

The Charlotte Journal.

"Perpetual Vigilance is the Price of Liberty," for "Power is always Stealing from the Many to the Few."

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T. J. HOLTON,
EDITOR AND PROPRIETOR.

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The United States and Texas.

Message of the President of the U. States in relation to the boundary of Texas.

WASHINGTON, August 6, 1850.

To the Senate and House of Representatives.

I herewith transmit to the two Houses of Congress a letter from His Excellency the Governor of Texas, dated on the 14th day of June last, addressed to the late President of the United States, and having been answered by the late President on his death; and I also transmit a copy of the answer which I have felt it to be my duty to cause to be made to that communication.

Congress will perceive that the Governor of Texas officially states that, by authority of the Legislature of that State, he dispatched a Special Commissioner, with full power and instructions to extend the civil jurisdiction of the State over the unorganized counties of El Paso, Worth, Presidio, and Santa Fe, situated on its northwestern limits.

He proceeds to say that the Commissioner had reported to him, in an official form, that the military officers employed in the service of the United States, stationed at Santa Fe, interposed adversely, with the inhabitants, to the fulfilment of his object, in favor of the establishment of a separate State Government east of the Rio Grande, and within the rightful limits of the State of Texas. The four counties which Texas thus proposes to establish and organize, as being within her own jurisdiction, extend over the whole of the territory east of the Rio Grande, which has heretofore been regarded as an essential and integral part of the Department of New Mexico, and actually governed and possessed by her people, until conquered and severed from the Republic of Mexico by the American arms.

The Legislature of Texas has been called together by her Governor, for the purpose, as is understood, of maintaining her claim to the territory east of the Rio Grande, and of establishing over it her own laws by force.

These proceedings of Texas may well arrest the attention of all branches of the Government of the United States; and I reject that they occur while the Congress is yet in session. It is, I fear, far from being impossible that, in consequence of these proceedings of Texas, a crisis may be brought on which shall summon the two Houses of Congress, and still more emphatically the Executive Government, to an immediate readiness for the performance of their respective duties.

By the Constitution of the United States, the President is constituted Commander-in-chief of the Army and Navy; and of the militia of the several States, when called into the actual service of the United States.—The Constitution declares also that he shall take care that the laws be faithfully executed, and that he shall, from time to time, give to the Congress information of the state of the Union.

Congress has power, by the Constitution, to provide for calling forth the militia to execute the laws of the Union; and suitable and appropriate acts of Congress have been passed, as well for providing for calling forth the militia, as for placing other suitable and efficient means in the hands of the President to enable him to discharge the constitutional functions of his office.

The section of the act of the 28th February, 1795, declares that whenever the laws of the United States shall be opposed, or their execution obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or the power vested in the marshals, the President may call forth the militia, so far as may be necessary to suppress such combinations, and to cause the laws to be duly executed.

By the act of March 31, 1807, it is provided that, in all cases of obstruction to the laws, either of the United States, or any individual State or Territory, where it is lawful for the President to call forth the militia for the purpose of causing the laws to be duly executed, it shall be lawful for him to employ, for the same purposes, such part of the land or naval force of the United States as shall be judged necessary.

These several enactments are now in full force; so that if the laws of the United States are opposed or obstructed, in any State or Territory, by combinations too powerful to be suppressed by the judicial or civil authorities, it becomes a case in which it is the duty of the President either to call out the militia or to employ the military and naval force of the United States; or to do both, if in his judgment the exigency of the occasion shall so require, for the purpose of suppressing such combinations. The constitutional duty of the President is plain and peremptory, and the authority vested in him by law for its performance clear and ample.

