

## DESERET EVENING NEWS

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SALT LAKE CITY, JAN. 17, 1901.  
**THE QUESTION OF THE HOUR.**

The Supreme Court of the United States will probably soon decide the constitutional questions involved in the contention as to the right of Congress to impose tariff duties upon Porto Rico. With the acquisition of territory, not only outside the organized States of the Union, but beyond the shore lines of the country, questions have arisen which, if not entirely new, are presented in a different shape to anything that has been heretofore decided by the court which holds the right of final interpretation of the supreme law of the land.

"Does the Constitution follow the flag?" is the query in popular form. Is Porto Rico part of the United States, or is it foreign territory? Are the people there citizens or subjects of the United States? Is the power of this government absolute over them, or is it limited by the Constitution? These are other forms of the same inquiry, and they are of far-reaching and even vital importance to this nation.

Ex-President Benjamin Harrison contributes a very strong yet temperate article on this subject, to the current North American Review. While he does not undertake to decide it judicially and thus assume the functions of the court, he enters into the theory of our system of government in a cogent manner, and though a Republican statesman comes very close up to the line of straight Democratic doctrine, in defining the limits of constitutional power, which he shows is the only lawful power bestowed upon either branch of the national government.

The right of the United States to acquire territory, either by treaty or by conquest, he shows to be almost beyond question, and also that it is not an extra-constitutional power. But this still leaves open the question of the status of the people in newly acquired territory. The distinguished writer argues that while a treaty is part of the supreme law of the land, it is so in the same sense as an act of Congress is, and that both must conform to the Constitution, which cannot be abrogated or impaired by any treaty or statute. Also that whatever may be said about the extension of the Constitution over the acquired territory, it extends certainly over the several branches of the Federal government.

This is an important point to be considered, not only in this argument but in all national questions that may arise. Ours is a government of delegated and limited powers. They are bestowed and limited by the Constitution. The contention that the national government possesses some inherent absolute authority as a nation, and not dependent upon the written instrument, he appears to greatly discredit. He asserts that there are only three views of the subject that may be said to have any show of consistency; they are these:

"First, that Congress, the Executive and Judiciary are all created by the Constitution as governing agencies of the nation called the United States; that their powers are defined by the Constitution and run throughout the nation; that all the limitations of their powers attach to every region and to all civilized people under the sovereignty of the United States, unless their inapplicability appears from the Constitution itself; that every guaranty of liberty, including that most essential one, uniform taxation, is to be applied to every free civilized man and woman who owes allegiance to the United States; that the use of the terms 'throughout the United States' does not limit the scope of any constitutional provision to the States that would otherwise be applicable to the Territories as well; but that these terms include the widest sweep of the nation's sovereignty, and the widest limit of congressional action."

"Second, that the terms, 'the United States,' define an inner circle of the national sovereignty composed of the States alone; that, when those terms are used in the Constitution, they must be taken to have reference only to the region and to the people within this inner circle; but that, when these terms of limitation are omitted, the constitutional provisions must, unless otherwise limited, be taken to include all lands and people in the outer circle of the national sovereignty."

"Third, that the Constitution has relation only to the States and their people; that all constitutional limitations of the powers of Congress and the Executive are to be taken to apply only to the States and their citizens; that the power to acquire territory is neither derived from the Constitution, nor limited by it, but is an inherent power of national life; that the government exercises in the Territories is not a constitutional government, but an absolute government, and that all or any of the things prohibited by the Constitution as to the States, in the interest of liberty, justice and equality, may be done in the Territories; that, as to the Territories, we are under no restraints save such as our own interests or our benevolence may impose."

The learned writer seems to lean to the first of the foregoing propositions. He declares that, "if there is anything that is characteristic in American constitutions, state and national, it is the plan of limiting the powers of all public officers and agencies." And further that, "A government of unlimited legislative or executive powers is an anti-American government." He evidently does not take kindly to the "new doctrine," as he terms it, "that our Congress and our Executive have pow-

ers not derived from the Constitution, and are subject to no restraints, or limitations in the Territories save such as they may impose upon themselves."

"The act of annexation of any territory Mr. Harrison regards as bringing its people into the national domain, and under the Constitution. He argues: 'If the act of annexation does not carry the Constitution into the Territory, I can think of nothing that will, save the act of admitting the Territory as a State.' He clearly exposes the mistake that if the Constitution, of its own force, extends to and over acquired territory, it gives full political rights to the inhabitants. For, he explains, 'The power of Congress to legislate for the Territories is full.' But the great point to be seen in connection with that authority is, that this power is not absolute; it must always and everywhere be subject to the Constitution, because all the powers of Congress are derived from that instrument."

