

Southern Whigs, a “British Conspiracy,” and the Annexation of Texas

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“And may that lone star, which now beams upon us from the far South, through mists of mingled hope and doubt, soon soar aloft and take its appropriate position in our bright constellation, there to shine equally bright with the rest, where all, reciprocally giving and receiving light, will blend their rays, and make us, in harmony and prosperity, forever one of many.”

—Senator William Merrick on the Senate floor, February 21st, 1845¹

Historians have struggled to avoid characterizing the annexation of Texas as one in a long line of political failures for the Whigs. Broad and narrow treatments of Whig political history often feel obligated to acknowledge the party’s somewhat cynical electoral opportunism, uneven grassroots organizing and ambivalence about key issues of the day as either signs of their inherent weakness as a party or proof that they were doomed to collapse from the outset under the weight of a significant enough issue.² Certainly too prejudiced a view of the Whigs ignores contingencies they couldn’t control, like the tendency of their presidents to die soon after taking office, only to be succeeded by men with distinctly un-Whiggish agendas. But like all political parties, Whigs dealt with divisive issues like the annexation of Texas by measuring their options

¹ *Cong. Globe*, 28th Cong., 2nd sess. 233 (1845).

² Broad surveys of the party in this vein include in particular Michael F. Holt’s magisterial *The Rise and Fall of the American Whig Party: Jacksonian Politics and the Onset of the Civil War* (Oxford: Oxford UP, 1999), esp. the preface, 89-90, 122-124; Daniel W. Howe, *The Political Culture of the American Whigs* (Chicago: UChicago Press, 1979), esp. the introduction, chs. 1, 2, & 10; Howe, *What Hath God Wrought: The Transformation of America, 1815-1848* (Oxford: Oxford UP, 2007); Sean Wilentz, *The Rise of American Democracy: Jefferson to Lincoln* (New York: Norton, 2005). Holt and Howe are more sympathetic and argue that the accidents and tragedies of history contributed as much to Whig failures as organizational weaknesses. Wilentz focuses on the Democracy and sometimes ascribes to the dismissive trope that the Whig base was a collection of contradictory interests barely held together by their opposition to Jackson. Narrower treatments of the Whigs that acknowledge its critics are Thomas Brown, *Politics and Statesmanship: Essays on the American Whig Party* (New York: Columbia UP, 1985), esp. the introduction; Lynn L. Marshall, “Opposing Democratic and Whig Concepts of Party Organization,” in *New Perspectives on Jacksonian Parties and Politics*, ed. Edward Pessen (Boston: Allyn and Bacon, 1969), 38-65; Michael A. Morrison, “Westward the Curse of Empire: Texas Annexation and the American Whig Party,” *Journal of the Early Republic* 10.2 (1990): 221-249; Robert Seager II, “Henry Clay and the Politics of Compromise and Non-Compromise,” *The Register of the Kentucky Historical Society* 85.1 (1987): 1-28. Brown is, like Holt, aware of the party’s critics but in the conclusion presents a positive overall assessment, while Marshall, Morrison, and Seager strike a balance between critique and concession in their analyses of the party’s organization and efficacy.

against their own stated platforms, the relative sentiment of their base, and the repercussions of the subsequent debates and votes on the next midterm or presidential elections.

In this regard, Henry Clay, John J. Crittendon—the most visible members of the Whig mainstream around the time Texas became an explosive issue—and the Whig party in general failed to understand the degree to which the Texas question would influence the presidential election of 1844 and underestimated popular support for annexation, even in reliably Whig areas of the South.³ As the party's leading man floundered on Texas, Southern Whigs found themselves at an impasse. The massive territorial claims of the Lone Star Republic lay directly adjacent to the Deep South and already had well-established cotton and slave markets. Questions remained about whether the Republic might become one state or even five states. Thus the issue that most rankled 19th century politicians—the protection or obstruction of slavery in newly admitted states—emerged yet again. On the ground, Southerners of both parties broadly supported annexation as long as they weren't too afraid of Mexico or of disunion. But the Whig party's leaders remained staunchly opposed to annexation in almost any form. Southern Whigs thus had to choose between their loyalties to party or to section, all while the sitting president and his cabinet were secretly negotiating terms for annexation with the Texan government and while the elections of 1844 loomed on the horizon, doomed to force the parties into opposite corners.

Ultimately, the Whig party as an organization and as an ideological body failed to convincingly define its opposition to annexation. Clay in particular tried so hard to straddle the line between partisan and sectional disputes that he inevitably fell, and fell hard. While Congressional Whigs were surprisingly unified on the roll calls, the party's Southern contingent proved too bold, too loud, and too Southern for the party to handle, and their legislative power buckled under the weight of the 19th century's greatest battle: the fight over slavery. As much as they might try, Southern Whigs simply could not avoid the peculiar institution from consuming the debate over annexation and complicating or eclipsing nearly all their auxiliary arguments.

³ Robert V. Remini, *Henry Clay: Statesman for the Union* (New York: Norton, 1991), 628-641; Albert D. Kirwan, *John J. Crittendon: The Struggle for the Union* (Lexington: University of Kentucky Press, 1962), ch. ix, esp. 174-178; Charles Sellers, "Election of 1844," in *History of American Presidential Elections, 1789-1968, vol. 1* ed. Arthur M. Schlesinger, Jr. (New York: Chelsea House, 1971), 747-861, esp. 789-792.

That slavery became the most fraught political issue of the antebellum United States right around the time that Texas was annexed should surprise no one. Annexing Texas clearly catalyzed the Mexican-American war and thus the tumultuous politics of the 1850's. But while Texas brought with it a major military conflict and subsequent political strife, less attention has been paid to its role in the fate of the Whig party. Perhaps because the Whigs won their second and last presidential election four years after Texas was annexed, historians are predisposed to consider Texas a bump in the road and the election a symbol of the party's strength. This thinking ignores the political conditions that allowed the annexation of Texas in the first place and places too much emphasis on specific events that occurred Taylor won the White House in 1848.

The debates around Texas annexation—and especially the struggle that southern Whigs barely concealed in straddling partisan and sectional interests—produced a prescient index for how politicians of both parties struggled to address slavery and how the Whig party tried to define its stance on slavery. Because the Whigs preferred to deflect the issue or defer its expansion to an uncertain future, they remained behind the times. Slavery emerged as the m, and the Whigs (especially those in the South) tried to just swat it away. The Texas issue illustrates this very dynamic: southern Whig politicians framed their opposition to annexation not in opposition to slavery but to the terms that would expand it. If the parties and their constituents could only accept the current state of the nation's sectional interests and political representation, then Congress could go back to arguing over more benign topics like the bank, tariffs, and taxes.

This stance doomed the Whig party from the start. Its inability to define its tack toward slavery gave the Democracy easy access to an increasingly pro-slavery ideology, which in turn paved the way for anti-slavery forces to organize and tangibly work toward the destruction of the peculiar institution. The annexation of Texas was thus a political failure for the Whig party that would temporarily weaken the its national standing; foretell the party's fall in the early 1850's; and establish the conditions needed to produce the Republican party, which, unlike the Whigs, eventually expressed an actual aversion to expanding slavery that forced the nation to finally confront its stark divisions.

John Tyler, British Conspiracies, and the Slavery Question

The annexation of Texas had been a thorn in the Whig party's side since the Lone Star Republic declared its independence from Mexico in 1836. At the time, few politicians from either party dared broach the Texas question for fear of inciting war with a frustrated Mexico and exacerbating sectional tensions by extending the slave power to a state roughly the size of the entire Deep South.⁴ So taboo was the subject that on the eve of Texas' independence even Andrew Jackson—the ultimate soldier and expansionist—balked after failed negotiations with the defeated Santa Anna. Old Hickory only explicitly sought annexation long after his successor's inauguration. Martin Van Buren remained cautious toward Texas and eventually abandoned the venture under pressure from anti-slavery forces in the North warning of a slave power conspiracy. Knowing the delicate sectional balance—especially in his own party—may break if he pushed too hard, Van Buren instead kept his eyes on re-election in 1840. But a barely recovering economy after the Panic of 1837 and an invigorated network of Whig surrogates suddenly put the Democracy on the defensive.⁵

The Whigs' first national convention in December 1839 was a textbook exercise in political craftiness. Tired of losing badly to Jackson and his disciples and ready to capitalize on discontent with Van Buren's management of the economic crisis, convention delegates had to choose between running on the issues or running on charisma. Given their losses in the midterm elections of 1838 across key states and districts, state party leaders knew they needed to attract some traditionally Democratic voters with image, not rhetoric, and looked to two war heroes for the charisma ticket. Winfield Scott and William Henry Harrison, both legends from the War of 1812, kept their political views mum while quietly persuading delegates away from Henry Clay, someone whose stances were well out in the open and, given his longtime strategic emphasis on compromise, someone whose contradictions muddled his message. The “darling of the aristocratic Whigs” struggled to convince delegates that his tariff and bank-centered plan mattered to swing voters.⁶ Meanwhile, his support in the South dwindled at the convention after four Southern states failed to show up. Clay thought the delegations supporting Scott and Harrison would split and eventually fall in line with him, but his early lead quickly dissolved

⁴ This size estimate comes from William W. Freehling, *The Road to Disunion: Secessionists at Bay, 1776-1854* (Oxford: Oxford UP, 1990), 355.

