

against heat and damp. The custom almost at the same time was introduced into Ireland.—Among the ordinances of Henry VIII., is one which prohibits more than one manufacturer of spirituous liquors to establish himself in the towns. In the reign of Mary, an Act of Parliament, which describes a liquor of which it is injurious to drink for daily use, prohibits entirely any distilling. We, however, find, some years after, the English soldiers who supported the cause of Holland, in Low Countries, drinking it as a cordial. This is the commencement of the period from which is dated its manufacture on a large scale both in England and on the Continent. In England, however, the use of beer prevailed with the people till the reign of William and Mary, when, the government having encouraged distillation by various measures, the consumption of spirits became excessive.—Smollett says, that the retailers of brandy invited passengers, by signs placed over their shops, to drink for the trifles of a penny,—adding, ‘that for two pence they could make themselves drunk and wild experiment.’ What have been the results? It commenced, about forty years ago, or a little more, in one of the great Western members of the Confederacy, [the State of Ohio] the settlement of which took place as much as twenty years later than in the case of her sister and neighbor, Kentucky. And what is her population now? From the returns of the new census it is found to amount to a million and a half of souls—nearly double that of my own State, although Kentucky had preceeded her by such a great length of time. And if we then go to Indiana, a still younger sister in the great family of States, we shall find that she exhibits a population of between six and seven hundred thousand, nearly equal to that of a State which has her predecessor in the establishment of independent State sovereignty by thirty years. I will not go through the list. All the members of the Senate are doubtless familiar with the returns of the late census. All these great and astonishing results, have taken place under that system which we are now asked to change. Is it wise—is it prudent—is it statesmanlike, to reject a plan from which have proceeded such glorious fruits, for an untried, and, as I believe, a most hazardous experiment?

### SPEECH OF MR. CLAY, ON THE PROSPECTIVE PRE-EMPTION BILL.

Wednesday, Jan. 6, 1841.

The order of the day being the bill to establish a permanent prospective pre-emption system in favor of settlers on the public lands who shall inhabit and cultivate the same and raise a log cabin thereon; and the question being on the amendment offered by Mr. Prentiss, of Vermont, as a substitute for the whole bill, as follows:

Strike out all after the enacting clause, and insert the following: That every actual settler on any of the public lands to which the Indian title has been extinguished, except such as are hereinbefore reserved, being the head of a family, or even twenty one years of age, who was in possession and a house-keeper, by personal residence thereon, at the time of the passing of this act, and for four months next preceding, shall be entitled to a pre-emption in the purchase of the land so settled upon, not exceeding one quarter section, at the minimum price now established by law."

Mr. Clay, of Kentucky, rose and addressed the Senate nearly as follows:

The amendment now offered by my friend from Vermont, by drawing a line between the legislation heretofore pursued with relation to the pre-emptions, and the new, comprehensive, and interminable legislation proposed by the present bill, opens the whole question for discussion; and I avail myself of the opportunity thus afforded, to present to the Senate some of the general views I have taken of this subject, and I invite, in the outset, the serious, and, I would say, the solemn attention of the Senate to the bill before it. Before, however, I proceed to examine its provisions, allow me, in passing, to notice a most novel and surprising doctrine advanced yesterday by the Senator from New York; (Mr. Wright;) not that I purpose to discuss, at this time, the position he assumed, but that I may here enter my public protest against it, lest should I remain silent, it might be thought by any that I yield my assent to it. The Senator's position is, that it is competent to a State, under the Constitution, to admit an unnaturalized foreigner to vote in our elections. I wage no war against foreigners. I respect them when their character entitles them to respect. I well knew especially the value of the German yeomanry; a better set of husbandmen does not exist on the face of the earth, honest, industrious, economical, admirable judges of the soil, the best judges of land in all the country, devotedly attached to their families—that is the character of our German population as I have become acquainted with it in my own immediate neighborhood. I will not now stop to speak of the character of the gallant Irish, whose virtues, and, I will add whose defects of character (the virtues far overbalancing the defects) are so well known throughout the world. I am not the enemy of foreigners: but the opinion expressed by the honorable Senator from New York is one of immense practical importance; for, if I am not greatly misinformed President Van Buren owes the vote of one State of this Confederacy, I mean the State of Illinois, to the fact of unnaturalized foreigners voting in our late election, and casting their votes for him. I will not, however, enter on that subject, and I have adverted to it now, merely that no conclusion may be drawn from my silence that I approve or tolerate the doctrine advanced by the Senator from New York. I here publicly express an opinion decidedly opposite. I think that the exercise of the election franchise always implies citizenship, though citizenship does not imply the right to the exercise of the elective franchise. I hold that a voter, whose voice may effect or change the entire policy of the country, may alter or subvert the Constitution and laws of the country, is a competent part of the political power of the country. I hold that the power over the subject of naturalization has been confined by the Constitution exclusively to the General Government, and that no State can constitutionally exercise that power; and therefore no State can confer those privileges and immunities, or grant those rights which proceed from naturalization. This is my opinion, and I advance it here merely as a counter project to that expressed by the Senator from New York. When a foreigner has once been naturalized, I regard him as a brother, as a member of our political community, and as entitled, with some few constitutional exceptions, to all the rights of native born citizens, and to the protection and defence of the Government at home and abroad; but until he has renounced his allegiance to his foreign Sovereign, and sworn fidelity to our country, I cannot and will not—and I was utterly amazed to hear the gentleman from New York express a different opinion—look upon him as incorporated in our society, and authorized, by the exercise of the elective franchise, to exert an influence in unsettling or changing our entire political policy, whilst as a subject of a foreign Power, he lies under all the original and native obligations. If the

(laugh.) contrary doctrine be admitted to be a sound one, then, as has been shown by a calculation which I have seen, the Emperor of Russia by a proper distribution of 17,000 of his serfs among the States of this Union (of the States would have permitted them to vote) might have changed the glorious, the triumphant result of the vote of November last, and have continued those in power, who, by the full decided, and many expression of the public will, have been declared unworthy to be the depositaries of it any longer.

But it is with another subject that I have risen now to deal—the fearful extension now proposed to be given to the pre-emption System. We have now had a land system in operation for upwards of forty years. Is there any thing in the practical effect of this old and long-used system which should induce us to repudiate it for a new, untried and wild experiment? What have been its results? It commenced, about forty years ago, or a little more, in one of the great Western members of the Confederacy, [the State of Ohio] the settlement of which took place as much as twenty years later than in the case of her sister and neighbor, Kentucky. And what is her population now?

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Let us now pause a moment, and look a little at the distinctive provisions of the bill.—Heretofore pre-emption bills have been retrospective only: this is, in its operation both retrospective and prospective. Heretofore pre-emption bills have been limited at no time; this is unlimited in point of time so long as there remains a foot of public land for it to operate on. Heretofore pre-emption bills were operative practically only with reference to some new land recently surveyed and brought into the market: this bill is a proclamation to the whole universe, native or foreign, naturalized or non-naturalized, that the moment the Indian tide is extinguished to any portion of the land held by the United States, they may all rush and take just as much of it as they please, without even waiting for a survey; and that all other surveyed public lands of the United States, amounting to about one hundred and twenty millions of acres, no matter how long they have been in market, and although they may be purchased at the moderate price of one dollar and a quarter per acre, are to be subject to the right of pre-emption. This, it is obvious, involves a complete change in our whole land system; a thorough, radical, entire change. It opens at once all the public lands, surveyed and unsurveyed, to the operation of a pre-emption law.

