

RICHMOND PALLADIUM.

D. P. HOLLOWAY.]

Be just and fear not: Let all the ends thou aim'st at be thy country's, thy God's, and truth's.—Henry VIII.

[\$2.00—IN ADVANCE.]

VOLUME XI.—No. 7.]

RICHMOND, IA., SATURDAY MORNING, FEBRUARY 20, 1841.

[WHOLE NUMBER 527.]

SPEECH OF MR. SMITH, OF INDIANA; On the Land Question. Delivered in the Senate of the United States, January 15th and 16th, 1841. [CONCLUDED.]

Having noticed the graduation and pre-emption principles, I must proceed to the examination of the bill of the Senator from South Carolina, (Mr. Calhoun,) called the cession bill. It is not my purpose to discuss the whole details of the bill, but to merely state some of the prominent objections to it; at least those of objections that have satisfied my mind that it ought not to become a law. I have already stated that I fully concur that Senator in the importance and magnitude of the subject, and the propriety of its arrangement, so as to rid Congress of the subject if possible. In these points, the Senator and myself agree; but in the remedy he proposes, we totally disagree. I have already shown that his bill only covers the lands in the nine States, amounting, in the aggregate, to only 160,000,000 of acres out of ten hundred millions, the whole quantity; hence the apparent inadequacy of the proposed measure to remove the difficulties of the present system. But I desire to pursue this matter further, and show the gross inequality of the measure as applied to the nine new States. The Senator from South Carolina (Mr. Preston) touched this point in his remarks, the other day, in his usual able manner, and has relieved me from the necessity of going so much at large into it as I would otherwise have done. I hold in my hand a table prepared for the Committee on the Public Lands, and appended by that committee to the report on the bill I am now discussing, without, it seems, even noticing the glaring inequality presented by it. Sir, I present the table to the Senate; it is an important document, essential to a correct understanding of the position I am occupying.

STATE.	Sold.	Granted for various purposes.	Granted for agricultural purposes.	Unappropriated.
Ohio	1,241,411.83	1,773,621.00	1,773,621.00	4,788,154.83
Indiana	1,074,111.73	4,396,347.66	4,396,347.66	4,077,104.44
Illinois	1,036,317.65	10,054,737.35	10,054,737.35	4,424,174.04
Michigan	7,477,437.62	31,811,426.00	31,811,426.00	14,410,000.00
Alabama	1,334,359.52	1,334,359.52	1,334,359.52	1,800,000.00
Mississippi	3,433,333.33	3,433,333.33	3,433,333.33	1,800,000.00
Louisiana	4,375,000.00	4,375,000.00	4,375,000.00	1,800,000.00
Arkansas	2,147,910.02	2,147,910.02	2,147,910.02	1,800,000.00
TOTAL	19,624,317.67	67,444,042.50	67,444,042.50	32,727,133.37

By an examination of this table, the great diversity in the condition of the nine new States will appear in a glaring light. I will take the two States of Indiana and Arkansas, to illustrate the idea. The aggregate of the whole of the public lands that Indiana contained, as estimated by the table, was 29,629,359 acres. Of this quantity, there have been sold 15,157,702 acres; granted to the State and individuals, for all purposes, 1,074,133 acres; unsold, including land unsurveyed, 4,396,491 acres. The purchase money received by the General Government into the national Treasury from the sale of the 15,157,702 acres, is \$19,326,301. The quantity of land in Arkansas is 31,468,919 acres. Of these, there have been sold 2,147,910 acres; granted to the State and individuals, for all purposes, 976,896 acres; and there remain unsold 28,027,301 acres. The United States have received for the sale of these 2,147,910 acres, the sum of \$3,110,897. Indiana contains a population of near 700,000 souls, and Arkansas a population of about 160,000 souls. Thus stand the two States. Now, let us see the application of the principles of the bill of the Senator from South Carolina to these two States. Here stands Indiana, with her 700,000 souls, having paid into the national Treasury the sum of \$19,326,301 for the lands already sold, receiving under the bill her thirty-five per cent. of the proceeds of the remaining 4,396,491 acres. While Arkansas, with her 160,000 souls, having paid into the national Treasury only \$3,110,897, would receive her thirty-five per cent. of her 28,027,301 acres, subject to like charges. So that Arkansas, containing the smaller population, and having paid the least money into the national Treasury, would receive greatly the most in the dividend. I might run out the idea, and push the argument on this point; but as my object is brevity, and as I have much yet to say, I will pass to the consideration of another view of the subject, believing that I am understood by the Senate. In presenting another view of the subject, I may be permitted to contrast the benefits to the new States, supposed by the friends of the bill to be conferred by it, with those arising from the distribution plan, which is its antagonist measure. And in this point of view, I am prepared to show that even Arkansas, one of the most favored States, would be much the gainer by the distribution bill, even in a pecuniary point of view, if she had as much Indian title to extinguish as Michigan, and confining it exclusively in the estimate to these lands lying in Arkansas. If I sustain this position, it follows that there is not a

