

DOCUMENTS AND OTHER PAPERS

RELATING TO

THE BOUNDARY LINE

BETWEEN

THE STATES OF GEORGIA AND FLORIDA,

HERETOFORE LAID BEFORE EITHER HOUSE OF CONGRESS,

AND

THE REPORTS OF COMMITTEES,

AND ALL PROCEEDINGS OF EITHER HOUSE THEREON

COMPILED AND PRINTED BY ORDER OF THE SENATE.

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DOCUMENTS AND OTHER PAPERS
LAIN BEFORE EITHER

THE BOUNDARY LINE

THE SENATE OF THE UNITED STATES, *March 3, 1855.*

“*Ordered*, That the secreta the Senate cause to be compiled and printed, with the documents of the present session, all the documents and other papers in anywise relating to the boundary line between the States of Georgia and Florida, heretofore laid before either House of Congress, and the reports of committees, and all proceedings and action of either House thereon ; so arranging the same that no paper be twice printed in such compilation.”

Attest :

ASBURY DICKINS,

Secretary.

THE REPORT OF COMMITTEES

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DOCUMENTS

RELATIVE TO THE

BOUNDARY BETWEEN GEORGIA AND FLORIDA.

[1st CONGRESS, 1st SESSION.]

REPORT FROM H. KNOX, SECRETARY OF WAR, TO THE PRESIDENT OF THE UNITED STATES, DATED WAR OFFICE, JULY 6, 1789, RELATING TO THE SOUTHERN INDIANS.

(See American State Papers, Indian Affairs, vol. 1, p. 15.)

The Creeks.—This nation of Indians is divided into two districts, the Upper and the Lower Creeks.

The former reside chiefly on the waters of the Alabama river, in about sixty towns or villages; the latter on the waters of the Apalachicola river, in about forty towns. The Creeks are principally within the limits of the United States; but some of the most southern towns of the Lower Creeks, or Seminoles, are within the territory of Spain, stretching towards the point of Florida. The gun-men, or warriors, of the whole nation are estimated at six thousand.

Besides the chiefs of the respective towns, the Creeks appear, at present, to be much under the influence and direction of Alexander McGillivray.

The father of this person was an inhabitant of Georgia, and, adhering to Great Britain in the late war, his property was confiscated by that State. His mother was a principal woman of the Upper Creeks.

He had an English education. His abilities and ambition appear to be great. His resentments are probably unbounded against the State of Georgia, for confiscating his father's estate, and the estates of his other friends, refugees from Georgia, several of whom reside with him among the Creeks. He is said to be a partner of a trading house which has the monopoly of the trade of the Creeks. The communications to the Indian country are through the Floridas, under the protection of the Spanish colonies. The profits of this commerce centre in Great Britain, and one of the Bahama islands is the intermediate place of deposite.

The State of Georgia is engaged in a serious war with the Creeks; and as the same may be so extended and combined as to require the

interference of the United States, it will be highly proper that the causes thereof should be stated and examined.

The first treaty between the State of Georgia and the Creeks, after the conclusion of the war with Great Britain, was held at Augusta, in November, 1783. At this treaty certain lands on the Oconee were ceded by the Creeks to the State of Georgia. A copy of this treaty is not among the papers of Congress, but the purport, as it respects the boundaries then established, is recited by the legislature of the State of Georgia, in their report on Indian affairs, hereunto annexed.

The second treaty was held at Galphinton, on the 12th of November, 1785, by which the boundary lines defined by the treaty of Augusta, in November, 1783, were confirmed, and a new boundary line obtained, to extend from the forks of the Oconee and Oakmulgee to the source of the St. Mary's. A copy of this treaty is hereunto annexed, in the papers marked A; also a letter from the commissioners of the United States, and a report of a committee accepted by the legislature of Georgia on the 11th of February, 1786.

A third treaty was held by the commissioners of Georgia and the Creeks at Shoulderbone, on the 3d of November, 1786. At this treaty it would appear that the Creeks acknowledged the violation of the two former treaties recognised, and ratified the former boundaries, and gave six hostages for the faithful execution of the conditions.

On the one side, the Creeks object entirely to the validity of the said treaties, stating that the cessions to the State of Georgia were made by the chiefs of two towns only, whereas the lands ceded were the property of the whole nation, as will more fully appear by the letters of Alexander McGillivray, marked B, and numbered 1, 2, 3, and 4.

The letter of Benjamin Hawkins, Andrew Pickens, Joseph Martin, and Lach. McIntosh, esqrs., commissioners of the United States, dated at the Keowee, the 17th of November, 1785, marked A, states that, as there were only two towns properly represented at Galphinton, instead of about one hundred, the number in the whole nation, they could not treat with them on behalf of the United States; but that, "the day after they left Galphinton, the agents of Georgia held a treaty with the few Indians then present, and obtained a cession of all the lands south of the Altamaha, and eastward of the line to be run southwest from the junction of the Oakmulgee and Oconee rivers till it shall strike St. Mary's, with a confirmation of the lands ceded to the State by the same towns northeast of the Oconee river in 1783."

The letter of James White, esq., superintendent of the United States for the southern district, and the proceedings held by him with the Lower Creeks at Cussetahs, will further show the sentiments of the said Lower Creeks of the said treaties, marked C.

On the other side, the legislature of Georgia, by their committee, 23d October, 1787, marked D, states that the Cherokees, by a treaty made at Augusta, on the 3d of May, 1783, and the Creeks, by the treaty of Augusta, in the succeeding November, both nations made the same relinquishment of the lands on the Oconee, on account of mutual claims which had not before been settled between them.

That it was not until a few months after the treaty of Galphinton

that uneasiness began to be fomented in the nation, and some murders were committed.

That this conduct of the Creeks was considered by the government of Georgia as an infraction of the treaties, and they demanded reparation accordingly. That commissioners were appointed, with full powers to inquire into the causes, and restore peace, but with powers, also, if unavoidable, to take eventual measures of defence.

That this proceeding of Georgia produced the treaty at Shoulderbone, whereby the violence was acknowledged, the boundaries confirmed, and hostages given.

“That the committee cannot forbear to observe, that, during the course of all these transactions, the communications were made in solemn, open, and ancient form, and the articles of the treaties were mutually respected until the aggression posterior to that of Galphintion.

“And that, whilst it is admitted, on the one hand, that there was no principle of representation of the parts of the nations known in civilized governments, it cannot be denied, on the other, that it was such as had been common, and the Indians acknowledged, without doubt, and regret their forming a part, and being members of the State.”

The committee, after stating some circumstances relative to the proceedings of James White, esq., the superintendent, “report it as their opinion, that the ultimate causes of the war was the too sudden interference with the treaties of the State, by which the minds of the Indians were perplexed, and the impression induced, that, in a war, they should not have the strength of the Union to fear, and that another disposition would be made of the territory than that which considers it as part of the State. That representations to this effect should be immediately transmitted to Congress, and the support of the Union demanded.”

That the papers whereon this statement is founded, and the general subject of the said dispute between the State of Georgia and the Creeks, have several times been discussed and considered in the late Congress.

That the report of the committee of Congress, as stated on the journals of the 3d of August, 1787, will show the perplexities of this case.

That the subject was further debated in Congress on June 27, and decided on July 15, 1788, will appear by their journals.

That, in obedience to the order of Congress of the 15th of July, 1788, the Secretary of War made the report marked E.

That, in consequence of the resolve of Congress of the 26th of October, 1787, commissioners were appointed by the States of South Carolina and Georgia. That the time for which the superintendent was elected expired on the 29th of November, 1788.

That the proceedings of the said commissioners and superintendent, as communicated by the latter, are hereunto attached, marked F.

That, in addition to the information of the superintendent, it appears from the public newspaper, marked G, that the two commissioners from Georgia and South Carolina have given a further invitation to a treaty, to be held at Oconee during the present month.

But it also appears from the public newspapers, that, instead of the

proposed treaty, parties of Indians have been making inroads into Georgia, and that the outrages committed by them have excited an alarm which has extended itself to Savannah, the capital of the State.

Hence it will appear, from this general statement of facts—

1st. That hostilities still rage between the State of Georgia and the Creek Indians.

2d. That the cause of the war is an utter denial, on the part of the Creeks, of the validity of the three treaties stated to have been made by them with the State of Georgia.

3d. That the United States, in Congress assembled, by their resolve of the 15th of July, 1788, have caused it to be notified to the Creeks "that, should they persist in refusing to enter into a treaty upon reasonable terms, the arms of the United States shall be called forth for the protection of that frontier."

From this result the following questions arise:

1st. Whether the circumstance of the commissioners not having received an answer from Alexander McGillivray to their letter of November 28, 1788, and his letter to Andrew Moor, esq., of the 4th of January, and to his excellency the governor of South Carolina the 26th of February, 1789, (letter B,) together with the recent irruption of parties of Creeks into the State of Georgia, amount to a refusal to treat on reasonable terms, and, of consequence, form that crisis of affairs in which the arms of the Union are to be called forth, agreeably to the resolve of Congress of the 15th of July, 1788?

2d. Whether the final report of the commissioners is necessary to be received before decision can be made on the case? or,

3d. Whether, in the present state of public affairs, any proper expedients could be devised for effectually quieting the existing hostilities between the State of Georgia and the Creek nation other than by raising an army?

All which is humbly submitted to the President of the United States.

H. KNOX.

A No. 1.

KEOWEE, *November 17, 1785.*

SIR: Agreeably to our appointment, we arrived at Galphinton on the 24th and 28th of October, to meet and treat with the Creeks, having previously procured everything necessary for this purpose. By the 29th, the chiefs of two towns, with sixty men, arrived, and from them, as well as those we sent to invite the Indians to meet and treat with us, we received assurances that the chiefs of all the towns would certainly come; that they were very much pleased with the intention of Congress, and very desirous of establishing with them a permanent peace.

On the 7th of November we were informed that some false reports had been circulated through the nation, which had created jealousies among them, and discouraged them from coming to meet us, and that

we had only to expect the Tallassee king, with twenty young men, in addition to those already arrived. On the next day we agreed to meet the Indians, and explain to them the object of our commission, at the same time remarking we could not treat with so few of their nation—there being but two towns properly represented, instead of about one hundred, the number in the whole nation. As those towns had been always friendly to the United States, we gave them some presents, and left them.

The commissioners of Georgia visited us, previous to our conference with the Indians, and delivered us the protest, marked A, to which we returned the answer, marked B. The day after we left Galphinton, the agents of Georgia held a treaty with the few Indians then present, and obtained a cession of all the lands south of the Altamaha, and eastward of a line to be run southwest from the junction of the Oakmulgee and Oconee rivers till it shall strike St. Mary's, with a confirmation of the lands ceded to the State by the same towns north-east of the Oconee river in 1783.

By various informations we have had from the Creek nation, the accounts Colonel Martin brought us from the Cherokees, and a letter wrote by McGillivray, a half-breed, to General Pickens, marked C, (which we enclose, to show Congress the ability of this man, who has great influence among his countrymen,) it appears that he is forming a dangerous confederacy between the several Indian nations, the Spaniards, and British agents, with whom he is connected. His resentment is chiefly against the citizens of Georgia, who banished his father, and confiscated a capital property which he had in that State.

There is a capital British company of merchants engaged, by license from the court of Spain, to supply all the Indian nations to the southward with goods, through East Florida, in which company, it is said, McGillivray is a partner, and they have their agents in all the towns from Tennessee southwardly.

We are, with due respect, sir, your most obedient and humble servants,

BENJAMIN HAWKINS,
ANDREW PICKENS,
JOS. MARTIN,
LACH. McINTOSH.

The Honorable CHARLES THOMPSON, Esq.,
Secretary to the United States, in Congress assembled.

[NOTE.—The protest, marked A, and the answer, marked B, have been taken off the files of Congress by some committee, and never returned.]

A No. 2.

Articles of a treaty concluded at Galphinton, on the 12th day of November, 1785, between the underwritten commissioners, in behalf of the State of Georgia, of the one part, and the kings, head-men and warriors, in behalf of themselves and all the Indians in the Creek nation, of the other, on the following conditions:

ARTICLE 1. The said Indians, for themselves and all the tribes or towns within their respective nations, within the limits of the State of Georgia, have been, and now are, members of the same, (since the day and date of the constitution of the State of Georgia.)

ART. 2. If any citizen of this State, or other person or persons, shall attempt to settle any of the lands reserved to the Indians for their hunting grounds, such person or persons may be detained until the governor shall demand him or them; and then it shall be lawful for any of the tribes near such offenders to come and see the punishment according to such laws as now are, or hereafter shall be, enacted by the said State for trying such offenders.

ART. 3. It shall in no case be understood that the punishment of the innocent, under the idea of retaliation, shall be practised on either side.

ART. 4. If any citizen of this State, or other white person or persons, shall commit a robbery, or murder, or other capital crime, on any Indian, such offenders shall be delivered up to justice, and shall be tried according to the laws of the State, and due notice of such intended punishment shall be sent to some one of the tribes.

ART. 5. If any Indian shall commit a robbery, or murder, or other capital crime, on any white person, such offenders shall receive punishment adequate to such offence; and due notice of such intended punishment shall be given to his honor the governor.

ART. 6. In case of any design being formed in any neighboring tribe against the peace or safety of the State, which they shall know or suspect, they shall make known the same to his honor the governor.

ART. 7. All white person or persons shall be at liberty, and conducted in safety into the settled parts of the State, when they shall require it, except such persons as shall come under the restrictions pointed out in the second article.

ART. 8. The Indians shall restore all the negroes, horses, and other property, that are or may be among them, belonging to any citizen of this State, or any other person or persons whatsoever, to such person as the governor shall direct.

ART. 9. That the trade with the said Indians shall be carried on as heretofore.

ART. 10. All horses belonging to any Indian, that shall be found in the said State, such horses shall be restored to such person as the head of the tribe, where such Indian may reside, shall direct.

ART. 11. The present temporary line, reserved to the Indians for their hunting grounds, shall be agreeable to a treaty held at Augusta, in the year 1783; and that a new temporary line shall begin at the

forks of the Oconee and Oakmulgee rivers; thence, in a southwest direction, until it shall intersect the most southern part of the stream called St. Mary's river, including all the islands and waters of the said stream; thence down the said stream, to the old line; and all the ground without the said new temporary line, when run and completed, shall be reserved to the said Indians for their hunting grounds as aforesaid.

In witness whereof, the parties have hereunto affixed their hands and seals, the day and year before written.

While the commissioners of the United States were at Galphinton, the commissioners of Georgia copied their draught of the articles intended to be proposed to the Creeks, and which were afterwards the basis of the treaty with the Cherokees.

B. H.

A No. 3.

GEORGIA:

IN GENERAL ASSEMBLY,
Saturday, February 11, 1786.

The committee to whom were referred the proceedings of the State commissioners, appointed to attend the continental commissioners to a meeting with the Cherokees and other Indians to the southward, report:

That it appears to your committee, certain commissioners of the United States, in Congress assembled, at Galphinton, did attempt a treaty with the Creek Indians, and did also, at Hopewell, in the State of South Carolina, enter into a pretended treaty with some of the Cherokees, and some parts of other tribes therein named, which said pretended treaty, and all other proceedings that have yet transpired, are a manifest and direct attempt to violate the retained sovereignty and legislative right of this State, and repugnant to the principles and harmony of the federal Union; inasmuch as the aforesaid commissioners did attempt to exercise powers that are not delegated by the respective States to the United States, in Congress assembled: Wherefore your committee recommend the following resolutions:

1st. That the delegates of this State be directed to make a representation of the conduct of the said commissioners to the United States, in Congress assembled, and to move and contend for an immediate abolition of their powers, as the continuation of such appointment would tend to weaken and destroy that entire confidence in the wisdom and justice of Congress which this State wishes ever to preserve.

2d. That the delegates be requested to apply for, and immediately send to the governor, authenticated copies of the commissioners' instructions, and all proceedings thereon of the said commissioners, in order that such measures may be taken as will most effectually preserve the sovereign, territorial, and legislative rights of this State, as well as the rights and privileges to which each citizen is entitled, by the confederation and by the laws of the land.

3d. That all and every act and thing done, or intended to be done, within the limits and jurisdiction of this State, by the said commissioners, inconsistent of the beforementioned rights and privileges, shall be, and the same are hereby declared to be, null and void.

4th. That the thanks of this House be given to the Hon. Edward Telfair, and to John King and Thomas Glascock, esqrs., commissioners on the part of this State, for their patriotism and vigilance in discharging the duties required of them at the aforesaid meetings; that each of them be allowed three dollars per day during their actual attendance on the said business; and that the governor and council take order accordingly.

Which was agreed to.

Extract from the minutes : JAS. M. SIMMONS, *Clerk G. A.*

B No. 1.

LITTLE TALLASSIE, *September 5, 1785.*

SIR : I am favored with your letter by Brandon, who, after detaining it near a month, sent it by an Indian a few days ago. He perhaps has some reasons for keeping himself at a distance from this. He caused old Mr. McQueen to take charge of this letter in answer to yours, he being shortly to set out for Augusta.

The notification you have sent us is agreeable to our wishes, especially as the meeting is intended for the desirable purpose of adjusting and settling matters on an equitable footing between the United States and the Indian nations. At the same time, I cannot avoid expressing my surprise that a measure of this nature should have been so long delayed on your parts. When we found that the American independency was confirmed by the peace, we expected that the new government would soon have taken some steps to make up the differences that subsisted between them and the Indians during the war, and to have taken them into protection, and confirm to them their hunting grounds. Such a conduct would have reconciled the minds of the Indians, and secured to the States their attachment and friendship, and considered them as their natural guardians and allies. Georgia, whose particular interest it was to have endeavored to conciliate the friendship of this nation, but, instead of which, I am sorry to observe that violence and prejudice had taken place of good policy and reason in all their proceedings with us. They attempted to avail themselves of our supposed distressed situation. Their talks to us breathed nothing but vengeance; and, being entirely possessed with the idea that we were wholly at their mercy, they never once reflected that the colonies of a powerful monarch were nearly surrounding us, and to whom, in any extremity, we might apply for succor and protection; and who, to answer some end of their policy, might grant it to us. However, we yet deferred any such proceedings, still expecting we could bring them to a sense of their true interest; but, still finding no alteration in their conduct towards us, we sought the pro-

tection of Spain, and treaties of friendship and alliance were mutually entered into: they to guaranty our hunting grounds and territory, and to grant us a free trade in the ports of the Floridas.

How the boundary or limits between the Spaniards and the States will be determined, a little time will show, as I believe the matter is now on foot. However, we know our own limits, and the extent of our hunting grounds; and, as a free nation, we have applied, as we have a right, and have obtained protection for, so that we shall pay no regard to any limits that may prejudice our claims, that were drawn by an American, and confirmed by a British, negotiator. Yet, notwithstanding we have been obliged to adopt these measures for our preservation, and from real necessity, we sincerely wish to have it in our power to be on the same footing with the States as before the late unhappy war; to effect which is entirely in your power. We want nothing from you but justice. We want our hunting grounds preserved from encroachments. They have been ours from the beginning of time, and I trust that, with the assistance of our friends, we shall be able to maintain them against every attempt that may be made to take them from us.

Finding our representations to the State of Georgia of no effect in restraining their encroachments, we thought it proper to call a meeting of the nation on the matter; we then came to a resolution to send out parties to remove the people and effects from off the lands in question, in the most peaceable manner possible.

Agreeable to your requisition, and to convince you of my sincere desire to restore a good understanding between us, I have taken the necessary steps to prevent any future predatory excursions of my people against any of your settlements. I could wish that the people of Cumberland showed an equal good disposition to do what is right. They were certainly the first aggressors since the peace, and acknowledged it in a written certificate, left at the Indian camp they had plundered.

I have only to add that we shall prepare ourselves to meet the commissioners of Congress whenever we shall receive notice, in expectation that every matter of difference will be made up and settled, with that liberality and justice worthy the men who have so gloriously asserted the cause of liberty and independency, and that we shall in future consider them as brethren and defenders of the land.

I am, with much respect, sir, your most obedient servant,

ALEX. MCGILLIVRAY.

Hon. ANDREW PICKENS, Esq.

I should be sorry that your interest should suffer in the hands of Brandon, but he has committed so many thefts in horses, and to satisfy the people, we have given him up to be made an example of, and I imagine his goods are gone for satisfaction. He is a very unfit person for a trader; as I have pretty well cleared the nation of such kind of people, he must not look for indulgence in these parts.

A. McG.

B No. 2.

LITTLE TALLASSIE, *April 8, 1787.*

SIR: I had the pleasure to receive the letter that you favored me with by Mr. Miller, on your arrival at the Cussetahs.

It is with real satisfaction that I learn of your being appointed by Congress, for the laudable purpose of inquiring into and settling the differences that at present subsist between our nation and the Georgians. It may be necessary for you to know the cause of those differences, and of our discontents, which, perhaps, have never come to the knowledge of the honorable body that has sent you to our country.

There are chiefs of two towns in this nation, who, during the late war, were friendly to the State of Georgia, and had gone at different times to that State, and, once, after the general peace, when the people of Augusta demanded a cession or grant of lands belonging to, and enjoyed as hunting ground by the Indians of this nation, in common, on the east of the Oconee river, which demand was rejected by those chiefs, on the plea that those grounds were hunting lands of the nation, and could not be granted by two individuals; but, after a few days, a promise was extorted from them, that, on their return to their own country, they would use their influence to get a grant confirmed. Upon these men reporting this affair, on coming home, a general convention was held at the Teickibatiks town, when those two chiefs were severally censured for their conduct, and the chiefs of ninety-eight towns agreed upon a talk to be sent to Savannah, disapproving, in the strongest manner, of the demand made upon their nation, and denied the right of any two of their country to making any cession of land, which could only be valid by the unanimous voice of the whole, as joint proprietors in common. Yet, these two, regardless of the voice of the nation, continued to go to Augusta, and other places within that State, continuing to make such promises to obtain presents, our customs not permitting us to punish them for the crime; we warned the Georgians of the dangerous consequences that would certainly attend the settling of the lands in question. Our just remonstrances were treated with contempt, and those lands were soon filled with settlers. The nation, justly alarmed at the encroachments, resolved to use force to maintain their rights; yet, being averse to shedding the blood of a people whom we would rather consider as friends, we made another effort to awaken in them a sense of justice and equity; but we found, from experience, that entreaty could not prevail, and parties of warriors were sent out to drive off all intruders, but to shed no blood, only where self-preservation made it necessary.

This was in May, 1786. In October following, we were invited, by commissioners of the State of Georgia, to meet them in conference at the Oconee, professing a sincere desire for an amicable adjustment of our disputes, and pledging their sacred honors for the safety and good treatment of all those that should attend and meet them. It not being convenient for many of us to go to the proposed conference, a few towns, say their chiefs, attended, most of whom merely from

motives of curiosity, and were surprised to find an armed body of men, prepared for and professing hostile intentions, than peaceful commissioners. Apprehensions for personal safety induced those chiefs to subscribe to every demand that was asked by the army and its commissioners; lands were again demanded, and the lives of some of our chiefs were required, as well as some innocent traders, as a sacrifice to appease their anger. Assassins have been employed to effect some part of their atrocious purposes. If I fall by the hand of such, I shall fall a victim in the noblest of causes—that of falling in maintaining the just rights of my country. I aspire to the honest ambition of meriting the appellation of the preserver of my country, equally with those chiefs among you, whom, from acting on such principles, you have exalted to the highest pitch of glory; and if, after every peaceful mode of obtaining a redress of grievances having proved fruitless, the having recourse to arms to obtain it be marks of the savage and not of the soldier, what savages must the Americans be, and how much undeserved applause have your Cincinnatus, your Fabius, obtained. If war names had been necessary to distinguish those chiefs in such a case, the man-killer, the great destroyer, &c., would have been the proper appellations.

I had appointed the Cussetahs, for all the chiefs of the Lower Creeks, to meet in convention. I shall be down in a few days, when, from your timely arrival, you will meet the chiefs, and will learn their sentiments, and I sincerely hope that the propositions that you shall offer us will be of such a nature that we can safely accede to. The talks of the former commissioners of Congress, at Galphinton, were much approved of, and your coming from the white town (seat of Congress) has raised great expectations that you will remove the principal and almost only cause of our disputes—that is, securing to us all our possessions and hunting grounds entire, and clear them of encroachments. When we meet, we shall talk these matters over. Meantime,

I have the honor to be, sir, your most obedient servant,
ALEX. MCGILLIVRAY.

The Indians that were detained as hostages in Augusta must speedily be liberated, or hostilities will soon commence, as their relations are uneasy on their account.

Hon. JAMES WHITE, Esq.,
Superintendent of Indian Affairs for the United States.

B No. 3.

LITTLE TALLASSIE, UPPER CREEKS,
January 4, 1789.

SIR: I take this opportunity to write to you, in answer to a letter which you did me the favor to write me in September last, from Seneca, in which was enclosed a proclamation issued by Congress, requir-

ing all the whites that are settled on the lands of the Cherokees to remove from off them immediately. This measure, together with the talk from the governor of Virginia, appears to have given much satisfaction to the Cherokees. The Little Turkey, or Coweta king, with some warriors, relations to the Dragging Canoe, have been to consult me on these subjects, bringing with them all the talks that they had received for some time past. I gave it as my opinion to them, that the talks in question might be safely relied on; that the talk of Congress was a strong one, to their people who would obey it, and the governor being a principal chief and ruler, he would not speak with a forked tongue; and that, in the ensuing spring, there would be a great meeting for the purpose of concluding a general peace, the terms of which would be very favorable to them; in the mean time the chiefs should advise all the young warriors to attend closely to hunting during the winter, instead of risking their lives for a scalp, which, when obtained, would not purchase clothing for their families; and that, considering them as an oppressed people, I had agreed to give them assistance, to enable them to obtain a good peace; but they were not to consider me as engaged to support them in an unjust and an unnecessary war.

The people of your State, who complain of our people molesting them, are not rightly informed; for, besides that I always have endeavored to confine the excursions of our warriors to the people with whom we have ground of quarrel, the State of Virginia and its dependencies are very far distant, and I never knew that a Creek had ever been near Kentucky, at least from the nation; there are several who have wives and families among the Cherokees, and constantly reside there; those I cannot answer for, being to be reckoned as Cherokees. It is the custom of a Creek to disregard all connexions and country, and cleave to his wife; those that have wives abroad never return to their native land.

The gentlemen, my friends, do me justice when they inform you that I am desirous of peace. I have been now five years in laboring to bring about one with the State of Georgia, but in vain; more than a twelvemonth after the general peace was spent by us in representing to them, in friendly terms, the cruelty and injustice of their proceedings, of wresting forcibly from us a large portion of our hunting lands, and which were in a great measure necessary for our support; that we were not situated as several other Indian nations were, with immense wildernesses behind us. On the contrary, we were surrounded from west to north by the Choctaws, Chickasaws, Cumberland, and Cherokees, and on every other side by the whites, so that our hunting grounds were already very insufficient for our purposes; to all which we were always answered in haughty and contemptuous language, with threats to drive us over the Mississippi; so that, having nothing to hope from their justice or humanity, it was resolved to raise up the red hatchet for self-preservation. As our cause was just, so fortune has favored our exertions in driving them from the contested ground. Though the war has reduced them to an extremity of distress, yet their stubbornness of pride is such, they take no measures to retract the conduct which brought them to it; they have

spurned every attempt that Congress has offered at, to accommodate, by its interference, the disputes between us. The new Congress will equally find them obstinate and intractable; the only method they can adopt will be to leave the Georgians to their fate; and in another season 'tis probable that they will be brought to reason.

I shall be glad to be favored with an account, when convenient, soon after the meeting of the new Congress, and in what manner the new constitution is finally settled. Anything that I can serve you in, pray freely command.

I remain, with regard, your most obedient servant,

ALEX. MCGILLIVRAY.

Hon. ANDREW MOORE, Esq.,

Com. for treating with the Cherokees for State of Virginia.

B No. 4.

LITTLE TALLASSIE, UPPER CREEK NATION,

February 26, 1789.

SIR: Your excellency's letter of 6th November is just come to hand, enclosed in one from the superintendent and commissioners, by which I find that the respectable State of South Carolina, viewing with concern the continuance of the destructive contest carrying on between our nation, the Creeks, and their sister State of Georgia, have been induced, from their good intentions to both, to offer their interference to bring about an amicable adjustment of the disputes subsisting between us, which offer we can have no good reason for objecting to; and as your excellency, as chief of the State, has stepped forward as the mediator, it is very necessary that you, in that capacity, should be informed of the real grounds of such dispute, and from the account which I shall give you of it, you will readily admit that we had the best reasons for opposition. Directly after the conclusion of a general peace was announced to us all, the Georgians sent up an invitation to our chiefs to meet them in treaty at Augusta, professing it was with an intention of burying the hatchet, and with it the remembrance of every injury which they had sustained from us in the war of Britain. The call being at an inconvenient season, the proper chiefs not being in the way, a few people who, during the war, pretended to neutrality, attended the call at Augusta, and on conferences then held, the leading people of the upper parts of that State made a demand of a large cession of lands, comprehending our best hunting grounds, as a compensation for the injuries sustained by them in the war, and which was enforced by bands of armed men, who at the same time surrounded them, threatening them with instant death if it was refused. The two chiefs then present being of the second rank, truly told them that the demand was unexpected, and were unprepared to answer it, and being only two men, could not promise that any grant that they should be forced to consent to make would be confirmed by the chiefs of the nation, as it was not unknown to the white people that it was necessary that the joint voice of the whole nation should make and

confirm such grants. This reply not satisfying the Georgians, they persisted and renewed their threats; then these men, to escape the threatened danger, consented as far as what concerned them, but could not engage to bind the whole to their act. When these men arrived in the nation, a general convention was immediately called to deliberate on this affair. The chiefs of more than forty towns assembled, when they reprobated the transactions of the two inferior chiefs in strong terms, and refused to consent to any such cession, and desired me to inform the Georgians of the same, and to warn them that, if the threatened encroachments were made, a war would immediately ensue, which I did in a letter to Mr. Houston, the governor. This is a true account of the transactions of the first of three pretended treaties which the commissioners mention in their letter to me; the second invitation which we received to treat was made by Colonel Hawkins and General Pickens, under the appointment of Congress, as they informed me, and mentioned that they had not, at that time, fixed upon any place to meet us; but, when that point was settled, they would give a second notification, and which I never received. Soon after I learned that the Georgians took up the matter, and smuggled a treaty at Galphinton, on Ogeechee, to which place they secretly invited a few of our people, whom they had bribed and secured to their interests, and who they were sure would agree to anything that was asked of them, and there, of course, a cession was again asked of them, with a large addition. Some time after, I received a letter from Col. Hawkins, desiring to know my reasons for not meeting at Ogeechee, at the same time remarking that he did not consider the few that attended, a proper representation of the Creek nation; he said nothing to them. The authority of the commissioner of Congress, I expect, will be sufficient evidence to upset any claim that is founded on a grant of this treaty.

Another convention protested, through me, in warm terms, to the Georgians, respecting their conduct in offering to make pretensions to cessions of land obtained from a few beggars, who only want to obtain presents. The third invitation which was sent to us to treat, was from the Georgians only, through their commissioners, at the head of whom was Mr. M. Habersham, president of the Executive Council, and he proposes the Oconee river for the place of meeting. In the letter, they "pledged their sacred honor" for the safety and welfare of every one that would attend their conferences; but I being so often threatened, and having the worst opinion of the back people, as they are called, did not go, but sent a few Coweta warriors, to report to me on their return. During the conferences of Oconee, an additional cession was demanded, which was strongly opposed by the Cowetas, and others, for which they were violently insulted by a Colonel Clark, in the presence of the commissioners, who could not prevent it; and, though their sacred honors were pledged for maintaining good order, yet several warriors, of different towns, were forcibly seized upon by armed men, and conveyed to Augusta, more as prisoners than hostages, to be kept as a pledge that my life and six more of leading men should be taken. Such a conduct convinced the whole nation that it was full time to adopt measures for the general safety. A

general convention was appointed, to be held in May for that purpose; and a few days before it was opened, a Doctor White arrived in the nation, with an appointment of superintendent of Indian affairs, from Congress; the chiefs assembled, showed him every attention, and, on account of his arrival, the two men who had given the grants, as before related, were called upon to attend, (for they had not mingled themselves with the others for shame) that Doctor White should know the truth. He very minutely interrogated those men concerning the foregoing matters, and they gave him the same account of the first treaty, as it is called, and of the rest, as I have done. The Doctor used his best ability to get the chiefs in convention to consent to the disputed cession, but in vain; on the contrary, the chiefs, by their speaker, the king of the Cowetas, told Doctor White, that, before they would give more lands, they would rather risk an attempt to resume what the nation had formerly been deprived of. The Doctor, on his going away, required of me a written representation of the causes of our discontents, to be shown to Congress, which I gave him, and am certain that it is in the possession of that honorable body; the subject of which made part of the deliberations of a committee ordered to sit upon Indian affairs, and to report the same. A printed report of that committee I have now in the house, and, from sentiments contained in it, I had great hopes that it would form the basis for accommodating matters between us and the Georgians, and which would be very satisfactory to us. I beg leave next to remark to you, that if the Georgians, after the peace, had conducted themselves to us with moderation and humanity, we should not have fallen out with them for trifles; and they have brought the war on themselves, by manifesting, at the outset, an unaccommodating and persecuting spirit towards us. Our situation does by no means admit of our giving away our lands; we are already closely surrounded, and our hunting grounds much circumscribed. There is the State of Georgia on the east, southeast and southwest by the Spanish Floridas, west by the nations of the Choctaws and Chickasaws, on the north by the Cherokees and Cumberland. We are not situated as the western and northern nations, with immense deserts at our back. All this tells us that we must struggle hard to preserve our hunting grounds, and perish to a man in its defence; for where can we go to possess ourselves of new ones? Such forcible considerations with us may weigh nothing in the minds of those who think that Indians are only animals fit to be exterminated; and this is a language which I know is held in many places in your country. But let us be what we may, let it be attempted when it will, it will be found no very easy enterprise. I have given your excellency a very circumstantial account of the origin of the contest between us and the Georgians, from which you will find that the Georgians have no well-founded cause of quarrel with us, and that they can have no just claim to your assistance; for, to support them in this contest, is to side with injustice and oppression; a reproach which I firmly believe that the respectable State over which you preside will not subject its magnanimity and honor to. "Very far am I, sir, from spurning at your offered mediation; but the letter of the commissioners puts it out of my power, or rather

makes it of no effect, as they declare that it is impossible for them to comply with our requisition, to restore to us the territory usurped from us by the Georgians," wishing us to "reconsider the matter, as the Georgians' claims are founded on three treaties signed by our headmen and warriors."

The treaties alluded to have been faithfully reported to you. One of the new commissioners, General Pickens, formerly by letter acknowledged to me that he was in Augusta at the time the first treaty, as it is called, was held, and the manner in which a consent to a cession was extorted was very unfair. The General, as a gentleman, will not deny his assertion. I cannot take upon myself to engage to meet the commissioners to enter into an investigation of this subject; it will be attended with no good effect; the claims will be endeavored to be maintained, and we shall be as firm in attempting to overthrow it, and disagreeable, if not bloody, consequences would be the result of such conferences. I understand your excellency very well when you say that you are not unprepared for a change of circumstances; that is, we shall, or must, purchase peace of the Georgians at the expense of sacrificing our rights, properties, and life itself, or you are resolved to join that State in hostility against us. The commissioners also say that Congress is resolved to do justice to Georgia. All this has the most formidable appearance. I by no means make light of the great power which thus menaces; if 'tis determined, as I suspect it is the case, to attempt at a conquest of our country, we will be found as determined to oppose it. Spain is bound by treaty to protect and support us in our claims and properties; we shan't want for means of defence; but still I hope, for I earnestly desire, that your influence and power will be used to set every matter to rights in a peaceable manner, rather than to exercise the calamities of war.

I am returned, a month or two since, from a tour through the principal of the lower towns and Seminoles, which I made for the purpose of urging them to a strict observance of the truce; and I believe I can venture to assure your excellency that no complaints will be made for any breaches of it throughout the winter.

I have the honor to be, with most respectful consideration, your excellency's most obedient servant,

ALEX. MCGILLIVRAY.

His Excellency THOMAS PINCKNEY, Esq.,
Governor of the State of South Carolina.

C No. 1.

FAYETTEVILLE, *May 24, 1787.*

SIR: Being lately returned from the Creek nation, which occasioned the alarm in Georgia last summer, I do myself the honor of sending you an account of the state of those Indians.

The invasion which threatened that State had subsided ere my arrival, and first appearances seemed to promise tranquillity; for hos-

tages had been given by some of the Indians to give satisfaction, and enlarge the boundary of the State. I soon discovered these hostages were but of imaginary consequence; they were taken from the Cusitash, a town not only without imputation of offence on this occasion, but at all times attached to the white people in a singular manner. My tour to the nation convinced me that these men answered no other purpose by their detention than to alienate the minds of such of the Indians as might be favorably disposed; they have since been dismissed, all but a youth, who, in his impatience of confinement, put himself to death. The further Creeks who had insulted the State, continue in the same disposition; and if their hatchet has been hitherto restrained, it has been through their respect to the United States. Their dispositions had been favorably inclined by the liberal sentiments of the former commissioners from Congress, and they had got information that there was an agent now coming to them from that honorable body. This withheld their resentment to the State of Georgia. They have all along been avowedly opposed to the new settlements of the white people. The sentiments of the *lower towns* seemed not so well known till I went out; but at a full meeting of these latter, they also protested against what they termed the Georgian encroachments, which they declared they would repel by force. From a sketch of the proceedings at that meeting, (paper No. 1,) you may see that the very Indians said to have made the grants, were the first to accuse the State of having extorted land from them under pretence of cessions. All their expressions, indeed, were mingled with respect for the power that had delegated the superintendent to whom they addressed their talk. "But there was a third party, (the Georgians,) they said, which evidently meant injustice and oppression." The meeting, upon the whole, concluded so unfavorably, that there was room to apprehend an immediate invasion. To that, however, a temporary stop was put by an idea of their influential chief, McGillivray. In this there was something so singular, that perhaps I may be excused for relating it circumstantially. The following, therefore, was nearly the address of that Indian chief: "Notwithstanding that, as the guardian of the Indian rights, I prompt them to defend their lands, yet I must declare I look upon the United States as our most natural allies. Two years I waited before I would seek for the alliance I have formed. I was compelled to it. I could not but resent the greedy encroachments of the Georgians, to say nothing of their scandalous and illiberal personal abuse. Notwithstanding which, I will now put it to the test whether they or myself entertain the most generous sentiments of respect for Congress. If that honorable body can form a government to the southward of the Altamaha, I will be the first to take the oath of allegiance thereto; and in return to the Georgians, for yielding to the United States that claim, I will obtain a regular and peaceable grant of the lands on the Oconee, on which they have deluded people to settle, under pretence of grants from the Indians; you yourself have seen how ill founded. However, if this takes place, I will put this matter out of dispute for them. I will give you to the first of August for an answer."

I hope I shall be excused for relating this unexpected proposal in his own words, as nearly as I can recollect; his motives were probably inclination as well as interest. I could discover that his natural bias is not towards his Spanish allies, and he is a trader of a company that imports largely, from which the government of Pensacola exacts an exorbitant impost. On the other hand, he would not only expect a more moderate duty through the Altamaha, but the Indian country is more accessible through that way.

The strength of these Indians is about six thousand gun-men, mostly well armed with rifles. They extend down the waters of the Alabama and Apalachicola rivers, along to the point of Florida, through the Spanish territories; through which they could have a convenient retreat, in case they were forced by an expedition against them. It is beyond a doubt that they receive every encouragement, from the jealous policy of the Spaniards, against us. From this source they are already provided with ammunition, magazines of which are dispersed through their towns, and reserved for a public occasion. I am well informed that, when the Creeks were threatened from Georgia, the Spanish influence in favor of those Indians was very active with the Choctaws.

With what conveniency the United States could carry on a war with the Creeks, I cannot determine; but I may be permitted to remark, that the State of Georgia, only in holding a partial treaty with some of them last autumn, was obliged to have recourse to a paper medium, which is already depreciated 400 per cent.; and it was with great difficulty that the troops raised for this Indian business could be kept together till it terminated in the unsubstantial manner it did.

The causes that excite an unfriendly disposition in the Indians may in part be gathered from Mr. McGillivray's letter, which comes enclosed to you. Besides, there are the following, among other causes:

The natural reluctance of the Indians to part with any of their lands; for, to use their own expression, they look on their lands as their blood and their life, which they must fight for rather than part with. 2d. Because, in obtaining the new purchase, a sufficiently general consent of the nation was wanting; and even that partial consent extorted by threats, as they pretend. 3d. The white people on the frontier continuing their encroachments, they pursue their surveys into the Indian country, and destroy the game there.

Much also of the Indian animosity may be ascribed to the instigations of Mr. McGillivray, who is said to be in Spanish pay, and entertains a personal resentment to the State of Georgia. To this may be added habits of enmity contracted during the war, and their connexion with the British. In like manner, the Spanish influence now succeeds to that.

I have sent you the letter from Mr. McGillivray, not only as it may serve to give some idea of the character of the man, but also as it contains a state of Indian complaints.

The two papers (Nos. 2 and 3) from the legislature and Executive of the State of Georgia will help to show in what manner that government has received the institution of a superintendent within the claim of their jurisdiction.

Permit me to enclose, also, a letter to McGillivray, and a talk to the Lower Creeks. You will please to judge if any of the contents may be proper to offer to the attention of Congress. It appeared necessary for me to mention at least the proposal, as above, from McGillivray.

I am, with the greatest respect, sir, your obedient and humble servant,

JAMES WHITE.

The Honorable Major General KNOX.

C No. 2.

CASSETASH, *April 4, 1787.*

SIR: I flattered myself I should have been able in person to deliver you the enclosed. Unfortunately, the decline of my health has disappointed me in that expectation. It is with difficulty, indeed, that I have reached thus far; but I am encouraged by reflecting, that, if our efforts are successful in removing the misunderstanding which seems to have taken place between the people of Georgia and some part of the Creek nation, we shall have rendered good offices perhaps equally to both. That this can be effected, I the more readily hope, as each party seems to entertain an inclination to avoid the further effusion of human blood on the occasion. I assure you, sir, the better and more moderate people among us appear to wish there may be no cause to proceed to extremes.

As for the United States, the very nature of their government is averse to violence; and if, through the ties of the confederation, there is a necessity to turn the force of the continent into this quarter, it will not be without regret that there is occasion for the disagreeable measure.

In like manner, it is with pleasure I perceive by your letters that the Indians only wish their rights may not be violated. Let both parties, therefore, condescend a little. For my part, the very small share of persuasion I possess among the white people shall be exerted for so good a purpose, as, indeed, it has not been hitherto neglected. Your more powerful influence among this people cannot certainly take place to a better end. Matters may be amicably settled; it will prove a mutual advantage.

I confess, among the herd of white people there are many who may be ripe for precipitating themselves into measures as injurious to others as destructive to themselves; the same, no doubt, among the Indians. To restrain this temper is the duty of more sober reflection.

As for the occasion of these animosities, which I am sorry has subsisted, the territory of the State is, I own, in my opinion, amply extensive; and this consideration is a security for the Indians that there will be no similar ground for complaint in future, as it cannot be an object with government to disperse its subjects still more widely, while there is so much internal room for cultivation. I can take upon me to assure you that measures are adopted with strict severity for curb-

ing the licentiousness of any who might be disposed to give offence to this people.

On the other hand, the white people are not without heavy complaints. They allege that the assassination in cold blood of their unsuspecting fellow-citizens can scarcely be atoned for—barbarities which may indeed raise the indignation of a civilized people. But, as you well know it requires a different spirit to bring them to any terms, so you will be the first to discountenance these marks, not of the soldier, but the savage.

With respect to the subject that produced these enormities, if I may be permitted to remark without the imputation of partiality, it is obvious that, as the Creeks have no written laws or customs, it was to be supposed the people of Georgia would in reason view that purchase as good which they were to make from the people who were in the undisputed possession and use—the case of your lower towns. However, as the subject of grievances is at all times a tender one, I am sorry if I have not touched it with a finger sufficiently delicate. Let us rather turn our views to the means of future peace and happiness. For this purpose I am anxious for an early meeting, and I hope I am not deceived in thinking you will heartily concur in endeavors of so humane a tendency.

As I propose going to the northward as soon as I see this business in any regular train, it would do me pleasure to convey any word to your correspondent, Mr. H., who thinks of you with sentiments of singular esteem, and who is a man of a benevolence and philanthropy expanded beyond party and national contractedness.

I am, with great esteem, your obedient servant,

JAMES WHITE.

The Honorable ALEXANDER MCGILLIVRAY, Esq.,
One of the Chiefs of the Creek nation.

[For the answer to this letter, *vide B.*]

C No. 3.

At a meeting of the Lower Creeks.—April 10, 1787.

FRIENDS AND BROTHERS: The occasion that brings me here to see you is, I believe, partly of the same nature as that for which you have met together. But, before I enter upon the business, I cannot help expressing the pleasure I feel at seeing so many of our particular friends assembled. The lower towns of the Creek nation have always shown a moderation and prudence which I feel and admire. If this disposition is continued, it will establish such a friendship and commerce as will be infinitely better than quarrelling and bloodshed.

There are many present who are already informed that I am sent here by the great council which in peace and war directs the affairs of all the thirteen united nations of white men, of which the Virginians, your neighbors, make a very small part. I come now from the

centre of their government, at the distance from here of a whole moon's journey on strong horses.

Brothers: The Virginians of Georgia, who form one of the thirteen Fires of our great council, complained, at the meeting last autumn, that their country was attacked and their people killed by some bad men of the Creek nation. They demanded assistance, if due satisfaction was not given against the offenders. But the old and wise men of the great council, the Congress, before they would send out a strong army to assist in killing their brothers, the Indians, with whom they would rather be at peace, wished first to inquire into the matter, and see if all things could not be amicably settled. For this purpose they have sent me out.

Now, Brothers, from peace may we not all reap advantage? There can be none from spilling each other's blood. The Master of Breath lends us that breath but for a little while. Why, then, should we snatch it from one another sooner than he designs? For this reason, I hope both parties will be moderate. Perhaps it hath been a little the fault of both parties that any of the human blood hath been spilt on the occasion; I hope that now each will yield a little to the other. When our friends of the Creek nation who are now at Augusta come up, they will tell you how much I inculcated this to the white people. I was happy to find them disposed to it, except a few of their mad young men, who were too apt to be disposed to war; but their nation will not be rigorous in their demands. They have presents in waiting for the Indians, who, I hope, will go down and receive the goods. I am convinced that this nation will not, in the end, lose anything by confirming the grant of such lands as many of the respectable men of the nation have thought might be spared, and have already granted; which gift it would look unmanly to retract, if it could be done, but it cannot.

Brothers: I have carefully avoided to mention any old cause of quarrels, and I hope there will be none for the future. You will find that the head-men among the Virginians have lately made provision for severely punishing any of their bad folks who shall disturb their friends, the Indians.

I will not trouble you further, but to mention one thing, which concerns us all, and which I feel from my heart; the red people and the white are equally interested in it. We are countrymen; we live in the same land; we breathe the same air; we should be brothers. The Kings and people who live over the great water will wish to subdue us all. They will use cunning and force. Perhaps at this very time there are men employed among you to set you against us. It is not so long since but you must remember how one of these powers made violent efforts of this kind, even upon us, the white people, their children. But to tell you what is done by others of them to people of your color, towards the mid-day sun, would fill you with horror. Ought we not, therefore, to grasp one another with a strong arm of friendship, the more easily to repel these foreigners? Go down, then, and receive the presents which are kept for you as marks of friendship, when you run the line, as you have agreed. You will be assured that every care has been taken by the Virginians to prevent your receiving

any offence; as you, I flatter myself, will also do by them. For my part, when I return from whence I came, I shall have the pleasure to tell the great council of Congress this; then they, far from sending an army into the Creek nation, will exert themselves to give trade and the comforts of life to you and your families. This will make the chain of our friendship brighter, and, indeed, will be better for us all.

Before I make an end, I must inform you that our friend Chewo-
cleymicho and his companions, the hostages, are in good health and spirits. I have sent down to request they may be brought up, that it may not appear hard to keep our friends too long from their relations. But I hope the time passes away agreeably with them; for when I left them they had nothing to do but to drink rum and be merry. If there is any just cause of complaint, I now beg it may be known, that I may use my best endeavors to find a remedy. All we have to request is, that you go and receive your presents, and attend at running the line, according to your agreement at the treaty.

C No. 4.

Proceedings of the meeting of the Lower Creeks.—April 10, 1789.

Present: the principal chiefs of the lower towns; also the Tallassee, or Half-way-house king; and, from the further Creeks, Alex'r McGillivray. Of the white people, besides the superintendent of Indian affairs, the two State commissioners, Messrs. Barnard and Galphin.

Mr. McGillivray opened the business by telling the Indians "they knew for what purpose this meeting was called; he regretted it had not been earlier, that their sentiments respecting the white people's settling their lands might have been certainly known; that the Virginians (*i. e.* Georgians) had falsely persuaded the rest of the white people they had purchased those lands from them; there was now a gentleman come out to inquire into this business; that he came from a different quarter, and would be a good witness to the truth. He (McGillivray) had no doubt they would treat him with the highest respect, and with every attention to what he might have to say to them." He then requested the superintendent to put any questions, or make any proposals he thought proper. During the talk of the superintendent the Indians observed a singular decorum and attention, till he came to request them to go down and run the line; at which they interrupted by asking if the white people wanted to make any more of them prisoners (*i. e.* hostages.)

In answer to the talk, the Tallassee king spoke first. He said, that "he was glad the superintendent had come out, that he might make known his complaints, of which he had many. He had always been a friend to the white people; that, after the war, he was invited to Augusta, where he expected to be treated like a friend; instead of which, the white people, their long knives in their hands, insisted on his making a cession of land, which he had no right to

do; but that, after three days' importunity, he was obliged to consent, on condition the nation would agree to it."

The Hallowing King of the Cowetas seemed principally to undertake to speak for the Indians in general. He expressed their thankfulness to the superintendent for coming so great a journey, with the good intention of settling the quarrel between them and the Georgians. If the matter rested between them and Congress, no doubt it could be amicably concluded; but there was a third party, who had no mind to do justice. He gave an historical account of the progress of the white people, from even before their establishment to the southward of the Savannah, as he had seen himself, or been informed by older men. But, says he, "these last strides tell us they never mean to let their foot rest; our lands are our life and breath; if we part with them, we part with our blood. We must fight for them."

The superintendent then endeavored to show the difficulty, nay, the impossibility of evacuating the lands on which people had settled, after buying them, in the opinion that they were granted by the Indians, in atonement for the many unprovoked injuries the State had sustained. He adduced many reasons to make it probable the Tallassee king had made the grants unconstrained. He promised them every security should be given them against all future encroachments; and he offered to take off several conditions of the late treaty, that might seem to bear too hard. But they insisted the great grievance was taking their land, and that they could not dispense with. When they were desired to declare if nothing would do but relinquishing the lands on the Oconee, they answered, that, or war.

The superintendent took his leave, assuring them of his good wishes to the nation; and that he would always use his endeavors in obtaining for them whatever might be fair and reasonable; but that he was sorry to think their demands in the present case were neither.

Mr. McGillivray's proposal was made next day.

D No. 1.

AUGUSTA, GA., *November 15, 1787.*

SIR: I do myself the honor to enclose to your excellency a report of a committee of the General Assembly of this State respecting the Creek Indians. It so fully informs your excellency of the unavoidable necessity there is for a war with that nation, that little is left for me to say on the subject. In my letter to our delegates of the 9th of August, I inform them of the murders committed by the Indians, and by their answer it appears the letter was laid before Congress, since which time our frontiers have been the scene of blood and ravages. They have killed thirty-one of our citizens, wounded twenty, and taken four prisoners; they have burnt the court-house and town of Greensburgh, in the county of Greene, and a number of other houses in different parts of the country. The Assembly, fully convinced that the State never can have a secure and lasting peace with that perfidious nation until they have severely felt the effects of war,

have ordered three thousand men to be raised, and given the Executive power to call forth fifteen hundred more, should the first not be adequate. The arming and equipping these troops will be attended with such expense that the aid of the Union will be required, in addition to our exertions, and I flatter myself the United States will grant such assistance as will enable us to prosecute the war with vigor, and establish us in the blessings of peace. I would also take the liberty of remarking, that I have reason to think the Creek Indians are supplied with arms and ammunition from the Spanish government of West Florida, and whether it may not be proper for Congress officially to remonstrate against such supplies being granted them whilst engaged in a war with us.

I have the honor to be, with respect, &c.,

GEORGE MATHEWS.

D No. 2.

HOUSE OF ASSEMBLY,

Tuesday, October 23, 1787.

The House proceeded to take into consideration the report of the committee to whom was referred the message of his honor the governor, of the 18th instant, together with such parts of the despatches accompanying the same as relate to the Creek Indians; and the same being read and amended, was agreed to by the House, and is as follows:

“The committee, consisting of General Clarke, Mr. Telfair, Mr. Joseph Habersham, Mr. Seagrove, and Mr. Walton, to whom were referred the papers marked No. 1, accompanying the governor’s message of the 18th instant, respecting Indian affairs, report:

“That, in examining the letters and documents committed to them, they have necessarily been led to a reference to the treaties and principal transactions with the Indians which have taken place since the Revolution and the establishment of peace with Great Britain. And they find that, on the thirty-first day of May, in the year one thousand seven hundred and eighty-three, the Cherokees, by a treaty held at Augusta, among others, agreed to and subscribed the following clause:

“*Clause 3.* That a new line shall be drawn, without delay, between the present settlements in the said State and the hunting ground of the said Indians, to begin on Savannah river, where the present line strikes it; thence, up the said river, to a place on the most northern branch of the same, (commonly called Keowee,) where a north-east line, to be drawn from the top of the Ocunna mountain, shall intersect; thence, along the said line, in a southwest direction, to the top of the said mountain; thence, in the same direction, to Tuegola river; thence, to the top of the Currahee mountain; thence, to the head or source of the most southern branch of the Oconee river, in-

cluding all the waters of the same; and thence, down the middle of the said branch to the Creek line. And that, on the first day of November following, by a treaty also held at Augusta, among others, the Creeks agreed to and subscribed a similar clause for establishing the same line for their hunting grounds. And both nations made the same relinquishment on account of mutual claims which had not before been settled between them; and this boundary was again acknowledged and confirmed at another treaty, held with the Creeks at Galphinton, the 12th day of November, one thousand seven hundred and eighty-five, and extended from the confluence of the Oconee and Oakmulgee rivers to the source of St. Mary's. That it is true that, some few months after the holding of this latter treaty, some uneasinesses began to be fomented in the nation, and some murders were committed. This was considered and declared to be an infraction of the treaty, and reparation was demanded. It was made a serious object of government, and the legislature being convened, our domestic situation and our relative one with the Union were considered with all possible attention and respect. Commissioners were appointed, with full powers to inquire into the causes, and to restore peace; but with power also, if unavoidable, to take eventual measures of defence. This proceeding produced another treaty, which was held at Shoulderbone on the 3d of November, one thousand seven hundred and eighty-six, whereby the violation was acknowledged, the boundaries contained in the former treaties again recognised and ratified, and seven hostages were pledged for the faithful execution of the condition. Your committee cannot forbear, here, to observe that, during the course of all these transactions, the communications were made in solemn, open, and ancient form, and the articles of the treaties were mutually respected, until the aggression posterior to that of Galphinton. And that, whilst it is admitted, on the one hand, there was no principle of representation of the parts of the nation known in civilized government, it cannot be denied, on the other, that it was such as had been common; and the Indians acknowledged, without doubt and regret, their forming a part and being members of the State. Peace being thus restored by the treaty of Shoulderbone, but before the articles were yet carried into full effect, the State received the appointment of a superintendent of Indian affairs, by the Congress of the United States, for the southern department, and on the 15th January, in the present year, the same was acknowledged by the following resolutions of the legislature:

“That this House have a due sense of the attention of Congress to the affairs between this State and the Indians within its territory.

“*Resolved*, That his honor the governor be requested to communicate to the said superintendent, that the government of this State, on the former part of the last year, received certain advice that it was the intention of the Creek Indians to make war against the white inhabitants of the same, and that a short time after they did actually commit hostilities.

“That, in consequence thereof, and agreeably to the articles of confederation and perpetual union, which this State holds as the rule of its good faith, and as the evidence of its portion of sovereignty of

the Union, measures were taken, which had for their object the present security of the State, and the restoring of peace and tranquillity by the most expeditious and certain means; and that, under Providence, the measures have been attended with the desired success.

“That, immediately after the measures before mentioned were determined on, the delegates of this State were directed to make full representation of the same to Congress, with the motives which compelled the State to the same, without the delay which would unavoidably have arisen from the remote distance of the State from the residence of Congress, which no doubt has been done accordingly.’

“And afterwards, a committee was appointed to confer with the said superintendent on the subject of his mission, and on the 6th of February they reported, and of which the following are extracts :

“‘Your committee report that they have conferred with the honorable the superintendent of the United States, and have laid before him the papers and instructions committed to their care, to which he has been pleased to return the following answer :

“‘Gentlemen of the Committee for Indian Affairs, accept my thanks for your polite communication of the different materials in your possession, to assist in acquiring an idea of the situation of Indian affairs in this district. The not having been engaged in this line till very lately, will hardly permit me to remark on the subject as you request. I will only express my satisfaction in observing the moderation, as well as spirit, with which this State pursued her plan of checking the savage violence on the late occasion. The report I have to make to the United States in Congress, taking its complexion from these circumstances, will probably induce them to a more cheerful participation of the expense.

“‘The spirit and prudence of the State will, no doubt, further dictate means of future tranquillity, as well as those of invigorating the hands of the superintendent of Indian affairs, so far as is conducive to the execution of his office within the limits of this State.

“‘I wish to do myself the honor of assuring the honorable the legislature that, as they may think it advisable for me, in my official capacity, to be present at making the temporary line, I will cheerfully attend to that, or any other measure they will favor me with, pointing out in the line of my duty; and that, in every official transaction, I shall observe a most sacred respect to the rights of the State of Georgia.

“‘I am, with great respect, your humble servant,

JAS. WHITE.’

“The same committee having reported the expediency of new regulations for Indian affairs, a bill was brought in for that purpose, and being carried into effect, a board of commissioners were appointed, of which the said superintendent was one. The commissioners, having convened, entered upon the duties of their office; and it was expected that the Indians would be down some time in the spring on the fulfilment of the Shoulderbone treaty. That, in the mean time, the appointment of commissaries, with some other arrangements, were made, and the superintendent determined to visit the nation. When

there, he wrote to the governor, from the Buzzard-roost, on the 12th of March, stating the appearances of mischief with some of the Indians, the probable good effects of his mediation, and of the giving up the hostages, which he recommended. It was also said, 'there is no doubt but the Upper Creeks may be reconciled to the boundary as wished;' and by a letter from Mr. John Galphin, one of the commissaries, written at the same time, and on the same sheet, he says, 'I saw Mr. McGillivray lately, who says he only waits for Doctor White, and, if he comes, he will have the line run between the Indians and the Georgians by the first of May;' and he also advised that the hostages should be given up. Upon the foundation of these letters, the surrender of the hostages was agreed to, and two of the principal ones went on with the answers, and the others were to accompany the commissioners.

"But that, on the 13th of April following, another letter from the superintendent to the governor, dated from the Cussetahs, advises to prepare for war in any event; adding, that his personal safety was assured to be in danger, should he threaten the nation with the force of the Union; and upon his return to Augusta, on the 23d of April, in a further address to the governor, he ascribes the suspension of hostilities between the Indians and the State to propositions communicated to him by Mr. McGillivray for a new State to be laid off south of the Altamaha, and mentions that he had acceded to a truce until the first of August. And here ends the knowledge of your committee of transactions with, or by, the superintendent. It was but a little while, however, before several murders were committed on our frontier, and which have been repeated, from time to time, until mutual hostilities have at length taken place on the whole length of our borders, and a war, by the savages, is now raging with all its horrors.

"And here, too, the task of your committee becomes distressingly difficult. As lovers of their country, and as servants of the State, it is equally their desire and their duty to be true and to be just; and, while they wish to treat the servants of the Union with the strictest respect, they ought to guard our government at home against the improper imputation of wrong. They therefore report it as their opinion, that the ultimate causes of the war were the too sudden interferences with treaties of the State, by which the minds of the Indians were perplexed, and the impression induced that, in a war with the State, they should not have the strength of the Union to fear; and that another disposition would be made of the territory than that which considers it as part of the State. That representations to this effect should be immediately transmitted to Congress, and the support of the Union demanded.

"That, in the mean time, the most vigorous and decisive measures be taken, by the government of this State, for suppressing the bloody violences of the Indians. For which purpose, your committee advise that a law be passed, as speedily as possible, for raising and forming magazines of arms, ammunition, stores, and provision in kind, and for enlisting of men for the protection of the State."

Extracts from the minutes.

JAS. M. SIMMONS, *Clerk G. A.*

[E No. 1, here intervening, is omitted, being deemed irrelevant.]

F.

IN CONGRESS, OCTOBER 26, 1787.

Instructions to the commissioners for negotiating a treaty with the tribes of Indians in the southern department, for the purpose of establishing peace between the United States and the said tribes.

GENTLEMEN: Several circumstances rendering it probable that hostilities may have commenced, or are on the eve of commencing, between the State of North Carolina and the Cherokee nation of Indians, and between the State of Georgia and the Creek nation of Indians, you are to use every endeavor to restore peace and harmony between the said States and the said nations, on terms of justice and humanity.

The great source of contention between the said States and the Indian tribes being boundaries, you will carefully inquire into and ascertain the boundaries claimed by the respective States; and although Congress are of opinion that they might constitutionally fix the bounds between any State and an independent tribe of Indians, yet, unwilling to have a difference subsist between the general government and that of the individual States, they wish you so to conduct the matter that the States may not conceive their legislative rights in any manner infringed, taking care, at the same time, that whatever bounds are agreed upon, they may be described in such terms as shall not be liable to misconstruction and misrepresentation, but may be made clear to the conceptions of the Indians, as well as whites.

The present treaty having for its principal object the restoration of peace, no cession of land is to be demanded of the Indian tribes.

You will use the utmost care to ascertain who are the leading men among the several tribes—the real head-men and warriors. These you will spare no pains to attach to the interest of the United States, by removing, as far as may be, all causes of future contention or quarrels, by kind treatment, and assurances of protection, by presents of a permanent nature, and by using every endeavor to conciliate the affections of the white people inhabiting the frontiers towards them.

You will encourage the Indians to give notice to the superintendent of Indian affairs of any designs that may be formed by any neighboring Indian tribe, or by any person whatever, against the peace of the United States.

You will insist that all prisoners, of whatever age, sex, or complexion, be delivered up, and that all fugitive slaves belonging to citizens of the United States be restored.

F No. 1.

WINNSBOROUGH, June 25, 1788.

SIR: I beg leave to lay before you the steps taken by the commissioners to bring about a treaty with the Creek Indians, agreeably to the resolves of Congress.

A talk was sent to that nation the 29th of March last, addressed to Mr. McGillivray, and the head-men and warriors, urging the necessity there was to treat, and, in the most pointed terms, insisting, as a first principle, that every hostile procedure should instantly cease. A Mr. Whitfield was the bearer. He is a respectable character, and has formerly traded with them. He writes us that the Indians are highly pleased with what Congress has done, and willing to treat on the principles of justice and equity. On that ground they will meet the superintendent and commissioners: in the interim, all hostilities to cease. This, I have the pleasure to inform you, is the case at present, and the sooner it can be effected the better, as it is the wish of the Indians that the treaty be held as speedily as possible.

The above accounts I laid before the Executive of the State of Georgia, who agreed with me in opinion that the 15th September next is as early as this matter can be begun on. The reason is obvious: the State of North Carolina not complying with the resolves of Congress in forwarding the needful, nor is it to be expected that they intend it, (see a copy of the governor's letter enclosed;) and even supposing they had, upon a general calculation the sum allowed by Congress would have been too small to carry into effect a treaty with the Creeks alone, considering the greatness of their nation. Presents, I make no doubt, are expected by them. The goods on hand from the last treaty amount to not more than £400, and many of them consist of perishable articles, which, of course, have suffered.

The two commissioners, Generals Pickens and Mathews, with myself, made an estimate, a few days ago, at Augusta, a copy of which you have herewith. As these gentlemen, as well as myself, calculated on the lowest scale, I make no doubt you will think with me, that a further supply is necessary. There is every reason to believe there will be present from one thousand to fifteen hundred Indians, and each Indian, General Pickens (who has been on similar occasions of this kind before) assures me, at such a time—which cannot well be denied them—expects *double rations*. Upon the whole, I trust, on a matter of such consequence to the States, Georgia in particular, that Congress will give it a reconsideration, and make such provision as they conceive best on this business. The treaty, as I before mentioned, will take place on the 15th September next; therefore no time ought to be lost.

I beg leave further to observe, that my commission as superintendent expires the 29th of August. It will be necessary to prolong the time, if it is the wish of Congress to continue to be represented in the southern department. I shall conclude with assuring you that the States of South Carolina and Georgia will contribute everything in their power towards facilitating the treaty under the auspices of Con-

gress, before whom I beg you will lay the purport of this without delay. They may depend on my utmost exertions in forwarding a plan so highly necessary.

I have the honor to be, sir, your most obedient servant,
RICHARD WINN.

General KNOX,
Secretary of War.

F No. 2.

EDENTON, *March 19, 1788.*

SIR: The resolution of Congress of 26th October, to which you refer in the letter you did me the honor of addressing to me on the 18th day of February last, did not come to me till after the adjournment of the Assembly; and as I considered that the settling the boundary between this State and the Indians a subject of too much importance for me to act in without the direction of the legislature, I laid aside the consideration of it till since I had the honor of receiving your excellency's letter.

I yesterday laid all the papers relating to this business before the Council of State, for their consideration, *who concurred with me in opinion that the powers of the executive department of this State did not extend so far as to comprehend all the objects contained in the instructions sent forward by Congress* for the government of the commissioner to be appointed by this State; and though the resolution of Congress passed as early as the 26th of October, *no hostilities have hitherto been committed on the inhabitants of this State by the Cherokees, nor have we any intimation from the inhabitants of the frontier that any such hostilities are at present apprehended.* I have not, therefore, appointed a commissioner to treat with the Cherokees. Should the States of South Carolina and Georgia be of opinion that the co-operation of this State can, in any manner, facilitate the negotiation with the Creeks, we will be ready to adopt any measure that may have a tendency to promote the peace and security of the State of Georgia, at any time when they may think proper to favor us with an intimation in what manner we can be useful to them.

I have the honor to be, with the highest consideration and respect, sir, &c.,

SAML. JOHNSTON.

His Excellency the GOVERNOR of *South Carolina.*

[F No. 3, here intervening, is omitted, being deemed irrelevant.]

F No. 4.

WINNSBOROUGH, *August 5, 1788.*

SIR: By talks received from the head-men and warriors of the Cherokee nation, dated the 30th June last, I am given to understand that a party from North Carolina (called Franklin State,) with Servier at their head, came over and destroyed several of their towns, killed near thirty of the Indians, made one prisoner, and obliged the remainder to fly with their families to some of the lower towns for protection. Notwithstanding these outrages, there are, at this present time, near thirty of their towns in friendship with the white people, whose wish is to remain so, as their talks run continually, for a lasting peace to be established between them and the whites. The Overhills, the other part of the nation, where the above affair happened, seem determined for war, of which I shall make the governor of North Carolina acquainted. The daily encroachments made on the territories of this set of people is such as to induce them, through me, to lay their distressed situation before Congress, which this opportunity gives me the honor of now doing, presuming they will see with me the real necessity there is for an accommodation taking place with this nation, and order the necessary supplies, accordingly, for carrying the treaty into effect. I must beg leave to add, that, could I have been supplied with the needful, I should have called this nation to a permanent treaty long ere this.

I have the honor to be, sir, your obedient servant,

RICHARD WINN.

SIR: This moment General Pickens's letter came to hand, which I have taken the liberty to enclose to you.

R. WINN.

General KNOX, *Secretary of War.*

 F No. 6.
WINNSBOROUGH, *August 8, 1788.*

SIR: The gentleman who was sent to the Creek nations, with talks from the commissioners, has returned with answers which appear to be friendly. The Indians are willing to come to a treaty next month, therefore the 15th day is set for that purpose; the meeting will be held on the Tugelo river, at the house of a Mr. Lachland Cleaveland, on the Georgia side, in consequence of which hostilities have ceased on both sides.

I make no doubt the wish of Congress will be fully answered, provided the Assembly of Georgia repeal a law which, in some measure, militates against the resolves of Congress, in carrying into effect the treaty with that nation. The Assembly are now sitting on the business, which I hope will have the desired effect.

I have the honor to be, sir, your humble servant,

RICHARD WINN.

General KNOX, *Secretary of War.*

F No. 7.

WINNSBOROUGH, *October 14, 1788.*

SIR: I have had the honor of receiving your several letters, with the duplicates of each, enclosing the different resolves of Congress, of July 15th, August 4th, and 14th, respecting Indian affairs, and shall at all times be happy, through you, to lay before that honorable body such information as offers in that department.

From several conferences with the commissioners, relative to the Creek Indians, and opening a correspondence with McGillivray, who is their head-man, we were led to believe that our negotiations would terminate in a peace between that nation and the State of Georgia; and agreeably to what I before informed you, had actually appointed the time and place for holding a treaty, not doubting, when we met, to get over every obstacle in bringing it to an issue. However, not having the supplies necessary in time, and receiving a letter (see No. 1, enclosed) from the governor of Georgia, we wrote to McGillivray and the head-men and warriors, to postpone the treaty until the spring of next year; to this we have had no answer as yet, but have received a letter from him (see No. 2, enclosed) wherein he insists, as a leading principle, upon having the boundaries the same as they were when the State of Georgia was a British province. These terms of treaty he mentions in his first letter to the commissioners, but neither they nor myself imagined this would operate in his breast, or with the Indians, as a barrier to the treaty, when we produced the different articles of peace entered into since, with the bounds prescribed, and mutually agreed to by both parties. (See a copy of our letter, to which No. 2 is an answer.) It evidently appears by his last, if we are to expect peace with these Indians, it must be on his own terms. From these considerations, we may think it our duty to reply in a different manner to what we have. As soon as we have an answer to our last, respecting the postponing the treaty, I shall do myself the honor of transmitting you a copy of it.

Before I quit the subject of the Creek Indians, it will be necessary to inform you (in order to make the governor of Georgia's meaning appear more clear) that the Georgians have, at this time, a law existing, wherein they have given as bounty land to their soldiers a large tract of country which belongs to the Indians.

This I remonstrated to the Executive of that State; and this was another motive for the treaty's being postponed, as such a law should be repealed before an accommodation could take place.

With due respect, I have the honor to be, sir, your most obedient servant,

RICHARD WINN.

The Honorable General KNOX,
Secretary of War.

F No. 8.

AUGUSTA, GA., *August 14, 1788.*

GENTLEMEN: The disagreeable and unhappy situation of our State affairs is such, that I am sorry, on this occasion, to be under the necessity to declaim against their inability of carrying into effect the business fully, of the proposed treaty with the Creek nation of Indians.

In order to obviate the many difficulties and insufficiency that appeared in the operation of the said treaty, I did, with the advice of the Executive, call the legislature to convene in Augusta, the 22d ultimo, but without effect; and the Executive have it not in their power to make any appropriations. I have, and will continue to exert myself, in endeavoring to obtain a credit from the mercantile line, either on public or private faith, and, if successful, will give you early notice thereof. But in this I doubt.

I would therefore (if Congress does not appropriate a further sum for carrying on the said treaty, as the superintendent, I presume, represented the whole to that honorable body) most seriously recommend, that you endeavor all in your power to have the said treaty postponed if possible. I promise you the sight of the business shall not be put off, but every preparation in our power shall be exerted. You have to urge, on your parts, the reason for postponing the treaty to be, that of the change of government, and of other matters; that I dare say would be sufficient, particularly to Mr. McGillivray, who is a sensible, intelligent man. If possible that the same could be postponed until the spring of the next year, it would be well; but at any rate, for two or three months. This matter would be best managed by the person you appoint to go to the nation, who ought to be a sensible man. I shall engage that peace be observed by the citizens of this State, against the Creek nation, as far as is in my power to enforce; you will please, also, to urge the observance of the same on their parts, against the citizens of this State.

I flatter myself, gentlemen, taking a review of our situation, that you will do all in your power to obtain peace with the Indians within your district, and the citizens of the United States.

I have the honor to be, with every sentiment of respect, your most obedient, humble servant,

GEO. HANDLEY.

Hon. RICHARD WINN, Esq., *Superintendent*, and
The Hon. GEO. MATHEWS and ANDREW PICKENS, Esqrs.,
Commissioners of Indian Affairs.

F No. 9.

FORT CHARLOTTE, July 16, 1788.

To Alexander McGillivray, Esquire, and others, the Chief Men and Warriors of the Creek nation :

This day your letter was opened, which you were pleased to address to us, as also the talks of the Hallowing King, of the Lower, and Mad Dog, of the Upper Creeks, in answer to the one sent you by Mr. Whitfield.

We are happy to find that you are willing to meet us in treaty, so as to convince the world that your conduct, and the leading men of the Indians, is such as to dispose you to do that which is right and just. On such grounds, we are equally willing to meet.

You mention you expect a requisition will be made by us to the people of Georgia, to retire from the Oconee river, within the bounds claimed under the British government. This we are not authorized to do, but will write to the governor of Georgia, requesting him to issue his proclamation that no further trespasses be committed, and that all hostilities do cease. We make no doubt you will lose sight of all matter of little weight, and bring fully into view the grand object of the treaty, agreeably to the resolves of Congress, so as to restore peace and harmony once more between the citizens of Georgia and the Creek Indians, on the principles of justice and humanity ; as we do firmly assure you 'tis what we ardently wish.

As to the time and place for holding the treaty, this power was fully vested in the superintendent and the Executive of Georgia, and they had, previous to any advice received from Mr. Whitfield, (except his letter of May 15th) appointed the 15th September next, the day on which the treaty is to begin, on the river Tugoolo, the dividing line between South Carolina and Georgia, at the house of Lachland Cleaveland, on the Georgia side, at which time and place we hope to meet you and the Creek chiefs as brothers. We wish to see everything conducted in the greatest friendship.

We conclude, thanking you for your polite attention to Mr. Whitfield, and shall be disposed to make you a like return in future.

We have the honor to be, your obedient servants,

RICHARD WINN,

Superintendent.

ANDREW PICKENS,

Commissioner for South Carolina.

GEORGE MATHEWS,

Commissioner for Georgia.

F No. 10.

LITTLE TALLASSEE, August 12, 1788.

GENTLEMEN : I have received your letter of the 16th July, this day. It is with equal surprise and concern that I learn from you that the honor-

able the Congress has not authorized you, its commissioners, to give us a full redress of our complaints, and to give us full satisfaction in what concerns our territory, which the Georgians are attempting to wrest from us forcibly; all which we were taught to expect from the justice and humanity of that honorable body, from the measure adopted by them in sending Doctor White among us, to be fully and truly informed of the cause of the war between us and Georgia. We had great expectations that we should soon experience the good effects of it, in having the causes of our discontents removed; and more particularly, on Mr. Whitfield's coming here, we did so firmly believe that we were on the point of obtaining a satisfactory peace, that we were eager to meet you and conclude one; but your letter discovers to me that nothing has been done, and all is yet to do.

It was expected that the requisition which I made to you for removing the Georgians from the disputed lands, was to be considered by you as it was meant by us, as an indispensable preliminary to form the basis on which the treaty of peace was to be concluded.

I feel much pleasure in your approving of the leading sentiments as expressed in my letter by Mr. Whitfield, and it is with regret that I remark, that our enemy does not manifest an equal disposition with us to terminate the war, by agreeing to equitable terms of peace; and, as we ask no concession from them as the price of peace, so they ought not to demand any on our side.

When I next meet the chiefs, which will be early in September, I will explain to them the contents of your letter.

Meantime I answer you, as well knowing that they will not consent to treat, unless they see their requisition enforced.

I have the honor to be, with most respectful consideration, your most obedient servant,

ALEX. MCGILLIVRAY.

To the Hon. Generals

RICHARD WINN, ANDREW PICKENS, and GEORGE MATHEWS,
*Commissioners appointed by the Honorable the Congress to treat
with the Southern Nations of Indians.*

F No. 11.

WINNSBOROUGH, December 8, 1788.

SIR: I do myself the honor to enclose you a copy of McGillivray's last letter to the commissioners and myself, together with our answer, by which you will discover, if the Indians evade coming to a treaty, they mean war, and will, in my opinion, come down in great force against the State of Georgia.

On the receipt of his letter, which never came to hand till the 13th of last month, though dated so early as the 15th of September, I immediately directed a meeting of the commissioners at Hopewell, when it was agreed on that the treaty could not take place sooner than

next May or June, as it was thought necessary the Indians should have time to consult, and finally determine on the last talk sent them, which is the answer alluded to, wherein we expressly request their reply to be pointed and decisive, and that it be despatched to us as soon as possible. Should they do this, it will give Congress and the Georgians timely notice to prepare for the worst, or otherwise, as it may happen.

Not long since, a fort, between French Broad and Holston rivers, was taken by the Cherokees and Creeks. Ten persons were killed, and about thirty were made prisoners. The war is still carried on between North Carolina and the Cherokees. By a talk I lately held with one of the chiefs of that nation, he says: "Notwithstanding what has happened between them, their principal men wish for peace; that they are now holding a great talk among their head-men and warriors, the result of which was not determined, but he thinks they would gladly bury the hatchet."

I have every reason to believe that McGillivray is trying to unite the two nations, the Creeks and Cherokees. The South Carolina and Georgia commissioners think, with me, that, if the State of North Carolina would send forward their commissioner with the supplies, a treaty might be effected with the Cherokees, before a junction with the Creeks could take place.

Sir, with regard, I have the honor to be, your most obedient servant,

RICHARD WINN.

The Honorable Major General KNOX,
Secretary of War.

F No. 12.

LITTLE TALLASSEE, *September 15, 1788.*

GENTLEMEN: I have received your letter of the 28th of August, wherein you desire that the proposed treaty between us may be deferred until the spring of the next year; the reasons you give us for that measure are good, and to which we do agree, hoping that a new Congress, acting on the principles of the new constitution of America, will set everything to rights between us on the most equitable footing, so that we may become real friends to each other, settling on the same land, and having but one interest.

We expected that, upon Mr. Whitfield's return, a truce of arms would have been directly proclaimed in Georgia, and can't account for the delay of that measure; and in fact, there has been no observance of it on their part, from June till now. They have been driving and plundering our hunting camps of horses and skins, &c., and it is only lately that a Coweta Indian brought me a paper, which he found fastened to a tree near to Flint river, which, upon a close examination, I find to be a threatening letter directed to me. It is written on the back of an advertisement, with gunpowder; a part of it rubbed out as it dried, and with the carriage. The writing says something

of the war, and your savage subjects, and an establishment of peace you must "not expect, until all our damages are made good at the treaty, and satisfaction we will have for our grievances;" from all which, I foresee great difficulty in the attempt to preserve strict suspension of hostility. I can only assure you that we shall regulate ourselves by the conduct of the Georgians, and act according to circumstances. The writing I mention is signed Jam. Alexander, 5th August, 1788. The Cherokees are daily coming in to me, complaining of acts of hostility committed in the most barbarous manner by the Americans, and numbers are taking refuge within our territory, who are permitted to settle and build villages under our protection. Such acts of violence, committed at the time that the Congress, through you, is holding out to the whole nations and tribes professions of the most friendly nature, makes it appear to all, that such professions are only deceitful snares to lull them into a security, whereby the Americans may the more easily destroy them.

Be not offended, gentlemen, at the remark; 'tis true that it is universal through the Indians.

I am, with great respect, gentlemen, your humble servant,

ALEX. MCGILLIVRAY.

The Honorable Generals

RICHARD WINN, ANDREW PICKENS, and GEORGE MATHEWS,

Commissioners for treating with the Southern Nations of Indians.

F No. 13.

HOPEWELL, ON KEOWEE, *November 28, 1788.*

SIR: Your letters of the 12th August and 15th September are now before us. With regard to the former, wherein you mention *nothing has been done, and all is yet to do*, give us leave to tell you that everything in our power has been done, in order to bring forward a treaty, and, under the authority of Congress, to give you full and ample redress in what concerns your territory. At the same time we must observe, that that honorable body will not lose sight of doing equal justice to the State of Georgia, whose claim to what you call the disputed lands is confirmed by three different treaties, signed by your head-men and warriors. Therefore, we earnestly recommend you and the chiefs seriously to consider, under these circumstances, how impossible it is for us to comply with your requisition, relative to removing the people from the Oconee lands; this can only be the business of the treaty, after a full investigation of the right of claim.

In answer to your last, where you so pointedly attack that body under whom we have the honor to act, we cannot be silent, lest it should be tortured into a conviction of guilt. Narrow and illiberal indeed must be that mind that could for a moment suppose that Congress, after withstanding one of the greatest powers of Europe, with her allies, together with almost the whole of the Indian tribes combined, should at this day have recourse to base artifice, in order

to accomplish the ruin of a few Indian tribes, while she is enjoying the blessings of peace at home, and an honorable name among the nations of the world.

We have already enclosed you the governor of Georgia's proclamation, dated July the 31st, last, for a truce of arms, which has been as strictly adhered to as possible; and anything that has happened in violation of it, had you been more explicit, and mentioned the time and place where the Indians' horses and skins were plundered, strict inquiry might have been made, and the offenders punished.

If we take a view of the conduct of the Indians on your part, we have more right to complain: we daily hear of the most cruel depredations, committed by the Creeks on the Georgians. The man you allude to, (Alexander,) we are credibly informed, was in pursuit of a party of Creeks that had stole twelve horses from Greene county, and notwithstanding we have had every assurance given us that hostilities should cease. The governor of Georgia has lately handed us a list of the different counties that have recently suffered, to wit:

Liberty county, between 25 and 30 negroes, and several large stocks of cattle.

Effingham, one man killed.

Wilkes, from 6 to 10 horses plundered.

Greene, from 21 to 27 horses do.

Washington, 6 horses do.

Franklin, from 16 to 20 horses do. One man wounded.

We must add to the above list a pair of fine dun geldings, taken from General Martin, about a mile from his plantation, by some of the Coweta Indians, while he was acting under Congress as agent for the Cherokees and Chickasaws.

The Seminolean Indians are likewise doing a deal of mischief; we know not whether they belong to any part of the Creeks, but wish to be informed. From these violations committed, what can the Union expect, unless a stricter compliance on your part is observed in putting a stop to hostilities? We are well assured, Congress will not look on in silence, and see any part of the Union robbed of its citizens. Enclosed you will find a late resolve of Congress, and a proclamation relative to the Cherokees.

It is our sincere wish that you will meet us the eighth day of June next, at the place appointed before; but should this appear to you at too distant a period, a month sooner will be no object with us in holding a treaty. In the interim, we fully assure you nothing shall be wanting on our parts, in the observance of a strict suspension of arms, on a presumption that you will act in like manner. We request that you will consult the head-men and warriors, on this occasion, and send us a pointed and decisive answer, signed jointly, as soon as possible.

We are, sir, with due respect, your obedient servants,

RICHARD WINN,
ANDREW PICKENS,
GEORGE MATHEWS.

To ALEXANDER MCGILLIVRAY, Esq.,

and the Head-men and Warriors of the Creek nation.

F No. 14.

WINNSBOROUGH, *December 19, 1788.*

SIR: Since I had the honor of writing you last, I have received by express, from the governor of North Carolina, that the legislature of that State has appointed a John Steele, esq., commissioner on Indian affairs, and voted their quota, agreeably to the resolves of Congress. They have also requested the governor to issue his proclamation, that hostilities do cease against the Cherokees, and to send a talk to Mr. McGillivray, that it is their wish to be at peace with the Creeks. These steps being taken on the part of North Carolina, there is not the least doubt of a friendly treaty taking place with the Cherokees, which persuades me will lead to one with the Creeks. The Executive of that State think the last of May the best time for holding a treaty.

I have the honor to be, sir, your most obedient servant,
RICHARD WINN.

Hon. Maj. Gen. KNOX.

F No. 15.

WINNSBOROUGH, *March 1, 1789.*

SIR: I think it necessary to inform you that a treaty will take place with the Cherokee Indians the third Monday in May next, at the upper War-ford, on French Broad river, in the neighborhood of Swananno, State of North Carolina.

The Creek Indians, 'tis supposed, will also treat; they are now holding a great talk in their nation, the result of which is not yet come to hand.

I have the honor to subscribe myself, your most obedient servant,
RICHARD WINN.

The Honorable Major General KNOX.

G.

A talk, lately sent by the Commissioners of Indian Affairs in the Southern Department to the Creeks' correspondent.

TO THE HEAD-MEN, CHIEFS, AND WARRIORS, OF THE CREEK NATION:

We last year appointed a time and place for holding a treaty with you, to establish a lasting peace between you and us, that we might again become as one people; you all know the reasons why it was not held at that time.

We now send you a talk, inviting you to a treaty on your bank of the Oconee river, at the Rock landing. We wished to meet you at

that place on the 8th of June, but, as that day is so near at hand, you might not all get notice. We therefore shall expect to meet you on the 20th of June.

We have changed the place of meeting from that of the last year, so that none of you should have reason to complain; it is your own ground, and on that land we wish to renew our former trade and friendships, and to remove everything that has blinded the path between you and us.

We are now governed by a President, who is like the old King over the great water; he commands all the warriors of the thirteen great Fires. He will have regard to the welfare of all the Indians; and, when peace shall be established, he will be your father and you will be his children, so that none shall dare to do you harm.

We know that lands have been the cause of dispute between you and the white people; but we now tell you that we want no new grants; our object is to make a peace, and to unite us all under our great chief warrior and President, who is the father and protector of all the white people. Attend to what we say: Our traders are very rich, and have houses full of such goods as you used to get in former days; it is our wish that you should trade with them, and they with you, in strict friendship.

Our brother, George Galphin, will carry you this talk; listen to him; he will tell you nothing but truth from us. Send us your answer by him.

ANDREW PICKENS,
H. OSBORNE,

*Commissioners of the United States for Indian Affairs,
in the Southern Department.*

APRIL 20, 1789.

G No. 1.

AUGUSTA, August 9, 1787.

GENTLEMEN: From a wish that you may be informed, and through you the honorable the Congress of the United States, of the situation of this State with the Creek Indians, I do myself the pleasure to enclose you two talks I have received from that nation, with my answers thereto, from which it appears there is reason to expect this State will be compelled to engage in a war with them. It would ill become a free people, and more particularly those of Georgia, to give satisfaction for the warriors that have been killed for murders committed on our peaceable inhabitants, in violation of the most solemn treaties entered into with us, as this State had experienced many and repeated injuries from that nation, during the late war with Great Britain, such as killing our inhabitants and plundering us of our property, all of which we were willing to sacrifice rather than continue the war a day longer than the United States wished to crown the Union with peace.

That you may be as well informed as the nature and situation of

matters will admit, it is needful that I should inform you, that, from letters I received from James White, esq., agent for Indian affairs for the southern department, dated last March and April, there was some reason to think the Indians were not perfectly for peace ; and, on his return to the State, he informed me that they had assured him that no hostilities should be committed or injury done to this State before August, or until they received an answer from Congress or him ; but, in direct violation of this promise, they did, on the 29th day of May, in the county of Greene, kill and scalp two of our men, and carried off a negro and fourteen horses. A party of militia crossed the Oconee river in pursuit of the murderers, fell in with some Indians of that nation, and killed twelve, which, from the first talk I received, appear to be of the lower towns, and the murderers from the upper towns, which is the distinction they make. From their talk I thought we were to have peace ; as they remark, it was impossible for us to tell whether it was the Upper or Lower Creeks that had done the murder, or been killed by our men. Their talk of the 27th of July insolently demands the officer that commanded the party, and as many of his men to be delivered to them as will make satisfaction for the twelve warriors they have lost. Candor compels me to say, when I think of this insolent demand, the repeated alarms they have given our frontiers, and the injury the State sustains from them, that I feel my blood run warm in my veins, and a just impulse to chastise them for their insolence and perfidy, and think it my indispensable duty, if they commit hostilities on this State, to take the most effectual means in my power for the defence of the same, by carrying the war into their country, or such other measures as may be most for the safety and happiness of the inhabitants of this country.

I have the honor to be, with much respect and real esteem, gentlemen, your most obedient servant,

GEO. MATHEWS.

G No. 2.

CUSSETAHS, *June 14, 1787.*

The beloved man from Congress was here, and we had talk with him ; what was agreed upon there, did not answer ; then Mr. McGillivray came over here, and matters were settled. Mr. White and Mr. McGillivray came upon terms, and it was told to them, and they agreed to it, till such time as Col. White sent an answer back. We then thought that matters were settled, and we did nothing but mind our business. Mr. McGillivray promised to acquaint the upper towns of this, and for them to lie still. We then expected that Mr. White would inform the State of Georgia of this, and tell them that we were their friends. We minded nothing but our hunting ; we always talk together, and always agreed, and promised that if anything happened we would not go on rashly, but let one another know our grievances. You always promised that the innocent should not suffer for the guilty. You certainly knew us ; we were always among

the houses ; we did not know of the upper towns doing any mischief, nor did we think that our friends would kill us for what other bad people did. You could not think that it was any of the lower towns did you any mischief, when we were at your houses and living with you in a manner that you might be sure it was not us. We knew nothing of these bad people going out to do any mischief, or we would have sent you word ; and we don't think but you must have known that we were your friends, or we should not have been among you a hunting ; and hope you will send us an answer, and tell us the reason that you have killed your friends for what other people did. It is not the rule of the Indians to acquaint you of this, but to take satisfaction ; but we were always your friends, and we will not take rash steps, unless you will throw us away and not have us for friends. We always were your friends, and will be, let what will happen, is the reason we lie still, although we have lost nine of our people innocently ; but still we won't take rash steps. We must have an answer immediately, that we may know what to do. Hope you will consider us, the lower towns, to be your friends. We look upon all white people as one, and suppose you look upon all Indians as one, is the reason you have killed your friends, who were your friends in the time of war, and are yet. We have had a meeting lately with the northward Indians. We told them, and so did Mr. McGillivray, that we had settled matters with the Virginians, and could not go to war. The Oakgees went, unknown to any of the rest of the towns, and killed some of your people : not as many as you killed of your friends ; but we won't take rash steps, as we are your friends ; and we would be glad of an answer, to know what to do. We have told you the number killed ; we have a number of people out a hunting ; we don't know but there is more killed innocently ; but we will lie still, and hope you will send us an answer : it shall be received as friends to us still, as we look upon you as friends still. We are sure that you must have been sensible that it was not the people that was among you did the murder. It was your rule that the innocent should not suffer for the guilty. Hope you will send an answer, that we may know what to do. We speak the voice of the whole lower towns, and hope you will consider us as friends. We hope you will send us an answer, and a white flag with it, that we may still be friends ; and we will have all the towns together, and hear your answer ; and then we will be friends again. No person need be afraid to come up, as the whole nation will be acquainted with this. Who brings an answer will bring a white flag, upon a pole, in his hand. We shall wait for an answer, and nothing shall be done to you, no hurt whatever. The talk you sent to Mr. Barnard, by John Galphin, he delivered to Mr. Barnard a good while ago, two days after he arrived, which we have not yet heard, nor seen Mr. Barnard, as he has not come to town yet to tell us the talk. We hope you will consider us as friends, as you are sensible we are your friends : for, when the English offered us great presents to go and kill you, we told them we would not ; that you were our friends and brothers ; we were born in one land, and we were your friends and brothers, and will be to the last day, though you have not treated us as friends ; but it might

be a mistake ; and hope, my friends, that you will not delay an answer, but let it come up with speed. There is a fellow down there belonging to our town, the Cussetahs, we hope he won't be hurt, but let him and John Galphin's negro, that he went down with, if you are afraid to send up, if you will send up the talk by John Galphin's negro and the Indian that is there, if you will be so good as to send them safe over the Oconee, then we shall be good friends, and try to keep the path white between us. You will likewise appoint somebody to give out the talks up here, and let a man be here constantly, that when there are any bad people who wants to do mischief, that they can send word down to alarm the settlements, so that we may then live like brothers ; and let us try to keep peace, for peace is better than war. We can't blame you for taking satisfaction, if you had not taken satisfaction from those people who were at the houses with you every day ; and if it is done in a mistake, we must try and take satisfaction from those bad people that went down and did the first mischief. However, I hope you will send us a good talk as soon as possible ; the sooner it comes the better for both parties, that we may take one another by the hand again, and see one another once more in friendship, as we always will.

By the request of the Lower Creeks, the two chiefs, the Hallowing King of the Cowetas, and the Fat King of the Cussetahs.