And here let me stop and look for an instant, at what are said to be the sole advantages granted to the pre-emptor by this bill; a point on which there exists the greatest possible misconception, either on the part of other gentlemen or myself. The whole practical difference which this bill is to work in our receipts from the public domain, is said to be some two or three cents per acre only. Here is a Message of the President of the United States, sent by him to Congress, in December, 1837. It is, in many respects, a discreet and sensible paper, so far as it treats on the subject of the public lands. The President here praises the old land system as it deserves. He describes those who enter the public domain, without title or pretence of title, as “trespassers,” “intruders,” and he recommends the passage of one more pre-emption law, and one only, and after that the adoption of stronger measures for the purpose, (in his own language) “of preventing these intrusions.” The Senator from Missouri, (Mr. Benton) spoke to us yesterday of the President as being a capital pre-emptor, now, although when he was here as a Senator, he was decidedly opposed to the whole system, and although when he came into office he talked about “trespassers,” and “intruders” on the public lands, and recommended us to adopt measures to put a stop to these “intrusions” in future. It would seem that the President is an attentive listener to the advice of his friends and always open to conviction. I must admit that he has exhibited not a little flexibility in yielding to the suggestions of some of those who have his ear. I will take my position more general. I think that both the Secretary of the Treasury and the President have shown remarkable ease in opening their ears to the voices of gentlemen who are strong advocates of the pre-emption laws, and for the protection of the public domain to the best of their ability. The Secretary has brought the public lands to three million acres, and they were three million and the very next year they rose to seven millions. The receipts from this source have been subject to great fluctuation; the past year a little above three millions. They are now sinking; and it seems that the more they sink the more he calls out for pre-emption laws! gradation laws! to save him from that impending ruin in the administration of the public domain which his system is about to inflict. What, sir, is it possible that any man—what shall I say?—that any man in his senses can be soberly ridiculous as to suppose that, by reducing the price of the public lands from a dollar and a quarter to twenty five cents, or, in some instances, to 50 cents, you will get more money for them? Yet that is the principle assumed by the Secretary of the Treasury, and it shows the opinion which operates in his mind, and in the minds of the friends of the graduation and pre-emption laws. I will not attempt to describe the whole of the consequences of this law. One of its effects is to convert the existing cash system into a CREDIT system. Do you not see it? What is the fact as to the pre-emption laws heretofore granted? They gave the pre-emptor a credit for two years. The gentleman from Alabama (Mr. Clay) now limits his credit to one year; but, whether the credit be one, two or three years, it changes our land system from a sale for cash to a sale for credit. And thus the whole 120 millions of acres of the public domain will all pass under this newly re-vised CREDIT system.

And who are they who propose this change?

The very men who will decry all credit, who

clamor for hard money, who inveigh against

banks, and denounce the credit system as the

great source of our woes! and yet here, now,

under the name of a pre-emption law, they pro-

pose to revive the whole credit system!

Can it be doubted that such will be the result of the bill? Will any man, who can get his land on a credit of one or two years, buy it for cash?—

especially when he can dispose of his cash at a

rate of 18 per cent interest, as prevailed in Illino-

is and some other new States?

This is a grave feature in this new exper-

iment, and deserves the serious consideration of

the Senate. To what will such a system lead?

Have we no experience on this subject? When

you have parted with your land from year to

year thus on credit, you will at length have

accumulated a mass of debtors, on whose behal-

f, their petition after petition will be presented here,

and their inability to pay will be most patheti-

cally set forth, till at last your compassion will

be moved, and you will forgive these poor debt-

ors the entire amount of their debt, and consent

to take remuneration for their land in some other

form of advantage to the public service.

It is not correct, though it has been said and

repeated by some gentlemen here, that the sole

difference effected by the pre-emption law in the

price you receive for the public land is some two

or three cents per acre.

First, there is the difference of six cents which the President states,

and how is this made out? The public land is

sold either at auction or by private sale; but owing to coercion, to violence, to combustions, and the open contempt of the law, (a state of things which has grown with the multiplication of pre-emption laws,) the proceeds of the auction sales are now much less than formerly. I cannot believe with the Senator from Missouri, (Mr. Lyon,) that the people of the United States are incompetent to protect their own property. I believe that it can be done, by a steady, firm, and upright administration of the Government. I believe that the people of the United States are capable of protecting their rights against all who assault them, whether from within or from without. Assuredly, if the Government cannot protect what is its own, it must be incompetent to protect us and ours. But, I ask, is not the six cents excess of sales over the minimum price, referred to by the President, made up? It is got by running an average over the total amount of sales, both by auction and by private entry. Now, the amount sold at auction is not one-fourth, nor, I believe, not one tenth part of the whole. The Secretary takes the auction sales, where the lands brought from \$5 to \$20 an acre, and spreads that amount of excesses over the remaining nine-tenths of the total amount sold by private entry, and then he makes an average and draws the inference that the whole gain in selling the public lands in the established customary method over what they bring under the pre-emption laws, amounts to six cents an acre. Is this fair? But even this amount of six cents, under proper administration of the system would cover the whole expense of survey and sale. But is that all? You are to add two years' interest on the minimum price, which on a credit of two years, amounts to fifteen cents. If one year's credit alone is given, it will be seven and a half cents, which, added to six cents makes thirteen and a half cents on every acre of the public domain, which would be gained by the continuation of the old system.

