

GEORGE GALPHIN—EXECUTOR OF.

[To accompany bill S. No. 88.]

FEBRUARY 24, 1847.

Mr. RATHBUN, from the Committee on the Judiciary, made the following

REPORT :

*The Committee on the Judiciary, to whom was referred the petition of Milledge Galphin, executor of the last will and testament of George Galphin, deceased, report :*

Prior to the year 1773, the Creek and Cherokee Indians were indebted to the said George Galphin in the sum of £9,791 15s. 5d., sterling money of Great Britain. With the view of creating a fund for the payment of this and other debts, the said Indians conveyed to the British crown a valuable tract of land, from the proceeds of which said debts were to be paid.

Soon after, the war of the Revolution commenced ; the independence of the United States was acknowledged by Great Britain, and the lands conveyed by the Indians to the British crown vested in the State of Georgia. No part of the property conveyed for the purpose of creating a trust fund to pay the debt of the testator of the petitioner has ever inured to the benefit of the United States. The State of Georgia has received the whole benefit of the fund, and can at any time apply the proceeds in payment of all equitable claims against it. The United States, on the contrary, has no power to control the fund, or execute the trust.

The treaty between the United States and the Creeks and Cherokees imposes no obligation upon this government to pay the debt in question. The Indians were undoubtedly very willing that the United States should make payment ; but it appears that when the treaty was submitted to the Senate for ratification, the clause providing for payment of debts due from the Indians was stricken out. Of course, no claim can be sustained under the treaty.

The committee are of opinion that the prayer of the petition ought not to be granted. They therefore recommend the passage of the following resolution :

*Resolved, That the prayer of the petition ought not to be granted.*