The able writer draws attention to the fact that in things doubtful the Constitution may be aided by the Declaration of Independence. He calls it "the preamble of the Constitution." This will recommend itself to every true American and advocate of liberty to others as well as to themselves. Thus, while his argument does not stand for a limit to the power of expansion, to the acquisition of new territory, by purchase, by conquest or by treaty, it virtually claims that when acquired, the territory becomes part of the public domain, and that its people, though at first not capable of exercising all the rights of citizens in the sovereign States, are yet citizens, not subjects, and as such entitled to such measure of self-government as Congress may determine under Constitutional powers and limitations.

A government of absolute powers, he declares, is "an intolerable thing, and under the Constitution an impossible thing." This view we regard as unparliamentary but truly American. The United States may and will expand and spread forth and extend its power through the world. But wherever the nation shall acquire new territory, there it must act under the principles and authority of the national Constitution, not for the domination and subjugation of mankind, but for the establishment and triumph of those glorious principles of human freedom on which the nation is founded, which are expressed in the Declaration of Independence, and are embodied in the limitations as well as the powers, defined in that heaven-inspired instrument, the Constitution of the United States.

## CUBA'S CONSTITUTION.

The Cuban constitution, as now submitted to the constitutional convention of the island, declares the country to be a free and independent republic. It confers citizenship on natives and on strangers who resided in Cuba four months prior to the Spanish war, and who lent their aid for the revolutionary cause. It provides that the president of the republic shall be a Cuban by birth, or a naturalized citizen who has served ten years in the war of revolution. This last provision, it is supposed, is for the special benefit of Maximilian Gomez, who by it may be a candidate for the presidency, although he is not a Cuban by birth. The presidential term is fixed for 6 years, and as there is no limitation to one term, it is possible for a popular president to be continued in office indefinitely.

In all probability the instrument will receive some modifications by the convention before it is finally adopted, and when that shall have been done, the important question arises, whether it will have binding force before ratification by the United States Congress. The Cubans are said to hold the view that when they have adopted a constitution, the responsibility of this country is at an end. But that question itself may have to be passed upon by our government. The establishment of a free and independent republic is a matter of interest to other countries than that most directly concerned. It involves diplomatic relations and financial responsibilities, often of a very complicated nature. Cuba needs the friendship, perhaps the protection, of the United States, and on that ground, it may be to its advantage to consult this country before launching upon the troubled sea of national independence.

## HAZING CONDEMNED.

Strong language, condemning the practice of hazing at West Point, was indulged in by speakers in the Senate, discussing the pending army reorganization bill. But when the facts are considered the terms employed will not be regarded as too strong. Several speakers denounced hazing as brutal and cowardly, and Mr. Money, the Mississippi senator, declared that if he were a West Point cadet and were subjected to such brutal treatment, he would kill the hazers, if he had to wait a hundred years for an opportunity to do so. Senator Allen of Nebraska, too, said the assailants should be killed.

This serious view of the matter is different from that held by the military authorities in charge of the academy, but it is correct. A citizen assailed by ruffians and put in jeopardy of life and limb would be justified by any jury, if he defended himself by taking the life of his assailant, and there can be no reason why the rule should not hold good because the assault is made under the protection of a military uniform.

West Point cadets certainly have as much right to life, as any other citizens. Hazing must go. If not, after this debate in the Senate, there may be a tragedy at the academy, in case intended victims take the clue from Senators Allen and Money.

But aside from this consideration, the practice should be abolished. By inquiry held it was established, that the purpose of hazing is to destroy the self-respect of the victim, and make him the subject slave of the upper class tyrants. It was admitted to be a but too common practice to call out a new comers and pound him into insensibility, so as to "teach him discipline" and make a "gentleman" out of him. And this by violating the rules of both discipline and gentility! If the "training" has any effect at all it must have the opposite of that said to be aimed at. It must have the effect of making the victim a brute, fit just for that kind of work which is said to have disgraced the campaign in China. It cannot be excused on any ground.

## SPEAKING OF PAPAL POWER.

The duke of Norfolk, addressing the pope, on the occasion of a recent pilgrimage to Rome, took occasion to express his hope that the temporal power of the pontiff would be speedily restored. He said:

"We pray and trust that the new century may witness the restoration of the Roman pontiff to that position of temporal independence which your holiness declared was necessary for the effective fulfillment of the duties of your worldwide charge."