JOHN GALPHIN.

JAS. DOUZEAEUX,

Interpreter.

G No. 3.

To the Head-men and Warriors of the Lower Creeks.— 29th June, 1787.

FRIENDS AND BROTHERS: Your friendly talk we have just received by our commissary, Mr. Barnard, and are very sorry to be informed that some of your people, our friends, should have been killed through mistake by our warriors, to revenge the murders of some of our peaceable inhabitants. Yourselves must be fully convinced that our people have not been the aggressors in this instance. As soon as the murders were committed by the Indians, our warriors crossed the river, and unfortunately fell in with your people. It was impossible then to distinguish whether you were our friends or enemies. We never knew, until we received your talk, by whom our people were murdered—whether by Upper, or whether by Lower Creeks. We have repeatedly assured you it was our desire to be at peace with the whole of your nation. We still have the same wish, notwithstanding what has passed.

Brothers: Remember the caution we now give you: should any acts of hostilities be in future committed against our people, or should any property be taken from them, be assured it will be impossible to prevent our warriors from doing themselves justice. Our great council are to meet in a day or two ; previous to which, had we not received your talk, a large army would have been sent into your

nation. What consequences would have attended this, you are capable of judging. We have sent orders to our warriors not on any pretence to cross the Oconee river. We wish you to give your people the same instructions. This will be the means of preventing any disputes in future.

Brothers: Should the conduct of the Upper Creeks render it necessary to march an army into the nation, be assured we will consider your towns as friends and brothers, and treat you as such.

Brothers: If you have the friendship for us you express, it is your duty to keep a watchful eye on the conduct of those who you may suppose have a wish or desire to disturb our friendship. Mr. Barnard or Mr. Galphin are always among you. If you hear of any mischief intended against our settlements, it is your duty to inform one or both of them of it immediately. This you are particularly bound to observe by an article of the last treaty, entered into with our commissioners at Shoulderbone.

You acknowledged that the beloved man of the Upper Creeks, Mr. McGillivray, made a promise to our beloved man who was sent from the White town, that no mischief whatever should be done. After having this assurance, our people considered themselves safe, and looked upon all the Indians of your nation as friends and brothers. Have you not often entered into the most solemn engagements with us? And have not you as often violated them? What had our people to expect, when they saw their peaceable countrymen murdered? They determined to take satisfaction for the repeated injuries they had received, and it was with great difficulty that we, the grand council, could prevent our young warriors from marching in a body into the heart of your nation. From your late conduct, and the assurance you have given us in your talk, rest satisfied that we consider you, the lower towns, as our best friends and brothers; and if you do not long continue to hold fast the chain of our friendship, it will not be the fault of the white people.

You express a wish in your talk to have one of your people, who has been some time at Mr. Galphin's, sent to you. We have inquired for him, and find he has been gone several days, and hope he is now safe among you. Mr. Barnard, who is always with you, will carefully attend to all talks that we may send, and deliver them out to you as soon as they arrive among you.

Brothers: We really regret the loss of your innocent people who have lately been killed. It is your duty as men and warriors to do yourselves justice, by taking satisfaction of the persons who were the cause of it. In doing this, we shall be fully convinced of your brotherly love and friendship towards us.

Brothers: It is our wish to see you and the Upper Creeks one people; but should they continue to create differences between you and us, and you should think yourselves unable to take satisfaction, we will, as all friends and brothers ought to do, be every ready to give any assistance you may require.

G No. 4.

*In a meeting of the Lower Creeks in the Cussetahs, 27th July, 1787.
Talk of the Fat King to his honor Governor Mathews, and the council.*

FRIENDS AND BROTHERS: The talk you sent us in answer to ours, by your commissary, Mr. Barnard, we have seen this day; and, as that talk is not satisfactory to our people, we have agreed upon to send you this one more.

Friends: 'Tis not we that have forgot the talks at Shoulderbone, but you. Among other things, it was proposed by you, and agreed to by us, that no hasty revenges should be taken in future by either side; and in the late affairs 'tis you that have been rash: for when the injury was done to you, you did not wait but for a little while and look around you to find out from whence the blow came, but fell directly upon our people, your real friends, who were daily among your houses, and whose persons you well knew, and some that were taken declared themselves and towns to you, which you disregarded; it might have been from people of another nation, for what you knew at that time.

Friends: You ought not to think of making us accountable for any measures of the upper towns, our brothers. They had two men killed last summer, and they can answer for themselves. They went against you unknown to Mr. G. or us, and he did not mean to break the promise he made to Mr. White, as he had declared to the whole nation, and a talk from him is still expected by us.

Friends: You must give us immediate satisfaction, life for life, an equal number for twelve of our people destroyed by you. The leader of these mad people that did the mischief, and so many of his people, should fall for satisfaction; ('tis our custom to give it;) then the tears of the relations of the dead will be dried up, and our hearts not continue hot against you: for it is in vain that you call us friends and brothers, and don't consider and treat us as such; and as you wish the chain of friendship to be kept bright between us, we expect you will not fail to give us the desired satisfaction, as we should have given you had we been in fault.

When you do this, you will then send a gentleman into our land to renew friendship, as we have often gone into yours for such purposes.

A. MCGILLIVRAY.

In twenty days from the date that Mr. Galphin sets out, we shall expect the return of Mr. Galphin.

G No. 5.

To the Fat King and other head-men of the Lower Creeks.—7th August, 1787.

When we received your talk by Mr. Barnard, our commissary, we considered you as friends and brothers. In the one you now send us,

there appears to be much reason to suspect you of deceit, and that you were then, as well as now, secretly our enemies. Whether this sudden change has been owing to the duplicity of your beloved man Mr. Gillivray, or whether you assume this conduct, it matters not. On what principle can you demand satisfaction? Your warriors were killed for the murder of our innocent inhabitants committed by your nation, in direct violation of the most solemn treaties entered into with us. We wished, and still do wish, we could forget the many and repeated injuries you have done us during and since the late war with Great Britain. It is in vain to talk of satisfaction. Did you not, last summer, kill six of our peaceable frontier inhabitants? and did you not, at Shoulderbone, engage to have an equal number of your men put to death for them? Have you done this? No! Did you not, just before we received your last talk, murder two of our people on the Oconee? And did you not, also, at the very time Mr. Barnard was down from you, kill two white men? Have you complied with a single article of the treaties of Augusta, Galphinton, and Shoulderbone? No! Instead of complying with your several engagements, you have repeatedly murdered our innocent people, burned their houses, and carried off their property. All these outrages we have submitted to, rather than enter into a war with you. Your conduct towards us long since has authorized our putting flames to your towns, and indiscriminately killing your people; but a wish to be at peace with you, and to spare the effusion of human blood, has prevented this. Now open your ears *wide*, and hear what we tell you: should any act of hostility, or depredations, be committed on our people by your nation, be perfectly assured we will not hesitate to do ourselves ample justice, by carrying war into your country, burning your towns, and staining your land with blood. You will then be compelled to fly for refuge to some other country.

It now rests with you, whether we engage in war or not; if we do, remember yourselves are answerable for the consequences. The hatchet once lifted is not easily buried.

GENERAL KNOX, SECRETARY OF WAR, TO THE PRESIDENT OF THE UNITED STATES.

(See same, pp. 33, 34.)

WAR OFFICE, *July 28, 1789.*

SIR: Having examined the report of the commissioners for treating with the southern Indians, dated the 30th of June last, and the papers accompanying the same, I have the honor to observe:

That it is the opinion of the said commissioners, that the Creek nation of Indians are, generally, disposed to enter into a treaty with the United States, for the purpose of establishing a permanent peace.

That it is of great importance that the favorable dispositions of the said Creek nation should be embraced immediately, in order to terminate, by an equitable peace, the disturbances and hostilities which have for some years past existed on the southern frontiers.

That the said commissioners having been appointed by the States of South Carolina and Georgia, in consequence of the resolves of the late Congress, of the 26th of October, 1787, it may be considered that their powers expired with the late confederation.

That, therefore, it may be proper to institute a commission, to consist of three persons, to be appointed conformably to the constitution, who should be invested with full powers to inquire into, and decide on, all causes of complaint between the citizens of the United States and the southern nations and tribes of Indians, and to negotiate and conclude with them firm treaties of peace, on principles consistent with the national justice and dignity of the United States.

I have the honor to be, with the highest respect, sir, your most obedient, humble servant,

H. KNOX.

The PRESIDENT OF THE UNITED STATES.

GEORGIA, ROCK LANDING, ON THE OCONEE RIVER,
June 30, 1789.

SIR: Agreeably to the appointment of the Executive of North Carolina, under the act of Congress of the 27th of October, 1787, we attended at the upper War-ford, on the French Broad river, from the 25th of last month to the 7th instant, in order to meet, in treaty, the chiefs and head-men of the Cherokee Indians; but as they did not attend on or before that day, we found it necessary to repair to this place, as the Executive of the State of Georgia had appointed the 20th of this month for treating with the Creek Indians. A treaty with the Creeks appearing to us to be of the greatest importance, we sent to the Cherokees a talk, No. 1 A.

On our way to this place we met several of the Cherokee head-men at Seneca, who gave us the fullest assurances that no hostilities or depredations should be committed by any of their people against the citizens of the United States until a treaty should be held; and we have every reason to confide in their promises.

Some late depredations which were committed by the Creeks on the frontiers of this State so alarmed their chiefs, that they returned home after having been a few days on their journey to this place. The talks Nos. 1 and 2; Mr. McGillivray's letter, No. 3; Mr. George Galphin's letter, No. 4; Mr. John Galphin's letters, Nos. 5, 6, and 7; and Mr. McGillivray's letter, No. 8, will explain to your excellency their reasons.

We have now with us Mr. John Galphin, a chief speaker of the Lower Creeks, the White Bird King, or the Great King, with sixteen other Indians. They will return to the nation to-morrow, with our general talk, No. 9, and our letter to Mr. McGillivray, No. 10.

The great scarcity of corn for upwards of eighty miles around us, was our principal reason for postponing the Creek treaty so long; by the middle of September we shall be aided with the new crop.

We are happy to inform your excellency, from good authority, that the Creeks are, very generally, disposed for peace. We are well

assured that all the head-men of that nation, with upwards of two thousand Indians, will attend the treaty in September, and we have the fairest prospects of establishing a permanent peace with the Creeks, on such terms as will be pleasing to the Indians, satisfactory to the State of Georgia, and honorable to the Union.

In justice to the State of Georgia, we cannot conclude this letter without expressing our entire satisfaction in the conduct of her government; they have cheerfully advanced several thousand dollars to enable us to meet so large a body of Indians in a manner suitable to the importance of the occasion.

We have the honor to be, your excellency's most obedient and very humble servants,

ANDREW PICKENS,
H. OSBORNE.

His Excellency GEORGE WASHINGTON,
President of the United States.

—
No. 1 A.

UPPER WAR-FORD, ON FRENCH BROAD RIVER,
June 7, 1789.

To the Head-men, Chiefs, and Warriors of the Cherokee Nation:

FRIENDS AND BROTHERS: Agreeable to our appointment with you, we met at this place, expecting to have the pleasure of meeting you, to settle all disputes that have subsisted between you and the white people. We have waited here for you twelve days, and we are now obliged to go and meet the Creeks on the Oconee, on the 20th of this month, so that we can stay no longer. We are, therefore, under the necessity of postponing the treaty with you till some other time that will be appointed and made convenient for both parties.

We are sorry to find that the people of Cumberland have reason to complain; many of those people have been killed by the Indians. You all know that the people of Cumberland make no encroachments upon your lands; the line was settled at Seneca, and the people of Cumberland do not go over it. We hope none of your people are concerned in such mischief, as it would interrupt the good intentions of Congress towards your people. We expect you will put a stop to all such proceedings against any of our people, until we meet you in treaty, when we have no doubt of settling all matters to your satisfaction. In token of our friendship, we send you a string of white beads.

ANDREW PICKENS,
JOHN STEELE,
H. OSBORNE.

No. 1.

A talk from the Head-men and Chiefs of the Lower Creek nation, to the Commissioners of the United States of Indian Affairs in the Southern Department.—May 23, 1789.

We received your talk by Mr. George Galphin, but at that present time we were not able to give you an answer, in consequence of a great meeting and a talk being concluded by Mr. McGillivray and the whole nation, in consequence of the encroachments of the Georgians on our hunting grounds. Orders were given out for our warriors to be in readiness to turn out in respect to their lands. We then first sent runners everywhere to stop and turn back all parties they could come up with, until we could hear from Mr. McGillivray, and have his advice in the matter. There are some people, we believe, gone on, the consequence of which we cannot be accountable for, as they were gone before your talk came in; but I hope there will be no blood spilt; your delay in not sending up your talk sooner, is the reason of it; had your talk come a little sooner, it might have been a great deal better. We have been informed you would send a talk to us; but its not coming, we did not know what to do. Now we have sent to Mr. McGillivray to know when he will appoint the time for setting off to meet you at the place you appointed. Mr. Galphin is gone to settle this matter with him; he will bring you word when it will be agreed on by the chiefs of the Lower Creek nation.

No. 2.

A talk from the Chiefs, Head-men, and Warriors of the Lower Creek nation.—June 1, 1789.

The day is coming at last, that I hope we shall see you our fathers, friends, and brothers again, as we used in friendship, and renew all our former friendships. It was never our intention to be against any white people. We now come to take you by the hand, with a clear and willing mind, and with an intent to remove all things that had shut our path so long, and to renew our former trade in friendship once more.

We have always received your talks friendly, and sent you our talks again; letting you know always our grievances, and the reasons why this long dispute; but we now hope all will be forgot, and we now come to make our talks firm again, as we did when we first took white people by the hand. As we were all made by one Master of breath, although put in different parts of the earth, he did not make us to be at variance against each other; but it has happened, by the bad doings of our mad people, on both sides. When we first met the white people, at the sea-side, we did not meet in arms, but with a desire of being further acquainted with each other, until the great encroach-

ments of our lands raised us, which has occasioned the late troubles among us. You are sensible that, at our first meeting at the sea-side, for the benefit of trade, we gave our lands as far as the water ebbed and flowed, and, by frequent request, granted, as far as possible, reserving our hunting grounds; for what will be the use of goods brought amongst us, if our young men have not hunting ground to kill game, to purchase the goods brought to us?

We never met together yet to explain our grievances, but we told them to the beloved man, Col. White, who came here to us, and he promised to lay all our talks, that we gave him, before the Congress, and that we should have redress and justice done us. Now we rest with hopes that you will do the same by us, as we expect you have the same talks.

We received your invitation, and do expect that, when we meet, all past grievances will be forgot, and laid one side, and then renew our friendship once more, to the satisfaction of all our people. Mr. George Galphin will acquaint you of every particular. This is all we have to say, until we shall take you by the hand, as our fathers, friends, and brothers.

JAMES DEREZEAX, *Interpreter.*

No. 3.

LITTLE TALLASSEE, *May 18, 1789.*

DEAR SIR: I have this moment received your letter, enclosing a talk of invitation to the chiefs and warriors of the nation to meet the commissioners of Congress the 20th June next.

I wish that you could have been up, while I was in the lower towns; the great fatigue which I have undergone this spring, prevents my seeing the Lower chiefs on the occasion.

I have received a letter from the commissioners and superintendent last winter, in which they declared, in the most pointed and unequivocal terms, that it was impossible to make the restitution of territory the basis of a peace between us and Georgia, which we demanded as a first measure to be complied with by them, to lead the way to a lasting peace.

At our late convention, I explained the letter to the chiefs, who were much dissatisfied at the declaration, and observed that it was in vain to talk of peace while an obstacle of such magnitude was suffered to remain in the way of it, on the part of the Georgians; and the warlike preparations, which you notice in your letter, are carrying on to make another trial to accomplish by force what can't be obtained by peaceful methods. Our excursions, hitherto, have been made with no other view than to warn the Georgians to desist from their injustice, and to induce them to listen to reason and humanity. It is well known, that if any other was our motive, that our force and resources are equal to effect their destruction.

On the present occasion, the chiefs having sent for my opinion and advice, I have wrote to them, to be explained by Mr. Derezeaux. I

have left the matter to their own choice ; if they agree to meet, I will likewise go, though I have the best reasons against it. Yet apprehensions for personal security shall not deter me from fulfilling the duty which I owe my country.

I am, sir, your humble servant,

ALEX. MCGILLIVRAY.

Mr. GEO. GALPHIN, at *Cussetahs*.

No. 4.

LOWER CREEKS, *May 27, 1789.*

GENTLEMEN: I have to acquaint your honors, that, on my arrival in the Creek nation, I found it in a very bad situation to bring about a treaty. I at first began to despair of having it in my power to effect any of the business I came on, as the whole Upper and Lower Creeks, down as far as the Seminoles, were ready fitted off to go out to war; and would have been started, if I had been but four days later, on the frontiers of Georgia. Upwards of three thousand would have been out, and intended to have drove Ogechee from the mouth to the head, which I fear they would have effected, after viewing the frontiers in such an unprepared state, and the Indians going on at such a surprise.

I was told, by many of the Indians, that, if any one else had come at such a time but myself, they never should have returned back. The cause of their setting out on such a general excursion, was by consent of Mr. McGillivray, after a general meeting of the chiefs and head-men of the whole Upper and Lower Creeks; and, being informed by him that they were not to have their lands on the Oconees restored to them again, he acquainted them that the Spaniards had provided for them, for the purpose of defending their rights to their lands, fifteen hundred stand of arms, and forty thousand weight of ammunition. This, he told me, was what the governor or commandant at Pensacola told him was what they had orders to do, by orders from their king. On hearing of this great supply, the Indians were much exalted, and, I believe, would have turned out to a man, except the Cussetahs, who seemed much against it, which was happy for me on my business, or I could have done nothing.

On my arrival at the Cussetahs, I met with Mr. Barnard, who had been at Mr. McGillivray's talk, and had been trying all he could to put a stop to their rash proceedings, till an express was sent down, with an offer of peace on any conditions, as anything that could be done to prolong the time, until news could have been got down, to have warned the frontiers from such a destruction as must have ensued, would have been better than to have it gone on. Mr. Barnard's offers could not avail, as the Indians seemed determined to prosecute what they begun. Mr. Barnard's life and property were immediately threatened, and every exertion possible made use of to prevent his going off, or sending down news to Georgia of what was going forward. At my meeting Mr. Barnard at the Cussetahs, I handed him

his honor the governor's letter, likewise General Twiggs', and communicated the whole of my business to him. He acquainted me with every matter respecting the present situation of affairs, and gave me every advice he thought necessary to effect my business, and then left me to my brother John to complete it, as he told me he dared not be seen to concern with me at that time, at the risk of his life, which I found to be the truth.

My brother having a good deal of influence in the Cowetas, through our connexion there, which was the most strenuous for mischief, I set him to work on them, and myself with the Cussetahs. We, in two days, got them to stop all that were on the move, till we could write Mr. McGillivray. They agreed to wait till they heard his answer. After finding out the true situation of affairs, and according to my instructions from you, I wrote a letter acquainting him fully with my business with the chiefs of the nation, and from whom I was sent; and, as head of the nation, gave him every security, if he attended the treaty, that no molestation would by any means take place, but that every respect would be shown him, which I hope your honors will take every step to secure, that my promises to him and the rest of the heads may not be violated. After my letter, he left the determination of the business on hand to the heads of the Cussetahs and Cowetas, who, after seeing his answer, consented to treat. He, at the same time, gave them to understand, that, if they were inclined to a treaty, he would likewise attend, and, by what I can plainly see, there is no measure to be fallen upon to settle the present cause of dispute, without his voice. Even if a treaty could be called without his consent, it could not be a general one; therefore it would only be leaving matters in the same disagreeable situation that they are now in, and leaving the frontiers still open to perpetual violation. His attendance will put the matter effectually out of every kind of jeopardy, one way or other.

I am now at Mr. Barnard's, on Flint river, forwarding to you this express; I likewise sent my brother off, before I left the town, to Mr. McGillivray, to know exactly when he and the rest of the heads would wish to meet. I set off again for the Cussetahs to-morrow, and, on the return of my brother, I shall, in a few days, set out for Augusta, where I hope, by the time I get there, you will nearly effect every preparation necessary for a treaty at the Rock Landing.

I shall be particular in ascertaining every necessary intelligence, which I hope in a short time to be able to communicate to your honors in Augusta. Till then I remain, with due respect,

Your honors' most obedient, humble servant,

GEO. GALPHIN.

P. S.—I have enclosed Mr. McGillivray's answer to me for your perusal, and likewise a talk from the whole of the Lower Creeks.

G. G.

Hon. A. PICKENS and H. OSBORNE, Esq.,

Commissioners for Indian Affairs in Southern Dept., Augusta.

No. 5.

COWETAS, *May 23, 1789.*

SIR: I take the liberty of writing to your honor of the situation of this our country. When my brother arrived here, we had just had a full meeting of all the chiefs, and had long waited for talks, but never received any. A John Tarvin arrived from Augusta, whom we expected we should have some talks by, but had none; there were a few private letters from Mr. McGillivray, but nothing of consequence. The chiefs then thought it was not the Georgians' intention to make a peace, on which many turned out; and the day my brother arrived, there were not less than two thousand under arms. I gave him my assistance, and stopped all; and immediately sent to Mr. McGillivray, who acted the same. There might be small parties out that were gone so far, that it was out of our power to stop them: they turned out before your talks came up to this country. I hope that the small damages which may be done by them will be overlooked; if not, perhaps we shall not agree, as it cannot be accounted for, when they were in the woods before your talks came to this country, and I hope all will be looked over. I am sorry it was not more in my power to assist my brother, owing to a bad state of health I have been in for some time past; but, finding that he must fall through with his business, if I did not assist him, though I rode about with him in great pain; and yesterday had a meeting of the lower towns, from which you will see the talks. I found it necessary to go up to the upper towns and see Mr. McGillivray, as it was needless to have a treaty with part of the nation, and not the whole. It may, perhaps, detain the time longer; but the business will be well done. I had been told that his honor the governor wrote to Mr. Barnard; am surprised that his honor is not more acquainted with business of this country, than to think that Mr. Barnard's influence could be of any service to that country. I believe him to be a friend of the State of Georgia, but I must take the liberty to acquaint you that Mr. Barnard cannot do anything here more than a trader, nor is it in his power. You will get the fullest information of this country by my brother George, and a treaty, you may rely on, we will try, if possible, to be at the time appointed; but, if we should not, you must wait a few days longer, as this is an extensive country, and business cannot be done in a day or two. It will be necessary that every preparation be made, for we will try to make a lasting peace; and, for that intention, I will try to bring the chiefs of the whole nation. We may be in number that will come down about two or three thousand, and hope that you will be in readiness for the reception of that number.

I must now give some small remarks of the usage I have had in the State of Georgia. When I was only seventeen, the Assembly, under some pretence, robbed me of better than forty thousand acres of land, a precedent not to be equalled in all the annals of history. I then settled store on the Oconee river, and, being alarmed that the Indians were likely to do mischief, Captain Kemp, with several of the neighbors, requested that I would go to the nation to know the cer-

tainty, and, if possible, to prevent so shocking a scene. On my way up, I met and passed them; no sooner out of sight, I got round them, and gave the inhabitants timely notice, though my horse tired, and had to travel on foot forty miles, a fatigue I was but little accustomed to. They might, had they been possessed of one spark of gratitude, reckoned that information a temporal salvation. I leave the judicious part, for I think there must be some to judge their gratitude, when, at that very juncture, they burned my house, robbed me of better than two hundred pounds sterling, to induce me to believe that it was the Indians; and repeatedly threatened my life, from no motive I know of, but of saving them. Had the men who made application the smallest idea of justice, they would not have suffered me to be treated as I was. Soon after, the commissioners made application to me to bring the Indians to a treaty; it was hardly possible for me to be zealous to serve a people who had so unjustly injured me, and were continually declaring they would take my life. However, to induce me to undertake it, and exhaust the remains of my shattered fortune; they seemed to point out steps that would retrieve my lands, and my own foolish credulity once more permitted me to comply with their request. The inhabitants were still swearing vengeance against me. I then did not think my life safe; I was then obliged to seek refuge in this, my own country, where I was in some safety; and I have laid out of my own pocket better than eighty pounds sterling in purchasing the prisoners that were brought here, and risque my life to save theirs. All this I have done to serve the Georgians. I will write you more satisfactory than at present, as I am now in a great hurry. You may be in preparation for a treaty; and have the honor to be, sir,

Your most obedient servant,
JOHN GALPHIN.

Hon. HENRY OSBORNE, Esq.,
Commissioner of Indian Affairs, Augusta.

No. 6.

COWETAS, *June 1, 1789.*

SIR: In my last letter to you, I mentioned where I was going: to the upper towns, in order to see Mr. McGillivray, and have just arrived and completed the business that my brother came on, which he must have fallen through with, had I not assisted him. I have settled every matter for him, and will be ready to start from this place, with all the lower towns, the 13th of this month. I expect to be joined with all the Upper Creeks, and our chief speaker, Mr. McGillivray, the 10th of this month. We shall have all the chiefs of the whole nation with us. I can just tell your honor, that there will be more chiefs at this treaty than ever was at a treaty yet, in order to settle every dispute. Matters may be settled on good terms, but we cannot come upon any terms unless every dispute is settled on a good footing; particularly that of mine, concerning my lands, which were taken from

me when I was under age. I should once have thought myself happy of being a citizen in the State of Georgia, but it was withheld, and I must now look upon myself a chief in the whole of the lower towns, as they have now given me the honor of settling their business for them. In my last I gave you my reason for leaving the State of Georgia, but I would still wish every matter could be settled on good terms for a peace, for no man has taken more pains than I have.

I make no doubt there have been some people on the frontiers killed lately, but we have lost twelve in number; I think that may be upon a balance for what are lost on the frontiers.

I will try to be down by the time appointed. It will be very necessary that all white people, who have no business, should be ordered away, as they generally give more disturbance than any others; and for no person to come on this side of the river, as the Indians are a jealous people, and hope every method will be taken to keep people back that have no business there: if not we shall return, for the people of Georgia always bully than treat with the Indians; but I hope such steps will not be taken now.

I remain, sir, your obedient servant,
JOHN GALPHIN.

Hon. HENRY OSBORNE, Esq.,
Commissioner of Indian Affairs, Augusta.

No. 7.

ROCK LANDING, *June 24, 1789.*

GENTLEMEN: I arrived here yesterday, and meeting Mr. Brian, the interpreter, this morning, he informed me of seeing a Mr. Whitehead on his way from the nation, who did not altogether give him a true account of us; but I can assure you that I have it in my power to settle every matter amicably and satisfactorily to both parties.

I shall wait at this place until I get an answer to return with, as your honors will find, by my instructions, that I can settle everything agreeably.

I have the honor to be, gentlemen, your most obedient servant,
JOHN GALPHIN.

The Honorable BOARD OF COMMISSIONERS FOR INDIAN AFFAIRS.

No. 8.

COWETAS, *June 16, 1789.*

SIR: Upon receipt of this letter, you are requested by the chiefs to proceed to the proposed place of meeting, at the Rock Landing, on the Oconee river, where, if you meet with the commissioners, you are to inform them that the chiefs have resolved to put off the meeting for the present; for the following reasons:

That when the talk of invitation arrived here, the whole body of warriors were in arms, owing to the commissioners' letter of last win-

ter, ready to turn out; but the chiefs being ever ready to listen to just terms of peace, they agreed to meet the commissioners, to treat as they requested; but some parties having early gone out, could not be stopped; and they having returned within a few days of the appointed time for the chiefs setting out for the Rock Landing, and having done mischief in killing several people, the body of the people stopped the chiefs from proceeding to the Oconee, apprehensive that they might sustain injury and insult from the people of that country.

The chiefs are willing to treat at a time when, a few months having passed over, each other's minds will be more cool, and can talk over matters with calmness and temper; meantime they wish to have an answer from the commissioners, upon what grounds they intend to conduct the treaty on. They apprehend that some demands will be made to which they cannot agree, and they don't wish to meet them to quarrel, but rather desire, when they do meet to treat of peace, to do it in a peaceable manner, and to conclude a peace on terms that may make it a lasting one.

Wishing you a good journey, remain, with esteem and regard, your most obedient servant,

ALEX. MCGILLIVRAY.

P. S.—Assure the commissioners that every exertion will be made by the chiefs to keep things quiet, which may be depended on.

Mr. JOHN GALPHIN, *in the Cowetas.*

No. 9.

To the Head-men, Chiefs, and Warriors of the Creek nation.

ROCK LANDING, ON THE OCOONEE,
June 29, 1789.

BROTHERS: We came to this place expecting to meet you, agreeably to our invitation, which we sent to you by Mr. George Galphin. We are sorry anything should have happened to prevent your coming. We have heard your reasons from your chief speaker, Mr. McGillivray, with which we are satisfied. We have consulted your beloved man, Mr. John Galphin, and have fixed the time for meeting you all at this place to be the 15th of September next. We hope you will be punctual in coming, that all disputes may be settled, and we may again take you by the hand as friends and brothers.

As a mark of your good intentions, we shall expect all the prisoners in the nation, both whites and blacks, will be sent to this place as soon as possible, where one of us will remain to receive them.

We have strictly charged our people not to cross over to your side of the Oconee, and we expect your people will not come on this side, except at this place, before the time for holding the treaty.

We shall expect that all your people will be prohibited from committing any kind of depredations against ours, so that peace may be preserved, and all of us meet at the appointed time as friends and brothers.

ANDREW PICKENS,
H. OSBORNE.

No. 10.

ROCK LANDING, *June 30, 1789.*

SIR: We have received your letter to Mr. John Galphin, and are very sorry we could not have the pleasure of seeing you at the time appointed; but as we have fixed a time, agreeable to your wish, we hope nothing will prevent your being present on the 15th of September next. It is our wish and desire to make a firm and lasting peace, *on liberal terms*, with all the chiefs of the nation. One of us will remain at this place to have everything prepared for the treaty, and to receive as many of the prisoners as can be sent down before that period. You will oblige us much by using your influence on this subject, as it will have a very happy effect in this country, and tend to promote a good understanding between the Indians and our people. We expect all the prisoners that cannot be sent immediately will be brought to the treaty.

There are few things vex the people of this country so much as having their horses stolen. We wish, and have no doubt but you will put a stop to that practice in future, and that you will order as many of the stolen horses as can be found in the nation to be sent to us.

Mrs. Girardeau, a widow lady, of Liberty county, was plundered by a party of your nation in August last, and eight negroes taken off. She has five young children, and the negroes were the bulk of her and their property. Feeling for the widow and orphans, we have granted her eldest son permission to accompany Mr. Galphin to the nation. We recommend him to your humanity in the strongest terms, and request you to afford him every necessary assistance in regaining the property. He will return by this route; and we shall be happy to have an opportunity of rendering you a similar service, either in a public or private capacity.

We have spoken very freely to Mr. Galphin. He will give you every necessary information, and do away any doubts that may have remained on your mind. It would give us great satisfaction to have some private conversation with you and him prior to the public talks. We doubt not but all matters may be so settled between us as will make the treaty both easy and agreeable to all parties.

For your satisfaction, we enclose you a resolve of the Executive of this State, and an order of the governor thereon. It is our wish that no people whatever belonging to the United States should be disturbed or injured, either in their persons or property, till all matters are finally settled between us.

We are, sir, your obedient and very humble servants,
ANDREW PICKENS,
H. OSBORNE,

Commissioners.

TO ALEXANDER MCGILLIVRAY, Esq.,
Chief Speaker in the Creek Nation.

IN COUNCIL, *Augusta, June 19, 1789.*

To the end that no interruption or personal interference may take place between the honorable the commissioners and the Indians, in

the progress of the treaty at the Rock Landing, it is unanimously ordered, in the most express terms, that no person or persons whatsoever do approach the treaty ground, or cross over the Oconee to the south side, during the time of holding the same, or within ten days thereafter, without special permission from the commissioners for that purpose; and any breach of this order will be punished with the utmost severity.

Extract from the minutes.

J. MERIWETHER, *S. E. C.*

COUNCIL CHAMBER, *June 19, 1789.*

In pursuance of the above order of Council, the governor and commander-in-chief orders and directs that the officers of the militia, guard to the commissioners, and of the State troops, do see, at their respective stations, that the same be not violated; and any neglect herein will be deemed a breach of duty, and punished accordingly.

GEORGE WALTON.

GENERAL KNOX, SECRETARY OF WAR, TO THE PRESIDENT OF THE UNITED STATES.

(See American State Papers, Indian Affairs, vol. 1. p. 38.)

The Cherokees.—This nation of Indians, consisting of separate towns or villages, are seated principally on the headwaters of the Tennessee, which runs into the Ohio. Their hunting grounds extend from Cumberland river along the frontiers of Virginia, North and South Carolina, and part of Georgia.

The frequent wars they have had with the frontier people of the said States, have greatly diminished their numbers. The commissioners estimated them, in November, 1785, at 2,000 warriors; but they were estimated, in 1787, by Colonel Joseph Martin, who was well acquainted with them, at 2,650; but it is probable they may be lessened since, by the depredations committed on them.

The United States concluded a treaty with the Cherokees at Hopewell, on the Keowee, the 28th of November, 1785, which is entered on the printed journals of Congress April 17, 1786. The negotiations of the commissioners on the part of the United States are hereunto annexed, marked A.

It will appear, by the papers marked B, that the State of North Carolina, by their agent, protested against the said treaty, as infringing and violating the legislative rights of that State.

By a variety of evidence which has been submitted to the late Congress, it has been proved that the said treaty has been entirely disregarded by the white people inhabiting the frontiers, styling themselves the State of Franklin.

The proceedings of Congress on the 1st of September, 1788, and the proclamation they then issued on this subject, will show their sense of the many unprovoked outrages committed against the Cherokees.

The information contained in the papers marked C, from Colonel

Joseph Martin, the late agent of the Cherokees, and Richard Winn, esq., will further evince the deplorable situation of the Cherokees, and the indispensable obligation of the United States to vindicate their faith, justice, and national dignity.

The letter of Mr. Winn, the late superintendent, of the 1st of March, informs that a treaty will be held with the Cherokees on the third Monday of May, at the upper War-ford, on French Broad river.

But it is to be observed that the time for which both he and Colonel Joseph Martin, the agent to the Cherokees and Chickasaws, were elected, has expired, and therefore they are not authorized to act on the part of the Union. If the commissioners appointed by North Carolina, South Carolina and Georgia, by virtue of the resolve of Congress of the 26th of October, 1787, should attend the said treaty, their proceedings thereon may soon be expected.

But as part of the Cherokees have taken refuge within the limits of the Creeks, it is highly probable they will be under the same direction; and therefore, as the fact of the violation of the treaty cannot be disputed, and as the commissioners have not power to replace the Cherokees within the limits established in 1785, it is not probable, even if a treaty should be held, as stated by Mr. Winn, that the result would be satisfactory.

All which is humbly submitted to the President of the United States.

H. KNOX.

WAR OFFICE, *July 7, 1789.*

A No. 1.

HOPEWELL, ON THE KEOWEE,
December 2, 1785.

SIR: We enclose to your excellency a treaty which we entered into, on the 28th ultimo, with all the Cherokees at this place. We had invited the chiefs only of the respective towns; but they, having some reason to expect ill-treatment from some disorderly people in that part of the westward of North Carolina where the exercise of an independent government has lately been assumed, were under the necessity of bringing their young warriors, their wives and children, who were most exposed, to be protected—so that from this nation we have had nine hundred and eighteen.

Previous to entering into the treaty, we, with interpreters who understood the Cherokee language well, explained the occurrences of the late war, with the extent of territory ceded to us by the King of Great Britain. We also explained every article of the treaty, so that they could comprehend it perfectly. After it was signed, they expressed their obligations to the United States of America for taking them under protection, and treating them with such unexpected justice.

The agents of Georgia and North Carolina attended the treaty, as will appear by their protest, herewith enclosed. The commissioners,

in establishing the boundary, which is the chief cause of all the complaints of the Indians, were desirous of accommodating the southern States and their western citizens in anything consistent with the duty we owed to the United States.

We established the line from forty miles above Nashville, on the Cumberland, agreeable to the deed of sale to Richard Henderson & Co., as far as the Kentucky ford; thence to the mountain six miles south of Nolichucky, agreeable to the treaty, in 1777, with Colonel William Christie, William Preston, and Evan Shelby, on the part of Virginia, and Waitstill Avery, attorney general, Colonel Robert Lannier, William Sharp, and Joseph Winston, on the part of North Carolina; thence by agreement, south, to the North Carolina line, and to the South Carolina Indian boundary; thence to the Tugelo river, the treaty at Dewit's corner in 1777, with States of South Carolina and Georgia; thence, over the Currahee mountain, to the south fork of Oconee, the treaty at Augusta, of 1783. The line from Duck river is now given by the Cherokees to accommodate the people of Nashville, and others, south of the Cumberland, (which river is the southern boundary of the lands sold to Richard Henderson & Co.) as it would be difficult to remove them, as well as very distressing to the citizens.

There are some few people settled on the Indian lands, whom we are to remove; and those in the fork of French Broad and Halston being numerous, the Indians agreed to refer their particular situation to Congress, and abide their decision. We told them there were too many for us to engage positively to order off, although they had settled expressly against the treaty entered into by Virginia and North Carolina with the Cherokees in 1777.

The commissioners know not what is best to be done in this case. They see that justice, humanity, and good policy, require that some compensation should be made to the Indians for these lands; but the manner of doing it probably would be difficult. However, a small sum we think could be raised on the unlocated lands, as well as from those already settled; and which, if appropriated to the purpose of teaching them some useful branches of mechanics, would be of lasting advantage. Some of the women have lately learnt to spin, and many of them are very desirous that some method should be fallen on to teach them to raise flax, cotton, and wool, as well as to spin and weave it.

We have required the aid of the agent of North Carolina, and the commissioners of Georgia, in the execution of the treaty, and we foresee that difficulties will frequently arise, and, indeed, render it ineffectual, if these two States should refuse their co-operation. We have given the Indians some presents, but our stock was so small, compared with the number of Indians, and their naked, distressed condition, that the dividend was trifling indeed. We told them that we invited and expected the head-men and warriors only; that the object of our commission was altogether for their benefit, and we had made provision accordingly.

The Spaniards and the French from New Orleans are making great efforts to engross the trade of the Indians; several of them are on the north side of the Tennessee, and well supplied with proper goods for

the trade. The governor of New Orleans, or West Florida, has sent orders to the Chickasaws to remove all traders from that country, except those who had or should take the oath of allegiance to the Catholic King; and also, had appointed ten traders, who were down after goods, when our informant, a man of respectability, left that country.

We sent a very intelligent, honest man, with our invitation to the Choctaws and Chickasaws, to treat with us, and he brought us assurances from them that they would attend the treaty, and some of the former set out before he left the Chickasaw nation; but none of them have as yet arrived, and we cannot account for it, unless we give credit to reports which contradict, expressly, all assurances of their attachment to the United States, and joy on the first notification of the resolution of Congress appointing commissioners to treat with them and receive them into the favor and protection of the United States. The Cherokees say that the northern Indians have their emissaries among the southern tribes, endeavoring to prevail on them to form an alliance offensive against the United States, and to commence hostilities against us in the spring, or next fall, at the farthest; they also say, that not only the British emissaries are for this measure, but that the Spaniards have extensive claims to the southward, and have been endeavoring to poison the minds of the Indians against us, and to win their affections, by large supplies of arms, military stores, and clothing.

We are at a loss what to do, to complete the object of our commission; the sum to which we are limited is already, by our disappointments and expenses attendant thereon, so diminished, that we are unable to fix on any place, and therefore must await the further order of Congress.

We have, for the information of Congress, collected, as near as may be, the number of Indians in the four southern States, and we find the gun-men of the Cherokees..... 2,000

The Upper and Lower Creek nation, from an agent who resided seven years in their towns, and employed by John Stewart for the purpose..... 5,400
 The Chickasaws..... 800
 The Choctaws..... 6,000

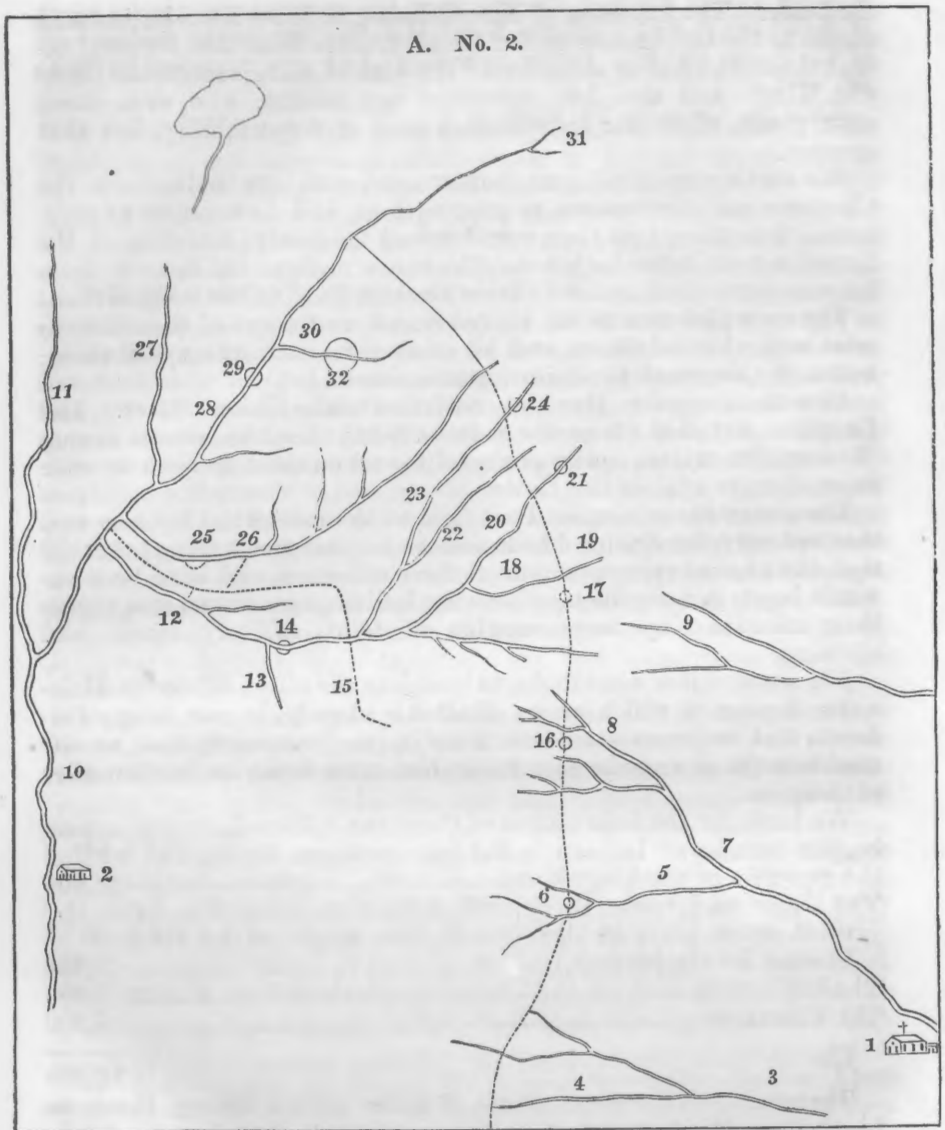
14,200

There are, also, some remains of tribes settled among these, as Shawanees, Eutchees, &c. &c.

At a moderate calculation, we may reckon the women, the children, and the old men unfit for hunting, to four times the number of gun-men.

We have the honor to be, with due respect, &c.,
 BENJAMIN HAWKINS,
 ANDREW PICKENS,
 JOSEPH MARTIN,
 LACH'N McINTOSH.

His Excellency RICHARD HENRY LEE, Esq.,
President of Congress.



- | | | |
|---|--|--|
| 1. Augusta. | 12. Tennessee river. | 23. Powell river. |
| 2. Natchez. | 13. Ocochappo river. | 24. Martin's Station. |
| 3. Oconee river. | 14. Muscle Shoals. | 25. Nashville. |
| 4. South fork of Oconee. | 15. Chickasaw Claim. | 26. Cumberland. |
| 5. Broad river. | 16. Ocunnee Mountain. | 27. Wabash, or Enemy river. |
| 6. Carrahee mountain. | 17. Mountain six miles south of
Nolichucky. | 28. Ohio river. |
| 7. Savannah river. | 18. French Broad river. | 29. Falls. |
| 8. Keenwee river. | 19. Nolichucky river. | 30. Kentucky river. |
| 9. Saludah river. | 20. Holston river. | 31. Fort Pitt. |
| 10. Mississippi river. | 21. Long island of Holston. | 32. Henderson's range for his horses
and cattle, within the circle. |
| 11. The river above the fort, called
Kaskaskia by the Indians. | 22. Clinch river. | |

This map is copied from one drawn by the Tassel, and some other of the head-men of the Cherokees, to describe their territorial claims.

It is not known whether the line from the mountain, six miles south of Nolichucky, will touch the North Carolina line to the east or west of the South Carolina Indian boundary; but it is supposed to be to the west.

KEOWEE, *November 28, 1785.*

A No. 3.

HOPEWELL, ON KEOWEE, *November 18, 1785.*

The commissioners of the United States, in Congress assembled, to treat with the Cherokees, and all other Indians southward of them, within the limits of the United States, assembled.

Present: Benjamin Hawkins, Andrew Pickens, Joseph Martin, and Laughlin McIntosh; from the State of North Carolina, the honorable William Blount, esq., who produced his commission as agent for that State.

The commissioners ordered a return to be made of the Indians, and there were five hundred. The head-men and warriors having informed that the present representation of their tribes was not complete, but would be so in a few days, it was agreed to postpone treating with them until the whole representation should arrive.

NOVEMBER 21.

The head-men and warriors of all the Cherokees assembled. Ordered, that the interpreters inform the Indians that commissioners will meet them to-morrow at 10 o'clock, under the bower erected for that purpose.

NOVEMBER 22.

The commissioners assembled. Present: Benjamin Hawkins, Andrew Pickens, Joseph Martin, and Laughlin McIntosh. From the State of North Carolina, William Blount, agent. From the State of Georgia, John King and Thomas Glasscock, commissioners. From all the tribes or towns of the Cherokees, the head-men and warriors. James Madison, Arthur Coody, interpreters.

The commissioners delivered the following address to the Indians:

HEAD-MEN AND WARRIORS OF ALL THE CHEROKEES: We are the men whom you were informed came from Congress to meet you, the head-men and warriors of all the Cherokees, to give you peace, and to receive you into the favor and protection of the United States; and to remove, as far as may be, all causes of future contention or quarrels; that you, your people, your wives and children, may be happy, and feel and know the blessings of the new change of sovereignty over this land, which you and we inhabit.

We sincerely wish you to live as happily as we do ourselves, and to promote that happiness as far as is in our power, regardless of any distinction of color, or of any difference in our customs, our manners, or particular situation.

This humane and generous act of the United States will no doubt be received by you with gladness, and held in grateful remembrance, and the more so as many of your young men, and the greatest number of your warriors, during the late war, were our enemies, and assisted the King of Great Britain in his endeavors to conquer our country.

You, yourselves, know that you refused to listen to the good talks Congress sent you; that the cause you espoused was a bad one; that all the adherents of the King of Great Britain are compelled to leave this country, never more to return.

Congress is now the sovereign of all our country, which we now point out to you on the map.* They want none of your lands, or anything else which belongs to you; and, as an earnest of their regard for you, we propose to enter into articles of a treaty perfectly equal, and conformable to what we now tell you.

If you have any grievances to complain of, we will hear them, and take such measures, in consequence thereof, as may be proper. We expect you will speak your minds freely, and look upon us as the representatives of your father and friend, the Congress, who will see justice done you. You may now retire, and reflect on what we have told you, and let us hear from you to-morrow, or as soon as possible.

NOVEMBER 23.

Present as yesterday. After sitting some time in silence, the Tassel of Chota arose, and addressed the commissioners as follows:

I am going to let the commissioners hear what I have to say to them. I told you yesterday I would do this to-day. I was very much pleased at the talk you gave us yesterday; it is very different from what I expected when I left home. The head-men and warriors are also equally pleased with it.

Now, I shall give you my own talk. I am made of this earth, on which the Great Man above placed me, to possess it; and what I am about to tell you I have had in my mind for many years.

This land we are now on is the land we were fighting for during the late contest,† and the Great Man made it for us to subsist upon. You must know the red people are the aborigines of this land, and that it is but a few years since the white people found it out. I am of the first stock, as the commissioners know, and a native of this land; and the white people are now living on it as our friends. From the beginning of the first friendship between the white and red people, beads were given as an emblem thereof; and these are the beads I give to the commissioners of the United States, as a confirmation of our

* We used McMurray's map, and explained with great pains the limits of the United States, as well as the occurrences of the late war; and we believe they comprehend us. Some of the Indians had visited the Six Nations; some had been up the Wabash and down the Miami, to Lake Erie; and others had been at Fort Pitt, the Natchez, Pensacola, St. Augustine, Savannah, Charleston, and Williamsburg.
B. H.

† Hopewell is fifteen miles above the junction of the Keowee and Tugalo; it is a seat of General Pickens, in sight of Seneca, an Indian town at the commencement of the late war, inhabited by one hundred gun-men, but at present a waste. Dewit's corner is forty miles east of this; and that was the eastern Indian boundary till the treaty of 1777.
B. H.

friendship, and as a proof of my opinion of what you yesterday told us.—[A string of white beads.]

The commissioners have heard how the white people have encroached on our lands, on every side of us that they could approach.

I remember the talks I delivered at the Long Island of Holston, and I remember giving our lands to Colonel Christie and others, who treated with us, and in a manner compelled me thereto, in 1777. I remember the talks to Colonel Christie, when I gave the lands at the mouth of Cloud's creek, eighteen springs past. At that treaty we agreed upon the line near the mouth of Limestone. The Virginia line, and part from the mouth of Cloud's creek to Cumberland mountain, near the gap, was paid for by Virginia.

From Cloud's creek, a direct line to the Chimney-Top mountain, thence to the mouth of Big Limestone, on Nolichuky, thence to the first mountain, about six miles from the river, on a line across the sun, was never paid for by the Carolina which joins the Virginia line. I wish the commissioners to know everything that concerns us, as I tell nothing but the truth. They, the people of North Carolina, have taken our lands for no consideration, and are now making their fortunes out of them. I have informed the commissioners of the line I gave up; and the people of North Carolina and Virginia have gone over it, and encroached on our lands expressly against our inclination. They have gone over the line near Little river, and they have gone over Nine-Mile creek, which is but nine miles from our towns. I am glad of this opportunity of getting redress from the commissioners. If Congress had not interposed, I and my people must have moved. They have even marked the lands on the bank of the river near the town where I live; and from thence down in the fork of the Tennessee and Holston.

I have given in to you a detail of the abuse and encroachments of these two States. We shall be satisfied if we are paid for the lands we have given up; but we will not, nor cannot, give up any more. I mean the line I gave to Colonel Christie.

I have no more to say; but one of our beloved women has, who has borne and raised up warriors.—[A string of beads.]

The War-woman of Chota then addressed the commissioners:

I am fond of hearing that there is a peace, and I hope you have now taken us by the hand in real friendship. I have a pipe and a little tobacco to give the commissioners to smoke in friendship. I look on you and the red people as my children. Your having determined on peace is most pleasing to me, for I have seen much trouble during the late war. I am old, but I hope yet to bear children who will grow up and people our nation, as we are now to be under the protection of Congress and shall have no more disturbance.—[A string, little old pipe, and some tobacco.]

The talk I have given is from the young warriors I have raised in my town, as well as myself. They rejoice that we have peace, and we hope the chain of friendship will never more be broken.—[A string of beads.]

THE COMMISSIONERS TO THE TASSEL.—We want the boundary of your

country; you must recollect yourself and give it to us, particularly the line between you and the citizens, with any information you have on that subject. If necessary, you may consult your friends, and inform us to-morrow, or as soon as possible with conveniency.

TASSEL.—I will let you know the line to-morrow. I have done speaking for this day.

UNSUCKANAIL, of New-Cusse, in the middle settlement.—I speak in behalf of Kowé, New-Cusse, and Watoge. I am much pleased with the talks between the commissioners and the Tassel, who is the beloved man of Chota. I remember the talks given out by you yesterday. I shall always, I hope, remember that, if we were distressed in any manner, we should make our complaints to the commissioners, that justice may be done. There are around us young men and warriors, who hear our talks, and who are interested in the success of this treaty, particularly as their lands are taken from them, on which they lived entirely by hunting; and I hope, and they all anxiously hope, it is in the power of the commissioners to do them justice. The line mentioned by the beloved man of Chota is in truth as he expressed it; I remember it, and it was formerly our hunting grounds.

The encroachments on this side of the line have entirely deprived us of our hunting grounds; and I hope the commissioners will remove the white people to their own side. This is the desire of the three towns I speak for; the settlements I mean are those on Pigeon river and Swannano. It was the desire of the commissioners that the Indians should tell all their grievances, and I hope they will do justly therein. When any of my young men are hunting on their own grounds, and meet the white people, they, the white people, order them off and claim our deer.—[A string of white beads.]

CHESCOENWHEE.—I am well satisfied with the talks of this day. I intended to speak; but, as the day is far spent, I will decline it till to-morrow. I will go home and consider on it.

NOVEMBER 24, 1785.

Present as yesterday.

TUCKASEE.—I remember the talks when I made peace. I have appointed Chescoenwhée to speak for me to-day.

CHESCOENWHEE.—I rejoice that the commissioners have delivered their talks to the head-men of the different towns. I am in hopes that these our talks will always remain unbroken. What you hear from the representatives of the towns, the young warriors will invariably adhere to. I am in hopes that it is now in the power of the commissioners, from their talks of yesterday and the day before, to see justice done to us; to see that we may yet have a little land to hunt upon. I was sent here to settle all matters respecting my country; and being under the protection of the United States, I shall return satisfied. We have been formerly under the protection of Great Britain, and then, when I saw a white man, I esteemed him a friend; and I hope that the commissioners of Congress will see that times may be as formerly. I wish what I say may be deemed strictly true, for so it is; and that I may be always looked on as a friend to the thirteen United States, and that they will see justice done me.

The talks of the commissioners are the most pleasing to us, as they do not want any lands. Formerly, when I had peace talks, the first thing the white people expressed was a desire for our lands. I am in hopes you will adjust and settle our limits, so that we may be secured in the possession of our own. I will abide by what hitherto has been said on this subject, but cannot cede any more lands.—[A string of beads.]

I am in hopes the commissioners will deliver to us our prisoners who are in their lands. Neither the commissioners nor any of the citizens of the United States can suppose that we can be at peace on their account; they are our own flesh and blood, and we desire them out of your country. I am in hopes of seeing them, with the assistance of the commissioners. They have been long detained, and we often were promised by Colonel Martin that we should see them. One of them was taken from Talksoa, three girls and one boy from Ereyoy, and one boy from Tuckareechee. We do not know how old they are; we are a people who do not know how to count by years. They are in North Carolina, and were taken by an army from thence.

OONANOOTEE.—I am to deliver the talks in answer to what I heard at Oostanawie. I was sent down from different towns to receive the talks of the commissioners, and to be governed by them. I do expect, by the time I return home from the commissioners, the young men of the towns of our nation will be there to hear me repeat what you have or shall say to me. I was told by all of them, when I set out, that they expected I would return with good talks. It was the desire of the commissioners that we should tell all our grievances; the encroachment on our hunting grounds is the source of all ours, and I hope they can and will take measures to see justice done in our land. I have attended to the talks of the commissioners and our beloved men, and I sincerely wish they may always abide by them. I am in hopes it is in your power to see our distresses redressed, and that you will order off the people who are settled on our lands, and protect for us our hunting grounds.—[A string of beads.]

I wish the commissioners to take in hand the case of the traders in our country, and settle what respects them during the late war, so that they may not be seized on and plundered by bodies of armed men as they pass to and from the nation. I am come down as one to make peace with the commissioners of the United States of America, and I hope the traders may pass through the country. I wish the commissioners would prevent such acts of injustice as robbing the traders; several of them have been plundered in Georgia and South Carolina, and their lives endangered if they should attempt to recover their property. As for my part, I mean to keep the path clear for the traders as far as our line; and I hope the commissioners will do the same on their part. Here are the chiefs of all our nation, who hear me; the traders have been out for goods, and returned without any, having been robbed, and I hope it will not be the case again. I sincerely desire that our talks and complaints may go up to Congress, that they may know how we are distressed about our country. I have delivered the talks to the commissioners, and laid the beads

on the beloved table; and as to my part of the country, I will keep the path clear.

TASSEL.—We have said all we intend to-day; if the commissioners have anything to say, we will hear it, and answer them.

COMMISSIONERS.—We want the boundary of your country, particularly to the northward and eastward; this we told you yesterday. When we can agree upon the bounds of the lands we mean to allot to you, we will prepare the draught of a treaty on the plan we mentioned to you in our address.

TASSEL.—I expected to give the bounds of our country, but it is too late in the day, and I will do it to-morrow.

NOVEMBER 25.

Present as yesterday.

The head-men, after some conversation together, requested the commissioners to give them some paper and a pencil, and leave them to themselves, and they would draw the map of their country.

NOVEMBER 26.

Present as yesterday.

The head-men produced their map, and the TASSEL addressed the commissioners as follows:

I will give the bounds of the land as far as I claim. Colonel Martin is present, and heard our talks at the Long island of Holston, and he knows everything I shall say to be true. The line which I have marked, beginning on the Ohio above Kentucky, and running thence to where the Kentucky road crosses Cumberland river, thence to the Chimney-Top mountain, and by the mouth of Big Limestone to the mountain, six miles south of Nolichucky, is justly our boundary with the white people. The Indians from the middle settlements will extend the line, and show their claim.

I know that Richard Henderson says he purchased the lands at Kentucky, and as far south as Cumberland; but he is a rogue and a liar, and if he was here I would tell him so. He requested us to let him have a little land on Kentucky river, for his cattle and horses to feed on; and we consented, but told him at the same time he would be much exposed to the depredations of the northern Indians, which he appeared not to regard, provided we gave our consent. If Attacullaculla signed his deed, we were not informed of it; but we know that Oconestoto did not, and yet his name, we hear, is to it. Henderson put it there, and he is a rogue.

COMMISSIONERS.—You know Colonel Henderson, Attacullaculla, Oconestoto, are all dead. What you say may be true; but here is one of Henderson's deeds, which points out the line, as you have done, nearly till it strikes Cumberland; thence it runs down the waters of the same to the Ohio; thence up the said river, as it meanders, to the beginning. Your memory may fail you; this is on record, and will remain forever. The parties being dead, and so much time elapsed since the date of the deed, and the country being settled on the faith of the deed, puts it out of our power to do anything respecting it; you

must therefore be content with it, as if you had actually sold it, and proceed to point out your claim exclusive of this land.

TASSEL.—I know they are dead, and I am sorry for it; and I suppose it is now too late to recover it. If Henderson were living, I should have the pleasure of telling him he was a liar; but you told us to give you our bounds, and therefore we marked the line. But we will begin at Cumberland, and say nothing more about Kentucky, although it is justly ours.

COMMISSIONERS.—You must also make provision, if practicable, for the people settled at Nashville, and for such other bodies of people, if numerous, as may be within what you have pointed out as your claim. Our object in treating with you is to fix a permanent boundary, and to keep our faith in whatever we promise you; and you must not expect from us any promise which we know cannot be done but with great inconveniency to our citizens. The Chickasaws, we are informed by Colonel Martin and the agent of North Carolina, claim the lands at Nashville; and they are content that the people should live there, and you must mark a line for them.

TASSEL AND TUSKEGATAHEE.—We understand you perfectly; we wish to postpone this matter if the Chickasaws would come; it is a kind of common right in all the Indians, and they had no right of themselves to give it.

COMMISSIONERS.—We have now no expectations that the Chickasaws will meet us, and you know the necessity of having the treaty completed, that we may, as early as possible, put a stop to the encroachments you complain of, if they do exist.

TASSEL AND TUSKEGATAHEE.—We know the necessity of completing the treaty, and we will mark a line for the white people; we will begin at the ridge between the Tennessee and Cumberland, on the Ohio, and run along the same till we get around the white people, as you think proper. We will also mark a line from the mouth of Duck river to the said line, and leave the remainder of the lands to the south and west of the lines to the Chickasaws; we will, from the ridge, go to Cumberland, and up the same to where the Kentucky road crosses the same. Colonel Christie run the remainder of the line with us, as we have marked it, and he said we were at liberty to punish, or not, as we pleased, any person who should come on our side to violate the treaty; but this we have not done, and the white people have come over it a great way, as we have told you. In the fork of French Broad river and Holston, there are three thousand souls. This is a favorite spot of land, and we cannot consent to their having of it, and they must be removed. There are some few settled on other parts, whom the commissioners, we hope, will remove. We cannot mark a line round the people on French Broad; those lands are within twenty-five miles of our towns, and we prize them highly. The people have settled there several springs past, and they ought to be removed.

COMMISSIONERS.—We expect some sort of provision will be made for these people, and you had better think seriously of it; they are too numerous for us to engage to remove. You say they have been there for a long time, and ought to have been removed. While you were

under the protection of the King of Great Britain, he ought to have removed them for you; but he neglected it, and we cannot stipulate positively to do anything respecting them, unless you choose to mark around them; for the present they must remain as they are; all the others you mention shall be removed.

TASSEL.—I have shown you the bounds of my country on my map which I drew in your presence, and on the map of the United States. If the commissioners cannot do me justice in removing the people from the fork of French Broad and Holston, I am unable to get it of myself. Are Congress, who conquered the King of Great Britain, unable to remove those people? I am satisfied with the promises of the commissioners to remove all the people from within our lines, except those within the fork of Holston and French Broad; and I will agree to be content that the particular situation of the people settled there, and our claims to the lands, should be referred to Congress, as the commissioners may think just, and I will abide by their decision.

UNSUCKANAIL.—I and my people are to extend their line, and, although our claims are well founded to a large portion of the mountains, which are of little advantage to any but hunters, and of great value to them, yet I am willing to extend the line to the southward until we come to the South Carolina Indian boundary; and we have a right, formed on the treaties at Dewit's corner, and at Augusta, to make that line, as far as the south fork of Oconee, our boundary against the white people.

NOVEMBER 28, 1785.

The commissioners assembled.

Present: Benjamin Hawkins, Andrew Pickens, Joseph Martin, and Laughlin McIntosh.

From the State of North Carolina, William Blount, agent.

From the State of Georgia, John King and Thomas Glasscock, commissioners.

The head-men and warriors of all the Cherokees.

James Madison and Arthur Coody, sworn interpreters.

Major Samuel Taylor, Major William Hazzard, Captain Commandant John Cowen, John Owen, and George Ogg, merchants, with several other reputable characters.

The commissioners produced a draught of a treaty, on the plan they originally proposed to the Indians, which was read and interpreted to them with great attention, so that they agreed that they perfectly understood every article, and would, with pleasure, unanimously sign the same; accordingly two copies were signed by the commissioners and all the head-men, the one for the United States, and the other for the Cherokees.

Previous to signing, the agent from North Carolina, and the commissioners of Georgia, delivered their protests against the same.

After the treaty was signed, sealed and witnessed, the commissioners told the head-men that Congress, from motives of humanity, had directed some presents to be made to them for their use and comfort; and that, on the next day, they would direct the presents to be distributed accordingly.

NOVEMBER 29.

Present as yesterday.

The commissioners ordered a return of the Indians, and there were nine hundred and eighteen, and goods to the amount of \$1,311 10-90 were distributed among the head-men of every town.

The Indians having expressed a desire to say something further to the commissioners, they attended accordingly.

TASSEL.—I will now inform you of some further complaints against your people. I remember the treaty with Colonel Christie, and in all our treaties, that we reserved the Long island of Holston for ourselves, as beloved ground, to hold our treaties on. I remember the commissioners yesterday, in an article of the treaty, demanded all their property and prisoners. I am now going to make my demand. I desire that Colonel Martin may be empowered to find and get our prisoners: he is our friend, and he will get them for us. I am now done my talks, and I hope the commissioners will be as good as their promise yesterday in the treaty. The white people have taken so much of our lands, we cannot kill as many deer as formerly. The traders impose on us greatly, and we wish our trade could be regulated, and fixed rates on our goods. Our traders are frequently robbed when coming to and going from our nation. John Benge was, among others, robbed of about £150 sterling's worth of leather, in the State of Georgia.

TUSKEGATAHEE.—I am not a chief, but will speak for my country. I shall always pay great regard to what I have heard respecting the treaty, as well as what may be sent us from Congress hereafter; and as I am within the limits of the United States, I shall always expect their protection and assistance. Our young men and warriors have heard what has passed. I expect, as our boundaries are ascertained, Congress may be informed of them, and that, as peace is now firmly established, and we are all friends, we may be allowed to hunt on each other's lands without molestation. On my part, being in peace and friendship with you, I shall feel myself safe wherever I go. Many of your people on Cumberland and Kentucky lose their horses in our lands, and, should we find them, I wish Colonel Martin to receive them.

NOWOTA.—I am fond to hear the talks of the beloved men of Congress, and of ours. You commissioners remember the talks, and I shall always endeavor to support the peace and friendship now established. I remember your talks by Colonel Martin, and I promised to be attached to America, but, until the present, I was afraid to be in your country. I am now perfectly happy, as you are to protect us. Your prisoner at Chickamoga I will deliver you. Formerly, Captain Commeron saw justice done to us in our land. He is gone, and I now depend on the commissioners. If anything depends on me to strengthen our friendship, I will faithfully execute it. You are now our protectors. When I go and tell to those of our people who could not come to hear your talks what I have seen and heard, they will rejoice. I have heard your declarations of a desire to do us any service in your power. I believe you, and in confidence shall rest happy.

COMMISSIONERS.—We will give you provisions for the road, and wish you may be happy. We will send up to Congress all our talks.

B No. 1.

HOPEWELL, ON KEOWEE, *November 22, 1785.*

GENTLEMEN: Having yesterday had the honor to lay before you my commission, as agent on the part of North Carolina, I now consider it my duty to call your attention to the following extract from the constitution of that State, which was agreed to and published to the world on the eighteenth day of December, in the year 1776:

“The property of the soil in a free government being one of the essential rights of the collective body of the people, it is necessary, in order to avoid future disputes, that the limits of the State should be ascertained with precision; and as the former temporary line between North and South Carolina was confirmed and extended by commissioners appointed by the legislatures of the two States, agreeable to the order of the late King George the Second, in council, that line, and that only, should be esteemed the southern boundary of this State—that is to say, beginning on the sea-side, at a cedar stake at or near the mouth of Little river (being the southern boundary of Brunswick county,) and running from thence a northern west course, through the boundary house, which stands in thirty-three degrees fifty-six minutes, to thirty-five degrees north latitude, and from thence a west course so far as is mentioned in the charter of King Charles the Second to the late proprietors of Carolina: Therefore, all the territory, seas, waters, and harbors, with their appurtenances, lying between the line above described and the south line of the State of Virginia, which begins on the sea-shore in thirty-six degrees thirty minutes north latitude, and from thence runs west, agreeable to the said charter of King Charles, are the right and property of the people of this State, to be held in sovereignty.”

And to remark to you, that, years after, the State of North Carolina was received into, and signed the articles of confederation.

I have the honor to be, your most obedient, humble servant,

WM. BLOUNT,

Agent for North Carolina.

BENJAMIN HAWKINS, ANDREW PICKENS, JOSEPH MARTIN, and
LAUGHLIN McINTOSH, Esquires,
Commissioners for negotiating with the Southern Indians.

B No. 2.

HOPEWELL, ON THE KEOWEE, *November 28, 1785.*

GENTLEMEN: The State of North Carolina have at this time a law in force and use, allotting the lands contained in the following bounds

to the Cherokee Indians: "Beginning on the Tennessee river, where the southern boundary of the State of North Carolina intersects the same nearest the Chickamoga towns; thence, up the middle of the Tennessee and Holston rivers, to the middle of French Broad river; thence, up the middle of the said French Broad river; (which lines are not to include any island to the mouth of Big Pigeon river;) thence, up the same, to the head thereof; thence, along the dividing ridge between the waters of Pigeon river and Tuckasegée river, to the said southern boundary; thence, west with the said boundary, to the beginning."

Should you, by treaty, fix any other boundaries than the before-mentioned, within the limits of the said State of North Carolina, between the said Cherokee Indians and her citizens, that State will consider such a treaty a violation and infringement upon her legislative rights. The lands contained within the limits of Davidson county, which begin on Cumberland river, where the northern boundary of the said State of North Carolina first intersects the same; thence, south forty-five miles; thence, west to the Tennessee river; thence, down the Tennessee, to the said northern boundary; thence, east with the said boundary to the beginning, have been appropriated by the State of North Carolina to the payment of the bounties of land promised to the officers and soldiers of the continental line of that State; and it is said that the militia in that county are in number about seven hundred; and the State of North Carolina have sold to her citizens, for a valuable consideration, several millions of acres of the land, situate, lying, and being between the Mississippi and the line as fixed by Colonel Christie, and others, in the year 1777, and without the limits of Davidson county, on which land several thousands of people are settled.

I have the honor to be, your most obedient, humble servant,
 WM. BLOUNT,
Agent for North Carolina.

BENJAMIN HAWKINS, ANDREW PICKENS, JOSEPH MARTIN, and
 LAUGHLIN McINTOSH, Esquires,
Commissioners for treating with the Southern Indians.

Copy of Colonel Blount's Protest.

HOPEWELL, ON KEOWEE,
 November 28, 1785.

The underwritten agent, on the part of the State of North Carolina, protests against the treaty, at this instant about to be signed and entered into, between Benjamin Hawkins, Andrew Pickens, Joseph Martin, and Laughlin McIntosh, commissioners on the part of the United States, and the Cherokee Indians on the other part, as containing several stipulations which infringe and violate the legislative rights of the State.

WM. BLOUNT.

A copy of the Commissioners' Answer to Colonel Blount's Letters and Protest.

HOPEWELL, ON KEOWEE,
November 28, 1785.

SIR: We received your letters of the 22d of November, with an extract from the constitution of your State, declarative of the limits thereof; of the 28th, enclosing an abstract of an act allotting certain lands to the Indians of the Cherokee nation; and your protest, of the same date, against the treaty entered into between the commissioners of the United States of America and all the Cherokees, which we shall transmit to Congress.

We enclose two articles of the treaty to you, which we hope, as agent of the State of North Carolina, you will take measures to see executed, so far as the same respect the citizens of that State or the faith of the commissioners pledged for the restoration of the prisoners now held there. We are informed that the late Governor Martin made an unsuccessful effort to restore them, and that there are five, three girls and two boys, in the possession of General McDowel and Colonel Miller. We are certain that a steady adherence to the treaty alone can insure confidence in the justice of Congress, and remove all causes of future contention or quarrels. The local policy of some States is certainly much opposed to federal measures, which can only, in our opinion, make us respectable abroad and happy at home.

We are, with due respect, sir, your most obedient and most humble servants,

B. HAWKINS,
A. PICKENS,
J. MARTIN,
L. MCINTOSH.

N. B.—The two articles enclosed are the second and fourth.

Honorable WILLIAM BLOUNT, Esq.,
Agent for North Carolina.

C No. 1.

WINNSBOROUGH, *October 13, 1788.*

SIR: I do myself the honor of writing you the different occurrences respecting the people on the frontiers of North Carolina, and the Cherokee Indians, transpired since my last.

In consequence of hearing that several outrages had been committed by the people of Franklin (formerly called the new State) upon the Cherokees, I despatched a letter to the governor of North Carolina, to put a stop to any further hostilities, as it was the wish of Congress to carry into effect a treaty with that nation. Not receiving an immediate answer from him, and having reason to believe these depredations continued, I sent a copy of the enclosed, addressed to the officers commanding on the frontiers of that State, which I hope will

be attended with every good consequence. You will also find enclosed a copy of a letter I have lately received from the governor ; on comparing these, it will point out to you the similarity of our ideas relative to the establishment of peace in that quarter, previous to the late resolution of Congress coming to hand.

I shall avail myself of the earliest opportunity of making known to the Executive of North Carolina the further supplies granted by Congress for carrying the treaty into effect, which I hope may take place without the trouble and expense of marching troops from the northward, urging the governor to send on their commissioner with the needful, and to name the time and place. The answer, with their determination, you may rely on having transmitted you as soon as possible. I beg leave further to observe, I have enclosed to the Cherokees the proclamation of Congress, and at the same time requested a suspension of hostilities should take place.

I have the honor to be, with esteem, sir, your most humble servant,
RICHARD WINN.

The Honorable General KNOX,
Secretary of War.

P. S.—Your favor of the 4th September, enclosing the proclamation of Congress, with the duplicate, I have to acknowledge, since writing the above.

—
C No. 2

WINNSBOROUGH, *August 29, 1788.*

FRIENDS AND BROTHER SOLDIERS: I write this to you in behalf of the United States, to entreat you to desist from any further hostilities against the Cherokees, as it is the wish of Congress to be at peace with every tribe of Indians whatever; and as they have directed me to secure that peace by a permanent treaty, your own good sense must convince you how impossible it will be for me to effect it while these outrages on both sides exist. Besides, what have we not to apprehend, if it is not put a stop to? A junction may take place with the southern Indians, and both united may involve the innocent lives of thousands perhaps, when, by a well-timed peace, nothing of the kind could ever happen.

I have daily expected an interference between you and the Indians would have taken place, from the governor of North Carolina; but as I have received no accounts from him of that nature, I cannot, consistent with my duty to the Union, hear of these unhappy dissensions continuing, without emotion; therefore, let me again, in the most friendly manner, exhort you to a suspension of arms till such times as I hear from Congress, to whom I have wrote for further supplies to facilitate a treaty as soon as possible, at which time, I am convinced, all grievances will be adjusted. The Indians I shall write to, to the same purport; and as I have been at a deal of pains to get proper persons to bear to both parties my ideas on the matter, I hope it will be attended with every good consequence, by your religiously observ-

ing on both sides a strict neutrality till the treaty is brought about. Any further information you can receive from Captain Baker, who is the bearer of this, and who is a gentleman I particularly recommend to your notice. Wishing to hear from you as soon as possible,

I am, friends and brother soldiers, your obedient servant,

RICHARD WINN.

To General MARTIN and others,

The commanding officers and inhabitants beyond the mountains.

C No. 3.

EDENTON, *August 31, 1788.*

SIR: The information which you did me the honor to favor me with in your letter of the ninth, had reached me some time past. I had given orders for a process to issue to apprehend Sevier, and had directed the commanding officer on the frontier to pursue a line of conduct similar to that pointed out in your letter. It gives me pleasure to find that your ideas in this particular so intimately correspond with the measures I have adopted to restore and preserve the peace of the frontier.

I am, with great respect, sir, your most obedient servant,

SAMUEL JOHNSTON.

To RICHARD WINN, Esq.,

Sup't of Indian Affairs for the Southern Department.

C No. 4.

WINNSBOROUGH, *December 13, 1788.*

SIR: Notwithstanding I have received no late accounts from Congress, I judge it necessary to continue giving every information that occurs, relative to the Indians of this department.

Since I wrote you last, the enclosed talk from the head-men and warriors of the Cherokee nation came to hand, which fully points out their disposition to come to a friendly treaty. I have urged the same to the State of North Carolina, trusting they will send forward their commissioner and supplies. Should this step not be taken, and that State still continue to do them injury, I fear the disappointment of the Indians will be attended with bad consequences, as, in all probability, the Union may be involved in a bloody and unnecessary war, whereas a well-timed peace would prevent it.

Sir, I have the honor to be, with respect, your obedient servant,

RICHARD WINN.

The Honorable Major General H. KNOX,

Secretary of War.

C No. 5.

A talk from the Head-men and Warriors of the Cherokee nation, at a meeting held at Ustinaire, the beloved town, 20th November, 1788, addressed to the honorable Richard Winn, Esq., superintendent of the Southern Department, in answer to a talk sent by him, dated the 12th October, 1788.

FRIEND AND BROTHER: We received your talk, likewise the resolves of Congress, dated 1st September, 1788; likewise a copy of a letter from the governor of North Carolina to you, and the proclamation from Congress; all which affords us much satisfaction that we have in you a real friend, who tells us the truth, and endeavors to do us justice. It likewise gives us much satisfaction to hear from Congress and Virginia.

BROTHER: You have opened our eyes, and likewise our hearts. The talks we received from you please us much; that Congress is determined to have our hunting grounds open, so that our young men may hunt and kill deer to purchase goods of our traders, to clothe ourselves and families. Our hunting grounds were very small. Now it gives us the greatest satisfaction that they will be soon enlarged, as appears by the proclamation from Congress. It likewise gives us much satisfaction that we have a view of returning from the woods where we have been driven, and once more settling again in our old towns, which we propose to do, when we are certain that the white people have quitted our hunting grounds.

BROTHER: It affords us much satisfaction that a friendly talk will soon take place. You inform us you have wrote to the governor of North Carolina, to fix a time and place for that purpose; at that time we will talk over all matters and smoke the pipe of friendship.

The head-men and warriors from the middle settlement were on their way to *Ustinaire*; but being informed that it was good talks, and that white beads and tobacco were sent from Ustinaire to all the towns in the nation, they went back, fearing that some of their young men might go out again and do mischief; the head-men are determined to put a stop to all hostilities, and for the time to come to live like brothers and friends as long as the sun shines and water runs.

The following talk comes from the Little Turkey:

FRIEND AND BROTHER: Your talk I have heard, which gives me the greatest satisfaction; likewise all our beloved men in my part of the nation. It is a talk from you, our great beloved brother, who, I am informed, is appointed by Congress to see justice done us; we have now heard from our beloved brother from New York, likewise from Virginia, which now opens our eyes and our hearts, for they are the men we must abide by. Your talks are good, and your friendships we look on sincere, for the good of our land. I have seen the resolves of Congress, likewise the proclamation, for all the white people settled on our hunting grounds to go off without loss of time.

FRIEND AND BROTHER: I have the satisfaction to inform you that Alexander McGillivray, chief of the Creek nation, has taken your talks, likewise the talks from Congress and Virginia, and means to hold them fast, and when they meet, will take his white brothers by

the hand as we do, and hopes to live in peace and friendship as long as the grass grows and the water runs.

A copy of this talk you will please to send to Congress and Virginia; it will be two moons before everything can be settled to your entire satisfaction, because some of our beloved men are out hunting. As for the prisoners, it is impossible to send them to Seneca at this time, because they are scattered through the nation, but they shall be restored to their friends as soon as possible; we shall have all of them collected together. Orders are given out that they may be used well, that my people should not be reflected upon hereafter for using their prisoners ill; this you will please to acquaint their friends, and hope they will make themselves easy for a short time.

FRIEND AND BROTHER: We must inform you that we look upon the white people that live in the new State very deceitful; we have experienced them, and are much afraid of them; we are now obliged to keep spies out continually on the frontiers, fearing they will return and do us an injury as they did before.

FRIEND AND BROTHER: We must inform you that there are some Creeks out, and some of our people that are not yet come in. If any mischief should be done, that is contrary to our desire; but on their return will all be stopped, and all hostilities cease against the white people and the path made white. We must inform you that several talks that have been directed to the head-men and warriors at Ustinaire have been opened before we received them. Your last talk came under cover to Mr. Gegg, and by him delivered in the square at Ustinaire, to our beloved men. We do not approve of any person opening any talks that come from our white brothers, except Mr. Gegg, who explains them to us, or our linguister, James Carry. The boy we had prisoner at Coosawatchee, we are informed, is delivered to Jesse Spears, in order that he may be conveyed down to Seneca; the girl is not yet come to her friends, but we presume she is in the land. We now have finished our talk; in token of friendship and peace, we have enclosed a string of white wampum.

YELLOW BIRD.	THE LITTLE TURKEY.
CHICKHESATTEE.	THIGH.
DICK.	COWETHEE.
GLASS.	DRAGON CANOE.
THE JOBBER'S SON.	BEAR COMING OUT OF A HOLE.
KILLY GESHEE.	HUMMING BIRD.
ALL CHESNUT.	HANGING MAW.
THE WARRIOR NEPHEW.	FOOL WARRIOR NOTTLEY.
SECOND MAN.	BADGER.
NORRAWAHEE.	PRINCE.
	WATTS.

C No. 6.

LONG ISLAND, HOLSTON RIVER, *January 15, 1789.*

SIR: I had the honor to receive two letters from your office, bearing date the 22d of August last past—one by way of Virginia, the other

North Carolina—enclosing sundry resolves of Congress, also proclamations: they came to hand the 9th day of October last—that day being appointed by the field-officers of Washington district to meet and concert some plan for carrying an expedition against the Cherokee Indians, which was agreed on in the following manner: *Resolved*, That fifteen hundred men be immediately draughted out of Washington district; that each captain of a company see their men well armed, and ten days' provision for each man. Before the council rose, your despatches came to hand, which I immediately laid before them, which put a final stop to any further proceeding on that head.

The next morning I set out for my plantation in South Carolina, where some of the Indians had retreated to, in order to escape Mr. Sevier, with a view to send some runners of them through their nation and collect their chiefs together; that I would meet them at any place they might desire, and lay before them several resolves of Congress, which would be very satisfactory to them; also a letter from the governor of North Carolina. But on my way thither, at Major Taylor's, at Seneca, was informed, a few hours before my arrival there, two gentlemen from Virginia, by order of government, had called two of the Indian chiefs there, and had done some business with them, and the Indians set out for their nation. On which, I despatched a runner after them, and brought them back, and read to them the resolves of Congress, and the proclamation. On which, the Hanging Maw rose up and took me by the arm, and said, By this hold I will settle all further quarrels; you and myself are always the men that make peace. When our young men differ, we are the men that make everything straight; I will instantly go to my nation, and put a stop to war; you shall shortly hear from me. The talks we then had together, I sent them with a copy, which I expect has come to your hand long before now. The next talk I had I enclosed you, No. 1. I then despatched a messenger to Eastewley, requesting some of the chiefs of my acquaintance to come to my plantation, where we might talk face to face. They attended accordingly. I then and there read to them the several resolves of Congress, to me directed, also the proclamation, and impressed on their minds the justness of Congress for their safety, also the consequence that might attend to those regardless of that power. After which, William Elders, one of their chief warriors, rose up and spoke, which you will see in No. 2. After he had finished his talk, he tells me, his nation was for peace, and was desirous of returning to their old towns, but that they had no way of sustenance; that while they lived out in the hunting ground, they could get meat, and those that went to the Creeks could get corn; that he feared they must all join the Creek Indians or perish. I then asked him, if they could get corn, if they all would return to their old towns. His answer was, they most certainly would, if the white people were moved off their lands. I then told him I would at my own expense furnish Citico, a town I formerly lived in, and would lay a statement of their distressed situation before Congress; perhaps they might take pity on them; which seemed to have a wonderful effect on this warrior. In a short time after, several old women from that town applied to me for salt, to purchase corn with from other towns; all of whom I

furnished, and sent them back well pleased. In the intermediate time I went over to a plantation I had in Georgia; the evening of my arrival at that place I was attacked by a party of Creek Indians. In the skirmish my overseer was badly wounded; I was obliged to take to the house, leaving them masters of the field; they took off my horses, with several others, leaving one of their warriors dead on the ground.

I am well assured that, with prudent means, we may have the Cherokee Indians our friends; but it is to be feared there is a party that has such a thirst for the Cherokee lands, they will take every measure in their power to prevent a treaty. You will observe, in the talks sent on in October last, that the Hanging Maw said all hostilities should cease. Before he reached the nation, 400 Creek Indians were come out, were joined by 1,200 Cherokees, had marched against the frontiers, and had stormed a fort and took 28 prisoners before the runners overtook them. The whole frontier country seemed then to be in their power. The then hostile Indians had several companies of horse, equipped from the Creek nation, commanded by white men from that quarter. As soon as runners overtook them, and informed that Congress had sent to them, they returned, leaving a letter addressed to Mr. Sevier and myself, saying they were then on their own ground, and did not intend to go any farther; that the prisoners they should take care of; that they did not wish to spill any more blood; that they would allow the people thirty days to move off their lands. After which the superintendent sent to them to meet him at Hopewell or Keowee, which they did; two of the commissioners met also, who gave the Indians the greatest reasons to believe all hostilities between them and the white people would cease. The Indians went off well pleased; but, a few days after, when all the Indians were ordered out by their warriors to make their winter's hunts, that war was no longer to be dreaded by them, being well assured by the commissioners of the same, Mr. Sevier went to one of their towns, took off 29 prisoners, and plundered the town; which actings of Mr. Sevier made great confusion again; but by the early interposition of General Pickens and some others, that affront was allayed, alleging those Indian prisoners taken by Mr. Sevier were to exchange for those taken by them. Another misfortune happened shortly after that: a party of men went to where some Indians were hunting, under a color to trade with them for furs, which they had at their camp, took an advantage, and shot two of the Indians dead, and plundered their camp.

I fear no regulations to confirm a peace, so much the desire of the well-disposed citizen, will take place with the arrival of the troops ordered by Congress.

I have promised to see the Indians again some time in April next. If Congress thinks proper to send on any talks to them, I think it will be of essential service towards forwarding the treaty.

Any commands you will honor me with, will meet me at my seat at Fort Patrick Henry, Long Island, Holston river, Sullivan county, North Carolina.

I have the honor to be your most obedient and most humble servant,

JOS. MARTIN.

The Hon. H. KNOX, *Secretary of War*,

or, in his absence, the next in command.

C No. 7.

A talk from the Head-men and Warriors of the Cherokees, now met at their beloved town of Ustinaire, 1st November, 1788, addressed to Brigadier General Martin.

FRIEND AND BROTHER: We hear that you are at Tascola, and that you are the great warrior of North Carolina and the new State. Your people provoked us first to war, by settling on our lands and killing our beloved men; however, we have laid by the hatchet, and are strongly for peace. Now we have heard from our brother, also from Congress, likewise the governor of Virginia, who tells us that the people settled on our hunting grounds shall be removed without loss of time, which gives us great satisfaction. As we told you before, we are strongly for peace; we do not want any more war; we hope you will keep your people now at peace, and not to disturb us as they have done. When these people move, we shall all be friends and brothers. There are a great many Creeks out: if they should do your people any injury we hope you will not lay the blame on us, for all our head-men and warriors will prevent our young people for the future to do the white people any injury, but they expect they will move off their land.

The talk from Congress, and the talk likewise from the governor of Virginia, we have taken fast hold of, and will remember, because they are good, and strongly desirous to live in the greatest friendship with their red brothers. We should be glad to receive a talk from you, if it is a good one, and for hereafter to live in peace and friendship. We desire you will let our friends and brothers in North Carolina hear this talk, which we hope will be the means to procure that peace and friendship we so strongly desire. We are your friends and brothers.

THE BADGER,	THIGH,
THE CRANE,	PUMPKIN VINE,
BLOODY FELLOW,	CHESNUT,
JOBBER'S SON,	HANGING MAW,
KILLYGISKEE,	THE LYIN FAWGHN,
YELLOW BIRD,	THE ENGLISHMAN, &c.
BEAR COMING OUT OF THE TREE,	

PINE LOG, *November 3, 1788.*

DEAR SIR: I send you a talk from the head-men and warriors met at Ustinaire, on the 1st instant, which I hope will give you satisfaction, and prevent a war. I should always be glad to receive a line from you.

I am, dear sir, your most obedient, humble servant,

THO. GEGG.

C No. 8.

BROTHER: We have been long acquainted with you, and know you to be our friend; but what is the reason Congress has not moved those people from off our lands before now? You were one of the beloved men that spoke for Congress at Keowee three years ago; you then said the people should move off in six moons from that time; but near forty moons are past and they are not gone yet. We well remember, whenever we are invited into a treaty, as observed by us at that time, and bounds are fixed, that the white people settle much faster on our lands than they did before. It must certainly be the case; they think we will not break the peace directly, and they will strengthen themselves and keep the lands. You know this to be the case. You told us at the treaty, if any white people settled on our lands, we might do as we pleased with them. They come and settle close by our towns, and some of the Chicamoga people came, contrary to our desire, and killed a family; and the white people came and drove us out of our towns, and killed some of our beloved men, and several women and little children, although we could not help what the Chicamoga people does. You know that well. We are now like wolves, ranging about the woods to get something to eat. Nothing to be seen in our towns but bones, weeds, and grass. But, for all this, we will lie still; we will not do any more mischief if the white people will stop. I am but a boy, but my eyes are open, and wherever I turn them, many young men turn with them. I here give you this string of white beads, as a token of my friendship to you; also I present you with a string in the name of your brother John Watts; he says he holds you fast by the hand, but he cannot see you yet, as he is in great trouble about his uncle. But the Corn-tassel will come to your house towards the spring, and stay a great while with you, as it will be very hungry times with him then.

WILLIAM ELDERS.

C No. 9.

FORT PATRICK HENRY, SULLIVAN Co., N. C.,
February 2, 1789.

SIR: I have certain accounts that some designing men on the Indian lands have assembled themselves to the number of fifteen, and call themselves a convention of the people, and have entered into several resolves, which they say they will lay before Congress; one of which resolves is, to raise men by subscription to defend themselves, as the legislature of North Carolina refuses to protect them on the Indian lands, but, on the contrary, have directed and ordered those people off the Indian lands. A certain Alexander Outlaw by name, I am informed, is to wait upon Congress on behalf of this new plan. I think it my duty to say the truth of him: Shortly after the murder of the Corn-tassel and two other chiefs, this said Outlaw col-

lected a party of men and went into an Indian town called Citico, where he found a few helpless women and children, which he inhumanly murdered, exposing their private parts in the most shameful manner, leaving a young child, with both its arms broke, alive, at the breast of its dead mother. These are facts well known and cannot be denied in this country. Mr. Outlaw has done everything in his power to drive the Indians to desperation, although I find some complaint by the said Outlaw against me, for carrying on an expedition against the Cherokee Indians without orders from government. I have once stated that matter to you; but, lest that may not have come to hand, I beg leave to state the facts to you. In the month of May last, a boat, richly laden, was going down Tennessee to Cumberland; the crew were decoyed by the Chicamoga Indians and Creeks together, all of which crew were killed and taken prisoners; after which doings, the Corn-tassel informed me of the cruel murder they had committed, also the repeated murders and robberies they were constantly committing on the frontiers of Cumberland and Kentucky, also on the Kentucky road, in company with the Creeks. There was not the least hope of reclaiming them as long as they lived so far detached from their nations. That the Corn-tassel had talked to them until he found it was of no use; that he, with the other chiefs, advised and thought it best to go against them and burn their towns, by which means they would return to their allegiance; that then they would have it in their power to govern them. This the Indian chiefs urged in the strongest terms, which account I laid before the executive of North Carolina, who advised that peace should be offered them, and, if refused by the Indians, that then the principal officers of Washington district should pursue such measures as to them should appear most likely to put a stop to those merciless Indians on the frontiers and roads. It was unanimously agreed to march against Chicamoga, but by no means to give offence to the Cherokees, which has been a means of uniting the Chicamoga Indians to the other Indians. It will now be our own fault if we do not make all that race of Indians our friends.

So great the thirst for Indian lands prevails, that every method will be taken by a party of people to prevent a treaty with the Indians. They are now laboring to draw some of the Indians to a treaty, as they may purchase their country: this party say, if they can purchase of the Indians, they will have it without the consent of any other power; that the Indians have an undoubted right to it, and not Congress; that if they could only prevail on a few of the lower class to come into their scheme, they would get conveyances made and contend for the right. This I have heard from them.

I this moment have received a talk from the Chickasaw Indians, which I enclose you.

I have the honor, with much respect, to be, your most humble and most obedient servant,

JOS. MARTIN.

The Honorable H. KNOX, *Secretary of War*,
or, in his absence, the next in command.

C No. 10.

WINNSBOROUGH, *March 1, 1789.*

SIR: I think it necessary to inform you that a treaty will take place with the Cherokee Indians, the third Monday in May next, at the upper War-ford, on French Broad river, in the neighborhood of Swananno, State of North Carolina.

The Creek Indians, 'tis supposed, will also treat; they are now holding a great talk in their nation, the result of which is not yet come to hand.

I have the honor to subscribe myself, your most obedient servant,
RICHARD WINN.

The Honorable Major General KNOX.

[3D CONGRESS, 1ST SESSION.]

MESSAGE OF PRESIDENT WASHINGTON TO CONGRESS, DECEMBER 16, 1793, COMMUNICATING INSTRUCTIONS TO COMMISSIONERS PLENIPOTENTIARY TO SPAIN, AND OTHER PAPERS.

(See American State Papers, Foreign Relations, vol. I, p. 247.)

UNITED STATES, *December 16, 1793.*

Gentlemen of the Senate and of the House of Representatives:

The situation of affairs in Europe, in the course of the year 1790, having rendered it possible that a moment might arrive favorable for the arrangement of our unsettled matters with Spain, it was thought proper to prepare a representative at that court to avail us of it. A confidential person was therefore despatched to be the bearer of instructions to him, and to supply, by verbal communications, any additional information of which he might find himself in need. The government of France was at the same time applied to for its aid and influence in this negotiation. Events, however, took a turn, which did not present the occasion hoped for.