Texas is a State, authorized to maintain her own laws, so far as they are not repugnant to the constitution, laws, and treaties of the United States; to suppress insurrections against her authority, and to punish those who may commit treason against the State, according to the forms provided by her own constitution, and her own laws. But all this power is local, and confined entirely within the limits of Texas herself. She can possibly confer no authority which can be lawfully exercised beyond her own boundaries. All this is plain, and hardly needs argument or elucidation. If Texas militia, therefore, march into any one of the other States, or into any Territory of the United States, there to execute or enforce any law of Texas, they become at that moment trespassers; they are no longer under the protection of

any lawful authority, and are to be regarded more as intruders; and if, within such State or Territory, they obstruct any law of the United States, either by power of arms or mere power of numbers, constituting such a combination as is too powerful to be suppressed by the civil authority, the President of the United States has no option left to him, but is bound to obey the solemn injunction of the Constitution, and exercise the high powers vested in him by that instrument and by the acts of Congress.

Or if any civil posse, armed or unarmed, enter into any Territory of the United States, with intent to seize individuals to be carried elsewhere for trial, for alleged offences, and this posse be too powerful to be resisted by the local civil authorities, such seizure or attempt to seize is to be prevented or resisted by the authority of the United States.

The grave and important question now arises, whether there be in the Territory of New Mexico any existing law of the United States, opposition to which, or the obstruction of which, would constitute a case calling for the interposition of the authority vested in the President.

The Constitution of the United States declares that "this constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land." If, therefore, New Mexico be a Territory of the United States, and if any treaty stipulation be in force therein, such treaty stipulation is the supreme law of the land, and is to be maintained and upheld accordingly.

In the letter to the Governor of Texas my reasons are given for believing that New Mexico is now a Territory of the United States, with the same extent and the same boundaries which belonged to it while in the actual possession of the Republic of Mexico, and before the late war. In the early part of that war both California and New Mexico were conquered by the arms of the United States, and were in the military possession of the United States at the date of the treaty of peace. By that treaty the title by conquest was confirmed, and these Territories, Provinces, or Departments separated from Mexico forever; and by the same treaty certain important rights and securities were solemnly guaranteed to the inhabitants residing therein.

By the fifth article of the treaty it is declared that

"The boundary line between the two republics shall commence in the Gulf of Mexico three leagues from land, opposite the mouth of the Rio Grande, otherwise called the Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch, emptying directly into the sea; from thence, up the middle of that river, following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico; thence westwardly, along the whole southern boundary of New Mexico, (which runs north of the town called Paso) to its western termination; thence northward, along the western line of New Mexico until it intersects the first branch of the river Gila; (or if it should not intersect any branch of that river, then to the point on the said line nearest to such branch, and thence in a direct line to the same); thence down the middle of the said branch and of the said river until it empties into the Rio Colorado; thence across the Rio Colorado, following the division line between Upper and Lower California, to the Pacific ocean."

The eighth article of the treaty is in the following terms:

"Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican republic, retaining the property which they possess in the said Territories, or disposing thereof, and removing the proceeds wherever they please, without their being subjected on this account to any contribution, tax, or charge whatever.

"Those who shall prefer to remain in the said Territories may either retain the title and rights of Mexican citizens, or acquire those of citizens of the United States. But they shall be under the obligation to make their election within one year from the date of the exchange of ratifications of this treaty; and those who shall remain in the said Territories after the expiration of that year, without having declared their intention to retain the character of Mexicans, shall be considered to have elected to become citizens of the United States."

"In the said Territories property of every kind now belonging to Mexicans not established there shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to it guarantees equally ample as if the same belonged to citizens of the United States."

The ninth article of the treaty is in these words:

"The Mexicans who, in the Territories aforesaid, shall not preserve the character of citizens of the Mexican republic conformably with what is stipulated in the preceding article, shall be incorporated into the union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the constitu-

tion; and, in the mean time, shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction."

It is plain, therefore, on these treaty stipulations, that all Mexicans established in territories north of the line of demarcation already mentioned, come within the protection of the 9th article; and that the treaty, being a part of the supreme law of the land, does extend over all such Mexicans, and assures to them perfect security in the free enjoyment of their liberty and property, as well as in the free exercise of their religion; and this supreme law of the land, being thus in actual force over this territory, is to be maintained and enforced until it shall be displaced or superseded by other legal provisions; and if it be obstructed or resisted by combinations too powerful to be suppressed by the civil authority, the case is one which comes within the provisions of law, and which obliges the President to enforce those provisions. Neither the constitution nor the law, my duty or my oath of office, leaves me any alternative or any choice in my mode of action.

