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EDITOR AND PROPRIETOR.

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From the National Intelligencer.

### Mr. Archer's Report.

From the Senate Committee on Foreign Relations, upon the Joint Resolutions from the House, for annexing Texas to the United States.

Unwilling that this decisive argument against the incorporation of foreign States with our own by any resort inferior to the treaty-making power, should fail to be anywhere examined through the distinction which may have to read any thing, of whatever merit or importance, unless in brief, we have taken the pains to make a close abstract of this report; so that its main points at least may reach even the reader who has the least time to spare for the consideration of such matters.

The report sets out with advertising to the deep interest and the wrong passions, political, party, and personal, which the measure has excited, not only through communities and masses, but even in those legislative bodies which only calmer affections should reach. With this excitement, produced by various and very extreme views of a mere expediency hardly offering itself anywhere in the same light, the committee hope not to be able directly to deal; they confine themselves to the legitimate question alone of the merits of the several schemes of annexation, of those of the plan set in from the House in particular, and of the constitutional possibility of thus effecting the object proposed.

The projects, are in the main, alike in the mode of action which they propose; they all assert that the power to annex a Foreign Territory and State, resides in this Government, and that it is through the ordinary legislative action that this power is to be exerted. This claim of power the report proceeds to examine, first, as to its existence at all; and, secondly, as to its extent, if existing.

In scrutinizing the former proposition, that this Government has the constitutional power to annex to it an independent foreign territory, the committee protest against the force of precedent as an argument. If there is precedent, that precedent may have been illegal and unwarrantable; or it may have expressly placed itself on the principle of necessity, the *salus populi*—a law overriding all human enactments and obligations. Of such cases the leading one is that of the acquisition of Louisiana by the Jefferson administration; of which the later purchase of Florida was but the sequel, avowed and intended from the first as its completion. As to these, the committee insist with great force that legal precedents cannot be made of them; they were distinctly admitted by Mr. Jefferson himself to be acts beyond the letter and the spirit of the Constitution, and to be dictated only by a law superior to it. To cure it, he proposed, first, an act of indemnity; and secondly, an alteration of the Constitution, that should permit the incorporation of Florida, which it could be effected. These facts strip those instances of all force as precedents, unless for that which needs no precedent, an act of overruling necessity.

To justify a like act, there must be a like necessity; and that would find its force, not in example, but in the occasion and its more than legal or constitutional validity. Self preservation demanded and legitimized the acquisition of Louisiana; but those acts can give no ultra-constitutional authority for what cannot exceed the same high necessity. Certainly, they who urge the present measure alike, among countless other things, a like necessity; but it is for them to prove its existence; and that with an adequate certainty, not by facts supposed merely, not to speak of those disproved.

As to deriving authority for this act from any more regular source, the school of strict constructionists, the high and severe interpreters of the Constitution, have always held that all the powers to be lawfully derived from that instrument for this Government, or any part of it, are found in a precise grant, forming a special sort of schedule in the Constitution itself. There are elsewhere in it the principal powers have each a name and definition. To be valid in its application, each power must answer to its name and definition there.

But the territory hitherto acquired has been obtained only through the treaty-making power; and hence that power has, until lately, come to be considered as sole in that faculty and of an unlimited extent.

Yet it was the opinion of Mr. Jefferson that to admit a power so unlimited was to render the Constitution a blank—a truth too evident to need expounding. Like all the other enumerated powers, this power must be limited by the objects for which it was granted. Under this right construction, it is far from being paramount: it is but subsidiary—the handmaid of the Constitution. Under this construction, there must even be some superior power to put the treaty-making power in motion; nor can the latter act, except on behalf of that superior power, and in subordination to it.

Within its own proper sphere, however, though limited as above shown, the treaty-making power is, by the Constitution, paramount to all others. That peculiar sphere is our foreign relations; and over their arrangement, of whatever nature, it has entire control. To ascertain whether or not a particular transaction belongs to this power, we have only to ask, "Is it foreign?"