About the close of the ensuing year, I was informed, through the representatives of Spain here, that their government would be willing to renew at Madrid the former conferences on these subjects. Though the transfer of scene was not what would have been desired, yet I did not think it important enough to reject the proposition; and, therefore, with the advice and consent of the Senate, I appointed commissioners plenipotentiary for negotiating and concluding a treaty with that country on the several subjects of boundary, navigation, and commerce, and gave them the instructions now communicated. Before these negotiations, however, could be got into train, the new troubles which had arisen in Europe had produced new combinations among the powers there, the effects of which are but too visible in the proceedings now laid before you.

In the mean time, some other points of discussion had arisen with

that country, to wit, the restitution of property escaping into the territories of each other, the mutual exchange of fugitives from justice, and, above all, the mutual interferences with the Indians lying between us. I had the best reason to believe that the hostilities threatened and exercised by the southern Indians on our border, were excited by the agents of that government. Representations were thereon directed to be made by our commissioners to the Spanish government, and a proposal to cultivate with good faith the peace of each other with those people. In the mean time, corresponding suspicions were entertained, or pretended to be entertained, on their part, of like hostile excitements, by our agents, to disturb their peace with the same nations. These were brought forward by the representatives of Spain here, in a style which could not fail to produce attention. A claim of patronage and protection of those Indians was asserted; a mediation between them and us by that sovereign, assumed; their boundaries with us made a subject of interference; and at length, at the very moment when these savages were committing daily inroads upon our frontier, we were informed by them that "the continuation of the peace, good harmony, and perfect friendship of the two nations, was very problematical for the future, unless the United States should take more convenient measures, and of greater energy, than those adopted for a long time past."

If their previous correspondence had worn the appearance of a desire to urge on a disagreement, this last declaration left no room to evade it, since it could not be conceived we would submit to the scalping-knife and tomahawk of the savage, without any resistance. I thought it time, therefore, to know if these were the views of their sovereign; and despatched a special messenger with instructions to our commissioners, which are among the papers now communicated. Their last letter gives us reason to expect very shortly to know the result. I must add, that the Spanish representatives here, perceiving that their last communication had made considerable impression, endeavored to abate this by some subsequent professions, which being also among the communications to the legislature, they will be able to form their own conclusions.

GEO. WASHINGTON.

Extract from a letter of Th. Jefferson to William Carmichael, dated New York, August 2, 1790.

(See same, p. 247.)

* * * * *

"(I say nothing of the claims of Spain to our territory north of the 31st degree, and east of the Mississippi; they never merited the respect of an answer; and you know it has been admitted at Madrid that they were not to be maintained.)"

* * * * *

Letter from James Seagrove to his Excellency Don Juan Nepomaceno de Quesada, Governor of East Florida.

(See same, p. 248.)

ST. AUGUSTINE, FLORIDA, *August 2, 1791.*

The following is delivered by James Seagrove, commissioner on the part of the United States, to his Excellency Don Juan Nepomaceno de Quesada, governor of the province of East Florida, &c., for his concurrence:

That, in order to prevent fugitive slaves from the United States taking shelter in Florida, his excellency the governor will be pleased to issue his proclamation, ordering all officers, civil and military, within this colony, but particularly those on the river St. Mary's, to stop all such fugitive slaves, and without delay convey them to the Spanish post on Amelia island; there to be detained until a person properly authorized by the United States shall there call and receive them, paying at the same time a reasonable price for their maintenance, and also expense of conveying from the place where taken to the place of confinement. The sum to be agreed on by his excellency and the commissioner.

That notice be given as soon as possible by the officer commanding at Amelia to the commanding officer at the American post on St. Mary's, when any fugitive slaves from the United States are under his care.

That his excellency would be pleased to issue severe orders against any person harboring or concealing such fugitive slaves; but that they be obliged to make them prisoners, and deliver them without delay to the nearest Spanish post, and from thence to be conveyed to the general place for receiving them at Amelia.

That his excellency will be pleased to order that all fugitive slaves belonging to the United States, who have taken shelter in Florida since the date of his Catholic Majesty's order on that head, be immediately restored on the preceding terms.

The commissioner is ready to confer on and explain any matter relative to the preceding.

Being with all possible respect, &c.,

JAMES SEAGROVE.

His Excellency Don JUAN NEPOMACENO DE QUESADA,
*Governor and Commander-in-chief of the Province of
East Florida, &c., &c., at St. Augustine.*

[The following intervening papers omitted, not being deemed relevant, viz: appointment of Mr. Jay, dated in Congress, July 20, 1785; Mr. Gardoqui's commission, signed "I, the King," counter-signed Joseph Monino; Mr. Jay's commission, signed Charles Thomson, secretary.]

Extract from letter of Diego De Gardoqui to Mr. Jay.—May 25, 1786.

(See same, p. 249.)

“His Majesty does not consider the regulation made between the United States and Great Britain, respecting the territories conquered by his arms, but as a conditional agreement, in which they tacitly leave safe the territorial rights which he possessed in those parts.

“Those territories were in that same state of conquest, and in possession neither of England nor the United States when they disposed of them. There can be no doubt but that the treaty of 30th November, 1782, when the war between Spain and England continued, could not fix the limits of countries which were not in possession. His Majesty, therefore, understands those stipulations as conditional, and dependent on the situation in which things might be left by a general peace.”

[The following intervening papers omitted, being deemed irrelevant, viz: articles proposed by Don Diego de Gardoqui, to be inserted in the treaty with the United States; extract from a representation of Mr. Jay to Congress, dated August 3, 1786.]

EXTRACTS FROM REPORT OF MR. JAY TO CONGRESS, DATED AUGUST 17, 1786.

(See same, p. 250.)

Letter from Marquis de Lafayette to Count de Florida Blanca.

(See same, pp. 250, 251.)

“MADRID, *February 19, 1783.*

“SIR: Having had the honor to confer with your excellency on the objects relative to the United States, and being soon to repair to the American Congress, I wish to be fully impressed with the result of our conversations. Instead of the indifference, and even of the divisions which another nation would be glad to foresee, I am happy to have it in my power to inform the United States of your good dispositions. It is to you, sir, I am indebted for this advantage; and in order to make it complete, and to make myself certain that I forget nothing, give me leave to submit to your excellency the report which I intend to lay before Congress.

“His Catholic Majesty desires that a lasting confidence and harmony may subsist between him and the United States; and he is determined, on his part, to do everything that will be necessary to keep it up. The American chargé des affaires is at this moment received as such, and your excellency is going to treat of the interests of the two nations. As you wish to show Mr. Jay every kind of regard,

you wait only until the Count de Aranda shall have notified your dispositions to him to present Mr. Carmichael to his Majesty.

“With respect to the limits, his Catholic Majesty has adopted those that are determined by the preliminaries of the 30th November, between the United States and the Court of London. The fear of raising an object of dissension, is the only objection the King has to the free navigation of the river Mississippi.

“The Virginia tobacco, the naval stores, may furnish matter for reciprocal conventions in the treaty, and by means of the productions of America, arrangements might be made useful to her finances. When I had the honor to speak to you in favor of a diminution of the duties on cod-fish, you have answered, that it would be necessary to give to France a similar advantage, and that, by virtue of former treaties, the English might set up pretensions to the same; but you will do, in every respect, all that will be in your power to satisfy America.

“I would, with very great pleasure, enter into every detail in which I foresee a connexion between Spain and the United States, but I am not to be concerned in this happy work; the ministers of the United States, and the one whom you are going to send thither, are to make it their business, and I content myself with reminding you of the general ideas you have given me. A word from you will satisfy me that I have not forgot anything. The dispositions of his Catholic Majesty, and the candor of your excellency, will leave no pretence for misrepresentation. The alliance of the house of Bourbon with the United States is founded on reciprocal interest; it will still acquire greater strength from the confidence which your excellency wishes to establish.

“Such, sir, are the conclusions which I have drawn from our conferences, and the account which I intend to give to Congress, without having any mission for that purpose. I am acquainted with the sentiments of Congress, and I am convinced they will set a just value upon your dispositions. In permitting me to acquaint them with what I have seen, you lay a claim to my personal gratitude. I join the assurance of it to that of the respect with which I have the honor to be, &c.,

“LAFAYETTE.

“His Excellency the COUNT DE FLORIDA BLANCA.”

Letter from Count de Florida Blanca to the Marquis de Lafayette.

(See same, p. 251.)

“PARDO, *February 22, 1783.*

“SIR: I cannot comply better with your desire than by asking your leave to give you here my answer. You have perfectly well understood whatever I have had the honor to communicate to you with respect to our dispositions towards the United States. I shall only add, that although it is his Majesty's intentions to abide for the pres-

ent by the limits established by the treaty of the 30th of November, 1782, between the English and the Americans, the King intends to inform himself particularly whether it can be in any ways inconvenient or prejudicial to settle that affair amicably with the United States.

“I have the honor to be, &c.,

“FLORIDA BLANCA.

“To the MARQUIS DE LAFAYETTE.”

Letter from the Marquis de Lafayette to Count de Florida Blanca.

(See same, p. 251.)

“MADRID, February 22, 1783.

“On receiving the answer of the Count de Florida Blanca, I desired an explanation respecting the addition that relates to the limits. I was answered, that it was a fixed principle to abide by the limits established by the treaty between the English and Americans; that his remark related only to more unimportant details, which he wished to receive from the Spanish commandants, which would be amicably regulated, and would by no means oppose the general principle. I asked him, before the ambassador of France, whether he would give me his word of honor for it? He assured me *he would*, and that I might engage it to the United States.

“LAFAYETTE.”

[The following intervening papers omitted, being deemed irrelevant, viz: copy of a letter from Mr. Jay to Mr. Gardoqui, dated Office for Foreign Affairs, October 17, 1788; report of Thomas Jefferson, Secretary of State, to the President of the United States, dated December 22, 1791.]

EXTRACTS FROM THE REPORT OF MR. JEFFERSON, SECRETARY OF STATE, TO THE PRESIDENT, IN RELATION TO INSTRUCTIONS TO MESSRS. CARMICHAEL AND SHORT.—*March 18, 1792.*

(See same, pp. 252, 253, 257.)

MARCH 18, 1792.

The appointment of Mr. Carmichael and Mr. Short, as commissioners to negotiate, with the court of Spain, a treaty, or convention, relative to the navigation of the Mississippi, and which, perhaps, may be extended to other interests, rendering it necessary that the subjects to be treated of should be developed, and the conditions of arrangement explained, the Secretary of State reports to the President of the United States the following observations on the subjects of negotia-

tion between the United States of America and the court of Spain, to be communicated by way of instruction to the commissioners of the United States appointed, as before mentioned, to manage that negotiation. These subjects are—

1. Boundary.
2. The navigation of the Mississippi.
3. Commerce.

1. As to boundary: that between Georgia and Florida is the only one which will need any explanation. Spain sets up a claim to possessions within the State of Georgia, founded on her having rescued them by force, from the British, during the late war. The following view of that subject seems to admit no reply.

The several States now composing the United States of America were, from their first establishment, separate and distinct societies, dependent on no other society of men whatever; they continued at the head of their respective governments the Executive Magistrate who presided over the one they had left, and thereby secured, in effect, a constant amity with the nation. In this stage of their government, their several boundaries were fixed, and particularly the southern boundary of Georgia, the only one now in question, was established at the 31st degree of latitude from the Apalachicola, westwardly; and the western boundary, originally the Pacific ocean, was, by the treaty of Paris, reduced to the middle of the Mississippi. The part which our Chief Magistrate took in the war waged against us by the nation among whom he resided, obliged us to discontinue him, and to name one within every State. In the course of this war we were joined by France as an ally, and by Spain and Holland as associates, having a common enemy. Each sought that common enemy wherever they could find him. France, on our invitation, landed a large army within our territories, continued it with us two years, and aided us in recovering sundry places from the possession of the enemy; but she did not pretend to keep possession of the places rescued. Spain entered into the remote western part of our territory, dislodged the common enemy from several posts they held therein, to the annoyance of Spain, and perhaps thought it necessary to remain in some of them, as the only means of preventing their return. We, in like manner, dislodged them from several posts in the same Western territory, to wit: Vincennes, Cahokia, Caskaskia, &c., rescued the inhabitants, and retained, constantly afterwards, both them and the territory under our possession and government. At the conclusion of the war, Great Britain, on the 30th of November, 1782, by treaty, acknowledged our independence and our boundary, to wit: the Mississippi to the west, and the completion of the 31st degree, &c., to the south. In her treaty with Spain, concluded seven weeks afterwards, to wit: January 20th, 1783, she ceded to her the two Floridas, (which had been defined in the proclamation of 1763,) and Minorca; and, by the 8th article of the treaty, Spain agreed to restore, *without compensation*, all the territories conquered by her, and not included in the treaty, either under the head of cessions or restitutions—that is to say, all except Minorca and the Floridas. According to this stipulation, Spain was expressly bound to have delivered up the possessions she had taken within the limits

of Georgia, to Great Britain, if they were conquests on Great Britain, who was to deliver them over to the United States; or rather she should have delivered them to the United States themselves, as standing *quoad hoc* in the place of Great Britain; and she was bound, by natural right, to deliver them to the same United States, on a much stronger ground, as the real and only proprietors of those places which she had taken possession of, in a moment of danger, without having had any cause of war with the United States, to whom they belonged, and without having declared any; but, on the contrary, conducting herself, in other respects, as a friend and associate. Vattel, l. 3, 122.

It is an established principle that conquest gives only an inchoate right, which does not become perfect till confirmed by the treaty of peace, and by a renunciation or abandonment by the former proprietor. Had Great Britain been that former proprietor, she was so far from confirming to Spain the right to the territory of Georgia invaded by Spain, that she expressly relinquished to the United States any right that might remain in her, and afterwards completed that relinquishment, by procuring, and consolidating with it, the agreement of Spain herself to restore such territory, without compensation. It is still more palpable, that a war existing between two nations, as Spain and Great Britain, could give to neither the right to seize and appropriate the territory of a third, which is even neutral, much less which is an associate in the war, as the United States were with Spain. See, on this subject, Grotius, l. 3, c. 6, § 26; Puffend., l. 8, c. 17, § 23; [Puffend., l. 8, c. 6, § 17, 23;] Vattel, l. 3, § 197, 198.

On the conclusion of the general peace, the United States lost no time in requiring from Spain an evacuation of their territory. This has been hitherto delayed, by means which we need not explain to that court, but which have been equally contrary to our right and to our consent.

Should Spain pretend, as has been intimated, that there was a secret article of treaty between the United States and Great Britain, agreeing, if, at the close of the war, the latter should retain the Floridas, that then the southern boundary of Georgia should be the completion of the 32d degree of north latitude, the commissioners may safely deny all knowledge of the fact, and refuse conference on any such postulatam; or should they find it necessary to enter into argument on the subject, they will, of course, do it hypothetically, and, in that way, may justly say, on the part of the United States, "Suppose that the United States, exhausted by a bloody and expensive war with Great Britain, might have been willing to have purchased peace by relinquishing, under a particular contingency, a small part of their territory, it does not follow that the same United States, recruited and better organized, must relinquish the same territory to Spain without striking a blow. The United States, too, have irrevocably put it of their power to do it, by a new constitution, which guarantees every State against the invasion of its territory. A disastrous war, indeed, might, by necessity, supersede this stipulation, (as necessity is above all law,) and oblige them to abandon a part of a State; but nothing short of this can justify or obtain such an abandonment."

The southern limits of Georgia depend chiefly on—

1st. The charter of Carolina to the lords proprietors, in 1663, extending southwardly to the river Matheo, now called St. John's, supposed in the charter to be in latitude 31° , and so west, in a direct line, as far as the South Sea.

2d. On the proclamation of the British King, in 1763, establishing the boundary between Georgia and the two Floridas, to begin on the Mississippi, in 31° of latitude, north of the equator, and running eastwardly to the Apalachicola; thence, along the said river, to the mouth of the Flint; thence, in a direct line, to the source of St. Mary's river, and down the same to the ocean. This proclamation will be found in Postlethwayte voce "British America."

3d. On the treaties, between the United States and Great Britain, of November 30, 1782, and September 3, 1783, repeating and confirming these ancient boundaries.

There was an intermediate transaction, to wit: a convention concluded at the Pardo, in 1739, whereby it was agreed that ministers plenipotentiary should be immediately appointed by Spain and Great Britain, for settling the limits of Florida and Carolina. The convention is to be found in the collections of treaties; but the proceedings of the plenipotentiaries are unknown here. *Qu.* If it was on that occasion that the southern boundary of Carolina was transferred from the latitude of Matheo, or St. John's river, farther north to the St. Mary's? or was it the proclamation of 1763, which first removed this boundary? [If the commissioners can procure, in Spain, a copy of whatever was agreed on in consequence of the convention of the Pardo, it is a desirable State paper here.]

To this demonstration of our rights may be added the explicit declaration of the court of Spain, that she would accede to them. This took place in conversations and correspondence thereon between Mr. Jay, minister plenipotentiary for the United States at the court of Madrid, the Marquis de Lafayette, and the Count de Florida Blanca. Monsieur de Lafayette, in his letter of February 19, 1783, to the Count de Florida Blanca, states the result of their conversations on limits, in these words: "With respect to limits, his Catholic Majesty has adopted those that are determined by the preliminaries of the 30th of November, between the United States and the court of London." The Count de Florida Blanca, in his answer of February 22d, to M. de Lafayette says: "Although it is his Majesty's intention to abide, for the present, by the limits established by the treaty of the 30th of November, 1782, between the English and the Americans, the King intends to inform himself, particularly, whether it can be in any ways inconvenient or prejudicial to settle that affair amicably with the United States." And M. de Lafayette, in his letter of the same day to Mr. Jay, wherein he had inserted the preceding, says: "On receiving the answer of the Count Florida Blanca, (to wit: his answer, before mentioned, to M. de Lafayette,) I desired an explanation respecting the addition that relates to the limits. I was answered, that it was a fixed principle to abide by the limits established by the treaty between the English and the Americans; that his remark related

only to mere unimportant details, which he wished to receive from the Spanish commandants, which would be amicably regulated, and *would by no means oppose the general principle*. I asked him, before the ambassador of France, [M. de Montmorin] whether he would give me his *word of honor* for it? He assured me *he would*, and that *I might engage it to the United States.*"

* * * * *

It is known to the commissioners that we found it expedient to ask the interposition of France, lately, to bring on this settlement of our boundary and the navigation of the Mississippi. How far that interposition has contributed to produce it, is uncertain; but we have reason to believe that her further interference would not produce an agreeable effect on Spain. The commissioners, therefore, are to avoid all further communications on the subject with the ministers of France, giving to them such explanations as may preserve their good dispositions. But if, ultimately, they shall find themselves unable to bring Spain to agreement on the subject of navigation and boundary, the interposition of France, as a mutual friend, and the guarantee of our limits, is then to be asked, in whatever light Spain may choose to consider it.

Should the negotiations on the subject of navigation and boundary assume, at any time, an unhopeful aspect, it may be proper that Spain should be given to understand, that, if they are discontinued without coming to any agreement, the government of the United States cannot be responsible for the longer forbearance of their western inhabitants. At the same time, the abandonment of the negotiation should be so managed as that, without engaging us to a further suspension of the exercise of our rights, we may not be committed to resume them on the instant. The present turbid situation of Europe cannot leave us long without a safe occasion of resuming our territory and navigation, and of carving for ourselves those conveniences, on the shores, which may facilitate and protect the latter effectually and permanently.

We had a right to expect that, pending a negotiation, all things would have remained in *statu quo*, and that Spain would not have proceeded to possess herself of other parts of our territory. But she has lately taken and fortified a new post on the Walnut hills, above the mouth of the Yazoo river, and far above the 31st degree. This garrison ought to have been instantly dislodged; but for our wish to be in friendship with Spain, and our confidence in her assurances "to abide by the limits established in our treaty with England," complaints of this unfriendly and uncandid procedure may be brought forward or not, as the commissioners shall see expedient.

TH. JEFFERSON.



[The following intervening papers omitted, being deemed irrelevant, viz: letter from Thomas Jefferson to Messrs. de Viar and de Jaudenes, dated Philadelphia, March 23, 1792; letter from Thomas Jefferson to William Carmichael and William Short, esquires, dated

Philadelphia, April 24, 1792 ; project of a convention with the Spanish provinces ; heads of consideration on the establishment of conventions between the United States and their neighbors, for the mutual delivery of fugitives from justice, dated March 22, 1792, signed Tho. Jefferson ; letter from Thomas Jefferson to Messrs. de Viar and de Jaudenes, dated Philadelphia, May 17, 1792.]

Extract from a letter of Mr. Jefferson to William Carmichael and William Short, Esqrs.

(See same, p. 259.)

“PHILADELPHIA, November 3, 1792.

“The establishment of our boundary committed to you, will of course remove the grounds of all future pretence to interfere with the Indians *within our territory* ; and it was to such only that the treaty of New York stipulated protection : for we take for granted, that Spain will be ready to agree to the principle, that neither party has a right to stipulate protection or interference with the Indian nations inhabiting the territory of the other.”

Extracts from report of Messrs. Carmichael and Short to Secretary of State, of their conferences, &c.

(See same, pp. 259, 260.)

“ARANJUEZ, April 18, 1793.

“Although such conferences are mere conversations. in order that the two parties may settle as many previous points as possible, and find out what will be the best mode of discussing between them such as present the greatest difficulty, yet we think it proper to give you a general idea of what has passed in those which have already taken place, as they have discovered a disposition in this court very different from what we imagine was expected in America at the time of our commission being formed. We begun, after having communicated the originals of our respective full powers, and interchanged copies of them, by mentioning that although they embraced a variety of objects of mutual concern to the two countries, we would confine ourselves, in the first instance, to the two leading ones, namely, the navigation of the Mississippi and the territorial limits. We stated these points, and supported them by the arguments which are contained in your report to the President ; considering always the *right* to the former as unquestionable, and of course the *means of exercising it* as the only object of negotiation. M. de Gardoqui discovered evident signs of impatience under this statement, and much surprise, either real or feigned, at it. He assured us that no consideration whatever would ever induce his Majesty to acknowledge a right in us to this naviga-

tion; and he seemed to consider our claim to the limits under the treaty with England as extravagant and unwarrantable; regarding this treaty as an agreement made between two people, to dispose of the property of a third. You will see lower down his ideas as to the acquisition of this property by Spain. We observed to him, on what he said was the determination of his Majesty as to the navigation, that we knew not how to suppose that his Majesty, so conspicuously remarkable among the sovereigns of Europe for his love of justice, would refuse to acknowledge a right, as soon as that right should be exhibited to his view, established by proofs as unquestionable as those of a geometrical truth, and founded equally on what all men hold sacred, both natural and conventional law. As to the former, he held the very extraordinary doctrine, for a diplomatic negotiator, of its deserving no attention, having never yet bound any power further than suited their convenience: as to the latter, he considered the treaties as not giving us a right, or, at least, as not being obligatory on Spain, in the instance where she was not a party. You will easily suppose that such opinions were not attempted to be supported by argument. The most general and desultory assertions only were brought forward: such as that the King would never hear of the treaty made between us and England, to dispose of what belonged to him; that we had no right to navigate anywhere in the Mississippi but on our own shore; that he would never consent to advise his Majesty to acknowledge our right to navigate it throughout its extent, &c., &c. He would hardly agree that the exclusive right of Spain to this navigation had any beginning, and could not be brought to say precisely at what time the exclusive right did commence, or how. Indeed, it really appeared a point about which he was uncertain at that moment.

“He was less scrupulous in affirming the origin of Spain to the territory within our limits. He stated it to be by conquest during the late war. On its being observed to him that, by the usages of nations, hitherto respected, conquests could give only an inchoate right, in any case, and that its accomplishment depended on treaty; and that the treaty, so far from comprehending, did expressly exclude the conquest now contended for; and that Spain not being at war with us, no right of any kind could be claimed against us; the doctrine was neither acknowledged nor denied, though there appeared an evident ignorance of it. It was replied to by sometimes pretending that all that was now claimed by Spain was comprehended in the cession by England of the Floridas, (their previous treaty with us being considered as null and void,) and sometimes by positions which would lead to a very new and unexpected system; that Spain, until she had acknowledged our independence, had a right to make conquests within our limits. This was laid down as the great difference between the rights of Spain and of France, derivable from the successes of their arms within any part of the United States. It was acknowledged that France, for instance, had no right to Yorktown, but given clearly to be understood that, if the Spanish forces had taken possession of Charleston, or any other place, the case as to Spain would have been different. We could only observe thereon, that we did suppose that

Spain would be the last power to set on foot seriously such an unlimited system of conquest, as being certainly at least as dangerous for her as any other. And, indeed, we are persuaded that the length to which this doctrine was carried, was more the result of the heat of conversation than of cool reflection. When it was observed to him that this court had formerly entertained different ideas with respect to the limits, as was demonstrable from what had passed between the Count de Florida Blanca and the Marquis de Lafayette, he treated that subject in the most contemptuous manner, adding that he had written to the Count on it from America, who had affirmed it to be the grossest misrepresentation on the part of M. de Lafayette. We observed to him that the letters which had passed between them on that subject being in their Office of Foreign Affairs, would show how far this had been a misrepresentation, and that we must refer him to them. It would have been evidently useless to have pressed this subject any further at that time. Had Count de Florida Blanca been still more explicit on this head, still it would probably have no weight with the present ministry. It could only serve to give additional force to argument hereafter, and show, in a clearer view, the injustice of the present system of this court as to that question.

"M. de Gardoqui afterwards went into some detail of the manner in which this subject had been conducted, with respect to him, whilst employed therein in America. He complained in more clear terms of the delay which had been made use of, and which he had mentioned to us previously, whenever we had pressed him, and taken notice of the delay here. We observed to him that the expiring stages of a government, and the transition from one form to another, would unavoidably have produced that delay. To this he replied, that he had remained a long time after the establishment of a new government, and that he should have remained still longer to have continued the negotiation, if he had not acquired full proof that the system had been adopted on the part of the United States of taking no other step then, and of leaving the subject to time. He proceeded in telling us that he and Mr. Jay had, for a long time, meditated on the difficulties which presented themselves; that they both had been as desirous as any persons could be expected to be in future of removing them, and that he thought they had, by sacrifices on both sides, succeeded as far as could be done. He said they had agreed on the basis of the treaty between themselves, but that Mr. Jay, choosing to take the opinion of Congress on some parts of it, (those with respect to the navigation and limits,) had consulted them thereon, and was to have given him their answer. That he, on his part, had announced this to his court, who had from that time been expecting in vain the answer. He gave us to understand that he expected we should be charged with this answer. He endeavored to give us, from recollection, the substance of what had been agreed on between him and Mr. Jay. It was as follows: * * * * *

"*Limits.*—To begin somewhere about the mouth of the Yazoo; from thence a straight line in that parallel to the Apalachicola; from thence towards the St. Mary's river, by a line about the direction of which he seemed uncertain, and down that river to the ocean."

* * * * *

[The following intervening papers omitted, being deemed irrelevant, viz: letter from Messrs. Carmichael and Short to the Secretary of State, dated Aranjuez, May 5, 1793; translation of a letter of Messrs. Joseph Ignatius de Viar and Joseph de Jaudenes to Mr. Jefferson, dated Philadelphia, May 25, 1792; translation of a letter from Messrs. Jaudenes and Viar to Thomas Jefferson, dated Philadelphia, June 12, 1793; literal copy of a patent given by Governor Blount, dated August 10, 1792; translation of a letter from Messrs. Jaudenes and Viar to Mr. Jefferson, dated Philadelphia, June 18, 1793.]

Extract from a letter of Thomas Jefferson, Secretary of State, to Messrs. Carmichael and Short.

(See same, pp. 266, 267.)

PHILADELPHIA, June 30, 1793.

* * * * *

“The Indians on our frontiers have treaties both with Spain and us. We have endeavored to cultivate their friendship, to merit it by presents, charities, and exhortations to peace with their neighbors, and particularly with the subjects of Spain. We have carried on some little commerce with them, merely to supply their wants. Spain, too, has made them presents, traded with them, kept agents among them, though their country is within the limits established as ours at the general peace. However, Spain has chosen to have it understood that she has some claim to some parts of that country, and that it must be one of the subjects of our present negotiations. Out of respect for her, then, we have considered her pretensions to the country, though it was impossible to believe them serious, as coloring pretensions to a concern with those Indians on the same ground with our own, and we were willing to let them go on till a treaty should set things to rights between us.” * * * *

[The residue of the papers accompanying the foregoing message are omitted, being deemed irrelevant, from pp. 267 to 288, inclusive, *American State Papers, Foreign Relations, vol. 1.*]

[3^d CONGRESS, 1st SESSION.]

MESSAGE OF PRESIDENT WASHINGTON, OF APRIL 15, 1794, TRANSMITTING A LETTER FROM THE BRITISH MINISTER TO THE SECRETARY OF STATE, AND DESPATCHES FROM THE AMERICAN COMMISSIONERS AT MADRID.

(See *American State Papers, Foreign Relations, vol. 1, p. 432.*)

UNITED STATES, April 15, 1794.

Gentlemen of the Senate and of the House of Representatives:

I lay before you a letter from the minister plenipotentiary of his Britannic Majesty to the Secretary of State, and certain despatches

lately received from our commissioners at Madrid. These despatches from Madrid being a part of a business which has been hitherto deemed confidential, they are forwarded under that view.

G. WASHINGTON.

[The following intervening papers accompanying the foregoing message are omitted, being deemed irrelevant, viz: letter from George Hammond to the Secretary of State, dated Philadelphia, April 11, 1794; letter from Messrs. Carmichael and Short to his Excellency Don Diego de Gardoqui, &c., dated St. Lorenzo, October 1, 1793; letter from Messrs. Carmichael and Short to his Excellency the Duke de la Alcudia, &c., dated St. Lorenzo, October 20, 1793; letter from Messrs. Carmichael and Short to his Excellency the Duke de la Alcudia, &c., dated St. Lorenzo, November 12, 1793; letter from the Duke of Alcudia to Messrs. Carmichael and Short, dated St. Lorenzo, November 15, 1793; letter from Messrs. Carmichael and Short to his Excellency the Duke de la Alcudia, &c., dated Madrid, November 21, 1793; letter from the Duke of Alcudia to Messrs. Carmichael and Short, dated St. Lorenzo, November 26, 1793.]

Extract from a letter of Messrs. Carmichael and Short to his Excellency the Duke de la Alcudia, &c.

(See same, p. 437.)

“Hitherto we have found the uncertainty which has prevailed on those subjects imputed to the limits between the two countries not being finally settled. We now do ourselves the honor of transmitting to his Excellency Don Diego de Gardoqui a memorial on that subject; inferring from the letter of your excellency of the 15th of November, that it is the intention of his Majesty that the general negotiation should continue in the channel in which it was begun.

“When your excellency shall see from it that those limits were established so long ago as the year 1763, that the acts by which they were established and confirmed are pointed out, and are lawful and indisputable—in fine, are as precise and as valid as those establishing the right of the United States to any other part of their territory, and that Spain has no title whatever to produce, no document of any kind giving even the color of a right to the territory claimed within the limits of the United States, we trust your excellency will think it just that that uncertainty should no longer remain.

“It cannot be unknown to your excellency, that the difficulties which have been raised as to the rights of the United States on the subject of limits and the navigation of the Mississippi have retarded the negotiation set on foot. After all that had passed between the two countries relative thereto, the United States were far from expecting these difficulties would have existed at the opening of the negotiation. We have hoped that time and a more accurate examination

of the subject would remove them. We now present the claims of the United States on these subjects in such a form, exhibiting the titles from which they are derived, that we hope they will appear rigorously just; and in that case we rely, from the known character of his Catholic Majesty, and his attachment to the strictest principles of justice, that they will no longer be withheld; and that thus all obstacles being removed, the two countries may, without further delay, proceed to settle other objects of mutual concern conformably to their mutual wishes and interest.

“In this hope, we have the honor to be, &c.,

“WM. CARMICHAEL,

“W. SHORT.

“His Excellency the DUKE DE LA ALCUDIA, &c.”

Letter from Messrs. Carmichael and Short to Don Diego de Gardoqui, transmitting “Statement.”

(See same, pp. 437, 438.)

MADRID, December 7, 1793.

SIR: The memorial which we have the honor of transmitting to your excellency is intended to remove that difference of opinion which we have found here as to the limits of the United States, and their right to the navigation of the Mississippi, and which has hitherto retarded the negotiation with which we have the honor to be charged.

On the one hand, your excellency has regarded the claims of the United States on these subjects as unfounded, and has considered them as asking important cessions of Spain without offering anything in return; whilst, on the other, they consider themselves as claiming only their strict and indisputable right. It is evident that such a variation of sentiment on these heads, whilst it exists, must render it difficult to attain that degree of reciprocity in the negotiation they wish to carry on, which is the only permanent basis of real friendship between the two countries. The measure we have taken will leave nothing undone on our part to remove it.

It would be conformable to usage in similar cases that we should receive, in exchange from your excellency, the same precise statement of the claims of Spain in opposition to those of the United States. And should those rights of the United States be still contested, on the supposition that those of Spain are better founded, we hope your excellency will do us the honor to communicate them to us in the same form, that we may have an opportunity of knowing what these claims are, and of giving them the same full and candid examination to which we wish those of the United States to be submitted; our object being really to ascertain the rights of both countries, so as that they may proceed with a proper understanding to settle those arrangements of convenience which may contribute to advance their mutual interests and strengthen their mutual friendship.

With the sincerest wishes for the progress of a negotiation in

which we have ever informed your excellency that we considered both our countries as highly and permanently interested, and with assurances of the most profound respect, we have the honor to be, &c.,

WM. CARMICHAEL,
W. SHORT.

His Excellency DON DIEGO DE GARDOQUI, &c.

Extract from statement by the same, enclosed in preceding letter.

(See same, pp. 438, 439.)

“MADRID, *December 7, 1793.*

“The conferences which the commissioners plenipotentiary of the United States have hitherto had with his excellency, the plenipotentiary of his Catholic Majesty, on the subject of limits and the navigation of the Mississippi, have not had the issue expected. It is hoped that a more perfect and full examination of the rights of the respective parties, and a comparison of the documents on which they are founded, may give a different result.

“We, the commissioners plenipotentiary of the United States, therefore, proceed to reduce to a more permanent form the claims of the United States, which we have heretofore stated and supported in the conferences, and to show the titles from which they are derived.

“The several States now composing the United States of America were, from their first establishment, dependent on no other society of men whatever. They continued at the head of their respective governments the executive magistrate who presided over the one they had left, and thereby secured in effect a constant amity with that nation during the time of that connexion. In this stage of their government the several boundaries were fixed, and particularly the southern boundary of Georgia, the one now brought into question by Spain. This boundary was fixed by the proclamation of the King of Great Britain, their chief magistrate in the year 1763, at a time when no other power pretended any claim whatever to any part of the country through which it run; all the territory on the left side of the Mississippi, except the town of New Orleans, and the island in which it is situated, having been previously yielded by the treaty of Paris, to which his Catholic Majesty was one of the high contracting parties.

“The boundary of Georgia was thus established to begin on the Mississippi, in 31 degrees of latitude north of the equator, and running eastwardly to the Apalachicola; thence along the said river to the mouth of the Flint; thence in a direct line to the source of St. Mary’s river, and down the same to the ocean. The western boundary, originally the Pacific ocean, was by the treaty of Paris reduced to the middle of the Mississippi.

“In the late war which took place between Great Britain and the confederated States, (and in the course of which we were joined by France as an ally, and by Spain and Holland as associates, having a

common enemy,) this boundary was the line of demarcation to the south, between the country which engaged in the war against Great Britain, and that which continued under British government; Georgia having entered into the confederation, and Florida having remained in its former state. At the conclusion of hostilities, Great Britain, (the only power against whom the United States had been engaged in war,) acknowledged their boundary, and that without extending it to the prejudice of Spain, as is pretended, but, on the contrary, confirming that of Georgia, in particular, as it had existed from the year 1763.

“In the treaty afterwards made with Spain, Great Britain ceded the two Floridas (which had been defined in the proclamation of 1763) and Minorca; and by an express article of the treaty, Spain agreed to restore, without compensation, all the territories conquered by her, and not included in the treaty either under the head of cessions or restitutions; that is to say, all except Minorca and the Floridas.

“According to this stipulation, Spain was expressly bound to have delivered up the possessions she had taken within the limits of Georgia to Great Britain, if they were conquests on Great Britain, who was to deliver them over to the United States, or rather Spain should have delivered them to the United States themselves as standing, *quoad hoc*, in the place of Great Britain. Spain was bound also by natural right to deliver them to the United States on a still stronger ground, as the real and only proprietors of those places which she had taken possession of, without having had any cause of war with the United States, to whom they belonged, and without having declared any, but, on the contrary, conducting herself, in other respects, as a friend and associate in a war against a common enemy.

“It is an established principle that conquest gives only an inchoate right, which does not become perfect till confirmed by the treaty of peace, and by a renunciation or abandonment of the former proprietor. Had Great Britain been that former proprietor, she was so far from confirming to Spain the right to the territory of Georgia invaded by Spain, that she expressly relinquished to the United States any right that might remain in her; and afterwards completed that relinquishment by further procuring and consolidating the agreement with Spain herself to restore such territory, if comprehended within the conquests of Spain, without compensation.

“It is still more palpable that a war existing between two nations, as Spain and Great Britain, can give to neither the right to seize and appropriate the territory of a third which is even neutral, much less which is an associate in the war, as the United States were with Spain.

“On the conclusion of the general peace, the United States lost no time in requiring from Spain an evacuation of their territory. This has hitherto been delayed by means which need not be explained here, but which have been equally contrary to the right and to the consent of the United States.

“From what has been said, it results—

“1. That the boundary of Georgia, now forming the southern limits of the United States, was lawfully established in the year 1763.

"2. That it has been since confirmed by the only power who could at any time have had pretensions to contest it, founded on a state of war.

"3. That Great Britain, by the late treaty of peace, obtained of Spain a renunciation to all pretensions within this boundary, so as to have removed every pretext for questioning the right of Great Britain to have confirmed that boundary to the United States.

"4. That Spain can have no right to any claim, by conquest, within the limits of the United States, having never been in a state of war with them."

* * * * *

[The residue of the papers accompanying the foregoing message are omitted, being deemed irrelevant, from pp. 439 to 446, inclusive, *American State Papers, Foreign Relations, vol. 1.*]

[3D CONGRESS, 2D SESSION.]

EXTRACT FROM AN ACT OF THE STATE OF GEORGIA OF JANUARY 7, 1795, ENTITLED "AN ACT SUPPLEMENTARY TO AN ACT ENTITLED 'AN ACT FOR APPROPRIATING A PART OF THE UNLOCATED TERRITORY OF THIS STATE FOR THE PAYMENT OF THE LATE STATE TROOPS, AND FOR OTHER PURPOSES THEREIN MENTIONED,' DECLARING THE RIGHT OF THIS STATE TO THE UNAPPROPRIATED TERRITORY THEREOF FOR THE PROTECTION AND SUPPORT OF THE FRONTIERS OF THIS STATE, AND FOR OTHER PURPOSES."—(Communicated to Congress by the President of the United States, February 17, 1795.)

(See *American State Papers, Indian Affairs, vol. i, pp. 551, 555.*)

"SEC. 20. *And be it further enacted,* That immediately after the Indian claims to the lands lying between the Oconee and Oakmulgee rivers, including that tract of country lying east of a line to be drawn from the place called Fort Romulus, on the Oakmulgee river, to the head of St. Mary's river, or the northern extremity of the Akinfonoka [Okinfonoka] swamp, may be extinguished, the grantees of the several companies and their associates are hereby authorized to apply to the government of the United States for their concurrence in extinguishing the Indian claims to the different tracts of country by them severally hereby purchased, or as much thereof as to them may seem practicable; which extinguishment of claims to the lands so purchased shall be at the proper expense of the respective companies, and within five years thereafter the said companies shall severally form settlements on the lands where the claims may be so extinguished, or forfeit the further sum of five thousand dollars for each company so failing."

[3d CONGRESS, 2d SESSION.]

EXTRACT FROM JOURNAL OF THE SENATE.

(See Senate Journal, 2d Sess. 3d Cong., vol. 2, pp. 172, 173.)

IN THE SENATE OF THE UNITED STATES,
February 27, 1795.

“Mr. Jackson laid before the Senate two acts of the State of Georgia, to wit: ‘An act for appropriating a part of the unlocated territory of the State for payment of the late State troops, and for other purposes therein mentioned;’ and ‘An act supplementary to an act entitled ‘An act for appropriating a part of the unlocated territory of the State for the payment of the late State troops, and for other purposes therein mentioned,’ declaring the right of the State to the unappropriated territory thereof for the protection and support of the frontiers of the State, and for other purposes.’

“On which he submitted the following motion to the consideration of the Senate:

“Whereas one of the Senators of the State of Georgia has officially laid before Senate ‘An act of the legislature of the said State, entitled ‘An act for appropriating a part of the unlocated territory of the State for payment of the late State troops, and for other purposes therein mentioned,’ and in which the Senators and Representatives of the said State in Congress are required to apply, without loss of time, for a treaty to be held with such tribes or nations of Indians who may claim the right of sale to the territory therein pointed out for appropriation as aforesaid:

“*Resolved*, That the Senate will advise and consent to the holding any treaty or treaties which the President of the United States may think necessary with the Creek nation, for the purpose of extinguishment of the claims of the said Indians to the lands in the said act of the State of Georgia appropriated; the same being included in a line to be drawn from the head of the Oconee to the Oakmulgee river, and from Fort Romulus, on the Oakmulgee, to the head of St. Mary’s river, and the old boundary line between the State of Georgia and the said Indians: *Provided*, that the whole expense of extinguishing the said claims, and the holding the said treaty or treaties, be defrayed and borne by the State of Georgia.”

[3d CONGRESS, 2d SESSION.]

EXTRACT FROM MESSAGE OF PRESIDENT WASHINGTON, OF FEBRUARY 28, 1795.

(See American State Papers, Foreign Relations, vol. 1, p. 469.)

“So much of our relation to Great Britain may depend upon the result of our late negotiations in London, that, until that result shall

arrive, I cannot undertake to make any communication upon this subject.

"After the negotiation with Spain had been long depending, unusual and unexpected embarrassments were raised to interrupt its progress. But the commissioner of his Catholic Majesty near the United States having declared to the Secretary of State, that, if a particular accommodation should be made in the *conducting* of the business, no further delay would ensue, I thought proper, under all circumstances, to send to his Catholic Majesty an envoy extraordinary, specially charged to bring to a conclusion the discussions which have been formerly announced to Congress."

[3D CONGRESS, 2D SESSION.]

EXTRACTS FROM JOURNAL OF THE SENATE.

(See Senate Journal, 2d Sess. 3d Cong., vol. 2, pp. 180, 181, 182.)

IN THE SENATE OF THE UNITED STATES,
March 2, 1795.

"A message from the House of Representatives, by Mr. Beckley, their clerk:

"Mr. President: The House of Representatives have passed a bill, entitled 'An act making provision for the purposes of treaty and of trade with the Indians,' in which they desire the concurrence of the Senate."

* * * * *

"The following bill being read the first time,

"On motion, it was agreed, by unanimous consent, to dispense with the rule, and that the bill sent from the House of Representatives for concurrence, entitled 'An act making provision for the purposes of treaty and of trade with the Indians,' be now read the second time.

"A motion was made by Mr. Jackson, and seconded by Mr. Bradley, to strike out after the word 'Ohio,' to the end of the bill, and insert 'to certain lands in the State of Georgia, lying between the Oconee and Oakmulgee rivers, included within a line to be drawn from the head of the former to the head of the latter river; as also to certain lands in the said State, included within a line to be drawn from a place named Fort Romulus, on the said river Oakmulgee, in a direct course to the head of the river St. Mary's, the same being the lands formerly known as, and included within, the county of Tallassee, in the said State, and which county was given up to the Creek nation by the treaty of New York.

"It passed in the negative."

[3d CONGRESS, 2d SESSION.]

EXTRACT FROM THE JOURNAL OF THE SENATE.

(See Senate Journal, vol. 2, pp. 177, 183.)

IN THE SENATE OF THE UNITED STATES,

March 2, 1795.

“Mr. King, from the committee appointed to take into consideration certain laws of the State of Georgia, referred to in the message of the President of the United States, of the 25th of February last, reported a resolution, which was read, as follows:

“Resolved, That the President of the United States be, and hereby is, requested to give directions to the Attorney General to collect, digest, and report to the Senate, the charters, treaties, and other documents, relative to, and explanatory of, the title to the land situate in the southwestern parts of the United States, and claimed by certain companies under a law of the State of Georgia, passed the seventh day of January last, namely: a tract of land claimed by James Gunn, Matthew M’Allister, and George Walker, and their associates; also a tract of land claimed by Nicholas Long, Thomas Glasscock, Ambrose Gordon, and Thomas Cumming, and their associates; also, a tract of land claimed by John B. Scott, John C. Nightingale, and Wade Hampton, and their associates; and also, a tract of land claimed by Zachariah Cox, and Mathias Maher, and their associates.

“Ordered, That the report lie for consideration.”

* * * * *

MARCH 3, 1795.

“The Senate resumed the consideration of the resolution, reported yesterday, relative to the title to certain land situate in the southwestern parts of the United States.

“On motion, by Mr. Jackson, to strike out all the resolution after the words ‘southwestern parts of the United States,’ in the 8th and 9th lines,

“It passed in the negative.

“On motion, by Mr. Burr, to amend the resolution, by striking out all the words after the words ‘explanatory of,’ line 6th, and inserting ‘the extent and boundaries of the State of Georgia, and the title of the said State to the lands by them sold or claimed,’

“It passed in the negative.

“On motion to agree to the resolution,

“It was determined in the affirmative, {	Yeas.....	19
	Nays.....	2

“The yeas and nays being required by one-fifth of the Senators present,

“Those who voted in the affirmative are—

“Messrs. Bradford, Brown, Cabot, Ellsworth, Gunn, Hawkins, Izard, King, Latimer, Livermore, Martin, Mitchell, Morris, Potts, Robinson, Rutherford, Strong, and Vining.

“Those who voted in the negative are—
 “Messrs. Frelinghuysen and Jackson.
 “The secretary desired the concurrence of the House of Representatives in this resolution.”

[3D CONGRESS, 2D SESSION.]

EXTRACT FROM THE JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 2d Sess. 3d Cong., vol. 2, pp. 358, 359.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
 March 3, 1795.

“A message from the Senate, by Mr. Otis, their secretary :
 “*Mr. Speaker* : * * * * * The Senate have
 agreed to a resolution ‘relative to the title to certain land situate in
 the southwestern parts of the United States,’ to which they desire the
 concurrence of this House.

* * * * *

“The House proceeded to consider the said resolution; and the
 same being read, as followeth :

“*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and hereby is, requested to give directions to the Attorney General to collect, digest, and report to the Senate, the charters, treaties, and other documents, relative to, and explanatory of, the title to the land situate in the southwestern parts of the United States, and claimed by certain companies under a law of the State of Georgia, passed the seventh day of January last, namely: a tract of land claimed by James Gunn, Matthew M’Allister, and George Walker, and their associates; also, a tract of land claimed by Nicholas Long, Thomas Glasscock, Ambrose Gordon, and Thomas Cumming, and their associates; also, a tract of land claimed by John B. Scott, John C. Nightingale, and Wade Hampton, and their associates; and also, a tract of land claimed by Zachariah Cox and Mathias Maher, and their associates:

“A motion was made, and seconded, to amend the said resolution at the clerk’s table, by striking out, in the fourth line, the word ‘Senate,’ and inserting in lieu thereof the words ‘next Congress.’

“And on the question thereupon,

“It was resolved in the affirmative.

“The said resolution, as amended, was again read, and, on the question put thereupon, agreed to by the House.

“*Ordered*, That the clerk of this House do acquaint the Senate therewith.”

[3D CONGRESS, 2D SESSION.]

EXTRACT FROM THE JOURNAL OF THE SENATE.

(See Senate Journal, 2d Sess. 3d Cong., vol. 2, pp. 184, 185.)

IN THE SENATE OF THE UNITED STATES,
March 3, 1795.

“A message from the House of Representatives by Mr. Beckley, their clerk:

“*Mr. President*: The House of Representatives concur in the resolution of the Senate relative to the title to certain lands situate in the southwestern parts of the United States, with an amendment to strike out ‘Senate,’ and insert ‘next Congress,’ in line 5th, in which they desire the concurrence of the Senate. * * *

“The Senate proceeded to consider the amendment of the House of Representatives to the last-mentioned resolution; and

“*Resolved*, That they do concur therein.

“*Ordered*, That the Secretary acquaint the House of Representatives therewith.”

[3D CONGRESS, 2D SESSION.]

[The message of President Washington, dated United States, June 25, 1795, enclosing a copy of a letter from James Gunn and Thomas P. Carnes to the President of the United States; the copy of a letter from the Secretary of War to the governor of Georgia, dated Department of War, March 20, 1795; and two other papers, extracts from which will be found below, are omitted, being deemed irrelevant.]

Extract of a copy of a letter from the Secretary of War to the Governor of Georgia.

(See American State Papers, Indian Affairs, vol. 1, p. 561.)

WAR OFFICE, August 20, 1790.

* * * * *

“It would have been a desirable circumstance to have obtained an entire confirmation of all the territory claimed by Georgia, and every argument was used to effect this object. But the chiefs who were present decidedly refused, at the hazard of all events, any confirmation of the land lying to the eastward of the temporary line, mentioned in the treaty of Galphinton, to be drawn from the forks of the Oconee and Oakmulgee to the St. Mary’s, and between the said temporary line and the old line from the Altamaha to the St. Mary’s.”

Extracts of a letter from the governor of Georgia to the Secretary of War.

(See same, p. 561.)

STATE-HOUSE, AUGUSTA, *April 16, 1795.*

“I received with pleasure your communication of the 20th of March, and am much obliged to the President for the information respecting the Indian treaty.

“I am at a loss to discover the intimate connexion between the two acts referred to. The one contemplates a treaty for extinguishing the Indian claims to the lands between the Oconee and the Oakmulgee—an object which nineteen out of twenty of the citizens of this State have the most anxious wish to see accomplished; and I feel persuaded that the present is as good a time as any that may offer to obtain it, provided the general government would aid the endeavors of this State.”

* * * * *

“When I reflect on, and know, the very great wish the people of Georgia have to procure the lands between the Oconee and Oakmulgee, I flatter myself the President will give permission for a treaty to be held, as I am persuaded a refusal will give great uneasiness, and, in fact, disgust.”

* * * * *

[4TH CONGRESS, 1ST SESSION]

MESSAGE OF PRESIDENT WASHINGTON, OF FEBRUARY 26, 1796, TRANSMITTING TO THE SENATE THE TREATY OF SAN LORENZO EL REAL.

(See American State Papers, Foreign Relations, vol. 1, p. 533.)

UNITED STATES, *February 26, 1796.**Gentlemen of the Senate:*

I send herewith the treaty concluded on the 27th of October last, between the United States and Spain, by their respective plenipotentiaries.

The communications to the Senate, referred to in my message of the 16th of December, 1793, contain the instructions to the commissioners of the United States, Messrs. Carmichael and Short, and various details relative to the negotiations with Spain. Herewith I transmit copies of the documents authorizing Mr. Pinckney, the envoy extraordinary from the United States to the court of Spain, to conclude the negotiation agreeable to the original instructions above mentioned, and to adjust the claims of the United States for the spoliations committed by the armed vessels of his Catholic Majesty on the commerce of our citizens.

The numerous papers exhibiting the progress of the negotiation, under the conduct of Mr. Pinckney, being in the French and Spanish

languages, will be communicated to the Senate as soon as the translations which appear necessary shall be completed.

G. WASHINGTON.

[4TH CONGRESS, 1ST SESSION.]

MESSAGE OF PRESIDENT WASHINGTON, OF FEBRUARY 29, 1796, TRANSMITTING TO THE SENATE PAPERS RELATING TO NEGOTIATION OF TREATY.

(See American State Papers. Foreign Relations, vol. 1, p. 533.)

UNITED STATES, *February 29, 1796.*

Gentlemen of the Senate:

I send, herewith, the papers relating to the negotiation of the treaty with Spain, to which I referred in my message of the 26th instant.

G. WASHINGTON.

[The following intervening papers, accompanying the preceding message, are omitted, being deemed irrelevant, viz: commission of George Washington to Thomas Pinckney, dated Philadelphia, November 24, 1794; two papers, being copies of full powers to negotiate with his Catholic Majesty, relative to certain matters of difference existing between him and the United States of America, dated November 24, 1794; letter from Edmund Randolph, Secretary of State, to Thomas Pinckney, dated Philadelphia, November 3, 1794; extract from a letter from the same to the same, dated November 8, 1794.]

Extract from a letter of E. Randolph, Secretary of State, to T. Pinckney, Minister Plenipotentiary to Spain, dated November 28, 1794.

(See same, p. 534.)

“Your powers inform you, in general terms, of the subjects with which you are charged. The development of the principles upon which they are to be contended for, will be found in the documents of which Mr. Short is possessed. But, for the sake of enabling you to avail yourself of every opportunity, before you reach Madrid, I send a statement of our pretensions as they were laid before Congress, comprehending Mr. Jay’s discussions with Mr. Gardoqui, and the instructions and arguments transmitted to Messrs. Carmichael and Short. In these the President sees no reason for a change.”

[The following intervening papers are omitted, being deemed irrelevant, viz: letter from Thomas Pinckney to the Secretary of

State, dated Madrid, July 21, 1795; letter from Thomas Pinckney, dated Madrid, July 10, 1795; *enclosed in the foregoing*, letter from Thomas Pinckney to the Secretary of State, dated San Ildefonso, August 11, 1795; letter from Thomas Pinckney to the Secretary of State, dated San Ildefonso, October 1, 1795; also, *enclosed in the foregoing despatch from Mr. Pinckney*, a letter from Mr. Pinckney to the Duke of Alcudia, dated San Ildefonso, July 29, 1795; a letter from Mr. Pinckney to the Duke of Alcudia, dated San Ildefonso, August 6, 1795; and a letter from the Duke of Alcudia to Mr. Pinckney, dated San Ildefonso, August 14, 1795.]

Letter from Mr. Pinckney to the Duke of Alcudia, Minister Plenipotentiary of Spain, enclosed in the foregoing despatch from Mr. Pinckney.

(See same, p. 537.)

SAN ILDEFONSO, August 10, 1795.

MONSIEUR LE DUC: As, in the conference with which you honored me on Wednesday last, I perceived that, although you have read with attention the memoir of Messrs. Short and Carmichael, upon the right of the United States to the navigation of the Mississippi, and to our southern limit, and admit the justice of the arguments therein contained, yet, that your excellency entertained some doubt relative to a part of the pretensions of the United States, I have thought it my duty to lay before your excellency some arguments in addition, and I have endeavored to avoid as much as possible a repetition of those which have been so well developed in the said memoir, upon which I always rely as the most perfect exposition of our rights.

I have the honor to be, &c.,

T. PINCKNEY.

Extract from memoir by Mr. Pinckney, (1795,) also enclosed in the foregoing despatch.

(See same, pp. 537, 538.)

“Thirty-two years have elapsed since all the country on the left or eastern bank of the Mississippi, being under the legitimate dominion of the then King of England, that sovereign thought proper to regulate with precision the limits between the provinces of Georgia and of the two Floridas, which was done by his solemn proclamation, published in the usual form, by which he established between them precisely the same limits which, nearly twenty years after, he declared to be the southerly limit of the United States, by the treaty which this same King of England concluded with them in the month of November, 1782.

"By the treaty of peace between the late King of Spain and that sovereign, signed the 20th January, 1783, he ceded to his Catholic Majesty the two Floridas, without making any description of their limits. However, it is not difficult to prove not only what were those limits, but also what the two contracting parties understood by that cession. It is very evident that Great Britain could not be understood to have ceded more to Spain than the two Floridas, according to the limits fixed by the proclamation of 1763, and according to what had recently been concluded, by a solemn treaty, to be the southerly limit of the United States. She had not been fortunate in the war which preceded that treaty; but it had not so far humiliated her as to dishonor herself by ceding to Spain a territory which, two months before, she declared to belong of right to the United States. But, it is likewise evident, that the Spanish government at that time understood the same thing in receiving, as England did in ceding the Floridas. In order to prove this, one need only observe the dates of the relative circumstances in this business. The said proclamation of the King of England had been published more than nine years before that epoch; it was impossible, therefore, for the court of Spain to be uninformed on the subject of it; and if it were not content with the limits therein adjusted, it should have had others inserted in the treaty of peace of 1783. Besides, the provisional articles of the treaty between the United States and England, in which this limit was acknowledged, were signed in the month of November, 1782, and immediately communicated to the court of France. Now, the close connexion which at this time united the house of Bourbon, who possessed the crowns of Spain and France, was notoriously known. It is well known that these two nations were allied and confederates in the war against Great Britain. Is it, therefore, credible that the court of France omitted to communicate to their ally the treaty of the United States with Great Britain before the articles with Spain and the latter power had existence? And this being the case, I repeat that, if she were discontented with the limits there determined for Florida, she then had an opportunity for opening negotiations in order to change them. But if it were possible to imagine that Spain, thus linked with France, and having an able negotiator upon the spot treating of peace with the same power, could have been ignorant of what was passing, a subsequent period occurred in which she still had an opportunity of making her objections to those limits, and when it was impossible that she could not have possessed all the necessary information; that is to say, all the time which had elapsed until her definitive treaty with Great Britain, which was not signed until the 3d of September, 1783, a period of two months after the treaty with America had been communicated to France, and even six months after it had been published in the United States. From these facts it follows that Spain, being informed of the limits fixed by the proclamation of 1763, and acknowledged by the treaty of the United States, was content with them, or that if she were not, that she made attempts with Great Britain, which having failed in bringing about a change of them in the treaty by which she obtained Florida, it results from every principle of justice that she remained satisfied with those limits. But it

has been said that Spain had pretensions for passing the limits above mentioned by the right of conquest, her troops having, during the war, seized a certain portion of territory beyond that limit; but the answer to this pretension is as simple and as conclusive as that just developed, which is, that the territory conquered must have belonged, before the war, either to the United States or to Great Britain. If it belonged to the United States, it is very clear that Spain could have no right to make conquests on a nation with whom she was not at war; and I will not, for a single moment, admit an idea so disrespectful to Spain, as to imagine she could pretend to be the friend of the United States—to have succored them in war; to have even lent them money for maintaining it—at the same time she was depriving them of their property. If this territory belonged to Great Britain, his Catholic Majesty obliged himself, by the sixth article of the definitive treaty with Great Britain, to deliver up, without difficulty, all the country and territories conquered by the arms of his Majesty, which were not comprehended in the same under the name of cessions or of restitutions. Now, by the treaty, there was under this description, (besides the island of Minorca) only Florida, whose limits have been proved above. Therefore, in both cases, Spain has not the right of retaining these possessions under the name of conquest.”

[The following other intervening papers, also enclosed in the foregoing despatch of Mr. Pinckney, are omitted, being deemed irrelevant, viz: letter from Mr. Pinckney to the Duke of Alcudia, dated San Ildefonso, August 29, 1795; letter from the Duke of Alcudia to Mr. Pinckney, dated San Ildefonso, August 29, 1795; letter from Mr. Pinckney to the Duke of Alcudia, dated San Ildefonso, August 30, 1795; letter from Mr. Pinckney to the Duke of Alcudia, dated San Ildefonso, September 3, 1795; letter from Mr. Pinckney to the Prince of Peace, (before addressed as the Duke of Alcudia,) dated San Ildefonso, September 13, 1795; letter from the Prince of Peace to Mr. Pinckney, dated San Ildefonso, September 15, 1795; letter from Mr. Pinckney to the Prince of Peace, dated San Ildefonso, September 20, 1795; letter from the Prince of Peace to Mr. Pinckney, dated San Ildefonso, September 23, 1795; notes on the project of a convention proposed by his Excellency the Prince of Peace, dated September 25, 1795. The following intervening papers, enclosed in Mr. Pinckney's despatch of October 28, 1795, are also omitted, being deemed irrelevant, viz: letter from Mr. Pinckney to the Prince of Peace, dated Madrid, October 5, 1795; letter from the Prince of Peace to Mr. Pinckney, dated San Lorenzo, October 7, 1795; note from the Prince of Peace to Mr. Pinckney, dated San Lorenzo, October 7, 1795; letter from Mr. Pinckney to the Prince of Peace, dated Madrid, October 9, 1795; letter from Mr. Pinckney to the Prince of Peace, dated San Lorenzo, October 11, 1795; letter from the Prince of Peace to Mr. Pinckney, dated San Lorenzo, October 12, 1795; letter from Mr. Pinckney to the Prince of Peace, dated San Lorenzo, October 16, 1795; letter from the Prince of Peace to Mr. Pinckney, dated San Lorenzo, Octo-

ber 18, 1795; letter from Mr. Pinckney to the Prince of Peace, dated San Lorenzo, October 20, 1795; letter from the Prince of Peace to Mr. Pinckney, dated October 20, 1795; letter from the Prince of Peace to Mr. Pinckney, dated San Lorenzo, October 22, 1775, [1795;] letter from Mr. Pinckney to the Prince of Peace, dated San Lorenzo, October 23, 1795; letter from Mr. Pinckney to the Prince of Peace, dated San Lorenzo, October 24, 1795; letter from the Prince of Peace to Mr. Pinckney, dated San Lorenzo, October 28, 1795.]

Extract from a paper enclosed in Mr. Pinckney's despatch to Mr. Randolph of October 28, 1795, headed "Treaty of amity, limits, and navigation."

(See same, p. 545.)

"ART. 2. This agrees with our proper boundary.

"ART. 3. The instructions do not mention this, but I thought it might prevent disputes in future, and would have an immediate good effect with the Indians."

[The following papers are also omitted, viz: communication from Mr. Pinckney to Mr. Randolph, dated San Lorenzo, October 28, 1795, and treaty between the United States and Spain.]

[4TH CONGRESS, 1ST SESSION.]

MESSAGE OF PRESIDENT WASHINGTON TO THE HOUSE OF REPRESENTATIVES,
MARCH 29, 1796.

(See House Journal, vol. 2, 1st Sess. 4th Cong., p. 486.)

Gentlemen of the House of Representatives:

I send, herewith, a copy of the treaty of friendship, limits, and navigation, concluded, on the 27th of October last, between the United States and his Catholic Majesty. This treaty has been ratified by me, agreeably to the constitution, and the ratification has been despatched for Spain, where it will doubtless be immediately ratified by his Catholic Majesty.

This early communication of the treaty with Spain has become necessary, because it is stipulated, in the third article, that commissioners for running the boundary line between the territory of the United States and the Spanish colonies of East and West Florida shall meet at the Natchez before the expiration of six months from the ratification. And as that period will undoubtedly arrive before the next

meeting of Congress, the House will see the necessity of making provision, in their present session, for the object here mentioned. It will also be necessary to provide for the expense to be incurred in executing the twenty-first article of the treaty, to enable our fellow-citizens to obtain, with as little delay as possible, compensation for the losses they have sustained by the capture of their vessels and cargoes, by the subjects of his Catholic Majesty, during the late war between France and Spain.

Estimates of the moneys necessary to be provided for the purposes of this and several other treaties with foreign nations and the Indian tribes, will be laid before you by the proper department.

G. WASHINGTON.

UNITED STATES, *March 29, 1796.*

[4TH CONGRESS; 1ST SESSION.]

REPORT OF CHARLES LEE, ATTORNEY GENERAL OF THE UNITED STATES, IN COMPLIANCE WITH A RESOLUTION OF THE SENATE, CALLING FOR INFORMATION RELATIVE TO CERTAIN CLAIMS TO LAND IN THE SOUTHWESTERN PARTS OF THE UNITED STATES, UNDER A LAW OF THE STATE OF GEORGIA.—(Communicated to the Senate April 29, 1796.)

(See Senate Public Land Documents, printed by Duff Green, vol. 1, p. 28.)

PHILADELPHIA, *April 26, 1796.*

SIR: I have the honor to transmit to Congress a report in pursuance of their resolution of the 3d of March, 1795, respecting the title to the land situate in the southwestern parts of the United States, claimed by certain companies in that resolution described, under a law of the State of Georgia passed the 7th day of January, in the year 1794. It is accompanied with all the charters, treaties, and other documents relative to the subject which it has been in my power to procure, except the most modern treaties, to which I have taken leave to refer. However imperfect it may be deemed, I have yet supposed it better to obey, without delay, the order of Congress, in the best manner in my power, than to suffer the session to pass without a communication of some kind.

With the most perfect respect, I am, sir, your most obedient servant,

CHARLES LEE,

Attorney General of the United States.

The PRESIDENT of the Senate of the United States.

To the Congress of the United States:

The Attorney General most respectfully reports, that, in obedience to the resolution of Congress, bearing date the third day of March, in the year one thousand seven hundred and ninety-five,

directing the Attorney General to collect, digest, and report to the next Congress the charters, treaties, and other documents relative to, and explanatory of, the title to the land situate in the southwestern parts of the United States, and claimed by certain companies under a law of the State of Georgia, passed the 7th day of January, in the year one thousand seven hundred and ninety-four, namely: a tract of land claimed by James Gunn, Matthew M' Allister, and George Walker, and their associates; also a tract of land claimed by Nicholas Young, Thomas Glasscock, Ambrose Gordon, and Thomas Cumming, and their associates; also a tract of land claimed by John B. Scott, John C. Nightingale, and Wade Hampton, and their associates; also a tract of land claimed by Zachariah Cox and Matthias Maker, and their associates; a collection was begun by his predecessor in office which he has endeavored to complete and digest, and is as follows, to wit:

L No. 1. The seventh article of the treaty between England and Spain, made in the year one thousand six hundred and seventy, whereby it is stipulated that the King of Great Britain should remain in possession of what he then possessed in the West Indies and America; and prior to this period nothing is known to have been done to settle the pretensions of those crowns relative to America, and at this time the principal colonies of Great Britain were settled.

In this situation the boundaries of the territories in America of those nations remained till the peace of 1763, during which time they were the subject of many disputes, which were not adjusted till the cession of Florida in that year to the King of Great Britain.

L No. 2. An article of the treaty of Seville, in 1729, referring to commissioners to ascertain the territorial limits of each nation in America, founded on any pre-existing treaty; but this commission does not appear to have been ever executed.

L No. 3. An extract from the treaty in 1763 relative to the cession of Florida by Spain to Great Britain, it being comprehended in the 19th article.

L No. 4. The proclamation of the King of Great Britain in 1763, after the aforesaid cession, by which, among other things, an addition is made to Georgia of "all the lands lying between the rivers Altamaha and St. Mary's."

A No. 1. An extract from a representation of the board of trade to the King, dated in 1728, in which are cited two grants: one by Charles the First, in the fifth year of his reign, unto Sir Robert Heath, of Carolina Florida, of the land lying from the river Matheo, in the 30th degree, to the river Passa Magna, in the 36th degree of northern latitude; the other by Charles the Second, in the seventeenth year of his reign, unto certain persons as proprietors, all that part of North America which lies between the 36th and 29th degrees of northern latitude, and in which Fort King George, on Altamaha, within the bounds of each, is stated to be claimed and contested by Spain.

A No. 2. A report from the board of trade to the King respecting the erection, in 1720, of Fort King George, its subsequent abandonment on account of unhealthiness, and recommending it to be again

occupied and held as an evidence of his possession. This is dated 1st December, 1727.

B. A surrender, dated 25th July, 1729, to George the Second, of seven parts into eight equal parts, to be divided, of all that territory situate, &c., extending from the north end of the island called Lucker island, which lyeth in the southern Virginia seas, and within six and thirty degrees of the northern latitude, and to the west as far as the South seas, and so southerly as far as the river St. Mathias, which bordereth upon the coast of Florida, and within one and thirty degrees of northern latitude, and so west in a direct line as far as the South seas; also of all that territory north and eastward as far as the north end of Carahutke river or gullet, upon a straight westerly line to Wyanoake creek, which lies within about the degrees of thirty-six and thirty minutes northern latitude, and so west in a direct line as far as the South seas, and south and westward as far as the degrees of twenty-nine, inclusive, northern latitude, and so west in a direct line as far as the South seas.

H No. 1. Commission to Robert Johnson, governor of South Carolina, dated 9th December, 1729, in which the limits of the province are not defined, and by which he is authorized to grant lands to individuals.

H No. 2. Instructions from the board of trade to Governor Robert Johnson, dated 10th June, 1730, concerning grants of lands and laying off townships.

C No. 1. A report of the board of trade to the privy council, dated 17th December, 1730, advising an incorporation of a society by the name of "The corporation for establishing charitable colonies in America," and a grant to them of "all that tract of land in the province of South Carolina lying between the rivers Savannah and Altamaha, to be bounded by the most navigable and largest branches of the Savannah and the most southerly branch of the Altamaha," who were to be a colony independent of South Carolina, except as to the command of the militia.

C No. 2. A report of the board of trade to the privy council, dated 22d December, 1731, that the western boundary of the new colony (meaning Georgia) may extend as far as that described in the ancient patents of Carolina, namely, westward.

C No. 3. An extract from the charter of Georgia, dated in 1732, whereby several undivided eighth parts of that part of South Carolina which "lies from the northern stream of a river, there commonly called the Savannah, all along the seacoast to the southward unto the most southern stream of a certain other great water or river called the Altamaha, and westward from the heads of the said rivers, respectively, in direct lines to the South seas, and all that space, circuit, and precinct of land lying within the said boundaries," &c., are disposed of.

C No. 4. An extract from a state of the province of Georgia, attested upon oath in the court of Savannah, copied from a printed journal of William Stevens, which was published in London in 1742, vol. 2: "It lies from the most northern stream of the river Savannah, the mouth of which is in the latitude of thirty-two degrees, along

the seacoast to the most southern stream of Altamaha, the mouth of which is in thirty and a half degrees, and westward from the heads of the said rivers, respectively, in direct lines to the South seas."

D. Additional instructions to Robert Johnson, governor of South Carolina, dated 6th September, 1732, reciting the charter of Georgia, bearing date the 9th June, 1732, and requiring it to be registered among the records of that province.

E. A surrender of the trustees of Georgia unto the King, of all their rights, under the charter of 1732, for seven-eighths of that territory, and, under the deed from Earl Granville to them, of the remaining eighth part, dated 28th February, 1732, which charter and deed are therein recited, and which surrender bears date in the year 1752.

C No. 5. A commission to John Reynolds, appointing him governor of the province of Georgia, lying "between the most northern stream of a river, there commonly called Savannah, all along to the seacoast to the southward, to the most southern stream of a certain other great water or river, called the Altamaha, and westward from the heads of the said rivers respectively, in straight lines to the South seas."

F No. 1. A letter of the board of trade to Governor Ellis, of Georgia, disapproving of his license to Gray and others, to settle south of the Altamaha, as it was out of his governmental limits, and might provoke a Spanish war, dated April 21, 1758.

F No. 2. A letter from the board of trade to Secretary Pitt, dated March 1, 1758, complaining of the settlement of Gray and his associates south of the Altamaha.

F No. 3. A letter from the board of trade to Governor Lyttleton, of South Carolina, complaining and remonstrating against the same settlement of Gray, &c., dated April 21, 1758.

F No. 4. A letter of James Wright, governor of Georgia, dated October 17, 1761, giving information of settlements south of Altamaha without license, which he states out of his jurisdiction; and also, that Oglethorpe had extended his settlements to the south of the true boundary of Georgia.

G No. 1. A protest of Governor Wright, of Georgia, to Governor Thomas Boone, of South Carolina, dated March 30, 1763, against his grants of any lands south of the river Altamaha, recorded in the books of grant of South Carolina.

G No. 2. A letter from the board of trade to Governor Boone, dated May 30, 1763, disapproving of his conduct in granting lands south of the Altamaha, supposed to be in Florida, and expressing an intention to enlarge the boundaries of Georgia, &c.

G No. 3. A letter from Governor Boone to the board of trade, dated August 17, 1763, explaining his reasons for granting the lands south of Altamaha, in which he states that the boundaries of Georgia were fixed, and did not include those lands; that there is a latitude of thirty-eight miles to the south of Georgia, which was not in Florida, and over which the Governor of South Carolina had before exercised jurisdiction; and other particulars are mentioned by him.

G Nos. 5 and 6. Two letters from Governor Wright to the board of trade, one dated April 20, 1763, in which he suggests the necessity

and expediency of extending the boundaries of Georgia, and of vacating the grants of South Carolina, and of lands south of Altamaha, &c.

G No. 4. An inquiry of the board of trade respecting the grants of Governor Boone, before mentioned, bearing date December 20, 1764.

K No. 1. A report of the board of trade to the King, dated June 1, 1763, advising the ceded country to be divided into two provinces, East and West Florida, the boundary of each to be the thirty-first degree of north latitude, as far as could be settled without interfering with the Indians, and advising the land north of St. Mary's to be joined to Georgia.

K No. 2. A commission to James Grant, governor of East Florida, in which are described the bounds of that province, bearing date October 4, 1763, viz: "to the northward by a line drawn from that part of Apalachicola river where the Chattahoochee and Flint rivers meet, to the source of St. Mary's; thence, by the course of that river, to the Atlantic."

K No. 3. A commission to John Elliott, governor of West Florida, dated July 29, 1767, describing its bounds "to the northward, by a line drawn due east from that part of the Mississippi which lies in thirty-one degrees north latitude, to the river Apalachicola, or Chattahoochee, and to the eastward by the said river."

K No. 4. A representation from the board of trade, dated March 23, 1764, for altering the bounds of West Florida by an instrument under the great seal, as was done in the extension of the south boundary of Georgia, which should declare West Florida to be bounded on the north by a line drawn from the mouth of the river Yazoo, where it unites with the Mississippi, due east to the river Apalachicola, in order to comprehend settlements.

I No. 1. A representation from the board of trade on the act of Georgia, passed in March, 1765, respecting grants of land by South Carolina, lying south of Altamaha, in which it is stated, that the cession in 1763, by Spain, had put an end to the disputes concerning the lands south of Altamaha, which had not been previously occupied by either nation, exclusively of the other; that all south of St. Mary's were *East Florida*, and all north of that river were annexed to Georgia; for which boundaries reference is made to the proclamation bearing date the 7th October, 1763; but the act is objectionable and ought not to receive the royal assent; and that all documents concerning those granted lands should be transcribed, and the transcripts sent from South Carolina to Georgia, and there recorded.

I No. 2. Additional instructions from the King, in the 7th year of his reign, (that is to say, in the year 1767,) to Montague, governor of South Carolina, in conformity to the representation last mentioned, whereby his approbation thereof is expressed, and the same is carried into effect.

It may be proper to observe here, that no document has come to the hands of the Attorney General by which the extension of West Florida appears to have been made, conformably to the suggestion of the board of trade in the paper marked K No. 4, hereinbefore mentioned; and perhaps this may be deemed a matter worthy of further inquiry,

unless the declaration of George Chalmers be so considered, which will be referred to.

M. A copy of a treaty of peace between South Carolina and Georgia of the one part, and the Cherokee nation on the other, dated May 20, 1777, relative to the boundaries of their countries.

N. An agreement for establishing the boundary line between the States of South Carolina and Georgia, bearing date April 28, 1787.

The Attorney General forbears to transmit the treaty of peace between Great Britain and Spain, in the year 1783, and the treaty of the same date between Great Britain and the United States, as well as the treaty lately concluded, though not yet ratified, by the King of Spain, with the United States, because they are already in possession of Congress and in print; nor need he observe that these establish the present boundaries of the United States; but he prays leave to remark that most of the documents herein reported have been obtained through the aid of George Chalmers, in the office for trade at Whitehall, at the instance of Samuel Bayard, by direction of the late Attorney General Bradford, who, in a long letter accompanying them, has presented his view of their operation, relative to the boundary of Georgia; and, whether correct or otherwise, the same is communicated herewith for the use and consideration of Congress.

P. A note from Judge Pendleton, of Georgia, in which he represents that the north boundary of Florida was extended in 1764, but he has not sent any documents to support the assertions. If further time were allowed, perhaps some useful information might be obtained on this point.

All of which is most respectfully submitted.

CHARLES LEE.

APRIL 28, 1796.

L No. 1.

Extract from the treaty between England and Spain, made in the year 1670; taken from 2d vol. Chalmers's Treaties, page 37.

"7th. All offences, damages, losses, injuries, which the nations and people of Great Britain and Spain have at any time heretofore, upon what cause or pretext soever, suffered by each other in America, shall be expunged out of remembrance and buried in oblivion, as if no such thing had ever passed.

"Moreover, it is agreed, that the most serene King of Great Britain, his heirs and successors, shall have, hold, keep, and enjoy forever, with plenary right of sovereignty, dominion, possession, and propriety, all those lands, regions, islands, colonies, and places whatsoever, being or situated in the West Indies, or in any part of America, which the said King of Great Britain and his subjects do at present hold and possess; so as that in regard thereof, or upon any color or pretence whatsoever, nothing more may or ought to be urged, nor any question or controversy be ever moved concerning the same hereafter."

A true copy :

CHARLES LEE.

L No. 2.

Extract from the treaty between Great Britain, France, and Spain, concluded at Seville, in 1729; taken from 2d vol. Chalmers's Treaties, page 222.

“6th. Commissaries shall be nominated, with sufficient powers, on the part of their Britannic and Catholic Majesties, who shall assemble at the court of Spain, within the space of four months after the exchange of the ratifications of the present treaty, or sooner if it can be done, to examine and decide, what concerns the ships and effects taken at sea on either side, to the times specified in the preceding article. The said commissaries shall likewise examine and decide, according to the treaties, the respective pretensions which relate to the abuses that are supposed to have been committed in commerce, as well in the Indies as in Europe, and *all the other respective pretensions in America, founded on treaties, whether with respect to the limits, or otherwise.* The said commissaries shall likewise discuss and decide the pretensions which his Catholic Majesty may have, by virtue of the treaty of one thousand seven hundred and twenty-one, for the restitution of the ships taken by the English fleet, in the year one thousand seven hundred and eighteen. And the said commissaries, after having examined, discussed, and decided the above said points and pretensions, shall make a report of their proceedings to their Britannic and Catholic Majesties, who promise that, within the space of six months after the making of the said report, they will cause to be executed punctually and exactly what shall have been so decided by the said commissaries.”

A true copy :

CHARLES LEE.

L No. 3.

Extract from the treaty of peace in 1763; taken from the 3d vol. of Collection of Treaties, page 188.

“20th. In consequence of the restitution stipulated in the preceding article, his Catholic Majesty cedes and guaranties, in full right, to his Britannic Majesty, Florida, Fort St. Augustin, and the bay of Pensacola, as well as all that Spain possessed on the continent of North America, to the east or to the southeast of the river Mississippi; and, in general, everything that depends on the said countries and lands, with the sovereignty, property, possession, and all rights, acquired by treaties or otherwise, which the Catholic king and the crown of Spain have had till now over the said countries, lands, places, and their inhabitants, so that the Catholic king cedes and makes over the whole to the said king and to the crown of Great Britain, and that in the most ample manner and form.”

A true copy :

CHARLES LEE.

L No. 4.

By the King.—A Proclamation.

GEORGE R.

Whereas we have taken into our royal consideration the extensive and valuable acquisitions in America, secured to our crown by the late definite treaty of peace, concluded at Paris the 10th day of February last; and being desirous that all our loving subjects, as well of our kingdoms as of our colonies in America, may avail themselves, with all convenient speed, of the great benefits and advantages which must accrue therefrom to their commerce, manufactures, and navigation; we have thought fit, with the advice of our privy council, to issue this our royal proclamation, hereby to publish and declare to all our loving subjects that we have, with the advice of our said privy council, granted our letters patent under our great seal of Great Britain, to erect within the countries and islands, ceded and confirmed to us by the said treaty, four distinct and separate governments, stiled and called by the names of Quebec, East Florida, West Florida, and Grenada, and limited and bounded as follows, viz:

First, the government of Quebec, bounded on the Labrador coast by the river St. John, and from thence by a line drawn from the head of that river, through the lake St. John, to the south end of the lake Nipissim; from whence the said line, crossing the river St. Lawrence and the lake Champlain in forty-five degrees of north latitude, passes along the high lands which divide the rivers that empty themselves into the said river St. Lawrence from those which fall into the sea; and also along the north coast of the Baye des Chaleurs, and the coast of the Gulf of St. Lawrence to Cape Rosieres, and from thence, crossing the mouth of the river St. Lawrence, by the west end of the island of Anticosti, terminates at the aforesaid river St. John.

Secondly, the government of East Florida, bounded to the westward by the Gulf of Mexico and the Apalachicola river; to the northward, by a line drawn from that part of the said river where the Chattahoochee and Flint rivers meet, to the source of St. Mary's river, and by the course of the said river to the Atlantic ocean, and to the east and south by the Atlantic ocean and the Gulf of Florida, including all islands within six leagues of the seacoast.

Thirdly, the government of West Florida, bounded to the southward by the Gulf of Mexico, including all islands within six leagues of the coast from the river Apalachicola to the lake Pontchartrain; to the westward by the said lake, the lake Maurepas, and the river Mississippi; to the northward, by a line drawn due east from that part of the river Mississippi which lies in thirty-one degrees north latitude, to the river Apalachicola, or Chattahoochee; and to the eastward by the said river.

Fourthly, the government of Grenada, comprehending the island of that name, together with the Grenadines, and the islands of Dominica, St. Vincent, and Tobago.

And to the end that the open and free fishery of our subjects may

be extended to, and carried on upon, the coast of Labrador and the adjacent islands, we have thought fit, with the advice of our said privy council, to put all that coast, from the river St. John to Hudson's straits, together with the islands of Anticosti and Madelaine, and all other smaller islands lying upon the said coast, under the care and inspection of our governor of Newfoundland.

We have also, with the advice of our privy council, thought fit to annex the islands of St. John and Cape Breton, or Isle Royale, with the lesser islands adjacent thereto, to our government of Nova Scotia.

We have also, with the advice of our privy council aforesaid, annexed to our province of Georgia all the lands lying between the rivers Altamaha and St. Mary's.

And whereas it will greatly contribute to the speedy settling our said new governments, that our loving subjects should be informed of our paternal care for the security of the liberties and properties of those who are and shall become inhabitants thereof; we have thought fit to publish and declare, by this our proclamation, that we have, in the letters patent under our great seal of Great Britain by which the said governments are constituted, given express power and direction to our governors of our said colonies respectively that, so soon as the state and circumstances of the said colonies will admit thereof, they shall, with the advice and consent of the members of our council, summon and call general assemblies within the said governments respectively, in such manner and form as is used and directed in those colonies and provinces in America which are under our immediate government; and we have also given power to the said governors, with consent of our said councils and the representatives of the people, so to be summoned as aforesaid, to make, constitute, and ordain laws, statutes, and ordinances for the public peace, welfare, and good government of our said colonies, and of the people and inhabitants thereof, as near as may be, agreeable to the laws of England, and under such regulations and restrictions as are used in other colonies; and in the mean time, and until such assemblies can be called as aforesaid, all persons inhabiting in, or resorting to, our said colonies, may confide in our royal protection for the enjoyment of the benefit of the laws of our realm of England; for which purpose we have given power under our great seal, to the governors of our said colonies respectively, to erect and constitute, with the advice of our said councils, respectively, courts of judicature and public justice within our said colonies for the hearing and determining all causes, as well criminal as civil, according to law and equity, and as near as may be agreeable to the laws of England, with liberty to all persons who may think themselves aggrieved by the sentence of such courts, in all civil cases, to appeal, under the usual limitations and restrictions, to us in our privy council.

We have also thought fit, with the advice of our privy council as aforesaid, to give unto the governors and councils of our said three new colonies upon the continent full power and authority to settle and agree with the inhabitants of our said new colonies, or to any other person who shall resort thereto, for such lands, tenements, and hereditaments, as are now or hereafter shall be in our power to dis-

pose of, and them to grant to any such person or persons, upon such terms, and under such moderate quitrents, services, and acknowledgments, as have been appointed and settled in other colonies, and under such other conditions as shall appear to us to be necessary and expedient for the advantage of the grantees, and the improvement and settlement of our said colonies.

And whereas we are desirous upon all occasions to testify our royal sense and approbation of the conduct and bravery of the officers and soldiers of our armies, and to reward the same, we do hereby command and empower our governors of our said three new colonies, and other our governors of our several provinces on the continent of North America, to grant, without fee or reward, to such reduced officers as have served in North America during the late war, and are actually residing there, and shall personally apply for the same, the following quantities of land, subject, at the expiration of ten years, to the same quitrents as other lands are subject to in the province within which they are granted, as also subject to the same conditions of cultivation and improvements, viz:

To every person having the rank of a field officer, five thousand acres.

To every captain, three thousand acres.

To every subaltern or staff officer, two thousand acres.

To every non-commissioned officer, two hundred acres.

To every private man, fifty acres.

We do likewise authorize and require the governors and commanders-in-chief of all our said colonies upon the continent of North America, to grant the like quantities of land, and upon the same conditions, to such reduced officers of our navy of like rank as served on board our ships of war in North America, at the times of the reduction of Louisburg and Quebec, in the late war, and who shall personally apply to our respective governors for such grants.

And whereas it is just and reasonable, and essential to our interest, and the security of our colonies, that the several nations or tribes of Indians with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories as, not having been ceded to or purchased by us, are reserved to them, or any of them, as their hunting grounds; we do, therefore, with the advice of our privy council, declare it to be our royal will and pleasure, that no governor or commander-in-chief in any of our colonies of Quebec, East Florida, or West Florida, do presume, upon any pretence whatever, to grant warrants of survey or pass any patents for lands beyond the bounds of their respective governments, as described in their commissions; as also that no governor or commander-in-chief of other colonies or plantations in America do presume for the present, and until our further pleasure be known, to grant warrant of survey, or pass patents for any lands beyond the heads or sources of any of the rivers which fall into the Atlantic ocean from the west or northwest, or upon any lands whatever, which, not having been ceded to or purchased by us, as aforesaid, are reserved to the said Indians, or any of them.

And we do further declare it to be our royal will and pleasure, for

the present, as aforesaid, to reserve under our sovereignty, protection, and dominion, for the use of the said Indians, all the land and territories not included within the limits of our said three new governments, or within the limits of the territory granted to the Hudson's Bay Company, as also all the land and territories lying to the westward of the sources of the rivers which fall into the sea from the west and northwest, as aforesaid, and we do hereby strictly forbid, on pain of our displeasure, all our loving subjects from making any purchases or settlements whatever, or taking possession of any of the lands above reserved, without our special leave and license for that purpose first obtained.

And we do further strictly enjoin and require all persons whatever, who have either wilfully or inadvertently seated themselves upon any lands within the countries above described, or upon any other lands which, not having been ceded to or purchased by us, are still reserved to the said Indians, as aforesaid, forthwith to remove themselves from such settlements.

And whereas great frauds and abuses have been committed in the purchasing lands of the Indians, to the great prejudice of our interests, and to the great dissatisfaction of the said Indians; in order, therefore, to prevent such irregularities for the future, and to the end that the Indians may be convinced of our justice and determined resolution to remove all reasonable cause of discontent, we do, with the advice of our privy council, strictly enjoin and require that no private person do presume to make any purchase from the said Indians of any lands reserved to the said Indians within those parts of our colonies where we have thought proper to allow settlement; but that, if at any time any of the said Indians should be inclined to dispose of the said lands, the same shall be purchased only for us, in our name, at some public meeting or assembly of the said Indians, to be held for that purpose by the governor or commander-in-chief of our colony respectively within which they shall lie, and in case they shall lie within the limits of any proprietaries, conformable to such directions and instructions as we or they shall think proper to give for that purpose: and we do, by the advice of our privy council, declare and enjoin that the trade with the said Indians shall be free and open to all our subjects whatever, provided that every person who may incline to trade with the said Indians do take out a license for carrying on such trade from the governor or commander-in-chief of any of our colonies respectively where such person shall reside, and also give security to observe such regulations as we shall at any time think fit, by ourselves or commissaries, to be appointed for this purpose, to direct and appoint, for the benefit of the said trade; and we do hereby authorize, enjoin, and require the governors and commanders-in-chief of all our colonies respectively, as well those under our immediate government as those under the government and direction of proprietaries, to grant such licenses without fee or reward, taking especial care to insert therein a condition that such license shall be void, and the security forfeited, in case the person to whom the same is granted shall refuse or neglect to observe such regulations as we shall think proper to prescribe, as aforesaid.

And we do further expressly enjoin and require all officers whatever, as well military as those employed in the management and direction of Indian affairs within the territories reserved, as aforesaid, for the use of the said Indians, to seize and apprehend all persons whatever, who, standing charged with treason, misprisions of treason, murders, or other felonies or misdemeanors, shall fly from justice and take refuge in the said territory, and to send them, under a proper guard, to the colony where the crime was committed of which they shall stand accused, in order to take their trial for the same.

Given at our court at St. James's the 7th day of October, 1763, in the third year of our reign.

God save the King.

A No. 1.

To the King's Most Excellent Majesty.

May it please your Majesty: In obedience to your Majesty's commands, signified to us by his grace the Duke of Newcastle's letter of the 9th of the last month, directing us to lay before your Majesty a state of the possessions of your Majesty and your subjects in America which are disputed by the King of Spain, particularly those of Fort King George, on the borders of South Carolina; of the island of Providence, and the rest of the Bahama islands; and of the settlement your Majesty's subjects have in the bay of Campeachy; as also the complaints upon which redress has not yet been obtained of injuries done by the Spaniards to your Majesty's subjects in America or trading thither, as the seizing of their ships and effects by the guarda costas, and other depredations and acts of violence and injustice committed on the part of Spain, and the damage sustained thereby; we take leave to represent to your Majesty:

That Carolina was formerly known by the names of Florida and Carolina Florida. This province was first discovered by Sr. Sebastian Cabot, in the year 1497, who, by commission from, and at the expense of King Henry VII, discovered all the coast of America from the 56th to the 28th degrees of northern latitude, about thirty years before any other Europeans had visited the northern continent of America; and it does not appear that ever the Spaniards attempted any discovery of that part of America till 1527, under Pamphilio Narvaez, nor any conquest till 1539, when Ferdinando Soto landed upon Florida, from the Havana, and, wandering over a great part of that country in search of mines, which he could not find, died of grief in May, 1542, and such of his men as were left alive returned again to the Havana, without making any settlement on that continent.

The first grant that we find of this country by your Majesty's royal predecessors was by King Charles I, in the fifth year of his reign, to Sir Robert Heath, his attorney general. In that patent it is called Carolina Florida, and the boundaries fixed for it are from the river

Matheo, in the 30th degree, to the river Passa Magna, in the 36th degree of northern latitude.

We have good reason to believe that possession of this country was taken under the said patent, and large sums of money expended by the proprietor, and those claiming under him, in making settlements there; but whether this grant was afterwards surrendered, or whether the same became vacant and obsolete, by non-user or otherwise, King Charles II made two other grants of the same country, with some small difference in the boundaries, to the lords proprietors of Carolina.

The last of these grants bears date the 30th day of June, in the seventeenth year of King Charles II's reign, and gives to the lords proprietors all that part of North America which lies between the 36th and 29th degrees of northern latitude.

Fort King George, upon the river Altamaha, now claimed by the Spaniards, lies within the bounds of both the above-mentioned grants to Sir Robert Heath and to the lords proprietors, who have made and continued many flourishing settlements in Carolina, whereas it is notoriously known that the Spaniards have never maintained or kept possession of any in those parts except St. Augustine; and your Majesty might, with as much reason, contest their title to the settlement, as they dispute your Majesty's right to Fort King George, which was neither settled by the Spaniards nor any other European nation when your Majesty's troops first took possession of that place whereon that fort was afterwards erected.

This is not the first time that disputes have arisen between the crowns of Great Britain and Spain, concerning their respective dominions in America. But to prevent all contests of this sort in times to come, a treaty was concluded at Madrid, in the year 1670, by the seventh article of which treaty it was expressly agreed between the then Kings of Spain and Great Britain, that the King of Great Britain and his heirs should hold and enjoy forever all those lands and places in any part of America which the said King of Great Britain or his subjects then held or possessed, which treaty is subsequent to the two grants to Sir Robert Heath and the lords proprietors of Carolina, and to the making of several settlements under both the said patents. It is, therefore, matter of surprise that the Spaniards should now pretend a title to a part of a province which they have so long ago given up by the said treaty, which hath been confirmed by many subsequent treaties between the two crowns.

OFFICE FOR TRADE, WHITEHALL, *Sept.* 14, 1795.

I hereby certify that the before written paper is an extract of a representation from the board of trade to the King, copied from the trade entry N, page 347.

GEO. CHALMERS.