The Executive Government of the United States has no power or authority to determine what was the true line of boundary between Mexico and the United States before the treaty of Guadalupe Hidalgo; nor has it any such power now, since the question has become a question between the State of Texas and the United States. So far as this boundary is doubtful, that doubt can only be removed by some act of Congress, to which the assent of the State of Texas may be necessary, or by some appropriate mode of legal adjudication; but, in the mean time, if disturbances or collisions arise, or should be threatened, it is absolutely incumbent on the Executive Government, however painful the duty, to take care that the laws are faithfully maintained. And he can regard only the actual state of things, as it existed at the date of the treaty, and is bound to protect all inhabitants who were then established and who now remain north and east of the line of demarcation, in the full enjoyment of their liberty and property, according to the provisions of the 9th article of the treaty; in other words, that all must be now regarded as New Mexico which was possessed and occupied as New Mexico by citizens of Mexico at the date of the treaty, until a definite line of boundary shall be established by competent authority. This assertion of duty to protect the people of New Mexico from threatened violence, or from seizure to be carried into Texas for trial for alleged offences against Texas laws, does not at all include any claim of power on the part of the Executive to establish any civil or military government within that Territory. That power belongs exclusively to the Legislative department, and Congress is the sole judge of the time and manner of creating or authorizing any such Government.—The duty of the executive extends only to the execution of laws and the maintenance of treaties already in force, and the protection of all the people of the United States in the enjoyment of the rights which those treaties and laws guaranty. It is exceedingly desirable that no occasion should arise for the exercise of the powers thus vested in the President by the constitution and the laws. With what ever mildness those powers might be executed, or however clear the case of necessity, yet consequences might nevertheless follow of which no human sagacity can foresee either the evils or the end.

Having thus laid before Congress the communication of His Excellency the Governor of Texas, and the answer thereto, and having made such observations as I have thought the occasion called for, respecting constitutional obligations which may arise in the further progress of things, and may devolve on me to be performed, I hope I shall not be regarded as stepping aside from the line of duty, notwithstanding that I am aware that the subject is now before both Houses, if I express my deep and earnest conviction of the propriety of an immediate decision, or arrangement, or settlement of the question of boundary between Texas and the Territory of New Mexico. All considerations of justice, general expediency, and domestic tranquility call for this. It seems to be, in its character and by position, the first, or one of the first of the questions growing out of the acquisition of California and New Mexico, and now calling for decision.

No Government can be established for New Mexico, either State or Territorial, until it shall be first ascertained what New Mexico is, and what are her limits and boundaries.—These cannot be fixed or known till the line of division between her and Texas shall be ascertained and established; and numerous and weighty reasons concur, in my judgment, to show that this division line should be established by Congress, with the assent of the Government of Texas. In the first place, this seems by far the most prompt mode of proceeding by which the end can be accomplished. If judicial proceedings were resorted to, such proceedings would necessarily be slow, and years would pass by, in all probability, before the controversy could be ended. So great a delay in this case is to be avoided, if possible. It would be every way inconvenient, and might be the occasion of disturbances and collisions.

For the same reason, I would, with the utmost deference to the wisdom of Congress, express a doubt of the expediency of the appointment of commissioners, and of an examination, estimate, and an award of an indemnity to be made by them. This would be but a species of arbitration, which, might last as long as a suit at law.

So far as I am able to comprehend the case, the general facts are now all known, and Congress is as capable of deciding on it justly and properly now as it probably would be after the report of commissioners.

If the claim of title on the part of Texas appear to Congress to be well founded, in whole or in part, it is in the competency of Congress to offer her an indemnity for the surrender of that claim. In a case like this, surrounded as it is by many cogent considerations, all calling for amicable adjustment and immediate settlement, the Government of the United States would be justified, in my opinion, in allowing an indemnity to Texas, not unreasonable and extravagant, but fair, liberal, and awarded in a just spirit of accommodation.