We have seen that all the powers granted by the Constitution have attached to them express names, individual or generic—as "the treaty-making power," "the war power," "the revenue power," &c. The legitimacy, then, of any pretended power is easily tested by considering whether it answers to any of these names. Try "Annexation" thus: Is its name or its purpose expressed in the Constitution? Certainly not. Power is given to Congress to acquire from the state soil and sites for forts, &c. If there be power to do the like abroad through the same means, it must be for the same purposes only. Such acquisitions, when made, fall like all others, under the control of Congress; but it follows not, because it must govern what has been acquired, that it belongs to Congress to acquire. Besides the clause last alluded to, and that other excluded by Mr. Jefferson, there is none in the Constitution from which can be derived, except by the merest implication, a power like that sought to be exercised by the House of Representatives.

Since not deducible from these sources, can the proposed act answer to any of the names of powers conceded by the Constitution? It is a territory, a people, a state, that is to be acquired. Now, territory may be gotten by conquest, by purchase, or by voluntary cession. The right of conquest is inseparable from the right of war; and this Government therefore possesses it, in common with all others. Mere purchase, as we have seen, Mr. Jefferson held to be a power denied us, except under the law of necessity. A purchase might be made, a cession received, in the case of Florida or Louisiana, where it would avert an impending and certain war; for the war power must justify what is its only means of averting a war; and even the clause of "providing for the general welfare"—though abused by one party in a tedious and unbecoming manner, and reduced too much to nothing by the over-strict interpretation of the other—might well justify a power to do that which is truly necessary to the common, the federal (as opposed to the sectional) welfare. Such a power, used as in the case of Florida and Louisiana, is conservative, not unlimited—limited, not latitudinarian. In those cases, it tended directly to avert war and to cement the Union and Constitution.

What, then, is the department of the Government that can take this power, if to be exercised? Congress may declare war and furnish the means for carrying it on; but their powers end; it cannot declare who is to conduct it, or how it is to be prosecuted. Occupation of territory in war gives no title; that, the arrangements and terms of peace can alone confer. The surrender of the right to the territory can be procured only by the treaty-making power, and the legitimate acquisition must, therefore, be derived from that power alone. The same thing must be said of purchase or cession. These imply, necessarily, a contract between the sovereign alienating and the sovereign receiving; and that contract, conducted for them by their agents or commissioners in conference, is a treaty. This, then, is the only lawful avenue by which a foreign state or territory can be brought into this Union. If, under the question of voluntary cession, you include the case of a population, as well as a territory, then, since it has been already shown that a territory can in no manner be brought into the Union but through the agency of the treaty power, it follows that its population must be included within the same rule.

It is, then, only to be considered, further, whether population and territory, combined into a state—an independent body politic—can be, as such, incorporated into this Union by act of Congress?

To make such an act legitimate, even externally, Congress, if competent to it, should have evidences of an authentic purpose, on the side of the other party or people, which have not been afforded. It has been but assumed that Texas desires this union. We have not regularly asked, nor she in any positive form given, her assent. We expose ourselves, therefore, to all those charges of eager and reckless cupiditly which we have so often and loudly hurled against others.

A single line of the Constitution, "New States may be admitted by Congress," is con-

dered, in spite of all authority, the basis of this act. If to be thus interpreted, it overthrows all limits to construction, all bounds to this Confederacy. Either effect is a fundamental change of this Government; Congress may annex any and all foreign states whatever.

At the adoption of the Constitution we possessed, in wide and waste realms, all the scope which even imagination had then taken for the extension of our limits; and accordingly, in the repeated discussions of this clause, not one allusion occurs which intimates that such an effect from it entered into any man's conception.

