

The PRESIDENT. If the senator makes any point of order, the Chair will state that it is competent, if the enacting clause is retained, to insert any amendment after it.

Mr. FOOTE. It will be found, on examination, I think, that this amendment consists of several resolutions, each one of which begins, of course, with the word "Resolved." It strikes me that that is legislative nonsense.

The PRESIDENT. It makes no difference. It is, nevertheless, in order.

Mr. FOOTE. If the Chair rules against me, I have nothing further to say.

Mr. MASON. Mr. President, I do not propose by any means to take an extended view of the amendment which I have submitted; but I desire to express, in as few words as may be, the reasons which induce me to offer this as a substitute for the bill. I presented these resolutions some week or ten days ago, in order to bring before the Senate that mode of disposing of this alleged disputed boundary of Texas which, in my judgment, and in that of other senators with whom I conferred, was best calculated to dissipate the cloud of civil war which it is said is now impending in the horizon. Sir, I listened attentively to the argument addressed to us a day or two since by one of the senators from North Carolina, [Mr. BADGER,] as a reason why this bill should pass, that there is danger of collision between the people of Texas and the troops of the United States within this alleged disputed boundary. Now, sir, if that be true, and the great argument addressed to us for the passage of this bill is that it will avert that catastrophe, I think the strongest argument which can be presented in reply is, that we have no surety whatever after the passage of this bill that Texas will be satisfied with its provisions. Sir, if she does not accept them, we are left precisely where we now stand, with this danger imminently threatening not only the peace of the country, but the form of government under which we live. I should not be justified, therefore, taking this view of the question, in withholding from the Senate an opportunity of voting upon the question, what are the *rightful* boundaries of Texas? If these resolutions shall be adopted in *lieu* of the bill, all ground of complaint on the part of Texas will necessarily be taken away, and she cannot only never fire a gun, but never raise a word of opposition, because they yield to her all that she claims—all the territory within the alleged disputed boundary. I am not going into the argument at all which I trespassed upon the Senate some time since, in discussing the bill reported by the Committee of Thirteen, to show what I consider the true boundary of Texas; but I desire to bring before the country a part of the documentary history of this question. I am driven to this from the decided position taken by the President of the United States in the message which he transmitted to us a few days ago on this subject, which was utterly at war with the facts and the true history of the question. Near the close of the message to which I advert, President Fillmore says:

Congress will perceive that the governor of Texas officially states that, by authority of the legislature of that State, he despatched a special commissioner, with full power and instructions to extend the civil jurisdiction of the State over the unorganized counties of El Paso, Worth, Presidio, and Santa Fe, situated on its northwestern limits. The four counties which Texas thus proposes to establish and organize, as being within her own jurisdiction, extend over the whole of the territory east of the Rio Grande, which has heretofore been regarded as an essential and integral part of the department of New Mexico, and actually governed and possessed by her people, until conquered and severed from the republic of Mexico by the American arms.

The allegation is, that all the territory east of the Rio Grande, comprised within the four counties which it was the duty of the Texan commissioner to organize under Texan laws, has heretofore been regarded as an essential and integral part of the "department of New Mexico." Now, what was the department of New Mexico? The department of New Mexico was a department of the Mexican confederation. If it means anything, it means that the department of New Mexico was a department of the Mexican confederation; and the President tells us in a solemn message, delivered on this grave occasion, that all these four counties have heretofore been regarded as an essential and integral part of the "department of New Mexico." Sir, historically, that is untrue. The very reverse is the fact; and it is that which has principally led me to trespass upon the attention of the Senate. This question became interesting to the United States only after Texas was annexed, and not before. After Texas was annexed to the United States as one of the States of the Union, it became important to the United States to determine what was annexed; and we find the very first public document to which I have had access bringing this subject to the notice of the American Congress—I refer to the message of President Polk of December, 1846, which goes laboriously through the real history of Texas. It shows that as early as 1803, tracing it back historically, the boundary of the province of Texas was the Rio Grande in its whole length. In that message President Polk states:

First. That *Texas*, as ceded to the United States by France in 1803, has been always claimed as extending west to the Rio Grande or Rio Bravo.

