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# The North Carolinian.

"CHARACTER IS AS IMPORTANT TO STATES AS IT IS TO INDIVIDUALS; AND THE GLORY OF THE STATE IS THE COMMON PROPERTY OF ITS CITIZENS."

BY WM. H. BAYNE.

FAYETTEVILLE, N. C., SEPTEMBER 7, 1850.

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## NORTH CAROLINIAN.

Wm. H. Bayne, Editor and Proprietor.

FAYETTEVILLE, N. C.

SEPTEMBER 7, 1850.

Mr. Cass, in reply to a letter from Gen. Garibaldi, the Italian hero who has reached this country, expresses his (C's) high appreciation of Garibaldi's efforts in the cause of freedom in Italy.

An intended insurrection of 4 or 500 slaves was detected week before last, in Lowndes county, Ala., instigated by several white abolitionists. A large number of the negroes will probably be hung, and the abolitionists too, if they are caught. Hot pursuit was on their trail. The nearest tree will be a good gallows.

CASE OF LACTATION IN A MALE.—C. W. Horner, M. D. of Philadelphia, furnishes the following particulars of the case of lactation in an adult male. It occurred in the person of an athletic American, named Charles Collins, aged 22 years, a blacksmith working at his trade in New York. About the 10th of February last, his attention was first drawn to his left breast, which appeared to be enlarging, and continued to increase in size for three weeks, when he came to Philadelphia. After being in this city for about three weeks he became quite anxious in regard to his condition, for although he suffered very little pain, the mamma had become quite as large as that of a female nursing. He, therefore, through the persuasion of an aunt, was, on the 22d of March, induced to apply at the Clinic of the Jefferson Medical College, to consult the faculty of that Institution. His case came up before Prof. Mutter, who, upon examination, found the mammary gland largely developed, and filled with the lactical secretion, which differed in no wise from that of a mother. He could assign no cause for his freak of nature; his health was very good, and the other breast natural. A soap plaster was prescribed and compression ordered to be kept up, which he persisted in for full six weeks, when the gland returned to its usual size; and when I saw him this morning at Fairmount, where he now resides, it was in every respect like the other.

## SPEECH OF

HON. WM. S. ASHE,

On President Fillmore's Texas message—delivered in the U. S. House of Representatives on the 15th of August, 1850.

Mr. Ashe said: Mr. Chairman, it is as fortunate for the acting President, as it is unfortunate for the country, that his late communication to Congress on the subject of our difficulties with the State of Texas, is possessed of a close and powerful affinity with that agitating subject which has been well described as a "whirling vortex," engulfing every consideration of public business and public convenience. Its influence is so paramount, so controlling, that I believe it is only when we are called on to mourn for the loss of some of our companions that we enjoy a respite from its contagion. I intend no censorious reflections by these remarks. No, sir, I am ready to acknowledge my full share of the censure, if any should be deserved. My constituents have their rights under the constitution, and a sense of duty to them has compelled me to use all the means which either the constitution or the rules of business place in my hands for their protection. This policy has been denounced as revolutionary; if it is, it is yet bloodless, and being bloodless, it is far preferable to a sectional strife, to a civil war. It is a sort of revolution, the consummation of which involves not the destruction of American liberty. It is a quiet, peaceful remedy. I have indulged in this episode, in order to exonerate myself from any censure which the unrelenting might be disposed to cast on my conduct. I will now come to the consideration of the President's message, and reiterate that it is fortunate for him and unfortunate for the country that it is possessed of an affinity with the great and leading subject of Congressional agitation. Sir, it is this affinity which shields this communication, as a protecting ægis, from that burst of indignation which its high-toned federal character so richly demands.

