trary, the Republic of Hayti steadily advances." "Take our educational standing," she says, "for example; the great majority of our people are educated, whereas the vast majority of the population of Spain cannot read nor write." If Americans could hear more from Hayti through sympathetic channels, they would doubtless have cause to think better of this republic of blacks, about which they now know so little except what flippant reporters tell them.

THE HAWAIIAN QUESTION.

American imperialism makes its first advance with a proposition to take possession of the Hawaiian republic and transform it into a subject province in perpetuity. This is the initial step in an imperialistic policy which contemplates not the annexation, but the appropriation, of Hawaii, of Puerto Rico, of the Philippines, and—notwithstanding our pledge—of Cuba, also, as outlying provinces, belonging to, but neither forming nor intended to form a part of the American republic. The policy is hostile not only to American ideals, but to the American constitution itself.

That the method proposed, if not the policy to be served, is hostile to the constitution, imperialists concede. But, enthusiastic for territorial expansion, they urge that constitutional technicalities must be ignored. "What is the constitution among friends?" asked a good-natured imperialist, who only put in jocular form a sentiment which imperialists in general freely express in dignified phrase. But even among friends the constitution may wisely be considered. If we are to make a new departure, that instrument is a good point from which to take our bearings before trusting the ship of state wholly to imperialistic navigators.

Let the idea be firmly grasped at the outset, then, and be clung to throughout, that the United States government exists solely by virtue of the constitution. This is the breath of life which the people have breathed into it, and without which it would die. But for the constitution, the national government has no life at all; and beyond the constitution its functions cannot extend. The nation does not create the states; the states create the nation. It has no other powers than those which the states have invested it with, and the only evidence of that investiture is the constitution. That instrument is the deed of trust which at once delegates power and limits it. And in delegating, it also limits; for every power not delegated is by the tenth amendment expressly withheld. To the constitution, therefore, we must look for all national authority. National authority which cannot be found there can be found nowhere. It is nonexistent.

Now, there are but few provisions in the constitution to which any sort of appeal can be made for authority to appropriate territory, and they can be briefly reviewed.

It has been said that this authority may be spelled out of the preamble of the constitution, which declares one of its objects to be to "promote the general welfare." But another of the objects there enumerated is to "establish justice." Another is to "insure domestic tranquillity." Another is to "secure the blessings of liberty." It follows, if the United States may appropriate territory without other authority than such as is implied by this "general welfare" clause, that it may override unjust state laws so as to "establish justice;" that it may invade the states with a national constabulary or a standing army to "insure domestic tranquillity" by suppressing local riots; that it may annul local laws which appear to be illiberal, in order to "secure the blessings of liberty." If territory may be appropriated without other authority than the "general welfare" clause, then the tenth amendment is a nullity and all the reserved powers of the states may be abrogated.

But it is clear that no power is conveyed to the United States government by any of the clauses of the preamble. Though they outline purposes and illuminate powers, they do not create powers. And the purposes they outline are to be effected not by any power whatever, but only by the powers delegated in the body of the instrument. It is in order to "establish justice," to "insure domestic tranquillity," to "secure liberty," and so on, not by some means, but by the specified means, that the constitution was adopted. So the "general welfare" clause implies no more than that the general welfare is intended to be promoted, not by the exercise of any power which may appear to be appropriate, but by the judicious exercise, with that end in view, of the powers specifically delegated. Consequently, unless express power to appropriate territory can be found in the body of the constitution, no suggestion of such power can be inferred from the "general welfare" clause of the preamble.

Turning, then, to the body of the instrument, the first clause we encounter is paragraph 11 of section 8, article I, which empowers congress to declare war. The right to make war implies the right to conquer territory, But the right to acquire territory by conquest is not involved in the Hawaiian issue, and therefore need not at this time be discussed.

The next clause which might possibly be cited, is paragraph 17, of section 8, article I, which empowers congress to exercise exclusive legislation over such district of ten miles square or less as particular states may cede for a national capital, and also over all other places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards and other needful buildings This clause refers so obviously to land within the United States and solely for government use, that it can have only a secondary application to the Hawaiian question, which contemplates expansion of national territory and not acquisition of sites for government buildings merely.

But a clause now appears which does bear upon the point really and vitally. It is the treaty-making clause. Before considering that, however, let us pass on to the only other clause that has any bearing at all.

In paragraph 1 of section 3, article IV., it is provided that "new states may be admitted by the congress into this union." That power is unlimited. Hence, if it were proposed to annex Hawaii, Puerto Rico, Cuba, the Philippine archipelago, a slice of China, or a chunk out of Africa, by admitting it as a state into the union, guar-

Digitized by Google

anteeing it a republican form of government as required in paragraph 3 of the same section, there could be no constitutional objection. It was in this way that we annexed Texas. But that is not the proposition with reference to Hawaii. Not only is it not proposed to admit that country into the union as a state, but it is proposed that when acquired Hawaii shall never be advanced to statehood at all. It is always to be to the United States what Cuba has been to Spain—a subject province. The clause for the admission of new states, therefore, has no application to the Hawaiian question.