Second. That *the Texas* which was ceded to Spain by the United States, by the treaty of 1819, embraced all the country now claimed by the State of Texas between the Nueces and the Rio Grande.

Third. That the republic of Texas always claimed this river as her western boundary.

That it was recognised in the treaty with Santa Anna, in May, 1836.

And that this boundary was prescribed and declared by a law of Texas, entitled "An act to define the boundaries of the republic of Texas," passed 19th December, 1836.

Fourth and last. That *this was* THE TEXAS which, by the act of Congress of 29th December, 1845, was admitted as one of the States of our Union.

Now, sir, that was the history of the original province, afterwards republic, and now State of Texas. Whether correct or not, that was the history of that Territory as declared by the Executive of this nation in 1846, carried back to 1803, and he rested upon it the constitutional obligation of the government over which he presided to protect Texas in her integrity within these limits. Yet now the present President of the United States, for the purposes of the present measure, declares that this whole country, from which these four new counties were to be organized east of the Rio Grande, has heretofore been regarded as "an essential and integral part of the department of New Mexico." I wish to expose this fact to the American people, and more especially to that part of the American people who have a deep political interest in the result of this measure.

In the message of December, 1847, also, President Polk, after tracing again summarily the claim of Texas and the right of Texas to the Rio Bravo or Rio Grande as her western boundary, informs the Congress of the United States that the Rio Bravo, as a boundary, was made an "*ultimatum*." In the negotiations pending with Mexico during the war, Mr. Trist, the commissioner, was instructed to make that an *ultimatum* in any treaty which he might form with Mexico. What an *ultimatum*? Why, this boundary, which, twelve months before, he had told the government of the United States was not only the boundary of Texas as he had traced it, as a province, from 1803, but was the boundary which the United States was bound to make good to the State of Texas. And in the same message (December, 1847) President Polk says:

The territorial limits of the State of Texas, too, as defined by her laws before her admission into the Union, embrace all that portion of New Mexico lying east of the Rio Grande, while Mexico still claims to hold this territory as part of her dominions. The adjustment of this question of boundary is important.

The war with Mexico was then going on—a war waged because of the disputed boundary of the Rio Grande—the boundary asserted by Texas, denied by Mexico, and insisted on even to a war by the United States.

These messages of the President were intended to set forth and enforce, before Congress and the country, the right of Texas to the boundary as claimed. Whether that be the true exposition or not does not vary the present question. Yet, notwithstanding that being the view of the boundary taken by the Executive years before and pending the Mexican war, the present President of the United States informs Congress that all this country has "heretofore been regarded as an essential and integral part of the department of New Mexico."

Now, sir, in tracing this matter a little further, we find that General Kearny was ordered with a body of troops to march into and take possession of New Mexico on both sides of the Rio Grande, and he did so. Now, in order to understand the spirit in which that order was given pending the war, it is necessary to look to the instruction given to the commanding officer in New Mexico after the peace. It will be found in a letter from Secretary Marcy to the commanding officer of the United States forces at Santa Fe, dated October 12, 1848, from which I read the following extract:

Texas claims as a part of that State all the territory lying east of the Rio Grande, and the government here has not contested that claim. Whether it is or not a part of Texas, since the peace it is essentially a part of the United States; and it is not only without but against law to collect duties on merchandise or any kind of productions coming into New Mexico from any part of the United States. In regard to that part of what the Mexicans called New Mexico lying east of the Rio Grande, the civil authority which Texas has established or may establish there is to be respected, and in no manner whatever interfered with by the military force in that department, *otherwise than to lend aid on proper occasions in sustaining it.*