⁵ Howe, *What Hath God Wrought*, 670-671; Wilentz, *Rise of American Democracy*, 434-436; Joel H. Silbey, *Storm Over Texas: The Annexation Controversy and the Road to Civil War* (Oxford: Oxford UP, 2005), 13-17.

⁶ Quoted in Holt, *American Whig Party*, 97.

after pro-Harrison surrogates like Thaddeus Stevens and Thurlow Weed sabotaged Scott's chances by convincing the Virginia delegation that Scott was sympathetic to abolitionists, prompting a mass exodus to Harrison, who won on the final ballot with 148 votes to Clay's 90.⁷

Even more important to the Whig party's fate the next four years (especially regarding annexation) was the convention's vote on Harrison's running mate, who the delegates wanted to balance the ticket. When the top Southern Whigs in attendance refused to run at Clay's expense, the delegates rallied behind former Democrat and states-rights slaveholder John Tyler, whose loyalties to the Whig party essentially ended at their opposition to Jackson's penchant for centralization. Otherwise, he was about as typical a Southern Democrat as one could imagine.⁸

At this point in American history, no president had died or been forced to leave office during their term, and few Whigs—even the voting delegates at the convention—thought long and hard about picking Tyler. It would be an impossibility of history for these same delegates to know how much it would matter that the president be sympathetic to Southern interests in three years. Nor would they have guessed—perhaps naively—that slavery would again rear its ugly head and force the sections to reassert their authority on the national stage. Tyler was available, distinctly Southern (though Harrison was like Tyler in those respects, being from a wealthy Virginian family that owned slaves), and perhaps placated proslavery hard-liners in the South who wanted a sympathetic presence at the table. Whigs ultimately stretched themselves too far with Tyler in assuming that party loyalty superseded loyalty to section or to the South's peculiar institution. By the time Harrison died of pneumonia 31 days into his term, the Whigs had almost by accident sown the seeds of their own destruction. It certainly didn't take long for their fatal mistake to cripple the party's new hold on the federal government.

Within months of assuming power, Tyler had vetoed two bills creating a national bank (the signature pre-Tyler Whig issue) and his entire cabinet—except Secretary of State Daniel Webster—all resigned amid a flurry of protests and furious harangues from Whig elites like

⁷ Holt, *American Whig Party*, 93-103; Wilentz, *Rise of American Democracy*, 494-497; Howe, *What Hath God Wrought*, 571-572. In a sly backroom move rife with irony, the story goes that Stevens wandered around the Virginia delegation's meeting room and left in plain sight on the floor a letter Scott had written to Francis Granger of New York suggesting his support for Northern abolitionists. Someone picked it up and the delegation quickly took Weed's advice to vote for Harrison.

⁸ Edward B. Crapol, *John Tyler: The Accidental President* (Chapel Hill: University of North Carolina Press, 2006), 17-18.

Clay. His apostasy nearly complete, all His Accidency needed was a signature issue with which he could carve out his own political coalition and ride into a second term. His new cabinet, populated by conspiratorial Southerners hell-bent on expanding slavery and tipping the political scales south of the Mason-Dixon, found what they were looking for when word leaked down the diplomatic grapevine that Great Britain, that bastion of free labor so thoroughly championed by American abolitionists, suddenly had plans to establish a free colony in Texas, right across the Sabine from Louisiana and the rest of the Deep South. Tyler turned almost immediately to acquiring Texas by any means, taking a dubious interpretation of Jefferson's Louisiana Purchase and Monroe's hemispheric foreign policy doctrine as justification for expanding the United States' territory. In his mind, the government's federative powers could only benefit from further expansion, which would balance state and federal power. Indeed, Tyler's first addresses to Congress emphasized territorial expansion and acquisition in language more aligned with Manifest Destiny than, say, John C. Calhoun's rabid pro-slavery expansionism. At the same time, we cannot pretend that Tyler wasn't aware that talking about Texas meant talking about a new slave state. His public tack belied his private concern that rumors about British emancipation in Texas might threaten the slave power and his administration's signature achievement.⁹

Historians have generally concluded that Tyler's "corporal guard" in the cabinet and diplomatic corps overstated British designs on Texas because they wanted to snatch it for themselves.¹⁰ It didn't hurt that once Webster resigned in May 1843, Tyler appointed Abel P.

⁹ On Tyler's betrayal of the Whig party, see Holt, *American Whig Party*, ch. 6; Crapol, *John Tyler*, 18-20; and Silbey, *Storm Over Texas*, 28-32. On Tyler's push for expansion, see Crapol, *John Tyler*, 21-28; and Sexton, *Monroe Doctrine*, 88-92. On annexation and Manifest Destiny in particular, see Frederick Merk, *Manifest Destiny and Mission in American History: A Reinterpretation* (Cambridge: Harvard UP, 1963), prologue, 24-31, 39-49. Tyler seemed to ignore Jefferson's hesitance to buy Louisiana and the more favorable conditions Jefferson enjoyed in acquiring it. His take on the Monroe Doctrine also bears skepticism, as Tyler buffeted the extreme reactions of his patron party and nearly everyone except pro-slavery fanatics to acquire it when pushing for the Oregon territory or disputed regions in Canada might have saved him some trouble and angered the British just as much.

¹⁰ For the most complete account of the diplomatic correspondence and political deceit surrounding the annexation of Texas, see David M. Pletcher, *The Diplomacy of Annexation: Texas, Oregon, and the Mexican War* (Columbia: University of Missouri Press, 1973), 113-208. Freehling's *Road to Disunion*, 355-452, is also excellent. Matthew Karp's recent *This Vast Southern Empire: Slaveholders at the Helm of American Foreign Policy* (Cambridge: Harvard UP, 2016), 82-102, argues for the centrality of slave power interests in the United States' foreign policy and includes the annexation of Texas as their crowning achievement. Other studies focusing particularly on Britain's involvement include Jay Sexton, *The Monroe Doctrine: Empire and Nation in Nineteenth-Century America* (New York: Hill and Wang, 2011), 86-121; and Sam W. Haynes, *Unfinished Revolution: The Early American Republic in a British World* (Charlottesville: University of Virginia Press, 2010), 230-250.

Upshur, a pro-slavery firebrand who would believe almost any conspiracy theory about abolitionist plots in Texas, to lead the State Department. Upshur and General Duff Green, Tyler's unofficial minister of annexation, believed that because Britain had abolished slavery a decade earlier, it would naturally destroy slavery in Texas and position itself in opposition to the rest of the Deep South. In March 1843, Green got hold of a letter written between British abolitionists alleging that Sir Charles Elliot, Britain's chargé d'affaires to Texas, had been calling for Texas to emancipate its slaves in exchange for political vassalage and commercial trade deals. Green soon leaked it to the British press and Southern newspapers jumped on it, crystallizing the Tyler administration's fearmongering. This was just one in a series of inflammatory leaks that grossly exaggerated both the influence of abolitionists on the British government and British emancipation in Texas, which was never a serious provision and certainly not in the Texan government's basic economic interests.¹¹

Upshur continued to aggressively and clandestinely pursue Texan diplomats to push them away from Britain (which wasn't very difficult, though there was some jockeying) and get them to agree to draft up a treaty that Tyler felt could pass through the Senate. By early 1844 Upshur began negotiations in earnest and probably would have sent a treaty to Tyler within weeks had he survived long enough. On February 28, Tyler and several members of his cabinet boarded the USS *Princeton* to cruise down the Potomac and shoot off its massive guns for show. After several successful cannon salutes one of the guns exploded, instantly killing Upshur and Secretary of the Navy Thomas W. Gilmer, among others. Tyler was below deck mingling with the crowd and lived to tell the tale.¹²

Suddenly the key architect of the annexation treaty died before he could see it signed and Tyler desperately needed to retain his momentum. Looking for a bold ideologue with ample connections, Tyler chose none other than John C. Calhoun, that Marx of the Master Class, to succeed Upshur and get the treaty to his desk. At the outset, this was a brilliant if obvious choice, for Calhoun had been offering Upshur advice on the negotiations since Webster's resignation and shared a penchant for representing the slave power's most radical wishes. But Calhoun

¹¹ Details about these British abolitionists and the leaked letter can be found in Madeleine B. Stern, "Stephen Pearl Andrews, Abolitionist, and the Annexation of Texas," *The Southwestern Historical Quarterly* 67.4 (1964): 491-523, esp. 503-505; and Pletcher, *Diplomacy of Annexation*, 120-125.