It was remarked in my presence, a few days since, by a friend of the present dynasty, "that now our country would be blessed with a homogeneous whig administration." If by the term whig, federal was meant, the remark was superfluous, as this message but too clearly shows the earmarks of a federal dynasty. The arrogation of undelegated authority has invariably distinguished the course of that party. It has never been in power, "however ephemeral," but that it encroached upon the constitution. I will not detain the committee by an enumeration of its misdeeds in this respect, but will proceed to examine the reasons which the President informs us induced him, in a time of the most profound peace, at a time when the Congress of the U. States, "the war-declaring power," was in session, to declare

and establish the military authority as paramount to the civil authority; to declare to a sovereign State of this Union, that if she attempted to execute her civil process in territory which she claims as her property, and a portion of which she has in her possession, he would oppose any such attempt by the use of the military authority of the U. S. This is the sum and substance of the President's reply to the Governor of Texas. The democracy of our country has always maintained the subordination of the military to the civil authority as one of the inestimable blessings of constitutional liberty; and so strongly has this sentiment seized on the public mind, that to assert the contrary I would have supposed required more boldness, more recklessness of popular feeling than has fallen to the lot of any of our modern politicians; but in this supposition I have been mistaken. Our acting President has most boldly enounced the military dogma "inter arma leges silent."

Sir, I would be deaf to the voice of all history if my mind did not entertain a full conception of the allurement of war on the imagination of the chief executive of a great nation. Success in the field is the never-failing stepping-stone to ambitious aggrandizement. The patronage connected with its prosecution is grateful to the human heart, and indeed all those passions which influence us in life's career, find then and there a free scope for their unbridled indulgence. Sir, a state of war strews the path of the ambitious with strong and irresistible temptations. These reflections have deeply impressed on me the truth of an observation made by Mr. Madison: "That the highest praise you can pronounce on an executive officer, is, that he is the friend of peace." The same distinguished statesman likewise informs us: "That if a free people be a wise people, they will ever bear in mind that their dangers can never be so great as when the advocates of the prerogatives of war can sheathe them in the symbol of peace." Sir, I greatly apprehend that this is the source of our present danger. The President makes a manifestation of peace, but accompanies it with a declaration of war. War is made to wear the symbol of peace. But as I am not disposed to cast uncalculated censure on him, let us examine the facts.

As I understand the position assumed by the President, it may be thus stated: By the constitution of the U. S. it is made the duty of the President to have the laws of the Union faithfully executed; and as by the second section of the sixth article of the same instrument, the constitution and the treaties made in pursuance thereof, are declared to be the supreme law of the land, they, he assumes, are to be executed through his agency. This position being assumed as correct, the President, conceiving that by the treaty of Hidalgo we stipulated to extend to the residents of our newly-acquired territories protection of life, liberty, and property, it becomes his duty as the executor of these treaty stipulations, to resist any interference made with their rights by the authorities of the State of Texas. I have endeavored fairly and justly; now let us examine the consequences he would deduce from it as it regards his responsibility. Is it true that the President is bound to execute the stipulations of treaties, independent of any action of Congress giving him power to do so? On the contrary, is not such congressional action indispensable to give force and vitality to such stipulations? Treaties are the emanations of the executive power. The Senate in giving or withholding its assent to treaties, acts "quo ad hoc," not as a legislative, but as an executive council. And now, if the President is correct, there would necessarily ensue a total abrogation of the legislative department of Government. A few examples will illustrate this. By the treaty already alluded to, our government is required to pay to Mexico such an amount of money in annual instalments. In case of the delinquency of Congress to make an appropriation of money for this purpose, would the President deem himself authorized to draw the money from the Treasury without a previous law empowering him to do so, or to divert funds from any other source in order to preserve the treaty inviolate?

According to the opinions avowed in this communication, the President would not merely have a right, but it would be his duty, to raise the necessary funds from one or the other of these expedients. Again: By the treaty of 1842, with Great Britain, it is stated that criminals shall be surrendered by the authorities of one government to that of the other. In case Congress should have failed to authorize by law the execution of this article, could the President have assumed the right to execute it by his own power? Was not that article a dead letter until Congress authorized its execution?