[The following intervening papers, accompanying the foregoing report of the Attorney General, are here omitted, being deemed irrelevant, viz: A No. 2, [B]; a surrender of certain territory, dated 25th July, 1729; H No. 1; H No. 2.]

C No. 1.

Report to the Lords of the Committee of Council upon the petition of the Lord Percival, Edward Digby, George Carpenter, Esq., &c., about establishing a charitable colony in South Carolina.

DECEMBER 7, 1730.

To the Right Honorable the Lords of the Committee of his Majesty's most honorable Privy Council:

MY LORDS: Your lordships having been pleased to refer to us the petition of the Right Hon. the Lord Viscount Percival, the Hon. Edward Digby, the Hon. George Carpenter, James Oglethorpe, esq., and several others whose names are thereto subscribed, setting forth that the cities of London and Westminster, and the parts adjacent, do abound with great numbers of indigent persons who are reduced to such necessity as to become burthensome to the public, and who would be willing to seek a livelihood in any of his Majesty's plantations in America, if they were provided with a passage and means of settling there; and humbly proposing to undertake the trouble and charge of transporting all such poor persons and families, provided they may obtain a grant of lands in South Carolina for that purpose, together with such powers as shall enable them to contract with persons inclinable to settle there, and to receive the charitable contributions and benefactions of all such persons as are willing to encourage so good a design: We have considered the several particulars therein contained, and having discoursed with the petitioners thereupon, we have received certain proposals from them relating to the subject matter of their petition; whereupon, we take leave to represent to your lordships—

That, as the petitioners' design appears to us to be a very laudable one in every respect, and may, if happily executed, produce many good effects to the public, we think it may deserve due encouragement, and are humbly of opinion that it may be proper for his Majesty to grant them all reasonable powers for the promoting and carrying on so good a work, and therefore we would propose to your lordships—

That his Majesty may be graciously pleased to incorporate the petitioners, according to the prayer of their petition, as a charitable society by the name of the corporation for establishing charitable colonies in America, with perpetual succession.

That they may be empowered to purchase lands of inheritance in Great Britain, to the value of one thousand pounds per annum, and estates for lives or years, and goods and chattels to any value; and to receive and take by grant, gift, purchase, or otherwise, any lands in

America, with power to make reasonable by-laws, not repugnant to the laws of Great Britain, for the government of their corporation; together with all other clauses usual and necessary for such a corporation; and to give an annual account of all moneys or effects by them received, or expended for the carrying on this charity in the high court of chancery.

And, as a further encouragement to this design, we are of opinion his Majesty may be graciously pleased to grant to the petitioners, and to their successors forever, all that tract of land in his province of South Carolina lying between the rivers Savannah and Altamaha, to be bounded by the most navigable and largest branches of the Savannah, and the most southerly branch of the Altamaha, with the islands in the sea lying opposite to the said land, reserving to his Majesty, his heirs and successors, a quitrent, at the rate of four shillings proclamation money, for every hundred acres contained in the said tract, which shall be leased or granted out by the corporation to their under-tenants, or taken up, settled, or improved by them or their agents, the said quitrent not to commence or be paid till ten years after such leases, settlements, takings up, or improvements respectively.

And that his Majesty may always be duly informed of what quantities of land are granted, taken up, settled, or improved by the said corporation, that a constant register shall be kept by their officers, of all such leases, grants, takings up, settlements, and improvements, and authentic transcripts thereof annually transmitted to his Majesty's auditor of the plantations, or his deputy in South Carolina, and also to his Majesty's land surveyor in that province, reserving to the said surveyor, in his Majesty's behalf, a right of inspecting the lands so leased, granted, taken up, improved or settled, to prevent any abuses with respect to the quitrents hereby intended to be reserved upon such lands.

And whereas it is the desire of the petitioners that the tract of land by them petitioned for, which is at present entirely uninhabited, except by some few Indian families, may be separated from the province of South Carolina, and be made a colony independent thereof with respect to their laws, government; and economy, both civil and military, save only in the command of their militia, which is to remain with his Majesty's governor of South Carolina for the time being, we are humbly of opinion that his Majesty may be graciously pleased to indulge them in this particular likewise, saving always the dominion of the crown, and the dependence which every British colony ought to have upon his Majesty; and for this purpose, we would humbly propose that the corporation may have the liberty, from time to time, to lay before his Majesty lists of all such officers, both civil and military, as shall be thought necessary by them, for the support, conduct, and government of their intended colony, and which are usually appointed by commissions from his Majesty, or from his Majesty's governors in other colonies in America; and that, when his Majesty shall have approved of such officer by his order in council, the corporation may be empowered to give them commissions under their common seal.

And, as it will be necessary that there should be power of making

laws for the government of this colony, we would propose that his Majesty may empower the corporation, from time to time, to prepare laws for that purpose, to be laid before the King, in council, and if not disapproved by his Majesty in thirty days, that they may be sent over, and be in full force until the King shall think fit to signify his disallowance of them.

And as, in process of time, it is to be hoped this colony may prove a flourishing settlement, and thereby become sharers in the trade of South Carolina, it will be necessary that the person who superintends this settlement, although he should not act under the title of governor, should, according to the act of the 7th and 8th of King William, not only be approved of by his Majesty, as has been before proposed, but also take the usual oath to observe the acts of trade and navigation; for which purpose it will be necessary that the usual instructions upon that head, which are given to the governors in America, should likewise be given to him; and that the corporation do give constant accounts of all proceedings to this office, that we may lay the same before his Majesty.

We are, my lords, your lordship's most obedient, and most humble servants,

WESTMORELAND,
P. DOCMINIQUE,
T. PELHAM,
M. BLADEN,
A. CROFT.

WHITEHALL, *December 17, 1730.*

OFFICE FOR TRADE, WHITEHALL,
September 14, 1795.

I hereby certify that the before written paper is a report from the board of trade to the lords of the committee of council for plantation affairs, copied from the South Carolina Entry, B, page 8.

GEO. CHALMERS.

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C No. 2.

A report to the Lords of the Committee of Council, about settling a western boundary to the colony to be established in South Carolina by a charter, for which the Lord Percival and others have petitioned.

WHITEHALL, *December 22, 1731.*

To the Right Honorable the Lords of the Committee of his Majesty's most honorable Privy Council :

MY LORDS: In pursuance of your lordships' order of the 14th of this month, referring to us the following points, viz: the setting a western boundary to the colony to be established in South Carolina, by virtue of a charter petitioned for by the Lord Percival and others,

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and for ascertaining the distance of the islands upon the eastern shore from the continent; as likewise for fixing the number of acres proper to be granted to each person who shall settle there; we have been attended by some of the petitioners, and take leave to represent to your lordships:

That we think the western boundary of this new charter may extend as far as that described in the ancient patents granted by King Charles II to the late lords proprietors of Carolina, whereby that province was allowed to extend westward in a direct line as far as the South seas.

With respect to the islands upon the eastern shore from the continent, we think this new charter may include such as lie opposite to, and within twenty leagues of, the coast between the rivers Savannah and Altamaha, which are not already inhabited or settled by any authority derived from the crown, and, as to the quantity of land to be granted to each person who shall settle within the limits of this charter, we are humbly of opinion that the proprietors should be restrained from granting above five hundred acres to any one person.

We are, my lords, &c.,

P. DOCMINIQUE,
T. PELHAM,
OR. BRIDGEMAN.

OFFICE FOR TRADE, WHITEHALL,
September 14, 1795.

I hereby certify that the before written paper is a report from the board of trade to the lords of the committee of council for plantation affairs. Copied from South Carolina Entry, B, page 23.

GEO. CHALMERS.

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C No. 3.

From the Georgia Charter in 1732.

Know ye, therefore, that we, greatly desiring the happy success of the said corporation, for their further encouragement in accomplishing so excellent a work, have, of our special grace, certain knowledge and mere motion, given and granted, and by these presents for us, our heirs and successors, do give and grant to the said corporation and their successors, under the reservations, limitations, and declarations, hereafter expressed, seven undivided parts (the whole into eight equal parts to be divided) of all of those lands, countries, and territories, situate, lying, and being in that part of South Carolina, in America, which lies from the northern stream of a river there, commonly called the Savannah, all along the seacoast to the southward, unto the most southern stream of a certain other great water or river, called the Altamaha, and westward from the heads of the said rivers, respectively, *in direct lines to the South seas*, and all that space, circuit, and precinct of land lying within the said boundaries, with the islands

in the sea, lying opposite to the eastern coast of the said islands, within twenty leagues of the same, which are not already inhabited or settled by any authority derived from the crown of Great Britain, together with all the soils, grounds, havens, ports, gulfs, and bays, mines, as well as royal mines of gold and silver, as other minerals, precious stones, quarries, woods, rivers, waters, fishings, as well as royal fishings of whale and sturgeon, as other fishings, pearls, commodities, jurisdictions, royalties, franchises, privileges, and pre-eminences, within the said territories, and the precincts thereof, and thereunto, in any sort, belonging or appertaining, and which we, by our letters patent, may or can grant, and in as ample manner and sort as we, or any of our royal progenitors, have hitherto granted to any company, body politic or corporate, or to any adventurer or adventurers, undertaker or undertakers of any discoveries, plantations, or traffic of, in, or into any foreign parts whatsoever, and in as large and ample manner as if the same were herein particularly mentioned and expressed.

OFFICE FOR TRADE, WHITEHALL,
September 14, 1795.

I hereby certify that the before written paper is an extract from the Georgia charter, taken from the printed copy.

GEO. CHALMERS.

C No. 4.

A state of the province of Georgia, attested upon oath in the court of Savannah, November 10, 1740.

The province of Georgia lies from the most northern stream of the river Savannah, (the mouth of which is in the latitude of 32°) along the seacoast, to the most southern stream of the Altamaha, (the mouth of which is $30^{\circ} 30'$) and westward from the heads of the said rivers, respectively, in direct lines to the South seas.

This province was part of South Carolina, but the eastern and southern parts of it inhabited by the Creek Indians, the northern by the Cherokees and Chickasaws; the western by the Choctaws, the Blew-mouths, and other Indian nations to the South sea. The Creek Indians, who always acknowledged the King of England for their sovereign, yet made war with the people of Carolina, to obtain satisfaction for injuries done by their peddling traders. The war was concluded by a peace which obliged the people of Carolina not to settle beyond the river Savannah; and no Englishman was settled within this district, that we know of, when the first colony of Georgia arrived. The country was then all covered with woods. Mr. Oglethorpe agreed with the Indians, and purchased of them the limits mentioned in the treaty.

When the east part of the province of Georgia was taken possession of under the trustees' charter by Mr. Oglethorpe, according to

the limits of the British dominions in America, forts were erected upon the extremities to keep up marks of possession; the strength and materials were of such a nature as the men he had with him could make, and sufficient for defence against any strength that could be brought against them by the neighboring Indians, or Spaniards in Florida.

OFFICE FOR TRADE, WHITEHALL,
September 14, 1795.

I hereby certify that the before written paper is an extract from a state of the province of Georgia, attested upon oath in the court of Savannah, copied from the printed journal of Wm. Stevens, which was published at London, in 1742, vol. 2.

GEO. CHALMERS.

D.

Additional instructions to Robert Johnson, Esq., his Majesty's Captain General and Governor-in-chief in and over his Majesty's province of South Carolina, in America, or to the commander-in-chief of his Majesty's said province, for the time being. Given, &c.

SEPTEMBER 6, 1732.

Whereas application hath been made to us by the humble petition of the trustees for establishing the colony of Georgia, in America, setting forth that the petitioners being incorporated by his Majesty's royal charter, bearing date the 9th day of June last, for settling a regular colony within the bounds of the province of South Carolina, they find it necessary, for carrying on the said service, that notice should be given of the said charter to the governor of the said province, with a signification of our royal pleasure, that all due countenance and encouragement should be given for settling the said colony; and, therefore, most humbly praying that we would be pleased to give such instructions to the governor of the said province as may be proper upon this occasion, and likewise a direction for registering the said charter in the records of the said province, from a copy to be annexed to the said instructions; we have been graciously pleased to condescend to the petitioners' request, and have thought fit, in his Majesty's name, hereby to will and require you to give all due countenance and encouragement for the settling of the said colony of Georgia, by being aiding and assisting to such of his Majesty's subjects as shall come into the said province of South Carolina for that purpose, according to his Majesty's gracious intentions declared in his royal charter aforementioned, a copy whereof is hereunto annexed; which we do, in his Majesty's name, hereby further require you to cause to be forthwith registered and entered upon record, and by the proper officer in his Majesty's said province of South Carolina.

OFFICE FOR TRADE, WHITEHALL,
September 14, 1795.

I hereby certify that the before written paper is a copy of an additional instruction to Robert Johnson, esq., governor of South Carolina, copied from the South Carolina Entry, B.

GEO. CHALMERS.

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E.

This indenture, made the — day of —, in the twenty— year of the reign of our sovereign lord George the Second, by the grace of God of Great Britain, France, and Ireland, king, defender of the faith, &c., and in the year of our Lord Christ one thousand seven hundred and fifty-two, between our said sovereign lord the King's most excellent Majesty, of the one part, and the trustees for establishing the colony of Georgia, in America, of the other part: Whereas his said most excellent Majesty, by his letters patent under the great seal of Great Britain, bearing date at Westminster, the 9th day of June, in the fifth year of his reign, did (amongst divers other matters and things therein contained) for himself, his heirs, and successors, constitute and appoint John Lord Viscount Percival, of his kingdom of Ireland, Edward Digby, George Carpenter, James Oglethorpe, George Heathcote, Thomas Tower, Robert More, Robert Hucks, Roger Holland, William Sloper, Francis Eyles, John Laroche, James Vernon, William Belitha, esquires; Stephen Hales, master of arts; John Burton, bachelor of divinity; Richard Bundy, master of arts; Arthur Bedford, master of arts; Samuel Smith, master of arts; Adam Anderson and Thomas Coram, gentlemen, and such others as should be elected in the manner therein mentioned, to be one body politic and corporate, by the name of the trustees for establishing the colony of Georgia, in America, with perpetual succession, with divers jurisdictions, powers, franchises, and privileges, therein expressed; and did also give and grant to the said corporation and their successors, under the reservations, limitation, and declarations, therein expressed, seven undivided parts (the whole into eight equal parts to be divided) of all those lands, countries and territories, situate, lying, and being in that part of South Carolina, in America, which lies from the most northern stream of a river there commonly called Savannah, all along the sea-coast to the southward unto the most southern stream of a certain other great water or river called the Altamaha, and westward from the heads of the said rivers, respectively, in direct lines to the South seas; and all that space, circuit, and precinct of land, lying within the said boundaries, with the islands in the sea lying opposite to the eastern coast of the said lands, within twenty leagues of the same, which were not then already inhabited or settled by any authority derived from the crown of Great Britain, together with all the soils, grounds, havens, ports, gulfs, and bays, mines, as well royal mines of gold and silver as other minerals, precious stones, quarries, woods, rivers, waters, fishings, as well royal fishings of whale and sturgeon

as other fishings, pearls, commodities, jurisdictions, royalties, franchises, privileges, and preheminences, within the said territories and the precincts thereof, and thereunto in any sort belonging or appertaining, and which his said Majesty, by his letters patent, might or could grant, and in as ample manner and sort as his said Majesty or any of his royal progenitors had then before granted to any company, body politic, or corporate, or to any adventurer or adventurers, undertaker or undertakers, of any discoveries, plantations, or traffic, of, in, or into, any foreign parts whatsoever, and in as large and ample manner as if the same were therein particularly mentioned and expressed; to have, hold, possess, and enjoy, the said seven undivided parts (the whole into eight equal parts to be divided as aforesaid) of all and singular the said lands, countrys, and territories, with all and singular other the premises therein before by the said letters patent granted or mentioned, or intended to be granted to them, the said corporation, and their successors forever, for the better support of the said colony: to be holden of his said Majesty, his heirs and successors, as of his honor of Hampton court, in his county of Middlesex, in fee and common soccage, and not in capite: yielding and paying therefor, to his said Majesty, his heirs and successors, yearly forever, the sum of four shillings for every hundred acres of the said lands which the said corporation should grant, demise, plant, or settle; the said payment not to commence or be made until ten years after such grant, demise, planting, or settling, and to be answered and paid to his said Majesty, his heirs and successors, in such manner, and in such species of money or notes as should be current in payment by proclamation from time to time in his said province of South Carolina: all which lands, countries, territories, and premises, thereby granted or mentioned, or intended to be granted, his said Majesty did, by the said letters patent, make, erect, and create, one independent and separate province, by the name of Georgia; and did, by the same letters patent, ordain, will, and establish, that for and during the term of twenty-one years, to commence from the date of the said letters patent, the said corporation should and might form and prepare laws, statutes, and ordinances, fit and necessary for the government of the said colony, and not repugnant to the laws and statutes of England, and to present the same to his Majesty, his heirs and successors, in their privy council, which being approved, should be from thenceforth in full force: and his said Majesty did, by the said letters patent, will and declare, that after the determination of the said term of twenty-one years, such form of government and method of making laws and ordinances for the better government of the said province of Georgia and the inhabitants thereof, should be established and observed within the same, as his said Majesty, his heirs, or successors, should thereafter ordain and appoint, and should be agreeable to law; and that from and after the determination of the said term, the governor of the said province, and all officers, civil and military, within the same, should from time to time be nominated and appointed by his said Majesty, his heirs and successors. And whereas by an indenture made the 28th day of February, in the year of our Lord one thousand seven hundred and thirty-two, and in the sixth year of his

said Majesty's reign, between the right honorable John Lord Carteret, baron of Hawnes, in the county of Bedford, (now Earl Granville,) of the one part, and the trustees for establishing the colony of Georgia, in America, of the other part, (reciting as therein is recited,) for the considerations therein mentioned, he, the said John Lord Carteret, did give, grant, bargain, and sell, unto the said trustees for establishing the colony of Georgia, in America, and their successors, all that one undivided eighth part of or belonging to the said John Lord Carteret (the whole into eight equal parts to be divided) of and in all and singular the lands, countries, territories, and premises, before mentioned and described in the said in part recited letters patent, with the appurtenances, and all the part and share, estate, right, title, interest, use, trust, possession, property, claim, and demand whatsoever, both in law and equity, of him the said John Lord Carteret, of, in, and to, all and singular the said lands, countries, territories, and premises aforesaid, lying and being within the limits and boundaries in the above recited letters patent mentioned and described, with the appurtenances and every part and parcel thereof, together with all and singular royalties, rights of government, jurisdictions, privileges, prerogative rights, liberties, immunities, and franchises whatsoever, and of what kind soever, within the said territories and premises, to him the said John Lord Carteret belonging, or in any wise appertaining, and the reversion and reversions, remainder or remainders, rents, issues, and profits thereof; to have and to hold all and singular the said one undivided eighth part of all and singular the said lands, countries, and territories, and all and singular other the premises thereby granted, bargained, and sold, or mentioned or intended so to be, and every part and parcel thereof, with all and singular the appurtenances, unto the said trustees for establishing the colony of Georgia, in America, and their successors upon the several trusts, and to and for the several intents and purposes, and subject to the several conditions, limitations, and declarations, in his said present Majesty's said letters patent specified and contained, and to and for no other use, intent, or purpose whatsoever, yielding and paying therefor to the said John Lord Carteret, and his heirs, yearly, forever, the sum of sixpence for the eighth part of every one hundred acres of the said lands, which the said corporation should grant, demise, plant, or settle; the said payment not to commence or be made until ten years after such grant, demise, planting, or settling, and to be answered and paid unto the said John Lord Carteret, and his heirs, and in such manner and in such species of money or notes as should be current, in payment by proclamation from time to time, in the said province of South Carolina, as in and by the said recited letters patent and indenture (relation being thereunto respectively had) amongst diverse other matters and things therein contained, may more fully and at large appear. And whereas the said trustees have, from their consideration of the present state and condition of the said province, and to the end that proper means may be provided for putting the government thereof on a more sure foundation, proposed and agreed to make an absolute surrender and grant of the said province, and all the lands, territories, powers, and jurisdictions, to his said Majesty, in the man-

ner hereinafter mentioned, which his said Majesty has been graciously pleased, by and with the advice of his privy council, to accept. Now this indenture witnesseth, that the said trustees for establishing the colony of Georgia, in America, for themselves and their successors, have, for the considerations and motives aforesaid, and for divers other good considerations them thereunto moving, granted, surrendered, and yielded up, and by these presents do, for themselves and their successors, grant, surrender, and yield up, unto his said most excellent Majesty, his heirs, and successors, the said recited letters patent and their said corporation, and all right, title, and authority, to be or continue a corporate body, and all the powers of government, and all other powers, jurisdictions, franchises, preheminences, and privileges, therein and thereby granted or conveyed to them, and have granted, and do hereby grant, unto his said Majesty, his heirs, and successors, all the said lands, countries, territories, and premises, as well the said one-eighth part thereof granted, meant, or intended to be granted, by the said John Lord Carteret, to them as aforesaid, as also the said seven-eighth parts thereof, granted, meant, or intended to be granted, as aforesaid, in and by his said Majesty's letters patent or charter above recited, together with all the soils, grounds, havens, ports, gulphs, and bays, mines, as well royal mines of gold and silver as other minerals, precious stones, quarries, woods, rivers, waters, fishings, as well royal fishings of whale and sturgeon as other fishings, pearls, commodities, jurisdictions, royalties, franchises, privileges, and preheminences, within the said territories and the precincts thereof, and thereunto in any sort belonging or appertaining, and all other the premises, and all rents, reversions, remainders, and other profits, reserved, due, or payable, or which may happen upon, or by virtue of, any demise or grant heretofore made of the premises, or any part thereof, and all their estate, right, title, interest, claim, or demand whatsoever, of, in, or to, the said premises, and every part thereof; to have and to hold all and singular the premises to his said Majesty, his heirs and successors, to the use of his said Majesty, his heirs and successors, subject, nevertheless, and without prejudice, to all such grants, leases, contracts, estates, and interests, in law or equity, as have been heretofore lawfully made or granted by the said trustees for establishing the colony of Georgia, in America, or by any acting in authority under them in America, and which are now subsisting according to the said letters patent, which said surrender and grant his said most excellent Majesty hath accepted, and by these presents, for himself, his heirs and successors, doth accept. In witness whereof, to one part of this indenture remaining with the trustees for establishing the colony of Georgia, in America, his said most excellent Majesty has caused his great seal to be affixed, and to the other part thereof, remaining with his said Majesty, the said trustees, with the privy and by direction of the common council of the said corporation, have caused their common seal to be affixed, the day and year above mentioned. Witness, &c.

OFFICE FOR TRADE, WHITEHALL,
September 14, 1795.

I hereby certify that the before written paper is a copy of the surrender of the trustees of Georgia of their rights under the Georgia charter, copied from the Georgia bundle, A, No. 3.

GEO. CHALMERS.

C No. 5.

AUGUST 6, 1754.

George the Second, by the grace of God of Great Britain, France, and Ireland, King, Defender of the Faith, &c., to our trusty and well beloved John Reynolds, esq., greeting: We, reposing especial trust and confidence in the prudence, courage, and loyalty of you, the said John Reynolds, of our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint, and by these presents do constitute and appoint you, the said John Reynolds, to be our captain general and governor-in-chief, in and over our colony of Georgia, in America, lying from the most northern stream of a river there commonly called Savannah, all along the seacoast to the southward unto the most southern stream of a certain other great water or river called the Altamaha, and westward from the heads of the said rivers, respectively, in straight lines to the South seas, and of all that space, circuit, and precinct of lands lying within the said boundaries, with the islands in the sea lying opposite to the eastern coast of the said lands, within twenty leagues of the same.

OFFICE FOR TRADE, WHITEHALL,
September 14, 1795.

I hereby certify that the before written paper is an extract from the commission to Governor Reynolds, copied from the Georgia Entry, A, page 68.

GEORGE CHALMERS.

F No. 1.

Extract of a letter from the Board of Trade to Governor Ellis.

APRIL 21, 1758.

The settlement of Gray and his adherents, to the southward of the Altamaha, and their forming themselves into a civil community without the license, and in defiance of the authority of the crown, appears to us to be a matter of a very extraordinary nature, and of a very dangerous tendency and operation, not only as it is subversive of all legal order and government, but as it lays the foundation of a dispute with the crown of Spain upon questions of territorial claims, which,

at all times, but especially in the present situation of this country, it was to be wished could be avoided. The preventing this man, by proper arguments and persuasions, from putting himself under the protection of the Spanish government, was certainly a very proper and prudent measure; but we cannot approve your having given him a license to settle at the river St. Mary's, and trade with the Indians there, not only as that place (being greatly to the southward of the Altamaha) is not within your jurisdiction, but as it may be considered by the Spanish governor of St. Augustine as an open declaration of the right of the crown of Great Britain to those lands, and also as it seems to be a measure which counteracts every other prudent step you appear to have taken to remove the jealousies and suspicions he had entertained of your having secretly encouraged and supported the hostilities which the Creek Indians had committed in the settlements under his protection; for whatever other motives the Indians may have had for attacking the Spaniards, there is great ground to suspect that Gray may have had his views in instigating them to it.

The papers relative to this extraordinary proceeding of Mr. Gray and his adherents, which we have received from yourself and Governor Lyttleton, have been laid before his Majesty, and though we cannot yet inform you what steps his Majesty may direct to be taken upon it, yet we thought it proper that you should not remain ignorant of our sentiments with respect to your having given a license to Gray to settle at the river St. Mary's, which appeared to us inconsistent with the great prudence and discretion with which you seem to have acted in every other circumstance of this transaction.

OFFICE FOR TRADE, WHITEHALL,
September 24, 1795.

I hereby certify that the before-written paper is an extract of a letter from the board of trade to Governor Ellis, copied from the Georgia Entry, B, page 33.

GEO. CHALMERS.

F No. 2.

A letter to the Right Honorable William Pitt, one of his Majesty's Principal Secretaries of State.

WHITEHALL, March 1, 1758.

SIR: We have lately received several letters and papers from William Henry Lyttleton, esq., his Majesty's governor of South Carolina, and from Henry Ellis, esq., lieutenant governor of Georgia, giving an account of a settlement which certain of his Majesty's subjects, without any license or authority from his Majesty or any acting under his authority, have made to the southward of the river Altamaha, which is the reputed southern boundary of the province of Georgia, and acquainting us with the conduct of the Spanish governor at

St. Augustine upon this occasion, and with their own proceedings with respect to the said settlers.

This extraordinary transaction appears to us to be of the greatest importance, not only as it is an open defiance of his Majesty's lawful authority, and may, by means of the influence which these people are represented to have with the neighboring Indians, be of very dangerous consequence to the colonies of Georgia and South Carolina, but also as it may disturb that peace and friendship which at present so happily subsist between his Majesty and the King of Spain; no limits having, as we apprehend, ever been finally settled between the two crowns in this part of America. We, therefore, think it our duty to transmit to you the enclosed extracts and copies of the said letters and papers, which contain all the information we have received upon this subject, and to desire that you will be pleased to lay them before his Majesty for his Majesty's directions thereupon.

We are, sir, your most obedient and most humble servants,
 DUNK. HALIFAX,
 JAMES OSWALD,
 T. PELHAM,
 W. G. HAMILTON,
 WM. SLOPER.

OFFICE FOR TRADE, WHITEHALL,
 September 25, 1795.

I hereby certify that the before-written paper is a copy of a letter from the board of trade to Mr. Secretary Pitt, copied from the South Carolina Entry, A, page 335.

GEO. CHALMERS.

F No. 3.

Extract of a letter from William Henry Lyttleton, Esq., governor of South Carolina, dated

APRIL 21, 1758.

The settlement of Gray and his adherents to the southward of the Altamaha, and their forming themselves into a civil community, under the regulations of government, without the license, and in defiance of the authority of the crown, appears to us to be a matter of a very extraordinary nature, and of a very dangerous tendency and operation, not only as it is subversive of all legal order and government, but as it may lay the foundation of a dispute with the crown of Spain upon points of territorial claim, which at all times, but especially in the present situation of this country, it was to be wished could be avoided. As the matter appeared to us in this light, we thought it our duty to lay all the papers which we have received from you, as well as those received from Mr. Ellis, upon this subject, before his Majesty for his directions thereupon, and we have, in consequence

thereof, received his Majesty's commands to report our opinion what orders it may be most advisable to give for effectually preventing the bad consequences to be apprehended from so irregular a proceeding.

OFFICE FOR TRADE, WHITEHALL,
September 24, 1795.

I hereby certify that the above written paper is an extract of a letter from the board of trade to Governor Lyttleton, copied from the South Carolina Entry, D, page 242.

GEO. CHALMERS.

F No. 4.

SAVANNAH, IN GEORGIA, *October 17, 1761.*

MY LORDS: On the 1st inst., I had the honor to receive your lordships' commands, of the 28th of April, requiring me, from time to time, to give your lordships frequent and very full information of the state and condition of this province, as well with respect to the administration of government and justice, as to the trade and commerce thereof; also, regularly and punctually to transmit the several papers required by his Majesty's instructions: all which I shall most carefully and diligently observe. I found the journals a little backward when I came here, but have given strict orders that they be immediately brought up, and shall take care that they are kept up for the future. I have already sent two copies of the bills passed on the 9th of June last. Also, the minutes of the council, as an upper house, and of the assembly, to that time.

Your lordships were likewise pleased to send me a set of queries for my speedy answer thereto, which I have now under consideration, and shall transmit my answer as speedily as the nature of the inquiry will admit of. I think it my duty to acquaint your lordships that it has very lately come to my knowledge that a set of people who, some years ago, settled themselves to the southward of the river Altamaha, at a place by them called New Hanover, and who were, in 1759, by his Majesty's command and in his name, ordered to remove from thence, did only make a show or appearance of so doing, and immediately returned back to their settlements, where they have continued ever since, and yet are. By the best information I can get, these people, in the whole, amount to between seventy and eighty men, and are a mixture of runagates from the two Carolinas, Virginia, &c., &c. They are not settled together, but scattered about the country, and on lands at present not within my jurisdiction or authority. But I must beg leave to observe, that, notwithstanding this nominal boundary by the King's charter to the trustees of the southernmost stream of the Altamaha, yet General Oglethorpe extended his settlements southward without any regard to that boundary, and many plantations were settled far beyond the Altamaha, and marks of possession held, and the lands claimed quite to St. Juan's river. And there has been, and to this day is, by his late Majesty's order, a serjeant's guard kept

at Fort William, near the south end of Cumberland island, by a detachment from his Majesty's independent companies in South Carolina, not under my direction or authority, but of the governor of South Carolina.

The inlet from the seat at the south end of this island is called Amelia, and is at the mouth of the river St. Mary's, I believe fifty miles further south than where the New Hanover people are settled. I have acquainted Mr. Secretary Pitt with this matter, and also wrote to the governor of Carolina on the subject, as I think it my duty to do to your lordships; and have the honor to be, with the highest esteem, my lords,

Your lordships' most obliged and obedient servant,
JA. WRIGHT.

OFFICE FOR TRADE, WHITEHALL,
September 25, 1795.

I hereby certify that the before written paper is a copy of a letter from Governor Wright to the board of trade, copied from Georgia bundle E, No. 40.

GEO. CHALMERS.

G No. 1.

To Thomas Boone, Esq., his Majesty's Captain General and Governor-in-chief in and over the province of South Carolina, and to all others to whom these presents shall come or may concern:

The protestation and caveat of James Wright, esq., his Majesty's captain general and governor-in-chief in and over the province of Georgia, against any warrants being issued or attempts made to survey any lands to the southward of the river Altamaha, by pretence or color of any right or authority from or under the said Thomas Boone, as governor of South Carolina, or from or under the said Thomas Boone and his Majesty's council in that province, and against any grant or grants being passed or signed by the said Thomas Boone, for any of the lands aforesaid, to any person or persons whatsoever, until his Majesty's royal will and pleasure shall be known concerning the same.

Whereas his late most gracious Majesty, by letter from one of his principal secretaries of state, dated the 10th day of June, 1758, was pleased to signify his commands to the governor of the province of Georgia that he should immediately give orders, in his Majesty's name, to the inhabitants of a certain settlement to the southward of the river Altamaha, made without his Majesty's license or authority, and called by themselves New Hanover, to remove immediately from thence, and that the governor should take all due care that no settlements whatever be made without leave of his Majesty or by his authority; in the execution of which orders, the governor of Georgia

was directed to act in concert with the governor of Carolina, who had received his Majesty's commands to the same purpose :

And although the reasons which possibly induced his Majesty not to suffer his subjects to settle the aforesaid lands may now be thought not to subsist, because his Catholic Majesty, by the 19th preliminary article of peace, cedes to our most gracious sovereign all that Spain possesses on the continent of North America, to the east or to the southeast of the river Mississippi; yet, as the ratification of the definitive treaty of peace between Great Britain and Spain, if it has taken effect, is not notified, it would be premature in any of his Majesty's governors to proceed as though it actually was notified :

And from the state and light in which these lands have been, for some years past, considered by his Majesty, to attempt to intermeddle therein, until his Majesty's royal will and pleasure be known, and his commands signified thereon, it is conceived, would be highly improper and contrary to his Majesty's intention :

Therefore, for preservation of the rights and claims of the province of Georgia, in and to the premises aforementioned, against any extraordinary or injurious attempts of the said governor and council of South Carolina, for the reasons hereinbefore given, and many others transmitted to Great Britain, to be laid before his Majesty, I, the said James Wright, as governor of the province of Georgia aforesaid, do protest against all or any attempts whatsoever to survey any lands to the southward of the aforesaid river Altamaha, by pretence or color of any authority from or under the governor or the governor and council of South Carolina; and do, by these presents, enter a caveat against any grant or grants being passed or signed by the governor of South Carolina, for any of the lands aforesaid, to any person or persons whatsoever, until his Majesty's royal will and pleasure shall be known concerning the same; and, in the most full and solemn manner, protest and declare against all proceedings whatsoever, that have already or may hereafter be had or done by the said governor and council, in or about the disposal of the lands aforesaid, as expressly contrary to his Majesty's royal intention, and null and void.

And, that no person or persons may plead ignorance of this protestation and caveat, I so request and demand that it may be entered in the book of caveats against grants, usually kept in the secretary's office in the province of South Carolina.

In testimony whereof, I have hereunto set my hand and seal at Savannah, in Georgia, the thirtieth day of March, in the year of our Lord one thousand seven hundred and sixty-three.

JAMES WRIGHT.

By his excellency's command:

JOHN TALLEY, *Dep. Sec'y.*

OFFICE FOR TRADE, WHITEHALL, *September 14, 1795.*

I hereby certify that the before written paper is a copy of Governor Wright's caveat and protest, copied from the Georgia bundle, E, No. 65.

GEORGE CHALMERS.

G. No. 2.

*Letter to Thomas Boone, Esq., governor of South Carolina.*WHITEHALL, *May 30, 1763.*

SIR: A report having prevailed that you had, with the concurrence of the members of his Majesty's councils in South Carolina, issued orders or warrants for surveying large tracts of land in that part of his Majesty's dominions in America which lies to the south of the river Altamaha, in order to pass grants of such lands, as being within your jurisdiction; and the truth of this report having been confirmed by the copy of a protest or caveat of the governor of Georgia against making such surveys and grants, which has been communicated to us by the agent of that province, it is our indispensable duty to avail ourselves of the opportunity, by a vessel now ready to depart for Charleston, of expressing to you our surprise and concern that you should have engaged in a measure of this nature, so inconsistent with and prejudicial to his Majesty's interests and authority.

The making grants of any part of this country is certainly contrary to the spirit and intention of his late Majesty's orders for the removal of Gray and his adherents from the settlement of New Hanover, and must not only embarrass the execution of what general arrangements may be necessary in consequence of the cession of Florida, but will also interfere with those measures it may be reasonably supposed his Majesty will now pursue to extend the government of Georgia, and thereby to remove those obstacles and difficulties which that well regulated colony has so frequently and justly stated to arise out of the narrow limits to which it is confined.

We hope, however, that this letter will reach you time enough to prevent any grants passing in consequence of the surveys; and as to any equitable claims which those persons, in whose favor the surveys have been made, may have, in consequence of the expenses they have been at, such claims must remain for his Majesty's determination upon a consideration of each particular case; but if it shall appear, as it has been suggested, that this measure has been calculated with a view to the particular benefit of those who advised and acted in it, such persons may be assured that any claims on their part will not only be discountenanced, but that, as officers of the crown, their conduct will meet that censure and disapprobation it so justly merits.

We are, sir, your most obedient, humble servants,

SHELBURNE,
EDWARD ELIOT,
JOHN YORKE,
GEORGE RICE.

OFFICE FOR TRADE, WHITEHALL, *September 25, 1795.*

I hereby certify that the before written paper is a copy of a letter from the board of trade to Thomas Boone, esquire, governor of South Carolina, copied from the South Carolina Entry, E.

GEORGE CHALMERS.

G No. 3.

CHARLESTON, S. C., *August 17, 1763.*

MY LORDS: I am excessively concerned to find by your lordships' letter of the 30th of May, which I had the honor to receive yesterday, that any part of my conduct should be deemed by your lordships inconsistent with, and prejudicial to, his Majesty's interest and authority; it is the more afflicting to me, as it has been my invariable study to promote the one and to assert the other. I receive with the utmost deference your lordships' reproof, and though I shall not presume to enter into a justification of what your lordships are pleased to condemn, yet you will, I dare say, forgive me, for stating the reasons which led me to offend so undesignedly, by granting warrants for land to the south of the Altamaha river.

By the second charter granted to the lords proprietors by Charles II, the limits of this province were extended southward as far as the latitude of 29°; no sort of alteration, that I know of, was ever made by the crown, for the grant of Georgia to a corporation was nothing more than a favor conferred upon a number, which his Majesty might have gratified an individual with; the boundaries of this corporation were fixed and ascertained, and neither at this time nor when the King thought proper to take it under his immediate protection, did his Majesty, that ever I heard of, restrain the province of Carolina from exercising jurisdiction beyond the Georgia southern boundary. Some provinces in America are surrounded in a manner by others, and some of the greatest powers of the crown in one province are, by the King's commission, intrusted to governors of others. Besides this, my lords, the King has, and has had for many years, a post to the southward of the Altamaha river, garrisoned by detachments from this province. I am sensible, however, my lords, that admitting the power to be in me to do what I am very sorry to have done, that I had acted wilfully and knowingly against the spirit and intention of his late Majesty's order, I should have been, notwithstanding, highly blameable; but the Secretary of State's letter, for the removal of Gray and his adherents, I never saw; the journals of the council were searched by my orders, and the clerk applied fruitlessly for a copy to Georgia, upon the supposition the one sent to that government might be similar. Your lordships, I dare say, will not impute it to me as a crime, that I treated with disregard an insolent letter from a governor, and a caveat in behalf of a province, which, from its vicinity to the lands in question, in prospect, perhaps, might be interested, but, upon this occasion, had no more right to interfere than the most distant colony, though it had the presumption, in this very caveat, to recite its rights and claims to lands which it is still to receive from his Majesty's mere grace and favor.

But, my lords, if I had thought myself obliged to pay regard to the Georgia caveat, I could have collected from thence nothing, but that certain persons, who had settled at New Hanover without his Majesty's license or authority, were, by the late King's orders, to be removed, and that no settlements were to be made without leave of his Majesty,

or by his authority. It was, my lords, upon a presumption that this authority was vested in me that I exerted it. It could not be exercised by the Georgia governor, for he had not a shadow of right; and the settling without any authority at all was the reason, as I apprehended, of the New Hanover people being dispossessed. If those lands were not granted before, it was owing to the resolution taken here not to give umbrage to the Spaniards; but when war was declared, that reason no longer subsisted, and warrants would then have been issued, could the surveys have been performed with security. The preliminaries gave this security; for I sent a copy to the governor of St. Augustine, as well on this account as to stop the depredations of their privateers. I was not so ignorant as to suppose these lands to be a part of the cessions intended by the preliminaries, though the author of the Georgia caveat seems to be of that opinion; but the post above mentioned, to the southward of the Altamaha, would determine, if nothing else would, to which crown the territory belonged. Before I took this step, my lords, I got all the information I could; I mentioned it more than once in council; I desired their recollection of his Majesty's orders regarding Gray, and all the light it was possible for me to get, intended to place this intention of mine in an advantageous light to the crown, and a beneficial one to the province. The council was unanimous in advising me to issue the warrants, nor have I the least reason to believe that on this or any other occasion they were biased in their counsel by anything but a persuasion of the utility and propriety of the measures proposed or adopted. His Majesty's instructions were rigidly complied with, and every person's right made to appear before the grant passed. Long before your lordship's letter came to my hands, I had stopped issuing any more warrants, and I heartily hope that what has been done will not obstruct any arrangement whatever. If the grants passed by me should be declared void by his Majesty, any projected alterations may have their full force. Should they be confirmed, by the tenor of the grants the lands must be settled immediately, and as immediately will accrue an accession of revenue to the crown, of strength to whatever province his Majesty thinks proper to allot them, and of income in point of yearly taxes; it can be no disadvantage to any country to have foreign settlers when the present ones are not cramped for room, as is the case of Georgia, in proportion to its numbers. But, besides, my lords, by an observation taken, in consequence of my orders, of the mouth of St. Juan's river, there are thirty-eight miles of latitude, and an immense tract of country westward, of which I have not granted a foot, within the limits of our charter. I hope, my lords, after what I have said, that your lordships will rather look upon it as my misfortune than my fault that I have incurred your displeasure. It has been my ambition to deserve the marks of favor which the King has conferred upon me, and it is beyond measure painful to me to know from your lordships that I have not. But, though I do, and shall, most respectfully submit to your lordships' censure of my conduct, yet I rely on your lordships' candor, that no suggestions will have weight against me without proof. If there is any man ignorant

enough of my character, and yet wicked enough to impute an action of mine to a consideration of my interest, I hope, my lords, unless he proves his insinuations, that he will meet from your lordships that discountenance and abhorrence which I should richly deserve were they true. According to the pretensions which his Majesty is pleased to allow, I have a family right to eight or ten thousand acres of land; but neither in my own name, nor in that of any other person, have I ever got an acre. Grants to myself would have, of course, been void (though I am told the doctrine is not admitted) in Georgia, and I am too scrupulous in examining other people's claims, not to have every indirect practice of mine own laid open. I have been governor of this province above two years, with as many, or more, opportunities of benefiting myself than any of my predecessors ever had, had I chose to be as remiss in my duty as I have been strenuous in the practice of it; yet I never received twenty pounds, except from the King, and the lawful and established fees of office; these I have often remitted, and have discharged those of other officers, where poor settlers, applying for lands, have been unable to prosecute their grants. These circumstances, to my own advantage, could only have been extorted from me in vindication of myself, against any malevolence in which I suppose myself comprehended; but I beg your lordships to be persuaded that I would not, upon any account, have granted these lands, could I have supposed that, in the smallest degree, the granting of them was blameable, or that I can be wilfully regardless of my duty to his Majesty, or deference to your lordships.

I have the honor to be, my lords, your lordships' most obedient and most humble servant,

THOMAS BOONE.

The Right Hon. the LORDS OF TRADE, &c.

OFFICE FOR TRADE, WHITEHALL,
September 25, 1795.

I hereby certify that the before written paper is a copy of a letter from Thomas Boone, esq., governor of South Carolina, to the lords of the committee of council for trade, copied from the South Carolina bundle, M, No. 76.

GEO. CHALMERS.

G No. 4.

At a meeting of his Majesty's commissioners for trade and plantations, December 18, 1764, present: Earl of Hillsborough, Mr. Jenyns, Mr. Gascoyne, Mr. Bacon, Mr. Dyson.

The secretary laid before the board an account of lands granted to the southward of the Altamaha river by Governor Boone, and docketed in the auditor general's office.

Their lordships agreed to take the state of these grants into further consideration on Thursday next, and the secretary was ordered to write to Governor Boone to desire his attendance.

DECEMBER 20, 1764.

Their lordships took into further consideration the state of the grants of land made by the governor of South Carolina, in the territory to the south of the river Altamaha, and Governor Boone attending, was desired to inform the board of the foundation of those grants, and how the same are reconcilable to his instructions; whereupon, he referred to a letter from himself to the board, dated August 17, 1763, containing a full state of this matter, which letter was read; and Mr. Boone having been asked some further questions, in respect to the survey of the lands, withdrew.

OFFICE FOR TRADE, WHITEHALL,
September 25, 1795.

I hereby certify that the above written paper is a copy of the proceedings of the board of trade, copied from their journal, 1764, page 509.

GEO. CHALMERS.

G No. 5.

SAVANNAH, IN GEORGIA,
April 20, 1763.

MY LORDS: A matter which I conceive to be a very extraordinary procedure of the governor of South Carolina, is the occasion of my troubling your lordships at this time. I was informed that Mr. Boone had come to a resolution to give grants for all the lands to the southward of the river Altamaha, towards St. Augustine, without limits; and although, my lords, I received this account in such a manner as to admit of little or no doubt of the truth of it, yet, as Mr. Boone had not thought proper to take any the least notice of it to me, and considering his Majesty's commands signified to the governors of Georgia and Carolina, on the 10th of June, 1758, relative to these very lands, and for a number of other very obvious reasons, I could not think it possible for Mr. Boone to take such a step, and therefore desired Mr. Gray Elliott, one of his Majesty's council for this province, to go to Charleston, to Mr. Boone, on the occasion, and, in case it should prove true, I furnished him with a protest and caveat to enter against their proceedings, a copy whereof your lordships have here enclosed; and, on Mr. Elliott's return, it appeared that such a resolution was come to, and that on Tuesday, the 5th instant, warrants were actually issued for upwards of three hundred and forty-three thousand acres of lands to several persons, inhabitants of South Carolina, in the whole not exceeding the amount of two hundred persons. The reception my protest and caveat met with from Governor Boone will appear to your lordships from Mr. Elliott's attestation underneath it, and he could not get copies of the several orders for warrants, by which the particular quantities of land, and persons' names, would appear; but if the officers from whom these are to be had are not forbid to

give them, (as the secretary was to receive the protest,) I shall very speedily transmit an exact account to your lordships. But Mr. Elliott came to the knowledge of part, viz: that thirty-five thousand acres of land were ordered to four persons; sixteen thousand acres to one Howarth, on account of the estate of James Michie, deceased; eight thousand to Mr. Thomas Smith, sen.; seven thousand five hundred acres to Stephen Bull, and three thousand five hundred acres to Mr. James Parsons; and that several other very large tracts had been ordered for other persons.

Your lordships will very well remember the frequent application from this province for an extension of our south boundary—a thing, my lords, absolutely necessary for making this country opulent and considerable; and your lordships also well remember the reasons that I conceive prevented its being done, and which now, by the happy peace, do not subsist. And, my lords, when I was in daily expectation of receiving such orders from his Majesty as would effectually make the province considerable, and put it in a condition of being useful to the mother country, to receive almost its death wound or destruction by (what with great submission I conceive to be) an extraordinary stretch of power by the governor of Carolina, has occasioned a general discontent and dejection amongst the people. The pretence, my lords, for this measure, is the charter to the proprietors of Carolina, which extends to the latitude of 29° inclusive, and which, my lords, takes in St. Augustine, Pensacola, and Mobile, and, therefore, Mr. Boone may just as well pretend a right to grant those places, as any spot of land to the southward of the river Altamaha; indeed, the persons who have warrants, may actually run out St. Augustine; for Mr. Elliott, who saw and read some of the warrants, says they are in general words, without limitation or restriction, but to take up and survey *lands to the southward of the river Altamaha*; and it is humbly conceived that this charter, being purchased by the crown from the lords proprietors, could no longer continue to operate with respect to his Majesty, and who alone, from the time of that purchase, had, and still has, the right of declaring what shall or shall not be his province of Carolina, without any regard to the limits mentioned in the charter to the proprietors.

I say, my lords, this procedure has struck a general damp and dispirited the whole province. I have called this, my lords, the death or destruction of the province; for an extension of limits to the southward, if the lands were properly parcelled out and granted to people who would really cultivate and improve them, would draw some thousand inhabitants here; whereas, by this step taken in Carolina, great part of the lands, my lords, are ordered in very large tracts to some wealthy settlers in Carolina, who probably will never see it themselves, and some of whom, it is said, have already more lands in that province than they can cultivate or improve. This, my lords, is pretty well known on this side of the water; and who, having a great number of slaves, claim what they call their family right, that is, fifty acres of land for each slave, although it is highly probable that their ancestors have already had land for those very slaves, and it is well understood here that many of those persons, espe-

cially those who have the largest tracts, have no intention to remove there or settle them; but probably some years hence, when it begins to be valuable, will sell it, and, in the mean time, those vast tracts of land are to lie waste and unimproved, as very great bodies yet do in Carolina; and if they should do anything at all with these lands, it is expected it will only be by sending an overseer and a few negroes just to make a trifling settlement, seemingly to comply with the terms of the grant, or by way of taking possession. What I mention here, my lords, is not barely imaginary, but proceeds from a number of instances of the like kind in Carolina, and facts which are well known to everybody in these parts, and what, my lords, it is pretty certain will be the consequence of these proceedings in Carolina if they are suffered to take effect. I speak with respect to the large tracts; for possibly some of those who have small tracts may remove and settle them. Your lordships will be pleased to observe that no less than thirty-five thousand acres are ordered to four persons, so that your lordships see that if this procedure is not set aside by his Majesty, it will be the ruin of this province; for, my lords, thirty-five thousand acres of land, at four hundred acres to each family, would accommodate eighty-seven good substantial settlers, who would each of them bring a family of white people into the province, besides, perhaps, each as many if not more negroes than the person in Carolina who holds eight thousand acres; and as many of the grants to new settlers would not exceed two hundred and two hundred and fifty acres, your lordships see it might very probably accommodate one hundred and twenty or one hundred and thirty good settlers, instead of being held uncultivated and waste by four Carolina planters; and, my lords, this quantity of land was all ordered in one day, the first day on about two hundred petitions; and I am informed that the surveyor general of Carolina, who is one of the council, has said that it is expected double that number will apply the next land day, or in a short time. And, my lords, give me leave to mention another reason: your lordships will remember an intention, some time ago, to remove the seat of government from Savannah further south; and although there might not be occasion for that whilst the province remained confined to the river Altamaha, yet, with submission, my lords, it may be a very proper measure when his Majesty shall be pleased to extend the province; and the best navigation and most convenient place in every respect for trade and the seat of government, is just where these great tracts of land are surveying for the people of Carolina. How then, my lords, is this land to be come at, and what town can ever be settled with advantage in this part of the world, or supported, when three hundred and forty-three thousand acres of land, all around, is held by so few persons, and it is highly probable waste and unimproved, and thirty-five thousand acres of it by only four persons? and this, as I have observed, is only the quantity already ordered, and as much more will be very speedily; possibly by the time this reaches your lordships, a million of acres may be granted to persons now settled in Carolina, and the greatest part of which, it is expected, will continue to live there. Your lordships will be pleased to consider how greatly this will affect his Majesty's service in the settlement of

this frontier province; and how much it must be weakened and impeded by these vast tracts being held by such a handful of people who live in another province. And this further ill effect it will have, for nobody will think of coming this way when they hear that the Carolinians have engrossed all the lands. And how contrary, my lords, does this step seem to be to his Majesty's royal intention. And your lordships will be pleased to observe, that those who have these very great tracts, or any of the persons who are to have these lands, have not one negro or one shilling of property on this side of Savannah river. I have had accounts, my lords, of many hundred families, I may say some thousand people, who were ready to come into this province (chiefly from North Carolina) as soon as it was extended, and I should be authorized to grant these very lands, all which will be prevented if these proceedings are suffered to take effect. I must beg leave, my lords, to mention another objection against these grants, which seems an equitable one on the side of this province: Mr. Elliott informs me, that one Mr. Young, who has some negroes in Carolina, and also some in Georgia, petitioned for a tract of land for all his negroes; and on his saying that part of these negroes were in Georgia, he was refused lands for them, and told he should only have lands for such negroes as he had in Carolina, so that your lordships see the inhabitants of this province are totally excluded. This, my lords, seems to us here to be very unequitable, that the people of this province, who have borne the brunt and fatigue of settling a new colony, and who have encountered and struggled with innumerable difficulties and hardships, besides dangers from the savages, and during the war from the neighboring French and Spaniards, and who, by great industry and labor, have acquired a few negroes, and are in a capacity of settling out their children, or making other settlements for themselves—I say, my lords, it seems to them hard and unequitable that they are not to have an inch of these lands, but that the whole, or most of the best, is to be swallowed up by strangers who never contributed one farthing, or one hour's fatigue or hardship, towards the support of the province. And for these reasons, and many more that must occur, your lordships will see why I call it the death-wound or destruction of Georgia. I have never yet, my lords, granted any lands but to people who actually undertook to settle and improve them forthwith, and only in moderate quantities; for, my lords, it is the number of inhabitants we want here; and although these lands may be annexed to Georgia, yet, if they are engrossed and held by the Carolinians in the manner I have mentioned, it will nevertheless ruin the province; for, my lords, as I have already said, although some of those who have small tracts may probably remove there and settle them, yet those who have large tracts, it is pretty certain, have no such intention, and never will; and your lordships will observe, that no less than three hundred and forty-three thousand acres are ordered to less than two hundred persons, and which quantity alone would accommodate a thousand very good families and settlers, and such as are the sinews, wealth, and strength of an infant colony.

It might be impertinent in me to trouble your lordships any further on this subject, the consequence of which your lordships will see with

so much more perspicuity and extension than I can. On the one hand, my lords, with great deference, it seems to be a considerable step towards the ruin of a very flourishing province; on the other, the advantage rather of a private nature; and this done (it is humbly conceived) contrary to his Majesty's royal intention, and at a time when, even in Charleston, it is the general opinion, and they daily expect to hear that those lands are annexed to this province. All which is submitted to your lordships' consideration.

As his Majesty's commands relative to the settlers on these lands was signified in June, 1758, by the secretary of state, therefore, I have now wrote to the secretary of state to the same purpose as I have done to your lordships, in which I hope I have not acted improperly, as my instructions are to correspond with the secretary of state on all matters that come from that office, and as I conceive their proceedings in Carolina are in some measure contrary to those orders.

On the 7th instant I assented to twelve bills and an ordinance, which I have ordered to be copied, and as soon as they are ready, shall transmit them to your lordships, with my observations on them.

I have the pleasure to acquaint your lordships that there is a very good prospect of a fine crop of silk this season.

And have the honor to be, with the utmost respect, my lords, &c.,
J. A. WRIGHT.

OFFICE FOR TRADE, WHITEHALL,
September 25, 1795.

I hereby certify that the before written paper is a copy of a letter from Governor Wright to the board of trade, copied from the Georgia bundle, E, No. 66.

GEO. CHALMERS.

G No. 6.

SAVANNAH, IN GEORGIA, *May 6, 1763.*

MY LORDS: On the 20th of April I did myself the honor of writing to your lordships on the subject of Governor Boone's granting warrants to survey the lands to the southward of the river Altamaha, in which letter, my lords, I mentioned, on the information of Mr. Gray Elliott, several large quantities of lands that had been ordered to some particular persons; amongst others, that sixteen thousand acres had been ordered to one Howarth, on account of the estate of James Michie, deceased; but that I should transmit to your lordships a particular account if I could procure it from the offices; and by a letter I have just received from Charleston, I find that the person I directed to apply has not yet been able to get an authentic account of the lands ordered, and to what persons. I am informed that twenty-seven thousand two hundred and fifty acres were ordered to eleven persons, viz: to one Donnam, on account of Colonel Bee's estate, five thousand acres; to Lord William Campbell two thousand; to Charles Ogilvie, now in England, two thousand; to Henry Middleton three thousand;

to one Stephens three thousand; to Henry Laurence three thousand; to William Hopton two thousand; to William Guering two thousand; and to David John Deas and one Vanderhout together, five thousand two hundred and fifty acres. But, my lords, until I can get proper certificates from the officers, it will be impossible for me to come at the exact truth and knowledge in this case. The same information that I received of those tracts being ordered, mentions that Mr. Gray Elliott was mistaken in the accounts he gave me, that sixteen thousand acres were ordered to Mr. Howarth, who, it is said, had only one thousand six hundred acres; but all the other parcels mentioned I believe will appear to be right—at least they are so, from the best information I am as yet able to come at. What I wrote your lordships relative to the lands ordered to Mr. Howarth was on Mr. Elliott's information, whom I sent to Charleston on the occasion, and who still says that it was asserted to be so when he was there; but as I have heard from other hands that he is mistaken, and that Howarth has only one thousand six hundred acres, and as my duty and sole intention is only to state facts according to the best information I can get, and it would give me the greatest uneasiness to misrepresent any one circumstance, therefore take this first opportunity to rectify that matter, which does not now appear to be as Mr. Elliott was informed, and represented to me.

On Tuesday last a great many more warrants were ordered to other persons for lands to the southward of the river Altamaha, to the amount of about one hundred and sixty thousand acres, as appears by their gazette; but it is not in my power to give your lordships any further particulars. I shall only add that those large grants will soon reach St. Augustine. Some, it is said, have already gone far up St. Juan's lake or river, and the Creek Indians are greatly alarmed at seeing a number of armed men surveying those lands and marking trees. They have sent runners all over the nation to assemble them together; and what the consequence may be, I cannot yet say, but am apprehensive it may involve us in difficulties; for, my lords, there is great difference between extending our settlements gradually and easily, and an appearance as though the whole country was to be swallowed up at once, and that by armed people; and this, the Indians say, is a confirmation of what the French have told them, that we should take all their lands from them, and drive them back and extirpate them in time.

I have the honor to be, &c.,

JAMES WRIGHT.

The Right Honorable LORDS OF TRADE.

OFFICE FOR TRADE, WHITEHALL,
September, 1795.

I hereby certify that the before written paper is a copy of a letter from Governor Wright to the board of trade, copied from the Georgia bundle, E, No. 69.

GEO. CHALMERS.

K No. 1.

JUNE 8, 1763.

Florida, and that part of Louisiana to the eastward of the Mississippi, both which tracts are ceded to your Majesty by the late treaty, may be compared to Canada, in respect to extent of territory and the number of Indian tribes with which they may have immediate communication; but in other respects they seem entirely different. The number of settled inhabitants, either French or Spaniards, we apprehend, has never been considerable, and there is little probability, from the facility of their removal, that any of them will remain after the cessions are completed, though we are of opinion, as well from this circumstance of their paucity, as with a view to the immediate settlement of this country, that every expedient should be used to induce as many to remain as can be prevailed upon. The produce of Canada, with its trade; the navigation of the river St. Lawrence, with its communication to the great lakes of North America, are, from authentic information in these particulars, tolerably well understood; but we are sorry it is not in our power, either from any materials in our office, or from any other to be depended upon, to give your Majesty that certain information we could wish, either in regard to the coast, harbors and rivers of Florida, or as to the variety of produce which there is the greatest probability may be raised in that extended country. We shall, therefore, content ourselves with suggesting, at present, that whenever a government is established in this country, instructions should be given for surveying, with all possible accuracy, as well the seacoast and places fit for harbors, as the internal country and rivers, particularly of that part which lies between the great mountains and the Mississippi, of which there are not extant any charts or accounts on which we can depend, for which purpose it will be necessary that a proper number of able and skilful surveyors be appointed.

The great tract of seacoast from St. Augustine round Cape Florida, along the Gulf of Mexico, to the mouth of the Mississippi, makes it, we apprehend, indispensably necessary that this country should be divided into two distinct governments, and, for the present, the chief residence of the governor of the one should be at St. Augustine, with orders to give particular attention to Cape Florida, (as that cape commands the whole navigation from the bay of Mexico;) the residence of the other at Pensacola, with particular instructions regarding the Mississippi, the free navigation of which ought, we apprehend, to be most accurately understood, not only in respect to that river being the future boundary between your Majesty's dominions and those of the French, but as this river, by its communication with the Ohio, the Illinois, &c., is of the utmost importance to all connexion with the Indian nations, and the only outlet to the great internal trade which may be carried on amongst them.

If it shall be thought proper to divide Florida into two distinct governments, they may be distinguished by the names of East and West Florida, and may be bounded as follows:

East Florida to be bounded by the coast of the Atlantic sea from Cape Florida to the north entrance of St. John's river on the east, by a line drawn due west from the north entrance of St. John's river to the Chattahoochee or Flint rivers on the north; and on the west and southwest by that part of the Gulf of Mexico which extends from Cape Florida to the mouth of the Chattahoochee river, and from thence following the course of the said rivers to where the north line falls in.

West Florida to comprehend all the seacoast of the Gulf of Mexico extending west from the Chattahoochee river, or Flint river, towards the Mississippi, as far as your Majesty's territories extend, and stretching up into the land as far as the 31° of north latitude, which, we humbly apprehend, is as far north as the settlements can be carried without interfering with lands claimed or occupied by the Indians.

By this plan of division, which is formed with a view to make the two colonies as distinct as possible, by establishing a natural line of separation between them, and by giving to each a due proportion of the natural advantages and conveniences of commerce and navigation, a large tract of land lying between the north boundary line of East Florida and the river Altamaha, the present south boundary of Georgia, which has hitherto been unoccupied, as to any permanent settlement, either by your Majesty's subjects or those of Spain, remains to be put under some proper establishment; and we think it cannot, in any respect, be better disposed of than by putting it under the jurisdiction and within the government of Georgia. By this means the principal obstacles which have hitherto impeded the progress of that advantageous and well-regulated colony will be removed, and its settlements extended, to the great benefit and advantage of the mother country.

OFFICE FOR TRADE, WHITEHALL,
September 25, 1795.

I hereby certify that the before written paper is an extract of a representation of the board of trade, with regard to the peace of 1763, copied from Plantations General, M, page 248.

GEO. CHALMERS.

K No. 2.

OCTOBER 4, 1763.

GEORGE.

We, reposing especial trust and confidence in the prudence, courage, and loyalty of you, the said James Grant, of our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint you, the said James Grant, to be our captain general and governor-in-chief in and over our province of East Florida, in America, bounded to the westward by the Gulf of Mexico and the Apalachicola river; to the northward by a line drawn from that part of the said river where the Chattahoochee and Flint rivers meet to the source of St. Mary's river, and by the course of the said river to the

Atlantic ocean; and to the eastward and southward by the Atlantic ocean and the Gulf of Florida, including all islands within six leagues of the seacoast.

OFFICE FOR TRADE, WHITEHALL,
September 25, 1795.

I hereby certify that the above written paper is an extract from the commission of Governor Grant, in and over the province of East Florida, copied from the East Florida Entry, A, page 6.

GEO. CHALMERS.

[The following intervening papers are omitted, being deemed irrelevant, viz: K No. 3 and K No. 4.]

I No. 1.

To the King's Most Excellent Majesty.

May it please your Majesty: We have had under our consideration an act passed in your Majesty's colony of Georgia, in March, 1765, entitled

“An act for the better strengthening and settling this province, by compelling the several persons who claim to hold lands within the same, under any grant or grants from his Majesty, witnessed by the governor of South Carolina, to bring or send into this province a number of white persons or negroes, in proportion to the lands they claim to hold, agreeably to his Majesty's royal instructions for granting lands, and to cultivate and improve the same, and for the better ascertaining the said several tracts of lands, by regulating the surveys, and marking the lines thereof, and recording the several plots in the surveyor general's office, also for registering and docketing such grants in the other proper offices in this province.”

It will be necessary, before we enter into a consideration of the particular provisions of this act, briefly to state to your Majesty the occasion and ground upon which it has been enacted.

The cession made to your Majesty by the treaty of Paris of all the territories possessed by Spain on the continent of North America, having put an end to the disputes concerning the title to those lands which lay to the south of the Altamaha river, and which, pending such dispute, had never been occupied and settled by either nation, the consideration of what might be expedient to be done, in respect to these lands, necessarily fell under the attention of government; and it being the opinion of your Majesty's ministers that all the territories to the south of the river St. Mary's should be erected into a separate government, under the name of East Florida, and that all the lands between that river and the river Altamaha to the north should be annexed to the colony of Georgia, which, before, was bounded to the

south by the last mentioned river, this arrangement was notified by your Majesty's proclamation of the 7th of October, 1763. Previous, however, to this signification of your Majesty's will and pleasure, as to the disposition of these lands, your Majesty's governor of the province of South Carolina thought fit, upon the ground that they lay within the limits of South Carolina, according to the charters of King Charles the Second, to pass patents for a considerable part of them to many of the opulent planters in the settled part of that province, upon the terms and conditions prescribed in your Majesty's royal instructions to the said governor.

This measure, taken by your Majesty's governor of South Carolina, was soon followed by complaints on the part of your Majesty's governor of Georgia, not only of the irregularity of the measure itself, but also that the surveys, in consequence thereof, had been slightly and incorrectly made, and that, in respect to the greatest part of the lands, no steps had been taken, or were likely to be taken, for a proper cultivation of them.

Upon the ground of these representations, and upon a consideration of all the circumstances which accompanied this transaction, this board thought fit to signify to the governor of Georgia, in general terms, that they would readily concur in any law that should be enacted there for obliging the grantees of those lands to cultivate them according to the conditions of their grants, adopting, upon this occasion, a measure which appeared to them not only just and necessary in itself, but strictly agreeable to former precedents.

In consequence of this signification, the law now in question was passed, with a clause suspending its execution until your Majesty's royal will and pleasure should be known.

We need not, upon this occasion, enter into any consideration of such parts of this law as appear, by implication, to draw into question either the propriety of the measure taken by your Majesty's governor of South Carolina, or the validity of the grants themselves, but shall confine our observations to the enacting clauses of the act itself, and the objection stated to the particular provisions of it by Mr. Dunning, who appeared before us as counsel on the occasion for the grantees, whose interests are to be affected by this law.

The principal objections were, that this act not only prescribes other terms and conditions than those upon which the lands were granted conformably to your Majesty's instructions to the governor of South Carolina, but also in the manner of ascertaining the proof of those requisites, leaves it entirely to the discretion of the governor and council to decide what that proof shall be; and further, does limit the time of adducing such proofs to six months from the receipt and notification in the gazette there of your Majesty's confirmation of the act, without any exception in the case of infants, insane persons, or those under other natural disabilities; which exceptions, by the strict rules of law, ought to be provided for in every case of this nature.

These objections do appear to us so essentially to vitiate this act, that we cannot recommend it to your Majesty to confirm it.

At the same time, we think it our duty to represent to your Majesty that, as there is the greatest reason to believe, as well from

the letters we have received from your Majesty's governor of Georgia, as from what has been laid before us by his agent, who appeared in support of the act, that not only the surveys made under the warrant of the governor of South Carolina have been incorrect, but also that few, if any, of the grantees have taken any steps for the due and proper settlement and cultivation of the lands, and none have paid the quitrents due to your Majesty, according to the terms of their grants, we do entirely agree in opinion with our predecessors in office, that it is both just and necessary that some effectual means ought to be taken to correct an abuse of this nature, operating to the prejudice, as well of the public interest, as of your Majesty's revenue; and, therefore, we humbly beg leave to propose, that your Majesty's governor of South Carolina be instructed to give positive directions to the proper officers in that colony forthwith to prepare transcripts, duly authenticated, of all the patents granted under the seal of that province for lands to the southward of the river Altamaha, and also of all orders, warrants, and proceeding thereupon, and to transmit the same, with all convenient despatch, to the governor of your Majesty's province of Georgia.

That your Majesty's governor of Georgia should be instructed to cause such transcripts, when received by him, to be entered upon record in all the proper offices in that colony.

That if the said governor shall, upon an examination of these documents, or from any other evidence or information, have reason to think that there have been any frauds or abuses in the survey of these lands, he do forthwith issue a warrant to the surveyor general of lands in the province of Georgia, to cause a re-survey to be made thereof, in the presence of the grantees, or of such persons as they shall appoint within a reasonable time for that purpose. And in case it shall be discovered, upon such re-survey, that a greater number of acres has been taken in them than are expressed in the original grant, that the said governor do forthwith grant such surplus to such other persons as shall apply for the same, upon the terms and conditions prescribed by your Majesty's instructions to the said governor.

That the said governor be further instructed to recommend to the council and assembly of the province of Georgia, to pass an act for establishing a method of enforcing the cultivation of lands, causing an inquest to be held, on the oaths of a jury of twelve men, before a commissioner of escheats and forfeitures, to be appointed by the said governor for that purpose, and enacting that all lands which, upon a return of such inquests into the office of register of the court of chancery, shall appear not to have been duly cultivated according to the terms and conditions of the grant, be vested in your Majesty, your heirs and successors, without any further or other process.

Which is most humbly submitted.

CLARE.
SOAME JENYNS.
WM. FITZHERBERT.
THO. ROBINSON.

WHITEHALL, *May* 26, 1767.

OFFICE FOR TRADE, WHITEHALL,
September 25, 1795.

I hereby certify that the before written paper is a representation to the King, of the board of trade, on an act of assembly of Georgia with regard to the settlement of the lands on the southward of the river Altamaha, copied from the Georgia Entry, C, page 311.

GEO. CHALMERS.

[The following intervening papers are omitted, being deemed irrelevant, viz: I No. 2, M, N, and the convention between the States of Georgia and South Carolina, and accompanying papers.]

OFFICE FOR TRADE, WHITEHALL,
September 25, 1795.

SIR: I now proceed with pleasure to communicate to you such information, with regard to the questions which Mr. Attorney General Bradford desired you to ask me about the boundaries of South Carolina and Georgia, as it is in my power to give, in so limited a time, amidst the pressure of other business.

It will be necessary to make some preliminary observations, before I answer the main question, namely, "whether the lands west of the Ocmulgee belonged to Georgia or to South Carolina; and whether they have at any time been placed by the crown under the jurisdiction of any other government."

When the treaty of peace between England and Spain was negotiated, in 1604, there was an attempt made to settle the pretensions of the two powers in America; but as the two parties could not agree, either upon the facts or the principles which applied to the point, it was prudently resolved to pass over in silence what could not be adjusted in the treaty by adequate words. At that epoch, England had not any colonies in America. Colonization, however, immediately began; and before the year 1670, all the principal colonies were settled. It was in 1670 that England and Spain entered into stipulations for composing differences in America, which stipulations have since been called the *American Treaty*. It was the 7th article of that treaty which stipulated that the King of Great Britain and his subjects should remain in possession of what they then possessed in the West Indies and America. In every subsequent period, the American treaty of 1670 was appealed to in the disputes between Great Britain and Spain, as to the boundaries of Carolina and Florida, though there seems to have been no document which, on either side, applied the fact to the principle. Those disputes were frequent during the reigns of George I and George II, from 1714 to 1731; and it was referred by the treaty of Seville, 1729, to commissaries to settle, among other points, the northern boundary of Florida, which was to be the southern limit of Carolina. But no settlement was ever made till Florida was

ceded to Great Britain by Spain, at the peace of 1763. These circumstances explain sufficiently the reasons of keeping a small post on the southern point of Cumberland island, where the river St. Mary's mingles its waters with the ocean, in order to retain the possessions of the debatable ground, which neither party would relinquish or define. [On this point, see the papers marked A Nos. 1 and 2.] This post became still more necessary, if the principle of retaining debatable ground be right, after the grant of Georgia, which fixed its southern boundary by the most southern stream of the river Altamaha; for this had been construed by Spain as a relinquishment of the territory between the rivers Altamaha and St. Mary's.

The other preliminary observation which I beg to submit, is, that the right of the crown to divide and sub-divide its American territories (for which charters had not been granted to proprietors) is one of the clearest principles in colonial jurisprudence. And the history of the thirteen colonies, from the successive settlement of each to the epoch of the independence of all, is a demonstration of the general principle, which is the solid basis whereon the United States rest in full stability as to boundaries.

I now proceed to more minute observation, both as to fact and principles. In the year 1719, the people of South Carolina revolted against their proprietors. In the subsequent year, Francis Nicholson was appointed by the crown provisional governor of South Carolina, upon a recital of mismanagements. Neither his commission nor instructions gave him any power to grant lands; because the right to the soil was still in the proprietors. It was in his time that a fort was built at the fork of the Altamaha in order to preserve the possession of the country thus far to the southward. In 1729, the proprietors of Carolina surrendered the sovereignty and seven eighth parts of the soil to the crown, under the authority of the act of Parliament, 2 Geo. II, chap. 34. The deed of surrender was enrolled in chancery, and remains in the chapel of the rolls. [A copy from the roll has been obtained, and is marked B.] Lord Grenville soon after proposed to surrender his one eighth; but, as the parties could not agree, his share was located in after times along the northern boundary of North Carolina, on the confines of Virginia.

It was in December, 1729, that Robert Johnson was appointed royal governor of South Carolina, with the full authority of captain general and commander-in-chief, in the room of Nicholson. This commission extends over *South Carolina*, without expressing any boundaries, supposing that the country and its limits were known and ascertained. This indefinite mode of expression, which continued to the present reign, gave rise to the mischiefs of uncertainty, and, in fact, is the cause of the present inquiry. Governor Johnson was also empowered to grant lands on particular terms. The governor's authority on this head, and instructions which, as they remained unaltered to the year 1763, and furnished much matter for this inquiry, may be seen in the papers marked H Nos. 1 and 2. Governor Johnson was also instructed to re-establish a deserted post on the Altamaha, so as to preserve the navigation of the river.

It was in the year 1730 that an application was made to the Brit-

ish government, on a principle of charity, for a grant of lands in Carolina, and conceded in 1731, on a principle of policy. The charter of Georgia was granted in 1732, in order to form a barrier to South Carolina. The board of trade settled deliberately the boundaries of Georgia, on the north, by the *northern stream* of the river Savannah; on the south, by the most southern stream of the Altamaha; and *westward*, from the heads of the said rivers respectively, in direct lines to the South seas. The context and common sense require that the west lines should be run from the heads of the north stream of the Savannah, and from the head of the most southern stream of the Altamaha. And the context and common sense equally reject all other points, from whence to run the west lines to the South sea, than the *heads*, not of the Savannah and Altamaha, but from the heads of the north stream of the one river and of the most southern stream of the other. The context and common sense are supported by the fact, that it was known, at the epoch of the Georgia grant, that its boundaries on the north and south had more streams than one, and consequently had forks. There had been a fort, or post, at the great fork of the Altamaha, for some years before. A small map, which was prefixed to a quarto pamphlet that was published at London, in 1733, entitled "Reasons for establishing the colony of Georgia," exhibits distinctly the *fork of the Altamaha*. In none of the inquiries or reasonings of the board of trade, at any period, is it ever supposed that the west lines before mentioned were to run from any other point than the head of the most southern stream of the Altamaha, and the head of the north stream of the Savannah. Add to all these the State of Georgia, as attested upon oath by several inhabitants of Georgia, at Savannah, on the 10th of October, 1740. [See the papers marked C Nos. 1, 2, 3, 4, 5, for proofs of the facts.]

The trustees of Georgia applied to the crown for directions to the governor of South Carolina, both to record their character and to help their settlers. An additional instruction was thereupon sent to Governor Johnson for that effect, on the 6th of September, 1732. [See the paper D.] This may be deemed legal notice of the charter of Georgia, of the settlement under it, and of the retraction of the southern boundary of South Carolina. In fact, the government of South Carolina did receive kindly the colonists of Georgia; did effectually help the settlers, who began to form their principal town on the 1st of February, 1733, under the direction of Oglethorpe. It is moreover to be observed that, as Governor Johnson had been instructed to lay out certain townships on the rivers Savannah and Altamaha, the instruction was withdrawn after the establishment of Georgia, when he received contrary instructions.

It is material to state that the power of commanding the militia of Georgia was reserved to the governor of South Carolina, as the King's officer; yet, on the 20th of June, 1737, James Oglethorpe was appointed commander-in-chief of the troops, both of South Carolina and Georgia; and the governor of South Carolina was thereupon ordered not to meddle with the general's command. Oglethorpe was ordered to keep possession of the country which had been granted by the charters of Carolina. These facts evince that, when Ogle-

thorpe, during the Spanish war, which was ended by the peace of 1748, marched with troops southward of the Altamaha, and built forts on the lands between that river and the river St. Mary's, he acted as the King's general, and not as governor of Georgia. If it be asked whose lands they were which lay between the rivers Altamaha and St. Mary's, the answer must be, that Great Britain and Spain were fighting for them. The treaty of Aix la Chapelle left the title upon the same footing as it had been left by the American treaty of 1670. The right to those debatable lands was in the crown. The claim of the proprietors of Carolina no longer existed. The power of the governor of South Carolina could not arise from the King's commission and instruction. The formal communication of the charter of Georgia to the governor of South Carolina was a formal supercession of his commission and instructions, as to the country within its limits. There does not appear, indeed, any formal supercession of the authority of the governor of South Carolina with regard to the country on the south of the river Altamaha, except as to the power of the sword, which had been put into the hands of Oglethorpe. Whether the establishment of Georgia, and the proceedings which followed in consequence thereof, were a virtual supercession of the power of the governor of South Carolina, as to the country on the south of the Altamaha, is a point for consideration.

The charter of Georgia, and the powers of government, which were thereby conferred, were established only for a limited time. This term expired in 1752, when the trustees surrendered to the crown what had been conferred by the charter. [See the paper E.] And a royal government was soon after established over the same country, within the same limits, with the usual powers of the royal governments.

Events are now coming forward which throw additional light on the present inquiry. One Grey, a Virginian by birth, and an enthusiast in principle, after acting a busy part in the first assembly which met in Georgia, passed the river Altamaha in 1756, and settled with a few followers, near the river St. Mary's. Governor Ellis, of Georgia, persuaded Grey not to put himself under the protection of Spain, and gave him a license to settle on the south of the river Altamaha. The Spaniards of St. Augustine regarded Grey with their usual jealousy. When the British ministers, who then wished to conciliate Spain, heard of those transactions of Grey, they expressed the greatest discontent. They blamed Governor Ellis for giving him a license to settle without his jurisdiction. The proceedings of Grey, who acted without authority from any power, were considered as of very dangerous consequence. Mr. Secretary Pitt sent orders to Governor Ellis of Georgia, and Governor Lyttleton of South Carolina, to remove Grey by force, if he did not remove by fairness. In 1759, Governor Ellis appointed one Powell, and Governor Lyttleton named one Hern, as commissioners to communicate those orders to Grey, and to persuade him and his followers to obey. Grey did make a show of obedience; but he returned ere long to his first settlement. Governor Wright, of Georgia, communicated, in 1761, to the British ministers, minute

information of the proceedings of Grey and his followers; but the part which Spain had now taken with France made the British government less zealous to enforce their first orders, by removing Grey from the situation which he had chosen for himself, without the proper jurisdiction of any colony. [See the papers marked F, Nos. 1, 2, 3, 4.]

In January, 1762, war was declared against Spain. The preliminary articles of peace were announced in December, 1762. The knowledge that Spain was thereby to cede Florida to Great Britain, was received in South Carolina early in the subsequent year.

During the same moment, wherein the British government were considering in what manner it might be advisable to dispose of the British acquisitions by the peace, a measure was adopted at Charleston, in South Carolina, for monopolizing the lands on the south of the river Altamaha. Governor Wright, when he heard of that purpose, sent Grey Elliott, one of his council, to Charleston, in order to enter a caveat and protest against that measure, as inconsistent with the King's intentions, and as injurious to Georgia. This protest was treated with disregard. The board of trade soon heard of those transactions; and the board hastened to declare its disapprobation, and to give its directions that no charters should be issued for any lands which might have been surveyed, under warrants from South Carolina, for lands on the south of the river Altamaha. The orders of the board came too late. The surveys had been made, and charters had issued thereon, before the disapprobation and directions of the board arrived. The governor of South Carolina wrote an apology for his conduct, and was afterwards heard in justification of proceedings which the board of trade deemed *unwarrantable*. [See the papers marked G, Nos. 1, 2, 3, 4, 5, and 6.]

The board of trade, on the 8th of July, 1763, applied to the attorney and solicitor general for their opinion, whether the grants of land to the southward of the river Altamaha, by the governor of South Carolina, under all the circumstances, were valid in law. The documents which were laid before the crown lawyers, were the protest of the governor of Georgia, before mentioned; the two charters of Carolina; the statute of the 2d Geo. II, ch. 34; an extract of that part of the commission to Governor Johnson, in 1729, authorizing him to grant lands, which had continued the same to all succeeding governors; [see the papers H, Nos. 1, 2,] the secretary of state's order, dated the 10th of June, 1758, for removing Grey and his followers from their settlements on the south of the Altamaha; "a country which, the board were pleased to add, it does not appear the province of South Carolina has at any time exercised any jurisdiction in, or taken any possession of, either while it was under the government of the proprietors, or since it has been in the hands of the crown;" but it does not appear that the attorney and solicitor general ever gave any opinion.

The board of trade seem at one time to have resolved to vacate, by some process at law, those unwarrantable grants. They, however, finally determined to admit virtually, but not positively, their validity in point of law, and to endeavor to prevent the mischief of them

since they could not abrogate what had been improvidently done. They ordered transcripts of the said grants to be sent by the governor of South Carolina to the governor of Georgia, for the purpose of being recorded in the proper offices of Georgia. These improvident grants were thus, in some measure, legalized, and incorporated into the system of Georgia. [See the papers marked I, Nos. 1 and 2.]

The peace of 1763 was scarcely concluded when the British government began to deliberate how to make the most of her acquisitions by the war. On the 8th of June the board of trade made a representation as to the state of Florida and the neighboring lands. The country between the rivers Altamaha and St. Mary's was placed under the jurisdiction of Georgia. The northern boundary of the province of East Florida was, in the end, settled to be the river St. Mary's, from the sea to its source, and from its source westward, to that part of the Apalachicola where the Chattahoochee and Flint rivers meet. The northern line of the province of West Florida was at first fixed to be in the latitude of 31 degrees north; but, upon a representation that this latitude was to the southward of Mobile itself, a new boundary was settled in March, 1764, so as to bound West Florida on the north, by a line drawn from the mouth of the Yazoo, where it unites with the Mississippi, due east to the river Apalachicola. In Lieutenant Hutchin's map of the west parts of Virginia, Carolina, Georgia, &c., published in 1778, he takes notice that the Yazoo is the north boundary of West Florida, but he states erroneously the junction of that river with the Mississippi to be in latitude $32^{\circ} 30'$, which is nine minutes too far to the southward, as, indeed, all the maps place the junction of the Yazoo too far to the southward. [See the papers marked K, Nos. 1, 2, 3, and 4.]

The definitive treaty of peace between Great Britain and the United States of America, and the definitive treaty between Great Britain and Spain, were both signed on the same day, viz: the 3d of September, 1783. By the treaty with Spain, Great Britain ceded to Spain East Florida and West Florida, without any signification of boundaries, which Spain will contend, I presume, must be the existing limits at the date of the treaty. By the treaty with the United States, Great Britain ceded to the country on the east of the Mississippi, as far southward as the 31st degree of north latitude. Mr. Faden, the King's geographer, assures me that it appears, from an accurate observation made by the late George Gaul, who surveyed West Florida for the British government, that the junction of the Yazoo with the Mississippi is in latitude $32^{\circ} 39'$. Here, then, is a fair field of a degree and three quarters for contending nations to fight upon.

Allow me, now, to make a few cursory remarks for the purpose of recapitulation:

1st. There are no documents which can show the heads of the rivers Altamaha and the Savannah to be other than what the charter and commissions make them to be, as I have already shown.

Every document proves that the heads of those rivers were not at the fork of the Altamaha, where the Oconee and Ocmulgee meet, nor at the junction of the Tugoloo and the Keowee, but at the head of

the northern stream of the one and the head of the southern stream of the other.

2d. There are no maps, which had belonged to the trustees of Georgia, in the collections of the board of trade. It was never considered by the British government, that the country annexed to Georgia, in 1763, was bounded on the west by a line drawn from the source of the St. Mary's river to the junction of the Oconee and Ocmulgee: on the contrary, the British government considered the south boundary of Georgia to be the north boundary of the two Floridas, as far as the Mississippi. The British geographers have always formed the boundaries of Georgia on this principle of extending it westward to the river Mississippi. There was a boundary line run and established, in 1769, between Georgia and the Creek Indians, which, passing in a northern direction across the frontiers of Georgia, has induced some of the map makers to draw a line in the same northern direction, and which has sometimes been mistaken for the western boundary of Georgia. There is a map of the Creek line, before mentioned, among the papers of the board of trade, but it does not apply to the question.

3d. The boundary of West Florida was not only extended northward to the 31st degree, in 1763, but, in 1764, to 32° and 39', as I have before stated. This leads me to remark what will throw great light on the whole subject. The junction of the Yazoo with the Mississippi being fixed by the British government, who had a right to do so, as the north line of West Florida, and this junction being in latitude 32° and 39', an east line projected from the junction of the Yazoo would cross the Savannah river near Hutchin's ferry, as the same is laid down in Faden's map of South Carolina and Georgia, 1780. These positions leave a very narrow frontier to Georgia, contrary to what was intended by the British government when that boundary was settled. The extent of this frontier can only be, according to those premises, from the point where the latitude of 32° 39' intersects the meridian of the head of the northern stream of the Savannah river, northward to the head of the northern stream of Savannah.

4th. "With respect to the great question, whether the lands west of Ocmulgee belonged to Georgia or to South Carolina, after the grant of Georgia, and whether they have, at any time, been placed by the crown under the jurisdiction of any other government," I take the liberty to answer—

1st. That the lands lying westward of the Ocmulgee did not belong to Georgia after the granting of the charter, because, the Ocmulgee being the southern stream of the Altamaha, in the contemplation of the crown when the charter was granted, the Ocmulgee must be taken as the south boundary of Georgia, the western extent of which was to run the South sea from the head of that southern stream.

2d. The surrender of the rights of the proprietors to the crown in 1729, and the authority of an act of Parliament, were supposed to suppress the charters granted to them, and to reinvest in the crown any title which they could claim under them. The new right which the crown had thus acquired was soon exerted in the establishment of

Georgia. Georgia was settled upon the very principle of being a southern frontier to Carolina. *The northern stream of the Savannah river was virtually made the southern boundary of South Carolina.* The British government, from this epoch, never considered Carolina, or any part thereof, to lie to the southward of Georgia.

3d. The country on the south and west of Ocmulgee was, from 1732 to 1763, considered by the crown as its waste territories, which were in dispute between Great Britain and Spain, and which, for that reason, had never been placed under the jurisdiction of any colonial government. In fact, neither the governor nor legislature of South Carolina ever performed any act of jurisdiction over those debatable lands from 1732 to 1763.

4th. The grants which were made of some of those lands, by the governor of South Carolina, in 1763, were made in opposition to a strong protest from the governor of Georgia; were made contrary to the intentions of the crown; and they were made *unwarrantably*, as the board of trade thought and declared. Whether the law officers of the crown declined to give their opinion of the legality or illegality of those unwarrantable grants from design or accident, does not appear: the board of trade virtually admitted their legality, for the purpose of quieting settlement. Had ejectments been brought for the recovery of the lands thus granted in the courts of Georgia, where they must have been brought, the judges and juries of Georgia had declared those grants to be illegal.

I have now discussed, in the best manner that I am able, from the documents belonging to the board of trade, and from other notices, the several points as to which Mr. Attorney General Bradford desired information, and I beg to refer to the several papers which I have quoted, as the proper vouchers, and which will be found to be the same papers whereof Mr. Attorney Bradford requested to have certified copies. If the research, which I have made with pleasure, shall be found to be answerable to his wishes, this agreeable consideration will be my best reward. You were, indeed, so good as to mention, in your letter to me, that a compensation would be made me for my services. I must, however, desire you to believe, that the only compensation which I can receive is the real satisfaction of showing my desire of usefulness, and of demonstrating to the United States the liberality of those who are connected with the British government.

I embrace the opportunity which this business gives me of assuring you of the sincere respect wherewith I, very truly, am your most faithful and most obedient servant,

GEO. CHALMERS.

To SAMUEL BAYARD, Esq., &c., &c.

P.

Note from Judge Pendleton, of Georgia, in respect to the north boundary of Florida.

It appears by what has transpired of the negotiations between the United States and Spain, that our commissioners, as well as those of

Great Britain, at the treaty of 1783, took the boundaries of East and West Florida, as laid down in the proclamation of the King of England, dated the 7th of October, 1763, to have been the true boundaries of those provinces when they were finally confirmed to Spain, in 1783. Mr. Jefferson, I understand, after all his inquiries on the subject, takes the same proclamation as the foundation of our right to extend to the latitude of 31° north. All our writers on that subject that I have seen, and all our maps, state 31° as our southern boundary, from the same authority. The fact is, that this remained but for a short time the northern boundary of West Florida. In the beginning of the year 1764, Governor Johnstone, the first British governor of that province, obtained an extension of its northern boundary, and a new commission was sent him. On the 1st of November, 1764, Governor Johnstone published, by proclamation, his instructions for settling the province, in which he describes the northern boundary of West Florida to be "a line drawn due east from the confluence of the Mississippi and the river Yazoo, which lies in thirty-four degrees north latitude, to the river Apalachicola, or Chattahoochee." The commissions of Governor Elliott,* who succeeded Johnstone, and Chester, who succeeded Elliott, all fixed on the same boundaries, and they granted near one million of acres of the lands lying north of the latitude thirty-one to individuals. It seems probable that neither Mr. Jefferson nor the Spanish ministers were apprized of this extension of the boundaries of West Florida, but have taken them to be as they were by the proclamation of 1763.

[The following note was made by Mr. Jefferson after the paper was printed by order of the Senate.]

George the Third, by the grace of God of Great Britain, France, and Ireland, King, Defender of the Faith, &c., to our trusty and well-beloved James Wright, esquire, greeting:

Whereas we did, by our letters patent under our great seal of Great Britain, bearing date at Westminster, the fourteenth day of May, in the first year of our reign, constitute and appoint you, the said "James Wright, esquire, to be our captain-general and governor-in-chief in and over our colony of Georgia, in America, lying from the most northern stream of a river there, commonly called Savannah, all along the seacoast to the southward unto the most southern stream of a certain other great water or river called the Altamaha, and westward from the heads of the said rivers, respectively, in direct line to the South seas, and of all that space, circuit, and precinct of lands lying within the said boundaries, with the islands in the sea lying opposite to the eastern coast of the said lands within twenty leagues of the same, for and during our pleasure," as by the said recited letters patent, relation being thereunto had, may more

* See Elliott's commission, page 57, reciting Johnstone's commission in terms the reverse of what is here stated.

fully and at large appear: Now, know you, that we have revoked and determined, and by these presents do revoke and determine, such part and so much of the said recited letters patent, and every clause, article, and thing therein contained, which doth any way relate to or concern the limits and bounds of our said province as above described. And further know you, that we, reposing especial trust and confidence in the courage and loyalty of you, the said James Wright, of our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint, and by these presents do constitute and appoint you, the said James Wright, to be our captain-general and governor-in-chief in and over our colony of Georgia in America, bounded on the north by the most northern stream of a river there, commonly called Savannah river, as far as the head of the said river, and from thence westward as far as our territories extend; on the east by the seacoast from the said river Savannah to the most southern stream of a certain other river called St. Mary, including all islands within twenty leagues of the coast lying between the said rivers Savannah and St. Mary; and on the south by the said river St. Mary as far as the head thereof, and from thence westward as far as our territories extend by the north boundary line of our provinces of East and West Florida; and we do hereby declare, ordain, and appoint that you, the said James Wright, shall and may hold, execute, and enjoy the office and place of our captain-general and governor-in-chief in and over our colony of Georgia, limited and bounded as above described, together with all and singular the powers and authorities contained in our said recited letters patent under our great seal of Great Britain, bearing date at Westminster, the fourth day of May, in the first year of our reign, except as herein excepted, for and during our will and pleasure. In witness whereof, we have caused these our letters to be made patent. Witness our seal at Westminster, the twentieth day of January, in the fourth year of our reign.

YORK & YORK.

By writ of privy seal.

[Great seal of Great Britain.]

[Stamp 40s.]

GEORGIA, SECRETARY'S OFFICE, *April* 14, 1797.

The foregoing contains a true copy from commission book B, folio 140.

HORATIO MARBURY,
For JOHN MILTON, JR.

[The following paper is omitted, being deemed irrelevant, viz: "An extract from the instructions to the British governor of West Florida."]

[11TH SESSION OF THE SENATE.]

EXTRACT FROM MESSAGE OF PRESIDENT WASHINGTON OF MAY 21, 1796.

(See Executive Journal, vol. 1, p. 210.)

“I nominate * * * * *
 “Andrew Ellicott, of Pennsylvania, to be the commissioner, and
 “Thomas Freeman, of the District of Columbia, to be the surveyor,
 on the part of the United States, to run and mark the southern bound-
 ary of the United States, which divides their territory from the Span-
 ish colonies of East and West Florida, agreeably to the second and
 third articles of the treaty of friendship, limits, and navigation, be-
 tween the United States and his Catholic Majesty.”

[4TH CONGRESS, 2D SESSION.]

EXTRACT FROM THE SPEECH OF PRESIDENT WASHINGTON OF DECEMBER 7, 1796.

(See American State Papers, Foreign Relations, vol. 1, p. 30.)