In sustaining what? Sustaining the authority of Texas in establishing her jurisdiction over the territory within her limits. The instruction there given to the commander of the United States forces after the peace was, that he should not only not interfere with the authority of Texas, but that he should, if necessary, sustain it by the military power of the United States. Now, sir, how far the late Executive, (Gen. Taylor,) who is now no more, was disposed to interfere with the *status* given to the subject under the administration of Mr. Polk, is rather dimly shadowed forth than clearly indicated in anything that came from his administration; but I have here a letter from Secretary Crawford to the commanding officer at Santa Fe, dated in March, 1849, in which he reviews the orders given by Secretary Marcy to the commanding officer in 1848. After citing them *verbatim*, and reviewing them, he reinstructs the commander of the forces there as to his duty. He says:

With respect to that portion of the instructions which is in the following words: "In regard to that part of what the Mexicans called New Mexico, lying east of the Rio Grande, the civil authority which Texas has established or may establish there is to be respected, and in no manner interfered with by the military force in that department, otherwise than to lend aid on proper occasions in sustaining it"—I have to remark that it is not expected Texas will undertake to extend her civil government over the remote region designated; but, should she do so, you will confine your action, under the clause above cited, to arranging your command in such manner as not to come into conflict with the authorities so constituted. On the claim of Texas to any or the whole of New Mexico east of the Rio Grande, it is not necessary to give an opinion, as Congress and that State alone have the power of adjusting it.

Now, sir, here an order is distinctly given by Secretary Crawford to the commanding officer at Santa Fe, which differs from the order given by Secretary Marcy only in this: Under the administration of Mr. Polk, the commanding officer at Santa Fe was instructed, should Texas attempt to establish her authority within these limits, to *sustain* Texas in doing so. The order given by Secretary Crawford was, that should Texas attempt to establish her authority within these limits, he was *not to interfere* with her. Almost equivalent—indeed, entirely equivalent; for I apprehend, if Texas were not interfered with, none could doubt her power to establish her authority within these limits. Now, sir, a change has come over the spirit of this administration. What led to it? Here is the title of Texas, as set out by the administration which conducted the war to a glorious and successful issue—a war waged to establish the boundary of Texas. What led to this change? I will not assume a right to go into the motives of the administration in changing the whole complexion of this case, as is done by the message delivered to us within the last few days. The whole complexion of it has, however, been changed; for the ground is distinctly taken here that during the war with Mexico, and up to the termination of that war, all this territory, extending from the mouth of the Rio Grande to its source, was in the possession of the government of Mexico and not of Texas.

I have already stated that, so far as the province of New Mexico was concerned, it was "the department of New Mexico"—a description known only to the government of Mexico, and meaning thereby that it was one of the provinces or States of the confederation of Mexico. There is another thing which strikes me as of great force in looking at this message of the President. Notwithstanding the facts spread upon the records of our government, both executive and legislative, that this territory was within the asserted limits of the State of Texas; notwithstanding it had been recognised and acted upon as such by the existence of the war with Mexico, and in all the government papers that proclaimed the war with Mexico; and notwithstanding the fact that Texas is now a State of this Union, the message of the President is silent, ominously silent throughout, that Texas has asserted any claim, far less that this boundary rests on the laws and constitution of the State of Texas, and had been recognised by this government. The whole of these facts are treated as though Texas, for this purpose, was not in existence. The Executive, after admitting that the executive government had no power or authority to determine what was the true line of the boundary between New Mexico and the United States before the treaty of Guadalupe Hidalgo, nor any such power now, since the question has become one between the State of Texas and the United States, goes on to say:

And he can regard only the actual state of things, as it existed at the date of the treaty, and is bound to protect all inhabitants who were then established, and who now remain north and east of the line of demarcation, in the full enjoyment of their liberty and property, according to the provisions of the 9th article of the treaty: in other words, that all must be now regarded as New Mexico which was possessed and occupied as New Mexico by citizens of Mexico at the date of the treaty, until a definite line of boundary shall be established by competent authority.