I will cite but another instance from treaty stipulations, showing the absurdity of the President's views. By the ninth article of the treaty of Hidalgo, (the very article which the President cites as authority for his action,) an equal participation in the right of government is secured to such Mexican citizens as may elect to abide under our government. This is one of the stipulations of the treaty which the President has declared his determination to execute by the aid, if necessary, of the military authority of the United States. Now, sir, the American residents of Cali-

fornia, under the advice and direction of the late President, assembled into a mock convention, with the view of organizing a State government, and formed a constitution. The second article of that constitution prescribes the qualifications of electors; and in doing so, indisputably deprives three-fourths of the Mexican citizens of all participation in the elective franchise. Here we have perpetrated an express and positive abrogation of the high and inestimable right of denization; yet do we hear of any complaints against this aggression from the Executive? On the contrary, do we not find the free-soil friends of the President contending for a confirmation of this act of the convention by the Congress of the United States? Has it ever been intimated that the President of the United States would refuse his sanction to a law of Congress legitimizing and confirming this invidious discrimination against the treaty rights of the native Californians? No, sir; notwithstanding the President has informed us of his determination to support, by the military authority, the full enjoyment on the part of the Mexican citizens of all civil and political rights, yet we find him tamely, quietly, and submissively approving of this constitutional restriction, or rather disfranchisement.

But, Mr. Chairman, it is not only treaties, but the Constitution is declared to be the supreme law of the land, in addition to the President's obligation to execute the laws, he has taken a solemn oath to protect and defend the Constitution. If then, his views are correct, the consequence is inevitable, that he must execute all the provisions of the Constitution. The second section of the fourth article provides for the reclamation of fugitive slaves. The language of this section is express and decided. Would the President consider it as his duty to call out the military authority to execute this provision of the Constitution, without the intervention of an act of Congress authorizing him to do so? By the same section of the same article, fugitives from justice are to be surrendered on demand; yet this provision was found impossible of execution, until Congress, by its action, gave it life and force. If President Washington, even with the aid and counsel of Knox and Hamilton, could have conceived it was his constitutional duty to execute this provision, he never would have recommended to Congress the necessity of the law of 1793, authorizing the execution of these sections. Wherever the Constitution has imposed a duty on the President, the legislative department of our Government has always been called on to pass necessary laws to enable him to discharge those duties. And the great error of the acting President is in supposing that, in the absence of such laws, he is at liberty to supply the omission.

But, Mr. Chairman, the arrogation of such authority by the President, is not the only objection to his policy, as shadowed forth in this communication. As I have read it, as I understand it, the President of the United States undertakes, by his "ipse dixit," backed by the strong arm of Government, to prescribe territorial limits to a sovereign State. Sir, more than that, he undertakes to dismember a sovereign State, to cut, slash, and divide her at his pleasure. He cites from the treaty of Hidalgo the article which establishes the boundary, the line of demarcation between the U. S. and Mexico. What is that line? This line, the President informs us, commences at the mouth of the Rio Grande, and follows the deepest channel of that river until it intersects the southern boundary of New Mexico; then it assumes a westerly direction to the river Gila, and thence to the Pacific. This is the line as described by the treaty, and as quoted by the President, and in connection with it he hesitates not to declare, that all the country lying east and north of this line belongs to the United States—is the property of the United States. I will not do the President the injustice to suppose that he intended to include in this description the whole of the State of Texas. Yet, under the claim as made by the United States, every foot of the territory lying east of the Rio Grande. The President has failed to intimate what boundary he will, by the force of the military power, establish between Texas and the United States; but as a portion of his friends have always insisted upon the Nueces as the western limit of Texas, this, doubtless, will be his ultimatum.

Now, Mr. Chairman, is it not well known that for months and months before the breaking out of the war with Mexico, that all of this country was represented in this House by the predecessor of my honorable friend who sits before me? Is it not well known—was it not known to the President, before the commencement of the war, that we constructed forts, established post offices and post roads, and located collection districts throughout the whole of that country lying between the Nueces and the Rio Grande?

But if these facts should not have removed all doubt from the President's mind, the letters of his illustrious predecessor, Gen. Taylor—letters written during the time of his military adjourn in this country—should have afforded him relief. I have before me all those official communications, and they each bear the significant superscription of having been written in the country which was, in his estimation, to be recognized as Texas.