¹² Claude H. Hall, *Abel P. Upshur: Conservative Virginian, 1790-1844* (Madison: State Historical Society of Wisconsin, 1964), 194-213.

would complicate the matter in ways that Tyler should have predicted. Luckily for Calhoun, Upshur's treaty and most deliberations between Tyler's administration and the Texan government remained secret or at least vague to most Congressmen and partisan papers, giving Calhoun some time to re-establish talks with Lone Star diplomats and prepare for the inevitable Senate vote on the treaty.¹³

But Calhoun lacked subtlety, if anything. He cared little about the political repercussions of making the annexation of Texas an issue about slavery above all else. In fact, he seemed determined to force both parties to actually address the slavery question. In the month between Upshur's death and Calhoun's formal swearing-in on April 1, the Whig press leaked Tyler's secret negotiations and Texas again riled up both parties, who scrambled to understand how close Tyler was to securing a treaty and under what conditions might Texas enter the Union. Two weeks after Calhoun recited the oath, he gave Tyler a treaty that would admit Texas to the U.S. as a territory with rights to apply for statehood, assume up to \$10 million of U.S. debts, protect Texas' "domestic institutions," and include no provisions resolving the ongoing border disputes with Mexico.¹⁴ To sweeten the deal, Calhoun attached a letter he had written days before addressed to Richard Pakenham, the British minister to the U.S. In the letter Calhoun scolded Pakenham for trying to abolish slavery in Texas and threatening American sovereignty. Calhoun unleashed a meticulous and emotional defense of slavery and the government's right to defend it in places where it already existed. Airing all his grievances with the British and anyone opposing the extension of slavery, Calhoun wanted to inject sectional tension into the debate and hoped the parties might buckle under the pressure, forcing Southern Democrats to assent to their constituents and not slip away from the debate without a clear stance.¹⁵

The Pakenham letter, as Calhoun probably intended, threw the treaty deliberations into chaos. Northern Democrats denounced Calhoun's pro-slavery exhortations and desperately asked for peace on the sectional issue. Southern Democrats found themselves forced to even hesitantly

¹³ Irving H. Bartlett, *John C. Calhoun: A Biography* (New York: Norton, 1993), 306-310; Karp, *Vast Southern Empire*, 92-94; Pletcher, *Diplomacy of Annexation*, 134-136; Holt, *American Whig Party*, 168-171.

¹⁴ "A Treaty of Annexation, Concluded between the United States of American and the Republic of Texas, at Washington, the 12th Day of April, 1844," rpt. in Frederick Merk, *Slavery and the Annexation of Texas* (New York: Knopf, 1972), 271-275.

¹⁵ The letter is available at *Sen. Doc.*, 28 Cong., 1 sess. (ser. 435), no. 341, 50-3 and described in detail in Merk, *Annexation of Texas*, 57-70; Freehling, *Road to Disunion*, 408-413; and Bartlett, *Calhoun*, 310-314.

agree that annexing Texas would in many ways obviously benefit the South. Northern Whigs perhaps had it easiest, since Calhoun's letter essentially confirmed all their suspicions about what he and Tyler were up to with Texas. But Southern Whigs were in a predicament: by most counts annexing Texas would benefit the Southern slave power economically and politically, and creating a slave state where slavery was already well-established might catalyze a push for slavery all the way across the continent to California (should the U.S. run into that remaining territory, which belonged to Mexico but mattered little to westward migrants on the ground and expansionists in Congress). But the Whig party—now that it had fully excommunicated Tyler—was determined to punish Tyler for betraying them. To add to his pain, Tyler needed a two-thirds vote to ratify the treaty as constitutionally mandated. Given the newly sectional crisis, even a simple majority vote seemed an uphill battle.

This is not to say that the party, including Southern Whigs, lacked any real principles in opposing the treaty. Southerners of both parties, up to this point and especially since Texan independence eight years earlier, had been justifiably hesitant to discuss anything related to slavery. Indeed, the gag rule on talk of abolition still stood in both houses, and would not be dissolved until after the upcoming election. Calhoun's exploits certainly made everyone in Congress, Southern Whigs especially, deeply uncomfortable about the fate of their peculiar institution and the relative health of a body torn apart by sectional tension. Avoiding this, Southern Whigs struck a balance between two rhetorical tactics. They chided Tyler and his cronies for secretly promising Texas protection from Mexico (and attacking a fairly benign Great Britain) and, at the same time, debated substantive policy points regarding the specific provisions of the treaty, the constitutional basis for annexation, and, when they felt brave enough, the fate of slavery and the Union at large.

The three Southern Whigs who felt the need to make remarks about the treaty on the floor of the Senate immediately denounced Calhoun's conspiracy theories and played down the supposed threat of British emancipation. John M. Berrien of Georgia, one of the leading Southern Whigs in the Senate, cited a letter from Lord Aberdeen, then Britain's top foreign diplomat, written to the U.S. State Department assuring State that the British had no intention of colonizing Texas or emancipating its slaves. "That State cannot be desirable to the British government," he claimed, for the costs clearly outweighed the benefits and each nation's

respective slave policies would “forever forbid such union.”¹⁶ William Archer of Virginia concurred, specifically dismissing claims that Stephen Pearl Andrews, the British abolitionist whose letter claiming British emancipation in Texas leaked to the press the year before, had any influence on the British government’s foreign policy. Archer considered Andrews “utterly inconsequential and insignificant” and totally irrelevant to the official record given the correspondence with Britain’s actual chief diplomat.¹⁷

Spencer Jarnagin of Tennessee even argued that England would suffer by colonizing Texas. He said other colonies in the Americas were “already infected with radicalism and endangered by the democracy propagated from our shores,” strangely suggesting that said colonies were either bound to attain independence from the British Empire or eventually enter the United States’ orbit.¹⁸ Jarnagin seemed to imply that such colonies were at least subject to American influence and at most inexorably bound for American vassalage or statehood. While Jarnagin appeared here to show his hand, this simply shows the degree to which Southern Whigs in Congress generally opposed Tyler’s treaty and annexing Texas while remaining sympathetic to the ideology of Manifest Destiny and open to expansion in the abstract. Indeed, Berrien conceded that he did not doubt “the right of this government to acquire territory” but instead sought to wait until “the American people have time deliberately to examine the question of Texian annexation” without the “excitement of a presidential canvass” and pressure from a bellicose, fearmongering chief executive and his cabinet.¹⁹

Calls for deferrals on a vote or debate rarely held much weight in this period given the rarity of vote-delaying filibusters. The so-called “60-vote Senate” is a distinctly modern Congressional phenomenon and Berrien and his fellow Southern Whigs sought not to obstruct legislative proceedings but, in the most literal sense, delay any vote, debate, or even talk of annexation until the ongoing issues with Mexico could be properly addressed and ideally solved.²⁰

¹⁶ *Cong. Globe*, 28th Cong., 1st sess. 701 (1844).

¹⁷ *Ibid.*, 695.

¹⁸ *Ibid.*, 685.

¹⁹ *Ibid.*, 701.

²⁰ On the state of filibustering and legislative obstruction in the period, see Gregory Koger, *Filibustering: A Political History of Obstruction in the House and Senate* (Chicago: UChicago Press, 2010), 39-57.

The threat of increased tensions with Mexico seemed almost guaranteed whether the Senate passed the treaty or not. Whigs feared war with Mexico since it never formally recognized Texas' independence and somewhat paradoxically remained in disputes with the Texan government over the republic's southern border. The treaty's provision deferring the border issue to an undecided later date did little to assuage these concerns. With Mexico's government in a state of flux and the nomadic *caudillo* Santa Anna still lounging at his hacienda in Veracruz, American politicians had little idea what Mexico might do if its once treasured territory (which it still considered its own) suddenly leapt to the open arms of their increasingly expansionist northern neighbor. Senator Berrien charged that Mexico recognizing Texas' independence "was the act of a captive chief" (Santa Anna), who "extorted this acknowledgment of Texian independence" under the "duress of imprisonment" by the victorious Texas army at San Jacinto.²¹ Berrien, most American diplomats and politicians, and the post-Santa Anna Mexican government all considered these so-called Velasco Treaties null and void, signed by a man whose recklessness had cost him the basic will and command of the Mexican people. By this logic, Texas lacked the basic sovereignty to forcefully and legitimately call itself independent and could not thus sign a treaty with a foreign power relinquishing that sovereignty, since it either didn't exist or still belonged to the Mexican government. Such issues of sovereignty and contracts featured centrally in the debates over annexation in the lame-duck session of Congress after the presidential election.

The issue with Mexico soon became a means to different ends for the pro- and anti-annexation camps. Whigs and those opposing annexation argued that ratifying the treaty without Mexico's consent—or even a seat at the table—was not only in poor diplomatic taste but dangerous for the still-disputed border and for future scrapes between these two countries and peoples now regularly bumping shoulders in the West. Senator Jarnagin, in language yet again prejudiced toward Manifest Destiny, said that "whatever may be said against" Mexico's "cruelties and barbarism," the U.S. had to admit that their "national conduct towards us is most friendly, exemplary, full of faith."²² The Mexican government had indeed largely squabbled

²¹ *Cong. Globe*, 28th Cong., 1st sess. 704 (1844).

²² *Ibid* 682.

amongst themselves as Tyler's diplomats (and Great Britain's, for a time) spoke bluntly with Texan officials about fully revoking Mexico's claims and pledging its fealty elsewhere.

Tyler, Calhoun, and the annexationists knew Mexico cared about Texas. Still, they argued that annexing it would save Mexico the trouble of dealing with a new conflict between Britain and the U.S. Tyler and his cabinet in particular used Mexico's governmental instability not as means for caution but proof that Mexico would be unable to forcefully respond should Texas convert. They seemed to think that annexing Texas would put the issue to rest rather than let it fester like an open wound. Mexico eventually became both an object for disdain, dismissed as too fractured to respond and, for the Whigs and Southern Whigs needing reasons to oppose annexation, the primary diplomatic threat to the U.S. should the Senate ratify the treaty.²³

The treaty's provision that the U.S. absorb Texas' debts alarmed some fiscal hawks. This issue seemed more like an added annoyance than the more pressing issues with Mexico and Great Britain but nonetheless contributed to Whigs' complaints about Texas' sovereignty and current economic state, which was in decline and needing resuscitation from a large, wealthy patron state like the U.S. Senator Jarnagin harangued "the high State-rights doctrinaires who aim at this thing" for supporting the federal government essentially buying Texas out, asking them what would stop the feds from lending all the states money "as an usurer does to young spendthrifts" until "finally, eating them up with interest, it forecloses upon them, and buys them in?"²⁴ Though this is part of Jarnagin's general issue with Texas' sovereignty, the provision basically put a price tag on annexation which, given his principled opposition, only hardened his antipathy.