“The treaty with Spain required that the commissioners for run-
 ning the boundary line between the territory of the United States and
 his Catholic Majesty’s provinces of East and West Florida should meet
 at the Natchez before the expiration of six months after the exchange
 of the ratifications, which was effected at Aranjuez, on the twenty-
 fifth day of April; and the troops of his Catholic Majesty occupying
 any posts within the limits of the United States were, within the same
 period, to be withdrawn. The commissioner of the United States,
 therefore, commenced his journey for the Natchez in September, and
 troops were ordered to occupy the posts from which the Spanish gar-
 risons should be withdrawn. Information has been recently received
 of the appointment of a commissioner on the part of his Catholic Ma-
 jesty for running the boundary line, but none of any appointment for
 the adjustment of the claims of our citizens whose vessels were cap-
 tured by the armed vessels of Spain.”

[4TH CONGRESS, 2D SESSION.]

EXTRACTS FROM JOURNAL OF THE SENATE.

(See Senate Journal, vol. 2, pp. 306, 307.)

IN THE SENATE OF THE UNITED STATES,
December 28, 1796.

“On motion,
 “That a committee be appointed to take into consideration the
 report of the Attorney General of the 28th April last, together with

the documents therein referred to, relative to the territorial limits of the State of Georgia, &c., and thereon to report what shall appear to them to have been the southern boundary of the said State, from the sea westward, at the time of the confederation of American States, and also to report, by a description of boundary, what territory lying to the southward of the said State boundary shall appear to belong to the United States,

“It was agreed that this motion lie for consideration.”

DECEMBER 29, 1796.

“On motion, permission was given to withdraw the motion postponed yesterday, in order to substitute the following:

“That a committee be appointed to take into consideration the report of the Attorney General of the 28th of April last, together with the documents therein referred to, relative to the territorial limits of the State of Georgia, &c., and to report what shall appear to them to be the southern and western boundaries of the said State; and also to report, by a description of boundaries, what territory, if any, lying to the southward and westward of the said State boundaries, shall appear to belong to the United States, and what, in their opinion, it will be proper for Congress to do relative to such territory.

“*Ordered*, That the motion be referred to Messrs. Ross, Marshall, Laurence, Henry, and Hillhouse, to consider and report thereon to the Senate.”

[4TH CONGRESS, 2D SESSION.]

REPORT OF THE COMMITTEE OF THE SENATE ON THE RESOLUTIONS RELATIVE TO THE BOUNDARY OF GEORGIA.—(Communicated to the Senate March 2, 1797.)

(See Senate Public Land Documents, printed by Duff Green, vol. 1, pp. 70, 71.)

Mr. Ross made the following report:

The committee to which were referred the resolutions of the Senate respecting the southern and western boundary of Georgia, having had the same under consideration, beg leave to submit the following report:

Georgia was created by charter from the King of Great Britain, dated in June, 1732, and originally bounded on the north by the northern stream of the river Savannah, on the south by the most southern stream (the Ocmulgee) of the Altamaha, and westward from the heads of the said rivers, respectively, to the South seas. It was intended as a frontier establishment, to strengthen and protect the settlements of South Carolina, and probably to form the southern and western boundary of that province. The country between the Alta-

maha and St. Mary's, being in dispute between Britain and Spain, was excluded from the Georgia charter.

In 1752, the charter of Georgia was surrendered to the crown, which, from thenceforward, possessed exclusively over this, as well as over all other colonies which were crown property, the power of enlarging or diminishing the boundaries of the province. By a proclamation, dated 7th of October, 1763, the lands lying between the rivers Altamaha and St. Mary's were added to Georgia, and, by the same instrument, "all the lands and territories lying to the westward of the sources of the rivers which fall into the sea from the west and northwest, are reserved under the sovereignty, protection, and dominion of the King," which would appear to have excluded and extinguished all jurisdiction in Georgia over the lands beyond the sources of these rivers, and to have vested it in the crown. Like the country beyond the Ohio, the lands thus reserved west of Georgia constituted a territory out of which new colonies might, from time to time, be erected. This opinion is fortified by the actual exercise of this species of jurisdiction by the crown. It enlarged the government of West Florida, by extending its limits northward to a line drawn due east from the mouth of the river Yazoo to the Apalachicola, thereby adding more than a degree and a half in breadth to that province. This was not complained of in Georgia, nor was it considered as an encroachment; nor does it appear from any document that Georgia, before the Revolution, ever claimed or exercised any jurisdiction to the westward of the sources of the Ocmulgee river.

The King of Great Britain having, previous to the independence of the United States, severed and annexed to West Florida that portion of the reserved territory which lies to the south of a parallel drawn due east from the mouth of the Yazoo to the Apalachicola, there can be no doubt that this territory did not revert to Georgia by our treaties with Great Britain and Spain, but now belongs to the United States. And, if the foregoing construction of the proclamation is just, Georgia can have no good title to the lands lying west of a line drawn from the head of St. Mary's river to the source of Ocmulgee, or west of the sources of the rivers which fall into the sea from the west and northwest. But, inasmuch as this boundary has never been ascertained, and in its nature must, in many places, be uncertain, and as the State of Georgia has claimed and exercised jurisdiction over a great portion of this territory, your committee are of opinion that an amicable and conciliatory plan of accommodating these adverse claims should be adopted by the United States; and for that purpose they recommend the following resolutions:

1. That the President of the United States be authorized to appoint three commissioners, who, or any two of whom, shall have full power to treat, adjust, and determine, with such commissioners as shall be appointed for that purpose by the State of Georgia, all interfering claims of the United States and Georgia to the lands lying west of a line drawn from the head of St. Mary's river to the source of the Ocmulgee, and west of the sources of the rivers which fall into the sea from the west and the northwest.

2. That the President of the United States be requested to take

measures for ascertaining the number of inhabitants in this disputed territory, the places of their residence, and their right to the soil they now possess. And that he request from the State of Georgia its consent that a temporary government be established, under the authority of the United States over this territory, to continue no longer than the duration of the present dispute; and it is hereby declared that the assent of the State to this measure shall in no respect be construed so as to affect its title to the lands or the jurisdiction of the country.

3. That, if the consent of Georgia shall be obtained for that purpose, the President is hereby authorized to establish a territorial government in the above described country, similar to that of the western territory, and to appoint all the necessary officers therein, whose commissions shall be in force until the end of the next session of Congress; and they shall respectively enjoy and receive the same compensations for their services as the present officers for the western territory are entitled to receive by law.

[5TH CONGRESS, 1ST SESSION.]

MESSAGE OF PRESIDENT JOHN ADAMS TO CONGRESS, JUNE 12, 1797, RESPECTING THE DELAY IN THE EXECUTION OF THE THIRD ARTICLE OF THE TREATY OF SAN LORENZO EL REAL.

(See American State Papers, Foreign Relations, vol. 2, p. 20.)

UNITED STATES, June 12, 1797.

Gentlemen of the Senate and House of Representatives:

I have received information from the commissioner appointed on the part of the United States, pursuant to the third article of our treaty with Spain, that the running and marking of the boundary line between the colonies of East and West Florida, and the territory of the United States, have been delayed by the officers of his Catholic Majesty; and that they have declared their intention to maintain his jurisdiction, and to suspend the withdrawing of his troops from the military posts they occupy within the territory of the United States, until the two governments shall, by negotiation, have settled the meaning of the second article respecting the withdrawing of the troops, garrisons, or settlements of either party in the territory of the other; that is, whether, when the Spanish garrisons withdraw, they are to leave the works standing, or to demolish them; and until, by an additional article to the treaty, the real property of the inhabitants shall be secured; and, likewise, until the Spanish officers are sure the Indians will be pacific. The two first questions, if to be determined by negotiation, might be made subjects of discussion for years, and as no limitation of time can be prescribed to the other, a certainty, in the opinion of the Spanish officers, that the Indians will be pacific, it will be impossible to suffer it to remain an obstacle to the fulfilment of the treaty on the part of Spain.

To remove the first difficulty, I have determined to leave it to the discretion of the officers of his Catholic Majesty, when they withdraw his troops from the forts within the territory of the United States, either to leave the works standing, or to demolish them; and to remove the second, I shall cause an assurance to be published, and to be particularly communicated to the minister of his Catholic Majesty, and to the governor of Louisiana, that the settlers or occupants of the lands in question shall not be disturbed in their possessions by the troops of the United States, but, on the contrary, that they shall be protected in all their lawful claims; and, to prevent or remove every doubt on this point, it merits the consideration of Congress whether it will not be expedient immediately to pass a law, giving positive assurances to those inhabitants who, by fair and regular grants, or by occupancy, have obtained legal titles or equitable claims to lands in that country, prior to the final ratification of the treaty between the United States and Spain, on the 25th of April, 1796.

This country is rendered peculiarly valuable by its inhabitants, who are represented to amount to nearly four thousand, generally well affected and much attached to the United States, and zealous for the establishment of a government under their authority.

I therefore recommend to your consideration the expediency of erecting a government in the district of the Natchez, similar to that established for the territory northwest of the river Ohio, but with certain modifications relative to titles or claims of land, whether of individuals or companies, or to claims of jurisdiction of any individual State.

JOHN ADAMS.

[The report of Timothy Pickering, Secretary of State, of the proceedings of Andrew Ellicott, commissioner for running the boundary line between the United States and East and West Florida, dated Department of State, June 10, 1797, with the papers enclosed therein, accompanying the foregoing message, are omitted, being deemed irrelevant.]

[5TH CONGRESS, 2D SESSION.]

EXTRACT FROM THE SPEECH OF PRESIDENT JOHN ADAMS, DELIVERED THURSDAY, NOVEMBER 23, 1797.

(See American State Papers, Foreign Relations, vol. 1, p. 44.)

“ I have entertained an expectation that it would have been in my power, at the opening of this session, to have communicated to you the agreeable information of the due execution of our treaty with his Catholic Majesty, respecting the withdrawing of his troops from our territory, and the demarcation of the line of limits; but, by the

latest authentic intelligence, Spanish garrisons were still continued within our country, and the running of the boundary line had not been commenced. These circumstances are the more to be regretted, as they cannot fail to affect the Indians in a manner injurious to the United States. Still, however, indulging the hope that the answers which have been given will remove the objections offered by the Spanish officers to the immediate execution of the treaty, I have judged it proper that we should continue in readiness to receive the posts, and to run the line of limits. Further information on this subject will be communicated in the course of the session.

“In connexion with this unpleasant state of things on our western frontier, it is proper for me to mention the attempts of foreign agents to alienate the affections of the Indian nations, and to excite them to actual hostilities against the United States. Great activity has been exerted by these persons, who have insinuated themselves among the Indian tribes residing within the territory of the United States, to influence them to transfer their affections and force to a foreign nation, to form them into a confederacy, and prepare them for war against the United States. Although measures have been taken to counteract these infractions of our rights, to prevent Indian hostilities, and to preserve entire their attachment to the United States, it is my duty to observe, that, to give a better effect to these measures, and to obviate the consequences of a repetition of such practices, a law providing adequate punishment for such offences may be necessary.”

[5TH CONGRESS, 2D SESSION.]

EXTRACTS FROM THE JOURNAL OF THE SENATE.

(See Senate Journal, vol. 2, pp. 426, 427.)

IN THE SENATE OF THE UNITED STATES,
January 17, 1798.

“A motion was made by Mr. Paine, as follows:

“*Resolved*, That a committee be appointed to inquire whether any, and what territory, lying to the southward and westward of the State of Georgia, belongs to the United States, and to report a plan for governing the same; and that the said committee be empowered to report by bill or otherwise.

“*Ordered*, That this motion lie for consideration.”

JANUARY 18, 1798.

“The Senate proceeded to consider the motion made yesterday, relative to territory lying to the southward and westward of the State of Georgia; and it was agreed to adopt the first part of the motion, divided as far as the words ‘United States.’

“ On motion, by Mr. Tazewell, to amend the last clause, to be read as follows :

“ And in case the committee shall be of opinion that any territory therein belongs to the United States, to report the most expedient method of quieting any opposite title thereto,

“ It passed in the negative.

“ And the last clause having been amended, was also agreed to ; and it was

“ *Resolved*, That a committee be appointed to inquire whether any, and what territory, lying to the southward and westward of the State of Georgia, belongs to the United States, and to report a plan for governing the same, if any there be ; and that the said committee be empowered to report by bill or otherwise.

“ *Ordered*, That the above motion, as amended, together with the representation and remonstrance of the legislature of the State of Georgia, be referred to Messrs. Ross, Paine, Read, Tazewell, and Gunn, to consider and report thereon to the Senate.”

[5TH CONGRESS, 2D SESSION.]

MESSAGE OF PRESIDENT JOHN ADAMS.—(Communicated to Congress
January 23, 1798.)

(See American State Papers, Foreign Relations, vol. 2, p. 78.)

UNITED STATES, *January 23, 1798.*

Gentlemen of the Senate and Gentlemen of the House of Representatives :

At the commencement of this session of Congress, I propose, in the course of it, to communicate to both houses further information concerning the situation of our affairs in the territories of the United States, situated on the Mississippi river and its neighborhood ; our intercourse with the Indian nations ; our relations with the Spanish government, and the conduct of their officers and agents. This information will be found in a report of the Secretary of State and the documents attending it, which I now present to the Senate and House of Representatives.

JOHN ADAMS.

[The report of Timothy Pickering, Secretary of State, to the President of the United States, dated Department of State, January 22, 1798, with the papers enclosed therein, accompanying the foregoing message, are omitted, being deemed irrelevant.]

Extract from letter of Mr. Pinckney, Secretary of State, to A. Ellicott, July 14, 1797.

(See American State Papers, Foreign Relations, vol. 2, p. 102.)

“DEPARTMENT OF STATE, July 14, 1797.

“On the 8th of June I received by Mr. Knox your despatches dated the 14th of April, which were laid before Congress on the 12th of June, and on the 29th of June I received by Captain Hunter your despatches dated the 10th of May, which, on the 3d of July, were also laid before Congress, together with the despatches from Captain Pope to the Secretary of War. These communications to Congress appear in the enclosed pamphlets.

“With respect to the important business with which you are charged, the repeated promises, followed by as often repeated failures to enter upon it, by the Spanish governors, with other circumstances, afford too much reason to believe that there is an intention to postpone it. Nevertheless, the President is of opinion, and directs, that you should remain at the Natchez, and always hold yourself in readiness to commence the running of the boundary line between the territories of the United States and of his Catholic Majesty. You will endeavor, in concert with Governor Gayóso, or other proper officer of his Catholic Majesty, to fix a time when this work of ascertaining the boundary line shall commence. This endeavor may be renewed as often as you shall think fit. Great care should be used to give no just cause of offence to the Spanish government. What will be the final result of its measures is uncertain; but if war should follow, it will be of the last importance that the United States should not be the aggressors. The President, therefore, desires that your conduct should be perfectly guarded, moderate, and prudent.”

[5TH CONGRESS, 2D SESSION.]

REPORT OF THE COMMITTEE OF THE SENATE ON THE RESOLUTION OF THE SENATE RELATIVE TO THE RESPECTIVE LIMITS OF THE TERRITORY OF THE UNITED STATES AND THE STATE OF GEORGIA.—(Communicated to the Senate February 23, 1798.)

(See American State Papers, Miscellaneous, vol. 1, p. 178.)

Mr. Ross made the following report :

The committee to whom was referred the motion of the 17th of January last, respecting the territory of the United States southward and westward of the State of Georgia, together with the message of the President of the 23d of January, transmitting the report of the Secretary of State respecting affairs in the territories situate on the Mississippi river, and also the representation and remonstrance of

the State of Georgia, beg leave to report a bill authorizing the establishment of a government in part of the territory westward of Georgia, and to adjust amicably the interposing territorial claims of the United States and that State. They also lay before the Senate a copy of the commission of Governor Wright, dated 20th of January, 1764, and a copy of the instructions given to Governor Chester on the 2d of March, 1770; which documents are believed to be genuine, and have a tendency to explain the boundaries of Georgia and West Florida.

[5TH CONGRESS, 2D SESSION.]

BILL FOR THE SETTLEMENT OF THE LIMITS OF THE STATE OF GEORGIA.

(See files Senate bills, 2d Sess. 5th Cong., S. 12, on the Senate files.)

An act for an amicable settlement of limits with Georgia, and authorizing the establishment of a government in the Mississippi Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be and he hereby is authorized to appoint three commissioners, any two of whom shall have power to adjust and determine, with such commissioners as may be appointed under the legislative authority of Georgia, all interfering claims of the United States and that State to territory situate west of the river Chattahoochee, north of the thirty-first degree of north latitude, and south of the cession made to the United States by South Carolina; and also to obtain and accept through the said commissioners, or otherwise, a relinquishment or cession of the whole or any part of the land claimed by or under the State of Georgia, and out of the ordinary jurisdiction thereof.

SEC. 2. *Be it further enacted,* That all the lands thus ceded or secured to the United States shall be disposed of in such manner as shall be hereafter directed by law, and the net proceeds thereof shall be applied to the sinking and discharging the public debt of the United States in the same manner as the proceeds of the other public lands in the territory northwest of the river Ohio.

SEC. 3. *Be it further enacted,* That all that tract of country bounded on the west by the Mississippi, on the north by a line to be drawn due east from the mouth of the Yazoo to the Chattahoochee river, on the east by the river Chattahoochee, and on the south by the thirty-first degree of north latitude, shall be and hereby is constituted one district, to be called the Mississippi Territory; and the President of the United States is hereby authorized to establish therein a government in all respects similar to that now exercised in the territory northwest of the river Ohio, excepting the prohibition of slavery, and to appoint all the necessary officers therein, who shall respectively receive the same compensation for their services, to be paid in the

same manner as by law established for similar officers in the territory northwest of the river Ohio; and the powers, duties, and emoluments of a superintendent of Indian affairs for the southern department shall be united with those of governor: *Provided always*, That if the President of the United States should find it most expedient to establish this government in the recess of Congress, that he shall, nevertheless, have full power to appoint and commission all officers herein authorized, and their commissions shall continue in force until the end of the session of Congress next ensuing the establishment of the government.

SEC. 4. *Be it further enacted*, That the Territory hereby constituted one district for the purposes of government may, at the discretion of Congress, be hereafter divided into two or more districts, with separate territorial governments in each, similar to that established by this act.

SEC. 5. *Be it further enacted*, That the establishment of this government shall in no respect impair the right of Georgia, or of any person or persons claiming under it, either to the jurisdiction or the soil of said Territory, but the rights and claims of the said State, and of all persons interested, are hereby declared to be as firm and available as if this act had never been made.

SEC. 6. *And be it further enacted*, That the sum of _____ be and hereby is appropriated, for the purpose of enabling the President of the United States to carry into effect the provisions of this act, and that the said sum be paid out of any moneys in the treasury not otherwise appropriated.

[5TH CONGRESS, 2D SESSION.]

EXTRACTS FROM JOURNAL OF THE SENATE.

(See Senate Journal, 2d Sess. 5th Cong., vol. 2, pp. 445, 446, 448, 449, 467, 468, 469.)

IN THE SENATE OF THE UNITED STATES,
February 23, 1798.

“Mr. Ross, from the committee to whom it was referred to inquire whether any, and what, territory lying to the southward and westward of the State of Georgia belongs to the United States; and to whom was also referred the petition and remonstrance of the legislature of the State of Georgia, reported a bill, which was read.

“*Ordered*, That this bill pass to the second reading.”

FEBRUARY 28, 1798.

“The bill for an amicable settlement of limits with Georgia, and authorizing the establishment of a government in the Mississippi Territory, was read the second time; and, after debate,

“*Ordered*, That the further consideration thereof be postponed.”

MARCH 5, 1798.

“The bill for an amicable settlement of limits with Georgia, and authorizing the establishment of a government in the Mississippi Territory, was read the third time.

“On the question to agree to the final passage of the bill,

“It was determined in the affirmative { Yeas..... 20
Nays..... 8

“On motion by Mr. Jackson, the yeas and nays being required by one-fifth of the Senators present,

“Those who voted in the affirmative are—

“Messrs. Bingham, Bloodworth, Brown, Chipman, Clayton, Foster, Greene, Hobart, Hunter, Latimer, Laurance, Livermore, Lloyd, Marshall, Martin, Paine, Ross, Sedgwick, Tattnell, and Tracy.

“Those who voted in the negative are—

“Messrs. Anderson, Goodhue, Gunn, Hillhouse, Jackson, Langdon, Mason, and Tazewell.

“So it was

“*Resolved*, That this bill pass; that it be engrossed, and that the title thereof be ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory.’

“*Ordered*, That the Secretary desire the concurrence of the House of Representatives in this bill.”

APRIL 3, 1798.

“Mr. Greene reported, from the Committee on Enrolled Bills, that they had examined the enrolled bill entitled ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory,’ * * * and that they were duly enrolled.”

APRIL 7, 1798.

“Mr. Greene reported, from the committee, that they yesterday laid before the President of the United States the enrolled bill reported to have been examined on the 30th of March, and the three enrolled bills reported to have been examined on the 3d instant.”

APRIL 9, 1798.

“A message from the President of the United States, by Mr. Malcom, his secretary:

“*Mr. President*: The President of the United States, on the 7th instant, approved and signed ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory.’

“*Ordered*, That the Secretary acquaint the House of Representatives therewith.”

[5TH CONGRESS, 2D SESSION.]

EXTRACTS FROM THE JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 2d Sess. 5th Cong., vol. 3, pp. 215, 221, 231, 236, 238, 239, 240, 247, 251, 255, 257.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
March 6, 1798.

“A message from the Senate, by Mr. Otis, their Secretary:

“*Mr. Speaker:* The Senate have passed a bill entitled ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory,’ to which they desire the concurrence of this House. And then he withdrew.

“The said bill was read the first time.

“On motion,

“The said bill was read the second time, and ordered to be committed to the committee to whom were referred, on the 2d ultimo, so much of the message from the President of the United States of the twelfth of June, one thousand seven hundred and ninety-seven, as relates to the expediency of erecting, under certain modifications, a government in the district of the Natchez, similar to that established for the Territory northwest of the river Ohio; and also the message of the twenty-third of January.”

MARCH 12, 1798.

“Mr. Baldwin, from the committee to whom was committed, on the sixth instant, the bill sent from the Senate entitled ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory,’ reported that the committee had, according to order, had the said bill under consideration, and directed him to report the same without amendment.

“On motion,

“*Ordered,* That the said bill be recommitted to a Committee of the Whole House to-morrow.”

MARCH 20, 1798.

“The House, according to the order of the day, resolved itself into a Committee of the Whole House on the bill sent from the Senate, entitled ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory;’ and, after some time spent therein, Mr. Speaker resumed the chair, and Mr. Dent reported that the committee had, according to order, had the said bill under consideration, and made some progress therein.

“On motion,

“*Ordered,* That the Committee of the Whole House be discharged from the further consideration thereof, and that the said bill be re-

committed to Mr. Baldwin, Mr. Sewall, Mr. Findley, Mr. Schureman, and Mr. Harper."

MARCH 22, 1798.

"Mr. Baldwin, from the committee to whom was recommitted, on the twentieth instant, the bill from the Senate, entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory,' reported that the committee had, according to order, had the said bill under consideration, and directed him to report the same without amendment; and also certain information in writing on the subject-matter of the said bill, which he delivered in at the Clerk's table.

"On motion,
 "Ordered, That the said bill and information be committed to a Committee of the Whole House to-morrow."

MARCH 23, 1798.

"The House, according to the order of the day, resolved itself into a Committee of the Whole House on the bill sent from the Senate, entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory;' and, after some time spent therein, Mr. Speaker resumed the chair, and Mr. Dent reported that the committee had, according to order, had the said bill under consideration, and made some progress therein.

"Resolved, That this House will, on Monday next, again resolve itself into a Committee of the Whole House on the said bill."

MARCH 26, 1798.

"The House, according to the order of the day, again resolved itself into a Committee of the Whole House on the bill sent from the Senate, entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory;' and, after some time spent therein, Mr. Speaker resumed the chair, and Mr. Dent reported that the committee had, according to order, again had the said bill under consideration, and made several amendments thereto; which he delivered in at the Clerk's table, where the same were severally twice read, and agreed to by the House.

"Ordered, That the said bill, with the amendments, be read the third time to-morrow."

MARCH 27, 1798.

"The bill sent from the Senate, entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory,' together with the amendments agreed to yesterday, was read the third time.

"And, on the question that the same do pass,

"It was resolved in the affirmative.

“*Ordered*, That the Clerk of this House do acquaint the Senate therewith.”

MARCH 29, 1798.

“A message from the Senate, by Mr. Otis, their Secretary :

“*Mr. Speaker*: The Senate agree to the amendments proposed by this House to the bill sent from the Senate, entitled ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory.’ And then he withdrew.”

APRIL 3, 1798.

“Mr. Clopton, from the Joint Committee for Enrolled Bills, reported that the committee had examined the following enrolled bills, to wit: one entitled ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory;’ * * * and had found the same to be truly enrolled; whereupon,

“Mr. Speaker signed the said enrolled bills.

“*Ordered*, That the Clerk of this House do acquaint the Senate therewith.”

APRIL 9, 1798.

“Mr. Clopton, from the Joint Committee for Enrolled Bills, reported that the committee did, on the sixth instant, present to the President of the United States, for his approbation, the following enrolled bills, to wit: one entitled * * * ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory;’” * * *

APRIL 10, 1798.

“A message from the Senate, by Mr. Otis, their Secretary :

“*Mr. Speaker*: * * I am directed to inform this House that the President of the United States did, on the seventh instant, approve and sign an act which originated in the Senate, entitled ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory.’ And then he withdrew.”

[6TH CONGRESS, 1ST SESSION.]

EXTRACTS FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 6th Cong., vol. 3, pp. 629, 631, 633, 670, 675, 677, 678, 679, 680, 681, 682, 692, 700, 701, 702, 703, 704, 706, 707, 710.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
March 17, 1800.

“Mr. Claiborne, from the committee appointed, presented, according to order, a bill supplemental to the act entitled ‘An act for an

amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory;’ which was received, and read the first time.

“On motion,

“The said bill was read the second time, and ordered to be committed to a Committee of the Whole House to-morrow.”

MARCH 18, 1800.

“The House, according to the order of the day, resolved itself into a Committee of the Whole House on the bill supplemental to the act entitled ‘An act for an amicable settlement of limits within the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory;’ and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Parker reported that the committee had, according to order, had the said bill under consideration, and made two amendments thereto; which he delivered in at the Clerk’s table, where the same were read.

“The House then proceeded to consider the said amendments at the Clerk’s table, and the first amendment, to add at the end of the bill a new section, in the words following, to wit:

“*And be it further enacted,* That the General Assembly shall meet at least once in every year, and such meeting shall be on the first Monday of December, unless they shall, by law, appoint a different day: *Provided,* That the governor shall have power, on extraordinary occasions, to convene the General Assembly’—being again read,

“The question was taken that the House do agree to the same.

“And resolved in the affirmative, { Yeas.....54
 { Nays.....37

“The yeas and nays being demanded by one-fifth of the members present,

“Those who voted in the affirmative are—

“Willis Alston, Theodorus Bailey, John Bird, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, Thomas T. Davis, John Dawson, John Dennis, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, Thomas Hartley, Joseph Heister, William H. Hill, David Holmes, Benjamin Huger, George Jackson, James Jones, Aaron Kitchell, Michael Lieb, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, John Nicholas, Joseph H. Nicholson, Abraham Nott, Josiah Parker, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abraham Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

“Those who voted in the negative are—

“George Baer, Bailey Bartlett, Jonathan Brace, John Brown, Christopher G. Champlin, William Craik, Samuel W. Dana, John Davenport, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur

Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, Archibald Henderson, James H. Imlay, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Harrison G. Otis, Thomas Pinckney, Jonas Platt, John Reed, Samuel Sewall, William Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, and Lemuel Williams.

"The other amendment reported by the Committee of the Whole House being again read, was, on the question put thereupon, agreed to by the House.

"The said bill was then further amended at the Clerk's table, and, together with the amendments, ordered to be engrossed and read the third time to-morrow."

MARCH 19, 1800.

"An engrossed bill supplemental to the act entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory,' was read the third time.

"Resolved, That the said bill do pass, and that the title be, 'An act supplemental to the act entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory.'"

"Ordered, That the Clerk of this House do carry the said bill to the Senate, and desire their concurrence."

APRIL 17, 1800.

"A message from the Senate, by Mr. Otis, their Secretary:

"*Mr. Speaker*: The Senate have passed the bill entitled 'An act supplemental to the act entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory,' with several amendments; to which they desire the concurrence of this House.

"And then he withdrew.

"The said amendments were read, and ordered to be referred to Mr. Rutledge, Mr. Jones, Mr. Marshall, Mr. Bayard, and Mr. Bird."

APRIL 21, 1800.

"Mr. Rutledge, from the committee to whom were referred the amendments of the Senate to the bill entitled 'An act supplemental to the act entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory,' made a report, which was read, and ordered to be committed to a Committee of the Whole House to-morrow."

APRIL 22, 1800.

"The House, according to the order of the day, resolved itself into a Committee of the Whole House on the report of the committee to whom were referred the amendments of the Senate to the bill entitled 'An act supplemental to the act entitled 'An act for an amicable

settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory;'' and, after some time spent therein, Mr. Speaker resumed the chair, and Mr. Morris reported that the committee had, according to order, had the said report under consideration, and made some progress therein.

“*Resolved*, That this House will to-morrow again resolve itself into a Committee of the Whole House on the said report.

“The several orders of the day were further postponed until to-morrow.”

APRIL 23, 1800.

“The House, according to the order of the day, again resolved itself into a Committee of the Whole House on the report of the committee to whom were referred the amendments of the Senate to the bill entitled ‘An act supplemental to the act entitled ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory;’ and, after some time spent therein, Mr. Speaker resumed the chair, and Mr. Morris reported that the committee had, according to order, again had the said report and amendments under consideration, and made a further progress therein.

“*Resolved*, That this House will to-morrow again resolve itself into a Committee of the Whole House on the said report.”

APRIL 24, 1800.

“The House, according to the order of the day, again resolved itself into a Committee of the Whole House on the report of the committee to whom were referred the amendments of the Senate to the bill entitled ‘An act supplemental to the act entitled ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory;’ and, after some time spent therein, Mr. Speaker resumed the chair, and Mr. Morris reported that the committee had, according to order, again had the said report and amendments under consideration, and directed him to report to the House their disagreement to the first amendment, and their agreement to the other amendments of the Senate, with the several amendments to the fourth amendment for adding a new section to the said bill, which he delivered in at the Clerk’s table, where the same were read.

“The House proceeded to consider the said report at the Clerk’s table; whereupon,

“The first amendment of the Senate being again read, the question was taken that the House do agree with the Committee of the Whole House in their disagreement to the same,

“And resolved in the affirmative.

“The second amendment of the Senate being again read, was further amended at the Clerk’s table; and the question being taken that the House do concur with the Committee of the Whole House in their agreement to the same,

“It was resolved in the affirmative.

“The third amendment of the Senate, for striking out, from the

ninth section of the bill, the words following, to wit: 'And that the power given to the governor in the ordinance to prorogue and dissolve the General Assembly, at his pleasure, is hereby declared no longer to be vested, and shall not be exercised: *Provided*, That, in case of a disagreement between the two Houses, relative to a time of adjournment, the governor may adjourn them to such time as is provided by law,' being then read, the question was taken that the House do concur with the Committee of the Whole House in their agreement to the same,

"And passed in the negative, { Yeas 42
 { Nays 49

"The yeas and nays being demanded by one-fifth of the members present,

"Those who voted in the affirmative are—

"George Baer, Bailey Bartlett, James A. Bayard, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, Samuel W. Dana, Franklin Davenport, John Davenport, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, Robert Goodloe Harper, James H. Imlay, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Robert Page, Thomas Pinckney, Jonas Platt, Leven Powell, John Reed, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

"Those who voted in the negative are—

"Willis Alston, Theodorus Bailey, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Matthew Clay, William Charles Cole Claiborne, John Condit, Thomas T. Davis, John Dawson, John Dennis, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmen-dorf, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Thomas Hartley, Joseph Heister, William H. Hill, David Holmes, Benjamin Huger, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, Josiah Parker, John Randolph, John Smilie, John Smith, Richard Standford, David Stone, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, and Robert Williams.

"The first amendment reported from the Committee of the Whole House to the fourth amendment of the Senate, for adding a new section to the said bill, being then read,

"And debate arising thereupon,

"An adjournment was called for.

"Whereupon,

"The several orders of the day were further postponed until to-morrow."

APRIL 25, 1800.

"The House resumed the consideration of the report of the Committee of the Whole House, to whom was committed the report of the

committee to whom were referred the amendments of the Senate to the bill entitled 'An act supplemental to the act entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory ;' and the first amendment reported from the Committee of the Whole House to the fourth amendment of the Senate, for adding a new section to the said bill, being again under consideration, in the words following, to wit :

"Strike out from the said new section the words following: 'and, also, that the said commissioners on the part of the United States, or any two of them, after such settlement with the State of Georgia shall be made, be authorized to settle, by compromise with the parties interested, any claims which are or shall be made by settlers, or any other persons whatsoever, to any parts of the aforesaid lands which may be relinquished by the State of Georgia'—

"The question was taken that the House do agree to the said amendment of the Committee of the Whole House,

"And resolved in the affirmative, { Yeas..... 46
Nays..... 34

"The yeas and nays being demanded by one-fifth of the members present,

"Those who voted in the affirmative are—

"Willis Alston, Phanuel Bishop, Robert Brown, Samuel J. Cabell, John Condit, John Dennis, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmendorf, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, William Barry Grove, John A. Hanna, Joseph Heister, William H. Hill, David Holmes, Benjamin Huger, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Abraham Nott, Robert Page, Josiah Parker, John Randolph, John Smith, John Smilie, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Chew Thomas, Richard Thomas, John Thompson, Abram Trigg, John Trigg, and Robert Williams.

"Those who voted in the negative are—

"George Baer, Bailey Bartlett, James A. Bayard, John Brown, Samuel W. Dana, John Davenport, Franklin Davenport, William Edmont, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glen, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, Robert Goodloe Harper, James H. Imlay, Henry Lee, Silas Lee, Samuel Lyman, John Marshall, Lewis R. Morris, Thomas Pinckney, Leven Powell, John Reed, John Rutledge, jr., James Sheafe, William Shepard, George Thatcher, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

"The second amendment reported from the Committee of the Whole House to the said amendment of the Senate was, upon the question put thereupon, agreed to by the House.

"The third amendment reported from the Committee of the Whole House to the said amendment of the Senate was, upon the question put thereupon, disagreed to by the House.

"The said amendment of the Senate was then further amended at

the Clerk's table; and then the main question being taken, that the House do agree to the said amendment of the Senate as amended,

"It was resolved in the affirmative.

"Ordered, That the Clerk of this House do acquaint the Senate therewith."

MAY 1, 1800.

"A message from the Senate, by Mr. Otis, their Secretary:

"Mr. Speaker: The Senate request a conference on the subject-matter of their amendments, disagreed to by this House, to the bill entitled 'An act supplementary to the act entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory,' and have appointed managers at the same on their part. * * * And then he withdrew.

"The House proceeded to consider the said message; whereupon,

"Resolved, That this House doth agree to the conference proposed by the Senate on the subject-matter of the first mentioned bill; and that Mr. Page, Mr. Nott, and Mr. Varnum be appointed managers at the same on the part of this House.

* * * * *

"Ordered, That the Clerk of this House do acquaint the Senate therewith."

MAY 7, 1800.

"Mr. Page, from the managers appointed on the part of this House to attend a conference with the Senate, on the subject-matter of the amendments, disagreed to by this House, to the bill entitled 'An act supplemental to the act entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory,' made a report; which was read, and ordered to lie on the table."

* * * * *

"A message from the Senate, by Mr. Otis, their Secretary:

"Mr. Speaker: * * * The Senate insist on their first and third amendments, disagreed to by this House, to the bill entitled 'An act supplemental to the act entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory;'' and agree to the other amendments of this House to their amendments, with amendments. And then he withdrew."

MAY 8, 1800.

"The House proceeded to consider the report made yesterday, from the managers appointed to attend a conference with the Senate on the subject-matter of the amendments depending between the two houses to the bill entitled 'An act supplemental to the act entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory;'' and, the said report being again read at the Clerk's table,

"Resolved, That this House doth recede from their disagreement to

the amendment of the Senate to the first section of the bill above mentioned, and doth agree to the said amendment, with an amendment.

“*Resolved*, That this House doth recede from their disagreement to the amendment of the Senate to the ninth section of the said bill; and doth agree to the amendment of the Senate to the first amendment of this House to the tenth section, proposed to be inserted by the Senate.

“*Ordered*, That the Clerk of this House do acquaint the Senate therewith.

* * * * *

“A message from the Senate, by Mr. Otis, their Secretary:

“*Mr. Speaker*: The Senate agree to the amendment proposed by this House to their first amendment to the bill entitled ‘An act supplemental to the act entitled ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishing of a government in the Mississippi Territory.’”

MAY 9, 1800.

“*Mr. Wadsworth*, from the Joint Committee for Enrolled Bills, reported that the committee had examined the following enrolled bills, to wit: * * * another entitled ‘An act supplemental to the act entitled ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory;’ * * * and had found the same to be truly enrolled; whereupon,

“*Mr. Speaker* signed the said enrolled bills.

“*Ordered*, That the Clerk of this House do acquaint the Senate therewith.

* * * * *

“*Mr. Wadsworth*, from the Joint Committee for Enrolled Bills, reported that the committee did this day present to the President of the United States, for his approbation, the following enrolled bills, to wit: * * * another entitled ‘An act supplemental to the act entitled ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory.’” * *

MAY 10, 1800.

“A message was received from the President of the United States, by Mr. Shaw, his secretary, notifying that the President did this day approve and sign the following acts, which originated in this House, to wit: * * * another entitled ‘An act supplemental to the act entitled ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory.’”

[6TH CONGRESS, 1ST SESSION.]

BILL RELATIVE TO THE LIMITS OF THE STATE OF GEORGIA.

(See Senate files, bill H. R. 218, 1st Sess. 6th Cong.)

An act supplemental to the act entitled "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory."

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That so much of the ordinance for the government of the territory of the United States, northwest of the river Ohio, as relates to the organization of a general assembly therein, and prescribes the powers thereof, shall forthwith operate and be in force in the Mississippi Territory: *Provided,* That until the number of free male inhabitants of full age, in the said Territory, shall amount to five thousand, there shall not be returned to the general assembly more than nine representatives.

SEC. 2. *And be it further enacted,* That until the number of free male inhabitants of full age, in the Mississippi Territory, shall amount to five thousand, the county of Adams shall be entitled to choose four representatives to the general assembly, the county of Pickering four, and the Tensaw and Tombigbee settlements one.

SEC. 3. *And be it further enacted,* That the first election for representatives to the general assembly shall be on the fourth Monday in July next, and that all subsequent elections shall be regulated by the legislature.

SEC. 4. *And be it further enacted,* That it shall be the duty of the governor of the Mississippi Territory to cause the said election to be holden on the day aforesaid, at the most convenient place in the counties and settlements aforesaid, and to nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who may have been duly elected.

SEC. 5. *And be it further enacted,* That the representatives shall be convened by the governor at the town of Natchez on the fourth Monday in September next.

SEC. 6. *And be it further enacted,* That so soon as the number of free male inhabitants of full age shall amount to or exceed five thousand, the number of representatives to the general assembly shall be determined, and the apportionment made in the way prescribed in the ordinance.

SEC. 7. *And be it further enacted,* That nothing in this act contained shall extend, or be construed to extend to or affect the right of Georgia to the territory in question, or any part thereof.

SEC. 8. *And be it further enacted,* That the general assembly shall meet at least once in every year, and such meeting shall be on the first Monday of December, unless they shall, by law, appoint a different day: *Provided,* That the governor shall have power, on extraordinary occasions, to convene the general assembly.

SEC. 9. *And be it further enacted*, That neither house, during the session of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting; and that the power given to the governor in the ordinance, to prorogue and dissolve the general assembly at his pleasure, is hereby declared no longer to be vested, and shall not be exercised: *Provided*, That in case of disagreement between the two houses relative to a time of adjournment, the governor may adjourn them to such time as is provided by law.
Passed the House of Representatives March 19, 1800.

[6TH CONGRESS, 1ST SESSION.]

EXTRACTS FROM JOURNAL OF THE SENATE.

(See Senate Journal, pp. 51, 52, 55, 70, 71, 74, 75, 90, 91, 93.)

IN THE SENATE OF THE UNITED STATES,

March 19, 1800.

“A message from the House of Representatives, by Mr. Condy, their Clerk:

“*Mr. President*: The House of Representatives have passed * * *, a bill entitled ‘An act supplemental to the act entitled ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory,’ in which bills they desire the concurrence of the Senate. And he withdrew.”

MARCH 21, 1800.

“The bill sent from the House of Representatives, entitled ‘An act supplemental to the act entitled ‘An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory,’ was read the second time.

“*Ordered*, That it be referred to Messrs. Gunn, Ross, and Dexter, to consider and report thereon to the Senate.”

APRIL 9, 1800.

“Mr. Gunn, from the committee to whom was referred the bill providing for an amicable settlement of limits with the State of Georgia, reported amendments, which were read.

“*Ordered*, That they lie for consideration.”

APRIL 12, 1800.

“The bill supplemental to the act for an amicable settlement of limits with the State of Georgia was read the third time.

“On motion further to amend the bill, it was agreed that the consideration thereof be postponed until Wednesday next.”

[5TH CONGRESS, 3D SESSION.]

EXTRACT FROM THE SPEECH OF PRESIDENT JOHN ADAMS, DELIVERED SATURDAY, DECEMBER 8, 1798.

(See American State Papers, Foreign Relations, vol. 1, p. 48.)

“After the Spanish garrisons had evacuated the posts they occupied at the Natchez and Walnut Hills, the commissioner of the United States commenced his observations to ascertain the point, near the Mississippi, which terminated the northernmost part of the thirty-first degree of north latitude. From thence he proceeded to run the boundary line between the United States and Spain. He was afterwards joined by the Spanish commissioner, when the work of the former was confirmed; and they proceeded together to the demarcation of the line. Recent information renders it probable that the southern Indians, either instigated to oppose the demarcation, or jealous of the consequences of suffering white people to run a line over lands to which the Indian title had not been extinguished, have, ere this time, stopped the progress of the commissioners. And considering the mischiefs which may result from continuing the demarcation in opposition to the will of the Indian tribes, the great expense attending it, and that the boundaries which the commissioners have actually established probably extend at least as far as the Indian title has been extinguished, it will, perhaps, become expedient and necessary to suspend further proceedings by recalling our commissioner.”

[6TH CONGRESS, 1ST SESSION]

EXTRACT FROM THE REPORT OF THE COMMITTEE OF THE HOUSE OF REPRESENTATIVES TO WHOM WERE REFERRED THE MEMORIALS OF THOMAS BURLING AND OTHERS.—(Communicated to the House of Representatives April 2, 1800.)

(See Senate Public Land Documents, printed by Duff Green, vol. 1, p. 88.)

Mr. Sewall, from the committee to whom were referred the memorials of Thomas Burling and others, of John Collier and others, and of Cato West and others, made the following report:

On so much thereof as respects the uncertainties and interfering claims, to which the rights and locations of land in the Mississippi Territory are liable, and as to rewarding and encouraging actual settlers by allowances of land to be made to them in consideration of their improvements.

In considering this part of the subjects referred to them, the committee have thought it necessary to examine by whom, and in what

manner, the general rights of soil and jurisdiction in the Mississippi Territory, have been heretofore claimed and exercised. They have particularly consulted, for this purpose, the report of the Attorney General to Congress, containing a collection of charters, treaties, and other documents, relative to, and explanatory of, the titles to the lands situate in the southwestern parts of the United States, and a digest of the laws of the State of Georgia, lately published, and submit the following brief statement of the most material circumstances which have occurred to them in this inquiry.

A contest between England and Spain, respecting the boundaries of their territories in this part of America, commenced with the earliest settlements or colonies which the English attempted in Carolina, and the Spaniards in Florida. At that period, England claimed as far south as the twenty-ninth degree of north latitude. Charles the First, in the fifth year of his reign, granted to Sir Robert Heath Carolina Florida, lying from the river Matheo, in the thirtieth degree, to the river Passa Mana, in the thirty-sixth degree of north latitude.

In 1662, Charles the Second granted the same country, with some small difference of boundary—that is, fixing its southern boundary as within one-and-thirty degrees of north latitude—to Lord Clarendon and others, called the lords proprietors, and established it as a province, by the name of Carolina; and a subsequent charter by the same prince, in 1664, confirming the last mentioned grant, extended it southwards to the twenty-ninth degree of north latitude, inclusive.

In 1670, by the seventh article of the treaty of peace, then concluded between Great Britain and Spain, it was declared that the King of Great Britain should remain in possession of what he then possessed in the West Indies and America. It is understood, however, that the boundary between Florida and Carolina continued to be a subject of contest, and a disputed jurisdiction between those powers.

In 1726, seven of the lords proprietors of Carolina (Lord Carteret retaining his share) relinquished, and surrendered to George the Second, then King of Great Britain, seven eighth parts of the proprietary and their rights, under the two last mentioned charters; and this surrender was confirmed by act of Parliament. About this time, Carolina was divided into South and North Carolina; and after the surrender, a part of the latter province was assigned to Lord Carteret for his share in the original proprietary.

In 1732, George the Second granted and established within the boundary of South Carolina, the colony of Georgia, bounding it from the northern stream of a river called the Savannah, all along the sea-coast to the southward, unto the most northern stream of a certain other river called the Altamaha, and westward from the head of the said rivers, respectively, in direct lines to the South seas. South Carolina, after the establishment of the province of Georgia, continued to claim and exercise jurisdiction over the territory lying to the southward of the Altamaha; and in 1758, particularly, the governor of South Carolina encouraged a settlement which had been

commenced by one Grey and his adherents, and granted them patents of land, in that Territory.

In —, the trustees for establishing the colony of Georgia surrendered their charter to George the Second; and in 1754, John Reynolds was appointed governor of Georgia, then constituted a royal province, by the same boundaries which had been given to the colony in the original charter. In 1763, by the treaty of peace concluded between Great Britain and Spain, his Catholic Majesty ceded and guaranteed in full right to his Britannic Majesty, Florida, with Fort St. Augustine and the bay of Pensacola, as well as all that Spain possessed on the continent of North America, to the east or southeast of the river Mississippi. In the same year the King of Great Britain, then possessing entirely the right and control of this part of America, established by his proclamation the provinces of East and West Florida. The northern boundary of the former was declared to be a line drawn from the junction of the Chattahoochee and Flint rivers to the source of St. Mary's river, and by the course of that river to the Atlantic ocean. The northern boundary of West Florida was declared to be a line drawn due east from that part of the river Mississippi which lies in thirty-one degrees of northern latitude to the river Chattahoochee. By the same proclamation, all the lands lying between the rivers Altamaha and St. Mary's were annexed to Georgia.

By letters patent dated in January, fourth year of King George the Third, James Wright, who is recited to have been appointed governor of Georgia in the first year of George the Third, was again constituted governor of that province, of which the southern boundary was described to be "by the most southern stream of the river St. Mary, to the head thereof, and thence westward, as far as our territories extend, by the north boundary of East and West Florida."

In March, 1764, a representation was made by the board of trade to the King of Great Britain, that, upon the information of the governor of West Florida, the northern boundary of that province, as lately established, had been found by actual surveys to exclude some considerable settlements on the Mississippi, and the town of Mobile itself; and, therefore, it was recommended and proposed, that an instrument might pass under the great seal in like manner as was directed in the case of the extension of the south boundary of Georgia, declaring the province of West Florida to be bounded to the north by a line drawn from the mouth of the river Yazoo, where it unites with the Mississippi, due east to the river Apalachicola.

It appears that, by letters patent, dated 21st November, fourth year of King George the Third, George Johnstone, esq., was appointed governor of West Florida, bounded on the north by a line drawn due east from that part of the river Mississippi which lies in thirty-one degrees of north latitude to the river Apalachicola; and that by other letters patent, dated 6th June, in the same year of the King, so much of the last mentioned commission to Governor Johnstone as related to the bounds and limits of the said province was revoked, and he was appointed governor of West Florida, bounded to the northward by a line drawn from the mouth of the river Yazoo, where it unites with the Mississippi, due east to the river Apalachicola.

In 1765, an act was passed by the legislature of Georgia, confirming, on certain conditions, the grants which had been made by South Carolina to Grey and others, of certain lands lying south of the Altamaha.

It appears also that, by letters patent, dated in July, 1767, John Elliott was appointed governor of West Florida, comprehended within the limits and bounds which had been established by the commission granted to Governor Johnstone in June, 1764; and that the commission and instructions which were issued to Peter Chester, esq., on the 2d of March, 1770, constituting him governor of West Florida, gave the same extent to his authority as had been given to Governor Elliott.

In 1777, the Natchez district, so called, described to be on the Mississippi, and to extend from Loftis cliffs up the river to the mouth of the Yazoo, being one hundred and ten miles, now a part of the Mississippi Territory, was purchased by the British superintendent of Indian affairs from the Choctaws.

In May, 1781, the province of West Florida was conquered by Spain. It appears that, from June, 1764, until this conquest, when this province was surrendered by Governor Chester, patents and locations of lands within the Mississippi Territory were granted and made by the authority, and under the protection, of the British governor of West Florida.

In November, 1782, by the provisional articles of peace between the United States and his Britannic Majesty, the southern boundary of the United States is determined to be a line to be drawn from the Mississippi, due east, in the northernmost part of the thirty-first degree of north latitude, to the Chattahoochee; thence to its junction with the Flint river, and thence to the head of the St. Mary's river, and by that river to the ocean; thereby adopting and coinciding with the northern boundary of East and West Florida, as established by the proclamation of the King of Great Britain, 1763, and his commission to Governor Wright, as before mentioned.

In February, 1783, the State of Georgia, by an act entitled "An act for opening the land office, and for other purposes," declared the southern boundary of that State to be a line drawn from the Mississippi, in the latitude of thirty-one degrees, in a due east course to the river Chattahoochee; and in other respects according to the southern boundary of the United States, as settled by the provisional treaty before mentioned.

The definitive treaty between the United States and Great Britain, as concluded on the 3d September, 1783, confirmed the same southern boundary to the United States. The treaty of peace concluded on the same day, between Great Britain and Spain, declared an entire cession, in full right, of East and West Florida, to Spain, but without defining the boundaries of those provinces.

[19TH CONGRESS, 1ST SESSION.]

MESSAGE OF PRESIDENT JOHN QUINCY ADAMS, COMMUNICATING CORRESPONDENCE RELATING TO THE BOUNDARY LINE BETWEEN GEORGIA AND FLORIDA. (Communicated to Congress March 17, 1826.)

(See H. R. Ex. Docs., 1st Sess. 19th Cong., vol. 8, No. 133.)

To the Senate and House of Representatives of the United States:

I communicate to Congress a letter from the Secretary of War, and copies of a resolution of the legislature of the State of Georgia, with a correspondence of the governor of that State, relating to the running and establishing of the line between that State and Florida, which I recommend to the favorable consideration of Congress.

JOHN QUINCY ADAMS.

WASHINGTON, *March* 15, 1826.DEPARTMENT OF WAR, *March* 14, 1826.

SIR: I beg to call your attention to the enclosed correspondence between the governor of Georgia and this department, relating to a dividing line between that State and the Territory of Florida. As it requires legislative aid to carry into effect the object of Georgia, I submit the propriety of presenting the subject to Congress for its consideration.

I have the honor to remain, your obedient servant,

JAMES BARBOUR.

The PRESIDENT OF THE UNITED STATES.

EXECUTIVE DEPARTMENT,
Milledgeville, April 13, 1826.

SIR: The enclosed resolution of the general assembly of this State, passed at their last annual session, will show their desire (repeatedly expressed) that the dividing line between Georgia and Florida should be run and permanently established. In conformity with it, I ask the favor of you to cause the necessary measures to be taken as early as possible to effectuate this object, in which you may rely on my readiness to co-operate at any time.

With great respect and consideration,

G. M. TROUP.

The PRESIDENT OF THE UNITED STATES.

IN SENATE, *November* 13, 1824.

Resolved, That his excellency the governor be requested, as early as is convenient, to open a correspondence with the general govern-

ment, and the government of Florida if necessary, on the subject of establishing, permanently, the line dividing this State from Florida, and to take all measures necessary to accomplish this object.

Read and agreed to.

ALLEN B. POWELL,
President of the Senate.

Attest: WM. Y. HANSELL, *Secretary.*

IN THE HOUSE OF REPRESENTATIVES,
November 16, 1824.

Read and concurred.

JOHN ABERCROMBIE,
Speaker of the House of Representatives.

Attest: A. B. HOLT, *Clerk pro tem.*

Approved November 20, 1824.

G. M. TROUP, *Governor.*

DEPARTMENT OF WAR, *April 26, 1825.*

SIR: Your letter to the President of the United States of the 31st ult., enclosing a printed copy of your proclamation for the protection of the Creeks before their final departure, according to the provisions of the treaty of the Indian Springs, has been received, and referred to this department. I have the honor, in reply to your request for the appointment of commissioners on the part of the United States to meet commissioners to be appointed on the part of Georgia to run and mark the dividing line between that State and Alabama, to state, that the difficulties opposed to your request, as communicated in a letter to you from this department of 13th July last, are insuperable. The States have ever justly held among the attributes of their sovereignty the right of regulating, according to their own will, the method of arranging their boundaries with their conterminous States. It is believed, therefore, that the running of the line between Georgia and Alabama is a subject exclusively belonging to those States.

In reply to your letter of the 13th instant, covering resolutions of the legislature of Georgia, having for their object the running of the line between Georgia and the Territory of Florida, I have the honor to state, that although the difficulty does not exist in this case as between Georgia and Alabama, yet there is no law authorizing the appointment of commissioners, or an appropriation of money to meet the expense incident to such a service. The President does not, therefore, feel himself justified in complying, at this time, with the wishes of Georgia on the subject. Disposed, however, to promote the object, he will recommend the subject to the favorable consideration of Congress at their next session.

I have the honor to be, &c., &c.,

JAMES BARBOUR.

His Excellency GEORGE M. TROUP, *Georgia.*

[19TH CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE SENATE.

(See Senate Journal, 1st Sess. 19th Cong., p. 186.)

IN THE SENATE OF THE UNITED STATES,
March 17, 1826.

(The preceding message of the President of the United States of the 15th instant having been received and read—)

“On motion by Mr. Cobb,

“*Resolved*, That the last mentioned message and documents be referred to a select committee, to consist of three members, to consider and report thereon, by bill or otherwise.

“Mr. Cobb, Mr. King, and Mr. Ruggles, were appointed the said committee.”

[19TH CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 19th Cong., p. 349.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
March 17, 1826.

(The preceding message of the President of the United States of the 15th instant having been received—)

“*Ordered*, That said message and documents be referred to the Committee on the Public Lands.”

[19TH CONGRESS, 1ST SESSION.]

EXTRACTS FROM JOURNAL OF THE SENATE.

(See Senate Journal, 1st Sess. 19th Cong., p. 192.)

IN THE SENATE OF THE UNITED STATES,
March 21, 1826.

“Mr. Cobb, from the select committee to whom was referred the President’s message of the 17th instant on the subject, reported a bill (S. 96) to authorize the President of the United States to run and mark the line dividing the Territory of Florida from the State of Georgia; which was read, and

“*Ordered*, That it pass to a second reading.”

MARCH 28, 1826.

(See same, p. 210.)

“On motion, by Mr. Cobb,

“The bill to authorize the President of the United States to run and mark the line dividing the Territory of Florida from the State of Georgia was read the second time, and considered as in Committee of the Whole; and the bill having been amended by filling the blank with the words five thousand, it was reported to the Senate; and,

“On the question, Shall this bill be engrossed, and read a third time?

“It was determined in the affirmative.”

MARCH 29, 1826.

(See same, p. 212.)

“The bill to authorize the President of the United States to run and mark the line dividing the Territory of Florida from the State of Georgia, having been reported by the committee correctly engrossed, was read the third time; and

“Resolved, That it pass, and that its title be as aforesaid.

“Ordered, That the Secretary request the concurrence of the House of Representatives in said bill.”

APRIL 28, 1826.

(See same, p. 279.)

“A message from the House of Representatives, by Mr. Clarke, their Clerk:

“*Mr. President:* The House of Representatives have passed the bill from the Senate entitled ‘An act to authorize the President of the United States to run and mark the line dividing the Territory of Florida from the State of Georgia.’”

MAY 1, 1826.

(See same, p. 280.)

“Mr. Knight, from the committee, reported that they had examined, and found duly enrolled, ‘An act to authorize the President of the United States to run and mark the line dividing the Territory of Florida from the State of Georgia.’”

MAY 5, 1826.

(See same, p. 293.)

“A message from the President of the United States, by Mr. John Adams, jr., his secretary:

“*Mr. President:* The President of the United States, on the 4th

inst., approved and signed 'An act to authorize the President of the United States to run and mark the line dividing the Territory of Florida from the State of Georgia.'''

[19TH CONGRESS, 1ST SESSION.]

IN SENATE OF THE UNITED STATES,
March 21, 1826.

Mr. COBB, from the Select Committee on the subject, reported the following bill; which was read, and passed to a second reading:

A BILL to authorize the President of the United States to run and mark the line dividing the Territory of Florida from the State of Georgia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States of America be, and he is hereby, authorized, in conjunction with the constituted authorities of the State of Georgia, to cause to be run, and distinctly marked, the line dividing the Territory of Florida from the State of Georgia, from the junction of the rivers Chattahoochee and Flint to the head of St. Mary's river; and, for that purpose, he is hereby authorized to appoint a commissioner or surveyor, or both, as in his opinion may be necessary: *Provided,* That the line so to be run and marked shall be run straight from the junction of said rivers Chattahoochee and Flint, to the point designated as the head of St. Mary's river, by the commissioners appointed under the third article of the treaty of friendship, limits, and navigation, between the United States of America and the King of Spain, made at San Lorenzo el Real, on the seven-and-twentieth day of October, one thousand seven hundred and seventy-five: *And provided also,* That the compensation to be allowed to the person or persons so to be appointed by the President of the United States shall not exceed, in amount, the compensation allowed by the government of Georgia to the person or persons appointed on its part for the same object.

SEC. 2. *And be it further enacted,* That the person or persons so to be appointed by the President of the United States, with such as have been, or shall be, appointed for the same purpose on the part of the State of Georgia, after they, in conjunction, shall have run and distinctly marked said line, shall make two fair draughts or maps thereof, both of which shall be certified by them, and one of which shall be deposited in the office of the Secretary of State for the United States, and the other delivered to the governor of Georgia.

SEC. 3. *And be it further enacted,* That, for the purpose of carrying this act into execution, the sum of _____ dollars be, and hereby is, appropriated, to be paid out of any money in the treasury not otherwise appropriated.

[19TH CONGRESS, 1ST SESSION.]

EXTRACTS FROM THE JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 19th Cong., p. 389.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
March 29, 1826.

“ A message was received from the Senate, by Mr. Lowrie, their Secretary, notifying the House that the Senate have passed the bill entitled ‘ An act to authorize the President of the United States to run and mark the line dividing the Territory of Florida from the State of Georgia ;’ and asking the concurrence of the House therein.”

MARCH 30, 1826.

(See same, p. 392.)

“ The bill from the Senate, entitled ‘ An act to authorize the President of the United States to run and mark the line dividing the Territory of Florida from the State of Georgia,’ was read the first and second time, and referred to the Committee on the Public Lands.”

APRIL 14, 1826.

(See same, p. 434.)

“ Mr. Scott, from the Committee on the Public Lands, to which was referred the bill from the Senate, entitled ‘ An act to authorize the President of the United States to run and mark the line dividing the Territory of Florida from the State of Georgia,’ reported the same without amendment.

“ *Ordered*, That the said bill be committed to a Committee of the Whole House to-morrow.”

APRIL 26, 1826.

(See same, p. 473.)

“ The House resolved itself into a Committee of the Whole House on the bill from the Senate to authorize the President of the United States to run and mark the line dividing the Territory of Florida from the State of Georgia ;” and, after some time spent therein, the Speaker resumed the chair, and Mr. Cocke reported the same without amendment.

“ *Ordered*, That the said bill be read a third time to-morrow.”

APRIL 27, 1826.

(See same, p. 478.)

“ The bill from the Senate, entitled ‘ An act to authorize the President of the United States to run and mark the line dividing the

Territory of Florida from the State of Georgia,' was read the third time and passed.

"Ordered, That the Clerk acquaint the Senate therewith."

MAY 1, 1826.

(See same, p. 494.)

"Mr. Garnsey, from the Joint Committee for Enrolled Bills, reported that the committee had examined an enrolled bill, entitled 'An act to authorize the President of the United States to run and mark the line dividing the Territory of Florida from the State of Georgia,' and had found the same to be truly enrolled; when

"The Speaker signed the said bill."

MAY 4, 1826.

(See same, p. 515.)

"Mr. Garnsey, from the Joint Committee for Enrolled Bills, reported that the committee did this day present to the President of the United States enrolled bill entitled 'An act to authorize the President of the United States to run and mark the line dividing the Territory of Florida from the State of Georgia.'"

MAY 6, 1826.

(See same, p. 521.)

"The Secretary of the Senate notified to the House that the President of the United States did, on the 4th instant, approve and sign 'An act to authorize the President of the United States to run and mark the line dividing the Territory of Florida from the State of Georgia.'"

[20TH CONGRESS, 1ST SESSION.]

EXTRACT FROM THE REPORT OF JAMES BARBOUR, SECRETARY OF WAR, OF NOVEMBER 26, 1827, ACCOMPANYING THE PRESIDENT'S ANNUAL MESSAGE OF DECEMBER 4, 1827, TOGETHER WITH DOCUMENT K, SENT WITH, AND REFERRED TO, IN SAID REPORT. (All the other papers accompanying the same are omitted, being deemed irrelevant.)

(See H. R. Ex. Docs. 1st Sess. 20th Cong., vol. 1, No. 2.)

Extract from the report of the Secretary of War, p. 42.

"In compliance with the act of Congress entitled 'An act to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia,' a commissioner was appointed on the part of the United States, to cooperate with one appointed by the State authorities of Georgia, for

the purpose of carrying the act into effect. I regret to report that the object has not been effected. The correspondence on the subject will present the causes of the failure, and are contained in document K."

K.

DEPARTMENT OF WAR, *November 7, 1826.*

SIR: I have the honor to inform you that, by virtue of the powers vested in the President of the United States, by act of Congress approved May 4th, 1826, and which provides for the running and marking the line dividing the State of Georgia from the Territory of Florida, the President has appointed you a commissioner to act in conjunction with a commissioner to be appointed by the constituted authorities of the State of Georgia, in running and marking said line. The act of Congress, itself, defining the beginning and termination of the line, and the direction in which it is to be run, I enclose to you, herewith, a volume of acts of Congress, which contains the act aforesaid, at pages 30 and 31, for your government.

Your compensation will be same as that allowed by the State of Georgia to her commissioner, and which is stated by Governor Troup, in his letter to this department of the 26th October, to be "eight dollars per day, including necessary expenses."

You will, should this appointment be accepted, signify the same to the department, and repair immediately to Milledgeville, in Georgia, and state to his Excellency Governor Troup your readiness to enter upon the duties embraced in this trust.

You will be particular in keeping a regular and correct journal of your proceedings, and this, together with your map and field-notes, you will forward, signed by yourself and commissioner who may be appointed on the part of Georgia, to this department.

I have the honor to be, your most obedient servant,

JAMES BARBOUR.

THOMAS M. RANDOLPH, SR., Esq.

ALBEMARLE, *November 12, 1826.*

SIR: I had the satisfaction, late yesterday evening, to receive a communication from your department, under date of the 7th instant, with your signature, announcing to me that the President had appointed me a commissioner to act in conjunction with a commissioner to be appointed by the constituted authorities of the State of Georgia, for running and marking the line dividing that State from the Territory of Florida. For this unexpected honor, I at present only return my very sincere and most respectful thanks to yourself, hoping to have the further honor of making my acknowledgments to the President when I shall have the good fortune to have fulfilled his commission to his satisfaction. I should be unworthy of the respect shown me in

this matter, if I were to except the commission precipitately and inconsiderately, without any instruction from the department intrusted with the execution of this law, or any intimation of the President's views with regard to the manner of proceeding in the case. The President's perfect knowledge of the infallible geometrical principles, according to which such a work must be performed, makes me more anxious to learn what his thoughts are as to the plan of the technical and scientific processes requisite. My idea, in the very first moment, was to propose to the commissioner of Georgia to have the latitude and longitude of the junction of the rivers Chattahoochee and Flint determined with precision, and also that of the point designated as the head of the St. Mary's river by the commissioners, under the treaty with Spain of 1795. That done to the satisfaction of both, then for them to separate and commence running and marking the line from opposite extremities at the same time until they meet in a middle point, the latitude and longitude of which should also be determined with the utmost precision; and the line is, I believe, not westward and eastward only, but crosses many fractional parallels of latitude, if it should not extend to a degree. Afterwards, if required by either, that each commissioner should run over again that part of the line run by the other. All elevations and depressions of the surface should, of course, be accurately measured, and such notice taken, chorographical and topographical, as can be done *en passant*. If I did not know the considerate disposition of the personage to whom I have now the honor of addressing myself, I should not venture to ask if it is likely that the President will appoint a surveyor himself, or will leave that to the discretion of the commissioner, in faith that, if he should find it requisite, the President will adopt his opinion, which would entitle the person so engaged by him to such compensation as Georgia may grant to her surveyor on this occasion. The surveyor should understand taking latitudes and longitudes, as well as running out courses and measuring distances accurately; and should have fit instruments for the former purpose, besides. I cannot refrain from suggesting that the persons to be employed as chain-carriers, on such an occasion, ought not, perhaps, be taken all from the State; and, of course, that an authority to the commissioner for engaging elsewhere the requisite assistants, and defraying their travelling expenses, might not meet the disapprobation of the President.

I am, sir, &c.,

TH. M. RANDOLPH, Sr.

JAMES BARBOUR, Esq., &c.

DEPARTMENT OF WAR, November 17, 1826.

SIR: I have the honor to acknowledge the receipt of your letter of the 12th instant, and have submitted the same to the President. The President sees no exception to your suggestion as to the mode of proceeding in the execution of the trust reposed in you, as commissioners. A surveyor will be appointed by the President, and directed to report to the commissioners at Milledgeville. Upon him, under the

direction of the commissioners, the duty will devolve of procuring the necessary attendance in chain carriers, &c.

I will issue a requisition in your favor, to be remitted to you, at Everettsville, by the Treasurer, for three hundred dollars, under the provision of the first section of the act concerning the disbursements of the public money, for which you will be held accountable on the settlement of your account for salary as commissioner.

I have the honor to be, &c.,

JAMES BARBOUR.

THOMAS MANN RANDOLPH, SR., Esq.

NORTH MILTON, IN ALBEMARLE, VA.,

Near Everettsville P. O., November 22, 1826.

SIR: I have this moment had the honor to receive the letter from your department of date 17th instant.

I hope I shall be pardoned for soliciting to have the favor done me of informing the governor of Georgia, in the first communication made him on this subject, that on Monday, November 13th, I held myself ready to obey orders from your department relative to this commission. It has been my main business, since, to revive in my memory the information requisite for fulfilling the object well, even in the case that the President might not have thought it necessary to appoint a surveyor; which determination is entirely satisfactory to me, independent of the high and willing deference to his judgment, by no means new in my mind.

If the clerk in your department who encloses to me at Everettsville the requisition on the Treasury, mentioned in the letter of the 17th, would take the trouble to inform me who the surveyor is, and when he is likely to leave Washington for Milledgeville, it would be thankfully received.

I have the honor to be, sir, &c.,

TH. M. RANDOLPH, SR.

JAMES BARBOUR, Esq., *Secretary, &c.*

DEPARTMENT OF WAR, *November 23, 1826.*

SIR: In reply to your letter of the 22d instant, I have the honor to inform you that a requisition in your favor was issued on the day of the date of my last letter, and that a note accompanied it, requesting it of the Treasury Department to remit the amount—to wit, \$300—to you, at Everettsville, which it is presumed has been done.

Since my letter of the 17th instant, and on further reflection, it is determined to leave the selection of a surveyor to you. You will, therefore, exercise your discretion in appointing a competent person, and, through him, the necessary attendants. His compensation will be at the rate of \$5 a day whilst actually employed, and his necessary expenses borne. His account, both for the time in which he may be engaged in the service, and for his expenses, will be accompanied by your certificates, as commissioners, of its correctness. You will re-

gard the appropriation made by the Congress, in carrying into effect this trust, and in no case exceed it. It is desirable that every attention be paid to making the undertaking economical, and as much below the appropriation as possible.

Governor Troup has been already advised of your appointment.

I have the honor to be, &c.,

JAMES BARBOUR.

THOMAS M. RANDOLPH, SR., Esq.

6 P. M., *December 16, 1826.*

SIR: I had the honor of addressing a letter to you at a somewhat earlier hour of this day; since which I have ascertained that I shall be disappointed entirely in my hope of getting a copy of the treaty made between the United States and Spain at San Lorenzo el Real, on 27th October, 1795; and also, of what is much more important to me, a copy of the report made by the commissioners appointed under the third article of the said treaty, "designating" a point as the head of the Saint Mary's river, which is the eastern extremity of the boundary line to be run. The term "designate," from the first moment convinced me that I could not proceed without the documents here mentioned, but I unluckily thought I was very sure of procuring them immediately, yet have failed there and elsewhere, so as to be compelled to ask the favor of you to order them to be sent on to me at Richmond by the first mail after this has arrived. The term "designate" being a little vague, I know not whether the point constituting the eastern extremity of the line may have been marked in some permanent way, or only described as the Head Spring at the intersection of a certain meridian and parallel, which may not correspond with the result of my observations and calculations; in which case another Head Spring being nearer to them, the commissioners may be at a loss. If the expression of the treaty should in fact be vague, as I have supposed possible, and the report should not have completely removed the difficulty, I beg to have instructions as to the ground I am to take in the conference with the other commissioner. Within an hour I have been informed who he is, and where he resides, viz: at the mouth of St. Mary's, in the town of Darien, which information creates a little doubt where I shall find him so as to be on the line by the 19th January. I have only to repeat my assurances of all possible efforts to be expeditious, accurate, economical, and accommodating to the other party, in everything relating to my mission.

I have the honor to be, sir, yours, &c.,

TH. M. RANDOLPH,

Commissioner, &c.

JAMES BARBOUR, Esq.,
Secretary of War, &c.

DEPARTMENT OF WAR, *December 23, 1826,*

SIR: I have had the honor to receive your two letters of the 16th inst. In regard to all the details having reference to the survey,

whether these relate to the selection of a surveyor, or other matters connected with the execution of the trust confided to you, they are referred by the President to your agency and discretion. I have addressed a note to the Secretary of State, requesting the copies of the treaty of San Lorenzo el Real, of the 27th October, 1795, and the report of the commissioners appointed under the third article of said treaty. The moment these are prepared and received, they will be forwarded to you, directed to Milledgeville, in Georgia.

I have the honor, &c.,

JAMES BARBOUR.

THOMAS M. RANDOLPH, Esq.

MILLEDGEVILLE, *February 2, 1827.*

SIR: I arrived here yesterday, in eighteen days from Richmond, which place I could not leave earlier than about noon of January 14th, from a variety of circumstances beyond my control. Indeed, the accounts of Indian disturbances on the line between Georgia and east Florida, by rendering it doubtful, for a short time, whether the commissioners could proceed in their route, if arrived, seemed to me fully to justify the short delay I made, in weather of almost unexampled severity as to cold, while suffering an indisposition infinitely the most serious for eleven years back.

I found lying at the post office here a packet for me, containing, relative to the claim of Baley, for Indian rations, several papers, to the subject of which I shall devote a very particular attention before I leave Georgia, and shall forward a report containing all the information I can obtain, and my opinion, as soon as the duty of running the line will permit me. The important packet containing the papers from the Department of State, mentioned in the communication from that over which you preside, dated December 23d, has not yet reached me. The report of the commissioners appointed under the third article of the treaty of San Lorenzo el Real, is a document without which these commissioners cannot well proceed. Since I had the honor last to address the department, I have seen that treaty, and have procured a copy of A. Ellicott's journal, from which I have the first information that the two extremities of the line to be run have been geographically determined, and the eastern, which was not certainly indicated by the treaty, actually marked, so as to be readily and surely discoverable at this time. But I have no evidence that the report made, jointly, by the two commissioners, which, by a provision in the treaty, was to make a part of it, and, of course, is now binding upon the United States and Georgia, does correspond fully with what is stated in the journal. Still I cannot entertain a doubt about that correspondence, as the journal was prepared for the press after the report had been received and acknowledged by the two governments. Upon finding that the packet expected in consequence of the communication to me from the Department of War, of December 23d, had not arrived, I immediately inquired of the governor here whether the State, or any individual, possessed the report in question, and am in-

formed that it cannot be procured here. On that occasion, I found that the journal of the United States commissioner, Ellicott, was here considered as sufficiently authentic, and that it was expected I should proceed, "in conjunction with the representative of the constituted authorities of Georgia," to run a straight line from the mound thrown up by the two commissioners at the outlet of the waters of the Ooka-fon-ooka swamp into the St. Mary's river, to the junction between the Chattahoochee and Flint branches of the Apalachicola river, which line was to constitute the permanent boundary between the State of Georgia and the Territory of Florida. The commissioner for Georgia is at his residence in Darien, one hundred and seventy miles from this place. I shall set out for that place on Sunday or Monday next, my horses requiring that much rest before I can resume my journey, with certainty of the performance from them which is requisite. I have only to assure the department that there shall be no want of diligence or fidelity on my part upon the occasion; but I cannot omit to remark that the expense of the work must be greatly increased from the necessity of proceeding without money, there being only eighty dollars in my hands at present. If the report of the commissioners in 1800 should not reach me in time, I shall be under the necessity of proceeding by Ellicott's journal, but shall be very exact in the application of the information it contains, as a very little deviation might leave on the Georgia side of the line some of the most valuable parts of the great Ooka-fon-ooka swamp; in which, besides its capacity to undergo general draining, there are some of the most fertile lands of all the South, appearing like islands, or rather oases, in the marshy desert. Nothing requisite shall be neglected so as to allow of any disagreement between that terrestrial arc of a circle, which is already the geographical line, and the future boundary of jurisdiction, its constituent, which is now to be traced and marked. The eastern extremity is considered here to be in latitude $30^{\circ} 34' 48''$. I am not yet informed what means are contemplated by the Georgia party for correcting the compass line, so as to insure its correspondence with the terrestrial arc, but I cannot hear of any astronomical instruments, for the purpose, being in their possession, nor does it seem to be expected here that any such means will be used. I do not pretend to be a practical astronomer, having never had it in my power to procure the necessary instruments to qualify myself, but I have a sufficient acquaintance with the theory of the science to enable me to detect all errors, and, of course, to guard against them. Nothing whatever in the guise of advantage, or of the still greater temptation, relief, could induce me to undertake what I did not feel an entire consciousness of the capacity to perform. If I had escaped malicious insinuations, predictions, and constructions, I should have been surprised, in the actual state of our public morals. It shall be my care to insure the falsity of that future malice which I must as certainly incur as I live.

Very respectfully, your most obedient, humble servant,
THOS. M. RANDOLPH.

The SECRETARY OF WAR.

DARIEN, GA., *February 14, 1827.*

SIR: I have the honor to inform you, that, after waiting at Milledgeville from Thursday 1st, to Thursday 8th inst., in the hope of receiving a despatch containing the report of Andrew Ellicott and Don Estevan Minor, made to government by the former in 1800, which still appears to me to be the only authentic document upon which the present commissioners, for running the same boundary line, can proceed with entire satisfaction to themselves, as the result of those operations, as far as it could then be obtained, is obligatory and final, I repaired to this place. Having now a strong belief that the packet, with its important enclosure, has some way miscarried, I have been engaged since Monday evening, the 12th instant, when I first saw Mr. Spalding, in making arrangements for proceeding immediately to the performance of our duty. A copy of the proceedings necessary before the actual commencement of the work, in the form in which they really took place between us, of questions, reasonings, and decisions, will be forwarded to your department by the next mail. The Georgia commissioner, by a negotiation with the Bank of Darien, made upon Tuesday, the 13th instant, has provided the funds requisite for commencement, and it has been agreed that the work shall be performed at joint charge of the two governments, by a single party under the control of the two commissioners, acting in conjunction with precisely equal powers. I had the good fortune to procure in Richmond the journal of Andrew Ellicott, which is completely in detail, and was prepared by him for the press after the report was made. I have no hesitation, under the actual circumstances, to consider as entirely authentic what he there says was the result of the joint operations of the two commissioners, and the final agreement between them. I am already assured of the complete ostensibility of the mark, which Ellicott says, in his journal, was made in presence of the two commissioners by their joint order, to designate the eastern extremity of the line. We have nothing, therefore, to do, but to run it so that it shall coincide, as nearly as we can possibly make it, with the present geographical line, the arc of a terrestrial great circle never yet traced and marked. From all the accounts hitherto received by us, the Ook-fon-Ooka swamp is absolutely impenetrable by men bearing compass and chain, without first opening a vista and then making a foot-bridge. We expect to have to depend upon a traverse, as we are not authorized to proceed in that only complete but very expensive way. A competent surveyor could not be procured in Georgia for less than eight dollars a day, all expenses paid besides. I could have brought one from Virginia far superior to the best in this State for five dollars. Having with much pains satisfied myself fully of the thorough competency of the surveyor appointed by the authorities of Georgia, I have consented to accept of him, although he is not at all an astronomer, and must proceed by geometrical means alone, unconnected by any astronomical operation, which may answer sufficiently well on the present occasion. His demand was ten dollars per diem, but I cannot consent to give more than four dollars for his

compensation from the United States. The men requisite will be engaged from one dollar a day to twenty dollars the month, with the exception of two of a superior order, whose services cannot be dispensed with. The whole provisions and other equipments must be procured in Savannah, and steps are already taken for that purpose. Nothing whatever can be had in or near the country through which the line runs, to which we shall be confined at least three months. We could not make our preparations even, with a smaller sum than \$1,500. Mr. Spalding has procured a larger accommodation, and there will be considerable saving from his success in that measure. We concur fully in the disposition and determination to use all possible economy, and necessary to that, all the despatch possible consistent with accuracy.

I have the honor to be, your most obedient, humble servant,
 TH. M. RANDOLPH,
Commissioner, &c.

Hon. JAMES BARBOUR,
Secretary of War.

DARIEN, *February 28, 1827.*

SIR: I have the honor to inform you that the party destined to run the line between the United States territory of East Florida and the State of Georgia has left Darien, fully equipped and provided for that purpose, at the expense of Georgia, one half of all charges incurred to be defrayed by the United States government, provided the moiety do not exceed the appropriation made by Congress on this occasion.

I have the honor to enclose a transcript of the proceedings of the two commissioners forming a board for the purpose in question, and to beg your attention to it at your leisure.

My last communication from you is dated December 23, 1826.

I am, sir, your most obedient, humble servant,
 THOS. M. RANDOLPH,
Commissioner, &c.

Hon. JAMES BARBOUR,
Secretary of War.

Monday, February 12, 1827.

Governor Randolph, commissioner on the part of the United States for establishing the boundary line between Georgia and Florida, arrived at Darien.

Mr. Spalding, the commissioner on the part of the State of Georgia, waited upon him, when, after deliberation, the following preliminary points were settled, without doubt or contrariety of opinion.

1st. We will commence running the line of separation between Georgia and Florida at the head of the St. Mary's.

2d. There shall be but one surveyor employed.

3d. We will engage from fifteen to twenty men for our various operations, as we may find necessary in the progress of our undertaking.

4th. We shall provision them for the whole operation at this place.

5th. We will employ, for the transport of our provisions, light wagons.

6th. We will make our preparations at all points at the joint expense of the United States and the State of Georgia.

7th. It will be necessary to provide the sum of two thousand dollars for the procuring of provisions and equipments for the commissioners and the gentlemen that accompany them, for the surveyor, and men under him.

8th. It will be necessary to provide the sum of five hundred dollars to meet the accidents to which every human operation is subject, without being reduced to the necessity of sending back for those aids, after they have become necessary.

9th. Mr. Spalding, the commissioner for Georgia, will draw upon his Excellency Governor Troup, through the Bank of Darien; the commissioner on the part of the United States engaging, on the part of the United States, to refund a moiety of such advance to Georgia.

The commissioners then proceeded to nominate John Randolph, esq., commissary and commandant of the party, with power to regulate and direct the police of the camp.

They nominated John G. Bell secretary and accomptant, and determined that these gentlemen should receive a compensation for their services.

When the board adjourned.

Extract from the minutes.

J. G. BELL,

Secretary to the Commissioners.

Answer to the first query, viz: Shall we commence running the line of separation between Georgia and Florida on the St. Mary's, or at the Chattahoochee?

If the Okofonoke swamp be penetrable at all by a surveying party, which is not authorized to incur the expense of cutting a vista through it, commencement should be made at the eastern extremity of the boundary line, for the earlier after this time of the year the attempt is made, the less difficulty, risk, and labor will attend it, and the greater the probable accuracy of the operations to be performed.

The season will be too far advanced to allow of any such attempt, when the line has been first extended from the western extremity to the western margin of the Okofonoke. The time requisite to reach the mouth of Flint, 300 miles from Darien, along the zigzag course which must be pursued, there being no direct route thither, may perhaps be better employed in proceeding more slowly and more exactly in running the line from the eastern extremity at once. The saving of that time will give more leisure for the most difficult part of the

work, of which a greater degree of accuracy will be the sure effect, and the healthier early season will render hurry unnecessary. The present is the exact time for such operations. Upon such ground as the swamp, the water will be sufficiently warm for wading, and the foliage greatly thinner now than later. Again, if the Okofonoke be absolutely impenetrable with compass and chain, and the intention to run the line through it be accordingly found altogether impracticable, the fact can be determined only by going there and making the experiment; in which case, very certainly it will be most advisable to make a traverse and find thereby the point at which the line would have come out of the swamp, if it had been run through it, so as to give the power of proceeding westward at once. In that case the random or guide line will probably diverge more from the true line, than if it had begun at that end where no traverse is necessary. But, if that should be the result, as is highly probable, the greater accuracy so attained in running cannot be demonstrated without continuing on to the end, which the case supposes cannot be done, and the advantage may be lost in the traverse, so as at last to leave a doubt whether the line actually run will, if ever it should be continued throughout by a broad vista and foot-bridge, strike the point designated as the head of the St. Mary's river or not. It would not be determined, with sufficient certainty, what the deviation had been, nor whether the error had been made in coming on from the Chattahoochee to the western margin of the swamp, or in the traverse made to find where the line ought to come out of the swamp, on the east side of it; upon which grounds I give it as my opinion, that we should begin at the point designated by Ellicott and Minor, as the head of St. Mary's, as near as they could approach it, taking care to consider the point designated as the true head, source, origin, and not the point marked by a mound as the point of our commencement; that we should calculate our course from the latitudes and longitudes of the two ends as given by the said commissioners, and proceed upon that course, making the correction requisite as we proceed to the Chattahoochee; whence we should return, correcting and marking the line in our progress, until we reach the absolutely impenetrable part of the Okofonoke, where we should erect a durable monument of some kind, and another such where our line, by computation, should come out of the impenetrable part of the swamp on the east side thereof, taking care at the same time to renew Ellicott and Minor's mark.

Answer to the second question: Should there be one or two surveyors employed?

I am not of opinion that more than one can be employed at one time, if the two parties act in conjunction, literally, according to the interpretation of the language of the law of the United States upon this subject, acquiesced in by the commissioner of Georgia. I find that a surveyor fit for the purpose cannot be engaged in Georgia for the compensation allowed by the government of the United States. I have satisfied myself fully, with much pains, that the one appointed by the authorities of Georgia is entirely competent every way. I am willing to take his place myself for a time, should any accident happen to suspend his progress in the work, so that it shall not stop,

but shall be kept in progress until he can resume his functions. I have no objection to fixing his compensation at eight dollars a day during all the time he is employed, provided one half of that compensation be paid by Georgia; the other half by the United States. I think that all his expenses must necessarily be borne, besides his compensation, at the joint charge of the two governments.

Answer to the third question: What number of men shall be engaged?

In addition to the number required by the surveyor, which cannot possibly be fewer than two chain carriers, four pioneers, and three signal bearers, in all nine, there should be, in my opinion, four supernumeraries armed with rifles, two to hunt every day alternately, to procure fresh meat for the party; the other two to attend as a guard against the insolence and pilfering of the strolling Indians.

These men should be engaged to take the places of the surveyor's attendants, whenever fatigue, accident, or indisposition, may disable any of them. They should be hired by the month, at a rate not over \$20. Of course there must be drivers to the wagons used in the transportation of provisions and camp equipage for the commissioners, surveyor, and men of all kinds of service. Such a party employed for a purpose which keeps them for several months in an unsettled country, manifestly needs one gentleman to act as commissary for procuring, preserving and issuing the necessary stores, and another to act as secretary and accomptant; the two to exercise authority over the men at all times when off their daily duty, so as to prevent disorderly conduct, or strolling, or negligence in what may be required of them at such times, and to see that they observe the rules declared in the articles of agreement for service made with them by the commissioners. Upon the commissary will depend the attendance, as far as practicable, of the provision wagons, the drawing of supplies from them, the preparations for encampment every night, and diet at the proper times.

It will be the duty of the secretary to make out, every night, a correct copy, for each of the commissioners, of the surveyor's field-book for the day, that they may know with certainty how the work is proceeding in regard to accuracy. A necessity might arise for holding intercourse with the Indians, who are numerous not far from the line towards the western end; in which case, such an officer as the last mentioned would be wanted.

Surveyor's attendants, 9; supernumeraries, to serve as guard and hunters, alternately, 4; officers, 2. Wagoners and one cook will be wanting.

The above is respectfully submitted, in part, to Mr. Spalding, by his most obedient, humble servant,

THOS. M. RANDOLPH, *Commissioner, &c.*

DARIEN, *Wednesday, Feb. 14, 1827.*

Fourth query. Shall we provision for the whole operation at this place, and for how long?

T. M. Randolph acknowledges himself unable to give an opinion upon this question, and leaves the decision upon it entirely to the better judgment and information of Mr. Spalding. All that he has been able to learn on the road through the Carolinas and Georgia, tends to convince that such a party as is indispensably necessary on this occasion must be provisioned beforehand, or subsist upon game killed in the woods through which the line is to be run; for the country is all new, and as yet but little cultivated: much the smaller part of every crop actually made furnishes food for man; continued emigration to places near, keeps all such articles constantly up to a high price. The troops lately sent to suppress the Indian insurrection in the same country, must have consumed all that could be had, far and near, within their or our reach. If the provisions are to be procured so as to be carried out with the men, the place of the greatest trade nearest to the rendezvous at Darien, must, of course, be the best for that purpose. If the party is to rely upon game for subsistence, it will inevitably disperse before the work can be half finished.*

Fifth question. Shall we employ for transport light wagons or pack-horses?

The former seems preferable, because half the number of horses will answer; and if it should be found that the wagons cannot always accompany the party, still they can always keep near enough to pack from them to it, upon the same horses, the supplies necessary for daily consumption.

Sixth. Shall we make our preparations in all points with joint expense?

Answer. The United States commissioner, in answer to this question, lays before Mr. Spalding the law of the United States on this subject, and the letters to him from the Secretary of War.

The second section of the act requires a joint report upon the operations necessary for the purpose intended, and the result, after the same shall have been performed, and obtained by the persons employed by the two governments "acting in conjunction." The third section appropriates \$5,000 to defray the expense on the part of the United States. One of the letters from the Secretary of War to that commissioner, acting under his orders, says, "You will regard the appropriation made by the Congress, in carrying into effect this trust, and in no case exceed it. It is desirable that every attention be paid to making the undertaking economical, and as much below the appropriation as possible." Another uses this language: "In regard to all the details having reference to the survey, whether these relate to the selection of a surveyor, or other matters connected with the execution of the trust confided to you, they are referred by the President to your agency and discretion."

The commissioner of the United States cannot hesitate to believe that he is fully authorized to give an opinion on this subject, and accordingly he declares to Mr. Spalding that he is fully convinced him-

* In answer to the inquiry, "and for how long," the commissioner of the United States can only say, that he will concur with Mr. Spalding and the surveyor, Mr. McBride, in whatever opinion they may together form upon that point, not exceeding three months.

self of the propriety of making all preparations and carrying all operations on at the joint expense.

Seventh. What sum may be deemed necessary for the procuring of provisions and equipments for the commissioners and gentlemen who attend them, with the surveyor, and men engaged under him?

The number of persons once determined by the two commissioners, and actually selected and employed by the surveyor, also the probable time the operations may take, once calculated, Mr. Spalding, who knows best what articles are requisite, as well as their prices in the nearest great market towns, can best determine what sum it may require to procure them. The commissioner of the United States will readily acquiesce in any which the appropriation made by Congress will justify.

Eighth. Will it be necessary to be furnished with moneyed means to meet the accidents to which every human operation is subject, or shall we depend upon sending for these aids after they have become necessary?

Answer. Money might be wanted to pay off men discharged for any one of a variety of causes which it is obvious may possibly produce that effect; something indispensable might be lost, or in some unavoidable way rendered useless; in which case, to save time and expense, it must be replaced from the nearest settlement where it can be procured. Whatever money may be carried, will be as entirely safe in the pocket of Mr. Spalding as anywhere it could be put. It need not be remarked, that such a circumstance should be a profound secret, for the knowledge of it might excite daring cupidity in Indians or others.

Ninth. In what manner shall we procure the funds necessary for carrying into effect our resolutions?

Answer. If Mr. Spalding cannot procure them from the resources of Georgia, by application to the governor, or in some more immediate way here, the commencement of the survey cannot be made until communication between the commissioner of the United States and his government shall be had, and the orders of the President received.

Money can only be drawn from the treasury of the United States, under the appropriation for this purpose, by the requisition of the head of the War Department. That the United States treasury will be liable to the authorities of Georgia for any advance it may make for the purpose of running this line, provided it neither exceed one moiety of the expense actually and unavoidably incurred in the prosecution of the intention of Congress in this particular case, nor yet exceed the whole amount of the appropriation made by them on the occasion, need not be demonstrated to the authorities of Georgia.

Mr. Spalding may rely upon the commissioner of the United States for whatever co-operation he may require from him, in this and all other points.

Most respectfully submitted by

THOMAS M. RANDOLPH, SR.,

Commissioner, &c.

To THOMAS SPALDING, Esq., *Commissioner, &c.*

Memoranda of Points to be determined with Gov. Randolph.

First. Shall we commence running the line of separation between Georgia and Florida on the St. Mary's, or at the Chattahoochee?

Second. Shall there be one or two surveyors?

Third. What number of men shall be engaged?

Fourth. Shall we provision them for the whole operation at this place, and for how long?

Fifth. Shall we employ, for transport, light wagons or pack-horses?

Sixth. Shall we make our preparations in all points at the joint expense?

Seventh. What sum may be deemed necessary for the procuring of provisions and equipments for the commissioners, and gentlemen who attend them; for the surveyor, and men engaged under him?

Eighth. Will it be necessary to be provided with moneyed means, to meet the accidents to which every human operation is subject, or shall we depend upon sending for these aids after they become necessary?

Ninth. In what manner shall be procured the funds necessary for carrying into effect our resolutions?

Respectfully submitted to Governor Randolph, by

THOMAS SPALDING,

Commissioner, &c.

DARIEN, *February 13, 1827.*

EAST FLORIDA, NEAR LAKE OKLAHATCHE,

Saturday, March 24, 1827.