I think no event would be hailed with more gratification by the people of the U. States than the amicable arrangement of questions of difficulty, which have now for a long time agitated the country, and occupied, to the exclusion of other subjects, the time and attention of Congress.

Having thus freely communicated the results of my own reflections on the most advisable mode of adjusting the boundary question, I shall nevertheless cheerfully acquiesce in any other mode which the wisdom of Congress may devise.

And, in conclusion, I repeat my conviction that every consideration of the public interest manifests the necessity of a provision by Congress for the settlement of this boundary question before the present session be brought to a close. The settlement of other questions connected with the same subject, within the same period, is greatly to be desired; but the adjustment of this appears to me to be in the highest degree important. In the train of such an adjustment, we may well hope that there will follow a return of harmony and good will, and the general satisfaction of the country.

MILLARD FILLMORE.

The Texas Boundary—Mr. Pearce's Speech.

The Republic gives an abstract of the recent speech of Mr. Pearce, of Maryland, in the U. S. Senate, where he refers to the demands made and the position assumed by Gen. Houston, in regard to that portion of the territory of New Mexico lying east of the Rio Grande. While he is not inclined tamely to yield to imperious demands, he is, however, indeed very anxious, to effect an arrangement most liberal, and one that shall be satisfactory to Texas.

He shows that Texas had an occupancy, and no such title as would authorize a constructive possession of that portion of New Mexico which is east of the Rio Grande.

He shows clearly that the Government of the United States has not recognized the right of Texas to that portion of New Mexico; and that the former Executive has, at different times, expressed an opinion favorable to that claim, it has also furnished evidence against it. He shows that Mr. Polk and his Administration fully recognized all this territory on both sides of the river as a Mexican province, having Santa Fe for its capital, and that they did not recognize it as a part of Texas.

Texas, he believes, has never formally submitted to Congress any demand for that portion of the territory of New Mexico which she claims. Certainly no such demand has ever been admitted by the Government of the United States.

He was aware that a letter on the subject was written by a Governor of Texas to the President of the United States, which, by direction of the President, was answered by the Secretary of State, who said, the President believed Texas justly asserted a right to the whole territory this side of the Rio Grande, but that it was a subject which more properly belonged to the Legislature than to the Executive branch of the Government.

He quotes President Polk as saying: "By thecession of New Mexico, on both sides of the Rio Grande, to the United States, the question of boundary, so far as Mexico is concerned, has been settled, leaving the question as to the true limits of Texas and New Mexico to be adjusted between that State and the United States."

That being the case, how could the opinion of the Executive, or the action of an administrative officer, be availed of to make or prove a title, and how could there be said to be a recognition by the Government of the right of Texas?

If it be a legislative question, it was rank usurpation in an administrative officer to undertake to settle it by an order to a military commander.

He did not understand Governor Marcy as intending to do this, by the order of the 12th of October, 1848.

So far as that order authorized a surrender of the country to Texas, while the title was unsettled by the Legislature, it was, in his (Mr. P.'s) opinion, an abandonment of duty.

The Government of the United States hold possession till the powers which alone are competent to settle the title shall do so.

If a conflict ensued, he ventured to say, the first gun fired would not be a Federal gun.—If there were a Federal gun fired, it would only be when the conflict could no longer be avoided by the Government of the United States.

If Texas undertook by military force to establish her jurisdiction and oust the United States, that would, in his opinion, be levying of war upon the United States, and the responsibility would rest upon Texas.

Our Union would be worth little if such a calamity could not be averted, and if a single

State may rightfully use force to drive the authority of the Union out of a territory which its arms have won, but which its power may not be employed to protect.

What the treaty transferred to us was that which Mexico had before the war, including New Mexico on both sides of the Rio Grande. The people thus transferred had a right to be heard, before they were assigned over to Texas.

None but legislative authority, and that of both Texas and the United States, could determine the limits of Texas and settle this dispute, in which there was a claim on one side, and a claim with possession on the other.