Perhaps most importantly, both the Whigs and Democrats refused to fully confront the slavery issue and believed—like always—that putting off sectionally divisive issues for another day was their most prudent option. Some Southern Whigs fully or partially embraced the argument put forth by Mississippi Democrat Robert J. Walker, which he published in an extremely influential tract that was circulated around both the North and South. Walker's "safety

²³ Assumptions that Mexico wouldn't or couldn't respond to Texas' annexation were probably a safe bet, even if they were wrapped up in conspiracy theories about British threats. On Mexico's turbulent political situation during deliberations on the treaty, see Josefina Zoraida Vázquez, "The Texas Question in Mexican Politics, 1836-1845," *The Southwestern Historical Quarterly* 89.3 (1986): 309-344, esp. 340-344; and Pletcher, *Diplomacy of Annexation*, 149-153.

²⁴ *Cong. Globe*, 28th Cong., 1st sess. 685 (1844).

valve thesis” strongly supported annexation but argued that annexing Texas would actually hurt the slave economy in the rest of the Deep South by funneling planters and their valuable slaves into the vast new holdings in the Texan countryside. Walker also tackled the ascendant ideology of Manifest Destiny, arguing that even though Texas would ruin some Southern slaveholding planters, it was in the nation’s “destiny” to extend its borders and spread its ideologies and political systems across the continent.²⁵

Senator Berrien argued that the South would “derive no peculiar pecuniary benefit” from ratifying the treaty and that those who stand to benefit are the “holders of Texian stock.” Even more strikingly, Berrien took pains to assure wary Southerners that annexing Texas would not only drain the South of planters and their slaves but consequently “diminish in those States the number of those interested in the institution” and ultimately those states, like Georgia, “would be shorn of its strength” in slavery.²⁶ Though his safety-valve arguments may have been somewhat “far-fetched,” (in the words of his biographer) Berrien needed to simultaneously rebuke annexation and defend, somewhat obliquely, the institution that it would, on paper, probably strengthen both politically and economically.²⁷ He instead invested in the long view for the survival of slavery. Strangely, Berrien believed—perhaps to the point of the paranoia that would grip much of the Southern slave power from thence on—that even political measures almost explicitly designed to help the South might actually hurt it. Or, more cynically, Berrien was just feigning concern for the institution and taking up Walker’s thesis for convenience.

Senator Archer took a similar tack. Like any good economist, Archer argued that opening up a massive new market for the slave trade would depress the cotton market, lower prices, and hurt planters who chose to stay on their plantations rather than move west. “The lands in Texas were so incomparably superior to the southern lands,” that those markets the South so wholly relied on would “fall so low as to be inadequate to the just maintenance of slave-labor.”²⁸

²⁵ Walker’s letter is reprinted in facsimile in Merk, *Fruits of Propaganda in the Tyler Administration* (Cambridge: Harvard UP, 1971), 221-252, and described in detail in Merk, *Fruits of Propaganda*, 95-120, Stephen Hartnett, “Senator Robert Walker’s 1844 Letter on Texas Annexation: The Rhetorical ‘Logic’ of Imperialism,” *American Studies* 38.1 (1997): 27-54; and Paul E. Sturdevant, “Robert John Walker and Texas Annexation: A Lost Champion,” *The Southwestern Historical Quarterly* 109.2 (2005): 188-202.

²⁶ *Cong. Globe*, 28th Cong., 1st sess. 702 (1844).

²⁷ C. Jay Smith, Jr., “John McPherson Berrien,” in *Georgians in Profile: Historical Essays in Honor of Ellis Merton Coulter*, ed. Horace Montgomery (Athens: University of Georgia Press, 1958), 168-191, esp. 183-187.

²⁸ *Cong. Globe*, 28th Cong., 1st sess. 696 (1844).

Southern Whigs thus argued against annexation by actually defending slavery and touting their ability to see its inevitable demise, should Texas indeed “drain” the South of its delicate economic balance. And even though they were taking their cues from one of the Democracy’s staunchest annexationists and Tyler apologists, for now these Southern Whigs were able to divert the issue away from a binary of pro-annexation/pro-slavery to a more nuanced—if dubious—argument that they were actually protecting slavery for the time being by opposing Tyler’s treaty.

For the Whigs, the lines were clearly drawn. They were eager to throw Tyler’s defeated treaty back in his face and, on June 8th, voted it down 16 to 35. Seven Democrats, all from the North, joined all but one Whig, the Calhounite John Henderson of Mississippi, in opposing it.²⁹ Tyler achieved barely more than a one-third vote, a deeply embarrassing loss for a treaty whose main objective enjoyed popular support in both the Texas and the South. But the time and the means weren’t right for it. Calhoun sabotaged the treaty on arrival with his explosive epistolary scolding. He gambled that the sections would rally and abandon their parties and he lost big. In fact, it backfired completely. Really the only defectors were Northern Democrats furious at the prospect of another slave state and at Calhoun’s hard-line sectionalism. But Calhoun seems to have known that the treaty was doomed, for publishing it reflected more his desire to force the upcoming presidential candidates to stake their claim on annexation. Indeed, in a rare moment of lucidity, most senators of both parties could see Calhoun’s Anglophobic paranoia for what it really was. And the clumsy provisions of the treaty were barely palatable to anyone worried about Mexico—the border dispute would remain unresolved and Tyler clearly made no effort to get the struggling Mexican government on board.³⁰

Looking forward, the Whigs were determined to strongly rebuke Tyler before Congress adjourned for the last time before the upcoming election, which they hoped would finally put a principled, stately Whig in the White House capable of instituting the party’s American System and dissolving the annexation issue before it could rend asunder the newly warring sections. But unlike the treaty vote—which depended solely upon the party’s ability to rally its

²⁹ *Senate Journal*, 28th Cong., 1st sess., Append. 438.

³⁰ Merk, *Annexation of Texas*, 80-82; Silbey, *Storm Over Texas*, 46-50; Bartlett, *Calhoun*, 311-316.

representatives—the Whigs now had to face the American electorate, which would be far more difficult to predict and tame.

The Election of 1844 and Political Miscalculations

The presidential election of 1844 may have been the death knell for the long-term longevity of the Whig party. Some scholars have taken to hypothesizing that had the Whigs won, there would have been no annexation, no war with Mexico, no Wilmot Proviso, no Republican party, no Lincoln and no Civil War.³¹ While such sooth-saying is hyperbolic and probably unproductive, November of 1844 was indeed a key moment for the country. With annexation shelved for the moment but not lost on the voters, one party decided to tackle the issue head-on while the other tip-toed around it.

For the Whigs, it was Henry Clay's moment. Having long sought the presidency from the Speaker's chair, Clay helped form the Whig party from the ashes of the National Republican party and remained easily the Whigs' most visible and respected statesman. Before word got out that Tyler's men had been moving on Texas, Clay had been nominated by almost all state Whig conventions and by the treaty vote was the party's unanimous pick for candidate for president. By the time the treaty failed, he had even secured the assent of old rivals like Daniel Webster and Winfield Scott.³² Still bitter about being passed over at the wild national convention in 1839, Clay believed that given Tyler's unpopularity, Democratic disarray, and his own reputation as the architect of the Whig ideology, the White House was his. But ultimately his pride and inability to accurately read the electorate cost him the office he'd always dreamed of. And the key issue that he most deeply misunderstood was, of course, the annexation of Texas.³³

Clay, like most Whigs in those crucial months early in the campaign, underestimated the Texas question. His vision for the campaign seemed stuck in the past, where the old issues of the tariff and the bank would excite the Whig base to victory over, presumably, Martin Van Buren,

³¹ Kirwan, *Crittendon*, 169.

³² Sellers, "Election of 1844," 759-760.

³³ Remini, *Henry Clay*, 626-628;

who both Whigs and Democrats believed would get the Democratic nomination.³⁴ Rumors swelled that Clay and Van Buren actually tacitly agreed to stage their campaigns the old-fashioned 30's way—around the economic issues.³⁵ Though this was probably pure speculation, accusations of collusion forced both men into corners and each chose uniquely inopportune times to finally address the Texas question. After Clay returned from stumping in the Deep South in an especially active campaign for a presidential candidate, he was shocked to see in Northern papers news that Tyler and Calhoun had sent to the Senate a treaty for annexing Texas, along with the Pakenham letter. Clay had actually already received letters from concerned Whigs about his stance on Texas and had privately agonized over Texas for nearly a month. Feeling the pressure of the impending treaty vote, Clay wanted to get ahead of the issue before it consumed his campaign. On April 27, the day before he left Raleigh, North Carolina for more stumping, he published a letter in the *National Intelligencer*, the national Whig organ, laying out the basic tenets opposing annexation—he feared war with Mexico and, perhaps even more, sectional tensions flaring up so close to the election. It just so happened that the same day, Van Buren published a letter in the evening *Globe* also opposing annexation.³⁶

Each letter had its own consequences. For Van Buren it was catastrophic. Democrats around the country but especially in the South panicked and knew that the Little Magician, once considered the most scheming politico the Democracy ever produced, had just killed his own campaign with bald-faced honesty. The party's anti-Van Buren faction quickly consolidated support from key state actors and prepared to usurp him at the upcoming national convention. As Van Buren failed to get a two-thirds confirmation from the convention's delegates after seven ballots, a number of candidates stepped forward, some loyal to Van Buren but with less baggage and others simply pro-Texas men eager to jump on the campaign's knottiest issue. Out of this

³⁴ Arthur C. Cole, *The Whig Party in the South* (Gloucester: The American Historical Association, 1914 rpt. 1962), 108-11.