SIR: I have the honor to inform the President of the United States, through that department over which you preside, that the party occupied in running the boundary line between Georgia and Florida arrived on the St. Mary's upon the 6th day of March. On the 8th, Mr. McBride, the surveyor appointed by the governor of Georgia, with a company of men of his own selection, commenced that operation by measuring one mile due north from the mound made by Ellicott and Minor, in the spring of the year 1800, to indicate the vicinity of the head of St. Mary's, then inaccessible by them. From the extremity of that one mile, they began a line in the course north $85^{\circ} 46' 45''$ west, calculated and intended to reach the junction of the Flint and Chattahoochee arms of the Apalachicola river by a deflection to the west of $2' 27''$ in every five miles. The line soon entered a swamp of such extent that, although completely separated from the great Okfonooka by a narrow and low but dry isthmus, covered with long-leaved pine and fan palmetto, it did not emerge under fifteen miles. In a few chains under thirty miles, the Suwanee river was crossed without making an offset; and there is now no ground to apprehend that such an intermission in the work will take place on any part of the line, except in the case of ponds too deep to pass, but beyond which the signals can be distinctly seen. The line misses the

Suwanuchee, but intersects the Alapahaw and Withlacooche branches of the Suwanee river. Of the chain of lakes lying on this part of the line, all except this, near which we now are, will be in Georgia; some of the others are ten or fifteen miles in circumference. This is a mile long, and not much less in width, with transparent waters and dry banks, in the midst of a fertile country, with scenery truly picturesque and highly beautiful. Of the climate I can say nothing more than that, since the 25th day of January, when I entered South Carolina, there has been an uninterrupted continuance of the finest spring weather I ever witnessed in my life, with no more rain than what has afforded a variation as agreeable as necessary to vegetation. I have not had the honor as yet to receive any communication from your department since I left Richmond, but trust that I may, nevertheless, before I reach the Chattahoochee, be gratified with the answer I have so long and so much desired to my application from Albemarle, early in December, for a copy of the report made by Ellicott and Minor in 1800. As yet, I cannot myself say what resolution I shall take as to making the line permanently, if I remain unprovided with that important document, which must have been lost in the endeavors to transmit it to me by mail. I shall go to Tallahassee from the nearest point of the line to that place, with the hope of finding the important communication there. I have strong hope that the line now running will terminate so near to the western extremity of the true boundary that the return line will soon coincide with it; in which case we have no more to do than to make a small mound at each of the mile-stakes already erected, and inscribed with the distance as the line has advanced. The last operation will be to continue the boundary eastward until it reaches the St. Mary's river. The two most important geographical facts already ascertained are, that the head spring of St. Mary's lies to the south of the point where the line will intersect that river, and that no part of the great Okofonooka swamp lies in Florida. Ellicott and Minor appear to have made a judicious compromise; for a straight line from the mouth of the Flint river, passing through the point designated as the head of St. Mary's, would certainly cut off a slip of territory lying on the south side of St. Mary's river and the north side of the line.

I have the honor to be, sir, yours, &c.,

THOS. M. RANDOLPH, SR.,

Commissioner, &c.

The Hon. JAMES BARBOUR, *Secretary of War.*

TALLAHASSEE, *April 7, 1827.*

SIR: I have the honor to inform you that the line passed the Jamonia lake on Thursday, 5th inst. The distance of 115 miles was measured to the main post road to this place, where it passes that body of water. The divergence north from all former lines has been constantly increasing. It was there two miles; and there is now every reason to apprehend that our experiment line will terminate north of the settled western extremity of the true boundary. Nevertheless,

having once ascertained the true cause with precision, we can avail ourselves of it fully on our return to correct by; and we shall have no need of going through the swamps again, for we can always find the true line beyond by measuring very exactly the rectangular distance between the two where they enter such places. I am still without any communication from you since December 23d. That circumstance places me on ground upon which the subordinate officer of the President of the United States ought not to be permitted to stand. As I have to depend on my own resources of all sorts, I feel even a higher responsibility and more zeal and impatience than I might otherwise have done. But it is manifest that I can have no control whatever over the expenditure; and, also, that a continuance of the same determined support of the interests of the United States on the occasion may put an end to all further proceeding, and render that expense fruitless and all our labor unavailing. I shall act as I persuade myself the President would do, if he were, in every respect, in my situation. I shall use every endeavor to attain the end desired without further cost, and, of course, shall be ready to adopt any fair and just compromise offered to bring the matter to a conclusion, knowing that what I assent to cannot bind the government, if I am wrong. Everything possible, with the means we have, shall be done to run the shortest possible line between the two settled extremities of the boundary. But if Ellicott and Minor have erred in assigning their geographical position to those two points, it is manifest that the line between them, traced according to calculation founded on their results, cannot be the true boundary. The space of such possible error corresponds with lands on the St. Mary's and Suwanee of no value whatever, as they are barren naturally, and occupied by marshes, which never become dry for the most part. There are, indeed, some truly valuable lands included within the doubtful limits, but scarcely enough to defray the charge of the exact operations requisite to give mathematical accuracy.

I have the honor to be, sir, yours, &c.

[No signature.]

P. S.—Knowing that no apology is ever received for slovenly handwriting, I should not think of making any, but I cannot refrain from remarking, that the Georgia commissioner has a secretary attending him at five dollars per diem, and that every man of the party is a Georgian but myself, left to depend upon myself alone, uninstructed, unaided, unprovided, obliged to act in contrariety to their leader upon important points, among men who join him in support of an opinion daily, almost, declared by him, that Georgia will be forever cramped in her growth, and retarded in improvement, until she separates from the Union. I find the variation of the needle, admitted by the Surveyor General here, to differ almost a degree from the quantity settled by two corresponding observations, made on the St. Mary's, by the person employed to run the line at present. Yet the means of ascertaining have been exactly the same, viz: the sight vane, plumb-line, and polar star, at its greatest elongation from the pole. The extraordinary divergence north may have happened from inaccuracy on the

occasion mentioned. Yet the operation was conducted with as much precision as I ever witnessed ; and I had not, myself, the smallest suspicion of error. My confidence in the Georgia surveyor is unabated. He is a man of science, of expertness, and diligence, with a constancy not to be shaken, and a moral character not to be impeached.

[No signature.]

ENCAMPMENT NEAR LAKE YAMONIA, OF
EAST FLORIDA, *April 17, 1827.*

SIR: I have the honor to inform the President of the United States, through you, that when the experiment line run from the point designated by Ellicott and Minor, as the head of the St. Mary's river, towards the junction of the rivers Flint and Chattahoochee, had, so nearly as three or four miles, approached its termination, a despatch was received by the commissioner of Georgia, from the executive authority of that State, and communicated to the commissioner of the United States, which instantaneously arrested the progress of the line; as it was, according to instructions accompanying it, put immediately, without any demand or application, into the hands of the latter. The governor of Georgia recalls the assent of Georgia, heretofore supposed to have been deliberately and distinctly given to the concurrent operations provided for by the act of Congress relative to the Florida boundary, in continuance and completion of those formerly conducted by the commissioners of the United States and Spain, with the same object, but left by them unfinished. He declares that another investigation of the source of the St. Mary's, and a more satisfactory demonstration of its locality, must be made, before Georgia will consent to receive, as her southern boundary, any line run between the geographical points determined and designated as the terminations east and west of such a line; unless it should be found that one of these points, the eastern, has, in fact, been placed farther to the south than its true position, when precisely determined according to the conditions prescribed by the treaty between the United States and Spain, in 1795. He, moreover, advises, but does not command, the commissioner of Georgia to institute operations tending to make such discovery, and communicate the result before he proceeds further in the work. He requires him, however, to act in conjunction with the commissioner of the United States in such operations, or, in case of his refusal, not to prosecute them at all. That commissioner having no authority which would justify his deliberating, for one moment, on such a proposition, proposed to suspend all further proceedings, until he could consult his government, or to run the course recommended by Ellicott in his journal, with the deflection prescribed from the junction of the rivers, and see where it would strike the St. Mary's river. To neither was the commissioner of Georgia willing to give his assent. Both thought the public good would be most promoted by continuing the endeavor to terminate the affair, and prevent the difference likely to arise, by procuring a result which would thoroughly fulfil the act of Congress, and be, at the same time, likely to give sufficient satis-

faction to Georgia. After the arrangements made at Darien, the expense actually incurred, all the benefit of which would be lost, the pledge given to the men employed to bring them back to that place, and the agreement made between the commissioners themselves to compromise differences on all occasions, if possible, and use all practicable means to attain the end in view, fairly in the progress, and equally in the termination, great reluctance to discontinue altogether, of course, existed in the minds of both. It was at length concluded to run a line back by the course which the resolution of the plain triangle would give, found by the experiment line computed out by an offset to the lines formerly run for the same purpose, the one-mile line at the St. Mary's river, and the intended line protracted before run. The deflection necessary in running a plumb-line has, of course, been observed. Forty-five miles of such a line have been already run, and the calculated distance from former lines, so far, corresponds with the actual rectangular distance found to exist. A few more ostensible marks than on the experiment line have been made. The work is no longer considered as capable of producing a final result; but sanguine hopes are entertained that it may prove so far satisfactory, in the issue, as to reconcile both authorities to an acceptance of it as a compromise, the best likely to be made, because the whole proceedings, from the act of Congress to the end of the geographical process, have been founded upon a former compromise, which has remained unimpeached for twenty-seven years; and, moreover, has been confirmed by repeated operations ordered by legislative or executive acts, founded upon the general conviction that it was not only equitable, but the best possible to be made, according to all the information acquired in the time elapsed since the date of it. [See letter of U. S. to Georgia commissioner, April 9.] The experiment line was apart and north from that run by Mr. McNeil, under orders of the Surveyor General of Florida, pursuant to an Executive mandate, under the administration of Monroe, full two miles, when more than ten miles from its computed end. As the commission is constituted, the surveyor appointed by Georgia, and accepted by the officer of the United States, not the less considerately and willingly because he had no other resource, was, of course, the sole umpire in cases of difference of opinion; and as such, of course, the United States commissioner had no control over him in any way. The commissioner of Georgia attributed the extraordinary divergence here mentioned, to an error in determining the magnetic variation. That taken was 50" less than the allowance now at Tallahassee, ascertained by order of the Surveyor General, three and a half years ago, in the very same way, viz: sight vanes, plumb-line of thirty feet length, with plummet in water to guard against agitation by wind, and the polar star at its greatest observed elongation, determined by observation. The correspondence of two observations, made through separate nights, near Ellicott's mound, gave confidence, although the mode was not *that* the commissioner of the United States would have preferred. There is much reason to believe that the geographical data for the calculation of the course used, which were assumed from Ellicott, are incorrect, and have vitiated the result. But the geographical point,

the junction of Chattahoochee and Flint, is indefinite. Junction of the rivers means junction of their waters, which are identified only by their common natural banks in their ordinary fulness. The union of these is the junction of two rivers. The term confluence of their streams, would have had a different meaning. The experiment line now run would have come very near that naturally marked point, although far north of the extreme of the submerged grounds projecting from the same, and indicating the confluence of the main streams or currents.*

Very respectfully, your obedient servant,

TH. M. RANDOLPH.

JAMES BARBOUR, Esq.

MILLEDGEVILLE, *May* 15, 1827.

SIR: I have had the honor to transmit to you, by mail, three several packets, containing the communications made by the governor of Georgia to the commissioner of that State, while we were upon the line, and a correspondence between the two commissioners, which took place upon the suggestion of Mr. Spalding, who declared that he deemed that formality necessary. In consequence of the last communication from Governor Troup, all further proceedings stopped on the 28th April; the commissioner of the United States being entirely unprovided with means to continue them, or any accrediting testimonial which might have supplied the place; which he regrets the more, from the conviction he is under, that the result would have been accepted by the legislature of Georgia, and a final boundary established without that additional expense which has been, by the interference, rendered unavoidable. The expenditure made on this occasion has proved much greater than any one expected; but it is manifest that the United States commissioner could have no control over it, and that he could not do otherwise than submit to the judgment of the commissioner of Georgia, upon every question of that nature, for the alternative to require the commissioner of Georgia to submit to him, who was much less qualified to judge of such things in Georgia. Much might have been saved by bringing out one-half at least of the party from Virginia, as was proposed. In that case, the work would have been completed, and a new investigation for the head of the St. Mary's made, which the two commissioners had indeed agreed to make when they arrived at the eastern end of the line; that of the United States having proposed to take the responsibility upon himself of concurring, from the entire conviction that the result would thoroughly support the view taken by Congress. By crossing the St. Mary's at Ellicott's mound, above and below, on horseback, repeatedly, while Mr. Spalding had crossed it only once upon a log, I had satisfied myself of the accuracy of Ellicott and Minor. Immediately

* Trees grow there which would not live out of the water. The junction of two rivers cannot be at a place a mile or more below that at which their waters have been already joined, supposing the natural banks or sides of the channel to identify the waters.

above the mound B, the river could not be navigated in a canoe; for it is a narrow rivulet, in the middle of a wide bog, while immediately below, all in sight of B, if the ground was cleared of trees and shrubs, it is a river boatable for 15 tons; above, it came to my horses' knees; below, half way up the saddle skirts, at the same time. It is true that, following the course of the greatest length of one of the swamps which supply the river, you will go southwardly a little, and that swamp, after rains, has a perceptible motion in its waters, but another swamp turns west, and is much more extensive, with much the greater part of its extent on the north of our line. The question made by Georgia, now, is too trifling, in my opinion, to have produced those consequences which the ferment excited about Milledgeville, I conclude, has rendered expedient. A letter from a Secretary of War, in 1819, authorized Georgia to expect a new investigation, to determine the exact locality of the head of St. Mary's. The expression used is, "the acquisition of the Floridas may change the character of the boundaries." But that investigation was really made by Georgia in 1819, and the report concluded in these words: "We are therefore of opinion that Mr. Ellicott and the Spanish deputation were correct in establishing on the northern bank the point of demarcation between the State of Georgia and the province of East Florida." The question now made did not occur to the three commissioners of 1819, all appointed by Georgia. This correspondence will be found in the Department of War, and the report, as communicated by Governor Rabun. It is proposed here to send a Georgia surveyor to search for the head of the river. I cannot omit to declare my sentiments in regard to this proposal, that they may not be unknown when that case comes up hereafter. Whoever he may be, he will not venture to give an opinion adverse to the public wishes, if the excitement in the public mind should be considerable at the time upon the question, which is not the case now generally, I am very sure; for many more persons have expressed their regret at the interruption, than the contrary. Yet, no doubt, by taking a dry time, a survey may be made of the rivulet running into St. Mary's, near the mound, and the point determined geographically where it ceases to be a rivulet, and becomes a bog, supposing the astronomical results of Ellicott, by which the geographical position of the mound has been determined to be correct, and their verification by a practical astronomer, furnished with perfect instruments, and allowed several weeks at each extremity of the line, ought not to be omitted on such an occasion. With respect to the western extremity, inquiry should then be made whether a point in the bed of the river, rarely ever uncovered there, has not been taken for the junction, one mile or more south of the cape or head land forming the point of the fork, where the bank of the two rivers unite and their waters join, except in very uncommon dry seasons. Cypress and other aquatic trees grow all over the beds of the rivers to the south, and their streams are seen meandering through them. That is the case with Suwan, where it is very rapid. I must be permitted to declare my opinion, that, if Georgia and the United States were to leave the geometrical operations precisely as they now stand, it would give general satisfaction

hereafter. If the line run westward on this occasion, as far as the Wythlacoche, 68 miles, and the line run eastward to the same, 93 miles, with the short course of river between, were adopted as the permanent boundary, there could not be any dissatisfaction on either side, now or hereafter, and no further expense would be requisite. One straight line will intersect the Wythlacoche more than once, and will leave small portions of Florida on its north, and like fragments of Georgia on the south, forming fractional parts upon a general survey of no value whatever. These two lines are sufficiently marked as they are now; the first here mentioned by mile stakes numbered, and the second by five mile hillocks, made with a hoe, and both well, by blazing trees on both sides.

When the party broke up, the majority proceeded to Darien with the provisions which remained, while the commissioner and secretary, with the surveyors, chain carriers, and signal bearers, set out directly by the head of the Allasaha, a branch of the Suwany river, and the south bend of Altamaha, for Milledgeville. I accompanied those, of course, with the view, first, to close the commission and get copies of all the documents, and, next, to obey the order of the Department issued from the Office of Indian Affairs, under dates of December and February last, in regard to the claims of Baley and Brodnax, for supplies furnished to the friendly Creek Indians who had been expelled from their country when McIntosh was assassinated. When we arrived at the Altamaha, the waters of Oakmulgee were so high that it could not be crossed, and we had to make our way, after separating from the surveyor and his men, along its banks for fifty miles, up to the ferry at Hartford, before we arrived at which, we had numerous creeks to pass, by wading up to the shoulders, on account of the unsoundness of their bottoms, and were thereby delayed until the night of the 6th. On the morning of the 10th, the commissioners separated. I have a copy of the accounts of the expenditure, but I have as yet received nothing from the surveyor, for whose residence in Putnam county I shall set out to-morrow, being sure of concluding to-day the business devolved on me from the Office of Indian Affairs. Here I may be allowed to inform you, that the Creek Indians of the party friendly to the United States are at this time almost starving; the only subsistence of men, women, and children, being the root of a kind of bamboo, called here China brier, the *Smilax Suedo China* of the botanists, which is rendered esculent only by a tedious preparation, and has not nutritive virtue enough to save the lives of their children, all of whom will probably perish without immediate relief from the United States, as most of those of the Seminoles, in the peninsula of Florida, have already done, from want of wholesome food. No other aid from the United States than the issue of one peck of corn a head per week, would be necessary or expedient. Brigadier General Ware, of the Georgia militia, would be the best person to address to on this occasion, if it should be resolved to do anything, in this case of the utmost possible wretchedness into which their civil broils have brought the part of the nation always faithful to the United States. I have no doubt that the whole Creek nation could be easily prevailed upon now to consent to move over the Mississippi, and the

Seminoles will gladly share their destinies at this time. But a special mission from the President, best, perhaps, composed of the military of some rank, will be necessary on the occasion, in my opinion. Nothing is likely to be done, unless the authority be so new, and of such dignity, as to render useless or vain, and unavailing in result, all factious contrivances to thwart the views of the government from ill will to the agents employed by it. These savages are as credulous and indecisive as they are ignorant and capricious. With them idle tales or malicious representations and statements has as much effect as accurate information. Everything which fosters and strengthens their natural suspicion and jealousy, is well received by them. Whatever is done with them, then, must be quick done, and by a commanding influence. I trust what I have here said needs no apology, as my attention has been turned to this subject by duties which have been assigned to me from a branch of your department. I have already forwarded my report in the case of Baley, and shall send that in the case of Brodnax by to-morrow's mail. The decisions I have made in these cases have been founded upon evidence which would have satisfied my mind as a juror, in making up my opinion for a verdict in concurrence with the others. If I have been deceived, all the persons to whom I have had access, and who were in the way to be informed at the time, have been deceived also. Assertions made by the disappointed, springing from jealousy of the success of others, have been duly considered by me, notwithstanding their want of weight from want of character.

I am authorized to say, in regard to the question with Georgia about the head of St. Mary's, that, if General Bernard, now in that quarter, were required to examine and report, it would be speedily decided, without additional expense, in great probability, by the next Georgia legislature and Congress.

I have the honor to be, sir, your most obedient,

TH. M. RANDOLPH.

The Honorable JAMES BARBOUR,
Secretary of War.

P. S.—I consider the departure of Colonel Brearly, before the extreme distress for want of food had fallen upon the Creek Indians of McIntosh's party, as very unfortunate, and I feel very sure the Colonel has had some bad if not insidious advice given him on that subject. They would not only enter their names now, but would actually follow him like hungry dogs to be fed, anywhere he might lead. My information is derived from many persons whom I have met, at different times, some every day for a few days back, immediately from among them. The wretchedness of the Florida Indians was communicated to me through sure channels of information while I was in the Territory.

T. M. R.

APRIL 4, 1827.

MY DEAR SIR: I have considered the subject of your letter addressed to me this morning with all the capacity I have, and with sentiments of the highest possible respect for your knowledge, judgment, and zeal, to procure a just and accurate termination of our undertaking.

With respect to the lines formerly run, I have never had much confidence in them, because they have, two or three times, as I understand, diverged, converged, intersected, coincided for a space, and separated again.

I have conjectured that Watson followed the course recommended by Ellicott, without making the deflection proposed by him, and that McNeil reserved the course simply, and made the deflection; but having Watson's setting out at hand, as he approached the western end, corrected by it, so as to insure the same termination.

I begin to fear, with you, that our variation may not have been determined with perfect precision; but still, when Mr. McBride finds *that* with certainty, he can make use of the guide line, nevertheless, with equal advantage. I have approved of his putting down small temporary mile-posts, with the number of miles inscribed on each, for obvious reasons, and I have no objection at all to having them removed, at the joint charge, as we return. With respect to the unpleasant feelings excited in the minds of *the people*, as we do not agree in opinion as to the fact itself, I cannot express any other sentiment than that of sorrow, that any one person settled near the boundary should be so affected, even for a few days. I propose to you, for your consideration, to print an explanatory handbill at Tallahassee immediately, if there be a press there; if not, to let the secretary employ himself in writing a number, to be distributed as widely and speedily as possible. My wish is, that this experiment line should be continued as begun. It cannot make a difference in time of more than four days, if that. We may then commence anew, at the western extremity, upon Ellicott's course, if you please, with his deflections, offsetting to the end of our guide line, which, it seems, must terminate north of the junction, effacing it as we return, and making the real boundary by mounds as well as stakes. I think it would not be justifiable for me to accede to your proposal, to abandon a line already run 115 miles out of 155, because its course has been further north than was expected. I trust you will consent to its continuance, unchanged in any way, even if it should threaten, before ended, more than at present, to be wholly unavailing.

I beg you to be assured, my dear sir, of the cordiality and sincerity of the sentiments of respect and esteem which it gives me so much pleasure to express, on all occasions, with regard to you.

Writing, as I do, on my knees, from a log, I fear my hand will be scarcely legible. It mortifies me extremely to be a bad penman at all times; but I am now too old to improve in that, at least, and must ask your indulgence for my inability to write under such circumstances.

I am, dear sir, your most obedient servant,

T. M. RANDOLPH, *Commissioner, &c.*

THOMAS SPALDING, *Commissioner, &c.*

P. S.—I will reply more in detail to your favor of to-day, as soon as it may be necessary, and I beg your indulgence for the delay.

JUNCTION OF THE FLINT AND CHATTAHOOCHEE RIVERS,
Monday, April 9, 1827.

MY DEAR SIR: I have this moment received a communication from Governor Troup, which, in the frankness of his character, he permits me to lay before you. This letter contains, in detail, the many reasons which, from time to time, I have taken the liberty to suggest to you as giving a claim to Georgia that the boundary line should not, at any event, be extended beyond the mound that Ellicott erected near the eastern branch of the St. Mary's river; believing, as I have done, from the beginning of our survey, that both the streams into which the St. Mary's is divided take their source far south of the mound. But it is unnecessary for me to attempt to add anything to the lucid exposition which Governor Troup has given, and I only allude to my opinion here, lest it should have been supposed I could have lost sight of the rights of Georgia upon this subject.

Yours, most respectfully,
 TH. SPALDING.

To Gov. RANDOLPH, *Commissioner, &c.*

THOMAS COUNTY, *April 4, 1827.*

MY DEAR SIR: Mr. McBride having joined us in camp, I beg leave to renew to you the proposition I made two days ago, that we should here suspend the experiment line, which can in no circumstance be any longer necessary; and I beg to submit to you some reasons, in addition to those which were contained in my letter to Mr. McBride, and which letter I read to you for your approbation. Since that time, Mr. McBride has run twenty-eight miles, and, instead of diverging towards either Mr. McNeil's or Mr. Watson's lines, he is now eleven chains further from Mr. McNeil, and five chains further from Mr. Watson's. It is impossible, therefore, that we can imagine that, in the scarce forty miles which remains to be run, that his line will diverge so far south as to unite with those lines which are now distant from his experiment line two miles and an eighth. It seems to me that our difficulties have arisen from permitting ourselves to suppose that Mr. Watson and Mr. McNeil ran straight lines, and not lines describing the arc of a great circle. The continued divergement of Mr. McBride's line from the lines of these gentlemen, demonstrate, to my mind, conclusively, that they, like him, must have pursued the arc of a circle, and that our deviation to the north must have arisen in a mistaken allowance for variation—and this, too, is now Mr. McBride's opinion. As we are to commence upon our real line, at the junction of the Flint and Chattahoochee rivers, now distant but forty miles, to proceed at once there, and take up Mr. Ellicott's indicated course, before any error of and consequence at all important can have

arisen, we will have reached this point, when Mr. McBride's experiment line will serve all the purposes for which it was originally intended—it will serve to correct and to verify our labors upon the line.

This arrestment of the experiment line has become the more necessary, because we have arrived at a part of the country thickly inhabited, and, at every progressive mile, we are filling these inhabitants with uneasiness and alarm for their vested rights. It is known to us that the line we have been running is but an experiment line, and that its demarcation and measurement is only intended for the purpose of more readily and more truly verifying our future work. But all this is not known to them; and although we may say this to those that we may meet in our way, words are fleeting and are perishable, while our course has been written upon the trees, and their alarms must and will be renewed as soon as we have passed. You will remember, my good sir, that, from the beginning, I have been reluctant in consenting to such demarcation, and have only yielded from the conviction, in my own mind, that the superior knowledge which you yourself and Mr. McBride possessed upon this subject, might make that necessary which to me did not appear so. This necessity, however, can certainly now no longer exist, and I appeal to the feelings of liberality which I have uniformly found in your bosom, for an indulgence of those feelings which you are now sensible must exist in mine; for suppose, sir, that, by any circumstance, after this experiment line should have been run, our work should be interrupted—and we hear rumors of Indian war at the present moment—would not the labors that we have executed do a serious injury, by alarming all persons who are embraced within these two lines? might it not even generate feuds between Georgia and Florida, upon the subject of their boundaries, where now there are none? But I trust, my dear sir, I have said enough upon this subject, and I therefore most respectfully request your perusal of this letter, with the copy of the letter addressed two days ago to Mr. McBride.

Yours, &c.,

T. SPALDING.

To TH. M. RANDOLPH, Esq.

EXECUTIVE DEPARTMENT,

Milledgeville, March 30, 1827.

DEAR SIR: I have received your two several communications from the Florida line of the 7th and 12th instant. In draughting your original instructions, it was confidently believed, from the best sources of information accessible to me, not only that the latitude and longitude of the two mounds, viz: the one at the mouth of the Flint, the other at the head of the St. Mary's, had been established with the greatest accuracy and precision, but that the latter mound was, in its position, very nearly identical with the true source or head of the St. Mary's. I do not learn, from either of your communications, that this is not the fact. Without knowing the relative position of the mound to the head of the river, it would seem that the commissioners, in a spirit of compromise, resolved to run the northeast line of

640 perches, supposing the head of the river would be found within that line.

The United States had unquestionably the constitutional right to form a treaty of boundary with Spain; to that treaty, Georgia was no otherwise a party than as she was bound by the terms and stipulations of it, when constitutionally made, as one of the States of the confederacy. It has not been settled how far, in forming treaties of boundary, the treaty making power can proceed in surrendering, without their consent, territory claimed by the States. Apart from any constitutional doubts about it, it would seem sufficiently evident in the eye of justice and equity that if the United States, in a treaty of boundary with any foreign State, should exercise the power of conceding the territory of a State without her consent, such State would have a fair claim of indemnity, or equivalent, against the United States; exclusive sacrifices by one State not being demandable of right by the United States for the common benefit of all the States. If, therefore, the United States, under the Spanish treaty, had knowingly, or otherwise, surrendered territory of Georgia to Spain, Georgia, under any circumstances, would have a just claim of indemnity on that account against the United States. If, in the course of events, the territory so surrendered should become the property of the United States, (Georgia, in the mean time, not having been indemnified,) that State might be considered as having a just claim on the United States either for the restoration of the territory specifically, or its equivalent. If, by the act of the United States, the boundary had been incorrectly established by the United States, in consequence of which Georgia lost territory, the obligations of the one party, and the rights of the other, would not have been weakened on that account. Georgia would still have lost territory, not by her own act or omission, but by the act or omission of the United States. The United States would be bound, and most strongly bound, by her own act: if that act produced benefit to Georgia, Georgia might take advantage of it. The United States could not, by such an act, acquire benefit to themselves at the expense of Georgia. The rights of Georgia are independent of any act of the commissioner of the United States, charged with carrying into effect the treaty with Spain; they rest on her own charter, on the treaty of peace, the constitution of the United States, and her own constitution.

If the United States commissioner was correct in establishing the true line, Georgia will cheerfully acquiesce. If he was incorrect, the United States will not consider his act as binding and obligatory on Georgia, more especially, as now the question is not between the United States and Spain, but between the United States and Georgia; and the more especially, too, as the line not having been yet run and marked by the joint act of the United States and Georgia, the question may be considered open for the ascertainment of the true line. If the mound (B), therefore, and the true head of the St. Mary's, shall coincide, or nearly coincide, we would have no objection to that mound as the point of departure. If by his N. E. line of 640 perches, Mr. Ellicott has passed the head or source of the river, or if, by his stipulating the termination of the mile due north from the mound as the

true point, the line shall pass to the north of the head or source of the river, it will not be expected by the United States that Georgia will adopt that line as matter of course.

The commissioner assumed the right so far to depart from the letter of the treaty as to adopt, as the point of termination or departure, not the head or source of the St. Mary's, but a point one mile due north from the mound (B), whether the source or head of the St. Mary's fell within and south of that point or not; whilst, therefore, the United States may be governed by that point if the head of the St. Mary's should be found north of it, the State of Georgia will not be governed by the same point if the head of the St. Mary's should be found south of it. Georgia can rightfully resort to the true head of the St. Mary's, if she finds benefit or advantage in doing so, no matter whether that head be found within the N. E. line of 640 perches, or south of it, that being the true point recognised by the treaty. The United States cannot take advantage of their own error to occasion loss to Georgia, but Georgia can insist on the act of the United States as obligatory on themselves whether the United States suffer loss by it or not. Georgia is not disposed to derive to herself advantage from any error or mistake committed by the United States. In this respect she will be satisfied with a result that will approximate nearly to her just claims under the charter, the treaties, and the constitution. The governor does not undertake to decide that the point at which the commissioners have commenced is not the true point; because he has no means of ascertaining whether that point coincides, or nearly coincides, with the head of the St. Mary's. The commissioners are best qualified to determine that fact. He only suggests to the commissioner of Georgia the propriety of adopting as his guide not what has actually been done by the commissioner of the United States, under the treaty of 1795, but what, according to that and other treaties, ought to have been done; as, in a transaction of this kind with the United States, there can exist no motive for concealment or disguise, and the less so, because of the high and honorable character of the gentleman who represents the United States. You are at liberty to disclose to him, without reserve, the contents of this paper. If the views presented by it are not in accordance with his own, he will candidly inform you what his own are.

The propriety of recognising the grants of Georgia for lands which may be left out by the permanent line is obvious, and would have been expected from the well known liberality of Governor Randolph.

It was not the intention of the instructions, that the mound near to the junction of the Flint and Chattahoochee should be taken as the point of termination or departure, but the junction itself. Whatever be the result of the joint proceedings of the two commissioners, permit me to suggest the expediency of (provided the season should prove favorable for the object) an accurate survey, if practicable, of the course of the St. Mary's from the mound B to its true source. Should the true source not be found at the mound B, but above it, it is very desirable, for more reasons than one, that all doubts on this subject should be removed, and on the highest authority.

You will not attempt it without the concurrence of Governor Ran-

dolph, who, I am persuaded, will not withhold that concurrence, particularly as the adjustment of any unfortunate difference which may be the result of your common efforts, must chiefly depend on a knowledge of this fact.

Very respectfully and sincerely yours,
G. M. TROUP.

To THOS. SPALDING, Esq., *Commissioner, &c.*

ENCAMPMENT IN THE WOODS,
Near the junction of Flint and Chattahoochee,
Tuesday, April 10, 1827.

DEAR SIR: For your prompt communication of the recent despatches received by you from Governor Troup, I make my cordial acknowledgment. I shall certainly have no hesitation in communicating to you whatever instructions I may receive on this occasion; for, as I understand our duty, there can be no collision or misunderstanding bearing any relation to it; as we have merely to complete operations formerly commenced and left unfinished, having their foundation in views and decisions settled by an acquiescence of twenty-seven years on the part of Georgia, and even acted upon by her authorities on more than one occasion before of the same nature with this. I can do no more than co-operate with you in carrying into execution an act of Congress by running a straight line, which can only mean the shortest possible line between two points geographically determined twenty-seven years ago. The eastern point is that designated by the commissioners Ellicott and Minor, who have distinctly declared that the head of St. Mary's is so far indeterminate, that it lies within a certain described circle of considerable radius, and has a certain longitude and latitude; but has never been marked or described in any other way, or even found with certainty as yet.

The western point is the junction of the waters of two rivers, by which is plainly meant the extremity of the tongue of land between them, or that spot upon which, when you stand, one of your arms is extended over the water of one river, and the other over those of the other river. It is obvious that the river must, at the time of decision, be completely within its banks, and yet not at the lowest state of its waters. The western point once fixed upon thus, and a proper trigonometrical calculation made, a line may be run by the compass, making a calculated deflection from an ordinary compass or thumb line, which is demonstrably the shortest line between the two points, and therefore the straight line demanded. As the commissioner of the United States, Ellicott, has given the course and deflection wanted, with the calculation by which he arrived at it, I do not think any other should be attempted, and I am willing to proceed immediately with that. I should be satisfied myself to co-operate with you in a further investigation to find the source of the St. Mary's river, and a more exact demonstration of its locality; but I have no authority to concur in such operations, and could not suffer myself to indulge one moment's thought about it; besides, I believe the said source not only

to be indeterminate, but indeterminable, by any geometrical or any physical process whatever. If the river derived its supply of water from springs, that which furnished the most water in the course of the year might be found and declared to be the head spring, or that which happened to be the farthest from the mouth of the river. But in fact, the river in question has its origin in a marshy country of great extent, with few or no springs, deriving its waters from rain altogether; of course, affording unequal supplies from any given surface in any given time. In such a case, the dispute could be settled by compromise only, and such a compromise was made in the most regular manner twenty-seven years ago, accepted with consent at the time by Georgia, and never complained of until now.

It is my opinion that a better could not now be made by any persons whatever; nor can I believe that any cession was made of territory belonging to Georgia. An adjustment of boundaries with Spain *then*, can no more be considered a cession of territory belonging to a State, than with Great Britain *now*, under the treaty of Ghent. To conclude, it is my deliberate opinion that we ought not to proceed any further at present, but separate, consult the authorities by which we are constituted, and meet again in November to finish then. I am willing to concur with you, as far as I can, without compromising myself.

Pardon my bad writing. I am willing to do everything in my power, and I conscientiously believe myself competent to what I have undertaken, both in mind and body; but if penmanship be a necessary requisite, I may retire from the undertaking with as much despatch as I should with satisfaction, having no motive whatever to influence me, but barely the determination to do my duty as accurately as I possibly can, however roughly it may be.

Permit me to declare my high esteem and cordial regard for yourself, and gratify me so far as to assure Gov. Troup of my continued sentiments of admiration for his character.

Your most obedient, humble servant,

TH. M. RANDOLPH.

T. SPALDING, Esq.,
Commissioner, &c.

EXECUTIVE DEPARTMENT, GEORGIA,
Milledgeville, April 18, 1827.

MY DEAR SIR: I received your despatch, of the 10th instant, this afternoon. I am not insensible to the many difficulties you have had to encounter in running the line; difficulties rendered supportable, only by the harmonious and friendly intercourse which has been uninterruptedly maintained, and very much to my own gratification, between Governor Randolph and yourself. Reposing the highest confidence in your patriotism and ability, it was already known to me that the rights and interests of Georgia would be sustained as they ought to be, and that, at your hands, they could suffer no detriment, but from causes for which you could by no means be held responsible.

It was equally well known, that, if Georgia suffered injury by the agency of Governor Randolph, the fault or blame would not be his; he would willingly do wrong to nobody.

It was apprehended, on the receipt of your letter of the 12th ultimo, that there must be something imperative in the instructions of the United States commissioner, which prohibited him from adopting the mound. It is now certain that his instructions, given in conformity with the act of Congress, limit him expressly, not to the head of the St. Mary's, but to the point agreed on by the United States and Spanish commissioners under the treaty of '95. You have discovered, to your own satisfaction at least, that the head of the St. Mary's is different from, and south of, that point, and even south of the mound itself. There is no alternative now, but to adopt the proposition of Governor Randolph, and postpone, for the present, further operations, until the two governments shall come to an understanding whether the line adopted by Messrs. Ellicott and Minor, under the influence of error and mistake, and in a spirit of compromise, shall be the true line, or whether that established by the charter of Georgia, the treaty of '83, the treaty of '95, and the constitution of Georgia, shall be.

The approach of the hot season, on a low and marshy country, abounding with insects, and exposing you and your party to disease, the expense of running and marking a line which may or may not be adopted by the two governments, the temporary evil resulting from conflicting jurisdictions to which the establishment of such a line may give rise, besides the apparent countenance and sanction given to it by the act of Georgia, and my decided impression that the legislature of Georgia will not consent to sanction that line, all concur in recommending the expediency of discontinuing your operations for the present. It is true that the act of Congress cannot make that right, which is essentially wrong; it cannot legalize contradiction or inconsistency; it cannot, for the purpose of carrying into effect the treaty of '95, assume a point different from that assumed by the treaty. This would be a violation, not an execution of the treaty. The United States had not the power, much less had Mr. Ellicott, to designate a point one mile north of the head of the St. Mary's. The United States and Spain, in carrying that treaty into effect, had not the power to do it, to the injury of a third party. Mr. Ellicott himself had no conception that he was vested with any discretion to do so. He sought the head of the St. Mary's as the only true point; if he missed it, it will not be made a question whether Georgia and the United States shall take the treaty itself, or Mr. Ellicott's mistake, as their rule of conduct.

Whilst, therefore, it was plain enough that Congress had adopted the mistake of Mr. Ellicott, it was sincerely hoped that the instructions to Governor Randolph might so far deviate from the letter of the act as to have permitted him to adopt the letter of the treaty, rather than the letter of the act inconsistent with it; and the more so, as the one is the supreme law, the other not. It is not designed to enter upon a discussion of this matter here, but (in passing) it is well to remark, that the United States commissioner is under a misapprehension when he believes that Georgia has acquiesced for twenty-seven years in the

correctness of the work of Mr. Ellicott and Mr. Minor. Georgia has given no sign or demonstration of such acquiescence, either express or implied, within that time. On the contrary, when any question occurred requiring any sign or demonstration in relation to it, Georgia has invariably looked to the head or source of the St. Mary's as the true point; and it is known to you that, many years since, looking to that source as the only true point, her legislature had authorized commissions charged with the ascertainment of the true head or source of that river, and with a view, as expressly stated in their resolutions, to the correction of any error which may have been committed by Mr. Ellicott. The result of those commissions were communicated to the War Department, for the information of the President.

The President may believe himself authorized to conform the instructions of the commissioner to the terms of the treaty; if so, your operations can be renewed in the fall. Otherwise, an opportunity must be afforded to the Congress to reconsider the subject, that the provisions of the act may be made to correspond with the provisions of the treaty.

With great consideration, dear sir, your friend and servant,
 GEORGE M. TROUP.

To THOMAS SPALDING, Esq.,
Commissioner, &c.

Copied from the original: J. G. BELL, *Secretary, &c.*

ENCAMPMENT IN THE WOODS,
Near the junction of Flint and Chattahoochee,
Tuesday, April 10, 1827.

DEAR SIR: Without entering further into the discussion at this time of what ought to have been the boundary line between Georgia and Florida, I believe I shall but consult the interests of both, by joining with you in extending the line between the junction of the Flint and the Chattahoochee rivers, and the point of our departure at St. Mary's. If, hereafter, the governments we represent believe the object worthy of a more deliberate examination, I rely, with confidence, that justice will not be denied to the party that might be aggrieved by our determination. And I beg of you to accept assurances of my sincere respect and esteem.

T. SPALDING.

To Governor RANDOLPH,
Commissioner, &c., &c.

ENCAMPMENT ON THE WYTHLACOOCHIE,
Between McNeil's and McBride's Lines,
April 26, 1827.

MY DEAR SIR: Having this moment returned from the compass and chain party, I am the better reconciled to the manifest result of the

intelligence communicated, by having just found the return line intersect the Wythlacoohie twice upon this day, thereby leaving a slip of land on its north and east side belonging to Florida, and another smaller slip, on its opposite side, belonging to Georgia. The torrents of rain lately fallen, which bar our passage eastward from this by the swell of small creeks, at present, have, of course, swelled the Wythlacoohie also so greatly as to make long offsets, upon uneven and roughly-covered ground, absolutely necessary, and I left the surveyor employed in making them. He has, in person, swam the river once with every man of the party this time, and would have it to swim again twice more; indeed, it is by no means certainly otherwise than twice more in addition, if we were to deny him the facility of an offset, the error of which (and such operations are never without error) must inevitably be carried on, augmenting with the distance, to the eastern end of the line, as already agreed upon, according to the previous understanding between us of our respective authorities. Now, all our consolation, hitherto, has been derived from the hope that we should, in returning, strike so very close to the point of our original departure as to satisfy all minds, and put an end to questions about boundaries, older than the government of Georgia itself, as much older as that is than our United States. All such hope being now extinguished, I cannot pass over this opportunity, hurried and constrained in conveniences as it is, to make it publicly known, for future benefit, that, at another and a healthier season than that of the tropical rains, which we have lately borne without any other roof than a very flimsy tent, it would be quite pleasant to ford the same river, not more than knee-deep, at the very same places. The offset which became absolutely necessary at the Ocloeknie, had already given us discouragement enough.

This is the time for me to write what I have repeatedly said to you, that the President of the United States ordered the Secretary of War to give me the act of Congress, and the report of the commissioners appointed in consequence of the obligatory provisions of the treaty between Spain and the United States, of October, 1795, as all my instructions, accompanied with the usual injunctions of all possible economy in the expenditure of the appropriation, which a hope was expressed might be found more than sufficient, and a charge as to accountability, with a requisition to note and communicate all the information I might probably obtain, geographical or other, which might possibly be of use to the government of the United States at any future time. I did, myself, raise the question about the meaning of the term "junction of the rivers," believing before that the geographical position of the two ends of the line had been long ago settled, and unexpectedly finding that the eastern was disputed, I, naturally enough, threw open that of the western also, by showing that it was fairly disputable; for Watson had, *ex parte*, determined it for Georgia, supposing the decision of Ellicott and Minor rejected, and McNeil had adopted Watson's decision. Now Watson's mark of the western extremity is many feet higher than that of McNeil upon the same trees, of a kind which cannot live out of water; and the latter is one mile, or perhaps more, to judge by the eye and report, without

measuring, below the real "junction" of the waters of the rivers, which have really been blended that distance above at the point where the banks, before separate and identifying the different rivers, have united. I did also give it as my private opinion, that the Spanish word used in the treaty of 1795 had been falsely translated, for it did not mean head-springs, but source or origin of the river St. Mary's, ("nacimiento,") which makes a very important difference: for that river had its origin in very extensive marshes, which are supplied entirely by rain-water, and not at all by springs; although, no doubt, some feeble head-spring might be found to be the furthest off from the mouth of the river, and, possibly, further south than the point agreed upon and designated by Ellicott and Minor as the geographical position of the true source of the river. But these are questions to be decided by higher powers and intelligences than ours, and I drop them altogether. I conclude, then, by assuring you, in writing, what I have already done often enough in speech, that my predilection would certainly be for Georgia on all questions, as I now very bitterly regret my not having settled there in 1803, as I deliberately then intended, were I not completely restrained at all times, first by an enthusiastic republican honesty, and next by my feelings for the little State of Florida, which is now so very near its birth to a destiny very high indeed, if anticipations are allowable, founded upon the felicity of its climate, the fertility of its soil, and its most extraordinary hydrographical advantages for uniting, with facility and cheapness, the ocean and the gulf.

Let me not omit to assure you that my proposal to discontinue proceedings, while we were still on the Apalachicola, proceeded from the extreme anxiety I had all along felt at never having received from the Department of War the report of Ellicott and Minor, the journal of the former, an authentic document, having been all along my sole guide; and for the satisfaction I felt in the relief from that anxiety, afforded by the declaration of Gov. Troup, that Georgia would not be bound by any decision that we might make upon the ground the act of Congress had compelled me to take: for I did then, and I do now, sincerely believe that I was running much risk in proceeding throughout without that authority, which could give right to any conclusion in which I was concerned, and which I might fail ultimately to receive in time, as it had been promised me immediately by a letter from the Department of War, dated December 23d last, and had not then or now arrived. I trust you will not forget, what you have often acknowledged and Mr. McBride has constantly confirmed, that the water was entirely too cold for him and his men to have carried chain and compass through the marsh of fifteen miles of uninterrupted length, at any time earlier in the spring than the 1st of March, when we commenced.

I cannot let this opportunity pass without testifying zealously to the high moral and intellectual worth, the scientific attainments, the hardihood, perseverance and determined resolution, with the excellent disposition for republican command, of that gentleman; any unlucky choice of character for this party which you may have made, I forget in the strong feelings of esteem and kindly regard which I shall ever

entertain for yourself, as also of gratitude and admiration for your charming family, now enjoying in tranquillity all the delights of Sapelo, where you will soon have the felicity to join them.

I part in perfect good will to all, forgiving that rudeness in some of your men which is founded perhaps in temperament, but is, nevertheless, truly painful in its effects to men of my age, who love quiet, and literature, and science alone, in this world, after their own family.

Permit me then, before I conclude, to express my very high esteem for Mr. Bell, whose deportment, conduct, manners and opinions, have been entirely unexceptionable to this hour from that of our leaving Darien.

I will reply to the latter part of your letter to-morrow, when I have more time, and shall have given more consideration to it.

I am, my dear sir, most sincerely your friend, as well as your most obedient servant,

T. M. RANDOLPH, SR.

T. SPALDING, Esq., *Commissioner, &c.*

A true copy from original:

J. G. R., *Sec'y, &c.*

NEAR THE WYTHLACOOCHIE, *April 27, 1827.*

MY DEAR SIR: Accept my thanks for the kindly sentiments contained in your letter of yesterday, in reply to mine communicating Governor Troup's instructions.

I certainly conceive, that, from the nature of the country in which we have been acting, our labors could not have been carried on in the winter; and this, I believe to have been the opinion also of Mr. McBride.

Will you permit me to say, in the closing of our labors, that the direct control of our men in camp was what, in the commencement of our undertaking, was as little in my expectation as in my inclination, and that our situation did not admit any careful selection of persons for the service.

The boisterous hilarity of some, I have too often felt to be little reconcilable to the tastes of either yourself or of myself; but I hope and believe that soon all that was wrong will be forgotten, and only what may be pleasant to remember will be remembered by either of us.

For myself, my dear sir, anxious for your esteem, I shall be proud of your recollections.

With esteem and respect, &c.,

T. SPALDING.

To Gov. RANDOLPH.

DEPARTMENT OF WAR, *May 22, 1827.*

SIR: I have had the honor to receive the copies of the correspondence between you and the Georgia commissioners, and regret the cir-

cumstances which have made it necessary to discontinue your operations in running the dividing line between Georgia and Florida. As your duties, therefore, have ceased for the present, you can return to your home, as soon as it may suit your convenience to do so. Previous to which, however, I request your attention to the case of Major Baley, which was some time since referred to you for your examination and report.

I have, &c., &c.,

JAMES BARBOUR.

To THOMAS M. RANDOLPH, Esq.

[20TH CONGRESS, 1ST SESSION.]

MESSAGE FROM PRESIDENT JOHN QUINCY ADAMS, TRANSMITTING COPIES OF COMMUNICATIONS FROM THE GOVERNOR OF GEORGIA, RELATING TO THE LINE DIVIDING THAT STATE FROM THE TERRITORY OF FLORIDA.

(See H. R. Ex. Docs., 1st Sess. 20th Cong., vol. 3, No. 87.)

WASHINGTON, *January 22, 1828.*

To the Senate and House of Representatives of the United States:

By the report of the Secretary of War, and the documents from that department, exhibited to Congress at the commencement of their present session, they were advised of the measures taken for carrying into execution the act of 4th May, 1826, to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia, and of their unsuccessful result; I now transmit to Congress copies of communications received from the governor of Georgia, relating to that subject.

JOHN QUINCY ADAMS.

EXECUTIVE DEPARTMENT,
Milledgeville, November 20, 1827.

SIR: On the question which has arisen between the State of Georgia and the United States, during the recent effort to mark the boundary line between this State and the Territory of Florida, it will, it is presumed, be satisfactory to you to examine, before the meeting of Congress, the evidence on which the State relies to establish the fact, that the source of the St. Mary's is the lake or spring from which issues the most southern branch of that river, and therefore the spot at which must terminate the straight line to be drawn from the junction of the Flint and Chattahoochee rivers, according to the second article of the treaty between the United States and Spain, of the 27th of October, 1795. The subject having been brought before the Gen-

eral Assembly by my predecessor, and not yet acted on by them, it would be improper for me to do more, in transmitting that evidence, than to request your attention to it; no doubt being entertained that its force and importance will be duly weighed.

I have the honor to be, with perfect consideration, your obedient servant,

JOHN FORSYTH.

The PRESIDENT OF THE UNITED STATES.

Copy of the report of John McBride, Esq., relative to the source of the St. Mary's river.

EATONTON, August 7, 1827.

SIR: Agreeably to your instructions of the 20th of June last, requiring me, under the direction of Thomas Spalding, esq., commissioner, to ascertain the true head or source of the St. Mary's river, I proceeded immediately to Darien, in order to join Mr. Spalding. For reasons, which he has detailed to you, Mr. Spalding believed it unnecessary that he should accompany me in the tour, and superintend, personally, the discharge of the duties confided to us. After receiving from him every requisite aid in procuring supplies and transportation, and, at my request, his written instructions, I repaired, without delay, to the region which I was to examine, and arrived at Filman's on the 3d of July.

By reference to the chart which accompanies this report, it will be seen that the St. Mary's is formed by three principal branches—the north, the west, and the south. To ascertain the source of each of these branches, their length and relative magnitude at their points of confluence with each other, was considered the object of my mission. And, having learned that the north and south branches unite about four miles below the mound A, or Commissioners' Encampment, I proceeded to that point, and carefully measured the width, depth, and velocity of the current of each branch, both at the junction and about half a mile above it. From the mean result of these observations, it appears that the south branch discharges 1,369, and the north branch 993 cubic feet of water per minute. Hence, the south branch is to the north as 1,369 to 993, or very nearly as 40 to 29. A traverse was commenced near the junction, and continued up the south branch to the outlet of Lake Spalding, about thirty miles, and another traverse, four miles in length, connecting Lake Spalding with Lake Randolph. These are beautiful lakes of transparent water: the former supposed to be nine miles in circumference; the latter, twelve. As no soundings could be made, their depth is unknown. The sources of the south and west branch being thus ascertained, the volume of water contained in the north and west branches was then measured at their junction, and the following result obtained:

Cubic feet of water discharged by the north branch in one minute,	159
Do. do. do. west branch do.	238

The fact is then clearly established, that, of the three branches into which the St. Mary's is divided, the south is the greatest, and the north is the least, though it is represented by Messrs. Ellicott and Minor as the principal. The only criteria for determining the principal branch of a river, must be its length, volume of water, and general direction; and these all coincide in the south branch of the St. Mary's. It is three miles longer than either of the other branches, and discharges one-third more water than both of them together. Its general direction agrees with that of the lower section of the river much better than either of the other branches. If a line be drawn from Point Peter to the confluence of the north and south branches, and indefinitely produced towards the southwest, it will pass through Lake Spalding, the source of the south branch.

It had been intended to make a running survey of the north branch also, but, from the very satisfactory nature of the information already obtained, together with some previous knowledge of the sources of the north branch, this intention was abandoned, believing that a further examination, while it would be attended with additional expense, could be productive of no real utility.

In collecting information respecting the topography of the country which it had become my duty to examine, I availed myself of the aid which could be afforded by the inhabitants. Though the population is extremely sparse, yet no country is better known than this. Resorting thither for the benefits of the chase, and for the pasturage of immense herds of cattle, their knowledge of the country is extensive and accurate; and experience has proven that information derived from them may be safely confided in. Messrs. Cone, Brown, Barbour, Jernigan, and Sparkman, of Camden county, and Filman, Ellis, Parrish, and Long, of Florida, have freely communicated any information that has been requested of them; and I have the satisfaction of being able to inform your excellency, that, in support of my own opinion, chiefly founded upon actual admeasurement, these men have no doubt but that the north branch of the St. Mary's is less than either of the other two, and that it can have no just pretensions to being considered the principal. By Mr. Filman, who lives within half a mile of the Pine Log, I was informed that, at the time of making this examination, the whole of the water in the north branch was afforded by Alligator creek, and that, at the Pine Log the channel was dry and dusty.

The United States and Spanish commissioners, who in 1800 attempted to ascertain the source of the St. Mary's, in ascending the river with their canoes, passed the junction of the north and south branches, considering the former as the principal. That those commissioners should have made an erroneous determination, may be attributed to the deceptive appearance of the two branches at their confluence, and to the peculiarly unfavorable season in which their investigations were made. The channel of the north branch is wider than that of the south. Its depth is greater, and its water of a dark reddish color. At the point of disembogement, the south branch is a beautiful, limpid stream, whose narrow channel and transparent water render it, apparently, one-third less than the north; but its velocity

is one hundred and sixteen feet per minute, while that of the north branch is only thirty-eight. The disparity of width in these branches is accounted for by the difference of the countries in which they have their sources. That in which the south branch rises is gently undulating, and the transparency and low temperature of the water prove its origin to be principally in springs. The vicinity of the sources of the north branch is frequently an extended plane, with but little elevation or depression, which in rainy seasons is completely inundated for many miles; and these vast sheets of water being drained into the north branch, increase its volume to a torrent, which forms a channel much wider than the south branch. When the United States and Spanish commissioners were here, in February, 1800, Mr. Ellicott in his journal informs us that the swamps, at that season of the year, were "absolutely impenetrable," in consequence of the preceding winter's rains. We cannot, therefore, be surprised at their failure to make a correct determination.

The loss sustained by Georgia in running the boundary, according to the agreement of those commissioners, is a triangle, whose base is 157 miles, its perpendicular 30 miles, and area 2,355 square miles, or 1,507,200 acres.

Respecting the general character of the country through which our southern boundary passes, it may be remarked that, in proceeding westwardly, by the Pine Log, for sixty-five miles the soil is extremely barren, and swamps, cypress ponds, bay galls, and saw palmetto abundant. The Suwanny and Allapaha rivers are found in this section; but there is little land in their vicinity that can ever reward the agriculturist for his labors. On approaching the Wectlochochie, the face of the country is much altered. Here it becomes more undulating, and lime pits, and lakes of pellucid water, are skirted by slips of fertile land. From this, the soil is remarkable only for its sterility for twenty-five miles, and until we approach the Ocilla, where are found tracts of excellent land, interspersed with lakes and deep morasses. The saw palmetto and cypress ponds here disappear; but the former barrenness of soil continues generally throughout the remaining part of the boundary, except in the vicinity of the Mickasuky and Imonia lakes, the Ocklockanne river, and Attapulgas creek, where large bodies of rich loam will repay the purchaser for his adventure, and the laborer for his toil.

With considerations of respect, your excellency's most obedient servant,

JOHN M'BRIDE, *Surveyor.*

Governor TROUP, *Milledgeville.*

Notes and estimates made in ascertaining the volume of the several branches of the St. Mary's river.

No. 1. North Branch, (Junction C.)

Width.....	39.6 feet.
Mean depth.....	.666
Velocity of the surface per minute.....	44.22*

To find the volume:

$$\sqrt{44.22-1} = 5.649.$$

$5.649 \times 5.649 = 31.9$, the velocity of the bottom and sides.

$$\frac{44.22 + 31.9}{2} = 38.06, \text{ the mean velocity.}$$

And $39.6 \times .666 \times 38.6 = 1003.77$ cubic feet, the volume.

No. 2. South Branch, (Junction C.)

Width.....	26.4 feet.
Mean depth.....	.5
Velocity of the surface per minute.....	126.72

To find the volume:

$$\sqrt{126.72-1} = 10.257.$$

$10.257 \times 10.257 = 105.2$, the velocity at the bottom and sides.

$$\frac{126.72 + 105.2}{2} = 115.96, \text{ the mean velocity.}$$

And $26.4 \times .5 \times 115.96 = 1530.67$ cubic feet, the volume.

No. 3. North Branch, (half a mile above No. 1.)

Width.....	40.26 feet.
Mean depth.....	.697
Velocity of the surface per minute.....	40.92

To find the mean velocity:

$$\sqrt{40.92-1} = 5.4 \text{ very near.}$$

$5.4 \times 5.4 = 29.16$, the velocity of the bottom and sides.

$$\frac{40.92 + 29.16}{2} = 35.04, \text{ the mean velocity.}$$

And $40.26 \times .697 \times 35.04 = 983.26$ cubic feet, the volume.

No. 4. South Branch, (half a mile above No. 2.)

Width.....	18.56 feet.
Mean depth.....	1.14
Velocity of the surface per minute.....	64.68

* To obtain the mean velocity of a current from that of its surface, Mr. Fulton has obligingly furnished me with the following rule; in which x represents the velocity of the surface, and z that of the bottom and sides.

$$\sqrt{x-1} = \sqrt{z}. \text{ And } \frac{x+z}{2} = \text{the mean velocity.}$$

To find the mean velocity:

$$\sqrt{64.68 - 1} = 7.042.$$

$$7.042 \times 7.042 = 49.58, \text{ the velocity at the bottom and sides.}$$

$$\frac{64.68 + 49.58}{2} = 57.13, \text{ the mean velocity.}$$

And $18.56 \times 1.14 \times 57.13 = 1208.67$ cubic feet, the volume.

No. 5. North Branch, (Junction of N. and W. Branches.)

Width.....	18.48 feet.
Mean depth.....	1.03
Velocity of the surface per minute.....	11.22

To find the mean velocity:

$$\sqrt{11.22 - 1} = 2.35, \text{ nearly.}$$

$$2.35 \times 2.35 = 5.52, \text{ the velocity at the bottom.}$$

$$\frac{11.22 + 5.52}{2} = 8.37, \text{ the mean velocity.}$$

And $18.48 \times 1.03 \times 8.37 = 159.3$ cubic feet, the volume.

No. 6. West Branch, (Junction of the N. and W. Branches.)

Width.....	11.22 feet.
Mean depth.....	.32
Velocity of the surface per minute.....	74.58

To find the mean velocity:

$$\sqrt{74.58 - 1} = 7.636.$$

$$7.636 \times 7.636 = 58.3, \text{ velocity at the bottom and sides.}$$

$$74.58 + 58.3 = 66.64, \text{ the mean velocity.}$$

And $11.22 \times .32 \times 66.44 = 238.54$ cubic feet, the volume.

Result of No. 1, N. B.....	1003.78
Result of No. 3, N. B.....	983.26

Sum..... 1987.04

Mean..... 993.52

Result of No. 2, S. B.....	1530.67
Result of No. 4, S. B.....	1208.77

Sum..... 2739.44

Mean..... 1369.72

As 1369 : 993 :: 4 : 2.9;

Or, S. B. : N. B. :: 4 : 2.9; or, as 40 to 29.

Result of No. 5, N. B.....	159.3
Result of No. 6, W. B.....	238.54

As 238.5 : 159.3 :: 3 : 2;
Or, W. B. : N. B. : 3 : 2.

Respectfully submitted.

JOHN McBRIDE, *Surveyor*.

OCTOBER 1, 1827.

An act to prevent the surveying or granting of certain lands either under head rights, or in any other way, and for other purposes.

Whereas the dividing line between the State of Georgia and Florida has not yet been run and marked, but, when run, must be from the head or source of St. Mary's river straight to the confluence of Flint and Chattahoochee rivers; and whereas it is believed that the said line must, and of right ought to, commence from the head or source of the south branch of St. Mary's river, in which event a large portion of territory will be included within the limits of Camden county, and subject to be surveyed and granted as vacant lands :

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Georgia in General Assembly met, and it is hereby enacted by the authority of the same,* That it shall not be lawful for any portion of the territory lying between a direct line from Ellicott's mound upon the north branch of St. Mary's river to the junction of the Flint and Chattahoochee rivers, and the dividing line which may hereafter be run and marked between the State of Georgia and Florida, to be surveyed and granted as vacant land, or in any other way, or for any other purpose, until provision therefor shall be made by law. And, that all surveys which shall be so made, shall be, and the same are hereby, declared null and void.

SEC. 2. *And be it further enacted by the authority aforesaid,* That, when the said line shall be run and marked, if any portion of the territory shall be included within the State of Georgia, which may be claimed and held under and by virtue of a grant or grants from the United States, upon purchases made previous to the passage of this act, then, and in that case, the said grant or grants shall be, and they are hereby, declared good and valid to all intents and purposes: *Provided,* The United States shall, and do, within two years from the time of running and marking said line, pay to the State of Georgia the amount for which the territory so held and granted may have been sold by the United States.

IRBY HUDSON,

Speaker of the House of Representatives.

THOMAS STOCKS,

President of the Senate.

Assented to, December 24, 1827.

JOHN FORSYTH, *Governor*.

The Governor of Georgia to the President of the United States.

EXECUTIVE DEPARTMENT, GEORGIA,
Milledgeville, December 29, 1827.

SIR: I have been requested by the General Assembly to open a correspondence with you, in order to facilitate the adjustment of the boundary line between this State and the Territory of Florida. It is well understood here that, until the act of Congress passed the 4th of May, 1826, authorizing the President to run and mark a line dividing Florida from Georgia, is altered or repealed, the chief magistrate of the Union has not power to comply with the just expectations of the State in relation to its southern boundary. This communication is made, therefore, under the expectation that it will be laid before Congress, with such recommendations as the respective rights of the State and of the United States may, in your judgment, require. The subject is of deep interest to this State, not from the value of the land, the title to which is dependent upon the decision of it, but because the description of the boundary is a part of our constitution. To the Union it is of little moment, except as it affords a fair occasion to consult frankly the wishes of one of its members, and to establish a character for liberality to the individual State, of far greater importance than the acquisition of a few hundred thousand acres of arid territory.

It is one, too, on which even a concession to the State, if the right were doubtful, is recommended by the consideration that the land which would be given up will remain, although in a different form, a portion of the United States and of the resources of the Union.

Addressing myself to the government of the Union, to whom the Territory of Florida now belongs, no doubt is entertained that a demonstration of the right of the State will be followed by a prompt acknowledgment, and such legislative provisions as may be necessary to secure the full enjoyment of it. The southern limits of Georgia depend, 1st. Upon the charter to the lords proprietors of Carolina, of 1663. 2dly. Upon the proclamation of the King of Great Britain of 1763, establishing the boundary between Georgia and the two Floridas; and the King's commission to Sir James Wright, of 1764. 3dly. Upon the treaties between the United States and Great Britain, of the 30th of November, 1782, and the 3d of September, 1783.

Confining myself to the southern boundary of the State according to the territorial limits fixed in the compact with the United States, of 1802, it is a line beginning at the most southern branch of the St. Mary's river; thence, up the said river to its source; thence, in a direct line to the junction of the Flint and Chattahoochee rivers. Subsequent to the treaty of 1782, Spain, having obtained from Britain a cession of the Floridas without any description of limits, was disposed to make territorial pretensions inconsistent with our rights. The treaty of 1795, concluded at San Lorenzo by Mr. Pinkney and the Duke of Alcudia, put an end to these pretensions. The 2d article of the treaty, conformably to the instructions of Mr. Jefferson, then Secretary of State, under General Washington's administration, de-

scribes the line between Florida and the United States (acting for Georgia) in the words used in the treaty of peace of 1782, between the United States and Great Britain. For the purpose of preventing disputes, and to produce an immediate good effect on the Indians on the borders of Georgia and Florida, Mr. Pinkney introduced, without instructions, into the treaty, an article, the 3d, providing for the immediate demarcation of the boundary line described in the 2d article.

This article required the appointment of a commissioner and surveyor by each government, who were to meet at Natchez, within six months from the date of the ratification of the convention, and to run and mark the line according to the preceding article; they were to make plats and to keep journals of their proceedings, which were to be considered a part of the convention, and to have the same force as if inserted therein. A commissioner and surveyor were appointed by the United States to execute these stipulations. It is not necessary to detail all the circumstances which occurred from the meeting of the American commissioner with the Spanish officer, who was said to be the commissioner of Spain, to the period when the work was finally interrupted and left unfinished; which, by some fatality, happened precisely at the point where the present southern boundary of Georgia begins on the Chattahoochee. It is sufficient for the present purpose to recall to your recollection these facts, resting upon the assertion of the commissioner of the United States, that every artifice was used by the Spanish governor of Louisiana, who is stated to have been the commissioner of the King of Spain, to prevent the commencement of the demarcation; that every obstacle he could secretly interpose was presented to delay the execution of the work; that, by the dishonorable intrigues of the Spanish authorities with the Indians residing in the vicinity of the line to be marked, and their disregard of the provisions contained in the 3d article of the treaty, they at last succeeded in compelling the American commissioner to abandon the work, and leave it, as it has continued to this day, incomplete. The State now asks from Congress the fulfilment of the stipulations made for her in 1795 with Spain, the completion of the work not completed, because Spain was unfaithful to her engagements.

The current of events favorable to the repose and to the prosperity of the Union, have placed it in the power of Congress to do immediate justice. It is not now necessary for you, sir, to prosecute a painful and tedious negotiation with a government most unwilling to understand the just claims of others, and procrastinating, through policy, the acknowledgment of them when they can no longer be denied. The United States stand in the place of Spain, hold the title of that government, and no other, to the territory of Florida, and they have only to satisfy themselves what Spain could justly claim, in a controversy with this State under the convention of San Lorenzo. That convention requiring a direct line to be drawn between two unchanged geographical points, does not seem susceptible of controversy, and were the subject now for the first time agitated, none could be anticipated. But a difficulty is known to exist, and is

to be found in a peculiar provision of the before mentioned act of Congress of the 4th of May, 1826.

The motive for introducing that provision is perfectly understood, and duly respected: it was intended to prevent what it has produced, delay and discussion. The provision is, that the line to be so run (dividing Florida from Georgia) and marked, shall be run straight from the junction of said rivers Chattahoochee and Flint, to *the point designated as the head of St. Mary's river, by the commissioners appointed under the third article of the treaty of friendship, navigation, &c., &c., between the United States and Spain, made at San Lorenzo, &c., &c.* This provision was founded on the belief, that the point designated *as the head of St. Mary's* was the source of that river. This belief, entertained here, as well as at Washington, recent and accurate examination has shown to be unfounded. The evidence relied on by the State, on this point, is already in your hands—the chart of the St. Mary's, prepared by Mr. McBride, and his report of the examination made by him for the source or head of that river. The supposition on which the proviso in the act of Congress was founded being shown to be erroneous, no disposition can exist to persist in retaining it, to the injury of the State, unless the right of Congress to insert it is clearly shown, and it is required by their obligations to the other States. If Spain were now the party interested, it is scarcely possible that, in utter disregard of the obligations of truth and justice, she should insist that the line should be run and marked to the point *designated as the head of the St. Mary's*, by the commissioner appointed under the third article of the convention of 1795. On the hypothesis that Spain was still the owner of the Floridas, and so forgetful of honor as to make such a demand, by what argument could it be sustained? It would be asserted, that the acts of the commissioners appointed under the third article had become part of the convention, and was as obligatory as if inserted in it. This assertion is true *only* of those acts of the commissioners which they were authorized by the third article to perform. They were authorized to *run* and *mark* a line: has it been done? It has not: more than 150 miles of the line is yet to be run and marked. To meet this state of facts, it might be asserted that, it being found impracticable to run and mark the line at that time, the commissioners agreed upon the two terminating points, and described, in their plats and journals, the direction of the line to be *hereafter* run and marked; and that the head of St. Mary's was thus agreed to be within a certain distance of a mound raised. Were the commissioners appointed for this purpose? Certainly not; they were appointed to run and mark a line, not to establish the points between which the line should, at some distant time, be run and marked. By what authority did the commissioners exercise this power? It is not given by the third article of the treaty: no agreement made by them is binding upon either of the powers who appointed them, unless subsequently ratified by both. Such an agreement as the one made was not within the spirit of the article, but is directly contrary to it, since it substitutes an artificial object as the point of termination, for the natural one fixed on in the convention, and confessedly changes the line.

The extent of the agreement is stated by the American commissioner, Ellicott, in these words: "It was therefore agreed that the termination of a line, supposed to be drawn N. 45 E. 640 perches from the mound B, should *be taken* as a point to or near which a line should be drawn from the mouth of Flint river; which line, when drawn, should be final, and considered as the permanent boundary between the United States and his Catholic Majesty, provided it passed not less than one mile north of mound B; but if, on experiment, it should be found to pass within less than one mile north of the said mound, it should be corrected to carry it to that distance." No remarks on the peculiar character of the line described, are deemed necessary; the passage is quoted to show that Ellicott transcended his authority, and did what was not binding on his government, unless subsequently ratified by it. It is presumed he had no instructions to make such an agreement: if he had, this State denies that the convention of 1795 authorized them to be given.

Was this agreement ratified by the two powers prior to the cession of Florida by Spain to the United States? It is taken for granted that it was not. If not, the question remains as it did under the convention of 1795. The stipulations of the third article are yet to be performed, and the points to which the line from the junction of the Flint and Chattahoochee is to be run, is to be determined by referring to the second article of the convention, not by an appeal to the agreement of Ellicott. It is a geographical point, unvarying and unvaried; not the creation of man's labor. It is a spot described by the two governments, not that substituted by their subordinate, unauthorized agents. The agreement of Ellicott was not obligatory, even upon himself. Prior to the running and marking the line, had any error, geographical or astronomical, been made by accident, it was in the power, and it was the duty, of the commissioner to correct it, as soon as it was discovered. Can it be pretended that, if Ellicott had discovered, immediately after the supposed source of the St. Mary's was agreed upon, that the spring or lake from whence issued the southern branch was the true source of the river, he was bound to abide by the judgment he had formed on imperfect information, and to run and mark the line contrary to the provisions of the convention, to the injury of his country? If the line had been completed by Ellicott, under the mistaken impression entertained by him of the true source of the river, and the mistake had been clearly ascertained, it would have given the general government great satisfaction to have been able to rectify, by a negotiation with Spain, the error committed. Called upon by Georgia, would the general government have hesitated to represent to Spain that a just government would best consult its honor and its interest by rectifying, with frankness, an error committed by its inferior officers? Can it be doubted that the United States would have seized with avidity the first occasion to oblige Spain to surrender to Georgia, territory held in consequence of such an error? If such would probably have been the course of the general government, had the error been consummated by the running and marking of the line, I leave you to consider what would have been their conduct had Spain, re-

maining owner of the territory, obstinately persisted in claiming to have it run and marked according to Ellicott's agreement, after the mistake committed by him had been discovered and exposed. The United States, tracing the failure to complete the work to its source, might have overwhelmed Spain by justly deserved reproaches for disgracefully attempting to take advantage of its own infidelity to sacred engagements, by indignant recitals of the intrigues and artifices used, the treachery displayed, from the meeting of the commissioners at Natchez until Ellicott was driven from the Chattahoochee. I shall be pardoned for supposing the government of Spain would have exposed itself to rebuke by advancing such claims. The possibility has been admitted, to bring fairly into view the peculiar position of the United States in relation to this question. The trustees of Georgia, who arranged the convention of San Lorenzo, are the holders, by purchase, of the title of Spain under that convention. In this, their present position, their former relation being necessarily remembered, no pretension can be consistently made by the United States which would have been disputed if made by Spain while the Floridas belonged to that power. No claim of Georgia which the United States would then have seriously pressed upon Spain, can be honorably resisted, by the United States holding the property as a cession from that power. Above all, it would be the extremity of disgrace, if the federal government should seek to take advantage of an error committed by its authority, while acting as the guardian of the rights of this State, when Providence has placed it in its power to correct the error, by a simple exertion of its own will.

The accompanying copy of an executive message to the General Assembly of this State, and of an act passed by that body, are forwarded, that they may be presented, with the documents heretofore transmitted, to the consideration of Congress, whenever you shall deem it proper to bring the subject of the boundary line between Florida and Georgia before them.

I am, sir, very respectfully, your obedient servant,

JOHN FORSYTH.

JOHN Q. ADAMS,

President of the United States.

[20TH CONGRESS, 1ST SESSION.]

EXTRACT FROM THE JOURNAL OF THE SENATE.

(See Senate Journal, 1st Sess. 20th Cong., p. 112.)

IN THE SENATE OF THE UNITED STATES,
January 23, 1828.

“The following written message was yesterday received from the President of the United States, by Mr. John Adams, his secretary :

[See the message next preceding.]

“On motion, by Mr. Cobb,
“*Ordered*, That the said message be referred to the Committee on the Judiciary, and that it be printed.”

[20TH CONGRESS, 1ST SESSION.]

EXTRACT FROM THE JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 20th Cong., pp. 208, 209.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
January 23, 1828.

“The following message in writing was received from the President of the United States, by Mr. John Adams, his private secretary, as follows:

[Here follows the preceding message.]

“*Ordered*, That the said message and documents be referred to the Committee on the Judiciary.”

[20TH CONGRESS, 1ST SESSION.]

REPORT OF A JOINT COMMITTEE OF THE LEGISLATURE OF GEORGIA, ON THE SUBJECT OF RUNNING AND MARKING THE LINE DIVIDING THE TERRITORY OF FLORIDA FROM THE STATE OF GEORGIA.

(See Senate Documents, 1st Sess. 20th Cong., vol. 2, No. 56.)

IN SENATE, *December 13, 1827.*

The Joint Committee on the State of the Republic, to whom was referred that part of the governor's communication which relates to the boundary line between Florida and this State, have had the same under consideration, and now beg leave to make the following report:

That an amicable but unsuccessful attempt has, during the present year, been made to ascertain and mark the dividing line between this State and Florida, by a commissioner on the part of the United States, associated with one appointed by Georgia. The failure has resulted entirely from a difference of opinion as to the true head or source of the St. Mary's river. By the constitution of Georgia, obviously and unquestionably founded upon the treaty of peace of '83, and confirmed by the second article of the Spanish treaty of '95, that line was to run “from the northernmost part of the 31st degree of north latitude, on

the Mississippi, due east to the middle of the river Apalachicola, or Chattahoochee; thence along the middle thereof to its junction with Flint river; thence straight to the head of St. Mary's river; and thence along the middle of that river to the ocean." Many years ago, commissioners were appointed under the aforesaid treaty of '95, to run and mark the line above described. This, however, was not done, but a point was ascertained and marked, as being the supposed head of St. Mary's river, and designated by the name of Ellicott's mound. In fixing this point, Georgia had no agency: it was done by commissioners, as before stated, appointed by the United States and the Spanish government. But Georgia, relying on the skill and research of the agents who superintended this important interest, always supposed that this mound might be at the true head or source of the St. Mary's river, and has all along contented herself with that idea; but she has never done any act, or admitted any principle, which absolutely binds her to the observance of that point, as the one to or from which said line should run. Upon frequent applications to the general government to have this line run, it was at last consented to, and on the 4th May, 1826, an act was passed by Congress for that purpose. But there was a condition in that act to this effect: "That the line so to be run and marked, shall be run straight from the junction of said rivers Chattahoochee and Flint, to the point designated as the head of St. Mary's, by the commissioners appointed under the third article of the treaty of '95," as before mentioned. The point designated was Ellicott's mound. This act, it will be perceived, did not authorize the commissioners to run the line according to the treaty, but according to an operation which had taken place under that treaty many years ago, and which has since evidently turned out to be erroneous. When the commissioners proceeded to ascertain and mark the line under this act, it was clearly discovered by them that the true source or head of the St. Mary's river had not been found by the Spanish and American commissioners, at the time they were sent to run that line under the said treaty of '95. When this fact was discovered and represented to the late governor of Georgia, finding that the United States commissioner was bound by the act before mentioned, and was not instructed to proceed in the matter according to the treaty, he suspended all further proceedings, until the general government and the government of Georgia could have other and further explanations on this subject. The facts which have led to the discovery of this error are very plain and satisfactory, and are contained in a document submitted to the governor by the surveyor who accompanied the commissioners in their late attempt to run and mark said line.

Your committee are of the opinion, that when the general government comes properly to understand the true history of this difficulty, it will not insist upon any advantage which may be supposed to result from long acquiescence in the idea that Ellicott's mound was at the true head of the St. Mary's river. It will be perceived that this has been an error altogether of the general government's own creation, and Georgia has never, in any manner, either contributed to, or consented to be bound by it. Your committee, therefore, recommend the following resolutions:

Resolved, That our senators and representatives in Congress be requested to procure another act of Congress, or an amendment of the one passed in 1826, authorizing and directing the commissioners who may be appointed under the same to proceed, with such commissioners as may be appointed by Georgia, to run and mark said line, according to the true intent and meaning of the said treaty of '95, and to ascertain and determine the true source or head of the St. Mary's river, without any regard to previous operations which may have taken place in reference to said line, inasmuch as Georgia has had no agency in, or been a party to, any of said previous operations.

Resolved, That his excellency the governor be, and he is hereby, requested to forward to our said senators and representatives a copy of this report, an extract of the late governor's message on this subject, a copy of McBride's report and survey, and such parts of the correspondence of the commissioners as may afford any information in relation to said dispute.

Resolved, That in order to facilitate a speedy adjustment of the dispute and difficulty, alike interesting to the general government and people of Georgia, his excellency the governor be requested to open a correspondence with the President of the United States, with a view to the accomplishment of the objects of the above resolutions.

Approved December 26, 1827.

Extract from the Governor's message to the Legislature of Georgia, November 6, 1827.

"Connected with other subjects of disagreement with the government of the United States, is that of the dividing line between Florida and this State, directed to be run and marked by several resolutions of the legislature. The concurrence of the general government being necessary to the perfection of this measure, it was repeatedly invited, and eventually obtained. A highly respectable gentleman, and late governor of Virginia, Thomas M. Randolph, having been appointed the commissioner on the part of the United States, and Thomas Spalding the commissioner on the part of Georgia, they proceeded, in a spirit of harmony and concert, to the execution of their trust, and I am happy to inform you that, without bringing their labor to a termination most desirable, they closed them with no interruption of that spirit; on the contrary, with an improvement of it corresponding to the intelligence, patriotism, and liberal sentiments which distinguished them.

The charter of Georgia, the treaty of peace of 1783, the confederation of 1778, the present constitution, the treaty of Spain of 1795, the constitution of Georgia, all recognise or guaranty the head or source of the St. Mary's river as the true point of the southern boundary of the State. The commissioner of the United States and the commissioner of Spain, appointed under the treaty of '95 to run and mark the line in terms of the articles of that treaty, instead of dis-

covering the head or source of the St. Mary's, as they were instructed to do, and for which they searched, established a point different from, and disconnected with the head of that river, viz: a point in the Okefanoka swamp, one mile or two miles north of the mound of Ellicott. It had been ascertained by researches authorized to be made by commissioners appointed under the authority of this State, in the year 1818, that the United States and Spanish commissioners, in agreeing to that point, were wide of the true point; that the head of the stream pursued by Ellicott was not to be found, as he supposed, in the Okefanoka swamp, two miles north of the mound of Ellicott, and it has been since ascertained that the head of that branch of the river is to be found to the southward of both the swamp and mound. It was justifiable to take the mound as the true point, because so in substance our own commissioners, believing that Ellicott, in pursuing the north, did pursue the main branch of the St. Mary's, had reported; and so the governor of this State, in the year 1819, relying on the correctness of that report, had informed the legislature. Our commissioner was accordingly instructed to agree with the United States commissioner in running the line from the mound of Ellicott to the junction of the Flint and Chattahoochee rivers. It happened that the United States commissioner was not authorized to concur. On the contrary, an act of Congress, which, departing from the ordinary course, gave his instructions in the same section in which it authorized his appointment, virtually forbade it. Those instructions directed the commissioner to run from the point established by Ellicott, two miles north of the mound, and were of course directly opposed to the treaty of 1795, which prescribed the head or source of the St. Mary's as the true point. The President of the United States would have been quite justifiable, disregarding the act of Congress in this respect, in directing his commissioner to run from the point designated by the treaty, instead of the point designated by the act, the treaty being the supreme law. The commissioner was not so directed. It was not, however, deemed expedient, on this account, to arrest the commissioner of Georgia at the outset. If the point established by Ellicott had, by the commissioners of the United States and Georgia, been found to coincide with the head or source of the St. Mary's, the commissioner of Georgia would have been instructed to proceed. It was ascertained that they did not coincide, and his progress was accordingly arrested. You will observe that the first question presenting itself for settlement between the two governments is, whether the point arbitrarily agreed on by Ellicott and the Spanish commissioner as the head of the St. Mary's, now ascertained not to be the head even of the stream pursued by Ellicott, shall be considered as the true head under the treaty of 1795. The other and only remaining question will be, which is the true source or head of the St. Mary's. To enable you to act understandingly on these questions, as well as to afford some satisfaction to the government of the United States, which must undoubtedly revise its proceeding, I had instructed a competent agent, the same who acted as the surveyor and artist under the commissioners, and who approved himself worthy of their highest confidence, to proceed to an examination of the several branches of the St.

Mary's for the purpose of ascertaining, by actual admeasurement, the true head or source of that river. The correspondence and documents on this subject, together with his report, are submitted. It will be seen that of the three branches forming the St. Mary's, viz: the northern, western, and southern branch, the southern is not only the longest by two or three miles, and having a direction corresponding most naturally with the general course and disembogement of the river, but discharges eight times more water than either of the other branches, and one-third more than both of them united, including various other tributary streams; that of the three, the north branch, viz: that pursued by Ellicott, is the most inconsiderable, discharging, in proportion even to the western branch, as two to three, and in proportion to the southern branch as five to forty-three; and, indeed, that it is even more inconsiderable than another stream (the Alligator) south of it, and running between it and the western branch. If these facts are confirmed to the satisfaction of the government of the United States, the conclusion will be irresistible, even by itself, that we must follow, not the error or mistake of Mr. Ellicott, but the language of the treaty; not the point arbitrarily determined as the head of the St. Mary's, but the true head; and that the true head or source of the St. Mary's is to be found, not at the extremity of the northern, but at the extremity of the southern branch; and that from this point the line must be run according to the letter of the charter of Georgia, of the treaty of '83, of the treaty of '95, and of the constitution of Georgia. This detail, so inconsistent with the generalizing character of a message, will find an apology in the extreme reluctance which I feel to open a new controversy with the government of the United States—the great delicacy of the question, (being one of boundary,)—the extent of territory (more than two thousand square miles) which may be involved in it, and the obvious propriety, therefore, in stating the question for the first time, to state it fairly and fully."

[20TH CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE SENATE.

(See Senate Journal, 1st Sess. 20th Cong., p. 112.)

IN THE SENATE OF THE UNITED STATES,
January 23, 1828.

"Mr. Cobb presented resolutions of the legislature of Georgia, and other documents, on the subject mentioned in the last mentioned message; and

"*Ordered*, That they be referred to the Committee on the Judiciary, and that they be printed."

[20TH CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 20th Cong., p. 225.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
January 28, 1828.

“ Mr. White presented sundry resolutions of the Legislative Council of the Territory of Florida, with sundry other documents, in relation to the boundary between Florida and Georgia.

“ *Ordered*, That the said petitions and resolutions be referred to the Committee on the Judiciary.”

[20TH CONGRESS, 1ST SESSION.]

RESOLUTIONS AND DOCUMENTS RELATING TO THE BOUNDARY LINE BETWEEN
 THE STATE OF GEORGIA AND THE TERRITORY OF FLORIDA.

(See H. R. Ex. Docs., 1st Sess. 20th Cong., vol. 3, No. 103.)

EXECUTIVE OFFICE, TALLAHASSEE,
January 7, 1828.

SIR: In compliance with a resolution of the Legislative Council, I herewith transmit to you the report of “the select committee to whom was referred so much of the message of the acting governor as relates to the contested question of boundary between the State of Georgia and the Territory of Florida,” and ask, in the language of that resolution, your “immediate attention to the same.”

I am, sir, very respectfully, your obedient servant,

WM. M. McCARTY,
Acting Governor of Florida.

Hon. Jos. M. WHITE,
Washington City.

The Select Committee to whom was referred so much of the message of the Acting Governor as relates to the contested question of boundary between the State of Georgia and the Territory of Florida, beg leave to report:

That the great importance and delicacy of the question has induced them to give to it the highest consideration, and to bring into bearing all the points which, in their estimation, were essential to a true statement of the causes of difference existing between the two governments. Looking with anxious eyes to the prosperity of the Territory,

and to the future stand she seemed destined to take as a member of this great political family, they have witnessed with pain an attempt to deprive her of a most valuable portion of her population and her soil; and, in so doing, at once to prostrate the fairest hopes of her most ardent admirers, and continue her in her present territorial condition. Forming the extreme southern link in the chain of the American States, and possessing all the advantages which must necessarily flow from her commercial position, superadded to the richness and fertility of her soil, the genial influence of her climate, and the hardy and adventurous character of her citizens, they looked with aching hearts even to the remotest probability of an event so eminently calculated to undo all former efforts in her cause, and place her in a situation to remove all inducements to future exertions. Rapidly assuming a station which has scarcely been the fortunate lot of any one of the Territories of the Union, while yet in her infancy she bid fair to ripen into maturity, adorned with every feature calculated to render her an ornament to the Union, and one of the most valuable members of the body politic. Though these reflections weighed upon the minds of your committee, and had their operating influence, yet the true state of the question has not been abandoned from such considerations. On the contrary, they were the more impelled to exertion, in order to show the invalidity of the claim advanced by the State of Georgia. In this they believe they shall succeed; and, that the matter may be fully understood, they present, in a form as distinct and lucid as their circumstances admit, everything having a direct relation thereto.

The first intimation of the claim of the State of Georgia to a portion of the lands heretofore acknowledged as the soil of the United States, and sold as such to private individuals, is found in the message of his excellency George M. Troup, late governor of that State, to the legislature, just before his retirement from office. This, to us, most extraordinary claim, is, according to the language of his excellency, founded upon "the charter of Georgia, the treaty of peace of 1783, the confederation of 1778, the present constitution, the treaty with Spain of 1795, and the constitution of the State of Georgia." While the members of your committee would not allow themselves to treat with disrespect arguments emanating from so respectable a source; yet, so far as the authorities cited are intended to bear upon the question now under consideration, they must be permitted to express an opinion, that a solitary glance at them will be sufficient to show that they afford not a shadow of evidence to support the claim—a claim urged by Georgia, at this late period, to more than two thousand square miles of the lands sold as those of the United States.

Though your committee cannot recognise, as authority, any instrument which was created specially for the benefit of one party, without the concurrence and sanction of others interested in the soil, and having rights equally to be regarded in the establishment of the true boundary line, still, in order to investigate the whole matter in dispute, they will proceed to notice the points presented by his excellency the governor of Georgia.

The charter of Georgia, referred to by his excellency, is of date

1732, and was [granted] by a proclamation from George the 2d of England. By that instrument, the southern boundary of Georgia only extended so far as "the southern stream of a certain other great water or river, called the Altamaha." This authority, in itself, is therefore entirely irrelevant, and has no bearing upon the point. But, by a proclamation of George the 3d of England, of date 1762, there was annexed to Georgia "all the lands lying between the rivers Altamaha and St. Mary's." Accepting this last proclamation, or charter, as authority, your committee might inquire if, by it, Georgia can claim any line farther south than the St. Mary's river? If the proclamation had even stated the head of that river, it could not for a moment be contended that she could have extended her southern line from the head to one of its lateral branches, which might, in its devious course, and in conjunction with other streams, have gone much farther south than the actual head of the St. Mary's river, when, in truth, that river is made the most southern boundary of Georgia.

The treaty of peace, of 1783, is also considered by Governor Troup as giving to Georgia the right of her present claim. This definitive treaty between the United States and Great Britain, in describing the boundaries of the American territories, describes the most southern as a line from the junction of the Flint and Chattahoochee rivers, straight "to the head of the St. Mary's river." The question here turns upon what is the head of St. Mary's river, and, in the solution we can only be governed by common usage. The St. Mary's river has heretofore been represented as beginning at or near a certain point designated by an artificial landmark, called Ellicott's mound. Recently, however, another branch or stream has been found emptying into it from a much more southern direction, and the late governor of Georgia now claims that branch as its head, having discovered that it enlarges the territory of that State beyond what has heretofore been considered as her actual limits. To show that this claim ought not to be regarded at this late day, notwithstanding the apparent plausibility with which it is urged, let us, for a moment, suppose a case, which, though not known to exist, yet may, and possibly does, exist. In low and flat lands, such as are known to surround the head of the St. Mary's river, ponds and lakes are frequently found connected with each other by streams which are large or small, as the ponds which give rise to them are swollen or depressed by rains or droughts. Suppose this southern branch to be formed by a combination of these streams, as it most probably is, and to be extended by a chain of lakes and ponds across the peninsula to the Gulf of Mexico, would the State of Georgia contend that the line should be run from thence; and, if she did, would that claim be recognised? Surely not: for the obvious reason, that a branch so formed could not be considered as the source of the St. Mary's river. When we speak of the head of a river, we technically mean its source, and not one of its branches, no matter how long. The branch of a river is, properly speaking, a descendant of the main river, not the source: it is the offspring that inherits from the source. If the construction contended for by Governor Troup be correct, we should no longer look upon the Missouri

as a branch of the Mississippi, but should henceforth consider it as the Mississippi itself.

"The confederation of 1778," cited in the message of the governor of Georgia, makes not the slightest allusion to the limits of that State, nor does "the present constitution," by which is meant the constitution of the United States, allude to it. The reasons which induced his excellency to refer to these two instruments are not discovered by your committee, unless he intended to deduce therefrom an argument, that the rights of Georgia were secured to her at the time she became a member of the common family: if this be the argument, your committee are by no means disposed to deny its correctness: but, while they readily concede that the rights of Georgia should be protected, they must contend that the rights of others should be regarded as equally sacred.

After an examination into all the authorities referred to by his excellency of Georgia, your committee have been able to find nothing in any of them which comes directly to the point in question, except in the second and third articles of "the treaty with Spain of 1795." This was "a treaty of friendship, limits, and navigation," between the United States and the Spanish government; and the boundary line between Florida, then a part of the territory of Spain, and the State of Georgia, one of the United States, is therein described as a line drawn from the junction of the Flint and Chattahoochee, "straight to the head of the St. Mary's river," employing the same language that was used in the treaty of peace of 1783. To prevent any future misunderstanding as to the true head of the St. Mary's, and to ascertain it, and definitively settle the line of demarcation, it is provided, in the third article of that treaty, that, "in order to carry the preceding article into effect, one commissioner, and one surveyor, shall be appointed by each of the contracting parties, who shall meet at Natchez, on the left side of the river Mississippi, before the expiration of six months from the ratification of this convention; and they shall proceed to run and mark this boundary, according to the stipulations of the said article. They shall make plats, and keep journals of their proceedings, which shall be considered as part of this convention, and shall have the same force as if they were inserted therein." The commissioners were appointed, in pursuance of this treaty, to run the line; and the one on the part of the United States published his journal, at large, in the year 1803. This journal, therefore, has the same effect as if it were a part of the convention and "inserted therein;" and, by it, the head or source of the St. Mary's river is ascertained to be near the point called Ellicott's mound. Here then was a compact, solemnly made and entered into, and as solemnly ratified by the Senate of the United States, in which body Georgia was represented, and of which her senators composed a part. Will it then be believed that Georgia can, in law, (viewing her as one of the parties to this compact,) successfully assert a claim to the lands farther south than the point agreed upon by the commissioners appointed under this treaty? Suppose that the crown of Spain had continued in possession of Florida; would the government of the

United States have permitted that possession to be disturbed by such a claim as is here presented, in violation of the faith she plighted in making this compact, and of the sacred obligations which it imposes? To this your committee believe there can be but one answer; and if the line between Florida and Georgia could not have been changed, had Florida continued a Spanish province, the same reason must operate to prevent the change under her present circumstances. Previous to the treaty of 1795, a question of boundary would have been a legitimate subject of investigation; but, after a solemn determination of it by treaty, it is, and must be, at rest. A treaty is the paramount law, and can never be violated, without a departure from those principles which governments should ever cherish and observe in their intercourse with each other.

There is another point of view in which this question may be presented, and which, in the estimation of your committee, must put it at rest.

Thirty-three years ago the State of Georgia looked quietly on, when, according to the estimation of Governor Troup, two thousand square miles of her territory, by a solemn act, were given to a foreign power, and she was silent; at the same time, her senators in Congress, instead of interposing her claim, consented to the transfer and ratified the act. Her representatives, ever on the alert and ready to sound the alarm at the slightest approach towards an invasion of her soil and her limits, on this occasion not only neglected to assert her rights, but confirmed the contract, so far as Georgia could do it, by voting for the necessary appropriations to carry this treaty into effect. Upon a more recent occasion, under similar circumstances, Georgia has pursued the same course; by the treaty of 1819, the government of Spain sold to the government of the United States the territory of Florida, embracing the land now the subject of controversy, and Georgia still remained silent; her senators joined in the ratification of the treaty, and still interposed no claim; her representatives voted away the money of the United States to carry this treaty into effect, and still asserted none of the violated rights of Georgia; and yet we are told this claim has its foundation in her charter.