I presume not, Mr. Chairman, to determine how far this message may be the reflection of the judgment of the President's Cabinet advisers, but I think I have before me record evidence to show that their judgment could not have been harmonious. When the bill declaring that a state of war existed between the United States and Mexico went from this House to the Senate, it there met with warm opposition, much discussion was elicited, and much information was, of course, adduced respecting the validity of the Texan title; yet, with all this information before them, a large majority of the Whig members, including two of the former and three of the present Cabinet, did not hesitate that this was American ground. I refer to the amendment to the bill offered by Mr. Clayton, which I will read.

Yet in the face of this accumulated evidence, we are informed by the President that this country, so lying east of the Rio Grande, is not the property of Texas, but is the property of the United States. This is the strict, the literal reading of this most unfortunate communication; and if it is not its true meaning, the ambiguity rests not on the language, but on the intent. But indulging towards him the most kindly feelings, I am willing to suppose that in reality the President intends to confine his demonstrations of hostility to any interference with Texas with New Mexico. He attempts to justify his position, by assuming that at the commencement of the Mexican war, President Polk took forcible possession of this country, and that the treaty of Hidalgo had confirmed and made good that possession. That the treaty, in legal language, joined title to possession, and as it has been in possession of the U. States ever since, he is not now at liberty to regard it otherwise than as our property. This is a syllogistic mode of reasoning, which would answer a very good purpose if the premises were correct, but unfortunately they are not correct. Gen. Kearny, under the directions of President Polk, did take military possession of that country; but was not this possession intended to be for the benefit of Texas? In answer to a demand by the Governor of Texas, did not President Polk distinctly admit that it was merely a military possession growing out of the necessities of the war, and not intended, in the least degree, as opposing the claim of Texas? And furthermore, did not Mr. Polk, through his Secretary Gov. Marcy, particularly order and instruct that the military authority, while in possession of that country, should act in subordination to the civil authority of Texas—aiding and assisting in its establishment? These facts are indisputable; and as the acting President had the evidence of these facts before him, I can but consider it as disingenuous for him to have attempted to deduce the authority of President Polk to sustain his position, when that authority, if accompanied with the appropriate explanations, would have been in direct opposition to his policy. Sir, no aid or countenance can be derived from anything which occurred under Mr. Polk's administration for maintaining the position that this our bare military possession gave to us an initiatory title to that country. It is a well-established legal principle, that the possession of land or other property is governed and controlled by the *quo animo* of the possessor. This act of possession was perfected by Gen. Kearny. I have before me his proclamation explaining its character. I will read it:

Alcalde and people of New Mexico: I have come amongst you by the orders of my government to take possession of your country, and extend over it the laws of the United States. We consider and have for some time considered it, a part of the territory of the U. States; &c.

Here is a distinct admission by General Kearny, that we claimed the country—that we took possession of it under a color of title. What title could he have referred to? It must have been the title of Texas. We had no claim or right, no pretence of any claim or right independent and exclusive of the title of Texas. But it has been contended in defence of the President, that Mr. Polk was but an executive officer, and that his opinions could not be conclusive upon the judgment of a subsequent President. Without entering into an argument on this point, I will observe that the President takes shelter under no such plea, but, on the contrary, invokes the acts of President Polk as affording to him justification. It is on the military possession consummated by order of President Polk, that President Fillmore relies for title; and we admit the fact of possession, but contend that that possession shall be subject to such explanations as accompanying circumstances evolve.

The futility of the attempt made by the President to justify his contemplated step, by the force of the act of 1793, in conjunction with the act of 1807, has been so clearly demonstrated by the honorable gentleman from Georgia, [Mr. Stephens,] that it is unnecessary for me to say anything in addition. As he well and truly remarked, these acts contemplate an obstruction to the judicial process and repulsion of a foreign invasion, as the proper occasions on which the President should be authorized to call in use the military authority. We have at present no foreign invasion; we have as yet in that country no judicial process to execute, and hence an obstruction to its execution there, is an impossibility. No law of Congress has as yet been passed affecting in anywise the interests of these people; and under

