

**THE UNIVERSITY OF CHICAGO.
THE DOCTRINE OF
NON-INTERVENTION WITH
SLAVERY IN THE TERRITORIES. A
DISSERTATION**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649515127

The University of Chicago. The Doctrine of Non-Intervention with Slavery in the Territories. A
Dissertation by Milo Milton Quaife

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

www.triestepublishing.com

MILO MILTON QUAIFE

**THE UNIVERSITY OF CHICAGO.
THE DOCTRINE OF
NON-INTERVENTION WITH
SLAVERY IN THE TERRITORIES. A
DISSERTATION**

The University of Chicago
FOUNDED BY JOHN D. ROCKEFELLER

THE DOCTRINE OF NON-INTERVENTION
WITH SLAVERY IN THE TERRITORIES

A DISSERTATION
SUBMITTED TO THE FACULTY
OF THE
(GRADUATE SCHOOL OF ARTS AND LITERATURE)
IN CANDIDACY FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY
(DEPARTMENT OF HISTORY)

BY
MILO MILTON QUAIFE, Ph.-D.

CHICAGO
THE MAC C. CHAMBERLIN CO.

1910

· 47

NEW
PUB.
LIBR.

THE NEW YORK
PUBLIC LIBRARY
ASTOR, LENOX AND
TILDEN FOUNDATIONS
R 1911 L

THE NEW YORK
PUBLIC LIBRARY
779612A
ASTOR, LENOX AND
TILDEN FOUNDATIONS
R 1935 L

NEW YORK
PUBLIC
LIBRARY

CHAPTER I.

THE MEXICAN WAR AND THE WILMOT PROVISIO.

From the time of the development of the Abolition movement until the beginning of the Civil War nearly three decades later, the American nation was agitated by the discussion of the slavery question. During the latter half of this period, beginning with the annexation of Texas in 1845, slavery was the dominant political issue. Over it the nation became sectionalized and the issue was resolved into a struggle between the two sections for political and industrial supremacy. The possession, first of the prospective Mexican acquisitions, later of the unorganized portion of the Louisiana Purchase, was the prize for which they strove,—the South to extend its system of slave labor to these regions, the North to restrain that system within existing limits and dedicate the future Territories and States to freedom.

The long contest was characterized by great intensity and ever increasing bitterness, with the single exception of the period of "finality" which followed the Compromise of 1850; then, indeed, it was temporarily lulled into an unquiet sleep,—a sleep rudely terminated by the introduction of Douglas's Nebraska Bill in 1854. Various efforts were made, at intervals throughout the course of the controversy, to settle it by postponement or compromise, and to some of these was due the origin and development of the constitutional doctrines and political policy which may be designated by the

*The different names by which the various forms of the Non-intervention doctrine were designated will be given and defined in the course of the study.

common name of Non-intervention.¹ To examine the character and trace the history of the political policy and the constitutional doctrines associated under this name, is the purpose of this study. Our first task will therefore be to set forth the conditions responsible for the origin of the Non-intervention policy,— the political environment which occasioned its birth. Our starting point must be the situation in National politics produced by the prospective acquisition of territory as a result of the Mexican War, and the consequent political struggle between the advocates and the opponents of slavery to extend that institution to, or to exclude it from, the new territory.

In order to orient ourselves properly in the situation it will be necessary to review briefly the political aspects of the contest with Mexico. The war was begun and conducted by a Democratic administration, and accordingly was regarded as a Democratic war. The measures of the administration, therefore, were nominally supported by the Democrats as a party. The Whigs were at heart opposed to the war. They felt that it had been begun in defiance both of justice and the Constitution. Before it began they denounced Polk's war policy as unjust and dishonorable.² But the clever tactics of the administration supporters in Congress, and the lack of moral backbone on the part of the Whig members, combined to force them, in spite of their opposition, to vote with their opponents for a declaration that the war had been caused by the aggression of Mexico. After Polk had pushed Taylor forward to the Rio Grande, a position where a conflict was inevitable, he sent his famous war message to Congress. This asserted that "war exists, and notwithstanding all our efforts to avoid it, exists by the act of Mexico herself."³ The Democratic majority in Congress prefixed this assertion as a preamble to the bill appropriating supplies for the support of Taylor and the American army.⁴ The maneuver put

¹Schurz, *Henry Clay*, IV, 287.

²Richardson, *Messages and Papers of the Presidents*, IV, 442.

³Act of May 11, 1846: *Globe*, 29 Cong. 1 Sess., 795.

the Whigs in a dilemma; on the one hand they must play into the hands of their opponents by voting in favor of the declaration that the war had been begun by act of Mexico; on the other they must incur the charge of refusing to support the American army in the face of the enemy. They bitterly resented the tactics that placed them in this predicament, but their desire for re-election proved stronger than their attachment to Whig principle. With the exception of two senators and fourteen representatives, all of them voted for the bill, with its preamble denounced by Clay, their great leader, as a "palpable falsehood." After the war had been thus begun the Whigs followed the policy of voting without opposition for whatever supplies the administration requested, in order to pose before the people as patriots and avoid the charge of attempting to cripple the government in the face of a foreign enemy. But at the same time they neglected no opportunity to belittle and discredit the war as an unrighteous, partisan enterprise.¹

From the beginning of the war there was a determination on Polk's part that it should result in the acquisition of Mexican territory by the United States.² The opponents of the administration believed that the President had forced on the outbreak of hostilities with this express result in view.³ We now know that the belief was justified and that this was one of four principal achievements, the accomplishment of which Polk had proposed to himself before his entrance upon the discharge of his executive duties.⁴ But whatever miscon-

¹Speech at Lexington, Ky., Nov. 13, 1847; printed in *National Era*, Dec. 2, 1847.