single State in the Union, holding land subject to the extinguishment of Indian title, that could take the measure without a great pecuniary sacrifice, as a substitute for the distribution bill. Senators may think I am venturing upon bold ground, and I am very sure the Senator from South Carolina, in my eye, believes that the position cannot be maintained; but let him hear me, and then answer the argument growing out of a statement of the case—for fortunately for me the case is not to be made out by argument; the proof lies in the statement of the facts of the case. Arkansas, by the bill of the Senator from S. C., would receive 35 per cent. upon the sales now stands, 5 per cent., which is taken from her by the bill, and included in the thirty-five per cent.; this leaves her thirty per cent. The distribution bill gives her twelve and one-half per cent., and leaves her in possession of her five per cent., making seventeen and one-half per cent., and then gives her proportion in the ratio of representation of the other eighty-two and one-half per cent., which would raise the aggregate amount to be received by the State to over twenty per cent., without any expense of the land system, or the extinguishment of Indian title; leaving, at this stage of the calculation, less than ten per cent. in favor of Mr. Calhoun's bill. For this ten per cent., the State would be compelled to pay the expenses of the land system, the surveys, the sales of the lands, and the extinguishment of the Indian title; for the provisions in the bill are: "This cession, together with the portion of the sales to be retained by the States, respectively, under the provisions of this act, shall be in full of the five per cent. fund, or any part thereof not already secured to any State; and the said States shall be exclusively liable for all charges that may hereafter arise, from the surveys, sales, and management of the public lands, and extinguishment of Indian title within the limits of said States respectively." Now, sir, can any Senator say that the State could do all that is required of her for the ten per cent.? or would any State accept of such a proposition in lieu of the distribution bill, if both were presented? It may not be amiss to look a little further into the cost of this matter, or, as in the case of Bumble the bee, to examine the spoons, and see if they are the pure stuff. What is included in the extinguishment of Indian title? My eye has been turned a little to that matter, and there may be some items that even some of the Senators from the new States, now favoring this bill, have not considered. I will name some of them for the consideration of the Senate. The cost or expense of extinguishing Indian title includes the expense of holding the treaty, including the support of the Indians in their encampment and in council; the cost of the commission to hold the treaty; the price given for the lands; the removal of the Indians west; the purchase of lands for them for their new home; their support in their new position for at least a year; the expense of a commission to investigate claims against them—for all these enter into the consideration of modern treaties. Would ten per cent. pay these expenses? Let one of the States try it, and, my word for it, such State will be largely minus in the account. Then, sir, the bill is clearly delusive to the new States—most certainly not so intended by the distinguished mover—for I give him full credit for good faith to those States—but it seems to me he has not done justice to his strong and vigorous mind, by bringing it to bear fully upon the subject, or he would not have presented this bill as just to all, or specially beneficial to any of the new States.