But more. This bill amounts to a virtual repeal of the auction system. That system applies only to new lands recently brought into market. But of what avail is an auction if you proclaim to the whole world that they may get the land at minimum price, if they will only come and settle on it, and that before survey? The entire existing system is superseded by the introduction of this “wooden horse,” with all the means of injury with which it is fraught. I have now described, but not with all that force in which the circumstances of the case would warrant me, the difference between the old and long-established land system of this country and the new and fearful experiment now proposed. You must have seen that the change is thorough and radical. Now I put it to the Administration Senators in this body—to their candor—to their patriotism—to their sense of justice—is it right, on the close of the administration of a dismissed Ministry, to introduce a new and totally different policy in regard to one of the greatest interests of the country? Is it right, is it fair, that the policy of the existing Administration, now passing out of power, shall be made to lap over on the new Administration, without consulting them or paying the least regard to their judgement in the matter? The progress of the administration of the American Government has developed in the practical operation of our system a new feature, and one of the most profound importance. A different political phenomenon takes place here from any thing which exists in Europe. In European constitutional Governments, when a Ministry is dismissed or goes out of office, the King or Queen, as the case may be, yields to the change of sentiment, and comes round with the nation. But here, an Administration may be dismissed, and still remain four months in power. What is in such a case, is it their duty to do? I will tell gentlemen what I would do in the like circumstances. I would institute no new measures of policy. I would simply keep the political machine in motion. I would grease the wheels and repair and preserve all its parts in a state of preparation for the performance of those high duties for which the whole was constructed; but I would attempt nothing new in the permanent policy of the country, foreign or domestic. By such a moderate course alone, can the evils of the anomaly to which I have adverted be prevented. I would not ask gentlemen to deny themselves a fair exercise of the Executive power, ranging from now till the 4th of March next. I do not ask them to do what was done when Mr. Adams was expelled from the Presidency—I should say, lost his election. What did they do then? The Senate refused to pass on important Executive nominations till after the 4th of March, and then several of them were withdrawn, and substitutes sent in by the new President. The Senate refused him the constitutional exercise of his official right from the time of his last election till he went out of office.

This I do not ask. I dare to say Gen. Harrison, when he comes, will look at those whom he finds in office, and, if he finds that they are honest and capable and faithful, that they have not been noisy and forward politicians, nor brought their official influence in conflict with the freedom of elections, (if any such there be,) [a laugh.] I hope he will let them stand (though I fear there will be but few) as monuments of the liberality of a Whig Administration, acting on patriotic principles. [Sensation and remarks of “That's fair.”] But if gentlemen expect that General Harrison, because they choose to rush on and make appointments, with a view to thwart his administration, will when he comes here, fear to do his duty, either they or I have mistaken the man. Gen. Harrison means to be the President on the 4th of March next, which his fellow citizens have elected him to be. And no premature bill, no stretching out of the policy of this into the next administration, is going to restrain him from looking at those in office, and deciding for himself whether they possess the requisite qualifications for the discharge of their official duty.