The compact itself was a well-considered compromise between conflicting interests and sections. But the admission of an unlimited power, by an ordinary act of legislation, utterly to change the entire face of things, could never have been in the contemplation of those who, with such zealous care, settled that compromise, and provided such checks upon its change. The small states that submitted only with misgivings to the present plan, could surely never have agreed to one under which, by unknown and boundless occasions from abroad, their relative influence in the Confederacy would be utterly swallowed up.

By the Constitution foreign relations are entrusted to the Executive and two-thirds of the Senate; while to Congress is given the power to admit new states. Is it possible that the latter power should include the former? But if it be a foreign state that is to be admitted, then what but the departments alone empowered to treat with foreign states can settle and arrange the matter, or even receive or give the expression of a willingness to be united!

It is urged that this is a matter of the people's will, here and in Texas. But this is one of those things where, in our Government, the people collectively is not let in. The terms of the Confederacy entrust it to the decision of two-thirds of the states, through the Senate, and not to the voice of a majority of the people, if that were ascertained.

Yet more: we are one people only in certain respects; in others, we are but a body of independent states, equal partners under a common agreement. Of such an arrangement it is an inseparable condition that the parties cannot be changed, either by admission or exclusion but by the separate assent of each.

It is clear, then, that a foreign state, the very act of treating with which implies a resort to the treaty-making power, cannot be brought into the Union by act of Congress.

The report next passes to the special objections of great force which lie against the Joint Resolutions. But these, pressed for time and space, we cannot follow.

### A Romantic Story.

We find the following affecting and romantic sketch published under the head of Police Reports, in the Baltimore Republican of Thursday evening:

POVERTY.—A few days since, a poor, yet decently clad female, presented herself at one of our police offices, and requested the magistrate to send her to the Alms House. Her manner and language denoted that she had seen better days; and while she begged the officer to grant her request, the tears in rapid course trickled down her furrowed cheeks, and her sobs choked her utterance, as she tried to tell her mournful story. The officer, as in duty bound, asked her name, when she replied in a manner that brought tears from the eyes of those sturdy minions of law, whose hearts are necessarily steeled to pity and the finer feelings of the man.

"Ask me not my name," she cried, "let me bear in silence and unknown, the fate of innumerable providence has meant out to me; but let not aged parents, fond brothers and loving sisters, hear that I—that I have died the inmate of an Alms House, and the recipient of public charity."

"I will grant your desire, the magistrate replied; but if I know more about your history and circumstances, I might perhaps be of some benefit to you."

"I will tell what I dare tell, if you will believe that I speak the truth, and use your influence to obtain me some situation, in which I can but earn an honest living," was her impassioned answer.

The magistrate promised to do all he could for her, and alleviate her situation as much as possible.

"May Heaven bless you, sir!" she said, and told the following mournful and thrilling narration of suffering and perversity, commingled with sobs and the actual feelings of the woman.

"Two years ago, sir, I was happy and knew not what it was to want; my parents were rich, and owned one of the finest plantations in a Southern state: I was but young—not twenty, but I had my sisters, the sons of wealthy men, yet I loved them not—so one of the gaudy throng had as yet, made an impression on my heart. There was in the neighborhood, a poor, but manly youth, the teacher of our district school; he visited our house, and was treated with all the respect and attention that the other visitors received; and I—I, sir, fell in love with that man, and

it was reciprocated. My father soon discovered our secret, and forbade him ever to cross his threshold again. Need I say, sir, we met clandestinely and were married; we fled and took up our residence in this city. My husband, my William, taught an academy for a livelihood, and for eighteen months we were happy, but my husband was taken sick, and he—he—died! Yes—oh God! he died—and I was left alone among strangers. I wrote to my parents, asking their forgiveness—but my letter was returned unopened! My little means are exhausted, and I must starve, or—go to that refuge of poverty—the alms house; but it will not last long, the sands of my life are nearly run out, and I look for a refuge from this world's miseries in—my grave!"