this state of facts, no collision between the laws of Texas and the laws of the United States could possibly occur. But as on this point the friends of the President have taken issue, and maintain that our treaty stipulations are tantamount to congressional laws, let me bring to the attention of the House the joint resolution for the annexation of Texas, which is undoubtedly possessed of the judicial cogency of a treaty. I do not refer to these resolutions now with the purpose of establishing and making good the title in Texas, but for another purpose much more to the point. I maintain that these resolutions contemplate a division of all territory east of the Rio Grande into four new States, which States are to be established with the consent of Texas; and it is further contemplated that these new States, when so established, by and with the consent of Texas, shall be admitted as sisters of the great American confederation. These resolutions do not indeed partake of the force of a civil ordinance, but most assuredly should be entitled to the respectful consideration of the President of the U. States; and I am much surprised that when the President and this Cabinet were in deep consultation on the subject of their duty, as it regards New Mexico, they had not at least given to these resolutions a passing notice. I am greatly surprised that it never entered into the conception of the Cabinet, that as State governments were to be established in this country with the consent of Texas, it was the duty of the Executive rather to have upheld than to have opposed the ultimate consummation of these measures under the direction of her Government. This law, the highest, the greatest, the supreme law of the land, empowers Texas to establish a State government over this country. The President of the United States, as soon as she makes the first demonstration of her intent to fulfill the law, to execute the purposes of the high and solemn compact, steps forward, puts himself astride of her path, and issues his pronouncement that he will resist any fulfillment of the law effected by Texas, with the whole military authority of the United States. Who in this case is the real obstructor of the law—that party which makes the attempt, takes the initiatory step to execute the law, to fulfill the purposes of the compact; or on the contrary, that which obstructs and prohibits the execution of the law?

Sir, I charge the president as being the actual, the real violator of the law, and that by the arrogation of authority not vested in him by the Constitution or the laws, and therefore unwarrantably usurped. Sir, if the peace of the country is destroyed—if the lurid light of a civil conflagration illumine our happy and prosperous land, the President is the Sylla, on whose head the parriocidal crime will rest. He may indeed, like his great Roman prototype, flatter himself that "it is only a few rebels that he is punishing," but his experience, the direful experience of his country, will but too fearfully attest his mistake.

On a former occasion I stated that a contention between Texas and the United States would inevitably involve the two great antagonistic interests—North and South. Could any southern State contemplate in peace and quiet the issue of such a struggle? Would not the subjugation of the State of Texas be the prologue of their own destinies?—Let us suppose for a moment "the deed done," and what would be the relative situation of affairs? The subjugation of a state must be accompanied with a destruction of its republican existence. It could no longer be considered as a sovereign State, but must occupy the position of a conquered territory; and what would be the fate of Texas to day, "according to the principles set forth and arrogated in this communication," might be the doom of any other State of the Union to-morrow. If the President can, without the action of Congress, determine upon a *casus belli*—if it is in his power to prescribe the appropriate orbit in which a State is to move, and to punish any deviation from that circle of motion by the force of the military authority of the Union, what other attribute does he require—would he stand in need of, to establish a consolidated despotism? Understand me, Mr. Chairman, I impute not to the President any such treasonable design; but it is my object to hold up to public reprobation the principles avowed in this communication. It is my duty to do so, sir. There is much truth in the aphorism, "that the price of liberty is eternal vigilance." Republics, in this enlightened age, have nothing to fear from open aggression; but it is the insidious approach of despotism, under the color of law and authority, that should arouse the patriot from his slumbers.

I am well aware that an attempt has been made to justify the tenor of this message by comparing it with the proclamation of Gen. Jackson; and this attempt should impress upon our minds the great and lively necessity of condemning the promulgation by those in authority of impolitic and anti-republican principles at all times, and under all circumstances. However well meant that proclamation of Gen. Jackson may have been, yet it contains principles so anti-republican that, if they should ever be adopted and legitimated by the usage of our Government, the destruction of our republican institutions must necessarily ensue. But however obnoxious in my estimation, some of the principles of that

proclamation may have been, yet you will not find there the assumption of any such authority as now claimed by the executive of the country. What were the circumstances which elicited that proclamation?