³⁵ Remini, *Henry Clay*, 612-613. Remini believes that these rumors were purely descendants of the old "corrupt bargain" charges that Clay always made deals with his political opponents. Clay's recollections of his and Van Buren's meeting suggest they talked very little politics. Clay did, however, write privately that he "found him interesting often & some times amusing."

³⁶ Remini, *Clay*, 633-641; Kirwan, *Crittendon*, 173-177; Holt, *American Whig Party*, 171-173; Sellers, "Election of 1844," 760-761. Van Buren was in a trickier position than Clay because the Democratic party's platform that year had already strongly endorsed annexation. Even the ailing Jackson, still embroiled in politics from his old Hermitage plantation, pressured Van Buren to move with Southern and Western sentiment and go for Texas. But just as when he was president, Van Buren feared above all upsetting the sectional balance and allowing the politics of slavery to tear the Union apart. He told a close friend that annexation "was a consideration which I was not at liberty to embrace."

crowd emerged James K. Polk, who on paper looked like the ghost of Old Hickory himself. Polk had actually received Jackson's blessing for the presidency when visiting the Hermitage earlier in the year, and his unambiguous expansionism and reverence for the sickly old general thoroughly earned him the nickname "Young Hickory."³⁷

Polk had been floated as a candidate for Van Buren's running mate months ago but before the convention remained relatively obscure. As the eighth and ninth ballots passed with no clear winner in sight and Van Buren's small lead slipping away, Polk stepped in to offer his own platform. He concurred with the newly formed party platform that Oregon was to be kept from British control and Texas "re-annexed" immediately. Van Buren, seeing the writing on the wall and knowing, perhaps, that a pro-Texas man like Polk might actually beat Clay, told his delegates to vote for Young Hickory. On the next ballot, Polk won with unanimous support and was thrust into the national spotlight. Whigs quickly plastered their papers and tracts with the contemptuous and infamous campaign slogan: "Who is James K. Polk?"³⁸

Meanwhile, Clay's so-called Raleigh letter landed with a bit of thud. Clay assumed that publishing the letter would essentially resolve the Texas question and he could move on. And even though the political climate surrounding Texas still privileged party over section, Clay soon fell prey to competing forces within the party—reflected by section—that were deeply unhappy with his handling of the situation.

The Raleigh letter mostly addressed tensions with Mexico, Texas' debts, and other pecuniary interests, but Clay did make some space to decry the recent sectionalism engendered by pro-slavery hard liners like Calhoun. The Great Compromiser as always believed in the natural harmony of the Union and would excuse for eternity the South's peculiar institution (which, though he owned some slaves, he generally disliked) as long as North and South could agree on its terms and extent. But by opposing annexation Clay implicitly took the sides of both abolitionists totally opposed to annexation and even moderate Northern Whigs who only wanted

³⁷ Walter R. Borneman, *Polk: The Man Who Transformed the Presidency and America* (New York: Random House, 2008), 84-93; Charles Sellers, *James K. Polk: Continentalist* (Princeton, Princeton UP, 1966), 67-75; Sellers, "Election of 1844," 763-770.

³⁸ Sellers, "Election of 1844," 770-777; Borneman, *Polk*, 107-112. Running on their opponent's obscurity proved disastrous for the Whigs, whose primary weakness in Clay was his notoriety, which made him subject to charges of political ambivalence and corrupt bargaining. Clay's political experience haunted him to defeat in a way that the Whigs who actually won the presidency (Harrison and Taylor) never had to deal with.

to cease its extension into new territories. Southern slaveholders decried Clay for selling out his Southern brethren. The Kentuckian tried to assure Southerners that he had no interest in emancipation or, really, in hurting the South's political strength.

On July 1st, three weeks after the Senate defeated Tyler's annexation treaty, Clay published another article known as his first Alabama letter. He attempted to clarify his position on annexation by arguing, like the Southern Whigs had in Congress, that he did not oppose annexation in and of itself but under the given conditions would not accept the exacerbation of sectional tension over Texas and tensions with Mexico. This was a fairly typical restatement of the moderate Whig position on annexation. But it angered both Northerners and Southerners and gave Democrats room to call Clay a stumbling flip-flopper. In one last attempt at self-laceration, Clay published the so-called second Alabama letter in the Tuscumbia-based *North Alabamian* on August 16. Clay tried to frame annexation as an issue separate from the slavery question and argued that slavery was "destined to become extinct, at some distant day" by the "inevitable laws of population."³⁹ Above all, Clay would, if president, only annex Texas if he were confident it would not threaten the basic integrity of the Union. Indeed, he seemed to portend a growing pattern of sectionalism, especially regarding territorial acquisition. In this regard, Clay's argument was prescient. Otherwise, the letter doomed his campaign just when he needed to bury the Texas issue once and for all.

Clay pointing out that Texas was sectionally divisive only seemed to make the sectional problem worse. Northern Whigs now felt they could not trust that Clay would remain true to his word resisting annexation, and Southern Whigs felt they had to vote for a man who implicitly (and perhaps naively) thought their beloved domestic institution might or should die a slow death. Instead of reducing the slavery issue like he wanted, Clay probably made matters worse by not simply embracing Walker's safety-valve thesis like the rest of the more perceptive Southern Whigs in Congress. Annexation was always going to be tough for Clay, who had his own reasons for opposing it but was, at the same time, obligated to voters and political allies to create a stronger framework for doing so. Clay's stances published in the Raleigh and Alabama

³⁹ Quoted in Remini, *Clay*, 660.

letters may have been misinterpreted or simply exaggerated by Southerners inclined to dislike his constant centrism, but he still failed time and again to clarify his own ambivalence.

In contrast, Polk was faced with explicating his own positions on the tariff, which he had a long history of supporting but now disavowed as the Democratic standard bearer. Polk was in basically the same boat but smartly kept his mouth shut and let his surrogates deflect accusations of hypocrisy. Indeed, Clay self-destructed (like Van Buren) by allowing his convictions out into the charged and occasionally hysterical election-season atmosphere. A historian critical of the Whig party might assume that Clay lost because he rejected the typical Whig strategy, which favored nominating apolitical war heroes who would keep mum about their opinions and let surrogates craft hearty folk tales about their ruggedness and good nature. Clay was, in every respect, the opposite of Harrison and Zachary Taylor. But we cannot attribute electoral wins and losses solely to these politicians' respective personalities and public personas. Clay, like any good Whig, wanted to run on the tariff and the bank. Tragically, he was quickly outflanked by poor timing and an issue that the Whig party remained largely confused about handling. Southern Whigs more concerned with winning the election than annexing Texas immediately (most of them) got behind Clay in the weeks leading up to the election. But it's no surprise that Clay won with traditionally Whiggish voters. What he needed were the moderate anti-Jacksonians either not persuaded by Tyler's weak third-party effort or seeking a clear answer about Texas. Polk gave them, in a sense, a simpler way out. He wanted a treaty or bill for annexation on his desk on day one and vowed to put down any Mexican resistance. Clay, meanwhile, simultaneously offered deferred annexation, no annexation, and a few confusing concessions to the slave power. This flip-flopping put just enough Whig-inclined voters in the Deep South on the fence about Clay, a Kentuckian with no abolitionist record but just enough indifference to the institution itself to doom the hard-line vote.⁴⁰

The results were extremely close and came down to a number of factors, most of which benefitted Polk. Clay's stance on annexation cost him narrow margins in the Deep South, where he lost states that Harrison won four years earlier like Georgia, Mississippi, and Louisiana. Charges of electoral fraud tinged Polk's extremely close victory in New York. Clay also lost a

⁴⁰ Remini, *Clay*, 661-662; Sellers, "Election of 1844," 778-792; Sellers, *James K. Polk*, 144-153; Borneman, *Polk*, 112-125; Wilentz, 572-576; Morrison, "Westward the Curse of Empire," 242-246.

sizeable contingent of free-soil voters to James G. Birney of the Liberty party, whose abolitionist stance appealed to more than enough anti-slavery voters to hand New York's electoral vote (the largest of any state at the time by far) to Polk, the ultimate expansionist. But the popular vote complicates matters: Polk won New York by little more than 5,000 votes out of nearly 500,000 and won those Deep South states by, on average, fairly narrow margins. Thus the electoral college seemed to reflect deep Whig losses when, in fact, key issues like Texas divided Whig voters only by slim enough margins to give Polk a decisive electoral college victory but little popular mandate for annexation or any of his other platforms. Even though most party brokers at the time and historians since believe that the popular vote followed well-established lines, the election results show that because Clay failed to fully or convincingly outline his thoughts on Texas—or even because he offered them at all—the heretofore partisan alliance opposing annexation began to show signs of weakness. While the South did not go all-in for Polk, clearly moderate voters looking for guidance or rhetorical clarity on Texas found neither in Clay and likely hedged their bets on Polk's lucid, if controversial, demands for annexation. The Southern Whig contingent could no longer rely on their obsessions with tariffs to placate anti-Jackson voters and actually had to confront the paradoxical demons of both section and party, neither of which had dared interact before Texas emerged from political censure.⁴¹