Reverting, now, to the treaty-making clause—article II, section 2, paragraph 2—we find the president invested with "power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur." And by article I, section 10, paragraph 1, all power to make treaties is withdrawn from the states. Thus the treaty-making power of the United States is unlimited. To the extent that a state might enter into treaties if there were no constitution, to that extent the United States may do so under the constitution. Great Britain has no more extensive treaty-making power. It follows that the United States, in addition to acquiring outlying territory by the admission of new states, may do so without at once admitting the territory to statehood, if it acts by treaty. It was in this way that the vast territory of Louisiana was acquired from France, the Florida peninsula from Spain, the Mexican cession from Mexico, and Alaska from Russia.

But the pending Hawaiian proposition no more contemplates an acquisition by treaty than by admission to statehood. A treaty requires the concurrence of two-thirds of the senators to whom it is submitted by the president, and this concurrence the imperialists have not been able to obtain. More than one-third of the senate has been opposed to the Hawaiian annexation treaty which has for months been before it. To avoid this dilemma, the imperialists have resorted to a joint resolution which the house and the senate have just adopted.

The resolution in question is clearly and concededly unconstitutional. It does not provide for the acquisition of territory within the United States for a capital or for other government use, under article I, section 8; neither does it provide for the admission of Hawaii as a new state, under article IV, section 3. There is no other clause which authorizes the acquisition of territory by joint resolution, the only method by which territory can be constitutionally acquired, except for government uses or through admission as a state, being, as already explained, by treaty. And, though it is true, as we have said, that the treaty-making power of the United States is as extensive as that of Great Britain, it does not follow that the United States may acquire outlying territory, even by treaty, for the same purposes that Great Britain might do so. There are no constitutional limitations upon the parliament of Great Britain, whereas the government of the United States is strictly limited. While it may make treaties, it may not make treaties in conflict with its other powers. For example, the United States could not constitutionally make a treaty depriving the states or any of them of a republican form of government, or of any other reserved right. The treaty-making power, while unlimited in character, is strictly limited as to the purposes for which it may be exercised. One of these limitations in respect to acquiring outlaying territory, is that such territory may not be acquired, even by treaty, for any other purpose than to provide land for government uses, a purpose implied by article I, section 8, paragraph 17; or with a view to ultimate admission into the union as a state, a purpose implied by article IV, section 3, paragraph 1.

To sum up this matter: States may be admitted into the union by joint resolution, adopted by a majority vote of each house and signed by the president. Domestic territory may be acquired for government uses, in the same way. But foreign territory cannot be acquired by joint resolution. It can be acquired only by treaties concurred in by a two-thirds vote of the senate. And when foreign territory is acquired by treaty, it must be acquired with a view either to ultimate admission to statehood, or for government uses. The constitution contemplates no such anomaly as a republican government with subject provinces attached in perpetuity.

This conclusion is justified by our territorial history. The first outlying land to come within the jurisdiction of the United States was known as the Northwest Territory. It comprised all the land between the Ohio, the Mississippi and the great lakes, and was an inheritance from the Confederation. Originally claimed by seven of the 13 states, it had been ceded to congress by them in trust to be laid out "into separate and independent states," from time to time, as the number and circumstances of the people thereof might require. The congress of the Confederation executed this trust by adopting the Ordinance of 1787, which the congress of the United States thereafter observed in admitting Ohio, Indiana, Illinois, Michigan and Wisconsin into the Union. This was the beginning of our territorial policy; and of its very essence, as the language of the Ordinance of 1787 implies, is the principle of the ultimate admission of territories as independent states.

That has been the recognized principle of American territorial expansion ever since. The Louisiana purchase, like the Northwest Territory, was, from time to time, laid out into separate and independent states which were admitted into the Union. When we bought Florida we organized that peninsula as a territory, and in due time admitted the territory as a state. The same policy was followed with reference to the Mexican cession. Though two territories in that cession have not yet been admitted to statehood, their admission is contemplated, and the preliminary territorial organizations have been established with that end in view. Nor is Alaska an exception. Though as yet only partially organized as a territory, it is nevertheless not a subject colony, but is advancing toward a complete territorial organization and ultimate statehood.

From the beginning, then, our territorial expansion has been republican in character. Never until now has it been proposed to reverse that policy and enter upon a career of conquest, dominion, empire. But now we are

Digitized by Google

asked to acquire foreign land, and to exercise authority over its inhabitants, without any intention of ever laying it out into separate and independent states—nay, with the distinct and express intention of holding it and its inhabitants in perpetual subjection to laws which they are to have no voice in making. That was the Roman theory of government. It is the opposite of ours. Even by treaty, the United States cannot—consistently with our established principle as to territorial expansion, with our theory of self-government, or with the spirit of the federal constitution—acquire the Hawaiian islands except for the purpose of admitting them to all the rights and privileges of states in the American Union.