The sovereign people of South Carolina, regularly assembled in convention, not only declared the laws of the United States null and void, but adopted the necessary measures to resist their execution. Among these measures was one effecting a total obstruction of the judicial authority of the United States. These heavy pains and penalties were to be enforced against all of her citizens who might assist in the execution of the judicial process. This was the attitude which the sovereign State of South Carolina occupied, and it was under the heavy sense of danger then threatening our Government, then Andrew Jackson issued his proclamation. Sir, is there any, even the faintest, resemblance between the circumstances of that momentous period and those which now surround us? Has the State of Texas attempted to obstruct the judicial process of the United States, or to arrest the execution of any of its laws? No, sir; the President himself informs us that she is but engaged in the establishment of a civil government. She is really and actually making an effort to execute an existing law—the law of annexation; and if the infringement of any right of the United States should be involved, she has refused no submission to the judicial authority. No, sir; it is the President who has taken this step—it is the President on whom the responsibility must rest of avoiding judicial progress. The President's *casus belli* will illustrate the truth of this charge. He has declared that if the State of Texas shall attempt to punish any of those citizens of New Mexico who have resisted the establishment of her civil government, he will employ the military authority of the United States to prevent it. Now, sir, this punishment is contemplated to be a legal, to be a judicial punishment; and we all must be aware, that if any civil law, or any treaty stipulations should be violated in the process of trial at law, a clear, ready, and unequivocal redress can be obtained at the hands of the Supreme Federal Court, either by appeal or writ of error. It is this judicial determination by the Supreme Court which the President, by the use of military authority, would prevent.—What was General Jackson's deep solitude to sustain and uphold, it is the President's policy to intercept and frustrate.

But, Mr. Chairman, let us compare the conduct of President Jackson and President Fillmore a little further. The former, in the pressing emergency stated, expressly refused to use the military authority during the session of Congress, and respectfully invited Congress to invest him with that power. President Fillmore, under the operation of the same law, not only claims the legal right and declares his determination to use, the military authority while Congress is in session, and at the very time Congress is engaged in an earnest effort to remove the difficulty, "to pour the oil of peace upon the troubled waters." The conduct of the former is a high and noble illustration of a warrior statesman, who, most deeply impressed with the dangers of the crisis, threw himself upon the wisdom of Congress for counsel and advice.

The latter, blind as it were to the consequences of intestine war, invites not the action of Congress—awaits not its action, but boldly declares his determination to pursue the dictates of his own judgement at all hazards—at all risks. Indeed, we have fallen upon evil times; on every side the lowering clouds most fearfully betoken the perils of the crisis. The most cool and and consummate prudence is required on our part to preserve the noble vessel of State from destruction. Its destiny is in our hands, and, as patriot statesmen, let us lay aside all bickering, all sectional strife, and approach the great work with a determination to do our duty—our whole duty.

THE PRESIDENCY—A Volunteer.—Capt Alden Partridge, so well known for his Military Schools or Colleges, and who for a few years was Principal of the Military Academy in this city, we see it stated, has issued a Circular, offering himself as an Independent candidate for the Presidency. He is a radical democrat. The Captain was very popular as an Instructor, at one time; but we have not heard much about him of late years.—He has a perfect right to propose himself as a candidate—and people that chose, may vote for him—but although a man of great talent, and a man of an iron constitution that would stand all the care and worry and vexations of the Presidency—yet his position has been too retired to render his chance worth much. If he could only get into Congress, where his talents would not be hid, there might be some chance for him. But as it is, it is a hopeless one.—Middleton Sentinel.

The new three cent pieces recently issued at the Philadelphia Mint, have on one side the words "United States of America," in which a circular wreath, enclosing the numeral "III." On the reverse side is the Liberty Cap, inscribed with the word "Liberty," and surrounded with the rays. Underneath the cap are the figures "1850."

Mrs. Mowatt has been restored to perfect health at Dr. Wilson's Water-cure establishment at Melvern, England. Her disease was consumption.