Joint Resolutions in the Lame-Duck Session

This was the situation the shocked and defeated Whig party had to face as the 28th Congress convened for its lame-duck session in December, 1844. After his victory in November, Polk moved quickly to harden his stance on annexation and prove his political acumen to skeptical Democratic statesman like James Buchanan so he could rally the troops around acquiring Texas come his inauguration in March.⁴² But outgoing president Tyler wanted to solidify his legacy by securing annexation before Polk could even enter office. In his final address to Congress on December 3, Tyler argued that Polk's victory signaled a sure mandate for

⁴¹ Silbey, *Storm Over Texas*, 77-79; Sellers, "Election of 1844," 793-798; Remini, *Clay*, 662-667; Howe, *What Hath God Wrought*, 682-690; Holt, *American Whig Party*, 176-207; Seager, "Compromise and Non-Compromise," 26-27; David Zarefsky, "Henry Clay and the Election of 1844: The Limits of a Rhetoric of Compromise," *Rhetoric and Public Affairs* 6.1 (2003): 79-96, esp. 92-94.

⁴² Sellers, *James K. Polk*, 162-165; Borneman, *Polk*, 133-141.

annexation “promptly and immediately.”⁴³ Looking to avoid another embarrassing defeat in the Senate, Tyler proposed that Congress pass a joint House-Senate resolution annexing Texas under provisions made by Congressmen themselves. This would give Congressmen leeway to shape the terms of annexation, since much of the debate the summer before had hinged not necessarily on annexation itself but the terms of the treaty, which Upshur and then Calhoun had used to make annexation a distinctly Southern and pro-slavery measure. The problem was that a joint resolution only required a simple majority in each house of Congress rather than a two-thirds vote in the Senate. Now, Whigs and Democrats alike had to ask themselves if they were willing to support or strike down a measure that actually might pass and have lasting consequences. Suddenly the political contingencies of a bill that Tyler and his successor would surely both sign—should it reach their desks—became not just symbolic but possible and likely.

The issue of the joint resolution would dominate discussion over the several bills and amended bills debated on the House and Senate floor. This time around, Congressmen of both parties came out in droves to support or oppose the measure, and from early January to late February senators and representatives unleashed a deluge of long-winded speeches discussing in terms both emotional and analytical their dispositions toward annexation and poured memorials from this or that constituent group or organization supporting or opposing annexation. During the 28th Congress’ first session in the spring of 1844, 15 Congressmen spoke on the floor about annexing Texas. In the second session, 60 spoke for or against annexation. Only three Southern Whigs spoke about annexation during the first session but now 13 submitted their opinions on the floor, with interestingly divided results.⁴⁴

Southern Whigs came into this lame-duck session feeling more than just the burden of losing the White House. Whig strongholds in states like Georgia and Tennessee slipped from the party’s grasp in the elections and became increasingly divided over the Texas issue, which most Southerners on the ground—regardless of party—began supporting more openly as it seemed Polk would one way or another get an annexation bill to his desk. Such was the state of the party when Representative Milton Brown and Senator Ephraim Foster of Tennessee, joined by Representative Alexander Stephens of Georgia, introduced a joint resolution that addressed some

⁴³ Quoted in Bartlett, *John Tyler*, 220; and Silbey, *Storm Over Texas*, 80.

⁴⁴ *Cong. Globe*, 28th Cong., 2nd sess. 420 (1845).

of the Whigs' earlier concerns about annexation—it left Texas' debts to Texas, proposed banning slavery north of the so-called Missouri Compromise line at 36° 30' north, and gave the U.S. government rights to negotiate Texas' border, which it implied would honor the boundary at the Rio Grande river rather than the Nueces river farther north. This would come to be known as the Brown amendment. All these concessions were keenly perceptive to the problems that Southern Whigs faced in the previous session.⁴⁵

Stephens in particular wanted to see annexation, which he viewed as inevitable, done on terms acceptable to Southern Whigs. As the lame duck session convened he wrote to Georgia's governor George Crawford that annexation was "almost certain" but ought to be done "upon proper principles."⁴⁶ The future vice president of the Confederacy represented (and some would say led) a contingent of Southern Whigs called "states-rights" Whigs, which seems more like a euphemism for Southerners whose fealty to section occasionally and crucially usurped loyalty to party. On annexation, Stephens clearly fit this bill. Even as one of Clay's key Southern surrogates during the campaign, Stephens knew annexation had truly gripped Southern voters and knew that should Clay lose the election Texas would be had one way or another. So he went into 1845 trying to recoup the Whig party's losses any way he could to benefit the South and its beloved institution of slavery.⁴⁷

"If slavery is to exist in any part of the territory, let it be so stated," Stephens said on the House floor, for "no southern man could pursue ... a more unwise course than to vote for any measure upon this subject without a settlement and establishment of the line dividing those interests."⁴⁸ Clearly Stephens wanted the terms of annexation to protect slavery in Texas and, ideally, allow the lands considered part of Texas to be split into multiple states (some floated making the Lone Star into five separate states) to tip the political scales strongly to the South. But Stephens feared, almost like Tyler and Calhoun a year earlier, that if slavery was not

⁴⁵ Merk, *Annexation of Texas*, 152-153; Freehling, *Road to Disunion*, 440-442. Texas claimed that its boundary with Mexico lay on the Rio Grande river while Mexico said the boundary stood at the Nueces river hundreds of miles north. The area between had been in and remained in political and military limbo well into formal negotiations with Texas for annexation.

⁴⁶ Quoted in Thomas E. Schott, *Alexander H. Stephens of Georgia: A Biography* (Baton Rouge: Louisiana State University Press, 1988), 60.

⁴⁷ Schott, *Stephens*, 57-59; Rudolph Von Abele, *Alexander H. Stephens: A Biography* (New York: Knopf, 1946), 88-91; Brown, *Politics and Statesmanship*, 198-202.

⁴⁸ *Cong. Globe*, 28th Cong., 2nd sess. 310 (1845).

explicitly protected in the annexation bill, then vigilantes may begin emancipating slaves and abolitionists might snake their way in and steal Texas right out from under their noses. Such was the line Stephens drew between hesitantly supporting annexation—which, let us remember, was orchestrated by his political enemies—and keeping his eye on maintaining Southern autonomy toward slavery.

Still, other Southern Whigs who supported Stephens' joint resolution tried to frame annexation as a national issue that would only benefit the South secondarily or by coincidence. Absalom Chappell of Georgia sharply critiqued nameless political agents who sought to make annexation about slavery, wondering if they “expect to stir up and agitate such a sectional feeling against us throughout the North, without rousing into activity and expression a counter-sectional feeling on the part of the South?” These sectionalists (abolitionists, presumably, not someone like Calhoun, though the logic is the same) had, by making it a sectional issue, taken “a most fearful and unpatriotic sectional ground against us.”⁴⁹ But Chappell really did support Stephens' terms for annexation because it protected slavery. Even though he took some cues from Walker's safety valve thesis, Chappell's emotional tirades against anti-slavery forces in the North and and insecurity about sectional disputes give him away. Claiming patriotic largess is usually a good diversion tactic, and Chappell, like Southern Whigs as a bloc, tried to simultaneously embrace protections for slavery while appealing to nationalistic appeals to westward expansion.

Most Southern Whigs still believed the Brown amendment and its Missouri Compromise provision didn't go far enough in addressing the slavery problem and lamented that the border provision simply took Texas' side rather than deferring the issue entirely, as Tyler's treaty had. Only a few Whigs, all Southerners, joined Stephens in voting for the Brown resolution on January 25, which passed the House with support from all Southern Democrats, most Northern Democrats, and those nine Stephens acolytes.⁵⁰ The bill went to the Senate, where its passage remained unsure given that body's slight Whig majority of 28-24. As deliberations commenced, Southern Whigs rehashed old arguments opposing annexation. They predicted war with Mexico, dangerous political sectionalism, and safety-valve detriments to the Southern slave power. But

⁴⁹ Ibid 271.

⁵⁰ The House vote on the Brown resolution was 120 yeas to 98 nays. Clearly Stephens and his men were not essential to the measure's passage, but this vote was an important prelude to later votes because it illustrated some southern Whigs' willingness to break from the party and support annexation.

the constitutionally dubious method of a joint resolution—which required only a simple majority vote—emerged as Southern Whigs’ primary rhetorical punching bag. It allowed them to sidestep the slavery issue and question the measure’s very legality. That much of the debate surrounding annexation revolved around a largely procedural issue belied Southern Whigs’ clever reliance on, ironically, strict constitutional construction and historical accounts regarding the government’s basic ability to claim, acquire, and make states out of ambiguously defined territory.