There is, however, another view of the question which should settle the matter beyond controversy. The argument I have introduced has been confined to an examination of the bill with reference to the lands lying in the State; this is a very circumscribed view of the case. I so intended it, as it covers only one hundred and sixty millions of acres, out of the ten hundred millions; but still it must not be forgotten, that while the bill of the Senator from South Carolina confines itself to the one hundred and sixty millions of acres, the distribution measure covers the whole, and distributes not only the proceeds of the one hundred and sixty millions, but also of the residue of the ten hundred millions; and while the cession bill establishes the principle, that so soon as a state is admitted into the Union, the lands must be ceded, the other continues the distribution. Without, therefore, going into the great variety of important questions which have been discussed by others relative to the power and expediency of the amendment of the Senator from South Carolina, I am compelled to arrive at the conclusion, that it is my duty to vote against it; and if it should pass and become a law, and the question should be put to me whether the proposition should be accepted by my State, I should have to answer in the negative.

I have now, Mr. President, arrived at that point of the argument when it becomes necessary to discuss the main subject before us—I mean the proposed amendment of the Senator from Kentucky, (Mr. Crittenden.)

[Here Mr. Merrick asked Mr. Smith to give way for a motion to adjourn. Mr. Smith having spoken over an hour and a half, and it being late in the evening, the Senate adjourned; and on the next day, on the calling of the special order, Mr. Smith rose and resumed his remarks.]

At the moment of the adjournment, Mr. President, on yesterday, I had arrived at what seemed to me to be the main question before the Senate. I had said something about the graduation and pre-emption bills, and their kindred subjects. I had attempted to examine some of the provisions of the bill of the Senator from South Carolina. I had admitted the importance of the question before us, and I had urged the great importance, and the urgent necessity, of placing this whole matter on the basis of a judicious compromise. Commencing, therefore, at the point where my remarks were arrested, (for I shall avoid repetition as much as possible,) I will proceed to give my views upon the question of distribution, in which it will be my purpose to show why it is in my opinion entitled to my support, and to answer some of the objections that have been urged against it. The Senator from Arkansas (Mr. S. V. S. V.) alluded to this subject the other day, and I

confess I was rather disappointed in his course of remarks. I did expect, and I did hope, to hear that Senator discuss the merits of the proposition. I was anxious to hear his views, for they are usually marked with a strong vein of common sense and practical illustration. The Senator, however, declined the argument, and contented himself with saying that the measure was dead, by telling us that the Senator from Missouri (Mr. Benton) had killed it. Yes, says the Senator from Arkansas, the Senator from Missouri murdered it as soon as it was introduced. I hope the Senator did not mean to charge the malice aforethought, which is a constituent of the crime of technical murder. [Mr. S. V. S. V. said, Yes, sir.] Well, Mr. President, I have only to say that, while malice is essential to constitute a killing murder in the eye of the law, it is not so essential in the composition of a legislator. We should meet the questions that are presented for our consideration with calmness and deliberation. I do not say that the Senator from Missouri did not so discuss this question. I am merely replying to the remark of the Senator from Arkansas.

It so happens that I differ entirely with the Senator from Arkansas in the assumption that he has indulged in, that the proposition of distribution is either killed or murdered. Sir, that proposition is not dead, but living; and let me tell Senators who think that it is dead, that they will find it not only living, but that it is destined to become the law of the land, and that, too, before many more sessions of Congress shall have passed by. It should, in my opinion, long since have been the law. If the bill was introduced by the Senator from Kentucky, (Mr. Clay,) and which passed Congress during the administration of General Jackson, had become the law, it would have been a most valuable measure for the whole Union, and especially for my State. And I assure you, sir, while many of the adherents of General Jackson still sustained him, it was for other reasons than his opposition to the distribution bill. The same measure is now before us, and I shall give it my hearty support; and, not like my friend from Arkansas, I shall not content myself with a mere expression of opinion. I desire my State to see the distinct grounds of my support; for I have no sentiment to conceal on this or any other measure.