The Executive could not yield up the country we hold to the State which claims it.—That would be a usurpation of legislative authority.

If, then, the possession of the United States was disturbed by an armed force from Texas, was the Executive to stand still, an idle spectator of this violence?

In that event it would be the duty of the President to repel the invasion.

"X" of the Baltimore Sun, speculating on the Compromise Bill, says:

The Senators whose re-election depends on the substitution of sectional parties for the old national democrats and whigs, have acted their parts without remorse. They have, from the first, been the bitter opponents of all compromise, and preferred an alliance with the freesoilers and abolitionists to any amicable arrangement of the question. They only wished to make things worse, and they have certainly had a partial triumph—it is to be hoped that at the next election, the people and the popular cause will triumph over them. The free soilers of the North, will not always go hand in hand; the time will come when each of these worthies will have to assist in carrying out the views of his particular set of fanatics, and then the aid of the moderate men will be in vain invoked to arrest the inevitable consequences.

Let the Senate not forget that the union of the States is the best and only guarantee of slavery which they can expect in the nineteenth century, and that England and France, Germany and Russia, are abolition States *ex professo*. The idea that they can (by virtue of cotton or rice or sugar) form an alliance with any other civilized State or government, as an offset for the union with the North, is more childish and ridiculous than anything which has yet emanated from the brains of a nullifier. There is not a State which has damned slavery more effectually than England. The Jamaica planters may denounce the course of the British government; but ninety nine out of every hundred of the whole population of the United Kingdom of Great Britain and Ireland have loudly applauded, and still hail with national pride, her abolition course. Let the Southern disunionists have a care how they jump from the frying pan into the fire.

"LOWBRED VAGABONDS."
Attack upon the upright conduct and public usefulness of the New York Democracy.

The bill to give 160 acres of land to any man who wanted it, being under consideration in the House, Mr. Morse, a Louisiana Locofoe, moved to lay the whole subject on the table. He denounced the bill "as proposing a monstrous system of corruption—as a scheme to enable the government to bribe voters—to give the lands to low-bred vagabonds."

Mr. Brown, a Loco from Mississippi, replied. He said "that Mr. Morse would not dare to talk to his constituents as he talked to the House. He would not dare to call the squatters on the public lands worthless vagabonds; he might play the demagogue at home and use different language in the House."

Mr. McMullen, a Loco from Virginia, said that Mr. Morse had played the part of a demagogue. He had denounced "all not born with silver spoons in their mouths as vagabonds, and he wanted to hear him so denounce them to his constituents."

Mr. Morse replied "that 'the honorable Isaac E. Morse' talks to the people there as he does here. If gentlemen go on with their outrages and free gifts, people would come here asking Congress to plant corn for them!" [Laughter.]

Will the democracy countenance such an attack by a Southern democrat upon the honesty and the virtue of the democracy of New York? Will they believe that the democracy of New York advocate and uphold a scheme which subjects them to charge "of proposing a scheme of monstrous corruption?" Yet it is so. The democracy of New York in a recent address adopted this very "scheme of corruption." They wanted the spoils—they cried aloud for the land; and at the sound of the old rallying cry, Old Hunkers and Barnburners forgot their quarrel and once more marched to battle, though we trust not to the victory.

Mr. Morse probably now knows the character of his Northern brethren—and Mr. Morse's brethren probably know his character. We are very much inclined to believe that the N. Y. democracy are "no better than they should be;" and we are still more apt to believe the assertion that Mr. Morse's brethren, as well as Mr. Morse himself, are demagogues of the straightest sect.

It is a family quarrel—and as usual over the spoils. We are perfectly disinterested, and will keep our readers advised of the revelations made by these members of the "harmonious Democracy."—Fay. Observer.

From the Richmond Whig.

"Is the Union to be dissolved and for What?"