Scholars have noted the obsession both Whigs and Democrats of the period had with constitutional construction and coloring legislative debates with the “spirit of litigation.”⁵¹ Southern Whigs repeatedly gestured back to the nation’s foundational document, pointing specifically to Article 4, Section 3 which states, in part, that “New States may be admitted by Congress into this Union.” Given that this clause makes no distinction between treaties and regular Congressional bills, Congressmen relied on the deliberations of the second Continental Congress and the words of George Washington himself, who argued that “the power of making treaties is exclusively vested in the President, by and with the advice and consent of the Senate, provided two-thirds of the senators present concur.” Senator William Rives of Virginia called the current resolutions “dangerous innovations” which “drove us all to an examination of the fundamental doctrines of our system.”⁵² Though most Whigs were not happy with Tyler’s original treaty—and especially the means by which it was delivered to them—that measure now seemed a nostalgic constructionist’s dream.

But even rebuking the current resolutions by constitutional precedent was not enough. Whigs soon turned to contemporary standards of international law for guidance. Senator Berrien quoted an 18th century treatise by Swiss political theorist Emer de Vattel called the *Law of Nations* that argued for the equality of sovereignty among large and small nations alike. “A dwarf is a man as well as a giant ... a small republic is no less sovereign than the most sovereign kingdom.” Vattel continued, writing that so long as a nation is “only *internally* bound, and does not lie under any *external* and *perfect* obligation,” then she is “mistress of her own actions.”⁵³

⁵¹ Howe, *Whig Political Culture*, 24.

⁵² *Cong. Globe*, 28th Cong., 2nd sess. 378 (1845).

⁵³ Emer de Vattel, *The Law of Nations* (Neuchatel: Londres, 1758; reprint, Philadelphia: T. & J. W. Johnson & Co., Law Booksellers, 1863), lxii-lxiii. Much of Vattel’s work on national sovereignty likely influenced American

Contending that Texas has by force and political muster legitimized its own sovereignty, Berrien performed a logical cartwheel to argue that because Texas was indeed sovereign, it could not faithfully relinquish its own rights to self-governance and diplomatic legitimacy to the U.S. “Can the constitution of the United States ... trample upon the rights, the dignity, the self-respect of a sister republic?” Berrien asked. Certainly this ignores the degree to which the Texan people and their government supported annexation and their repeated requests over the years for some sort of political protection or vassalage. But Berrien saw annexation as a particularly alarming form of extralegal belligerence, comparing such acquisition to imperialistic strong-arming: “If all Europe were combined in one vast monarchy, with the giant intellect and martial powers of a Napoleon at its head, would you brook such arrogance?”⁵⁴ In a strange turn of events, here we have a Southern Whig crying foul at European meddling to defend his *opposition* to annexation rather than his support of it. Any close observer would rightly conclude that the political context of annexing Texas differed crucially from the status of European colonies forced into political and economic assent. Texas, if anything, wanted annexation as soon as possible and under almost any terms.

Citing Vattel yet again, Representative Garrett Davis of Kentucky brought the European powers into the fray but on the other end of the battlefield. Davis argued that Vattel, along with “reason and common sense,” posited that the “constituted treaty-making power” must be “valid and obligatory, must be agreed to by the people, or by a convention chosen by them for that purpose.” In assuming that Congress has the exclusive right to negotiate foreign acquisitions and contracts, “it may admit Texas, or Great Britain, or Russia, into the Union as a State.”⁵⁵ Certainly the slippery slope is slippery rhetoric. But if Southern Whigs were going to stick to their guns and flex their legal muscles, hyperbolic and unrealistic claims about U.S. expansionism might go down well when perfectly seasoned with just the right amount of Anglo- and Russophobia.

Other Southern Whigs concerned about Texas’ sovereignty took a more conventional approach, arguing that Texas did have independent sovereignty and could be annexed under the right circumstances, but only by treaty and not the more expedient joint resolution. Senator

constitutional thought in the early days of the republic. The language in the preface to the *Law of Nations* is occasionally verbatim that of the Declaration of Independence and the Constitution.

⁵⁴ *Cong. Globe*, 28th Cong., 2nd sess. 383 (1845).

⁵⁵ *Ibid.*, 339.

Alexander Barrow of Louisiana said that the joint resolution's claim to annexation was a "desecration of the Constitution" and wondered if the current Congress, by majority vote, could pass legislation (since a joint resolution made annexation law rather than a foreign contract) that might be revoked by a future session of Congress. Barrow "certainly denied the power of one Congress to control or pledge the action of a future Congress respecting anything."⁵⁶ Were the joint resolution overturned later by a majority voting for a converse bill, what would Texas do? Reinststate its independence and dig up its old constitution? Barrow's point was indeed interesting but probably moot given the grave political consequences were a party or coalition to actually expel a slave territory or state from the Union, even years after it had been annexed.

Some Southern Whigs relied so heavily on traditional notions of treaties and treaty-making that they began, amazingly, trumpeting the power of the executive over Congress, especially in foreign affairs and diplomacy. "It is only through the executive that we could know the wishes of a foreign power," argued Representative Kenneth Rayner of North Carolina. Congress may "carry the details of a treaty, alliance, compact, or agreement into practical operation," but "the action of Congress can only be advisory." Perhaps an appropriations bill for defending Texas' newly defined borders might enter Congress' jurisdiction. But because "we have no other organ of communication with foreign powers" beside the executive branch, nothing could be done to significantly affect a foreign power whose wishes, he implied, are unknown to Congress.⁵⁷ Rayner, like others, avoided mentioning Texas' relatively uniform desire for annexation. He also seemed to be implying that this matter rested almost entirely with the executive branch when said branch's current and future representatives were those cronies shoving the measure through any way they could. Rayner and the other Whigs who donned their strict constructionist hats for the month assumed a legal tunnel vision akin to, perhaps, contemporary notions of "originalism" or "textualism" by essentially discarding context and fixating only on the letter of the law.

Scholars of Whiggish politics have noted that "when Whig speakers addressed an issue, they typically did so by tracing its history."⁵⁸ Indeed, annexation provided Southern Whigs with plenty of historical ammunition to question the nation's ability to acquire territory generally.

⁵⁶ *Ibid.*, 391.

⁵⁷ *Ibid.*, 411.

⁵⁸ Howe, *Whig Political Culture*, 71.

Senator Rives went all the way back to antiquity, in fact, pointing to the “absorption of lesser States” that had “occurred in the progress of the Roman empire to universal dominion.” He reminded his colleagues of the “successive incorporations with Arragon and Castile of the kingdoms of Granada and Navarre” into the Spanish monarchy. He pointed to “a more modern instance—the connection between Norway and Sweden,” when Norway “set up her own banner, like Texas” but eventually “concluded a convention, by which she surrendered her sovereignty, both territory and people, to the Swedish crown.”⁵⁹ Historical antecedents like this are a tricky matter, though. Patterns and similarities may provide useful contexts but are often times politically useless. So what if Norway ceded its sovereignty to Sweden via “convention”? Did that necessarily require Texas to do the same under two constitutions probably substantially different from even Norway or Sweden’s?

Perhaps more useful to the present day were comparisons made with well-known and sometimes deeply interrelated territorial acquisitions like the Louisiana Purchase or the acquisition of Florida. Representative Francis Brengle of Maryland recalled Jefferson’s agonizing decision to buy Louisiana from the French, even as he personally believed the president had little to no right to do so. “Thomas Jefferson saw it not, though he racked his mind and searched the constitution through and through, that” he could “put his conscience at rest while effecting so desirable an object.” He argued that purchasing Louisiana was “expressly on the ground of overwhelming necessity, imposed by a regard to the great and vital interests of the American people” but was still “acquired by treaty; and if it proves anything, it is that the power to acquire foreign territory is not in Congress.”⁶⁰ Rives added that Louisiana was acquired by treaty but only once it received the advice of two-thirds of the Senate did Congress pass a bill requiring a simple majority—an appropriations bill allocating funds “to carry the treaty into effect by the payment of the purchase money.”⁶¹ Now the Whigs could point out substantive differences in both the discourse and methods of acquiring Louisiana. Thomas Jefferson, that glorious founding father whose loyalty to the constitution knew no bounds—even he understood the threats of legislating acquisition. What of these so-called constructionist Democrats supposedly descended from Jefferson? How could they possibly reconcile such patricide?

⁵⁹ *Cong. Globe*, 28th Cong., 2nd sess. 379 (1845).

⁶⁰ *Ibid.*, 84.

⁶¹ *Ibid.*, 381.