Sir, the declaration that there was no power in the Executive to determine what the boundary was, is at once put at naught by the subsequent part, and is not worth the paper on which it is written; for, in this subsequent part, the position is distinctly taken that all must now be regarded as New Mexico which was possessed and occupied by citizens of Mexico at the date of the treaty. Sir, if it is competent to the President to determine the *status*, and to deduce from that a duty to defend it by force, does he not determine the question of boundary, and has he not done it? He determines the *status* at the time of the treaty, by deciding who is in possession, and, in his language, "all in possession of the Mexicans" must be treated as a part of the Territory of New Mexico. Why was not the *status* the same in regard to all the country, or the greater portion of it lying between the Nueces and the Rio Bravo? When General Taylor marched his army to the Rio Grande, under the authority of the President, recognised by Congress, his first position was at the mouth of the Rio Grande, at Point Isabel; and his first despatch from thence informed the government that near that point he was met by a deputation from the governor of Tamaulipas—of which department it had once formed a part, and of which Mexico declared it *then* formed a part—informing him that he was on Mexican territory, and that he must advance no further. He advanced to Point Isabel, and found it in possession of Mexico, and the Mexican officer in command (the port captain) set fire to the village—General Taylor arriving there in season to extinguish it—and the Mexicans escaped across the river to the Mexican territory. The possession of Point Isabel at the time of the war was entirely within the terms of the message, as discrimination of what the Executive held to be Mexican and what Texan territory. It was possessed and occupied by citizens of Mexico, living under Mexican laws; and such was the case, I apprehend, in regard to the whole country between the Nueces and the Rio Grande. I shall not now weary the Senate nor myself by going into an argument upon these papers; it is sufficient to adduce them, to show that the Mexican war was entered into by this government for the purpose of establishing and enforcing the legitimate boundary of Texas; that the Mexican war fixed the boundary, at least so far as it could be determined by the action of the President, recognised by the Congress of the United States. And let it be left to the American Senate and the American people to determine whether it is to be tolerated that the President of the United States, addressing himself to the Senate at this day, should inform them that it was his duty, under the constitution and the laws, to use the forces of the United States in expelling the government of the State of Texas, if it should be established within this boundary.

Mr. President, I do not know, and cannot pretend to know, whether, if the bill which is proposed, and for which I offer this substitute, shall pass, it will or will not avert the danger of a collision between Texas and the troops of the United States. But I know that the substitute I have offered will. It must do it, because it yields to Texas what she claims, and what, in my judgment, she is entitled to; and it must give peace upon that whole border. But, unless Texas should acquiesce in this proposition, made to dismember her territory—to take off from her a portion of that which she has always claimed to be her territory, for which she engaged with us in war against Mexico—unless she is prepared to do this for a moneyed consideration, I ask how the public peace is likely to be preserved? I do not know how the people of Texas will be likely to view this proposition; but if they refuse to accept it, the result must inevitably be that it will not stay for an hour the march of her troops upon the territory alleged to be disputed. On the other hand, a recognition of the claim of Texas, as asserted on her statute-books, proposed by the substitute which I submit, would most certainly achieve that desirable result, and settle the question.

Mr. FOOTE. I entertain no doubt that the honorable senator from Virginia is perfectly right in saying that, if these resolutions of his shall be adopted by both houses of Congress, the controversy between the United States and Texas with regard to this boundary line will be adjusted, and that war will be averted. I presume no reasonable man could entertain a doubt upon such a point. But the honorable senator well knows—and there is not a member of either house of Congress, or an intelligent man who reads the newspapers, and is familiar with current events, who does not know—that it is utterly impossible to have these resolutions adopted by the two houses of Congress. The proposition has been voted down repeatedly. It is known that upon this subject there is a conscientious difference of opinion entertained, both in the Senate and in the House of Representatives. Gentlemen as conscientious as the honorable senator from Virginia, as enlightened, as distinguished as jurists as he is, entertain and have expressed the opinion that the boundary line of Texas is not the boundary line asserted heretofore, and at present, I hope, throughout the Union, by the democratic party, by Mr. Polk, as President of the United States, and by most of the democratic States of this Union, in their State legislatures. Therefore it follows that, if we adopt the resolutions here, we defeat the bill. That is certain. I look upon it, then, as a proposition to defeat adjustment; because I recognise the honorable senator from Virginia as a reasonable man, an enlightened man, who will foresee the consequences likely to arise from his action here. He is bound to know that these resolutions cannot pass both houses of Congress, and is therefore bound to know that the adoption of these resolutions defeats the adjustment.