But, to come back. I put it to gentlemen whether it is right and fair to make this great change in the land system of the country at such a time? Would you like us to do it if conditions were reversed? But there are other considerations which admonish us against legislating on this subject at the present time. We have not officially received the results of the census for the last ten years; we cannot, therefore see whether the new States have filled up as rapidly as we could wish. Let us first see what is the number of their population; so that we may judge whether any further stimulant is needed to quicken the rate at which their numbers increase. I know, indeed, that the result will show directly the contrary. From tables which I caused to be carefully constructed nine years ago, it is shown that the population of the new States increases at a rate vastly over that of the old. Take a single example. The population of Illinois doubles itself in six years. What, then, is the ground for the adoption of this new system? Does it consist in some notions of charity to the poor? I have formerly adverted to that subject. Where do the gentlemen get their right to set up a pensionary law for the benefit of the poorer portions of the community? But if they have, what will be the operation of the system in this respect? It is pretended to be for the advantage of widows and orphans, (orphans over eighteen years, however.) Is any gentleman so ignorant of what will and must of necessity be the practical operation of such a law? Will a widow in Maine, travel all the way to Missouri that she may receive the bond proposed to be given her by this law? Will not its benefits be confined to the widows of the locality? In terms, to be sure it proposes to confer the pre-emption on all widows and minors. But will not the benefit, in fact, be limited to widows and minors residing in the State within which the lands lie? Surely. That, then, is the extent of your charity.

I am not very well, and I do not feel very much encouraged by past experience in opposition to this bill. My hope is elsewhere than I would trust that Honorable Senators would at least pause before they take such a leap.

There are other consequences on which I might dwell. We have heard that this bill and another allied to it, are to increase the revenue; and I believe that one of them was, *pro forma*, sent to the Committee on Finance on that ground. The new plan is, to increase the resources of the now impoverished exchequer; but I have already shown that, for the present at least, the revenue will be diminished instead of increased by it; for the amount vested in the public lands

under this law will be on a credit of one or two years, and cannot come into the Treasury till the end of that time. And as those disposed to make such investments will avail themselves of the credit, there will be sales to but an inconsiderable amount of cash, and a consequent diminution of the proceeds during the present year.

Therefore, with an exhausted treasury, with a vast national debt, ascertained and unascertained, besides a large amount, to be soon redeemed, of Treasury notes outstanding and running on interest, it is now proposed, instead of replenishing the empty coffers of Mr. Secretary Woodbury, by an imposition at ones of duties on luxuries, to increase, instead of removing, the existing deficit in our pecuniary resources.

Our land system heretofore has been the admiration of the world for one of its best and noblest features, viz: the perfect security it gave to the land titles of our new settlements. No man who had eyes to see the marks upon a corner tree, or upon a stone standing in a prairie, could possibly mistake the limits of his own tract; and no other man could have color of right to disturb him on the ground of his title. Security—absolute security in land titles—has been one of the highest blessings in the new States. But are you sure that this will continue to be the case under your new pre-emption law? Do but conceive how it will work. Imagine that a new district of rich and choice land had just been thrown open. The Indian title has been extinguished, but the fresh and fertile lands have not yet been surveyed. They are open, however, to the operation of this bill; and, in the course of a few weeks, may become worth from fifteen to twenty dollars per acre. You proclaim to all who come rushing in torrents upon the new acquisition, crowding, contending, scrambling for the fairest spots and the best situations, that they shall have a pre-emption. What scene of confusion, contention, heart-burning, ay, of bloodshed, must naturally ensue. When a nation, heretofore esteemed wise and prudent in the management of its public domain, proclaims to the world that the first man who comes and seizes on it shall it be, who can calculate, who can conceive the confusion, disorder, and mischief which must ensue? Who can estimate the effects of the broad foundations that will be laid for uncertainty, controversy, and litigation in land titles?

Again, this must work a vast increase of the Executive power; for all disputed pre-emption rights which, according to the cautious policy of Virginia, were referred to the decision of the Judiciary by *caveat*, or ejectment, or bill in chancery, are now ultimately cast on the Executive of the United States; for the bill provides that they shall be settled “summarily” and definitely by the Register and Receiver of the land district in which the dispute arises, these officers to decide under instructions from the Commissioners of the General Land Office.—So, the disputant is put under the Register and Receiver; the Register and Receiver are under the Commissioner; the Commissioner is under the Secretary of the Treasury, and the Secretary is under the