She ended, and every eye present was wet with tears for her unhappy situation. One gentleman who was present, with that noble, generous, and manly feeling, so characteristic of nature's noblemen, came forward and offered her a home and asylum beneath his roof, which we need not add, was cheerfully and thankfully accepted, and she left the office with the prospect of better, if not happier days before her.

Thus it is in this world, misfortune darts place her ruthless hands upon victims of every grade; and the sons and daughters of luxury sometimes drink of the bitter dregs of the cup of penury and misery!

From the National Intelligencer, of Feb. 13.

### Breaking the Seal.

Yesterday was the day assigned by the joint resolution of both Houses of Congress, for the performance of the constitutional duty of opening and counting the votes for President and Vice President of the United States given by the Electoral Colleges of the several states.

In pursuance of that resolution, the House of Representatives, at a few minutes before 12 o'clock, suspended the business in which it was engaged, and prepared to receive into its Chamber, according to previous arrangement, the Senate of the United States. A table had been placed in the area before the Clerk's table for the accommodation of the recording officers of both bodies. The members, no longer in groups in the aisles and lobbies, or lounging over the last newspaper, were generally in their seats, and the silence of expectation gradually settled down on all present, as the finger of the dial pointed to the hour of noon. The doors of the hall were thrown open, and in a few moments the approach of the Senate was indicated by the appearance of their Sergeant-at-Arms, who was followed by the President and Secretary of the Senate, and then by the Senators, walking two by two; who took seats prepared for them in a double semicircle round about the area in front of the Clerk's table.

The President of the Senate having ascended to the Speaker's Chair, the Speaker of the House being seated on his left, stood, as did the members of the House, until the Senators were seated in order. The Tellers appointed by the two Houses (Mr. Walker, of the Senate, and Messrs. Kennedy, of Md., and Barke, of N. H., of the House) took their seats at the table of the Clerk, the Secretary of the Senate on their right, the Clerk of the House on their left hand; the chief Clerks of the House and the Senate being seated at the table below, the two Sergeants-at-Arms having seats on either side.

The scene had nothing of the pomp that would have blazoned upon the eye at a ceremonial of such consequence as Governmental difficulty organized from ours. Depending for its solemnity and its effect on the inherent grandeur of the act to be done, to one who regarded it with a philosophic eye it had a solemnity approaching the sublime. Who that reflected on the struggles, the tumult, the battles, and the blood, which have so often accompanied the acquisition of a disputed throne in the Old World—or, indeed, of a disputed sovereignty to the Governments of the New World—could look on this peaceful and unostentatious assembly, remembering the purpose which had called it together and the event which it was virtually to consummate, and not be deeply impressed by the happy expedient here first devised for securing the succession to supreme Executive power by a delegated expression of a Nation's Will!

The spectators were earnestly contemplated by an auditory as large as the limits of the galleries could by possibility contain. The ladies, never the last to catch a prevailing enthusiasm, or to gaze with interest on solemn public acts, had been pouring along every avenue, and climbing the endless multitude of steps by which they reach the narrow space allotted to them, an hour before; but the gallery called their could by no means contain all who struggled for seat or standing-room within its precincts; and those who arrived too late for those privileged places were fain to content themselves with the two nearest wings of the gentlemen's gallery, into which they seemed to have overflowed on either side. The position of this gallery, which runs round the whole semicircular boundary of the hall, was piled up in dark masses with eager, orderly, and attentive observers of what was transacting in the space below.

Considering the multitude assembled, an astonishing silence pervaded the hall, when Mr. Mangum, President of the Senate, rose and said that "the Senate and House of Representatives had met, according to the Constitution, for the purpose of counting the votes given by the Electors of the several states for President and Vice President of the United States;" and then, taking from the papers before him one of the sealed packages, broke the seals, opened it, and said: "I present to you, gentlemen Tellers, the votes of the Electors of the state of Maine, that they may be counted."

Mr. Walker then read aloud the Report of the proceedings of the Electors of that State, and the Clerks took down the numbers as they were announced.