The duke was, until recently, postmaster general in Salisbury's cabinet, and that fact has given his utterance on the occasion a weight that would not otherwise have been attached to it. The patriotic Italians see in it the admission on the part of British Catholics of the existence of designs against the unity of Italy, and their press is bitter in its denunciations. There is hardly any reason for this, though. The duke, of course, had a desire to say something pleasant to the venerable head of the Roman church, and an allusion to the possibility of the speedy restoration of the Vatican to political power must have suggested itself as appropriate. But both the duke and the pope are well aware of the fact that no power in Europe is, at present at least, prepared to wage war for the realization of that hard, papal dream, and that it can hardly come to pass without a war. Still, the utterance was undiplomatic in the highest degree.

The incident has called attention to the fact that a very large proportion of the British people is identified with the Roman church, and that this circle is ever widening. Protestant clergymen are calling upon the nation to meet what they consider a terrible danger, before it is too late to act. They claim that papacy always has had a narrow influence upon human progress, and point to the Dreyfus affair in France as an evidence of the danger of its political influence.

They claim, further, that there is in France now a persistent Catholic propaganda against Protestantism, in which Protestants, Free-thinkers, Freemasons and Jews are put together in one class and accused of treachery to the state, and that this propaganda has crossed the English channel, with grave results. The Protestants are, consequently, becoming alarmed, and are starting a counter-propaganda. They claim that 25 per cent of the inmates of the British prisons are Catholics, and that vice, drunkenness and mendacity are characteristics of a large number of Catholic homes.

Notwithstanding this, however, Catholic establishments flourish throughout the land. Protestant children are being sent to Catholic schools, and the Jesuits have a firm hold upon the press, as evidenced by the prominence given to news of interest to Catholics.

Under this heated contest between two religious forces in the United Kingdom, the Duke of Norfolk's speech to the pope has assumed immense importance both in Italy and England. Were Protestantism not assailed within its own ranks, by a criticism that strikes down its very foundations, it would have a fair chance in the contest it is waging with Rome. For on its side are the principles on which liberty and progress are conditioned. But with a formidable enemy at work within, the citadel must sooner or later fall before the assaults from without. Protestantism has evidently had its mission in the world. It is being pressed hard on all sides. Religious systems, like those of philosophy, come and go, but the truth remains forever, and will find expression in such systems as are most suitable to the needs of each succeeding age.

The silk worm industry seems to be crawling slowly along.

The mystery surrounding the whereabouts of Pat Cowie suggests the idea that he flies by night.

"Guam has become our St. Helena," says the Boston Transcript. Possibly, but it still lacks its Napoleon.

That legislator will do the State the greatest amount of good who keeps down the volume of legislation, and not he who swells it most.

Four hundred of New York's policemen are suffering from the grip. The whole force seems to have the grip of the fifteen-five committee upon it.

The striking coal miners in Colorado declare that they will fight to a finish. This being so why should not Colorado allow Jeffries and Ruhlman to do the same thing?

And now comes the rumor that Mississippi catfish are sent north and converted into Columbia river canned salmon. Another triumph for industrial science.

Boston is to have a new school of practical ethics where people are to be taught to be good. Daily study and practice of the Ten Commandments will accomplish this object better than any ethical code thus far established.

"Most people object to trunks. Why? Largely because they don't own them," said President Hadley of Yale in an address before the students of Prince-

ton. There is so much truth in the remark that people should ponder it well before denying it.

Earl Rosebery has stirred England to her very depths by pointing out how America and Germany are distancing her in the great international commercial race. The result of these stirrings up will probably be that the "tight little island" will only bestir herself the more and make more sure her place in the front rank.

The institution of a five-cent fare to Fort Douglas should be a financial gain to the street railroads and to the public also. In the past the ten-cent fare has deterred the public from going to the Fort just for the ride, and has diverted patronage to other routes or they have stayed at home. This reduction of fare is a step in the right direction and is to be commended.

Throughout the State there is a general lack of snow, but an open winter seems to be the rule in various parts of the country. In Massachusetts, especially in the eastern part, there isn't enough snow for sliding down hill. In New York there is so little snow and cold that the people scarcely realize that it is the winter time. More snow and less sunshine would be acceptable here at present.

Congressman Briggs is a man of many synonyms if not of many words. Addressing Cadet Dockery he said: "Well, young man, for your information, I will tell you that I think it was atrocious, base, detestable, disgraceful, dishonorable, disreputable, heinous, ignominious, nefarious, odious, outrageous, scandalous, shameful, shameful, villainous and wicked." The congressman must have "rammed" Crabbs very hard to have acquired such a mastery of synonyms as that.