First, I support the bill because it is the only compromise measure upon which all can unite, and which, with proper provisions, will do ample justice to both the old and the new States. The interest of the new States will be amply protected, and the rights of the old States will be maintained in the distribution of the fund. The difficulties spoken of by the Senator from South Carolina, as arising from the present system, will be partially obviated, and the voice of discontent between the new States and the old, growing out of the subject, will be forever hushed. Instead of making the bill expire by its own limitation in a few years, I would make it a part of the permanent land system.

Secondly, I support it as a Western measure—yes, sir, as a Western measure, and especially as a measure called for by the best interest of my State. He must have been blind to the administration of public affairs for the last few years who has not seen the tendency of the Government to draw the money from the West, through the land offices and impost duties, and expend it elsewhere. I heard the Senator from Tennessee, (Mr. Anderson,) who addressed the Senate the other day upon this point, with great satisfaction. The noble stand he took, and the independence with which he announced his views, commended my unqualified approbation. During the last three years, the total of expenditures will show that the expenses of the Administration have been \$90,885,739. Thus, in 1838, \$10,127,218; 1839, \$31,815,000; 1840, \$23,943,512. Now, how much of this fund has been expended in the West? How much in the Northwest? Let the friends of the Northern harbors answer. Let the friends of the Cumberland road, and the friends to the improvement of the navigation of Western rivers answer. Not a dollar of this vast sum was appropriated to the protection of lake commerce. Not a dollar to improve the navigation of the Western rivers. The imposition on the commerce of the Ohio by the obstruction of the navigation, and the consequent high tariff of tolls at the falls, still remains. The Cumberland road—that great Western measure, the construction of which was commenced under the auspices of Jefferson, and continued through the subsequent Administrations to the present—has been suffered to sink into a state of dilapidation, decay, and ruin. I talked the other day with a contractor for carrying the mail in my State on this road, and he told me he would have to abandon his contract at all hazards. He said it would ruin him to try to go on; for the mail was so very heavy that he could carry no passengers; and, so soon as the frost was out in the spring, it would be impossible for four of the best horses he could get to travel more than two miles an hour upon it; and even then they would swamp or mire down at the worst places, and have to be raised by rails or levers. And yet, sir, out of your expenditure of near one hundred millions of dollars, in the last three years, not one dollar could all the entreaties and arguments we could use obtain. I saw the tendency of the doctrines that have left us in our present condition, forcibly exemplified at the last session. After every proposition that had been introduced favorable to the Western objects which I have named had been voted down, and it was declared by a distinguished Senator (Mr. Calhoun) that our appropriations had been dried up, a proposition was introduced to appropriate \$30,000 to the commencement of a new work at Pensacola, on the Gulf of Mexico; the same Senators that voted against the Cumberland road voted for the Pensacola work, it being on the seaboard. And even at this session, when my friend, the Senator from Illinois, (Mr. Young,) introduced a bill making a small appropriation to the Cumberland road, and proposed to let it remain on the orders without reference, the Senator from Alabama (Mr. Clay) objected and wished the committee to inquire into the propriety of borrowing money for this road; and yet I am greatly mistaken if the same Senator did not vote for the Pensacola appro-