On Florida, Whigs confronted an issue of diction that Democrats had introduced in calling the measure to annex Texas actually a “re-annexation,” since, they argued, Texas had actually already been acquired by the Louisiana Purchase and then stolen by the Spanish in the terms of the Adams-Onis treaty, which, among other things, ceded Florida to the U.S. and defined the boundary between Louisiana and New Spain along the Sabine river.⁶² Representative John P. Kennedy of Maryland dissected this re-annexation argument. He conceded that he believed Texas was a part of Louisiana when the Louisiana Purchase was approved. But, in another legalistic loophole maze, Kennedy denied the claim that “we could not give up Texas, but had a right to hold fast the equivalent which was given for Texas, namely, the territory of Florida.” Kennedy was essentially saying that the re-annexation argument rested on the assumption that because Texas and its people were acquired by the U.S. in 1803, all other subsequent treaties regarding that same sovereignty and those same people could somehow not affect them. “The treaty of 1803 was a good and valid treaty, but it was no better than the treaty of 1819.” He then listed a number of well-known treaties signed throughout European history that similarly addressed the same nations or regions and the same people’s right to sovereignty: “Let the gentlemen examine the treaties from Westphalia, in 1648, down to the present time . . . how absurd would it be, how singularly would it strike the ear of the civilized world, to hear” of European nations “setting up rights of reannexation, founded on the principles asserted in this argument of the advocates of Texas!”⁶³ Kennedy used such colorful language throughout his laboriously poetic speech, calling the joint resolution “a scheme to out-veto the veto of the Senate” and Senator Stephen Douglass’ claims to re-annexation “an ingenious invention to revive one dead treaty by strangling three living ones.”⁶⁴ Tyler, “our Polonious President,” had justified this annexation by nothing less than “wretched sophistry.”⁶⁵

The few Southern Whigs in the Senate who openly supported annexation occasionally adopted the rhetoric of the Democrats: Britain still somehow threatened Texas’ hold on slavery, Walker’s safety-valve thesis was sound, the South should openly embrace political victories it

⁶² Howe, *What Hath God Wrought*, 107-116.

⁶³ *Cong. Globe*, 28th Cong., 2nd sess. 299 (1845).

⁶⁴ *Ibid.*, 296.

⁶⁵ Quoted in Charles H. Bohner, *John Pendleton Kennedy: Gentleman from Baltimore* (Baltimore: Johns Hopkins Press, 1961), 168; and Andrew R. Black, *John Pendleton Kennedy: Early American Novelist, Whig Statesman & Ardent Nationalist* (Baton Rouge: Louisiana State University Press, 2016), 192-193.

could actually win, etc. But they also felt the need to refute claims made by fellow Southerners of their own party and offer an alternative annexationist logic that still remained sufficiently Whiggish. John Henderson of Mississippi—the one Whig who voted in favor of Tyler’s treaty the summer before—rebuked by name Senator Rives, who quoted Vattel in arguing that because small and large nations have equal claim to sovereignty, any divestment of sovereignty necessitated a contract or treaty between the two nations. Henderson instead took a narrow view of Article 4 Section 3, saying that because the Constitution states that “Congress shall have the power to admit new States into the Union,” Congress by whatever means it deemed necessary might do so. In fact, Henderson argued that “Texas, by the resolution, surrenders no territory; nor do the United States thereby acquire any.” “Political dominion” was at stake, not the addition or subtraction of territory, since territory was not being created and a state was ceding its own territory to another. Henderson quoted the second clause of Article 4, Section 3, which gives Congress the power to make all “needful rules and regulations respecting the territory and other property belonging to the United States.” If the U.S. considered Texas a territory, or perhaps a potential territory, then Congress may “enact all the laws governing the territory,” including those that establish its government.⁶⁶ Henderson essentially threw the very constitutional clauses that Rives cited back in his face by twisting the language to assume that Congress has the right to ask Texas for its own territory. Still, Henderson’s reliance on constitutional construction applied the same logic that Democrats did in justifying the joint resolution over the treaty.

William Merrick of Maryland concurred with Henderson’s constitutional reading. In his speech he read all of Article 4, Section 3, including its subsequent clauses, and concluded that Rives’ reading simply did not hold up. “The treaty-making function I have always supposed was subordinate and auxiliary, but not paramount,” he said. “It is a particular mode prescribed in which treaties shall be made, when the convenience or occasions of the government render it expedient.”⁶⁷ Of course, what is a power in the constitution if it is only to be done when “convenience” calls? Merrick qualified his argument yet again, calling the joint resolution “contingent legislation” that Texas may or may not agree to. Ignoring the issue of annexation on the ground in Texas was certainly an easy way out for many Southern Whigs.

⁶⁶ *Cong. Globe*, 28th Cong., 2nd sess. 407 (1845).

⁶⁷ *Ibid* 231.

Ultimately, though, this small but mighty contingent of Southern Whigs advocating annexation saved their energies for the real issue: slavery. Henderson amazingly denied that annexation would not increase “the representative apportionment in Congress which rests on slave population.” Should the measure pass, “we of the South will feel ourselves better assured, better protected from hostile influences within and without.” And, indeed, “it cannot be doubted but the slave’s condition is bettered by the operation.”⁶⁸ Senator Henry Johnson of Louisiana made a short speech recapitulating many of the Democracy’s main points but taking care to point out that “the State he had the honor, in part, to represent, was as deeply interested in the slave question as any other in the Union.” Annexing Texas was “a measure calculated, in his opinion, to strengthen those rights, and to promote the permanent prosperity and glory of the nation.”⁶⁹ In his final minutes, Merrick departed from his deeply analytical legal arguments and began shouting about the “whinings of the fiendish fanatics” who subscribed to the “dark spirit of abolitionism” and whose “ignorance and honest prejudices” against the South’s peculiar institutions threatened the “general prosperity” of the Union. So does the specter of slavery finally emerge from the bowels of all this legalistic hubbub to portend the political crises of the decade to come.

As February dragged on, Senate Democrats feared the Brown-Stephens resolution might not pass the Senate. Before yet another annexation bill could be rejected, Senator Thomas Hart Benton of Missouri, the only Southern Democrat to vote against Tyler’s original treaty, proposed a simplified joint resolution. Texas would be annexed with “suitable extent and boundaries” to be decided between Mexico and the U.S. at some later date and \$100,000 put aside for the costs of annexation. No assumption of Texas’ debts, not a syllable about slavery, and a non-answer on the border. But it was just palatable enough for Robert Walker, the safety-valve philosopher, to propose on February 27 that the Senate vote on a hybrid Brown-Benton resolution, which would give the president (Polk, presumably) the power to ask Texas if it wanted to accept the current resolution or request a new treaty. In language copied verbatim from the Benton amendment, it also included the \$100,000 appropriation. Walker believed he could tempt skeptical Southern Whigs to believe that Texas might send the resolution back and ask for a two-thirds vote as a sign of confidence. Whether or not this really affected the vote is impossible to tell, but the

⁶⁸ Ibid., 409.

⁶⁹ Ibid., 224.

Frankenstein that the Senate eventually voted on the next day, February 28, certainly left much of the most contentious issues entirely out of its wording.⁷⁰

The joint resolution passed by a hair. Those three Southern Whigs—Henderson, Merrick, and Johnson—defected from their party and voted aye, bringing the vote to 27 yeas and 25 nays. Had any one of them voted against it, the vote would have stalled and, given that Tyler never nominated a vice president to break the tie, annexation might have been delayed at least until an executive session in March or, God forbid, until Congress convened again in December. Four days before Polk took office, the joint resolution annexing Texas finally sailed to John Tyler's desk. Seeking to preempt the incoming president-elect, perhaps for his own glory, perhaps to dictate the terms, Tyler sent a courier to Houston City on March 3 with the joint resolution in hand, ready to offer it to Anson Jones, Texas' president. Polk recited the oath of office the next day and waited. On March 7, Polk told the loyalists clamoring around him that he wanted to dictate the terms himself and called the courier back. On March 10, with the advice of his newly assembled cabinet, he sent the courier back on his way to Houston, where Jones received the resolution and began scheduling votes in the Texan Congress to formally accept annexation.⁷¹

Of course, annexation helped contribute to the deeply controversial war with Mexico just a year later. Polk fulfilled all of his major campaign promises, including his vow to serve only one term. The Whigs would, for the second and last time, win the presidency in 1848 on a war-hero campaign, only to see that general die little over a year after entering the White House with little to show for it. Amid growing sectional disputes bleeding into the tumultuous 1850s, the Whig party eventually dissolved, primarily due to its inability to address or create political capital over the slavery question. The annexation of Texas was thus a key prelude to the road to disunion. It threw the U.S. into a war through which it would acquire vast territories that it would again have to designate slave or free. It showed that the Whig party, even as early as 1844-45, simply could not agree on how to placate its Southern and Northern bases and serve both slave power and anti-slavery interests. The annexation of Texas thus dug an early grave for the Whig party, whose most politically adept leader crumbled at a critical juncture over his own ambivalence about the Texas question and whose party disagreed about it just enough to send

⁷⁰ Merk, *Annexation of Texas*, 154-158; Silbey, *Storm Over Texas*, 83-90.

⁷¹ Sellers, *Polk*, 215-218; Freehling, 448-449; Merk, *Annexation of Texas*, 167-170; Bartlett, *John Tyler*, 224-232.

Tyler, Polk, and the Democrats just what they wanted. Pro-slavery forces within the Whig party ultimately prevailed, offering the party a line on a possible future protecting the peculiar institution. But the party remained ambivalent about slavery. After Winfield Scott—another war hero—lost badly to another dark horse Democrat in 1852, national politics hurtled toward the inevitable struggle to protect or destroy its most divisive institution. Whig organization fell apart and the body politic needed a foil to the Democrats, who increasingly acted in the interests of the slave power. In came the Republicans, many of whom were former Whigs concerned about the Democracy's pro-slavery slide. While certainly not eager to allow its anti-slavery forces to rule the party, top Republicans like future president Abraham Lincoln knew that the current system was untenable. Among other things, this partisan landscape provided the necessary conditions for the Civil War. Thus both the fall of the Whigs and the rise of the Republicans found their logic in the annexation of Texas, which showed that parties, one way or another, had to actually define their stances on slavery and its expansion to remain viable.