²Clay's Lexington speech of Nov. 13, 1847, which was regarded as his formal bid for the Presidential nomination at the hands of the Whigs, furnishes one illustration of this attitude. After enlarging upon the evils attendant upon a state of war, he proceeds to inquire as to the cause of the present one; in answer he demonstrates that the responsibility for it lies with the administration. He then proceeds to show that the action of the Whigs in opposing this war is not to be compared with the Federalist opposition to the War of 1812, since that war was a righteous one on the part of the United States, while the present war is one of treacherous aggression. ("This is no war of defence, but one unnecessary and of offensive aggression. It is Mexico that is defending her firesides, castles and her altars, not we . . .")—From Clay's speech, printed in the *National Era*, Dec. 2, 1847.)

He then shows that the Whigs are to be blamed, if at all, "for having lent too ready a facility" to the prosecution of the war, and for having voted for the war bill "with a palpable falsehood stamped upon its face," the reference being to the preamble, which declared in effect that the war was due to the aggression of Mexico.

³"The Treaty of Gaudalupe Hidalgo," *Am. Hist. Rev.*, X, 319; Reeves, *American Diplomacy Under Tyler and Polk*, Chap. XI.

⁴Schurz, *Henry Clay*, II, 290.

⁵Schouler, *Historical Briefs*, 139 sq.

ception as to the real cause of the war there may have been at the time of its declaration,—whether it existed “by act of Mexico,” as Polk and Congress united in asserting, or was “actuated by a spirit of rapacity and an inordinate desire for territorial aggrandizement,” as Clay and the Whigs contended.—Polk’s message to Congress on the 8th of August, 1846, left no longer any doubt of the intention of the administration to acquire Mexican territory as its result. In this message the President asserted his desire for a peace just and honorable to both parties. The chief obstacle to this, he said, would be the adjustment of a satisfactory boundary; in the determination of this “we ought to pay a fair equivalent for any cessions that may be made by Mexico.” He therefore asked Congress for an appropriation of \$2,000,000, to be used at his discretion in negotiating a treaty of peace. In these terms was broached the project of the “Two-million Bill,” which was to precipitate a contest famous in our Congressional annals.

This appropriation project was the result of no sudden resolve on the part of the administration. Its inception in Polk’s mind antedates by two months the outbreak of the war, and by almost five months the sending of his message to Congress.* The scheme had been submitted to the consideration of the Cabinet on March 28. On that date Polk stated to his advisers that he apprehended the greatest obstacle to the conclusion of a treaty of boundary such as Slidell, his envoy then in Mexico, had been instructed to procure,† would be the want of authority to make a prompt payment of money at the time of signing it. The government of Paredes was a military one, dependent on the support of the army under his command. It was known that this army was badly fed and clothed; that it was unpaid, and “might and probably would soon desert him.” If, therefore,

*Schurz, *Henry Clay*, II. 290. For similar disapproval by Clay of the preamble to this war bill, see his Lexington speech, No. 13, 1847, printed in the *National Era*, Dec. 2, 1847.

†*Globe*, 29 Cong. 1 Sess., 1211.

‡*Polk’s Diary*, March 25, 1846.

*This account of the proceedings in the Cabinet is taken from the Diary of March 28. The instructions to Slidell are indicated here; they are also stated in the article by Jesse S. Reeves on “The Treaty of Guadalupe Hidalgo,” in *Am. Hist. Rev.*, X, 311.

our minister could be authorized, upon the *signing* (the emphasis is Polk's own), of a treaty to pay down a half million or a million dollars, Paredes would thus be enabled to support his army and so maintain himself in power until the treaty could be ratified and the subsequent installments that might be stipulated could be paid by the United States. Thus, Polk was persuaded, the prompt payment of such a sum would probably induce Paredes to make a treaty "which he would not otherwise venture to make." In these views the Cabinet seemed to concur.¹

The question at once arose how an appropriation could be obtained from Congress without the disclosure of its object to the public and to foreign governments.² Buchanan, the Secretary of State, deemed this impracticable, but it was finally agreed by the Cabinet that Polk should consult Benton, Cass, and such other leading senators as he saw fit, upon the practicability of getting the appropriation quietly through the Senate. In case this were done it was thought the House would pass it also.³ The result of these interviews was that those consulted approved of the scheme and of Polk's suggestion that it would be best for the Senate to consider it in executive session first and then pass it in open house without debate.⁴ But the project was fated to meet with disappointment. Benton, Cass, and Allen all thought that the President should take Calhoun into his confidence in the matter.⁵ They reasoned that his consent would go far toward securing unanimous action by the Senate. If he should disapprove no harm would have been done, since in that case his opposition would have to be encountered in any event. Calhoun agreed, when Polk explained the project to

¹Polk had a further argument of the same purport. It was that the Mexican people would oppose any cession of territory, and no government would dare to make such unless assured of the support of the army; backed by this, it might safely defy public sentiment. The *sine qua non* of the army's allegiance was regular financial support. Since, in the event, contemplated the Mexican people would not supply this, the advance payment by the United States would be necessary to enable the government to weather the storm.

²This object was to procure a cession of New Mexico and California, if possible all north of latitude 32 degrees—from the Paso on the Del Norte—and west to the Pacific Ocean; or if this could not be obtained, then the next best boundary possible.—

³Polk's Diary, March 28, 1846.

⁴*Ibid.*

⁵*Ibid.*, March 30, 1846.