For no purpose whatever can the United States constitutionally acquire Hawaii by joint resolution of congress. Of the soundness of this proposition there is no room for reasonable doubt. Yet the imperialists, unable to secure a two-thirds vote in the senate in favor of accepting the cession of Hawaii by treaty, have set out to accomplish their ends by means of a joint resolution, the passage of which requires only a majority vote. Shall this bald usurpation, this unconcealed contempt for the highest law of the land, be allowed to succeed? That is the present and only immediate issue in connection with the Hawaiian question.

WAR BURDENS.

To carry on a war the people must bear the burdens. They must fight, as soldiers; and they must furnish supplies and munitions, as tax payers. Of necessity the first burden falls with greatest weight upon the poor and middle classes. An occasional representative of the rich may go to the front, but the number is few. Most rich men have important business interests at home, which must not be sacrificed so long as the other classes are numerous—so numerous that many of them are without employment and can just as well as not be spared to relieve the rich of the hardships and dangers of fighting. Count over our soldiers to-day and you will find it no exaggeration to say that they are mostly of the lower and middle classes.

But the same classes are doing the tax paying, too. Look for the war tax burdens and you will find them, like the soldier burden, resting upon the broad but overweighted shoulders of the middle class and the poor. With exquisite discrimination, the war revenue law has in the main been so drawn as to increase in severity as it descends in the social scale.

The small banker, with $5,000 or $10,000 capital—and there are many such in the West—must pay as high a special tax as the banker with a capital of $25,000. Brokers doing a business of $500 or $1,000 a year, or those who carry through only an occasional transaction by way of eking out other earnings, are required to pay as high a license fee in support of the war as rich brokers whose transactions aggregate millions a year.

Besides paying this unfairly apportioned license fee, the struggling broker must also pay the same stamp tax on his memoranda of sales that his rich competitor pays. Among the poorer brokers fighting for a living, transactions yielding a commission of a few cents are not uncommon; yet the broker must either deduct ten cents from his commission for the stamp tax, or risk losing the job by increasing his commission enough to cover the tax. And if he does increase his commission, the person finally paying it is as poor as himself, so that in either event this tax falls upon poor men. But the broker who wears broadcloth and fares sumptuously every day, each of whose transactions yields commissions so large that the cost of a ten-cent stamp cuts no figure, is required to pay no higher war tax than his poor and struggling competitor. The war tax on brokers, both for permission to do a brokerage business and upon each transaction, unjustly discriminates against the poorer brokers—or his poor customers, if you please—and in favor of rich brokers or their rich customers.

A similar discrimination is made with reference to bank checks. Within the past decade, bank checks have come to be used more and more, by the middle and poorer classes, as a substitute for currency. Rich men use bank checks, it is true; but, in proportion to the sums represented, the number of checks they use is very small as compared with the number used by their poorer neighbors. Yet every check, whether $1 or $1,000, must bear a two-cent stamp, neither more nor less—as much for the poor man's little check as for the rich man's big one. This is, consequently, a grossly discriminating tax against the poor.

In still another way the check tax tells against the poorer classes. By far the largest amount of checking is done in carrying on the businesses of which the poorer classes are the largest customers. So far as the check tax falls upon this checking, it is part of the cost of doing those businesses, and must somehow be recouped in higher prices by the manufacturers and merchants who first pay it. The poorer classes, therefore, even those who keep no bank account and never draw or handle a check, will pay a large proportion of the check tax in higher prices for the goods they consume.

This latter consideration holds good, too, in respect to a large share of the tax on telephoning, telegraphing, bills of exchange, bills of lading, receipts, charter parties, express and freight receipts, custom house entries, and warehouse receipts. In the distribution of the cost of producing and delivering goods to consumers, which is accomplished through the price of goods, the poorer classes will be obliged to bear much the larger proportion of all these taxes.

And of the tax of ten cents a pound on tea, it is obvious that the poor must pay most of it. Tea dealers cannot continue to import tea, paying this tax, and yet sell it at the old prices. They must and they soon will add the tax to the price of the tea. Either that, or they will sell a poorer quality of tea at the old price, which would come to the same thing. In the first place, then, the poor will pay a large proportion of the tea tax because they are the great consumers of tea.

But it is not for that reason alone that the poor will bear the brunt of the tea tax. They will bear it also because the tax is levied in proportion to quantity instead of value. It is what is called a "specific" as distinguished from an "ad valorem" tax; and "specific" taxes press most heavily upon the poor. Whether the tea be worth 30 cents a pound or $1 a

Digitized by Google