In this manner the reports from all the states were gone through with; the Tellers relieving each other from time to time in the reading.

The process was necessarily rather heavy, and nothing but its great intrinsic importance prevented its being insufferably tedious, the result of each ballot being known so long beforehand. Yet a stranger, on witnessing the respectful and restrained attention of all present, might have almost supposed that the result was now made known for the first time.

The counting being at length finished, Mr. Walker rose and said: "The Tellers having counted the votes given for President and Vice President of the United States, have directed me to report the same to the President of the Senate."

The President of the Senate then, in a clear and firm voice, which reached every recess of the Hall, announced the result of the counting. After doing which he pronounced the Fiat of the people in the following terms: "I do therefore declare James K. Polk, of Tennessee, having received a majority of the whole number of electoral votes, to be duly elected President of the United States for the term of four years from the fourth day of March next." He made a similar announcement of the election of George M. Dallas, of Pennsylvania, as Vice President for the same term; and then added: "The business for which the two Houses convened having now been completed, the Senate will now return to its Chamber."

The members of the House rose in their places, and remained standing until the Senators retired from the Hall in the same order in which they had entered it.

The ceremony occupied just an hour and a half, and was conducted throughout with the most unbroken decorum, the final enunciation of the result not having elicited even a sound from the multitudes assembled through all the galleries, lobbies, and outer porches of the Hall. The House immediately adjourned; and, in a few minutes, the Hall was as still and empty as if the greatest ceremony, regarding its internal affairs, in which a great nation can be occupied, had not just passed within its walls.

Not Married Yet.

A FEMALE SONG—BY GEORGE S. WALKER.  
I'm single yet—I'm single yet!  
And years have flown since I came out!  
In vain I sigh—in vain I fret!  
Ye gods! what are the men about?  
I saw 'em twain—oh, ye powers!  
A spinster's lot is hard to bear—  
On earth alone to pass her hours,  
And afterwards to lead a—down there!

No offer yet—no offer yet!  
I'm puzzled quite to make it out;  
For every man my rap I see,  
What, what, what are the men about?  
They don't propose—they never propose,  
For fear, perhaps, I'd not say "yes!"  
Just let them try—for heaven knows  
I'm tired of single-blessedness.

Not married yet—not married yet—  
The dance is in the moon, I fear!  
Is like a—something to be let,  
And to be let alone—that's clear,  
They say "she's pretty—but no thank—  
And love without it runs in debt!"  
It agitates my nerves to think  
That I have had no offer yet!

### A Glimpse at the Supreme Judges.

WASHINGTON, Jan. 25th, 1846.

A short visit to the Supreme Court since my last, gratified my curiosity a while. Nothing strikes a visitor to the judicial department of the Capitol more forcibly than the air of quietude that prevails. So different is it from a Nisi Prius, Common Pleas or Criminal Bench. You look in vain for the Jury box—the witness stand—eager clients incessantly whispering in the advocate's ear, or accused prisoners. No question of "guilty or not guilty" is there heard. Few spectators are seen in the Court, unless there happens to be an argument of general interest, or a speaker of extraordinary celebrity, and even he must have an important and peculiar case to manage or his audience will be thin. There has been no very crowded Court since Webster and Binney measured dialectics last winter on the Girard Will Case. On a pleasant day, however, when squads of ladies, with their whiskered attendants, are moving about the Capitol, gliding from the House to the Senate Chamber and thence down to the Supreme Court room, which is under the Senate Chamber, the few combined seats are filled. Attention and politeness are here enjoyed by

law or custom. Servitors employed by the Government pay special attention to the ladies, always dressing them, if necessary, to seats, and never failing to clear the seats of the sterner sex, if they are wanted for the ladies. Now and then a colored servant waits here and there to anticipate the wants of the Judges, or open the door for visitors to pass out.