Mr. MASON, (interposing.) As my friend has alluded to me, I trust he will yield the floor a moment. I can answer the senator, sir, that whether I am or am not "bound to know" what will be the action of Congress upon this subject, I really do not know. I am perfectly free to declare, so far as opinions have been manifested here, that I have reason to apprehend that there is a majority who will not agree to the boundaries Texas has asserted. But I can assure the senator in frankness and candor, that I do not know what will be the result. I may not be able to collect the public opinion, but I am free to admit that I think the probabilities are against it. I certainly do not view it, however, in the light in which the senator views it, or I probably should not have offered it. It is not intended to defeat adjustment, though it is certainly intended to vary the mode of adjustment. I assure the senator again that, though I cannot vote for the bill as at present advised, either in the form proposed by the senator from Maryland or in that proposed by the senator from Kentucky, yet anything to save to Texas what I conceive to be her rights I should be gratified in voting for.

Mr. FOOTE. We are practical men, or ought to be. We are looked upon as venerable persons, seigniors, *senatores*. We are looked upon as men of some judgment, and some little sagacity. We are supposed to be able to calculate to some extent the probable consequences likely immediately to arise from our own proceedings. Although the honorable senator may not have informed himself as to the probable result of the adoption upon the part of the Senate of these resolutions, I must tell him that he is the only member of Congress that entertains the least doubt upon the subject. It is impossible that any other gentleman, as enlightened as the honorable senator from Virginia, should entertain the least doubt upon the subject. Therefore, I say, that although he may not have intended this amendment to operate to the defeat of the adjustment, it must so operate; and I consider that a most imperious reason for voting down the resolutions, which will defeat that adjustment. Here is the honorable senator from Maryland, who offered that adjustment. Can he stultify himself before the country by voting for an amendment which will defeat it? So with the honorable senator who sits on my left. Can he stultify himself? And so all around the Senate chamber. The proposition is calculated to promote discord, and not to allay feeling, and to facilitate a definitive arrangement of the Texas boundary. I am not at all surprised that the honorable senator from Virginia should introduce the amendment. He does not seem to have looked at the prospect of an adjustment, for months past, as anxiously as some others. He has not been so ready to adjust it upon what the country at large would decide to be a reasonable basis, as other members of this body.

I beg leave to say, and I arose chiefly for that purpose, that I entertain the precise views of the honorable senator from Virginia with regard to the boundary line. The honorable senator has this morning, although his resources are always very abundant, presented no new facts in connexion with the boundary question; nor has he stated one original view. I will not dispute his possession of what we call originality of intellect, by any means. But he did not state one original view. He brought forward no fact, in addition to the mass of facts that had been displayed before the country in this House and in the House of Representatives months ago. As to the question of boundary, so far as the honorable gentleman has thought proper to go into the history of it, I trust I shall be allowed to egotize a moment, to show that the honorable senator has not enlightened us. I wrote a very poor book ten years ago, and in that book I had the honor of discussing this very question. I had the honor, in the second volume of that book upon Texas, to state all the historical facts which have been stated this morning by the honorable senator from Virginia, and nine times more. I had also the honor of publishing the first authentic copy of the treaty with Santa Anna, out of which the title of Texas has sprung. Then, sir, I entertained the views this morning stated by the honorable senator. Then I presented my views to the American public. I could not state anything now in addition to what I stated then. Therefore it is not at all strange that I should concur with the senator, as I do most cordially, with regard to the facts of the case. But it being true that the facts were all before the country long ago, it seemed to me a little unseasonable for the senator, at this late stage of the debate, to bring forward these facts with as much formality as if nobody had ever heard of one of them before. I cannot vote for the honorable senator's resolutions, because I wish this measure of adjustment adopted; and I know that if we vote for the resolutions the measure will be defeated. I say this much to explain my own attitude. I wish to be understood, while voting against the resolutions, that I agree fully with all the doctrine contained therein. It so happened that very early in the session I offered resolutions exactly in substance corresponding with those of the honorable senator for Virginia, at a time when I hoped that there might be more harmonious action upon this legal question connected with the boundary of Texas than has since been developed. I hoped, at one time, that my resolutions might be adopted. But we know that the two Houses of Congress cannot harmonize upon this question. We are therefore bound, as practical statesmen, to adopt such definitive measures for the adjustment of this question, that while the honor of Texas is preserved, while the interest of Texas is preserved, while the honor of the South and the interest of the South are also preserved, no section of the Union shall have serious ground of complaint—such a plan of adjustment as will give repose once more to the country, and save the republic from such imminent dangers as the honorable senator from Virginia perceives at the present time overhanging the land.