The only remaining document referred to by his excellency is "the constitution of Georgia." Could this instrument, in the estimation of your committee, be regarded as evidence in the settlement of this controversy, it would produce no change in its character, because it employs the identical expressions used in the treaty of peace of 1783, and the treaty with Spain of 1795, to wit: "the head of the St. Mary's river." Your committee would, however, remark, that his excellency John Forsyth, the present governor of Georgia, in a communication made by him to the legislature of that State, since the message of Governor Troup, refers as authority to an act of the Provincial Assembly of Georgia, of date 1765, to show that the lands embraced in the King's proclamation of 1763 were laid out into parishes, and that the most southern parish was declared to be bounded on the Florida side by the most southern branch of the St. Mary's river, and by a line running due west from the head of that river. Did this testimony, so recently discovered by his present excellency of Georgia,

afford any cause for alarm, your committee believe that they could avoid its effects, by protesting against its employment: for there is no position more easily sustained, in the estimation of your committee, than the one which objects to a party's making testimony to be used in a controversy against his adversary; but, as your committee believe that no injury can result from the use of this document, they will proceed to an examination of its merits. The most southern branch of the St. Mary's river is declared to be the boundary of the southern parish of Georgia, and by adverting to the maps upon which that river is marked, it will be seen that it divides itself into two branches, not far above its mouth, and by which it discharges itself into the Cumberland sound. The southern branch here is unquestionably the one alluded to in the act of the Provincial Assembly, and to which it is highly probable the claims of Georgia will never be contested; the remaining part of that act, which mentions a line running due west from the head of that river, clearly establishes the incorrectness of the position contended for by their excellencies, and is, in this controversy, a most valuable document for Florida. All the authorities to which a reference has been made, concur in naming "the junction of the Flint and Chattahoochee" as the point at which this line must commence, and "the head of the St. Mary's river" as the one at which it must stop; it follows, therefore, that if this boundary can be ascertained by a line running due west from "the head of St. Mary's," it would be equally ascertained by a line running due east from "the junction of the Flint and Chattahoochee;" and by an examination of the map it will be seen, that a line running due east from the junction of those rivers, would pass to the north of Ellicott's mound.

Receiving this act of the Provincial Assembly of Georgia as evidence of the true boundary of that State, your committee cannot perceive by what right she now claims the southern branch of the St. Mary's as the point from which this line should be run. The southern branch is known to be many miles south of Ellicott's mound, and the true line, according to the evidence adduced by Governor Forsyth, is to the north of that mound. If a line were run due west from the head of the southern branch of the St. Mary's, instead of intersecting the Apalachicola at the junction of the Flint and Chattahoochee, as it is required to do, it would be found to cross that river at least forty miles lower down. This argument, deduced as it is from testimony furnished by Governor Forsyth, is, in the opinion of your committee, conclusive upon the subject.

Your committee have thus examined all the documents upon which the late and present governors of Georgia seem to rely as authority, and they flatter themselves that, while they have derogated nothing from that State, they have given to them such construction and explanations as they are properly entitled to bear. More, much more, could be adduced to show the fallacy of this claim. If taken in an equitable point of view, it would exhibit, in stronger colors, the right of the United States to hold and exercise jurisdiction over the soil in dispute. A treaty was formed, expressly settling this boundary; the State of Georgia acquiesced in it, and for thirty-three years she never pretended to dispute it. But, so soon as a country then almost un-

known, uninhabited but by the savage, became an object of interest and teemed with civilization and wealth, a spurious claim is advanced and earnestly contended for. No matter what may have been the rights of Georgia anterior to the treaty of 1795, they cannot now be asserted to any lands within the Territory of Florida: they are barred by her acquiescence and forbearance. Your committee cannot believe that an instance can be found in the history of nations where a treaty has been made and ratified, and, after so great a lapse of time, one of the parties has been permitted to rescind it, upon the ground that injustice has been done. To show, further, the entire acquiescence of the State of Georgia to the treaty of 1795, your committee would call the attention of the council to an act of Congress approved the 4th of May, 1826, to authorize the President to run and mark a line dividing the Territory of Florida from the State of Georgia. It will be recollected that, in consequence of the hostility of the Indian tribes, the commissioners, under the treaty with Spain, only settled the point, designating the head of St. Mary's river, and from which the line should be run; and it was to consummate the work that this act was passed. It is provided therein, that "the line to be run and marked shall be run straight from the junction of said Flint and Chattahoochee rivers to the point designated as the head of the St. Mary's river, by the commissioners appointed under the third article of the treaty of friendship, limits and navigation, between the United States of America and the King of Spain, made at St. Lorenzo el Real, on the seven-and-twentieth day of October, 1795." Here it is seen that the delegation from Georgia, representing the right and interests of that State in both houses of Congress, so late as the year 1826, sanctioned an act which recognises as the true designation of the head of "St. Mary's river," the point agreed on by the commissioners.

Your committee, having concluded the duty with which they were charged, cannot close their report without an expression of their most anxious wishes that this question should be speedily and honorably adjusted, and that some measures should be adopted for the furtherance of that desirable object. The emigration which has been rapidly flowing into this Territory, and much of which has settled upon the lands now claimed by the State of Georgia, induced a belief that we should soon be received as a member of the confederacy, and it was looked upon as the consummation of our political happiness; but the agitation of this question may have the effect of retarding its progress; and if these lands are wrested from our jurisdiction, our political prospects are blasted forever. Florida will then present to disfranchised Europe the singular spectacle of a part of the American republic inhumanly partitioned among her neighbors, and, instead of being permitted to form a separate and distinct State sovereignty, to disseminate republican principles, and encourage its votaries in every portion of the globe, she was prostrated at the shrine of an ambitious neighbor.

Under these views, the committee recommend the adoption of the following resolutions:

Resolved, That our delegate in Congress be respectfully requested to urge an immediate adjustment of the differences, and to procure, if

possible, an order that the boundary line shall be run and marked out in such a direction as shall be in accordance with law, and shall promote the ends of justice.

Resolved, further, That his excellency the governor be requested to address a copy of the above report and resolution to the delegate, and ask his immediate attention to the same.

Unanimously adopted, January 1, 1828.

JN. L. DOGGETT,
President of the Legislative Council.

A. BELLAMY, *Clerk.*

Copy of a letter from the Delegate from Florida.

To the Chairman of the Judiciary Committee of the Senate :

SIR: The question submitted for the consideration of Congress, in relation to the boundary line between Georgia and Florida, is one that might have been anticipated from the documents communicated from the War Department at the commencement of the session. I did hope, that before the adjournment of the legislature of Georgia, a different view would have been taken, and direction given to this matter. It has, however, been pressed by a resolution of that body, and several executive communications from the governor of that State, which have at length coerced its presentation by the President of the United States, to both houses of Congress, accompanied by the *ex parte* view taken of it by them.

Being thus presented, it becomes a controversy of some magnitude, both in reference to the amount of property and the principles involved in its decision. The United States are nominally one party, and the State of Georgia the other. It cannot escape observation, however, that the Territory of Florida, the best interests and future hopes of which depend upon the issue, feels an immediate and vital concern in its decision. I contend that Georgia and the United States are not the only parties really and substantially interested in the question of sovereignty.

The treaty with Spain, of 22d February, 1819, contains a provision which was intended for the benefit of the ceded provinces: it is that which provides for their incorporation into the Union, as soon as possible, consistent with the principles of the federal constitution. I admit it is difficult to give a construction to this article entirely satisfactory; but I think the expression "incorporation into the Union," is evidently intended not to apply to the individual inhabitants, by giving them only the privileges of American citizens, but to the territory they inhabit. Annexation to one of the States, would be a transfer to a different sovereignty—an incorporation into that State, and not into the Union: such a construction would be a forced one. The more natural idea is, that the sovereignty renounced by Spain was ultimately to be placed in the hands of the people, in the same manner with the territories of the United States, but to remain under the guardianship of the general government, until the principles of

the constitution would recognise their admission as a State, with all the rights of sovereignty now claimed by Georgia. The admission of Louisiana and Missouri are practical commentaries on this position. Florida is now a Territory, possessing some of the attributes of sovereignty, and is ultimately, at no distant day, to take her place in the confederacy. If that period should arrive before the settlement of this question, she will then be the party directly interested in opposition to the pretensions of Georgia: she will stand in the place of Spain, and will have a right to call on the United States to guaranty her limits. When Louisiana was divided into two Territories, it formed the ground of serious remonstrance, supported by strong reasons: it was said that Louisiana was one entire sovereignty, entitled to become a member of the Union as Louisiana; and again, that if subdivision was allowable at the pleasure of Congress, their admission might be indefinitely postponed. This reasoning was disregarded on the strong ground of necessity, and because the creation of two distinct sovereignties, instead of one, was an extension of the advantages stipulated by the treaty. But at this time, no one entertained the absurd idea of annexing parts of Louisiana to the adjoining States, although it might have been very convenient to have done so. The preservation of their municipal laws was a most important consideration with the people of that province, and this would not have been accomplished if they had been annexed to one of the adjoining States. I consider the stipulation of the treaty a most important one, as intended to place the acquired provinces on a footing with the States which declared their independence, and possessing as much right to contend for their boundaries, by reference to treaties, proclamations, and laws, emanating from parties competent to negotiate or legislate, as Georgia, or any other State in the Union. These provinces were not acquired with a view of obtaining subjects for any of the States; and as to the United States, the genius of our government forbids it, unless the ten miles square be an exception. If I am mistaken in this view of the subject, I shall at least be excused referring to the position I occupy in relation to the people of Florida, and as a citizen of the United States, for exposing what I consider the groundless pretensions of Georgia to the land in question.

This controversy involves two questions: the one of national law, the other of fact. It is assumed by the Executive of Georgia, that the line agreed upon and fixed by the commissioners of the United States and Spain, in pursuance of the treaty of limits entered into at San Lorenzo el Real, on the 27th October, 1795, is not the true boundary intended by the charter of Georgia and the treaty of 1783; but that the head and source of the St. Mary's river, stipulated in these documents, is farther south; which will give to Georgia fifteen hundred thousand acres of land, claimed by the United States as a portion of the Spanish territory acquired by the treaty of 22d February, 1819; about eight hundred square miles of which has been sold and patented by the United States, and the money paid into the public treasury, with the unsuspecting confidence of the right of soil at the time it was surveyed and sold. Whether this be true or not—which it cannot be expected will be conceded without further investigation,

since not only the commission appointed in pursuance of the treaty before mentioned, but a commission constituted by the State of Georgia herself, have pronounced that, in their opinion, it is not so—there is a previous question to be determined, to wit: Does not the treaty of 1795, the proceedings under it, the consent of Georgia, as a component part of the Union, exercising an unquestionable constitutional power in the negotiation and ratification of a treaty of limits, the acquiescence of the State for twenty-seven years by their delegation here, and their Executive there, conclude them from setting up this claim at this time? Or does the charter of the colony, the constitution of the State, so far exempt them from the operation of this treaty, and their assent to it so formally given and publicly expressed, as to authorize them to set aside the treaty, and the proceedings under it, and now institute an inquiry as to what is the true source of St. Mary's river? I think Georgia cannot constitutionally or justly assert such a claim, and I trust it will be resisted with a becoming regard for the interests of the United States, and the Territory I have the honor to represent.

The first charter granted to Georgia was in the 5th year of George II, anno Domini 1732, which embraced all that part of Carolina lying between the Savannah river on the north, and the Altamaha on the south. In the year 1763, the King, by his royal proclamation, made four new provinces in the country acquired in America by the definitive treaty of peace, concluded at Paris on the 10th February of that year. These provinces were Quebec, Grenada, East and West Florida. In designating the boundaries of East Florida in that proclamation, the following expression is used: "*From that part of the Apalachicola where the Chattahoochee and Flint rivers meet, to the source of the St. Mary's river, and by the course of the said river to the Atlantic ocean.*" In this proclamation there is also a grant in these words: "*We have, also, with the advice of our privy council aforesaid, annexed to our province of Georgia all the lands lying between the rivers Altamaha and St. Mary's.*" It will be perceived, from an examination of the foregoing article in the King's proclamation, that the land annexed by it to the province of Georgia, south of the river Altamaha, did not extend beyond the source of that river and that of the St. Mary's. I have not been able to discover any grant, proclamation, or public act by which the State of Georgia could set up anything like a legitimate claim west and south of a line drawn from the head of the river Altamaha to that of the St. Mary's. It appears to me that the government of the United States can, with much more propriety, annex all the land not included within such a line, and consequently not within the chartered limits of that State, to Florida, than to institute an investigation at this time to find a southern creek running into St. Mary's for the boundary of that State. The commission given to Sir James Wright, on the 20th January, 1764, if it conferred a jurisdiction beyond the proclamation, could not be considered a grant of soil: the one is a law fixing upon certain geographical limits as the boundaries of provinces; the other, an authority to exercise jurisdiction specified in the grant of power. The commission of Sir James Wright calls for the southern stream

of St. Mary's; as this is repugnant to the grant of soil of both the provinces of Georgia and East Florida, it must be holden, like all commissions containing authority more extensive than the law on which they are founded, *void pro tanto*. This variance can reasonably be accounted for by a reference to the fact that, in the first charter to Georgia, the most southern stream of the Altamaha was fixed upon as the southern limit of the colony, and the commission to the governor and captain-general pursued the charter. The second commission, after the annexation by the proclamation before quoted, appears to be a copy of the first, and, in like manner, calls for the most southern branch of the St. Mary's, which does not accord with the proclamation. The governor of Georgia, in a communication to the legislature of that State of 28th November last, speaks of the land annexed to Georgia by the King's proclamation, and the commission of Sir James Wright. It will be perceived that the latter includes more than the former, and that they cannot be connected together as embracing the same territorial extent; and if it be correct that a commission conferring powers more extensive than the law on which it is founded be void, the argument of course cannot be maintained, and the conclusion to which the governor conducts us, "that a portion of the land within the limits of Georgia, on the Florida frontier, has been surveyed and sold by the United States," is fallacious. A very obvious distinction might here be taken between a proclamation which is notice to all the world, and has the force of law, and a commission which gives jurisdiction, and is of a nature to be regulated by convenience, and may be limited to one, or extended to half a dozen provinces. If, however, any doubt should remain from this discrepancy, it is put to rest by the treaty between Great Britain and the United States of 3d September, 1783; this treaty, which fixes the limits of the United States at the conclusion of the revolutionary war, directs that our southern boundary shall pursue a line in latitude 31 north of the equator "to the middle of the river Apalachicola or Chattahoochee; thence along the middle thereof to its junction with the Flint river; and thence straight to the *head* of St. Mary's river." So far, therefore, as any argument has been urged, founded on the charter of Georgia, I feel persuaded that it will be considered as having no force in opposition to the treaty; it was certainly competent for the confederacy, in concluding a peace at the termination of the war of Independence, to regulate the boundaries of any of the former colonies. Contemporaneously with the definitive treaty of peace between the United States and Great Britain, was the cession of East and West Florida by Great Britain to Spain; and the question arose between his Catholic Majesty and our government, what was the head and source of the St. Mary's river as defined in the charter of Georgia and East Florida, and the treaty of 1783? The binding force of the treaty of 1783 is admitted by Governors Troup and Forsyth, and it is referred to by them; and the treaty of 1795 between Spain and the United States follows it almost literally in the description of the boundaries between the two countries; but these boundaries, excepting where determined by natural objects, required ascertainment by actual survey and demarcation. It was necessary to ascertain the

31st degree of latitude by astronomical observation, and afterwards to trace the line by actual survey; to accomplish this, was inserted the 3d article of the treaty of 1795. Can it be denied that it was competent to the United States to enter into stipulations with Spain to carry into effect the treaty of 1783? and does the treaty of 1795 profess to do anything more? There is no cession of territory; the sole and exclusive object of the treaty of limits was to carry the former treaty into effect. What, then, has the constitution of Georgia to do with the question? By relation, the act ascertaining the limits, according to the principles adopted in the treaty of 1783, became a part of that treaty. In order to preclude further dispute and terminate discussion, it was stipulated that the plats and journals of the commissioners should form a part of the treaty of limits; the line thus practically ascertained is to be considered as if expressed in that treaty. Without pursuing this course, the treaty of 1783, as regards the limits between Spain and the United States, would have been a dead letter, or at least useless for any practical purpose. Both treaties speak of the junction of the Flint and Chattahoochee as one point, and the head of the St. Mary's as the other, at which the line was to begin and terminate. The first required no other ascertainment than that of the treaty of 1783; the second required the exercise of judgment and research. There could be no difference of opinion as to the first, but it was not the case as to the last. Like all other rivers, the St. Mary's has many heads, and different opinions might exist as to that most deserving of the name. It was, therefore, necessary to settle the matter by convention and agreement; and if this were done fairly and without fraud, it should be, and is, as binding on the parties as if it were inserted in the treaty of 1783. No unfairness is alleged. The interest of the United States prompted their commissioner to obtain the most advantageous adjustment; and he did not yield in intelligence to that of Spain. The United States had, at this time, no adverse interest to that of Georgia; on the contrary, it was their interest to obtain for that State as much as they could. If the interest of Georgia had been compromised by the fraud of the commissioner of the United States, I do not say there would be no ground for a claim of indemnity for the injury sustained. But suppose Spain had continued in possession of Florida, and this question had arisen between her and Georgia, the parties would be placed in a singular attitude. Spain would have had just reason to complain, unless guarantied by the United States in what had solemnly been settled and assured to her. The matter, after having been determined by the proper parties—the only parties competent to determine it—acquiesced in for twenty-seven years; during which time an examination has been made by a commission constituted by the State of Georgia, and a report made that this was the head of the river. Upon what principle can this matter be opened, or rather considered as never having been settled? I think it ought to be considered *res adjudicata*, and the maxim "*interet reipublicæ ut finis litium*" applied; a maxim more important in the disputes of nations than to the controversy of individuals. Suppose Spain had attempted to extend her jurisdiction beyond Ellicott's mound; should we have not appealed to the ascer-

tainment and decision in pursuance of the treaty of 1795 ; and would not Georgia have justly complained of the bad faith of Spain, and called down upon her the curse of Scripture for attempting to remove her neighbor's landmarks?

Justice does not vary with the change of parties. If such pretension would have been unjust on the part of Spain, it would be equally so on the part of the United States, or of Georgia. The necessity of adhering to treaties, when entered into, has been fully and ably urged by Governor Troup on another occasion. If the question would be considered as settled between Spain and the United States, I can see no reason why the subsequent acquisition of Florida should give rise to it again ; and if there be any force in the argument that Georgia and the United States are the only parties, as the delegate of Florida, I solemnly protest against any alteration of the boundaries, without the consent of my constituents.

If there is any grant of authority in the constitution, unquestionable in its nature, and I had almost said unlimited in its extent, it is the treaty-making power given to the general government. The safety of the States was amply provided for, by requiring the ratification of the Senate, their immediate representatives. It cannot be expected that such a body would ever advise or consent to any convention that would injure themselves or their States. An encroachment in one instance, would only be a precedent for its repetition in another ; and the first blow would strike a nerve which would agitate the body politic in all its parts. The United States did not profess to cede any portion of Georgia, but to have its limits ascertained. The State of Georgia is prohibited by the constitution from forming any compact, convention, or alliance, or entering into any negotiation with a foreign power on the subject of boundary, or any other subject whatever. She can negotiate only through the government of the United States, and any act constitutionally performed by that government, in which her interests are affected, she is bound by, as much as if executed by herself. This is the only organ through which her complaints can be heard, and her rights protected in controversies with other nations. The assent of the State was given to the treaty of 1795, which was entered into by her duly constituted agent, the government of the United States, on a subject-matter within their legitimate jurisdiction, and, by that, Georgia is constitutionally and morally bound—*nam ille qui facit per alium facit per se*. It would be in vain that powers were given and treaties made, if one individual State had the right of resisting the solemn conventions of the general government, their own representatives a component part, without any respect to their having been executed according to all the forms of the constitution, or to limitations as to time.

The assent of Georgia was not only given to the treaty of 1795, but, upon a recent occasion, in the enactment of a law, in the execution of which this difficulty occurred, it was still more clearly and unequivocally expressed. That law was introduced by a part of the Georgia delegation, at the instance of the Executive of that State. This act, as introduced by them, and in the form in which it passed, did not provide for ascertaining the limits between the State and Territory, but authorized the President of the United States, in conjunction with the

constituted authorities of Georgia, "to cause the line to be run and distinctly marked," and "the line so to be run and marked shall be straight from the junction of the Chattahoochee and Flint to the point designated as the head of St. Mary's river, by the commissioners appointed under the 3d article of the treaty of 1795."

It never occurred to that highly respectable delegation that it was competent for the United States to do anything more than to execute the unfinished work of running and marking the line between the two points agreed upon by the two governments of Spain and the United States; and it appears never to have occurred to the Executive of Georgia, until the work was nearly completed. The bill, as it was introduced by them, was objected to by me, on the ground that it should only provide for running to the head of St. Mary's. It did not occur to me that the journals and proceedings of the commissioners were to be a part of the treaty itself. Of this, however, I was soon informed by Governor Forsyth, who referred to that article of the treaty, and convinced not only myself, but the committee, that the question having been settled by the two nations, it could not now be disturbed. My opposition to the bill, as it came from the Senate, was induced by having learnt that there was a northern branch of the St. Mary's of greater extent than the one selected by Ellicott and the Spanish commissioner, which, if ascertained to be the head of the river, would give to Florida as much land above the line as is now claimed by Georgia below it. I was convinced, however, by the arguments of Governor Forsyth, (and few men have greater powers to convince than that gentleman, on all questions requiring learning and talent,) that, however just our claim, it was one that could not be asserted, in consequence of its having been definitively settled by this treaty, which I now plead in bar of further proceeding. The discovery of a southern branch of the St. Mary's has altered the case, but does not alter, in my judgment, the principle on which it should be decided. When this bill came up for consideration, no objection was made to it by the delegation from Georgia, in either house. If they supposed that the question was yet open for discussion, why was the bill permitted to pass confining the operation to the two points agreed upon? I do not know that any limitation has been prescribed to nations or sovereignties, but it does appear to me that Georgia, after all these proceedings, ought not to claim an exemption from their operation, or to avail herself of the common law maxim, "*Nullum tempus occurrit Regi.*" As I contend that no further legislation is necessary on this subject, I will only refer to a few facts to show the intrinsic difficulties of any further proceedings.

The commissioner of the United States, a gentleman of practical science and great erudition, who is alike distinguished for his activity, personal industry, and intellectual refinement, declares that the source of the St. Mary's is not only indeterminate, but indeterminable, by any geographical or physical process whatever. I take the liberty to annex two extracts from the letters of that gentleman to me, which place the subject in such a clear light, and are expressed in so much better language than I can employ, that no remark of mine is necessary on the points to which they relate.

Upon most occasions there is little difficulty in finding the head of a river. The longest branch from its disembogement, or the one which discharges the most water, is not always the head of the river. Names are arbitrary. The Escambia river, which discharges itself into the head of Pensacola bay, has two branches arising within one hundred miles of its mouth; whilst that of the Coneceuh, which also runs into it, is almost twice as long, discharges the most water, and yet is certainly not the head of the Escambia, which has been known by that name more than half a century. This southern branch of St. Mary's, which has lately been discovered, and sought to be made the boundary of Georgia, has been known, from time immemorial, by a different name, and was no more thought of as the river known by the name of St. Mary's, than the Coneceuh is now of the Escambia. It may discharge ten times the quantity of water, and yet not be the head of St. Mary's, as known at the time the charter was granted to Georgia, or when the treaties of 1783 and 1795 were made. The northern and what is now called the middle branch, near which the mound of Ellicott is erected, were then considered the only branches of what is properly called the St. Mary's; and the general idea which prevailed at the time was, that Ellicott, the American commissioner, had obtained the advantage of the Spanish, in fixing the mound near what was, before this new discovery and new name, the southern branch of the St. Mary's. If the commission of Sir James Wright, referred to by Governor Forsyth, was not copied by mistake, from the first calling for the southern branch of the Altamaha, this middle one was evidently intended. The provincial authorities, in the regulation of their parish, so considered it; the Board of Trade and Plantations, in England, so thought; and the commissioners of Georgia, appointed under the authority of the State, so reported. It is known that, at the time the examination was made by the surveyor of Georgia, it was a season of unparalleled drought; and at another time he might have made the same investigation, when all the waters of that vast reservoir composing and in the vicinity of the Okefinoke swamp, discharging themselves through this middle channel, would have furnished more water in a month than the South creek did in a year. In a country remarkable for its calcareous combinations, new springs may break out, and branches be formed which did not exist half a century ago.

I have heard it suggested that Ellicott's report was not to be found in the Department of State. It will be observed that the treaty speaks of "*the journal*," of which we have a copy in the Library of Congress; and this objection cannot be urged by Georgia, because it was stated to Col. Randolph, the commissioner of the United States, at Milledgeville, by the Executive, that the journal was considered authentic there, and would be acted upon as such. This journal was composed after the report was made; and, as a matter of history, would be considered conclusive, even if it were not made a part of the treaty, after this lapse of time; it would hardly be expected, that, in relation to a fact of such notoriety, it would be required to support it with such technical evidence as a certified copy from Spain, because, by accident or negligence, it has been lost. We might as well demand

from Georgia a certified copy of her charter from England at this day. If any evidence of its authenticity were demanded, or corroboration of the general history of the country, it will be found in the ostensibility of the mounds, and the objects and marks described.

In conclusion, I solemnly believe that the United States have as much claim to all the land above what has been called the Florida boundary, west of a line from the sources of the Altamaha and St. Mary's, to the limit of the first charter, before the annexation by the King's proclamation, than Georgia has to the land now in contest south of Ellicott's line; and, if that were added to Florida, we should be a State next year—"a consummation most devoutly to be wished."

I have the honor to be, with high considerations, your most obedient servant,

JOS. M. WHITE.

Extracts of letters from Thomas M. Randolph, Esq., United States Commissioner, to Jos. M. White, Delegate from Florida.

DECEMBER 23, 1827.

"DEAR SIR: I not only concur fully in opinion with you upon the question of the Georgia claim, but I really think, with gravity, that Georgia might have as reasonably set up a claim when Louisiana was acquired, to the exterior of her territory as far as the Anglo-American Andes, because it reached the Mississippi before. "All the lands lying between the rivers Altamaha and St. Mary's," to take fifty miles wide over St. Mary's is as unreasonable, in my opinion, as the former would have been. The head of St. Mary's was known as soon as there was a settlement at its mouth; for the Indians of Old Mico and the Micasucky towns went there to trade very soon after, and were soon followed by great numbers of those residing on the waters running into the gulf; all of whom turned out where Suwaney runs out of it, and crossed St. Mary's about three miles below Ellicott's mound, at what is called the Pine Log Crossing Place to this day, because a very tall tree would reach across that place. They were always said to have come by the head of St. Mary's, and that trail is acknowledged to be very ancient. The reconnoitring party sent by Ellicott and Minor, although they passed the mouth of what is called to this day the South Prong, by the people residing near, went directly up the St. Mary's river to look for its head. They had no thought of any other St. Mary's. The Privy Council in England had no more thought of any other than they had; for it runs parallel, mainly with the Altamaha, while the South Prong is at right angles to that river, and would have been an indefinite boundary. The Provincial Assembly of Georgia could not have contemplated any other in March, 1765; for they bound their parish by a due west line from the head of the most southern branch they knew of. Now, from what has been hitherto considered the head, a line according to Ellicott's calculation, from the north towards the west of $89^{\circ} 17' 22''$, would strike the junction of Flint and Chattahoochee; of course, N. 90° W., or due west,

would strike lower down the Apalachicola, being more to the left hand in going. How much lower still must a parallel line, or another due west course, starting fifty miles further south, come in contact with that river? The Provincial Assembly could not have made such a mistake; I am persuaded they did not make it. Spanish creek, at the mouth of which was the Indian trading establishment, called Trader's hill, was the north branch to them, and the St. Mary's itself the south branch. It would be as reasonable to insist on the head of the Missouri now, in constructing a document of old date calling for the source of the Mississippi, as to shift the name of St. Mary's where it never was before. To those at all acquainted with the theory of rivers, it is well known how illusory the test applied by Mr. McBride is, where they have expansions even sufficient to cause the stagnation, for a time, of most part of their waters, much more where their origin is a great reservoir. But in the supposition that Mr. McBride has determined the section of the channel accurately, and has made a correction for the superior velocity of the middle of the stream on the surface, the basin of the St. Mary's, of one hundred times greater area, perhaps being flat and shallow, while the other is deep, might have afforded less water at that time, and yet, at another, might yield as much in one week as the South Prong in half a year; and, even if the latter did furnish most, which I am very sure is impossible for the whole year, it would be as unreasonable to call the centre of its lake the head of the St. Mary's, as for the Scots at Glasgow to look for the head of Clyde in the middle of Loch Lomond; the outlet of which pours into Clyde, perpetually, more, by many times, than all its waters; for Loch Lomond has a manifold greater space to supply its waters than the Clyde, and the ratio is both inverse and infinitely greater in the American case."

DECEMBER 26, 1827.

"DEAR SIR: In the hasty letter I had the honor to address you lately, I stated, what I believe you will readily establish upon investigation as an historical fact, that the stream called the St. Mary's by Ellicott had been known by that name, at its head, for a great length of time before, in consequence of the Indian trading path to St. Mary's, and afterwards to Colerain and Trader's hill, having always crossed it there.

"The commissioners of the United States and Spain, in February, 1800, had never heard the name applied to any other; for Ellicott does not speak of such a question having arisen between him and Minor. The outlet of the main lake, unobserved by them, has not even been indicated in their map—so far were they from the idea that the name of St. Mary's was susceptible of being shifted over to one of these lateral branches.

"I will take the liberty now to communicate another fact of a different nature, coming under the chorographic head of the subject. Within four miles of the lake which gives rise to the South Prong, another lake has been found of somewhat larger surface, but afford-

ing less water, out of which flows what is called the West Prong. Ellicott appears to have heard of this, but, quitting the river at his observation mound, to run his traverse line to the Beacon mound, he has not laid it down further than to locate its mouth. Immediately to the east of the South Prong there is another branch of the river very much of the same description with the Alligator swamp, which joins the St. Mary's about two miles below the Beacon mound; but the former was reported to me by hunters to be half a mile wide, whilst the latter, which I explored fully myself, is not much over 100 yards at any place where it is two feet deep. These two cannot be called streams, having never yet had current enough to scoop out a channel for themselves. The Alligator was not deeper than three feet just above its mouth, when St. Mary's was nine feet deep, measured with a pole, by myself, immediately above the junction. There is barely a perceptible flow in it, and, moreover, there was nowhere any clear space of water to be found belonging to it, after several days reconnoitring, crossing and recrossing on horseback, whenever the soundness of its bottom would allow of riding; for the depth of the water was no hindrance anywhere. This must, in 1765, have been considered as one of the outlets of Okefinoke into St. Mary's; for it is, in a manner, blended with the Little Okefinoke, which feeds the St. Mary's at its bend, about six miles from the mouth, where it comes from the southward, and turns to the east. Again, that branch of Suwanny called Santafee was reported by the hunters of the country to head very close to the lake out of which runs the South Prong. We have, then, a chorographic fact, that the space on the surface of the earth which furnishes rain-water to supply that lake, out of which the South Prong flows, is very narrow indeed, absolutely limited on one side to two miles, and very little more on any other; while the true St. Mary's has a region of many hundred square miles, from Satilla to Suwanny, tributary to its head only; and its inundations are great, as Ellicott testifies, although by no means in proportion to such a space. A botanical fact explains that anomaly. All the marshes which supply the true St. Mary's produce, in great quantity, those "*herbæ ramosæ palustres*," of the sphagnum genus, which form peat bogs in Scotland and Ireland. The growth is six-fold more luxuriant here than there in height, yet they do not show anything like the same accumulation of debris as in the case of the peat moss. Those plants furnish a substance insoluble in water, as is well known. The plain of the St. Mary's has been gradually elevated by that vegetable production; its swamps are now more extensive than they once were, and the loss of water it sustains by evaporation is manifold greater than formerly, in consequence of the manifest encroachment of the sphagnose marshes upon the dry palmetto flats. Whoever reconnoitres on horseback, diligently, will acknowledge this to be the fact, not theory. But it is entirely different in the lakes of that country. The "*herbæ submersæ vado affixæ*," and the "*herbæ aquatiles liberæ*" aquis innatantes, are readily soluble in water; for they are little more than a watery, parenchymatous substance, notwithstanding all the wonders of vegetation offered to the view by *valemenia* and *stratiotes*, rising to the surface, as in Lake Jackson, in places where a ship-of-the-line could

float. It is quite probable that the head of St. Mary's is further south from that cause now, than it was in 1765, when the Provincial Assembly thought a due west line from it would strike the mouth of Flint. It seems almost certain that the river receives less water in its channel near the Beacon mound than it once did. The question, where is the eastern extremity of the line? was probably much easier to settle then, than it is likely to be now. But the provision made in the treaty between Spain and the United States, of October, 1795, was known to Georgia. Ellicott was appointed before that year expired, and his report was not made until May or June, 1800. The general government, having exclusively the foreign relations, of course made the arrangement with Spain, and Georgia was satisfied with the arbiter during four years' continuance of his functions, and with the award for twenty-seven years; nineteen years without any investigation on their part, and nine years after one made through the agency of three of their first citizens, to whose minds the idea of shifting the name of St. Mary's from a stream that had always borne it, to another, did not occur.

"The authorities of Georgia, so far, and so long, too, had ratified the conclusion made with Spain, and Florida being, in equity, completely the successor of Spain, it seems to me that the surveying the lands now, as proposed, would be, in that view, no less arbitrary and violent than an invasion of the Spanish territory, with the design to take possession, would have been formerly.

"The government of the United States cannot surrender the territory of a State; but, when the claim of a State to such territory has been disputed, and the dispute settled with the approbation of the State, must that government be reduced to the necessity of saying to the foreign sovereignty, you must send an armed force yourself to fulfil the award; we have no power to do it; it is a case in which the supreme law of the land cannot be put in execution by our authority?"

[20TH CONGRESS, 1ST SESSION]

EXTRACT FROM JOURNAL OF THE SENATE.

(See Senate Journal, 1st Sess. 20th Cong., p. 147.)

IN THE SENATE OF THE UNITED STATES,
February 11, 1828.

"The following motion, submitted by Mr. Van Buren, was considered and agreed to:

"Resolved, That the President of the United States be requested to communicate to the Senate, copies of the instructions of the government of the United States to Andrew Ellicott, esq., commissioner on the part of this government, for running the line between the United States and Spain, under the treaty of San Lorenzo el Real, and of any journal or report made by the said Andrew Ellicott and the commis-

sioner of Spain, of the execution of the said commission, or such parts thereof as may be communicated without injury to the public service.

“*Ordered*, That the principal clerk lay the said resolution before the President of the United States.”

[20TH CONGRESS, 1ST SESSION.]

MESSAGE FROM PRESIDENT JOHN QUINCY ADAMS, TRANSMITTING, IN COMPLIANCE WITH A RESOLUTION OF THE SENATE OF THE ELEVENTH FEBRUARY, A REPORT FROM THE SECRETARY OF STATE, WITH COPIES OF INSTRUCTIONS, &C., TO ANDREW ELLICOTT, COMMISSIONER FOR RUNNING THE LINE BETWEEN THE UNITED STATES AND SPAIN.

(See Senate Documents, 1st Sess. 20th Cong., vol. 3, No. 104.)

WASHINGTON, *February 14, 1828.*

To the Senate of the United States :

In compliance with a resolution of the Senate, of the 11th instant, requesting copies of the instructions to Andrew Ellicott, commissioner for running the line between the United States and Spain, and of any journal or report of the commissioners, I communicate, herewith, a report from the Secretary of State, with the documents requested, so far as they are found in the files of that department.

JOHN QUINCY ADAMS.

DEPARTMENT OF STATE,
Washington, February 13, 1828.

The Secretary of State, to whom has been referred, by the President, the resolution of the 11th instant, requesting him “to communicate to the Senate, copies of the instructions of the government of the United States to Andrew Ellicott, esq., commissioner on the part of this government, for running the line between the United States and Spain, under the treaty of San Lorenzo el Real, and of any journal or report made by the said Andrew Ellicott and the commissioner of Spain, of the execution of the said commission, or such parts thereof as may be communicated without injury to the public service,” has the honor to report, herewith, the instructions requested, contained in a letter from Timothy Pickering, Secretary of State, under date the 14th day of September, 1796, addressed to Andrew Ellicott, commissioner, and Thomas Freeman, surveyor, to run and mark the line between the United States and Spain, in conformity with the treaty of San Lorenzo el Real.

A search had been several times heretofore made, without success, for the report of which a copy is requested. When it was known that

the Senate would call for the report, a careful and thorough research was made for it, but it has been alike unsuccessful. The joint or separate report of the commissioners, if it were ever made, is not now to be found on the files of the Department of State. It appears from a printed journal of Mr. Ellicott, published in 1803, giving an account of the proceedings of the commissioners in running the line, (page 278,) that the astronomical part of the boundary being completed, it only remained to make out the report, with the maps or charts of the line. As a proper place for performing that business, the commissioners agree to repair to the south end of Cumberland island, where they could be more retired, and would be less interrupted by company. From a letter addressed by Mr. Ellicott to the Secretary of State, dated at Cumberland island, on the 22d March, 1800, (of which a copy is also herewith transmitted,) it appears that they accordingly did retire to that island, for the purpose of completing that report; that they were actually engaged in the preparation of it; and that Mr. Ellicott expected it would be completed the week after the next succeeding the date of his letter. Whether, in point of fact, it was finished, and transmitted to the Department of State, cannot now be here ascertained.

A letter has been recently addressed from this department to the minister of the United States in Spain, directing him to procure a copy of the report, if it be among the archives of the Spanish government.

All of which is respectfully submitted.

H. CLAY.

Colonel Pickering, Secretary of State, to Mr. Ellicott.

ANDREW ELLICOTT, Commissioner. } *Instructions.*
 THOMAS FREEMAN, Surveyor. }

To Andrew Ellicott, commissioner, and Thomas Freeman, surveyor, on the part of the United States, for running and marking the southern boundary line which divides their territory from the Spanish colonies of East and West Florida:

You will receive herewith a copy of the Treaty of Friendship, Limits, and Navigation, concluded between the United States of America and his Catholic Majesty, as finally ratified on both sides, and proclaimed by the President of the United States; together with the second and third articles of the treaty transcribed from the original in the Spanish language.

In contemplating the mode of carrying into execution these two articles which respect the southern boundary, it has been considered that the country through which the line is to be run, belongs, for the most part, to the native Indians, and is of course a wilderness. Hence many difficulties may attend an attempt to run and mark one continued boundary line from the Mississippi to the St. Mary's. Nevertheless,

if the Indians will allow it to be done—and the nature of the country admits of it—you are to run and mark such a continued boundary line. If the Indians are averse to the measure, and oppose your proceeding, you must stop as soon as you find a further advance would hazard your safety, or a breach of our friendship with any tribe. But the Creeks have expressly stipulated a free passage of the commissioners and their followers, to run and mark the boundary line through their territory; and the Choctaws probably may, on the application of the commissioners, also give the like permission as it respects their country. However, if either the opposition of the Indians, or the impracticability of the country itself, through which you must pass, should render the running a continued line impossible, or extremely tedious and difficult, then the next best thing must be attempted; that is, accurately to fix the latitude of the boundary line, at the eastern bank of the Mississippi, and to run and mark the line thence as far eastward as the Indian title has been, by any regular and lawful means, extinguished, either under the British or Spanish governments. If the Indians and the nature of the country permit you to proceed further, you will go on as far as it shall be practicable. And if, from any cause, you are obliged to leave any part of the line unsurveyed and unmarked, you will at least ascertain where it strikes the great rivers, from the Mississippi to the Apalachicola.

From the junction of the Flint river with the Apalachicola, the boundary line ceasing to be a parallel of latitude, must, if possible, be run and marked through its whole course, to the head of the river St. Mary's.

So far as the boundary line is a parallel of latitude, you will ascertain the same with all practicable accuracy, and erect permanent monuments of stone, where attainable, and at other places of earth. And in the latter case, it may be eligible to plant in the ground large posts of cedar, or other durable wood, two or three at each monument, in the range of the line, and to bury them up with several feet of earth, so that by being concealed they may not be removed, and by an exclusion of the air they may not be liable to rot. The mounds of earth may be oblong in the range of the boundary line. Where cedar or other very durable wood is found, a large post may be erected in the centre of each mound, standing above ground, with the words *United States* cut on one side, and *Florida*, or *Spanish Florida*, on the other.

From the Apalachicola to the head of St. Mary's you will, at convenient distances, erect the like monuments of stone or earth.

In every continued line through a wood you will designate the same by marked trees, as usual.

The longitudes of all the places where monuments shall be erected, are to be ascertained with all possible exactness.

The third article of the treaty requires that the commissioners make plats and keep journals of their proceedings, which are to be considered as part of the treaty, and have the same force as if they were inserted therein: the plats and journals, therefore, should be made with accuracy and precision, and the latitudes, longitudes, courses and distances, expressed in words at length, as well as figures.

It being necessary that a careful person should accompany you, to take charge of the stores and provisions, and issue the same, and to receive and disburse the money for wages and supplies, Charles Anderson, of Philadelphia, for his known integrity and capacity, is designated to perform those services under your direction.

You will embrace every convenient opportunity to inform the Department of State of your progress in this business, which it is expected you will conduct with diligence and economy. These views will be promoted by your maintaining harmony and good understanding with the commissioner and agents on the part of Spain.

By the certificate annexed to the copy of the second and third articles of the treaty, you will see that the ratifications of the treaty were exchanged on the 25th of April last; and consequently that you ought to be at the Natchez before the 25th of October next, ensuing, agreeably to the stipulation in the third article.

TIMOTHY PICKERING,
Secretary of State.

DEPARTMENT OF STATE,
Philadelphia, September 14, 1796.

CUMBERLAND ISLAND, *March 22, 1800.*

SIR: Your letter of the 30th of January last came to hand on the 13th of this month, and is the first I have received from you since I left New Orleans.

I retired to this place immediately after descending the St. Mary's, for the purpose of completing our report, which will probably be finished the week after next, with all the plans, charts, &c. The report will be very lengthy, and contain a great number of astronomical observations and intricate calculations, in no part of which have I any assistance except in copying. I am extremely anxious to have the report signed; for my want of faith is so great in all the officers of his Catholic Majesty, that I suppose nothing done till it is finished.

The Spanish party propose returning by Philadelphia and Pittsburg. What their views are I know not. Mr. Power has been so long in the habit of intrigue and duplicity, that he is only at home when in the midst of confusion. His former residence in Philadelphia procured him an extensive acquaintance with the partisans of France; and though he has been appointed surveyor on behalf of his Catholic Majesty, he never attended to the business but one week: his employment has been very different, but fortunately without much effect. The boundary has actually been executed by the United States, and would have been done at a much less expense had no other power been concerned in it. From a suspicion, which I think was well founded, I was at all times able to complete the work without the aid of the other party; and had it not been for the numbers and firmness of my people, at the mouth of Flint river, my journal (and there is no other,) with all my documents, and public and private correspondence, with the whole apparatus, would certainly have fallen into the hands of the Indians. The other party had previously di-

vested themselves of every article of value which would impede their flight, and remained without either force or apparatus, except an old surveying compass, which for some time had a wooden sight. Infinite address has been practised with my young men, and the commanding officer of my escort, to make them troublesome; but a remembrance of the decided measures I had taken on a former occasion, has kept them within bounds.

This expedition has taught me a useful lesson. I was always pleased with our government: I now think it perfect. I can now see the difference between a government whose basis is the people, and one supported by intrigues, duplicity, and parade. In the former, man feels his dignity—he is open, candid, and honest; but in the latter, he becomes a jealous assassin. When I look back and see the difficulties with which we were surrounded, and the dangers by which we were menaced, I feel conscious that our success has been owing to good fortune. The report which was handed in by Mr. Gillespie and the Spanish deputy surveyor, that “the St. Mary’s did not head in the Okefonoke swamp,” is incorrect. I was one who traced it up to the junction, and slept two nights on the margin of the swamp. The trip was a disagreeable one, and I yet feel the effects of it.

The United States extend further South than we had any idea of. The most southern bend of the St. Mary’s is in latitude $30^{\circ} 21' N.$ nearly, and the source of the river is about $30^{\circ} 34' N.$

In all probability I shall be in Philadelphia about the last of next month.

I am, sir, with esteem, your sincere friend,

ANDREW ELLICOTT.

The Hon. the SECRETARY OF STATE
for the United States.

[20TH CONGRESS, 1ST SESSION.]

EXTRACT FROM THE JOURNAL OF THE SENATE.

(See Senate Journal, 1st Sess. 20th Cong., pp. 166, 167.)

IN THE SENATE OF THE UNITED STATES,
February 15, 1828.

“The following written message was yesterday received from the President of the United States, by Mr. John Adams, his secretary:

[Here follows the preceding message.]

“On motion by Mr. Cobb,
“Ordered, That it be referred to the Committee on the Judiciary,
and that it be printed.”

[20TH CONGRESS, 1ST SESSION.]

EXTRACT FROM THE JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 20th Cong., p. 301.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
February 14, 1828.

“Mr. White submitted to the House sundry documents, transmitted to him from the Department of War, in relation to the boundary line between the State of Georgia and the Territory of Florida; which documents were referred to the Committee on the Judiciary.”

[20TH CONGRESS, 1ST SESSION.]

EXTRACTS FROM THE JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 20th Cong., pp. 305, 306, 313.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
February 15, 1828.

“Mr. Gilmer moved the following resolution, which was read and laid on the table, viz:

“*Resolved*, That the President of the United States be requested to communicate to the House of Representatives, copies of the instructions of the government of the United States, given to Thomas Pinckney, its minister at the court of Spain, in pursuance of which the treaty of San Lorenzo el Real was entered into, by said minister, with the government of Spain, so far as said instructions relate to the designation of the dividing line between the territory of Spain and the United States, or so much thereof as may be communicated without injury to the public service.”

FEBRUARY 18, 1828.

“The resolution moved by Mr. Gilmer, on the 15th instant, and laid upon the table, was read, considered, and agreed to by the House.”

[20TH CONGRESS, 1ST SESSION.]

MESSAGE FROM PRESIDENT JOHN QUINCY ADAMS, TRANSMITTING DOCUMENTS
RELATIVE TO THE BOUNDARY LINE BETWEEN GEORGIA AND FLORIDA.

(See H. R. Ex. Docs., 1st Sess. 20th Cong., vol. 4, No. 170.)

WASHINGTON, March 3, 1828.

To the House of Representatives of the United States:

I transmit to the House of Representatives a report from the Secretary of State, with documents containing the instructions of the gov-

ernment of the United States to Thomas Pinckney, under which was negotiated the treaty of San Lorenzo el Real, and relating to the boundary line between the United States and the dominions at that time of Spain, as requested by a resolution of the House of the 18th ultimo.

JOHN QUINCY ADAMS.

DEPARTMENT OF STATE,
Washington, February 29, 1828.

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 18th inst., requesting the President to communicate to the House copies of the instructions of the government of the United States, given to Thomas Pinckney, its minister in Spain, in pursuance of which the treaty of San Lorenzo el Real was entered into by said minister with the government of Spain, so far as said instructions relate to the designation of the dividing line between the territories of Spain and the United States, has the honor to submit to the President the accompanying extracts; the first from a letter of instructions from Mr. Edmund Randolph, then Secretary of State, under date the 28th November, 1794, to Mr. Thomas Pinckney, appointed minister plenipotentiary to Spain, and the other from a report referred to therein, which comprehend the particular instructions required by the resolution of the House.

All which is respectfully submitted.

H. CLAY.

Extract from instructions of Edmund Randolph, Secretary of State, to Thomas Pinckney, Minister Plenipotentiary of the United States, at Madrid, dated November 28, 1794.

“Your powers inform you, in general terms, of the subjects with which you are charged. The development of the principles upon which they are to be contended for, will be found in the documents of which Mr. Short is possessed. But, for the sake of enabling you to avail yourself of every opportunity, before you reach Madrid, I send a statement of our pretensions as they were laid before Congress, comprehending Mr. Jay’s discussions with Mr. Gardoqui, and the instructions and arguments transmitted to Messrs. Carmichael and Short. In these, the President sees no reason for a change.”

Extract from instructions of Mr. Jefferson, Secretary of State, to Messrs. Carmichael and Short, Ministers Plenipotentiary to Madrid, dated March 18, 1792.

“The President having thought proper to appoint you joint commissioners plenipotentiary on the part of the United States, to treat

with the court of Madrid, on the subjects of the navigation of the Mississippi, arrangements on our limits and commerce, you will, herewith, receive your commission; as also observations on these several subjects reported to the President and approved by him, which will, therefore, serve as instructions for you. These expressing minutely the sense of our government, and what they wish to have done, it is unnecessary for me to do more here than desire you to pursue these objects unremittingly, and endeavor to bring them to an issue in the course of the ensuing summer."

Extract from a report of Mr. Jefferson, Secretary of State, to the President of the United States, dated March 18, 1792.

"The appointment of Mr. Carmichael and Mr. Short, as commissioners to negotiate with the court of Spain a treaty or convention, relative to the navigation of the Mississippi, and which, perhaps, may be extended to other interests, rendering it necessary that the subjects to be treated of should be developed and the conditions of arrangement explained, the Secretary of State reports to the President of the United States the following observations on the subjects of negotiation between the United States of America and the court of Spain, to be communicated by way of instruction to the commissioners of the United States appointed, as before mentioned, to manage that negotiation. These subjects are—

1. Boundary.
2. The navigation of the Mississippi.
3. Commerce.

1. As to boundary, that between Georgia and Florida is the only one which will need any explanation. Spain sets up a claim to possessions within the State of Georgia, founded on her having rescued them by force from the British, during the late war. The following view of that subject seems to admit no reply:

The several States now composing the United States of America were, from their first establishment, separate and distinct societies, dependant on no other society of men whatever; they continued at the head of their respective governments the executive magistrate who presided over the one they had left, and thereby secured, in effect, a constant amity with the nation. In this stage of their government, their several boundaries were fixed, and particularly the southern boundary of Georgia, the only one now in question, was established at the 31st degree of latitude from the Apalachicola, westwardly; and the western boundary, originally the Pacific ocean, was, by the treaty of Paris, reduced to the middle of the Mississippi. The part which our chief magistrate took, in a war waged against us by the nation among whom he resided, obliged us to discontinue him and to name one within every State. In the course of this war, we were joined by France, as an ally, and by Spain and Holland, as associates, having a common enemy: each sought that common enemy wherever they could find him. France, on our invitation, landed a large army

within our territories, continued it with us two years, and aided us in recovering sundry places from the possession of the enemy, but she did not pretend to keep possession of the places rescued. Spain entered into the remote western part of our territory, dislodged the common enemy from several posts they held therein, to the annoyance of Spain, and perhaps thought it necessary to remain in some of them, as the only means of preventing their return. We, in like manner, dislodged them from several posts in the same western territory, to wit: Vincennes, Cahokia, Caskaskia, &c., rescued the inhabitants, and retained, constantly afterwards, both them and the territory under our possession and government. At the conclusion of the war, Great Britain, on the 30th of November, 1782, by treaty, acknowledged our independence and our boundary, to wit: the Mississippi to the west, and the completion of the 31st degree, &c., to the south. In her treaty with Spain, concluded seven weeks afterwards, to wit: January 20, 1783, she ceded to her the two Floridas (which had been defined in the proclamation of 1763) and Minorca; and, by the 8th article of the treaty, Spain agreed to *restore, without compensation*, all the territories conquered by her, and not included in the treaty, either under the head of cessions or restitutions—that is to say, all except Minorca and the Floridas. According to this stipulation, Spain was expressly bound to have delivered up the possessions she had taken within the limits of Georgia to Great Britain, if they were conquests on Great Britain, who was to deliver them over to the United States; or rather, she should have delivered them to the United States themselves, as standing, *quoad hoc*, in the place of Great Britain: and she was bound, by natural right, to deliver them to the same United States on a much stronger ground, as the real and only proprietors of those places which she had taken possession of in a moment of danger, without having had any cause of war with the United States, to whom they belonged, and without having declared any; but, on the contrary, conducting herself, in other respects, as a friend and associate. Vattel, l. 3, 122.

It is an established principle, that conquest gives only an inchoate right, which does not become perfect till confirmed by the treaty of peace, and by a renunciation or abandonment by the former proprietor. Had Great Britain been that former proprietor, she was so far from confirming to Spain the right to the territory of Georgia invaded by Spain, that she expressly relinquished to the United States any right that might remain in her, and afterwards completed that relinquishment, by procuring, and consolidating with it, the agreement of Spain herself to restore such territory, without compensation. It is still more palpable, that a war existing between two nations, as Spain and Great Britain, could give to neither the right to seize and appropriate the territory of a third, which is even neutral, much less which is an associate in the war, as the United States were with Spain. See, on this subject, Grotius, l. 3, c. 6, § 26; Puffend., l. 8, c. 6, § 17, 23; Vattel, l. 3, § 197, 198.

On the conclusion of the general peace, the United States lost no time in requiring from Spain an evacuation of their territory: that it has been hitherto delayed, by means which we need not explain to

that court, but which have been equally contrary to our right and to our consent.

Should Spain pretend, as has been intimated, that there was a secret article of treaty between the United States and Great Britain, agreeing, if, at the close of the war, the latter should retain the Floridas, that then the southern boundary of Georgia should be the completion of the 32d degree of north latitude, the commissioners may safely deny all knowledge of the fact, and refuse conference on any such postulatam; or should they find it necessary to enter into argument on the subject, they will, of course, do it hypothetically, and, in that way, may justly say, on the part of the United States, "Suppose that the United States, exhausted by a bloody and expensive war with Great Britain, might have been willing to have purchased peace by relinquishing, under a particular contingency, a small part of their territory; it does not follow that the same United States, recruited and better organized, must relinquish the same territory to Spain, without striking a blow. The United States, too, have irrevocably put it out of their power to do it, by a new constitution, which guaranties every State against the invasion of its territory. A disastrous war, indeed, might, by necessity, supersede this stipulation, (as necessity is above all law,) and oblige them to abandon a part of a State; but nothing short of this can justify or obtain such an abandonment."

The southern limits of Georgia depend chiefly on—

1st. The charter of Carolina to the lords proprietors, in 1663, extending southwardly to the river Matheo, now called St. John's, supposed in the charter to be in latitude 31°, and so west, in a direct line, as far as the South sea.

2d. On the proclamation of the British King, in 1763, establishing the boundary between Georgia and the two Floridas, to begin on the Mississippi, in 31° of latitude north of the equator, and running eastwardly to the Apalachicola; thence, along the said river, to the mouth of the Flint; thence, in a direct line, to the source of St. Mary's river, and down the same to the ocean. This proclamation will be found in Postlethwayte voce "British America."

3d. On the treaties, between the United States and Great Britain, of November 30, 1782, and September 3, 1783, repeating and confirming these ancient boundaries.

There was an intermediate transaction, to wit, a convention concluded at the Pardo, in 1739, whereby it was agreed, that ministers plenipotentiary should be immediately appointed by Spain and Great Britain, for settling the limits of Florida and Carolina. The convention is to be found in the collections of treaties; but the proceedings of the plenipotentiaries are unknown here. *Qu.* If it was on that occasion that the southern boundary of Carolina was transferred from the latitude of Matheo, or St. John's river, further north to the St. Mary's? or was it the proclamation of 1763, which first removed this boundary? [If the commissioners can procure, in Spain, a copy of whatever was agreed on in consequence of the convention of the Pardo, it is a desirable State paper here.]

To this demonstration of our rights may be added the explicit declaration of the court of Spain, that she would accede to them.

This took place in conversations and correspondence thereon between Mr. Jay, minister plenipotentiary for the United States at the court of Madrid, the Marquis de Lafayette, and the Count de Florida Blanca. Monsieur de Lafayette, in his letter of February 19, 1783, to the Count de Florida Blanca, states the result of their conversations on limits, in these words: "With respect to limits, his Catholic Majesty has adopted those that are determined by the preliminaries of the 30th of November, between the United States and the court of London." The Count de Florida Blanca, in his answer of February 22d, to M. de Lafayette, says: "Although it is his Majesty's intention to abide, for the present, by the limits established by the treaty of the 30th of November, 1782, between the English and the Americans, the King intends to inform himself, particularly, whether it can be, in any ways, inconvenient or prejudicial to settle that affair amicably with the United States." And M. de Lafayette, in his letter of the same day, to Mr. Jay, wherein he had inserted the preceding, says: "On receiving the answer of the Count Florida Blanca, (to wit, his answer, before mentioned, to M. de Lafayette,) I desired an explanation respecting the addition that relates to the limits. I was answered, that it was a fixed principle to abide by the limits established by the treaty between the English and the Americans; that his remark related only to mere unimportant details, which he wished to receive from the Spanish commandants, which would be amicably regulated, *and would by no means oppose the general principle.* I asked him, before the ambassador of France, (M. de Montmorin) whether he would give me his *word of honor* for it? He assured me *he would*, and that *I might engage it to the United States.*"

[20TH CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 20th Cong., p. 373)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
March 3, 1828.

"A message, in writing, was received from the President of the United States, by Mr. John Adams, his private secretary, as follows:

[Here follows the preceding message.]

"The message was read and laid upon the table."

[20TH CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 20th Cong., p. 430.)

MARCH 21, 1828.

“Mr. Philip P. Barbour, from the same committee, [Judiciary] to which was referred the message of the President of the United States, of the 22d of January last, transmitting copies of communications from the governor of Georgia, relating to the line dividing that State from the Territory of Florida, made a report thereon, which was read and laid on the table.”

[20TH CONGRESS, 1ST SESSION.]

REPORT OF THE COMMITTEE ON THE JUDICIARY OF THE HOUSE OF REPRESENTATIVES, RELATIVE TO THE DIVIDING LINE BETWEEN GEORGIA AND FLORIDA, MARCH 21, 1828.

(See Reports of Committees, 1st Sess. 20th Cong., vol. 3, No. 204.)

Mr. P. P. BARBOUR, from the Committee on the Judiciary, to which the subject had been referred, made the following report:

The Committee on the Judiciary, to which was referred the message of the President, of the 22d January, 1828, transmitting copies of communications from the governor of Georgia, relating to the line dividing that State from the Territory of Florida, report:

The correspondence between the President and the governor of Georgia, thus referred to the committee, presents the question, What is the correct boundary between that State and the Territory of Florida? To enable the House to decide this question, the committee beg leave to present to their consideration a condensed view of the evidence in relation to it.

The charter of Carolina to the lords proprietors, in 1663, extended southwardly to the river Matheo, now called St. John's, supposed, in the charter, to be in latitude 31°^c, and so west, in a direct line, as far as the South sea.

It appears, by an extract from the charter of Georgia, in 1732, that the boundaries were “all those lands, countries, and territories, situate, lying, and being in that part of South Carolina, in America, which lies from a northern stream of a river commonly called the Savannah, all along the seacoast to the southward, unto the most southern stream of a certain other great water or river, called the Altamaha, and westward from the heads of the said rivers, respect-

ively, in a direct line, to the South seas." Before the date of this charter to Georgia, by a second charter to Carolina, in 1667, its limits had been extended south and westward, as far as the degree of twenty-nine, inclusive, of northern latitude. The government of Carolina, having been, in its origin, a proprietary one, was, in 1729, surrendered by seven out of eight of the proprietors, and afterwards by the eighth, and then became a regal one; and the province was divided into the two governments of North and South Carolina. The order of council making this division, and fixing the boundaries, is not accessible to the committee, nor is it deemed material.

The trustees of Georgia, in 1752, surrendered the whole territory to the King, and the government was afterwards entirely regal.

The King, by a proclamation of the 7th October, 1763, annexed to the province of Georgia all the lands lying between the rivers Altamaha and St. Mary's, and, by his commission to Governor Wright, of the 20th January, 1764, declares the boundaries to be on the north by the most northern stream of a river, there commonly called Savannah, as far as the head of said river, and from thence, westward, as far as our territories extend; on the east by the seacoast, from said river Savannah, to the most southern stream of a certain other river, called St. Mary, including all islands within twenty leagues of the coast, lying between the rivers Savannah and St. Mary, as far as the head thereof; and from thence, westward, as far as our territories extend, by the north boundary line of our provinces of East and West Florida.

By the treaty of peace, in 1783, between the United States and Great Britain, the southern boundary of the United States is thus described: "South by a line to be drawn due east from the determination of the line last mentioned, in the latitude of thirty-one degrees north of the equator, to the middle of the river Apalachicola or Catahouchee; thence, along the middle thereof, to its junction with the Flint river; thence, straight to the head of St. Mary's river; and thence, down along the middle of St. Mary's river, to the Atlantic ocean."

By the proclamation of 1763, before referred to, the King had declared that part of the northern boundary of East Florida which is now the subject of inquiry to be as follows, viz: To the northward, by a line drawn from that part of said river (Apalachicola) where the Catahouchee and Flint rivers meet, to the source of St. Mary's, and, by the course of the said river, to the Atlantic ocean. Spain having obtained from Great Britain a cession of the Floridas, without, as is believed, any description of limits, but with a knowledge of the provisional treaty of November, 1782, and under what were the boundaries of those provinces in the hands of Great Britain, some difficulty arose between the United States and Spain, in relation to this boundary, which led to the treaty of 27th October, 1795, commonly called the treaty of San Lorenzo el Real; by the second article of which, it was agreed that the boundary line between the United States and the Floridas shall be designated by a line beginning on the river Mississippi, at the northernmost part of the 31st degree of latitude north of the equator, which from thence shall be drawn due east to the middle

of the river Apalachicola or Catahouchee; thence, along the middle thereof, to its junction with the Flint; thence, straight to the head of St. Mary's river; and thence, down the middle thereof, to the Atlantic ocean.

It was provided by the 3d article of that treaty, that a commissioner and surveyor, to be appointed by each of the contracting parties, should run and mark the boundary, according to the stipulations of the 2d article, above recited. It was further stipulated that they should make plats, and keep journals of their proceedings, which should be considered as part of the convention, and have the same force as if they were inserted therein. In conformity with this stipulation, Andrew Ellicott was appointed commissioner, and Thomas Freeman surveyor, on the part of the United States, for the purpose of running the line mentioned in the 2d article. This appointment was made in May, 1796. It appears from a letter of the commissioner, dated 22d March, 1800, to the then Secretary of State, that a report of what had been done would soon be completed; but that report, if made, is not now, as far as the committee are informed, to be found. It appears from the same letter, that our commissioner experienced great difficulty and embarrassment in the execution of the duty assigned to him, from the Indians, and he intimates at the instigation of others. The journal of Ellicott was published in 1803. It appears that the commissioners did not run and mark the line from the junction of Catahouchee and Flint rivers, to the head of St. Mary's; but they designated a point, which should be taken as the one to or near which a line should be drawn from Flint river, which, when drawn, was to be final, provided it passed not less than one mile north of a certain mound, erected by them; but if, on experiment, it should be found to pass within less than a mile north of said mound, it should be corrected to carry it to that distance. This mound is near the Okefenoke swamp. It appears from a report of John McBride, a surveyor, appointed by Georgia, in the year 1827, that there is a stream, called by him the South branch of the St. Mary's, much farther south than the one considered the head branch of that river, by the American and Spanish commissioners; and he says, that both its length, its volume of water, and general direction, coincide in favor of the South branch. It appears, by a document referred to as part of this report, marked A, that, under a resolution of the Senate of Georgia, in 1818, the governor of that State appointed commissioners to examine and report whether Ellicott's mound was the true head of the St. Mary's; and from the letter of the governor, in 1819, to the Secretary of War, it appears that the commissioners had reported, that, after a careful examination, they found the head of St. Mary's to agree with the report made by Mr. Ellicott. Two of the commissioners, in a paper referred to as part of this report, marked B, think it probable that they may have been misled by their guide—assigning as the reasons of that impression: 1st, that they recollect to have seen what appeared to them, through thick brush-wood, to be a lively little stream, emptying in through the opposite or right bank of the southern or middle fork of the St. Mary's; which being pointed out to the pilot, he replied, that the branch they were pursuing was the right one; and, 2d,

by the representation given by the survey of McBride. After this review of the evidence, it will be seen by the House, that the question is, What is the head or source of the St. Mary's? for the other end of the line, to wit: the junction of the Catahouchee and Flint rivers, being uncontested, so soon as the head of the St. Mary's is ascertained, all difficulty ceases as to the boundary. The committee are of opinion, upon the whole view of the case, that the point designated by the American and Spanish commissioners ought to be considered as the head of St. Mary's. They consider the solution of the question to depend on this: which stream is to be considered the true St. Mary's river, according to reputation, and the understanding and acquiescence of the parties concerned? As far back as 1800, the commissioners of the two governments considered, upon examination, what is now called the North branch, as the St. Mary's; and the Georgia commissioners, in 1819, concur with Mr. Ellicott as to the head of that river. Although another river unites with this, which vents more water and is longer, yet, if it were not called or known by the name of St. Mary's, these circumstances would not alter the case. The committee infer that it was not so called or known, from these circumstances: 1st. That the commissioners of two governments were appointed to settle and decide a contested question of boundary: to do this, the head of the St. Mary's being one of the termini, it became their duty to seek for information from every source accessible to them, as to which stream was the St. Mary's, and what was its head. Having fixed upon a particular stream as being the true river, and designated a point as its source, and this being matter of notoriety, Georgia acquiesced, without objection, as far as the committee are informed, till 1818; and then the report of their own commissioners coincided with Ellicott's designation, and that, too, though they had as their pilot, as the committee believe, the very person on whose suggestion they had been appointed. In this report Georgia acquiesced, as far as the committee is informed, until recently. As far as the nature of this unsettled country will admit of reputation as to the names of its streams, these facts may be considered as probably the best evidence which was the St. Mary's river, and the head of that river, as intended in the several State papers above recited. There is an example mentioned in one of the printed documents, which will illustrate the idea of the committee. It is now believed to be a geographical fact, that the Missouri is a longer stream than the Mississippi, and we believe vents more water; and yet, as it never has been called by the name of Mississippi, if we were now called upon to decide what was the head of the Mississippi, we should take, not the source of the Missouri, though it unites with the other stream, but the source of what is and has been called the Mississippi. It is not intended to say that the case in question is as palpable; but, after settling the principle, that, in ascertaining the head of a stream of a given name, we must inquire where two streams unite, not which is the longest, or vents the most water, but which has been called and known by the given name, we are then to decide, upon the best evidence in our power, as to that fact; and we think the evidence is in favor of the stream designated by Ellicott.

Resolved, therefore, as the opinion of the committee, that, in running the boundary line between Georgia and Florida, the point designated by the commissioners under the 3d article of the treaty of 1795, between the United States and Spain, ought to be the termination of the line from the junction of the Catahouchee and Flint rivers.

A.

IN SENATE, *December 12, 1818.*

Resolved, That his excellency the governor be requested to appoint two fit and proper persons, to proceed, without delay, to ascertain the true head of the St. Mary's river; and if it shall appear that the mound thrown up by Mr. Ellicott and the Spanish deputation is not at the place set forth in the treaty with Spain, that they make a special report of the facts to the governor, who shall thereupon communicate the same to the President of the United States, accompanied with a request that the lines may be run agreeable to the true intent and meaning of the aforesaid treaty.

And it is further resolved, That the governor order out a suitable detachment of militia to protect the said commissioners in the performance of their duty.

Approved December 19, 1819.

EXECUTIVE DEPARTMENT, GEORGIA,
Milledgeville, February 17, 1819.

SIR: I take the liberty to call your attention to the subject of the contemplated line between this State and the province of East Florida, which you no doubt recollect is expected to be run this spring by the general government.

Preparations are making to commence surveying that section of country in a short time; it is, therefore, very-desirable that the line should be defined as early as possible.

The legislature of this State, at their late session, having received satisfactory information that the mound thrown up by Mr. Ellicott and the Spanish deputation, on the Okefinocau swamp, is not the true head of St. Mary's river, as contemplated in the treaty with Spain, directed me to appoint commissioners to ascertain the fact, and to communicate the result to the President of the United States, with a request that the line might be laid out agreeably to their report. Majors General Floyd and Thompson, and Brigadier General Blackshear, have been appointed to, and are now engaged in the performance of that duty. Their report shall be transmitted to you as soon as I receive it.

I have every reason to believe that the head of that river will be found at least twenty miles south of the point agreed on by Mr. Ellicott and the Spanish commissioners. Should this conjecture prove to

be a fact, the State of Georgia will be entitled to the land within that boundary, according to the treaty with Spain. In any event, it is of great importance that one of those lines should be completed as soon as circumstances will justify the measure.

Enclosed I hand you a resolution of the legislature on the subject.

With high respect, I am, sir, your obedient servant,

WM. RABUN.

The Hon. JOHN C. CALHOUN,
Secretary of War, Washington City.

EXECUTIVE DEPARTMENT, GEORGIA,
Milledgeville, March 3, 1819.

SIR: On the 17th ultimo, I had the honor to address you on the subject of the contemplated line between this State and the province of East Florida. I stated that the legislature of this State had directed me to appoint commissioners to ascertain the true head or source of the St. Mary's river, and I promised to forward their report to you as soon as the same was received. The commissioners have returned, and reported, that, after a careful examination, they found the head of that river to agree with the report made by Mr. Ellicott, and prove, beyond the possibility of doubt, that the information received by the legislature of this State relative to that subject was incorrect. I flatter myself that directions will be forwarded to Mr. Lumpkin immediately to close that line, according to the treaty with Spain. And, if the general government can afford us assistance in guarding the surveyors who will be engaged in laying out the country, it will be acknowledged as a great accommodation.

I am, with high respect, your obedient servant,

WM. RABUN.

Hon. J. C. CALHOUN,
Secretary of War.

B.

In the year 1817, Captain William Cone, then a member of the legislature of Georgia, represented, on his own knowledge of the St. Mary's river, that Mr. Ellicott had mistaken its true head or source; and that an accurate survey would establish the fact, that the head or source of the middle fork or branch, (perhaps then called the south branch) which was twenty miles south of Mr. Ellicott's mound, would be found to be the true source of the St. Mary's river, and therefore the true point of demarcation between the State of Georgia and the then Spanish province of East Florida. The governor of Georgia was authorized, by the legislature, to appoint commissioners to ascertain the truth of the facts alleged by Captain Cone. The undersigned, with Brigadier General David Blackshear, were appointed and

specially instructed by the governor of Georgia. They employed Captain Cone as a pilot, and, with a competent surveyor, caused to be measured (beginning at or near the point designated by Ellicott as the head of the St. Mary's river) the distance from that point, by the meanders of the northwest branch, to its junction with the stream or branch represented by Cone to be the true source of the St. Mary's, and up the left bank of the latter branch, until the commissioners reached an extensive swamp, into which the pilot, with two of the commissioners (the undersigned,) penetrated about half a mile, and saw no water or water channel. Capt. Cone was then directed by the commissioners to pass entirely across the swamp, (to the pine barren beyond the swamp,) who, on his return, reported that there was no stream of water or water channel in the swamp; and that we had reached the head of the branch to which he had referred in the information given by him to the legislature. On a comparison of the length of the two streams, it was found that the latter, from its junction with the other to the swamp above referred to, was much the shortest; and the commissioners consequently reported in favor of the former as the head or source of the St. Mary's river.

It is, however, more than probable that the commissioners may have been misled by the inadvertency of Captain Cone, who professed to be intimately acquainted with the geography of that part of the country, and on whom they were instructed to rely, who may have been diverted from the principal stream, by mistaking a branch of it. And we, the undersigned, are inclined to this belief; first, because we recollected to have seen, a short distance below the swamp to which we have referred, what appeared to us, through thick brushwood, to be a lively little stream, emptying in through the opposite or right bank of the southern or middle fork of the St. Mary's, which was pointed out to the pilot, who replied that the branch we were then pursuing was the right one; and because of the representation given by the survey of McBride.

JOHN FLOYD,
WILEY THOMPSON.

FEBRUARY 29, 1828.

[20TH CONGRESS 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 20th Cong., p. 587.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
April 17, 1828.

“On motion by Mr. Wilde,

“*Ordered*, That the message of the President of the United States, communicated to this House on the 3d of March ultimo, transmitting documents relative to the boundary line between the State of Georgia and the Territory of Florida, be committed to a Committee of the Whole House to-morrow.”

[20TH CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE SENATE.

(See Senate Journal, 1st Sess. 20th Cong., p. 450.)

IN THE SENATE OF THE UNITED STATES,
May 22, 1828.

“Mr. Van Buren, from the Committee on the Judiciary, to whom was referred the message of the President of the United States, of the 22d January last, in relation to the division line between the State of Georgia and the Territory of Florida, made a report, accompanied by a request that the committee be discharged from the further consideration of the subject; and the committee was discharged accordingly; and

“*Ordered*, That the report be printed.”

[20TH CONGRESS, 1ST SESSION.]

REPORT OF THE SENATE COMMITTEE ON THE JUDICIARY, RELATIVE TO THE DIVIDING LINE BETWEEN THE STATE OF GEORGIA AND THE TERRITORY OF FLORIDA.

(See Senate Documents, 1st Sess. 20th Cong., vol. 5, No. 201.)

IN SENATE OF THE UNITED STATES,
May 22, 1828.

Mr. VAN BUREN made the following report:

The Committee on the Judiciary, to which was referred the message of the President, of the 22d January, 1828, in relation to the division line between the State of Georgia and the Territory of Florida, report:

That an act of Congress was passed on the 4th of May, 1826, authorizing the President, in conjunction with the constituted authorities of Georgia, to cause the said division line to be run and distinctly marked, from the junction of the rivers Chattahoochee and Flint to the head of the St. Mary's river: providing, that the line so to be run and marked should be run straight, from the junction of the said rivers, to the point designated as the head of the said St. Mary's river, by the commissioners appointed under the third article of the treaty of friendship, limits, and navigation, between the United States and Spain, of the 27th October, 1795. Commissioners were appointed by the President, and also by the constituted authorities of Georgia, to carry into effect the purposes of the act, and the line was in part run.

The co-operation of the State of Georgia, as well as the provisions of the act of Congress, were both, it seems, founded on the assump-

tion (at the time believed to be correct by both parties,) that the head of the St. Mary's had been truly designated by the commissioners under the treaty with Spain. Pending the survey, the authorities of the State of Georgia were induced to believe that a mistake had been committed upon that subject, and that the true head of the St. Mary's was further south. Instructions were, in consequence, given to their commissioner, which, in the absence of all discretion on the part of the commissioner of the United States, led to an interruption of the survey, and, finally, to a dissolution of the joint commission.

The question presented for the legislation of Congress is, the true boundary between the State of Georgia and the Territory of Florida. The course which the committee have determined to recommend will supersede the necessity of, at this time, going into a particular examination and consideration of the relative pretensions of the parties.

By the treaty of San Lorenzo el Real, it was agreed, that the boundary line between the United States and the Floridas "shall be designated by a line beginning on the river Mississippi, at the northernmost part of the thirty-first degree of latitude north of the equator, which, from thence, shall be drawn due east, to the middle of the river Apalachicola, or Chattahoochee; thence, along the middle thereof, to its junction with the Flint; thence, straight to the head of the St. Mary's river; and thence down the middle thereof to the Atlantic ocean." There is nothing in the case by which the correctness of this general boundary is brought in question, nor is it disputed by either of the parties. The only point of fact in controversy, as far as the subject of boundary is concerned, is the true location of the head of the St. Mary's river.

By the third article of the same treaty, it was provided, that a commissioner and surveyor should be appointed by each of the contracting parties, who should run and mark the boundary, according to the stipulation of the second article above referred to; that they should keep plats and journals of their proceedings, which should be considered as part of the convention, and have the same force as if they were inserted therein.

Commissioners and surveyors were appointed by both governments, who entered upon the duties assigned them. It appears, from a letter of the American commissioner, Andrew Ellicott, dated 22d March, 1800, to the then Secretary of State, that a report of what had been done would soon be completed. That report, if made, is not now to be found; but measures have been taken by our government to obtain a copy thereof from the Spanish government, if it be among its archives.

The commissioners did not run or mark a line from the junction to the head of the St. Mary's, but (as appears from the published journal of Mr. Ellicott) they designated a point which should be taken as the one to or near which a line should be drawn, from the junction of the Chattahoochee and Flint rivers, and which, when drawn, should be final, provided it passed not less than one mile of a certain mound erected by them; but if, on experiment, it should be found to pass within less than a mile north of said mound, it should be corrected to carry it to that distance. It was when the supposition that the point

then designated was the true, and had become the established boundary, that the act of 1826 was passed.

The State of Georgia contends that the line has not been finally settled by the proceedings under the third article of the treaty with Spain. She questions whether she would be concluded by those proceedings, if ever they had been carried to a final confirmation; and she insists, that, if the point designated as the head of the St. Mary's should, upon a re-examination, prove to be erroneous, the United States ought (since they have become the proprietors of the territory) to correct the same.

The committee are of opinion that an examination of the report of the commissioners under the Spanish treaty will be material to a correct decision of the question; and, in the hope that the same may be obtained by the next session of Congress, they recommend that the further consideration of the subject be postponed until that period, and ask to be discharged from the same.

[20TH CONGRESS, 2^D SESSION.]

EXTRACT FROM THE JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 2d Sess. 20th Cong., p. 61.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
December 15, 1828.

“Mr. White presented resolutions of the legislative council of Florida, in relation to the settlement of the boundary between that Territory and the State of Georgia; which resolutions were laid on the table.”

[20TH CONGRESS, 2^D SESSION.]

RESOLUTIONS OF THE LEGISLATURE OF FLORIDA, RELATIVE TO THE GEORGIA BOUNDARY.

(See H. R. Ex. Docs., 2d Sess. 20th Cong., vol. 1, No. 17.)

Resolved, That it is the opinion of the present legislative council of Florida, that the sixth article of the treaty between Spain and the United States, of the 22d of February, 1819, secures to the inhabitants then occupying, and those who may occupy, the ceded territory, as Spain held them under the treaty of 1795, an admission into the Union, as soon as it may be consistent with the principles of the federal constitution; and that any diminution of its limits, or alteration of its lines, will be a manifest violation of the supreme law, an act of

oppression to the inhabitants of the ceded territory, and of injustice to the United States.

Resolved, further, That the legislative council, representing the people of the ceded Territory, respectfully, in the name of the said people, protest against the passage of any law that will change the boundary between this Territory and Georgia; and that our delegate in Congress be requested to continue his exertions in resisting the pretensions now set up by Georgia, to 1500 thousand acres of the land ceded by Spain to the United States.

Resolved, further, That commissioners ought to be appointed, in behalf of the Territory, to ascertain the true sources of the St. Mary's, so that our rights may be defended on facts, as well as the treaty; and to make a report at an early period of the approaching session of Congress.

Be it therefore resolved, That the governor appoint three fit and discreet persons, as commissioners, to carry the foregoing resolutions into effect; and that any two of them, provided the other cannot attend, are hereby empowered to act.

Resolved, further, That our delegate be requested to obtain an order for ascertaining the true boundary between Florida and Alabama, or the passage of a law for that object.

“Resolved, further, That the said delegate be requested to use his exertions to remove the Florida Indians from this Territory.”

Adopted this 23d November, 1828.

THOS. MUNROE,
Clerk Legislative Council Florida.

[20TH CONGRESS, 2d SESSION.]

EXTRACTS FROM JOURNAL OF THE SENATE.

(See Senate Journal, 2d Sess. 20th Cong., p. 63.)

IN THE SENATE OF THE UNITED STATES,
January 5, 1829.

“Mr. Berrien communicated a report of a joint committee of the legislature of the State of Georgia. * * * *”

“*Ordered,* That the said report and resolutions be referred to the Committee on the Judiciary, and printed.”

[20TH CONGRESS, 2D SESSION.]

LETTER FROM THE GOVERNOR OF GEORGIA, WITH A REPORT OF A COMMITTEE OF THE LEGISLATURE OF THAT STATE, RELATIVE TO THE LINE BETWEEN GEORGIA AND FLORIDA, ETC.

(See Senate Documents, 2d Sess. 20th Cong., vol. 1, No. 26.)

EXECUTIVE DEPARTMENT, GEORGIA,
December 26, 1828.

GENTLEMEN: I transmit the enclosed report and resolutions agreeably to the wishes of the general assembly.

I am, gentlemen, your obedient servant,
JOHN FORSYTH.

The Hon. SENATORS *from Georgia in the Congress*
of the United States, Washington city.

REPORT, &c.

The Joint Committee on the State of the Republic, to whom was referred that part of the governor's communication which relates to the dividing line between Georgia and the Territory of Florida, have had the same under consideration, together with the accompanying documents; and, after an attentive examination of the subject, report:

That the Executive, conformably to a resolution of the last session, caused the report then made to be laid before Congress, and in further compliance with the request of the legislature, opened a correspondence with the President of the United States, in which the claims of Georgia to her legitimate and constitutional boundary were zealously and ably asserted. The report made to the Senate of the United States by the Judiciary Committee recommended the postponement of the subject until the ensuing session. That to the House of Representatives was drawn to a more definite conclusion, by resolving "as the opinion of the committee, that in running the boundary line between Georgia and Florida, the point designated by the commissioners, under the third article of the treaty of 1795 between the United States and Spain, ought to be the termination of the line from the junction of the Chattahoochee and Flint rivers." - This report was not acted upon; the subject, consequently, is yet to be discussed and decided. Your committee, reposing full confidence in the general government, and deeply sensible of the inviolability of Georgia's claim, cannot but express their disappointment that the committee should, upon the evidence before it, have hesitated to recommend the repeal of the act of Congress of 1826, or such a modification of it as would have enabled the President to empower commissioners, in conjunction with this government, to run and mark the line agreeable to the rights of the parties; and still more are they surprised, that

reasons should have been sought after, and arguments employed, on which no just inference against our claim can be sustained. The whole argument used by the committee charged with this matter has for its foundation, and arises out of, the mistake of Mr. Ellicott and the Spanish commissioner in designating the north branch as the true source of the St. Mary's. This mistake is the key-stone of the whole arch. It is from this that they say the North Prong was called St. Mary's, and ought to be so considered. It is this that led them into the error of declaring that the commissioners of the two governments were appointed to settle and decide a contested question of boundary; and because this mistake was not detected before the line was about to be run, the acquiescence of Georgia is presumed and urged as an argument against her claim.

It is a fact admitted by all parties, and which forms the very essence of this controversy, that the line between the Chattahoochee and Flint rivers and the head of St. Mary's river was neither traced nor marked by the commissioners appointed under the third article of the treaty with Spain. From that article they derived their powers; and by a reference to it, it will appear that they were not plenipotentiaries, but merely ministerial agents, acting under orders, to run and mark the line according to the stipulations of the 2d article of the treaty, which is in the following words: "The southern boundary of the United States, which divides their territory from the Spanish colonies of East and West Florida, shall be designated by a line beginning on the river Mississippi at the northernmost part of the 31st degree of latitude north of the equator, which from thence shall be drawn due east to the middle of the river Apalachicola or Chattahoochee, thence along the middle thereof to its junction with the Flint, thence straight to the head of St. Mary's river, and thence down the middle thereof to the Atlantic ocean." From the Mississippi to the Chattahoochee they executed their commission according to the stipulations of the treaty—the remaining part of the duty assigned them they neglected to perform; and whatever agreement they may have made, by virtue of the powers invested in the third article, cannot be reasonably insisted upon as authority for varying the true line; as the article in its most enlarged construction does not extend so far as to justify the running of the line in any other direction, or from and to any other points than those designated in the 2d article. The point of departure and the terminating point are both fixed by the 2d article; and it is provided in the third, specially, that the commissioners should run and mark from and to those points. The points referred to are from the junction of the Chattahoochee and Flint rivers to the head of the St. Mary's river, and not to mound A or mound B, or to any other indefinite place to be fixed upon at the commissioners' discretion. As the proceedings of those commissioners present the only difficulty, your committee beg leave to cite the whole article under which they acted, to wit: "In order to carry the preceding article into effect, one commissioner and one surveyor shall be appointed by each of the contracting parties, who shall meet at the Natchez, on the left side of the river Mississippi, before the expiration of six months from the ratification of this convention; and

they shall proceed to run and mark this boundary according to the stipulation of said article; they shall make plats and keep journals of their proceedings, which shall be considered as part of this convention, and shall have the same force as if they were inserted therein." It is charitable to presume that the Judiciary Committee did not examine minutely the provisions of this article, or they would not have exposed their judgment to impeachment, by asserting that "the commissioners of the two governments were appointed to settle and decide a contested question of boundary."

There is no discretion conferred in this article. If their plats and journals were to have the same force as the convention, they were nevertheless obliged to be in accordance with its stipulation. If, therefore, Mr. Ellicott agreed, as is insisted upon, that one mile north of mound B should be as far south as the line when run should approach, it is very palpable that he exceeded his authority, even though he may have made a plat of mound B and journalized the agreement. He was not sent there to make an agreement defining a point to which the line should be run at some future time, but to run and mark the line between points already described. If permitted to vary the stipulation of the treaty, he could with as much propriety, and equal justice, have fixed upon a point fifty miles further in the interior of Georgia. The question is, did the Spanish and American commissioners run and mark the line from the junction of the Chattahoochee and Flint rivers to the head of the St. Mary's river, as they were directed to do? No; they ran no line at all between those points. What did they do? They agreed that the line should be run at some future time, and by some other persons, to a certain other point different from that fixed by the treaty! The committee who have claimed this extraordinary power for the commissioners place themselves in an inextricable dilemma, as they not only consider themselves authorized to overturn the treaty they were appointed to carry into effect, but likewise assume *for them the right* to bargain away the soil and sovereignty of a sovereign State, who could not, under her obligations to the Union, interfere in settling the boundaries of the United States, though on that line of it she was more immediately concerned than all her sister States together. So far from those commissioners being justified in the exercise of the power which they arrogated, your committee, next to the loss of the liberties of their own State, would regret to see the time when the government of the United States should become so forgetful of the limitations of her prerogatives as to assume the power of ratifying a treaty with any foreign nation, by which the least portion of the soil of a State should be taken from her without her consent.

The United States is bound by the constitution to protect us from invasion. Upon the supposition, then, that the line had been run and marked agreeably to the report of the Spanish commissioners, and had been sanctioned by the government by a ratification of the treaty, it would have imposed upon her the disagreeable alternative of breaking the treaty with Spain, or abandoning her obligations to the confederacy. If Florida were yet a Spanish province, Georgia would have a right to require the United States to perform her sacred engagements,

by driving from our soil the Spaniard who invaded it. "*To provide for the common defence*" is one of the principal objects of our political association; and could the United States humiliate themselves, upon our application to have our soil and our sovereignty restored to us, by pleading that they had ceded it to Spain and therefore could not interfere, such a disregard of her obligations would be productive of the worst of consequences, as it would destroy all confidence in the protection of the constitution. It is not expected, now that the federal government is the proprietor of Florida, that it can be unmindful of the declaration in the constitution that "no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or *parts* of States, without the consent of the legislatures of the States concerned." Has the legislature of Georgia ever given her assent, in any manner, that that portion of the State should be detached and set apart to assist in the formation of another State? The foregoing allusion to the obligations of the general government to the States we have thought it advisable to make, because it does not appear, from the report made to the House of Representatives, that the committee themselves consider Ellicott's mound to be the head of St. Mary's; but they say it "ought to be so considered, because Ellicott and the Spanish commissioner agreed that it should be so, and that the Georgia commissioners in 1819 concurred in the designation, from which circumstances it had the reputation of being the head of St. Mary's, and because of that reputation it should be considered the true head or source of the St. Mary's. This, though not precisely their language, is the amount of their argument. Your committee conceiving that they have most conclusively proven that the American and Spanish commissioners have acted extra-officially in making mounds and agreements not provided for by the treaty, any reputation of names inferred from those acts is too vague to require serious examination.

In regard to the acquiescence of Georgia, the facts cited in the report to Congress prove that the authorities of the State were deceived. If Georgia had considered the act of the United States and Spain as decisive and final, she would not have deputed commissioners to have made an examination. The very deputation shows that she conceived, as must be admitted, that she had a right to be heard in settling her own boundary. She did not, though, send those commissioners to make a final settlement of her boundary. She could only confer such power when the United States was ready to join her in the commission. They were sent merely upon an exploring tour, for the satisfaction of the State, on a disputed point. The United States were under no obligation to abide by the opinion formed. How, then, can the United States, upon any principle of reciprocity, contend that Georgia should be forestalled by an opinion as to an isolated fact, to which they held themselves free to agree or disagree? The acquiescence of Georgia, in the extent to which it has been given, only proves that she was then as she is now—and ever will be, while she respects the rights of others as she does her own—willing to be governed, in the running of that line, by the true points. She desired then no more than she believed to be her right; and, from the evidence then in her posses-

sion, she supposed the point fixed upon by Ellicott was the true point. She contends now for no more than later developments incontestably prove to be her own.

Your committee feel authorized by the facts to deny that Georgia has ever acquiesced so far as to agree that the line should be run to Ellicott's mound. There has been no definite act of the State, by which the matter has been settled, or considered settled, by either party. It is true her commissioners believed that the mound was at the source of the river, upon whose information the governor's opinion was then predicated, all of which was mainly owing to the confidence reposed in the previous examinations of Mr. Ellicott. They were not, however, associated with commissioners of the United States to settle the boundary—they were acting merely *ex parte* in the search of information, whose report, if correct, would not have bound the United States, and if erroneous, cannot bind Georgia; neither this nor any other act conclude either party, because the parties never have acted in conjunction; consequently, the true head of the St. Mary's has always been debatable, and, from the limited information as to the topography of the country, it was obliged to remain so, until commissioners were duly appointed by the parties to run and mark the line. The argument of the committee, that the North Prong was called the St. Mary's, and therefore "intended in the several state papers above recited," to which they attach the greatest importance, is based upon the same mistake of their own agent; for, from the evidence adduced by them, it appears that Ellicott was the first who gave it the name of St. Mary's, in exclusion of the other branches; and, by an assumption of their own, they deprive the southern branch of a participation in the rights of a name. This argument cannot avail, even upon the principle which they were forced to admit in their illustration, until a name for the South Prong, different from St. Mary's, shall have been established, and that, too, known to the King of Great Britain when the boundary of Georgia was described; as it is clear by the commission to Governor Wright, that it was intended by the royal government to extend the eastern boundary of Georgia to the most *southern stream* of St. Mary's, and thence to the head thereof. The river took its name at the disembogement: of course, all streams coming in on the south, were southern streams of that river; to the head of the most southern stream, is the point at which the eastern line determines, for it is in a subsequent clause that the southern boundary is described to be "thence westward as far as our territories extend by the north boundary line of our provinces of East and West Florida."

By this commission, all previous boundaries of Georgia were revoked and determined. To this, then, we are to look for our geographical limits; and, fortunately for us in this exigency, it describes that stream of the St. Mary's to be the head or source for which we are now contending, with an accuracy that can no longer be misunderstood. It is probable that the course of the river was not accurately known; from which it is inferred, that it was the intention of the royal commission that Georgia should extend as far south as the *most southern stream*, and to the head thereof, or that part of the de-

scription would not have been incorporated in the eastern boundary. It is reasonable to believe that this identical stream was meant, and not the stream at the diemboguement, which was between Amelia island and the main, which is one of the mouths of the St. Mary's. It could not have applied to that, as both the provinces of Georgia and Florida were at that time under the same regal government, and Amelia was not then, nor has it at any time since, been considered as belonging to Georgia. If, then, it did not mean the southern stream at the mouth of the river, it must have meant the southern stream higher up the river. It is from this charter that our legislature conceived themselves authorized, in 1783, to declare our boundary to be "from the fork of the Apalachicola, where the Chattahoochee and Flint rivers meet in a direct line, to the head or source of the *southernmost stream* of the St. Mary's river, and along the course of said river to the Atlantic ocean;" which furnishes additional evidence that the South Prong was known at that day to be the head of the river. If the southern stream were not ascertained to lead to the source of the river, there would be more plausibility in the entertainment of different opinions upon the subject; as, in that event, the boundary acknowledged by Great Britain in the treaty of '82, and provided for us by the treaty with Spain in '95, would vary from that described by the regal commission of '64, and our act of '83. But, when all these documents agree that the *head* of the St. Mary's is one of the points by which the boundary was to be regulated, and the rights conveyed in the charter of Florida are not violated, does it not require a tenacity of opinion, approaching obstinacy in error, to insist upon a deviation?

It is not expected that Congress will be led by sophistry to the support of an erroneous claim. These questions then result: If the line were to be run to the point agreed upon by the commissioners, under the 3d article of the treaty with Spain, would it run according to the boundary described for us in our old charter?—According to the boundary which is secured to us in the definitive treaty of peace with Great Britain?—Which is provided for us in the treaty of '95, with the Spanish government?—Which our act of '83 recognises?—And, more than all, which our constitution consecrates?

Your committee cannot believe that when the subject is fully investigated by Congress, the federal government will be so unmindful of justice and her obligations to one of the confederacy, even upon the hypothesis that she could succeed, as to claim an advantage which is derived solely from the negligence and error of her own agent. They therefore beg leave to recommend the following resolutions:

Resolved, That it is desirable to the State of Georgia to have the boundary line between her and Florida run and marked as speedily as will meet the convenience of the United States.