These questions are at the head of a leading article in the New York Journal of Commerce, on Thursday last, denouncing the pestilent sect, the abolitionists, whose head quarters are probably established in the very heart of the Empire State. The Journal takes a manly and national view of the subject, and merits praise for its courageous defence of truth in the very citadel of error. It does not spare the demagogues, and newspapers, nor even some of the Northern Clergy, who, professing to be meek messengers of the Gospel of peace, unite in "supercilious, intolerant, and unbrotherly bearing towards the South." It warns these fanatics, and it warns others whom it believes to be "good and conscientious men at heart"—but led away by false philanthropy, from occasionally "blowing up a flame which, if unchecked, will burn down the fabric of our Union." It tells these desperados that they can gain nothing by their crusade against the South, that even if their criminal designs were crowned with success, and a servile war, the abhorred consequence, the prospects of the slave would be more hopeless than ever—and that the opinion so often inculcated, that in such a contest the population would be victorious, is not only a false and gratuitous assumption in itself, but if the wish be father to the thought, manifests the wicked spirit of incarnate fiends. Notwithstanding these gloomy and portentous signs the Journal of Commerce says:

"But will the Union be dissolved? We hope not; we believe not. But this belief, (as we said months ago, when we were ridiculed for a cotemporary for expressing apprehensions of danger,) is founded entirely upon another belief, viz: that public sentiment at the North will yet rally mightily for the Union, and compel such concessions as are necessary to preserve it. These concessions may, however, come too late. When the Rubicon is passed, the step will not easily be retraced. If any disaster should befall the Union, resulting from the fanatical movement of the North, a dreadful retribution awaits those men, whether clergymen or laymen, whether demagogues or dupes, who have fomented the mischief."

And our hope rests, too, where the Journal has placed its own—in the good sense and sound patriotism of the great body of the people, North and South; and upon the firmness and temperance with which we support our cause. If we understand the views and opinions of our own State especially, we desire to occupy that middle path, which, avoiding all violent extremes, will lead to the enviable position of honor and safety; and if, after all, disaster must come, we desire that our reputation as a State should remain untarnished, and our patriotism unsuspected. We cannot close our eyes to the fact, that the spirit of fanaticism and disaffection is not confined to one extremity of the Union, but that in both sections, there are restless spirits—who—bankrupts in character and fortune—who, "tired of the dull pursuits of civil life," are ready, at a moment's warning, to venture all upon the single cast of a die. To all such, Disunion is a jest, and the horrors of civil strife a high mental enjoyment.

If the hour of real danger should ever arrive, the Old Dominion will be true to herself; but we never expect to see her vain glorious enough to play the bully in a contest with her sister States. We know that some of her most faithful sons have regretted, that sometimes she has been forced to get astride of the hobby of federal relations for mere party purposes, when neither the honor nor dignity of the State required it; and no longer than a winter ago, when a member of the Legislature was asked if he knew that he had pledged his constituents to fight in a certain contingency, replied, "that he did not think of that, but was confident that the Legislature never intended to take up arms against their own countrymen." A fine commentary, truly, upon the wisdom and gravity of legislative proceedings! Nevertheless, if the worst should come, Virginia will be prepared to discharge her obligations not only to the Union, but to such of her sister States as shall need her assistance in defence of their common and dearest rights.

WRECKERS—WHOLESALE FLUNDER.

The Collector of the Port of New York has made search through the country near that city, and has discovered large quantities of valuable goods, stolen from the wreck of the ship Elizabeth, which recently went to pieces on Fire Island, near that city, and clothes, stolen from the dead bodies of the passengers who perished in her! The stolen articles were found in the possession of about forty persons, some of them heretofore passing for respectable people, farmers and others. Among the clothing found, is some taken from the dead bodies of the Countess Ossoli, and her child, and Horace Sumner, Esq. The females generally, (but not always) manifested their abhorrence of the conduct of their husbands, sons, brothers, &c. The robbers are all to be indicted, and it is hoped will go to the Penitentiary.

NEW COTTON.

The Selma (Ala.) Reporter of the 26th ult. acknowledges the receipt of a limb of a cotton stalk containing two open bolls of cotton. It was a fine specimen, and the grower had "plenty more of the same sort."

And the Savannah Republican has received a boll which opened in Scriven county, Ga., about the 30th ult.