Mr. BERRIEN. As the vote which I shall be constrained to give upon this amendment will not express the opinion which I entertain upon the questions to which it relates, I feel myself bound to say that the opinions heretofore expressed in relation to the boundary of Texas, upon which I took the liberty of stating my views to the Senate, so far from being changed or modified by reflection, have by reflection become confirmed. I entertain no others upon that question; nor do I believe, if we could divest ourselves of the exciting questions of the day, and the prejudices which they necessarily produce upon all of us, that there would be others entertained. I have listened, sir, to the suggestions which have been made upon the question of the Texas boundary, without meeting any answer to the argument I have urged here, that as between the United States and Texas that boundary is what she claims. As I cannot, in view of the practical operation of this amendment, in view of the importance which I attach to the measure which has been proposed by the honorable senator from Maryland, vote in favor of this amendment, I think it necessary to say it is not from any change of opinion. It is not because I am not disposed to affirm the propositions contained in this amendment, but because I believe their affirmance in the form in which that affirmation is asked by the amendment—viz: by the substitution of that amendment for the bill presented by the senator from Maryland—will have the effect of defeating that great object, which, with whatever diversity of views, I believe is doing so much to give peace to the American people.

Mr. DAVIS, of Mississippi. I feel constrained to take a very different course from that of either of my friends who have last addressed the Senate. I shall follow the dictates of my own conscience and my own sense of right; and believing, as I do, that this amendment expresses what I think to be true, I shall vote for it. They agree with me as to the fact, but vote against it. Such seems to be the difference between us. This amendment but aserts that for which we have been for years contending—that which the government has constantly maintained from the beginning of this question down to a very recent period, when the last message was received from the President of the United States. Any attempt now to throw doubt upon the title of Texas by the government of the United States is untrue to their history and faithless to Texas. Any attempt now to rob Texas of one acre of her soil, under the pretence that she does not own it, is to take advantage of an exercise of authority which the United States first usurped and afterwards held by the permission of Texas, and with the express disclaimer that it was not to rob her of her right.

In January 4, 1847, the then governor of Texas, Gen. Henderson, learning that the government of the United States was about to establish a territorial government at Santa Fe, addressed a letter, January 4, 1847, to the Secretary of State of the United States, from which I will read a single sentence:

Inasmuch as it is not convenient for the State at this time to exercise jurisdiction over Santa Fe, I presume no objection will be made on the part of the government of the State of Texas to the establishment of a territorial government over that country by the United States, provided it is done with the *express* admission on their part that the State of Texas is entitled to the soil and jurisdiction over the same, and may exercise her right whenever she regards it expedient.

I remain, with very high regard, your most obedient servant,

J. PINCKNEY HENDERSON.

Hon. JAMES BUCHANAN, Secretary of State.

The then Secretary of State, under the medium of executive correspondence, replied (February 12th, 1847) to this letter; and from it I will read a paragraph also:

In that you have already perceived that New Mexico is at present in the temporary occupation of the troops of the United States, and the government over it is military in its character. It is merely such a government as must exist, under the laws of nations and of war, to preserve order and protect the rights of the inhabitants, and will cease on the conclusion of a treaty of peace with Mexico. Nothing, therefore, can be more certain than that this temporary government, resulting from necessity, can never injuriously affect the right which the President believes to be justly asserted by Texas to the whole territory on this side of the Rio Grande, whenever the Mexican claim to it shall have been extinguished by treaty. But this is a subject which more properly belongs to the legislative than to the executive branch of the government.