propriation when the Government was borrowing money, without ever putting that question to himself. I introduce this, not so much for the purpose of complaining, as to show the tendency of modern doctrines, and the propriety, on our part, of providing for contingencies; not that I have any disposition to give up our rivers, the Cumberland road, or the lake harbors. Far from it. I expect to urge them upon the consideration of Congress so long as I am honored with a seat in this body. I hope, however, to see the Cumberland road provided for in the final adjustment of the land question, at the next session of Congress. It was originally connected with it; and I shall contend for the continuance of the connexion. By the distribution, at least a portion of the money that is drawn from us will be returned to our people annually. The vivifying influence of these annual returns will be felt in every part of the Union, but more especially in the West; which is, by the modern doctrines, in effect, cut off from a participation in the benefits of the National Treasury, so far as direct appropriations are concerned. I can speak for my own State. I know that her share of the distribution will be most acceptable to her, circumstanced as she is; and, as it is her right, I feel it to be my duty, as her representative, to urge the measure by my voice as well as by my vote. At the moment the Senator from Kentucky introduced his amendment, the Senator from Missouri (Mr. Linn) intimated an intention of moving an amendment to the proposition of distribution, to appropriate the land funds to the navy and national defenses exclusively. I suppose he meant the defenses of the Western frontier, as that subject lies near his heart. [Mr. Linn from his seat said no, sir; the entire national defenses.] The Senator from Carolina, (Mr. Calhoun,) catching at the proposition, but understanding it to be confined to the navy alone, took the occasion to thank the Senator from Missouri for his magnanimity, and spoke in strains of eulogy and high commendation of the project. This is but carrying out the policy which I have stated has given the Government appropriations a salt-water tendency. But, sir, as a Western Senator, I cannot sustain either of these propositions; and let me not be misunderstood; there is no one here who would go further to sustain the nation in all necessary appropriations for these objects; but let the funds necessary for the purpose not be taken exclusively from the West; let not the door be closed forever to a return to us of some part of the money that is abstracted from us by the continual drain of the public lands upon the pockets of our citizens. I confess that the two propositions, coming from the quarter they do, are somewhat alarming to those who hope to see a return to the West of some proceeds of the public lands. The objects belong to the general charge; they are strictly national, and let the nation cherish them; for should the time come when our patriotism and devotion to our country shall call upon us in the West to act with our brethren in the defence of our common country, by land or by sea, they have in the past a sufficient guarantee for the future.

Thirdly, I sustain the proposition, because a compromise founded upon it will not unsettle the land system, but preserve it in an improved form, while all the different interests represented can harmonize. On the other hand, the effect of the bill of the Senator from South Carolina will be to unsettle the land system, create the relation of debtor and creditor between the General Government and the States, and produce conflicts arising out of our Indian relations. The distribution bill will also go far to equalize the States who have received public lands for various purposes. The Senator from Michigan, (Mr. Norvell,) has repeatedly introduced this subject, claiming upon equitable principles that the other new States should be brought up to the standard of Ohio, that has received more of the public lands than any other new State. This bill will accomplish that object, if it does not exceed it. The 12½ per cent. on the unsold lands in Michigan, being over 21,000,000 acres, would bring that State more than even with Ohio, Michigan has received 959,759 acres; Ohio has received 1,812,911 acres, difference 873,152 acres; 12½ per cent. or one-eighth of the unsold lands in Michigan would be over 2,500,000, while the 12½ per cent. on the 2,000,000 acres unsold in Ohio, would be only 250,000 acres. So that the effect of the bill will be entirely favorable to those of the new States that have not received as much of the public lands as Ohio. These are briefly my reasons for supporting the distribution bill. Let us look at the grounds on which Senators place their objections to its passage. So far as I have been able to understand them, they are these:

First, The measure is unconstitutional.

Secondly, It will retard the settlement of the States, by holding up the lands for prices at which they will not readily sell.

Thirdly, It will stimulate the States to drain the Treasury of all the revenue of the nation, and leave the General Government helpless.

Fourthly, It will corrupt the States, and produce profligacy among the citizens.

Fifthly, It will make it necessary, by abstracting the proceeds of the public lands from the general revenue, to lay additional imposts to meet the deficit.

These, I believe, comprise the principal objections. I have stated them fairly, and I intend in the progress of the debate to meet and discuss them in the same spirit in which I have laid them down.