In the appearance of the gowned gentlemen on the bench, there is much dignity, without stiffness or constraint. If an acquaintance comes into Court, whether an official character or "one of the people," he receives a bow of recognition from the members on the bench, as if it were a sort of recognition to indulge a friendly emotion amid the severe labors of the law.

In the centre, in the chair of Jay, Ellsworth and Marshall, sits Tenney, a profound lawyer, it is said. Judge Tenney is tall and slender in form—stoop-shouldered, as one that has poured much over black letter, of a swarthy complexion, his head surmounted with an uncomfortable web of tangled black hair, and the usual organ liberally supplied, and painfully oppressed with rapier. On his right may be seen the shorter person of Judge Story, (a story at least shorter in stature,) with a literary face, a classical air and eminent judicial qualifications. He is the oldest Judge on the bench, the pride of Massachusetts, and an honor to his country. No observer can fail to be favorably impressed with his appearance. On the left of the Chief Justice is seen the manly form of M'Lean, of Ohio, who is remarkable for the graceful erectness of his position, while in his open face and expansive brow you read the lines of intelligence, that truly reflect the inward mind. A mirror is that large and expressive eye, which does not deceive. He is a man of surprising intellectual energy, and deemed to be President of the Republic. Indefatigable integrity is a prominent constituent of his moral composition. On the right of Story may be found the Georgia Judge—Wayne—a genteel looking man, with easy Southern manners, and is also the smallest of the judicial assemblage. He seems less intended for a Judge than for a convivial banterer, and one cannot help wishing him a paler face and sorer brow, more scantily covering with hair, which if ever combed back in its luxuriance, would much improve the general expression of his face. I understand him to be a man of very respectable abilities.

Next to him sits Catron, of Tennessee, whom the Yankees would call a chunky man, presenting nothing striking in his aspect, but seeming to bend laboriously to the duties of his arduous profession. The remaining justices are McKinley, of Alabama, and Daniel, of Virginia, who are not considered, I believe, to have attained a very exalted height in the temple of justice, though they plod along in excellent company, and no doubt are well thought of by their personal friends.—*Car. of Journal of Commerce.*

Mr. Polk in Louisville.

Mr. Polk arrived in this city yesterday, in the midst of a most furious snow storm. We suppose the snow was in honor of that important event. We are sorry that the President elect should encounter storms on his way to Washington city as the poor man is likely to have quite enough of them to encounter after his arrival there.

The military, we believe, meant to stand up to their duty as manfully as they could, but, in consequence of the snow, they all "showed the white feather."—*Louisville Jour.*

### MR. POLK'S DEPARTURE.

Yesterday was a proud day for the city of the Falls—the side walks being very slippery, the falls were more numerous than usual. In compliment to the occasion the sun got up very early—earlier by a minute or so, than he has done for several weeks. Immediately after getting up, he illuminated the sky at his own expense, and continued to shine during the entire ceremony of which we are about to speak. At a very early hour (it being market morning) a vast concourse of our most substantial citizens might have been seen busily engaged buying meat and provisions to provide for the meeting to take place at the moment of dinner. At half past nine, breakfast having been discussed, there was visible on 4th street, near Walker's, a cutless (not a cutlet) in a splendid black leather scabbard, attached by a belt and chains to a blue uniform, worsted epaulettes, and a military cap. As this warlike apparatus seemed in a great hurry, considerable excitement was produced, and two negro boys stopped work to look at it—one declaring it was the procession, and the other "spinning" his pistol out at the Mexican army hunting after James Catron; they were both wrong. It proved an empty to be a part of the contemplated procession looking to see if lunch was ready. This having disappeared (not the lunch but the apparatus,) the excitement was allayed, and the negroes returned to their labors.

At half past 10 the city was musical with the sound of drums and other inspiring instruments; the military were formed, and, after marching up one street, marched down another, and up and down one or two more, being, evidently, under the command of their officers. The marching was excellent taking