I am, &c.,

JAMES BUCHANAN.

To his Excellency J. PINCKNEY HENDERSON,
Governor of Texas, Austin.

When the late Executive was called on, during the present session of Congress, in relation to this subject, he referred in his reply to the letter of Mr. Buchanan, and he there sustains the opinion contained in that letter. He remarks as follows:

I have not been informed of any acts of interference by the military forces stationed at Santa Fe with the judicial authority of Texas established or sought to be established there. I have received no communication from the governor of Texas on any of the matters referred to in the resolution; and I concur in the opinion expressed by my predecessor, in the letter addressed by the late Secretary of State to the governor of Texas, on the 12th day of February, 1847, that the boundary between the State of Texas and the Territory of New Mexico "is a subject which more properly belongs to the legislative than to the executive branch of the government."

Z. TAYLOR.

WASHINGTON, January 30, 1850.

These facts were reaffirmed in two subsequent messages, and, under the opinion thus expressed, the exercise of any authority by officers commanding in the district of Santa Fe was prevented from acquiring or maturing any title.

I heard, with very great surprise and equal regret, the opinions contained in the message of President Fillmore on Texan affairs, and in the letter of his Secretary of State, which accompanied it, read at that table the other day. I was surprised that a letter which had been addressed to an officer of the army about to join his regiment at Santa Fe, and to serve under the officer then stationed there, and exercising civil and military authority, should be considered an order for the establishment of a territorial government at Santa Fe. It was no order, and not even a letter, to the military governor of Santa Fe. The spirit of that message is, from beginning to end, an abandonment of the whole course of this government towards Texas, changing front absolutely; and it is one of the highest federal documents ever promulgated in the United States. It assumes to settle that which all his predecessors had claimed to be a legislative question—to settle it without commissioners, without postponing it to a judicial tribunal, or any arbitration. It calls for the immediate action of Congress; in default of which we are to understand the Executive will determine the balance by throwing the sword of the United States into the scale.

In this state of things we are now told by southern senators that the proposition of the senator from Virginia, which but asserts what previous administrations have heretofore acknowledged, which but asserts that which the whole people of the United States affirmed in the war with Mexico—that that resolution must be opposed, because it cannot be adopted. Sir, this has been the doctrine which has made southern senators retire from the assertion of southern rights, and driven from us those of our northern friends who would most willingly have supported us. After southern men have refused to support a measure of southern right, how can they expect support from northern men? It is only when the South is united, and when she speaks in terms which show at least that one section of the Union requires this measure, that the northern men can justify themselves for departing from the policy which their constituents have indicated, and for granting to the South more than they otherwise would concede. Surely we cannot get this, nor anything else, if we do not assert our rights and maintain them.

Mr. President, it was this same course which divided southern men, when the late Compromise bill was before the Senate. It was that constant endeavor on the part of southern men to *find* what they could get, rather than that which they should have; that species of canvassing everywhere else except within a man's own judgment to find the rule of his conduct; that species of canvassing which I regret to see others adopt, and which for myself I can never resort to. That Compromise bill was supported by southern men, not because it was all to which they were entitled, but because it was all we could get. We who adopted a different principle, and under its guidance opposed the so-called Compromise bill lately rejected by the Senate, have been referred to as having acted with abolitionists. What was the position of southern men who opposed that bill? We stood upon the convictions of our duty and the rights of our constituents. We met, conferred together, and pursued that course which to us seemed best calculated to sustain those rights; and we, with a portion of the northern senators, defeated the bill. What was the position of those southern men who advocated the bill? They met and held consultations out of the Senate with northern senators whose opposition to slavery was practically the same as that of those who voted with us. The difference, then, was this: we, without holding private conferences, voted in the Senate with those northern senators who chose to vote with us. They consulted in secret conclave with other northern men occupying on the only question at