The first question is one of grave import; for if that should be against me, the argument closes, and the bill falls, so far as depends upon my vote. I am apprized of the position that is maintained by those who deny the constitutionality of the proposed measure. They contend that it is unconstitutional to raise money for the purpose of distributing it among the States, and therefore, inasmuch as the abstraction of the land fund from the revenue of the Government creates a deficit that must be made up by an increase of imposts, it raises the constitutional objection. The view that I entertain of this constitutional question, renders it unnecessary for me to be a question position assumed, which I admit to be a question of grave import, but which, upon a full discussion in Congress, was decided in favor of the power

upon the question of distributing the surplus revenue; and that decision was approved of by the late President. I feel no disposition to open the argument of the question, until the case shall arise making it necessary for me to do so. I contend that the proposed disposition of the proceeds of the public lands, by distributing them among the States according to population, evidenced by their representation in Congress, is the most constitutional disposition that can be made of them, and that a faithful discharge of the constitutional duties of Congress demands the measure proposed. The land question arose prior to the adoption of the federal constitution. It was a revolutionary measure in its origin. It bears date anterior to that at which the General Government had the power of levying imposts on foreign merchandise; and hence it never was connected with that mode of raising revenue. The different States, during the Revolutionary war, had contracted debts, which the Confederation desired to see liquidated. Many of the States owned large tracts of wild land—Virginia being the largest proprietor, her claim covering most of the Northwest Territory, now Ohio, Indiana, Illinois, Michigan and Wisconsin. Cessions of these lands were made by the proprietary States to the Confederation. That of Virginia, which may be selected to test the question, after ceding her lands, provided the use to which they should be applied, as follows:—"These lands shall be considered a common fund for the use and benefit of such of the U. States as have become or shall become members of the Confederation or federal alliance of said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure; and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever." The Confederation, being a mere league of States, acting for the benefit of States, accepted the cession upon the terms, and took upon itself the trust confided to it. In 1776, after the trust had been accepted by the Confederation upon the terms of the deeds of cession, and while its execution was obligatory upon it, the federal constitution was adopted, in which provision was made for this very property, the eye of the convention evidently being directed to it. The 31 section of the fourth article provides that "new States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular State." Here are ample powers conferred, and expressly delegated to Congress over the entire subject of the public domain, the object of which was clearly to enable the General Government to act directly upon the subject-matter of the public lands uncontrolled, except by the terms of the constitution and the previous contracts and engagements of the Confederation. These contracts and engagements were expressly recognised by the first clause of the 6th article of the constitution, which declares that "all debts, contracts, and engagements entered into before the adoption of this constitution, shall be as valid against the United States under this constitution as under the Confederation." Thus, you see, the contracts and engagements of the Confederation of States under the Articles, were expressly recognised and provided for by the federal constitution. The question then arises, did the cession of the public lands by the States, and the acceptance of them by the Confederation, under the deeds of cession, upon the terms specified, and for the purposes declared, amount in the eye of the law to a "contract" or "engagement" on the part of the Confederation, which was obligatory upon it?—Can there be any doubt upon this point? If not, then the article of the constitution which I have just read provides for the very case, and the obligations of the General Government now are precisely those of the Confederation before the change of government and the adoption of the federal constitution. The question then recurs, what were the obligations of the Confederation? This question must be decided by the deeds of cession, and can be as well answered in the very language used by the parties—to dispose of these lands "for the use and benefit of such of the U. States as have become or shall become members of the confederation or federal alliance of the States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other purpose whatsoever." I leave the constitutional argument here, having in my own mind at least sustained the constitutionality of the disposition proposed of the proceeds of the public lands, by which it would seem to follow that any other disposition, except to make the trust fund more valuable, since the discharge of the revolutionary debt, for which purpose they were ceded, has been in violation of the declared object of the trust, and consequently an infraction of that section of the constitution which I have read, securing the inviolability of the "contracts" and "engagements" of the Confederation.

The questions may arise, how do you maintain, under this state of the argument, the grants of lands to the new States, and the distribution of the land fund, not covered by the deeds of cession? My answer to the first is, that the clause of the constitution which I have read, expressly gives the power of disposition over the property; and, as a trustee, Congress has the power to grant or appropriate one part of the fund to enhance the value of the residue. Such has been the character of all the grants made. To the second question, I would say, that, as the other lands have been paid for by the people of all the States, the same people have an undoubted right to a return of their proceeds upon a fair distribution, should they desire it.

Secondly, Will the bill retard the settlement of the States in which the lands lie, by holding up