The directors of the American Humane Education Society and the Massachusetts Society for the Prevention of Cruelty to Animals, have voted to petition Congress to prohibit the exportation of horses and mules to South Africa, because of the suffering of the beasts in transit. They probably do suffer more or less but they suffer no more in going to South Africa than in going to the Philippines. Why not petition against shipping them to both places if to either?

## TEMPORAL POWER OF THE POPE.

Worcester Gazette.  
The recent address of the Duke of Norfolk to the pope, in which he makes a strong appeal for the restoration of the temporal power of the Vatican, has initiated a controversy that promises to assume huge proportions, with a bitterness of recrimination on both sides that only religious differences can originate. The susceptible Catholics of the old world have been wounded to the quick, for they see in the duke's utterances indications of a design on the part of the British Catholics to destroy the papacy. No wonder, therefore, that the passionate outburst of the public and the press, and it is hard to foretell the consequences of the public defense of the duke in advocating the pope's right to temporal power. Viewed from the point of view of the constitution, the duke's address is a most unfortunate example of religious intolerance and gross lack of tact, and a violation of all diplomatic etiquette.

Springfield Republican.  
The people of Rome and the states of the church, while they still respect the chair of Peter, on the other hand are determined in favor of their own government, and united Italy, and all Europe, Catholic as well as Protestant, has consented to their decision. It is harmless for the pope to put forth his historic plea and complaints, but not a power in Europe is at all likely to wage war for the sake of restoring his medieval patrimony. That would involve the disruption of Italy again—the destruction of the constitutional monarchy and the death of those republican hopes which are growing stronger every year among the people. The impracticability of any such issue, however, does not lessen the folly and the absurdity of a speech, made by the head of English Catholicism and a recent member of the government of England, in the capital city of the people of Italy.

## AS TO PORTO RICO.

New York Evening Sun.  
The opening of the new century imposes upon the Supreme Court of the United States the decision of the most important question which it has had to settle during the one hundred and twelve years of its existence—the question whether, under the Federal Constitution, the government at Washington may exercise arbitrary control over millions of people living on the other side of the globe. The argument upon this question is being waged with the powerful argument of ex-Secretary Carlisle against the contention of the administration—an argument which, in the opinion of that able Republican lawyer, Congress cannot ignore. Mr. Carlisle, "completely riddled the government's case." The Supreme Court is always deliberative in its methods, and a number of weeks must elapse before it can be expected to decide so grave a question.

## BALTIMORE SUN.

The argument in the Porto Rican cases in the United States Supreme Court tends to interest to the census of that island, which computes the total population at 923,242. The great problem underlying the present court proceedings affects the status of nearly a million of people and will determine whether they are citizens, subjects, aliens or stand in some new and anomalous attitude. Aside from this there are several points brought out by the enumeration worthy of note. There are 8,721 more women than men on the island. The matter of color is also one of interest, since it is something of an agreeable surprise to learn that a trifle over three-fifths of the entire population is pure white, the other two-fifths shading down to the full-blood negro. The table which bears upon the literacy of the islanders is not quite so reassuring as the statement affecting color. The figures show that only one-half of one per cent of the population possess higher education. In other words, only 3,945 out of 923,242 are of the well educated class.

## THE NICARAGUA CANAL.

Worcester Gazette.  
Another obstacle has arisen to block the progress of the Nicaraguan canal bill. A protest has been filed by the British government in behalf of the Forward company of London against any disregard of its rights under a concession by the Nicaraguan Congress, giving it a monopoly of transportation on the San Juan river for thirty years from 1901. As the San Juan river is an important part of the Nicaraguan canal scheme, it is feared that unless the Forward company's concession should be purchased, or an agreement made to pay tolls to it until 1927, it would be impracticable to construct the canal. Roosevelt, examining the bill, will make the claim of the Forward company, and what can be done about it. Senator Morgan is quoted as saying that he had been informed by our consul at

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Graytown, Nicaragua, that the Forward company had such a concession, but he did not believe that it would be used to interfere with the canal project.

Los Angeles Express.  
A glance at the Suez tonnage figures discloses the fact that those of 1899 are about 100 per cent greater than those of 1880, while those of 1899 are about 50 per cent greater than those of 1880. It is certainly reasonable to predict that Nicaragua figures would show a gratifying increase from year to year, and they might show this increase at the expense of the Suez route. Altogether the showing is not one which is likely to discourage Uncle Sam. He is accustomed to seeing things grow—export figures, for instance. He is going to "risk" that Nicaragua canal anyway. It will be a comfort and convenience, even if it doesn't pay dividends from the Lombard and Wall street points of view.

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