Resolved, As the act of Congress of 14th May, 1826, providing for the running and marking that line, requires it to be run and marked to the point designated as the head of St. Mary's, *by the commissioners* appointed under the third article of the treaty of friendship, limits, and navigation, between the United States and Spain, of 27th Octo-

ber, 1795; and as that line is not, in the opinion of Georgia, the true boundary, that Congress be earnestly requested, at the present session, to repeal the aforesaid act, and to pass another authorizing the line to be run and marked according to the provisions of the 2d article of said treaty.

Resolved, That, should Congress refuse to make any provision for running the aforesaid line in conjunction with the authorities of Georgia, that the governor be authorized and requested to appoint commissioners, to be accompanied with a competent surveyor and artist, to run and mark the line according to the stipulations contained in the 2d article of the treaty between the United States and Spain, of the 27th October, 1795.

Resolved, That the governor be requested to forward a copy to our senators and representatives in Congress, to be by them laid before the Senate and House of Representatives of the Congress of the United States.

SECRETARY OF STATE'S OFFICE, GEORGIA,
Milledgeville, December 26, 1828.

The above and foregoing is a true copy from the original, deposited in this office, approved by the governor on the 20th instant.

E. HAMILTON, *Secretary.*

[20TH CONGRESS, 2D SESSION.]

EXTRACT FROM THE JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 2d Sess. 20th Cong., pp. 119, 120.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
January 5, 1829.

“Mr. Gilmer presented sundry resolutions, adopted by the general assembly of the State of Georgia, in relation to the running and establishing the boundary line between that State and the Territory of Florida; which resolutions were committed to the Committee of the Whole House, to which was committed, on the 17th of April, 1828, the message of the President of the United States, communicated to the House on the 3d of March, 1828, transmitting documents in relation to said boundary.”

[20TH CONGRESS, 2D SESSION.]

EXTRACTS FROM THE JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 2d Sess. 20th Cong., pp. 166, 185.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
January 15, 1829.

“Mr. White moved the following resolution; which was read, and laid on the table, viz:

“*Resolved*, That the Secretary of State be directed to communicate

to this House the following letters of Andrew Ellicott, the commissioner of the United States for carrying into effect the treaty of San Lorenzo el Real, of the 27th of October, 1795, between his Catholic Majesty and the United States; a letter to the Secretary of State, and the papers enclosed, dated 9th of October, 1799; and letters to the Secretary of State, of January 17, April 5, and July 4, 1800."

JANUARY 20, 1829.

"The resolution moved by Mr. White on the 15th inst. was read, considered, and, by consent of the mover, was modified, by adding thereto the following :

"Together with such other portions of his journal or correspondence as relates to the ascertainment of the head or source of the St. Mary's river, or the reasons why the same was not ascertained."

"As thus modified, the said resolution was agreed to by the House."

[20TH CONGRESS, 2D SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

[See House Journal, 2d Sess. 20th Cong., p. 221.]

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
January 30, 1829.

"The Speaker laid before the House a report from the Secretary of State, accompanied by copies of the letters of Andrew Ellicott, called for by this House on the 20th inst.; and also containing information in relation to the journal of the said Andrew Ellicott, a copy of which was called for by the House on the 20th inst.; which report was read, and laid on the table."

[20TH CONGRESS, 2D SESSION.]

LETTER FROM THE SECRETARY OF STATE, TRANSMITTING COPIES OF CERTAIN LETTERS OF ANDREW ELLICOTT, COMMISSIONER, &C., RELATING TO THE HEAD OR SOURCE OF ST. MARY'S RIVER.

(See H. R. Ex. Docs., 2d Sess. 20th Cong., vol. 3, No. 96.)

DEPARTMENT OF STATE,
Washington, January 27, 1829.

The Secretary of State, in compliance with the resolution of the House of Representatives of the 20th inst., directing him "to communicate to that House the following letters of Andrew Ellicott, the commissioner of the United States for carrying into effect the treaty of San Lorenzo el Real of the 27th of October, 1795, between his

Catholic Majesty and the United States ; a letter to the Secretary of State, and the papers included, dated 9th October, 1799; and letters to the Secretary of State of January 12, April 5, and July 4, 1800 ; together with such other portions of his journal or correspondence as relates to the ascertainment of the head or source of the St. Mary's river, or the reasons why the same was not ascertained ;" has the honor to submit to the House copies of the letters and papers specifically required by the resolution, and respectfully to refer to the report from this department to the President of the United States, dated February 13, 1828, a copy whereof is herewith communicated to the House, in pursuance of a resolution of the Senate of the 11th of that month, calling, amongst other things, for the journal or report communicated by the said Ellicott to his government, which states the cause that prevented a compliance, at that time, with the wish of the Senate, in relation to the said journal or report ; and which, it is regretted, prevents a compliance with the wish of the House of Representatives at the present, with regard to the same documents. It may be proper to state that the minister of the United States at Madrid, who was instructed, as is mentioned in the report to the Senate, to apply to the Spanish government for a copy of the report in question, of Andrew Ellicott, if it should be among the archives of that government, made the application required of him in May, 1828, but that this department is still uninformed of the result.

Extracts of a letter from Mr. Ellicott to this department, under date the 23d of March, 1800, and the copy of a certificate from the same, concerning the appointment of Patrick Tagart to trace the line between the mouth of Flint river and the source of the St. Mary's, are likewise herewith submitted, as coming within the scope of the resolution of the House.

H. CLAY.

APPALACHY, *October 9, 1799.*

SIR: It is with the most sensible mortification I have ever yet experienced, that I have to inform you of the failure, in part, of our business, owing to the hostile disposition of the Indians. By what secret spring this people has been put forward, I shall not undertake to determine, but give you as correct a statement of facts and all the information I received antecedent to our retreat from our camp near the mouth of Flint river, as I am able.

The morning after the arrival of Colonel Hawkins at Pensacola, we waited upon Governor Folch, who in a very short time informed us "that he had to give audience to two Seminole Indians;" upon this we withdrew to Major Minor's quarters, which were within the governor's enclosure, and in a few minutes saw two Indians go into the governor's house. Major Minor followed, and heard their conversation with the governor. In less than an hour Major Minor joined us, and observed they gave a strong talk in opposition to the running of the line, and that they were Seminoles: the subject then passed over. On our arrival at the head of Pensacola bay, which was about

eight o'clock in the evening, Colonel Hawkins went on shore to meet the Mad Dog chief, who, we were informed, had just arrived. The Mad Dog informed the Colonel that two Indians had just gone to the Tallassees with bad talks from the governor. Colonel Hawkins told him it was impossible; that the two Indians alluded to were Seminoles, and had gone on to their nation. An Indian standing by observed that the Mad Dog was right; that he himself saw the two Indians at Pensacola, and conversed with them, and that they were Tallassees.

The Mad Dog wanted immediately to come on board, and give Major Minor and myself the information; but Colonel Hawkins put him off till the next morning, when he came on board our vessels and gave each of us the information, and proposed sending a runner after them; but as Major Minor still continued in the opinion that the Mad Dog was mistaken, and the two Indians were actually Seminoles, no more notice was taken of it at that time.

Of our treaty with the Indians at Miller's place on the Coenecup, and the assemblage of Tallassees at Pensacola last June, I have already informed you particularly. By the assemblage of the Indians at Pensacola, we were detained at that place till the 24th June, when we proceeded to the bar, but could not cross it, on account of head winds, till the 2d of July. On the 4th, about noon, we arrived at St. George's sound, but could not find the navigable mouth of the river till the 13th, when we proceeded with a fair wind about 20 miles; we then warped for three days, when I left the vessel, and proceeded up the river in a small canoe, with the instruments, and arrived at camp on the 25th. Mr. Timothy Bornard, one of our deputy agents, arrived five days before me. We found the work would be suspended till the chiefs could have a meeting, and an explanation from us respecting the nature of our business: this meeting took place the beginning of August, and the Indians departed apparently well satisfied.

But previous to our arrival, they assembled in considerable numbers, to stop and plunder our surveyor; but his movement was so rapid, that he had arrived at the river, and was well ported, before their main body had crossed, and their spies were looking out too low. Their depredations on our horses began at the Coenecup, and continued till our final retreat. From this circumstance, added to their uniform stealing and insolence, I frequently doubted their sincerity, and communicated those doubts to our agent, Mr. Bornard, who, on his part, had none.

Before I left that camp to proceed to the mouth of Flint river, Mr. Burgess, lately one of our deputy agents and interpreters, informed me, confidentially, that we should certainly be plundered on our way to St. Mary's, and requested me to write to Col. Hawkins to join us immediately, as his influence would effect our safety, if any man's could do it: this I did on the 22d of August; and on the 23d, Major Minor and myself proceeded down to the mouth of Flint river. A few days after we had been encamped, Major Minor dismissed his military escort, agreeably to instructions which he received from the late Governor Gayoso as early as the 14th May last; he also discharged almost the whole of his laborers, and sent away part of the baggage of their de-

partment, and the only valuable part of their apparatus. As soon as this was done, he became very impatient to set out for St. Mary's. In one of our conversations upon that subject, I told him the work must be done before we left that place; that the geographical position of the mouth of Flint river could not be determined before the morning of the 14th of that month, [September,] supposing the weather to be very favorable; and, moreover, that I was desirous of seeing Col. Hawkins before I ventured upon a journey, the success of which, in opinion, was at best but doubtful; and, further, that Mr. Anderson had reported to me that our remaining number of horses was not sufficient, supposing no more to be stolen, to transport our baggage, stores, and apparatus to St. Mary's; but that he, Major Minor, was differently situated at present: his military escort dismissed; almost the whole of his laborers discharged; part of the baggage, and the valuable part of their apparatus, sent away; which was not the case with me. To which he answered, "I suppose you will be angry, but I must tell you those men of yours are no longer necessary." I replied, that my situation, from some circumstances, was embarrassing; that Mr. Gillispie was back on the correction; if we went on before his arrival, he and his party might be plundered and abused; that they would have no place to retreat to nearer than Pensacola or St. Mary's; that some money was wanting, for which I had sent to Pensacola; and further, that I had the most valuable apparatus upon the continent to account for, and had no idea of trusting it, under present appearances, to the mercy of the Indians. That I was similar to a passed pawn in the game of chess, and conceived it prudent to be supported by a piece, before I made another move; and if Colonel Hawkins, on his arrival, should think appearances favorable, I would immediately proceed. About this time Mr. Burgess paid us a visit. After dinner he took me into the observatory, and asked me this question: "Did you write to Col. Hawkins while at the upper camp?" to which I answered in the affirmative. "You have," says he, "not written as pointedly as necessary, or he would have been here before this time. You must write again immediately, and procure support, which may be had from the Cowetas; and if this is not done, you will positively be plundered on your way to St. Mary's. You may think me a fool, but mark the end." I told him that I could add nothing to the letter which I had written to Colonel Hawkins; and if he was well, I was confident he would be with us in a few days. On the 14th he arrived. He was of the opinion that everything was in a good train, and that we might go on in safety. I then yielded up my opinion; arranged the astronomical journal, that it might be understood, if any accident should happen to myself, and it be preserved, and began to make the necessary preparation to move on the 20th. On the 17th, early in the morning, we received a message from Indian Willey, a man of property, who lives on the Chattahoochee, several miles above its junction with the Flint river, to the following effect: "Gentlemen: I have sent my negro to inform you that twenty Indians lay near my place last night: they intend mischief. Many more are behind. They call themselves Choctaws. Be on your guard, and remember that I

have nothing to do with it. My negro goes at midnight." Although this information was not slighted, it was not pointedly attended to. About two o'clock in the afternoon, some of our Indian escort were sent over the river to make discoveries; they returned in two or three hours, without making any: some were satisfied, but I was not; the information from Burgess still kept possession of my mind. About sundown we received intelligence that a number of strange Indians had crossed the river; a few minutes after, one of our Indians reported that he had met a number of strangers, who had refused either to speak or shake hands with him. My escort was immediately called to arms, and my son and laborers, who were armed with rifles, joined them. The Big Lieutenant, who commanded our Indian escort, was directed to go and halt the strangers, and demand their business, and give us immediate information. They halted a short time, and declared their object was to plunder the camp, scatter the people, and let them go home what way they pleased. They then proceeded to within about 200 yards of our camp, where they were again halted by our Indian escort and interpreter. The evil-disposed were then joined by some others, particularly by the Long Warrior and some of his people, in whose neighborhood we lived, and who we before supposed to be well inclined. Until that instant we but little dreaded a direct attack. Our situation now became serious. A variety of opinions were brought forward. Major Minor and myself thought a compromise the most prudent and safest measure; for, if we should beat them for the present, they could reinforce and renew the attack, and, by taking the remainder of our horses, render our retreat impracticable. In short, the commencement of hostilities would occasion the destruction of all our party. At that instant we received information that the whole number of Indians, armed, and determined to plunder our camp, did not exceed thirty; my armed party, including laborers, amounted to at least forty. Col. Hawkins then requested Capt. Bowyer to arrange his men in the best manner he could, and march them near to the hostile Indians: this was done with uncommon expedition, and the enemy found a party much stronger than themselves directly between them and our camp; and at about twenty yards distance, Col. Hawkins stepped forward and addressed them. They persisted in plundering the camp; and declared that if we let them do it quietly, they would shed no blood, but that vengeance should follow resistance. The Colonel told them that we would trust to that; and if any one of their party should attempt to remove off any one article from the camp, he should instantly be put to death; and that, if the party attempted to march one inch further, it would be fired upon. They then became more mild; and at length agreed to remain quiet till the next morning, when they would hold a talk; but that they were determined to carry their plan of plunder into effect, which they would be able to accomplish, as their strength was constantly increasing. Upon the assurance of their remaining quiet till the next morning, our armed party marched back and guarded the camp till next morning. About three o'clock in the afternoon of the arrival of the Indians, Major Minor's riding horse, with another very valuable one, was stolen from within two hundred yards of the camp:

upon which I immediately ordered all the horses belonging to our party to be brought up and tied in the camp, when we found eight or ten already missing. The Spanish horses were also collected, and put in pens made for that purpose, near to the Spanish end of the camp. The hostile Indians kept moving about in small parties the whole night, about gun-shot from our tents. They threw down the contractor's bullock-pen, and let his cattle out, and opened the pen which contained the Spanish horses, and haltered four of them, but were driven away with two only. Three of my horses broke loose and ran without the camp; and though every exertion was made to bring them back, the Indians mounted them and rode them off. A small party collected the contractor's cattle and secured them a second time. In this manner the night was spent. From a suspicion that we should meet with some difficulties at that place, I detained a small schooner, which was in the employ of our commissary, Mr. Anderson: it lay at our landing, about half a mile from our camp. The United States schooner was too large to ascend the river, and I had ordered it to Appalachy a few days before and wait for further orders. The loading of the principal part of the small schooner had been taken to our camp several days previous to the alarm. The fate of the schooner we did not learn till early in the morning of the 18th, when we were informed that it had been plundered about midnight; that the sails were cut to pieces, and the running rigging carried away. Upon receiving this information, my son, with two of the laborers, armed with their rifles, went to repossess the schooner. On their way they saw a small party of armed Indians, who fled at their approach. As they drew near to the vessel, they discovered three armed Indians preparing to go on board the schooner, no doubt to complete the work they had begun in the night. Seeing the numbers were equal, our party sprung forward with a whoop in the Indian manner, at which the Indians fled with precipitation into the woods. Our people then repossessed the vessel, and upon examination found a keg of powder and about twenty pounds of lead, which had been overlooked. The Indians stripped the people on board of all their clothing, even their handkerchiefs from their heads and necks, with all their bedding. The public property taken was of no great value; twelve or fifteen guns, which wanted repairing, a case of claret, a small quantity of brandy and gin, a chest of axes and other tools, with a few blankets, are the principal articles.

We waited impatiently till nine o'clock a. m. of the 18th, but heard nothing of any Indians coming to the conference. We then called upon the Big Lieutenant, who has already been mentioned, and asked his opinion of our present situation. He answered, "It is far from being good: the Indians on the river about us have taken the talks of the hostile Tallassees: that he had no dependence but upon his own and our people; with them he thought he could take us safely to St. Mark's." • Upon receiving this information, Major Minor and myself thought it best to retreat. It was agreed that he should proceed by land to Coleraine, if not followed for the two first days by the Indians; but, in case he was, to proceed to St. Mark's, and wait for a vessel to carry him and his party to St. Mary's: the vessel he had hitherto

used was discharged, I believe, by order of the late Governor Gayoso. To render his journey as safe as possible, I sent Captain Bowyer, with all my escort, a corporal and three privates excepted, with him. I went on board the small schooner, in which I put the apparatus, with the principal part of the baggage and a small quantity of provision, determined to force my way down the river, if opposed. I had the corporal and three already mentioned, with my son, and seven or eight expert riflemen. The pack-horses moved at four o'clock p. m. of the 18th, and the schooner was under weigh at five o'clock the same afternoon. I had eight oars, and fifteen armed men; but my chief dependence was on those already mentioned. Immediately after we left the shore it began to rain; but we soon made such a covering with our tents, the cut sails, and some oilcloths, that the people and their arms were kept dry. We proceeded down the river till after dark, when we stopped, for fear of injuring the vessel against logs. The next morning, before day, although it was raining, the moon gave us so much light as to enable us to proceed; and about eleven o'clock in the forenoon of the 19th, we passed the lowest Indian village on the river. The rain continued without intermission, and so heavy that it would have been impossible for the Indians to attack us with success in open canoes, and they have no other. It did not cease raining till we came near St. George's sound on the 21st, where we stopped to repair the sails and rigging of the vessel. Before I left camp, I wrote a letter to Mr. Gillispie, to be forwarded to him by Colonel Hawkins, who proposed to remain on Flint river a few days, and endeavor to give a more favorable turn to the disposition of the Indians. I likewise sent a message to the people on board the United States schooner, to meet me with all possible expedition in St. George's sound. Thus ended the disagreeable business; alarming, because we had savages to deal with. It was to my party (who a few days before had been declared useless) that both camps were indebted for their safety, and public and private property to a considerable amount, together with a great number of valuable papers and important documents, were preserved. The Spanish party was too small to make even the show of resistance. Those few, however, behaved with great firmness; to which I must add, that it is my opinion that the Spanish commissioner and his party are as much in the dark respecting the conduct of the Indians as we were; and if anything improper has been done by other officers of his Catholic Majesty, it has been kept secret from them. There may perhaps be some light thrown upon the subject by the following facts:

1st. In May last, Major Minor received instructions from Governor Gayoso to dismiss his escort on his arrival at the Chattahoochee, and return himself to Pensacola, and wait there till he could be furnished with a passport from the Bahama islands, that he might be enabled to go with safety round Florida Point to St. Mary's by water. That their surveyor should go by land, and carry on an east-line till it intersected the Appalachy, after which he should proceed on to the St. Mary's; after that point was determined the work might be considered as complete. These instructions were shown separately to Colonel Hawkins and myself; what the Colonel's comments on them

were, I know not. Upon the Major's asking my opinion, I answered nearly as follows; "I do not wonder at Governor Gayoso giving those instructions; I only wonder how he came to think of them. That delay appeared yet to be in contemplation, which was evident by his the Major's being directed to return to Pensacola and wait for a Bahama passport; and the governor appeared contented with having an east line carried on till it intersected the Appalachy, a piece of business wholly unconnected with ours, and embracing an absurdity, because, in all probability, an east line would pass a number of miles north of the source of the Appalachy." The Major was not pleased with the instructions, and wrote to Governor Gayoso on the subject, who dispensed with that part relative to his returning to Pensacola to wait for a passport, and the surveyor carrying on the east line. His directions relative to the military escort were certainly improper; it was a subject which, by the treaty, rested with the commissioners. 2dly. The two Indians, which Governor Folch informed Colonel Hawkins and myself were Seminoles, were two Tallassees, and brothers-in-law to his interpreter, Antonio. 3dly. Instead of going to the Seminoles, they returned home to their own town. 4thly. Immediately after their return, the Tallassee King, with about 200 of his people, proceeded to Pensacola, and menaced our surveyor and his party. Of their proceedings at Pensacola, I have already given you an account. 5thly. The party who came down to plunder us were a part of those who came to Pensacola with the Tallassee King. 6thly. Governor Folch, last June, promised Colonel Hawkins and myself that he would send agents among the Indians, particularly to the Seminoles, to quiet their minds: this he has not done! 7thly. The information given to Mr. Seagrove by the Indians, relative to the design of the United States and Spain upon their persons and lands, which they say they had from the commandant at St. Mark's, does not appear to be true, so far as it respects that officer; but it is certainly so with regard to the interpreter. This I have from Mr. Lawrence, one of Mr. Panton's clerks, who was present at the time of the conference. 8thly. Had the officers of his Catholic Majesty been as careful in having agents with the Indians, to co-operate with ours in keeping up a good understanding and allaying their fears and suspicions, our business would have been completely successful. 9thly. The injudicious circulation of the reports respecting the escape of Mr. Bowles, and his design of coming into this country, has had a pernicious effect. 10thly. The Indians complain that the Spaniards are already marking out their land near Pensacola; and when they remonstrated against it, they received for an answer, "You have already been told that when the line was run, the lands on the south side of it would belong to Spain, and that on the other side of it to the United States."

This is Indian information; and though it may be false in the first instance, the effect is equally bad with those who now believe it.

The foregoing statement of facts was drawn up at the mouth of the Chattahoochee, while some of my people were repairing the rigging of the vessel. At the moment I closed the last paragraph, two letters were put into my hands, which appeared of considerable importance,

and induced me to write particularly to Colonel Hawkins. A copy of the letter is enclosed, and marked A, which likewise encloses copies of the letters above alluded to, with a copy of a letter of mine to Governor Folch.

In consequence of the arrival of Mr. Bowles in the nation, I am now of the opinion that no more can be done at present in completing the boundary than to discover the source of the St. Mary's, and determine its latitude and longitude correctly, (the position of the mouth of Flint river being already fixed,) and at some future day those points may be joined.

My astronomical journal at our two last points is very lengthy, or I should have sent on a copy of it. I have taken a survey of the Chattahoochee, from the 31st degree of north latitude down to the mouth of Flint river, the latitude of which is $30^{\circ} 42' 42.8''$, so that the southern boundary of the United States extends at least $17' 17.2''$ south of the 31st degree of north latitude.

I have just learned with great satisfaction that Mr. Gillispie has completed the correction between the Chattahoochee and the Coenecup, and joined the party on the way to St. Mary's; several more horses have been taken.

My passage from the mouth of Chattahoochee to this place was truly disagreeable; being part of the time at sea in an open boat, and detained thirteen days by a violent easterly wind, on dry islands of sand, which was blown about like snow, filled our blankets, and fell in great quantities on what little victuals we had, which, for seven days, was dry bread and coffee, except what few fish we caught. On my arrival at this place, which was on the evening of the 7th, I was informed that the Indians had taken my riding horses, which I directed to be sent here, that I might still have it in my power to proceed through the country by way of St. Augustine, if it should appear the most eligible. I have now no alternative left. One of the horses is a remarkably fine one, and perhaps not inferior to any one in the two Floridas.

The southern Creeks, commonly called Seminoles, with the Tallassees and some individuals in the upper towns, are certainly hostile towards the United States; and nothing but the firm language of our Executive will prevent a war with them, if encouraged by Mr. Bowles. But I am far from being certain what part he will act. I know he dreads a war with our country, but his ambition may get the better of his prudence; and if that should be the case, many of the young men, who are under no control from their chiefs, and panting for war names, will certainly join him. Neither have I any faith in their being restrained by the officers of his Catholic Majesty, agreeably to treaty. They have not been educated in the habits of candor and plainness like our Hawkins, whose indefatigable exertions have been equally directed to the benefit of both nations. Many of the most sensible and best informed of the chiefs look upon the loss of their country as inevitable, and that it will be brought about by the bad conduct of their young men, who equally abhor restraint and despise advice. Such people are only brought to reflection by being beaten;

and as we have men enough under pay at present, it might probably be done now, and at less expense than at any future period.

This instant, 8 o'clock in the evening of the 8th, two of my men, who were three miles up the river, at Mr. Panton's store, with his people, arrived, being driven away by the Indians: the valuable property had been previously brought into the fort. We prepared to defend the vessel.

The Indians began the war-whoop in the morning, and we frequently hear it at this time. I am not certain whether it is the Spaniards or our party, or both, that are the objects of their dislike. I have five Cowetas with me, who continue firm; they conceive themselves in much danger.

At 9 o'clock a piece of artillery was discharged at an Indian. I have only to add that we have been politely received and hospitably treated by the commandant of this fort, whose protection, if necessary, I am sure we may rely on.

I am, sir, with great esteem, your friend and humble servant,
ANDREW ELLICOTT.

HON. SECRETARY OF STATE
of the United States.

P. S.—October 12. For two days the Indians have been quiet: they talk of a conference in a day or two.

(A.)

APPALACHY, *October 9, 1799.*

DEAR SIR: On the 23d of last month, at the mouth of Chattahoochee, whilst my people were repairing the rigging of the vessel, which had been cut to pieces by the Indians on the morning of the 18th preceding, the enclosed letters, Nos. 1 and 2, were put into my hands by one of my sailors, who had come on from Appalachy in an open boat to meet me: the United States schooner could not be got out of that harbor on account of a head wind. On his passage he was brought to at the east end of St. George's island by some people in distress. On his coming ashore, he was critically examined by one of the gentlemen, in what employ he was, and where he was going; to which he gave very satisfactory answers. He was then informed that the people he saw there were the officers and crew of his Britannic Majesty's armed schooner the Fox, which had been wrecked at that place five days before, and that Gen. Bowles and his suite were amongst them, and requested the sailor to be the bearer of some letters to me, to which he consented. On receiving those letters, which was in the morning, I did not decide in what manner I should act till some time in the afternoon, when I concluded to go on immediately to them in the open boat, and leave the schooner (which was in the employ of the commissary, Mr. Anderson,) to have her rigging repaired. At 5 o'clock in the afternoon I set out, and proceeded along the sound till 1 o'clock in the morning of the 24th, when I wrapped myself up in

my cloak, and slept on one of the benches. The men likewise being much fatigued with rowing, went to sleep. At break of day they took in the anchor, and a very light breeze serving, we arrived at the east end of the island about 10 o'clock a. m., where I met with the unfortunate crew, and after receiving an account of their misfortunes from their commanding officer, I informed him that I had taken their situation into consideration, and made my mind up upon it; that the country which I had the honor to serve, and of which I was a native, had early resolved to observe a strict neutrality between the present belligerent powers in Europe. This resolution I thought a wise one; and that I could not on any occasion consent to any one act that might be construed into a deviation from that principle. That the officers and crew were certainly in their enemy's country, and came into it with hostile views; an attempt, therefore, on my part to extricate them might be viewed by the Spanish government as a deviation from that line of conduct we had determined to observe. From that view of the subject, and which I thought a correct one, they were not to expect any other aid from me than what was immediately connected with humanity; that when my commissary arrived, which would be the next day, I would direct him to furnish them as liberally as our circumstances would justify; and if I could be of any service to them in a negotiation with the officers of his Catholic Majesty, they might rely upon my interest and exertions in their favor. The officer, Lieut. Wooldridge, who appears to be a person of liberality and good understanding, made no objection: I therefore concluded he admitted the justness of the principle. The next day my commissary arrived, and delivered to the lieutenant about 15 cwt. of flour, and three bags of rice. The crew were then on half allowance, great part of their provision being lost when they were wrecked.

I shall now proceed to take some notice of Mr. Bowles, commonly called Gen. Bowles, who, with his suite, came in the vessel above mentioned. I had many conversations with him, both of us being detained together eight days at the east end of the island by a violent gale of wind. Mr. Bowles is certainly a man of enterprise and address, added to considerable talents. He declared to me that he was not taken by the Spaniards at Appalchy in the manner reported, but for political reasons it was necessary to give it that appearance. That, in 1794, it was proposed to him by the ministers of his Catholic Majesty to receive a commission in that service, and return to his nation, and attack the United States, which he declined in a pointed manner, and was shortly after, and not till then, confined. Soon after Mr. Pinckney arrived in Spain, he was informed by the Prince of Peace that the American minister was his enemy, and was again offered a commission, which he declined to accept, though in confinement.

That, in 1797, (if my recollection serves me,) he was informed by the same minister that the Floridas were ceded to the republic of France, and to be taken possession of as soon as convenient to that republic; and was offered a commission in that service, which he also declined. That immediately upon the late treaty between the United States and his Catholic Majesty being made public, he protested against it to the ministers of the court of Madrid, as *interfering with the dig-*

nity of his people and nation, the Creeks, who were as free and independent as any other nation in the universe. That the article by which the United States and his Catholic Majesty are bound to restrain the hostile attempts of the Indians within their respective territories was an atrocious violation of the law of nations, and should never be submitted to whilst his people had a drop of blood to spill. That he had arrested that part of the treaty at Madrid; and that it *must be done away by the Executive of the United States*. Further, that he had warned the court of Madrid against running the boundary line, and expected, from assurances given, that it had been suspended some months ago. That he had demanded, in the name of his nation, an immediate evacuation of the post at St. Mark's, which, if not done immediately, he would fall upon measures to compel a compliance. That, had he arrived in time, he would have arrested the Spanish commissioner and his party. He likewise intends to seize Mr. Panton's property at Appalachy. This is the substance of all the conversation I had with him interesting to our country. What credit may be due to his information, and what we have to fear from his threats, you are better able to judge than I am. Some Indians will probably be led away by him, and some temporary inconvenience experienced by the United States; but I cannot think the nation generally will risk their existence to satisfy the ambition of any man. He speaks in the style of a king—"my nation," and "my people." Whether he is supported or countenanced by any foreign power or not, is a question on which I would not even risk a conjecture. It is certain that on his arrival last spring at Barbadoes, he was treated with the utmost respect, and at Jamaica with singular attention, both by the governor and the British admiral on that station. This attention induced two young gentlemen to become his followers: the one a Scotsman, by the name of Ferguson, and the other a Mr. De la Nuvelle, a French gentleman, and now, or lately, a captain in the Prince of Wales' regiment of colonial light dragoons, which is manifest by his commission. These gentlemen begin to fear a deception, and suggested their doubts to me; at the same time asked my advice respecting a relinquishment of their plan of proceeding into the nation. I told them that their present situation was such, that I should forbear saying anything to them on that subject; but that I would furnish them with a line to you, and doubted not but in a few weeks they would be able to judge correctly for themselves.

Mr. Bowles, you will observe, was brought into this country by a lieutenant of the British navy, who commanded one of the very best armed schooners in the service. She mounted sixteen guns. Mr. Bowles has a large quantity of powder and lead with him, together with several trunks of goods. Notwithstanding this, I cannot suppose that he is countenanced by the British government, because the means are certainly inadequate to the purpose of securing any object of consequence to that nation; and further, the treaty between the United States and his Catholic Majesty at once precludes the idea of the Indians being brought out of the territory of either of the powers, to act against the citizens of the one or the subjects of the other.

Although the officers of his Catholic Majesty have certainly been very remiss in obliterating the impressions which were made upon the minds of the Indians against running the boundaries two years ago, I am nevertheless of the opinion that Mr. Bowles' plans, which are undoubtedly hostile towards Spain, ought to be counteracted by every citizen of the United States. It is not only a duty we owe to the supreme law of the land, but involves a point of national honor—a compliance with the most important of all contracts.

I have now, my dear friend, given you as correct an account of my interview with Mr. Bowles as comes within the power of my recollection; and feel a confidence in your taking such measures as will preserve the honor of our country, and effectually crush the views of a bold, daring adventurer.

I cannot close this subject without observing, in justice to Mr. Bowles, that he behaved, on all occasions, whilst with me, in a polite and friendly manner, and generously furnished me with the necessary charts and directions for sailing round Florida point—a matter of great importance to me, as I have to navigate our vessel myself.

I have written to Mr. Panton and Governor Folch, on the subject of Mr. Bowles' arrival in the nation. A copy of my letter (No. 3) to the latter, you will find enclosed.

I am, dear sir, yours sincerely,

ANDREW ELLICOTT.

Col. BENJAMIN HAWKINS.

No. 1.

Fox POINT, *September 22, 1799.*

SIR: I beg leave to make known to you that I am at present on a small island on this coast, which is well known to the bearer, with the crew of his Britannic Majesty's schooner Fox, late under my command, but which was unfortunately wrecked five days hence, on this coast. As there is no probability of saving the schooner, I trust, sir, your humanity will induce you to stop here and devise with me some means of removing those unfortunate men, who have nothing more than some provisions saved from the wreck to exist on, the island producing nothing. On the contrary, for two days during the late gale, the sea has made a breach over it, so that, for those two days, we were nearly two feet water on the ground.

Understanding that you have been driven by the Indians from the country where you was employed, I beg leave to inform you that Gen. Bowles, the chief of the Creek nation, is with me. He expresses his wishes to see you much, as he thinks your unfortunate differences may be settled. He has no force here, therefore you may be assured that no treachery can be intended, as I shall consider you under my protection, and use the force under my command to the utmost for your

security, which is not inconsiderable, as I have been enabled to save my arms, ammunition, &c.

With the most anxious wishes of seeing you soon, I beg leave to subscribe myself your most obedient servant,

JAMES WOOLDRIDGE,
*Lieutenant to the British Royal Navy, and
Commander of his Majesty's schooner Fox.*

Major ELLICOTT,
Commissioner of the United States of America.

No. 2.

Fox POINT, *September 22, 1799.*

SIR: I am now at the mouth of this river, on my return from Spain, (by way of London and the West Indies,) in order once more to rejoin my nation, the Creeks. The vessel that brought me here was, four days since, unfortunately run on shore at the entrance of the bay; but having saved all my effects with my boat, I should have proceeded into the country, till, hearing of your being near, I determined to stay, and wish much to see you. Although we may differ in politics, yet, as gentlemen, we may associate and be friends; at least, we may be civil to each other: I pledge my honor to be so to you, and will rely on yours.

I have the honor to be, your obedient servant,

WM. A. BOWLES.

ANDREW ELLICOTT, Esq.

No. 3.

APPALACHY, *October 9, 1799.*

SIR: Before this reaches your excellency, you will doubtless have received an account of our leaving our camp near the mouth of Flint river, in consequence of the hostile disposition of the Indians. Those who were the immediate cause of our retreat were a part of that body who came to Pensacola last June, under the pretext of an invitation from you. It is not without regret that I have to remark a remissness on the part of the officers of his Catholic Majesty, in having no agent among the Indians on the south side of the boundary to quiet their minds; for many of them were undoubtedly hostile to our business. Colonel Hawkins and myself both understood your excellency, last June, that a proper person for that purpose should be immediately sent to the Seminoles, but no such person has yet appeared. Your commissioner and his party have undoubtedly done their duty. From the spirit of the late treaty between the United States and his Catholic Majesty, it appears that both nations are mutually bound to prevent the depredations of Indians on the citizens or subjects of each other.

Believing that this construction is correct, I now inform you that Mr. Bowles, commonly called General Bowles, has arrived in the Creek nation, and intends immediately attacking your post at St. Mark's, if it is not evacuated, and to seize Mr. Panton's property at Appalachy. This intelligence I have had from himself; what degree of credit it is entitled to, I cannot pretend to say. For a particular account of my interview with him, I must refer you to my letter to Colonel Hawkins upon that subject, a copy of which is forwarded to Mr. Panton.

I am, sir, with great esteem, your excellency's friend and humble servant,

ANDREW ELLICOTT.

His Excellency Governor FOLCH.

Extracts of a letter from Mr. Ellicott to the Secretary of State, dated

“POINT PETER, January 12, 1800.

“As neither the latitude nor the longitude of this place has been determined with accuracy, and as it is daily becoming more and more important, I have employed every fair day and night since my arrival in settling its geographical position. The latitude of our camp, which is about two hundred perches from the fort, is $30^{\circ} 44' 8''$, and the longitude, from a mean of six observations on the eclipses of Jupiter's satellites, is $5^{\text{h}}. 26' 15''$ west from the Royal Observatory of Greenwich. I have likewise taken the exact position and distance of the points of Cumberland and Amelia islands, and other headlands forming the harbor, which I will endeavor to copy and send with my next, which will be from the head of the river.

“In the course of my observations on the eclipses of Jupiter's satellites at Natchez, and at other places since, I find that the inclination of the orbit of the fourth satellite is somewhat greater than in the theory from which the calculations are made for the Nautical Almanac; which will no doubt be rectified by the European astronomers, from their course of observations on the conjunctions of this satellite with the planet since it left the shadow of Jupiter, which was either in August or September, 1797, till it falls into it again, which I expect will be on the 18th of this month.”

Mr. Ellicott to the Secretary of State.

CUMBERLAND ISLAND, April 5, 1800.

SIR: On Wednesday next I expect the report will be signed. Mr. Gillispie, who is copying it, thinks it will be ready by that day. After it is signed, I shall lose no time in getting to Philadelphia, but shall be detained a few days by Mr. Anderson, who will have a great number of articles to dispose of. He has already sold the remainder of our horses.

If the winds should be favorable, I entertain no doubt of being at home before the end of this month.

An expedition has been carried on by the Spaniards against Mr. Bowles; four hundred men were sent from New Orleans to take him by surprise, but they missed their main object. He made his escape; but his aid-de-camp, secretary, two or three servants, with all his papers and property, are taken. The aid-de-camp, secretary, and servants are now confined in the fort at St. Mark's.

I am, sir, with respect, your friend, &c.,

ANDREW ELLICOTT.

SECRETARY OF STATE *of the United States.*

Mr. Ellicott to the Secretary of State.

PHILADELPHIA, *July 4, 1800.*

SIR: Mr. Anderson, who was appointed by Timothy Pickering, late Secretary of State, to receive the moneys, make the disbursements, and keep the accounts relative to the establishment of the boundary between the United States and his Catholic Majesty, will leave this place, for the city of Washington, on Tuesday next, with his papers, for settlement. By him I shall write more particularly.

There is at this time a considerable sum of money due me as commissioner on behalf of the United States for the determination of the boundary above mentioned, a part of which I am in immediate want of; I have therefore drawn on you, in favor of the bearer, Mr. Kimble, for five hundred dollars.

It may happen that Mr. Freeman will be calling on you for money. If this should be the case, I wish you to look over my communication of November, 1798, to Mr. Pickering, with the papers accompanying it.

I am, sir, with due respect, your humble servant,

ANDREW ELLICOTT.

Hon. SECRETARY OF STATE
for the United States.

[The concluding papers accompanying this document, viz: Message of President John Quincy Adams, of February 14, 1828; report of H. Clay, Secretary of State, to the President, of February 13, 1828; instructions of Timothy Pickering, Secretary of State, to Andrew Ellicott and Thomas Freeman, of September 14, 1796; and letter of Andrew Ellicott to the Secretary of State, of March 23, 1800, are omitted here, being inserted in a previous part of this compilation.]

[20TH CONGRESS, 2D SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 2d Sess. 20th Cong., p. 365.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
March 2, 1829.

“Mr. White presented a letter addressed to him by D. B. Douglass, in relation to the running of the boundary between the territories of Spain and the United States by Andrew Ellicott; which letter was laid on the table.”

[20TH CONGRESS, 2D SESSION.]

LETTER FROM D. B. DOUGLASS, RELATING TO THE BOUNDARY LINE BETWEEN
 THE STATE OF GEORGIA AND THE TERRITORY OF FLORIDA.

(See H. R. Ex. Docs. 2d Sess. 20th Cong., vol. 4, No. 140.)

WEST POINT, *February 11, 1829.*

DEAR SIR: I was duly honored with your note of the 20th ultimo, requesting information respecting the official report of Mr. Ellicott as commissioner for executing the treaty of 1795; and I have since employed myself, as opportunity offered, in searching among the correspondence and documents in my possession, with a view of complying, if possible, with your request.

I am sorry to say that, as regards the report or any of the charts or other documents connected with it, my search has thus far proved ineffectual. I find it very often referred to in different parts of the correspondence, particularly that with Mr. Jefferson and Mr. Madison, but nowhere in such a way as to indicate the grounds or any of the subject-matter of the report; and the most I can do, therefore, is to transcribe a few extracts from letters in which the report is spoken of, for the mere sake of historical truth, and in the hope that *possibly* they may throw a ray of light upon your further researches.

1. Speaking of his astronomical observations which he had arranged for publication, Mr. Ellicott, in a letter (believed to have been) addressed to Mr. Jefferson, dated 17th September, 1800, says: “*The Astronomical Journal is very lengthy, but will be of no use to the public till accompanied with the charts of the line. When these can be had is uncertain, as the originals were annexed to the report, and I had not time to take copies.*” This was written about four months after his return.

2. February 5th, 1801, in a letter to Mr. Jefferson, he says: “*Ever since I heard of the burning of the Treasury Department, I have been alarmed on account of the maps, charts, and plans annexed to the report*

respecting our southern boundary, as I had not the privilege of taking copies, and they could not be replaced but by sending to Madrid." And again: "The report, by the third article of the treaty between the United States and his Catholic Majesty, was 'to become a part of the original compact, and equally binding on both nations,' and therefore equally entitled to the same publicity, but I do not see that the President has taken notice of it in any of his messages to the two houses."

3. In another letter, dated May, 1801, he says: "The publication of the fifth volume of the Transactions of our Philosophical Society will be delayed for want of the charts, or the copies of them, annexed to the report respecting our southern boundary. Those charts are the originals, and I intended to have replaced them by copies done in a better style, but in this I have been disappointed."

4. In another, dated June 4th, 1801, he adds, to the same effect: "The want of those references and charts will delay for some months the publication of the fifth volume of our Philosophical Transactions, the letter-press of which will be completed this week. If I had supposed that those papers, or copies of them, would have been withheld till this time, I should have endeavored to obtain, through the Spanish minister, copies of those sent to his court."

5. It appears from what follows that Mr. Ellicott must have been called to Washington soon after the date of the preceding extract, for the purpose of transcribing the charts, and of executing a fair copy for the State or Treasury Department. On the 18th of August, he thus writes (still to Mr. Jefferson): "Immediately after my return from the city of Washington, I began the reduction of my charts to a scale of eight inches to a mile, [qu. eight miles to an inch?] which I find will be as small as they can be reduced, and at the same time retain all the waters and bends or crooks of the rivers."

6. On the 4th of September, he reports the progress of the large map to the Secretary of the Treasury, and on the 10th October reports it finished. In a letter to Mr. Jefferson, of the same date, he says: "It comprehends the Mississippi from the mouth of the Ohio to the gulf of Mexico, the province of West Florida, and the whole southern boundary of the United States, accompanied with thirty-two pages of manuscript remarks on the navigation of the rivers, proper positions for military works, &c." And again: "I am anxious to have it forwarded as soon as possible; but from the size of the map, being upwards of six feet north and south, and the same east and west, I fear it would be difficult to find a person willing to take charge of it, unless it was made his particular business."

7. On the 31st December, 1801, in forwarding it to Mr. Gallatin, he writes as follows: "I have forwarded by the bearer, Captain Duane, the map of the Mississippi from the mouth of the Ohio to the gulf of Mexico, to which is added the south boundary of the United States, and the whole of West Florida. In examining the map, it will be necessary to have reference to the manuscript explanation, which was forwarded to the President some time ago." * * * * "Not having time to take a copy of the map, I wish no person may be allowed that privilege till I have time to do it myself."

Other extracts might be furnished of a similar character down to

the date last quoted, but, from that time forth, I find no distinct reference to the subject, nor to the affairs of the commission in any way, except in the settlement of the accounts.

The conclusion, I think, is irresistible, from these extracts and from the whole face of the correspondence, that Mr. Ellicott made his report in due form immediately after his return, and that an authentic copy was rendered also to the Spanish government, which implies, if I am not deceived, that it was the joint report of the two commissioners. That it was received and accredited on the part of the United States government, "*as containing the results of the demarcation of the southern boundary,*" might be shown from many parts of the correspondence, particularly the letter of Mr. Madison, dated November 18th, 1801, from which the underscored words are quoted.

If there *was* any deficiency, then, in the legal execution of the treaty, it is clear to my mind that it must regard some merely diplomatic form, or, at all events, that it does not vitiate any part of Mr. Ellicott's work.

What has become of this report, you will inquire, since no remains of it are to be found in the Department of State? From personal communications with Mr. Ellicott during his life-time, I am fully persuaded that they were destroyed by fire; but at what time, or in what manner, I cannot now say. The particulars, if they were ever communicated to me, have escaped my recollection; but I distinctly remember hearing Mr. Ellicott, on more than one occasion, bitterly lament the destruction of the documents and drawings which had cost him so much labor, and with the execution of which he had so much reason to be satisfied. Whether all the papers were involved in the same fate, I cannot say, (have you sounded the Treasury Department?) nor do I know whether the originals were retained or restored after the fair copy was made. I think the latter was made for the Treasury Department, and that the former must have belonged to the Department of State. There is a possibility, however, that the originals were retained by Mr. Ellicott; and if so, his son, in the western part of this State, must know something of them. I have already written to him for information, and as soon as it is received, will lose no time in communicating it; and I assure you it will afford me great pleasure to add anything to the little I have as yet gleaned for you.

I just recollect that Colonel Gadsden once borrowed a large manuscript chart of the St. Mary's from Mr. Ellicott. I presume it was returned; but it furnishes another link in our little chain of information, which may be of some assistance.

I remain, very sincerely, yours,

D. B. DOUGLASS.

Colonel WHITE.

[The other papers printed with this letter are omitted here, having been previously inserted in another part of this compilation.]

[21ST CONGRESS, 1ST SESSION]

EXTRACT FROM THE JOURNAL OF THE SENATE.

(See Senate Journal, 1st Sess. 21st Cong., p. 53.)

IN THE SENATE OF THE UNITED STATES,
December 29, 1829.

“On motion by Mr. Forsyth,

“*Ordered*, That the resolutions of the legislature of the State of Georgia relative to the boundary line between that State and the Territory of Florida, presented at the last session, be referred to the Committee on the Judiciary.”

[21ST CONGRESS, 1ST SESSION.]

EXTRACT FROM THE JOURNAL OF THE SENATE.

(See Senate Journal, 1st Sess. 21st Cong., p. 74.)

IN THE SENATE OF THE UNITED STATES,
February 11, 1830.

“Mr. Troup presented resolutions of the legislature of Georgia, that Congress be earnestly requested to repeal or otherwise modify the act of the 14th of May, 1826, for running out and marking the line between Florida and Georgia, and make provision for, and appoint commissioners on the part of the United States, to act in conjunction with commissioners to be appointed on the part of Georgia, to run and mark the said line agreeable to the second article of the treaty between the United States and Spain of the 27th of October, 1795, as speedily as will suit the convenience of the United States; and

“*Ordered*, That the resolutions be referred to the Committee on the Judiciary, and printed.”

[21ST CONGRESS, 1ST SESSION.]

REPORT OF COMMITTEE, AND RESOLUTIONS ADOPTED BY THE LEGISLATURE OF GEORGIA, REQUESTING THAT PROVISION BE MADE BY CONGRESS FOR RUNNING AND MARKING THE LINE BETWEEN THAT STATE AND FLORIDA.

(See Senate Documents, 1st Sess. 21st Cong., vol. 1, No. 17.)

IN SENATE, *November 28, 1829.*

The Committee on the State of the Republic, to whom was referred that part of the governor's message which relates to the boundary line between the State of Georgia and the Territory of Florida, with the accompanying documents, have had the same under their consideration, and report :

That it is with extreme regret they learn that the line dividing this State from the Territory of Florida is yet unmarked, and still the subject of controversy between the State and the United States. That it has been the misfortune, and not the fault, of Georgia, that she has long been embroiled in disputes respecting her boundary lines, is no less true than deprecated by her ; and yet, so long as she has been urged by imperious duty to contend for her rights, either with the United States or any of her sister States, it gives her consolation to know, that in none of these controversies has she ever subjected herself to the imputation of disregarding the rights of others, or of having refused to listen to the voice of reason or justice. That it is still her duty to persevere in the enforcement of her rights until they are recognised and established, none will deny.

The legislature would be grossly negligent in its duty to the people of the State, and especially that portion of them bordering immediately upon the line in dispute, were they any longer to delay the prosecution of the most rigorous measures to speed this controverted point to a fair and equitable adjustment. It is high time that Georgia should know her boundary lines. That she has a right to the occupancy of the land to the true line which separates it from the Territory of Florida, as well as the jurisdiction thereof, all must admit. That the line to be run directly from the junction of the Flint and Chattahoochee rivers to the source or head of the St. Mary's river, is the true line of division, is as certain as it can be made by treaty stipulation—is beyond all question. There really ought to be no difficulty in settling the matter. The course of the line being plainly designated, as also the point of beginning and termination specifically pointed out, and both being natural points, and the description, too, not floating in the uncertain recollection of man, but reduced to the greatest possible certainty that language can make it, and inserted in an obligation of the most solemn kind between independent sovereignties, it would appear to the committee to leave no room for controversy. It is useless for this committee again to enter into an argument of the question in relation to the location of this line ; so

full and so perfect a view of the same was presented, in a report of the Committee on the State of the Republic, at the last session of the legislature, to whom that subject was referred, that it is only necessary to refer to that report to establish the truth and justice of our cause, and fully to sustain the course which the State is pursuing in relation to that matter.

The mere quantity of acres, or strip of land between the two lines, independently considered, is unimportant either to the State or the United States, and is not the main question to be considered. It is *principle*, mere right, for which Georgia contends, and she will be satisfied with nothing less. The legislature has no constitutional power to give up or barter away the territory or citizens of the State, or any portion thereof, or relinquish her jurisdiction over the same, but, on the contrary, to preserve inviolate the integrity thereof. The committee were hopeful that the application and appeal, which was so respectfully and directly made to the justice and good sense of the Congress of the United States by the legislature of this State at its last session, would have removed all difficulty on this subject, and close this unpleasant and unprofitable controversy.

The United States can certainly have no wish to do injustice to any one of the members of the confederacy; and Georgia, on her part, solemnly disclaims all intentions of even a wish to obtain either from the United States or Florida an acre of land to which her claim is not sanctioned by equity and justice; and her duty, as well as her most earnest desire, is to cultivate the most friendly feelings towards the United States, and also towards Florida; and would exceedingly regret that she should be reduced to the necessity of pursuing any measure that would be calculated for a moment to interrupt those good feelings that now so happily subsist between them. And your committee take this occasion to state, that they have much confidence in the liberality and justice of the Congress of the United States and the administration of the government thereof; and are, from this consideration, induced to believe that the want of time prevented the Congress from acting definitively upon the subject at its last session, and not from a disposition to disregard the rights of the State, or leave the question still open. They are induced once more earnestly to appeal to the legislature of the Union upon this subject, and request that they, at the ensuing session of Congress, repeal, or alter and amend, the act passed on the 14th day of May, 1826, in relation to the running and marking the said line; and make provision for and appoint commissioners on the part of the United States, to act in conjunction with commissioners to be appointed on the part of Georgia, to trace out and plainly mark the line between Georgia and the Territory of Florida from the junction of the Flint and Chattahoochee rivers to the true head or source of the river St. Mary's, according to the intention, letter, and spirit of the second article of the treaty of friendship, limits, and navigation between the United States and Spain of the 27th of October, 1795, without restriction as to the point or mound designated by Mr. Ellicott, or any other person.

The committee, for effecting the object embraced in the foregoing report, recommend the adoption of the following resolutions:

Resolved, That Congress be earnestly requested to repeal, or alter and amend, the act of the 14th May, 1826, for running out and marking the line between Florida and Georgia, and make provision for and appoint commissioners on the part of the United States, to act in conjunction with commissioners to be appointed on the part of Georgia, to run and mark the said line agreeable to the second article of the treaty between the United States and Spain, before referred to, as speedily as will suit the convenience of the United States.

Resolved, That should Congress, at its ensuing session, refuse to make any provision for running the aforesaid line in conjunction with the authorities of Georgia, that his excellency the governor be authorized and requested, as soon after the adjournment of Congress, or as soon after as he shall have ascertained that they have acted definitively upon the said case, as the same can be done with convenience, to appoint commissioners, with a competent surveyor and artist, to run and mark plainly the line aforesaid according to the provisions contained in the second article of the said treaty between Spain and the United States of the 27th October, 1795; and that his excellency the governor do, in such case, inform the President of the United States the time at which the commissioners on the part of Georgia will proceed to mark the said line.

Resolved, That the governor be requested to forward a copy of this report and resolutions to our senators and representatives in Congress, to be by them laid before Congress early in the ensuing session, so that ample time may be had to act upon the same.

Read and agreed to.

THOMAS STOCKS, *President*.

Attest:

WM. Y. HANSELL, *Secretary*.

IN THE HOUSE OF REPRESENTATIVES,
December 18, 1829.

Read and concurred in.

WARREN JOURDAN, *Speaker*.

Attest:

WILLIAM C. DAWSON, *Clerk*.

Approved 19th December, 1829.

GEORGE R. GILMER, *Governor*.

[21ST CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 21st Cong., p. 173.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
January 18, 1830.

“Mr. Wayne also presented a copy of the report made by a committee of the general assembly of the State of Georgia, to which was

referred that part of the governor's message which relates to the boundary line between the State of Georgia and the Territory of Florida; which report, with the resolutions therein recommended, were adopted by the general assembly."

[21ST CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 21st Cong., p. 212.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
January 26, 1830.

"On motion by Mr. Wilde,

"Resolved, That the several documents, memorials and communications, on the subject of the boundary line between Georgia and Florida, which were before the last Congress, and are now on the files of this House, be referred to the Committee on the Judiciary."

[21ST CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 21st Cong., p. 290.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
February 13, 1830.

"Mr. Buchanan, from the Committee on the Judiciary, to which were referred certain resolutions adopted by the legislature of the State of Georgia, approved the 19th of December last, relative to the boundary between that State and the Territory of Florida, made a report thereon, accompanied by a bill (No. 243) supplementary to the act entitled 'An act to authorize the President of the United States to run and mark a line, dividing the Territory of Florida from the State of Georgia;' which bill was read the first and second time and committed to a Committee of the Whole House to-morrow."

[21ST CONGRESS, 1ST SESSION.]

REPORT OF THE COMMITTEE ON THE JUDICIARY, OF THE HOUSE OF REPRESENTATIVES, RELATIVE TO THE BOUNDARY BETWEEN GEORGIA AND FLORIDA, SUBMITTED FEBRUARY 13, 1830.

(See Reports of Committees, 1st Sess. 21st Cong., vol. 2, No. 191.)

Mr. BUCHANAN, from the Committee on the Judiciary, to which the subject had been referred, made the following report:

The Committee on the Judiciary, to which were referred certain resolutions adopted by the legislature of Georgia, approved the 19th December last, relative to the boundary between that State and the Territory of Florida, report:

That they have bestowed upon the subject that attentive consideration which its great importance demanded, and which is always due to any question involving the territorial limits of a sovereign State of this Union.

Before they proceed to state the result of their deliberations, it is proper that they should present a brief historical sketch of the facts, out of which the controversy between Georgia and Florida has arisen.

By the second article of the provisional treaty of peace between the United States and Great Britain, concluded at Paris, on the thirtieth day of November, one thousand seven hundred and eighty-two, it was agreed that the southern boundary of the United States, commencing in the middle of the river Mississippi, "at the northernmost part of the thirty-first degree of north latitude," should run from thence due east "to the middle of the river Apalachicola or Chattahoochee; thence along the middle thereof to its junction with the Flint river; thence straight to the head of St. Mary's river; and thence down along the middle of St. Mary's river to the Atlantic ocean."

On the twentieth day of January, one thousand seven hundred and eighty-three, Great Britain ceded East and West Florida to Spain; and by the second article of the treaty of San Lorenzo el Real, concluded on the twentieth day of October, one thousand seven hundred and ninety-five, between the United States and Spain, it was agreed that, "to prevent all disputes on the subject of the boundaries which separate the territories of the two high contracting parties, it is hereby declared and agreed as follows, to wit: The southern boundary of the United States, which divides their territory from the Spanish colonies of East and West Florida, shall be designated by a line beginning on the river Mississippi, at the northernmost part of the thirty-first degree of latitude north of the equator, which from thence shall be drawn due east to the middle of the river Apalachicola, or Chattahoochee; thence along the middle thereof to its junction with the Flint; thence straight to the head of St. Mary's river, and thence down the middle thereof to the Atlantic ocean." And it was further agreed, by the third article of the same treaty, that, "in order to carry the preceding article into effect, one commissioner and one surveyor shall be appointed by each of the contracting parties, who shall meet at the Natchez, on the left side of the river Mississippi, before the expiration of six months from the ratification of this convention, and they shall

proceed to run and mark this boundary, according to the stipulations of the said article. They shall make plats and keep journals of their proceedings, which shall be considered as part of this convention, and shall have the same force as if they were inserted therein."

Andrew Ellicott was appointed the commissioner under this treaty, on the part of the United States, and Don — Minor, a captain in the army of his Catholic Majesty, was appointed the commissioner on the part of Spain.

Mr. Ellicott and Captain Minor proceeded to run and mark that part of the line which ran from the Mississippi to the Chattahoochee. In September, 1799, when they were preparing to extend the line from the confluence of the Chattahoochee and Flint rivers to the head of the St. Mary's, the hostile disposition and attempts of the Indians compelled them to relinquish their design. As the western point of this line was the junction of two rivers, it could not be mistaken; and the commissioners knew, that, by ascertaining the head of the St. Mary's, and fixing a permanent mark upon the spot, they would thus establish the eastern point; and that, between these two points the line could be run and marked at any future day. They accordingly proceeded to the mouth of the St. Mary's, and ascended that river to the place whence it issues, from the Okefonoke swamp; and, on the 26th February, 1800, they erected a mound of earth on the west side of its main outlet, as near to the edge of the swamp as they could advance, on account of the water. It was impossible for the commissioners to follow this stream further, for the purpose of ascertaining precisely its head, as the swamp from which it proceeds is at all times almost impenetrable, and particularly at the season of the year when they were there. For this reason, the commissioners agreed that the termination of a line, supposed to be drawn north 45° east 640 perches from the mound which they had erected, should be taken as a point to or near which a line should be drawn from the mouth of Flint river; which line, when drawn, should be final, and considered as the permanent boundary between the United States and his Catholic Majesty, provided it passed not less than one mile north of the mound; but if, upon experiment, it should be found to pass within less than one mile north of the said mound, it should then be corrected to carry it to that distance.

With this arrangement Mr. Ellicott believed he had every reason to be perfectly satisfied.

The commissioners, after erecting the mound, descended the St. Mary's and encamped on the south end of Cumberland island, where they remained from the 6th March until the 10th April, 1800, occupied in preparing the report of their proceedings, to be submitted to their respective governments. On the latter day, their reports were completed, and they left the island.

The committee entertain no doubt, from the testimony before them, but that this report was immediately transmitted to the office of the Secretary of State, although it cannot at this time be found. Whether it has been mislaid or destroyed by fire is uncertain. Fortunately, however, Mr. Ellicott published his journal in 1803, which contains all the information that could have been embraced in the report.

It may here be proper to state, that our minister at the court of Spain, in obedience to his instructions, addressed an official note to the Secretary of State for Foreign Affairs at Madrid, in the spring of 1828, requesting a copy of the report of Messrs. Ellicott and Minor, to which no answer has ever yet been received at the Department of State.

From February, 1800, until the year 1817, there is no evidence that Georgia entertained any doubt of the correctness of the commissioners in the execution of their trust. In that year, Captain William Cone, then a member of the legislature of Georgia, represented, from his own knowledge, that Mr. Ellicott had mistaken the true head of the St. Mary's; and in consequence of this information, the Senate of that State, on the 19th December, 1818, adopted a resolution requesting the governor thereof "to appoint two fit and proper persons to proceed, without delay, to ascertain the true head of the St. Mary's river; and, if it shall appear that the mound thrown up by Mr. Ellicott and the Spanish deputation is not at the place set forth in the treaty with Spain, that they make a special report of the facts to the governor, who shall thereupon communicate the same to the President of the United States, accompanied with a request that the lines may be run agreeable to the true intent and meaning of the aforesaid treaty." Under this resolution, his excellency William Rabun, then the governor of Georgia, appointed Majors General Floyd and Thompson, and Brigadier General Blackshear, commissioners; who, after a careful examination, with Captain Cone for their guide, reported, that they found the head of the St. Mary's to agree with the report made by Mr. Ellicott. Governor Rabun, in communicating this information to the Secretary of War, in March, 1819, uses the strong expression, that the report of these commissioners proved, "beyond the possibility of doubt, that the information received by the legislature of this State was incorrect;" and in the same letter, he urges upon the Secretary of War the propriety of running and closing the line immediately, according to the treaty with Spain.

By the treaty concluded at Washington, on the 22d February, 1819, between the United States and Spain, East and West Florida were ceded to the United States. The ratifications of this treaty were exchanged at Washington, on the 22d February, 1821, and thenceforth East and West Florida became a Territory of the United States.

The United States afterwards proceeded to sell and patent a large portion of the land included within the present claim of Georgia, without ever suspecting that their right was doubtful, or that it would be contested.

On the 4th May, 1826, the Congress of the United States, at the request of the delegation from Georgia, passed an act to authorize the President of the United States to run and mark the line between Georgia and Florida. The first section of this act contains a proviso, "that the line so to be run and marked shall be run straight from the junction of said rivers Chattahoochee and Flint, to the point designated as the head of St. Mary's river, by the commissioners appointed under the third article of the treaty of friendship, limits, and navigation, between the United States of America and King of Spain, made at San Lorenzo el Real, on the seven-and-twentieth day of Octo-

ber, one thousand seven hundred and ninety-five." In pursuance of this act, Thomas M. Randolph was appointed the commissioner on the part of the United States, and Thomas Spalding the commissioner on the part of Georgia.

In March, 1827, these commissioners, together with John McBride, a surveyor appointed on the part of Georgia, entered upon the performance of their duties, and after having nearly completed the running and marking of the line, their operation was suspended, on the 26th April, by instructions from the governor of Georgia to Mr. Spalding, directing him to suspend the completion of the line, until it should be ascertained whether the head of the St. Mary's had been correctly determined.

After this suspension of operations, Mr. McBride received instructions from Governor Troup, dated on the 20th June, 1827, directing him "to ascertain the true head or source of the St. Mary's river," which he immediately proceeded to obey.

There are three principal branches of that river—the north, the west, and the south; and it is evident from Mr. McBride's report to the governor of Georgia, he conceived that, to determine the head of the St. Mary's, designated in the treaty, he had nothing to do but ascertain which of these branches was the longest and discharged the most water. Indeed, he expressly declares, that, "to ascertain the source of each of these branches, their length, and relative magnitude at their points of confluence with each other, was considered the object of my mission."

Assuming this to be the true meaning of his instructions, he reported, that he had found the south branch was longer than the north; and that, at their confluence, whilst the south branch discharged 1,369 cubic feet of water in a minute, the north branch discharged only 993 cubic feet. From these premises alone, he concludes that the head of the south branch is "the head of the St. Mary's," referred to in the treaty with Spain.

There is a passage in the report of Mr. McBride to the governor of Georgia, which the committee will transcribe into their report. In accounting for the mistake which he supposes to have been committed by Messrs. Ellicott and Minor, he uses the following language:

"The United States and Spanish commissioners, who, in 1800, attempted to ascertain the source of the St. Mary's, in ascending the river with their canoes, passed the junction of the north and south branches, considering the former as the principal. That those commissioners should have made an erroneous determination, may be attributed to the deceptive appearance of the two branches at their confluence, and to the peculiarly unfavorable season in which their investigations were made. The channel of the north branch is wider than that of the south. Its depth is greater, and its water of a dark reddish color. At the point of disembouement the south branch is a beautiful limpid stream, whose narrow channel and transparent water render it, apparently, one-third less than the north; but its velocity is one hundred and sixteen feet per minute, while that of the north branch is only thirty-eight. The disparity of width in these branches is accounted for by the difference of the countries in which they have their sources. That in which the south branch rises is

gently undulating, and the transparency and low temperature of the water prove its origin to be principally in springs. The vicinity of the sources of the north branch is frequently an extended plane, with but little elevation or depression, which, in rainy seasons, is completely inundated for many miles; and these vast sheets of water being drained into the north branch, increase its volume to a torrent, which forms a channel much wider than the south branch. When the United States and Spanish commissioners were here in February, 1800, Mr. Ellicott, in his journal, informs us that the swamps, at that season of the year, were 'absolutely impenetrable,' in consequence of the preceding winter's rains. We cannot, therefore, be surprised at their failure to make a correct determination."

Should the claim of Georgia be sustained, it will take from Florida a triangular tract of land, whose base is 157 miles; its perpendicular thirty miles; and area 2,355 square miles, or 1,507,200 acres.

The committee having thus made a statement of the facts in the case, will now proceed briefly to present their views upon the subject. Georgia, for the purpose of establishing her claim, ought clearly to prove, first, that the commissioners under the treaty of 1795 with Spain mistook "the head of the St. Mary's," and ought, in seeking it, to have ascended to the source of the south branch of that river instead of the north; and second, supposing the existence of such a mistake, that she has a right under the circumstances of this case, and after the lapse of more than a quarter of a century, to assert her claim.

And, first, the committee are not satisfied that the commissioners under the treaty with Spain have committed any mistake. On the contrary, they think that Mr. McBride proceeded upon mistaken principles. In their opinion, "the head of the St. Mary's," designated in the treaty, was to be ascertained by the reputation of the country about the time of its date—by the common understanding of those acquainted with the stream; rather than by a geometrical admeasurement of the length of its different branches, and the volume of water emitted by each. Which is the principal branch of a river in a new country, must, in the nature of things, be decided from its appearance, and not from any actual measurement. Mr. McBride himself admits that the north branch, even when he was there, in the midst of summer, appeared to be one third larger than the south. Its channel is much wider and considerably deeper. In order to make the discovery which Mr. McBride did, it was necessary to ascertain the relative velocity of the two streams by actual measurement. This expedient would never be resorted to, either by the first settlers or the first visitors of a new country, for the purpose of ascertaining the principal branch of a river. Their eyes would determine that question, and the name would follow the appearance.

But, in considering this subject, it ought also to be recollected that Mr. McBride made his admeasurement in the very midst of summer, at the driest season of the year. What would have been the result if the same experiment had been made at other seasons, we may conjecture from his report. He tells us, that "the disparity of width in these branches is accounted for by the difference of the countries in which

they have their sources. That in which the south branch rises is gently undulating, and the transparency and low temperature of the water prove its origin to be principally in springs. The vicinity of the sources of the north branch is frequently an extended plane, with but little elevation or depression, which, in rainy seasons, is completely inundated for many miles; and these vast sheets of water being drained into the north branch, increase its volume to a torrent, which forms a channel much wider than the south branch."

There is one circumstance worthy of observation in the report of Mr. McBride. Although he sought information from every source within his power, yet, it does not appear any person ever informed him either that the south branch had at any time been known by the name of the St. Mary's, or that the north branch had not been known by that name.

Governor Randolph, the commissioner of the United States, under the act of 1826, informs us, that "the head of St. Mary's was known as soon as there was a settlement at its mouth." That the Indian traders crossed the north branch about three miles below Ellicott's mound, at what was, and still is, called the Pine Log Crossing Place, and they were always said to have come by the head of St. Mary's. On the other hand, he declares that the south branch has always been known by the name of "the South Prong."

The testimony before the committee presents other reasons for believing that the commissioners under the treaty committed no mistake; but, for the sake of brevity, they will not bring them into the view of the House in this report.

The committee will now proceed to consider, whether, under the circumstances of this case, even admitting the existence of a mistake on the part of the American and Spanish commissioners, Georgia is not bound by their act.

There is nothing which ought to be held more sacred by nations than the boundaries of each other. An unsettled boundary always produces jealousy and discord, and often war. Vattel, when speaking on the subject of usucaption and prescription among nations, declares, "that their quarrels are of much greater consequence; their disputes are usually terminated only by bloody wars; and, consequently, the peace and happiness of mankind much more powerfully require, that possession on the part of sovereigns should not be easily disturbed; and that, if it has for a considerable length of time continued uncontested, it should be deemed just and indisputable. Were we allowed to recur to antiquity on every occasion, there are few sovereigns who could enjoy their rights in security, and there would be no peace to be hoped for on earth." The learned author is here speaking of mere possession on the one side, and tacit acquiescence on the other. This case is much stronger against the State of Georgia. It is the case of a boundary ascertained by virtue of a treaty, thirty years ago, and not merely acquiesced in on the part of Georgia, but sanctioned by the most solemn acts of recognition, during a quarter of a century.

Georgia, as a member of the federal Union, became a party to the treaty concluded at San Lorenzo el Real, in 1795. One of the chief

objects of this treaty was to provide for running and marking the line of separation between the Spanish colonies of East and West Florida and the United States. It was the intention of both governments, by this treaty, according to their own language, "to prevent all disputes on the subject of the boundaries which separate the territories of the two high contracting parties." In order to give the proceedings of the commissioners appointed under this treaty a more solemn sanction, it declared that the journals of their proceedings should be considered as a part of the convention itself, and should have the same force as if they were inserted therein. These commissioners proceeded in the most public manner to perform their duties. They determined the point which should be considered the head of the St. Mary's, and erected a permanent memorial by means of which it could easily be ascertained in time to come.

The committee do not assert, that, if a clear mistake had been committed by these commissioners, the United States and Spain would have been absolutely concluded; but they consider it very clear, that in such a case the party injured ought to complain within a reasonable time. In this case Georgia, by her silence, acquiesced in the decision of the commissioners until the year 1818, when she instituted an inquiry on the subject, which resulted in a solemn recognition of the accuracy of the commissioners in ascertaining the true head of the St. Mary's. After the United States acquired East and West Florida, in 1821, they sold and patented to individual purchasers a large proportion of the territory which Georgia now claims as her own, without a whisper of disapprobation on the part of that State. Nay, more; in 1826, on the request of her delegation, Congress passed a law which recognised the point established by the commissioners, as the true head of the St. Mary's; and it was not until after the line had been nearly run and marked, in pursuance of this act, that she protested against its completion, upon the ground that the commissioners had mistaken the head of the St. Mary's. In the opinion of the committee, this protest came too late; Georgia had no right at that late day to enforce a claim, which, if successful, would deprive Florida of a most valuable portion of her territory, postpone her hopes of being admitted into the Union for many years, and forever destroy her prospect of becoming a powerful State. Had Florida continued to be a Spanish province, we could not, in 1827, after the death of Mr. Ellicott, and after the head of the St. Mary's had been fixed for seven-and-twenty years, have asked Spain, with the least hope of success, to agree that the head of another stream should be substituted for that which had been established, and thus take from her a tract of land containing 1,500,000 acres. What we could not have demanded from Spain, we ought not to require from Florida.

Upon the whole, the committee recommend the adoption of the following resolutions:

Resolved, That the line between Georgia and Florida ought to run from the junction of the rivers Chattahoochee and Flint to the point designated as the head of the St. Mary's river by the commissioners appointed under the treaty between the United States and Spain, concluded at San Lorenzo el Real, on the 20th day of October, 1795.

Resolved, That an appropriation ought to be made, for the purpose of enabling the President of the United States to complete the running and marking of the said line between Georgia and Florida, under the provisions of the act of the 4th May, 1826.

DEPARTMENT OF STATE,
Washington, February 4, 1830.

SIR: I was mistaken in the information which I gave you, verbally, a few days ago, that the Spanish government had promised Mr. Everett to furnish him with a copy of the journal of the commissioners, Ellicott and Minor, for running the southern and southwestern boundary lines between the United States and the Spanish dominions, upon the application which he had addressed to that government, by the orders of this department. I find now, that Mr. Everett, by a despatch dated 1st May, 1828, acknowledged the receipt of his instructions upon this subject, and states that he lost no time in addressing an official note to the Secretary of State for Foreign Affairs, at Madrid, requesting a copy of the journal referred to; but that, up to the period of his departure from that capital, no answer was received by him to that note.

I am, with great respect, sir, your obedient servant,
DANIEL BRENT.

JAMES BUCHANAN, Esq.,
House of Representatives.

[21st CONGRESS, 1st SESSION.]

Mr. BUCHANAN, from the Committee on the Judiciary, reported the following bill:

A BILL supplementary to the act entitled "An act to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized, in conjunction with the constituted authorities of the State of Georgia, to cause the line dividing the Territory of Florida from the State of Georgia to be completed under the provisions of the act entitled "An act to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia," passed on the fourth day of May, one thousand eight hundred and twenty-six; and for that purpose he is hereby authorized to appoint a commissioner or surveyor, or both, as in his opinion may be necessary.

SEC. 2. *And be it further enacted*, That, for the purpose of carrying this act into execution, the sum of _____ be, and the same is hereby, appropriated, to be paid out of any money in the treasury not otherwise appropriated.

[21ST CONGRESS, 2D SESSION.]

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
January 19, 1831.

Mr. WILDE submitted the following, which, when the bill [H. R. No. 243] supplementary to the act entitled "An act to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia," shall be taken up for consideration, he will move as an amendment:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized and requested, by and with the advice and consent of the Senate, to nominate and appoint one or more commissioners on the part of the United States, to join such commissioners as shall be appointed on the part of the State of Georgia, and proceed to run out and plainly mark the dividing line between the State of Georgia and the Territory of Florida agreeably to the second article of the treaty of the twenty-seventh of October, one thousand seven hundred and ninety-five, between the United States and Spain.

SEC. 2. *And be it further enacted,* That if the commissioners on the part of the United States and the commissioners on the part of the State of Georgia should find it impossible to agree upon the true line, the commissioners of the United States, in concert with those of Georgia, shall propose, adjust, and recommend terms and conditions on which the said dispute and unsettled line ought to be fully and finally settled.

SEC. 3. *And be it further enacted,* That there be appropriated for effecting the objects of this act the sum of _____ dollars, to be paid out of any money in the treasury not otherwise appropriated.

[21ST CONGRESS, 1ST SESSION.]

EXTRACTS FROM THE JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 21st Cong., pp. 342, 350.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
February 25, 1830.

"Mr. White, of Florida, moved the following resolution, which was read and laid on the table, viz:

"*Resolved,* That the President of the United States be requested to inform this House whether any answer has been received from our minister in Spain on the subject of the application made to that government to obtain a copy of the report of the commissioners for running and marking the line between Florida and the United States under the provisions of the treaty of 1795, and to communicate any information recently received at the Department of State on that subject."

FEBRUARY 27, 1830.

“The resolution moved by Mr. White, of Florida, on the 25th instant, and laid on the table, was read, considered, and agreed to by the House.”

[21ST CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 21st Cong., p. 424.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
March 16, 1830.

“A message, in writing, was received from the President of the United States by Mr. Donelson, his private secretary, as follows :

[Here follows the message of the 15th instant, published below.]

“The said message was read, and laid on the table.”

[21ST CONGRESS, 1ST SESSION.]

MESSAGE FROM PRESIDENT ANDREW JACKSON, TRANSMITTING THE INFORMATION REQUIRED BY A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE 27TH ULTIMO, RESPECTING THE REPORT OF THE COMMISSIONERS FOR RUNNING THE LINE BETWEEN THE UNITED STATES AND FLORIDA, UNDER THE TREATY OF 1795.

(See H. R. Ex. Docs , 1st Sess. 21st Cong., vol. 3, No. 80.)

WASHINGTON, *March 15, 1830.*

To the House of Representatives of the United States :

In pursuance of a resolution of the House of Representatives of the 27th ultimo, calling for information respecting the report of the commissioners for running and marking the line between the United States and Florida, under the treaty of 1795, I herewith communicate a report from the Secretary of State, containing the desired information.

ANDREW JACKSON.

DEPARTMENT OF STATE,
Washington, March 15, 1830.

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 27th February last, requesting

the President to inform that House "whether any answer has been received from our minister in Spain, on the subject of the application made to that government to obtain a copy of the report of the commissioners for running and marking the line between Florida and the United States, under the provisions of the treaty of 1795, and to communicate any information recently received at the Department of State on that subject," has the honor to state, that it does not appear, from the files of this office, that the application made in May, 1828, by the minister of the United States at Madrid, in pursuance of instructions from this department, for the document referred to, has been answered by the Spanish government.

The only information recently received at this office, on the subject embraced by the above resolution, is contained in a letter from Albert Gallatin, dated the 18th February, 1830, and in a document accompanying the same, purporting to be a series of "observations to accompany the map of part of the Mississippi river, the southern boundary of the United States, and the coast of Florida," copies of which are, herewith, respectfully submitted.

M. VAN BUREN.

To the PRESIDENT.

NEW YORK, *February* 18, 1830.

SIR: Mr. White, delegate from Florida, informed me, whilst at Washington, that it appeared from a correspondence of Mr. Madison with the late Andrew Ellicott, commissioner of the United States for ascertaining the boundary between the said States and the then Spanish provinces of East and West Florida, that the official map and report of the proceedings of the commissioners had been lent by the State to the Treasury Department.

This must have taken place whilst I was Secretary of the Treasury; and, as the map could have been wanted there for no other purpose than as affording the proper basis of the surveys of the public lands in that quarter, an inquiry was instituted at the General Land Office; the result of which, as I am informed, was, that Mr. King, the old and principal draughtsman of the office, had a perfect recollection of the map being deposited there; that Mr. Freeman, principal surveyor of the lands south of Tennessee, had taken a copy of the whole or part of it; that it was not returned to the Department of State; and that, whilst Mr. Tiffin was Commissioner of the Land Office, it was, by his direction, lent to a committee of Congress, which had applied for it, and had not been returned. But there was no recollection of the "report of the proceedings of the commissioners," if distinct from the map; and when I left Washington, no such document had been found in the Land Office.

Mr. Ellicott had given me, at the time when published, a printed copy of his "astronomical and thermometrical observations on the boundary line," with some corrections in his handwriting. They were published at Philadelphia, for T. Dobson, 1801; are also inserted in the 5th volume of the transactions of the American Philosophical

Society, and are, I presume, well known to you, and to Mr. White. But I had some recollection of another manuscript by Mr. Ellicott on the same subject, being in my possession, and made lately a search, hoping it might prove the lost report. I have found, and have the honor to enclose the said manuscript, which proves to be, as stated by himself, "Mr. Ellicott's observations to accompany the map," &c. I had (from the endorsement "for Mr. Gallatin," and having forgotten how it came in my possession) believed that it was my private property, and had been given to me, with his printed work, by Mr. Ellicott, which will account for its having remained so long in my library. But the designation "to accompany the map," leaves no doubt on my mind that it was originally transmitted with the map to the Department of State, by Mr. Ellicott, and sent, also, afterwards, with the map, when this was lent to the Treasury. The words "for Mr. Gallatin," were probably written, on sending it back to me, by some person (perhaps Mr. Randolph) to whom I had lent it.

If I understand the question, on which a doubt has lately arisen, between the State of Georgia and the United States, this manuscript contains but little that can elucidate it. Yet what is stated (page 20) concerning the true St. Mary's, "which is formed by the water draining out of the Okefenoke swamp," corroborates Mr. Ellicott's statements in his printed "astronomical and thermometrical observations," above alluded to.

It appears from these that the commissioners surveyed the boundary line along the 31st parallel of latitude from the Mississippi to the Chattahoochee river, and down this river to the mouth of Flint river, which last point they ascertained to be in $30^{\circ} 42' 42''$ north latitude, and $5h. 39' 33''$ in time west longitude from Greenwich; that they did not survey the line from the mouth of Flint river to the source of the St. Mary's; that they proceeded to the mouth of the last mentioned river, ascended it as high as it was navigable for canoes, where they established an observatory, (A,) the latitude of which they ascertained to be in $30^{\circ} 21' 39''$, and set there a hewn post, surrounded by a large mound of earth; that they ran thence a traverse to a point (4,403.2 perches north, and 886.4 perches west from the point A,) where another post was set up, surrounded by another mound of earth, (B,) thrown up on the margin of the Okefenoke swamp, and as near to it as any permanent mark could be placed on account of the water; that the river St. Mary's is formed by the water draining out of the said swamp; and that as no specific point could be fixed in the swamp as the source of the river, "*it was therefore agreed that the termination of the line supposed to be drawn north 45° east 640 perches from the mound B should be taken as a point to or near which a line should be drawn from the mouth of Flint river; which line, when drawn, should be final, and considered as the permanent boundary between the United States and his Catholic Majesty,*" &c.

I have inserted the preceding paragraph to save you the trouble of referring to the several parts there quoted of the printed observations. There can thence be no doubt as to the fact that a certain spot was agreed to, in pursuance of the treaty, by the joint commissioners,

as the source of the St. Mary's. But it is probable that the authentic evidence of that fact is lost; that the map was burnt in the Capitol in September, [August,] 1814; and that this map, certified by the commissioners, was in fact the only official report of their joint proceedings made to the Department of State. Under those circumstances, the manuscript observations of Mr. Ellicott may be of some use, not only as corroborating the fact that the river which issues from the Okefenoke swamp was agreed on by the commissioners as being the true St. Mary, but also as a document transmitted by Mr. Ellicott to the Department of State, with the map, and referring to it. It also mentions a branch coming from the west, between the encampment A and the point B, which branch, therefore, is not the true St. Mary's of the commissioners; and it designates the situation of the Okefenoke swamp, by stating that the river St. Juans, which falls into the Gulf of Mexico, has also its source in that swamp.

On reflection, I also enclose my copy of the printed observations, which is of no use to me, and which is not perhaps in the collection of books of the department. But it must be observed that the plates referred to in the text are all but one wanting in that copy. It is probable that they were inserted in the fifth volume of the Transactions of the American Philosophical Society; and one of them (plate 8) mentioned page 139, and purporting to show the traverse from the point A to point B, would greatly assist in finding on the ground the true position of those points, and therefore of the source of the St. Mary's, as agreed on by the commissioners.

I write to Mr. White, letting him know that I have transmitted Mr. Ellicott's manuscript observations to you, and referring him to this letter for further information.

I have the honor to be, very respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

The Hon. M. VAN BUREN, *Secretary of State.*

The following observations to accompany the map of part of the Mississippi river, the southern boundary of the United States, and the coast of West Florida, being hastily thrown together from my *notes*, are only intended to convey a general idea of the country to which they refer.

ANDREW ELLICOTT.

Of the Mississippi.

To say anything new respecting this river, whose magnitude and importance have, many years ago, employed the pens of some of the historians, philosophers, and geographers of most nations in Europe as well as in our own country, is not to be expected from me. In following such characters, I shall proceed with diffidence, and confine myself to that part of this celebrated river which I had an opportunity

of examining myself, and which lies between the mouth of the Ohio and the southern boundary of the United States.

The confluence of the Ohio and Mississippi rivers is in $37^{\circ} 0' 23''$ north latitude, and about $5h. 55' 23''$ west from the royal observatory at Greenwich. I am well aware that this longitude is considerably less than has generally been assigned to this important geographical point; and have not adopted the alteration without some hesitation; and should still have been more cautious if I could have found any other authority in favor of the former position than charts unaccompanied by any observations. The observations from which I have deduced both the latitude and longitude were made under unfavorable circumstances. The weather was intensely cold; and we had not sufficient covering for ourselves and instruments; but, upon repeatedly examining them, I am not sensible of their being liable to any material objection.

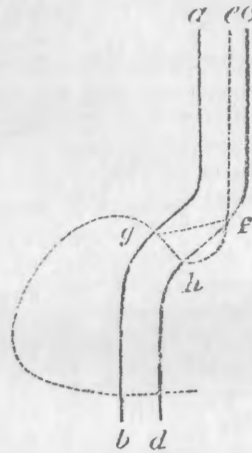
Those who are descending the Ohio and Mississippi, and have been pleased with the prospect of large rivers rushing together among hills and mountains, will anticipate the pleasure of viewing the conflux of those gigantic waters. But their expectations will not be realized—the prospect is neither grand nor romantic. Here are no hills to variegate the scene; nor mountains from whose summits the meandering of the rivers may be traced; nor chasms through which they have forced their way. The prospect is no more than the meeting of waters of the same width along the sounds on our low southern coast. These great rivers, after draining a vast extent of mountainous and hilly country, join their waters in the swamp through which the Mississippi passes into the Gulf of Mexico. This swamp extends from the high lands in the United States to the high lands in Louisiana; and through various parts of it, the river has, at different periods, had its course. From the best information I could obtain, the swamp is from 36 to 45 miles wide from the boundary many miles up; and much the greater part of it lies on the west side of the present bed of the river. From the mouth of the Ohio to the southern boundary of the United States, the Mississippi touches but two or three places on the west side that are not annually inundated, and even those are for a time insulated; but on the east side it washes the high land in eleven places.

The swamp appears to be composed of the mud and sand carried by Mad river into the Missouri, and, by the Missouri, into the Mississippi, to which may be added the washing of the country drained by the Mississippi and Ohio rivers, with their numerous branches, which furnish a fresh stratum every inundation. This stratum is deposited upon a stratum of leaves and other dead vegetables, which had fallen the preceding autumn. These strata may be readily examined in many parts of the swamp and the banks of the river. The depths of the deposited strata differ considerably, and principally depend upon the duration of the different inundations. In 1797, the inundation was complete by the last of February, and the river was not entirely within its banks till about the beginning of September; but in 1798, the inundation was not complete till after the middle of May, and the river was generally within its banks by the first of August. The

mean perpendicular height to which the river rises above the low-water mark at the town of Natchez, is 55 feet.

In descending the river, you meet with but little variety; a few of the bends and islands will give you a sample of the whole. If the water is low, you have high muddy banks, quicksands and sand-bars; and if full, you might almost as well be at sea: for, days together you will float without meeting with any land to set your feet on, and, at the same time, environed by an uninhabitable wilderness.

This river, like all others passing through flat countries, and not checked, or confined by hills or mountains, is very crooked, as may be seen by the chart. This arises from a very natural cause, and may be explained in the following manner: Suppose, in the figure, lines $a b$ and $c d$, to be the banks or margins of a portion of a river, and the water moving in the direction $e f$, but meeting with an



obstruction at f , it will be reflected in the direction $f g$, and at g , as well as at f , the bank will be worn away; about h , an eddy will be formed, where sand, earth, and rubbish will be deposited, and continually increase the convex part, while the concave parts will be worn away, and in time a loop will be formed something like the dotted curve line in the figure, which will increase in magnitude till the river, aided by an inundation, breaks through a shorter way, and the convex part will become an island. If the loop has been very large, and the water ceases to have much current along it, the two ends in a short time will be filled up by the great quantity of mud and sand which are constantly mixed with the water of the Mississippi, and a lake will be formed. These lakes are to be met with in various parts of the swamp, and bear evident marks of having been at some former period portions of the main bed of the river.

In consequence of the great body of water in the Mississippi, and the light and loose nature of the soil, the concave banks of the river are falling in more or less during every general fall or rise of the water; and I believe but few people have ever descended it in either of those States, who have not heard or seen large portions of the banks

give way, which are instantly carried off by the current, and the earth, sand, and some of the rubbish, again deposited at the convex points below.

From what has been said, one general caution must necessarily present itself to those concerned in navigating the Mississippi, *which is, to avoid the CONCAVE BANKS.* Many fatal accidents have happened on this river, either through ignorance of the danger, or inattention in coming to at improper places on the shore to cook, procure fuel, or for other purposes. We have a late instance of a Mr. McFarling, and part of his crew, being lost by the falling of a bank. When the banks are inundated, they are less dangerous, being in some measure supported by the water, and not so liable to give way; but the concave shores are still to be avoided, because the water near the bank, and elevated above it, not being confined to the course of the river by the lower current, rushes straight forward among the cane and timber, and if Kentucky boats (as they are called) fall within the draught of this upper current, it will be extremely difficult to relieve them or prevent their being lost in the woods. Many losses have been sustained from this cause.

A boat may at all times come to with safety at a sand-bar, the upper or lower end of an island where young bushes are growing, or just at the beginning of an eddy, below any of the points that are covered with young cotton-wood, (a species of poplar,) or willows, (*salix nigra.*) From the mouth of the Ohio down to the Walnut hills, it is not safe to descend the river in the night, unless the boat be uncommonly strong, on account of the sawyers and planters. The former are trees slightly confined to the bottom by some of their roots or limbs, and the loose or floating ends continue a vibratory motion, generally up and down. Some of them rise five or six feet above the water every vibration. The latter are more dangerous, being firmly fixed or planted in the bottom; they are all easily avoided in daylight. With these precautions, the Mississippi may be navigated with as much, if not more safety, than any other river upon this continent.

I shall now proceed to give some account of the construction of the map of the river. A continued and correct survey of the Mississippi will scarcely ever be obtained, on account of the swamps, lagoons, thickets and cane-brakes, on its banks; and below the banks the impediments will be equally great. In some places impassable quick-sands will be met with; in others the water will be found washing the high and almost perpendicular banks, and no place left for a foot-hold. Some other mode different from the common method of surveying must therefore be resorted to. The following was used in constructing the map to which this refers: The mouth of the Ohio was taken as a given point, both as to latitude and longitude. An excellent surveying compass, corrected for the variation of the needle, was used in taking the courses, which were entered in time instead of space. Every day when the sun shone, at noon, his meridional altitude was taken from the artificial or reflected horizon, with an excellent sextant, made by Ramsden, and graduated by the vernier to twenty seconds; and was generally found, by a great number of observations, to determine the latitude true within less than a minute. The latitudes de-

terminated by those observations are entered on the river at the places where the observations were made. All the courses between each two of those points were protracted in time instead of space; that is, by calling the time space. Each set of courses were then expanded or contracted, so as to agree with the points of latitude to which they belonged; and from the number of latitudes taken, I expect that no part of the river will be found very erroneous in that respect. So much cannot be said in favor of the longitude, except at the mouth of the Ohio and the town of Natchez, which are considered as given points; the latitude and longitude of the latter being determined with as much precision as that of any other point within the United States.

From the banks of the river constantly giving way, no map, or chart of it, can be expected to be tolerably correct for more than a century, if so much.

Of the Pearl or Half-Way River.

The Pearl or Half-Way river is navigable for small craft many miles north of the boundary. It is remarkably crooked, and full of logs and lodged trees, which are at present very injurious to its navigation. Its banks, for some distance above the boundary, and almost the whole of them below, are annually inundated. The banks, with a considerable extent of country, become very low, below the Indian house (marked on the map) over the whole of which the water passes when the river is high, and here it begins to divide into a number of branches; some of them maintain an open channel till they unite again with the main branch, and others are lost in the swamp. Those branches appear so nearly of the same size, that a person not acquainted with the river, will be as likely to take a wrong as a right one. This happened to several of our parties, and to myself, although I had two persons with me, who had been up and down twice before; we were a part of two days and one night before we got back to the place where we made the mistake. The officer of my escort, with several of his men, were still more unfortunate; they took another branch, and were a greater length of time before they discovered their error, and on half allowance of provision.

In consequence of the water extending over such a considerable space, it never acquires a sufficient head to force away the lodged timber which in two places extend across the river. The upper raft is of considerable magnitude, covered with grass and other herbage, with some bushes. Through those rafts we had to make channels by removing and cutting away the logs till we had a sufficient depth of water to float our loaded canoes and perogues. It was an arduous undertaking, and executed at the most unfavorable season of the year.

Nearly the whole of the provision made use of at our station up the river by both parties, including the military escorts, and for extending the line east to the Mobile, was taken from New Orleans through the west end of Lake Pontchartrain, thence up the river to the boundary.

The tide ebbs and flows a few miles above latitude $30^{\circ} 21' 30''$, where there was formerly a trading-house, and to where any vessel

that can cross the bar into the lake may ascend with ease. The banks of the river above the old trading-house, as far as the tide is perceptible, are too low and marshy for a settlement. The river has several communications with the Gulf of Mexico and Lake Pontchartrain, but they are all too shoal for vessels drawing more than seven or eight feet water, and therefore only fit for the coasting trade.

The coasting vessels which visit New Orleans pass by the mouth of the river into Lake Pontchartrain, thence up the bayou St. John's to the canal executed by the Baron de Carondelet, which terminates at the walls of the city immediately behind the hospital. This canal requires cleaning every year, and is done by slaves and criminals condemned to hard labor, but might be done more effectually by conveying a stream of water into it from the Mississippi at the time of the annual inundation, which might be effected with but little trouble and expense.

Lake Pontchartrain is a beautiful sheet of water, but unfortunately surrounded by marshes, and the landing in many places is attended with difficulty on account of the mud. There are some places towards the east end where the beach is beautiful, being formed by large bodies of cockle-shells, from which all the lime used at New Orleans and about the lake is made.

Of the Pascagoula.

The Pascagoula is a large river, and navigable for small craft a considerable distance above the boundary; and from the report of some of my people who descended it, it is very deep, and falls, with some other smaller waters, into a bay opposite the Horn island. The bay and mouth of the river, on account of shoals and oyster banks, appear only adapted to the coasting trade.

Of the Mobile.

The Mobile is a fine large river, and navigable some distance above the boundary for any vessel that can cross the bar into the bay. One square-rigged vessel has been as high as Fort St. Stephen's, in latitude $31^{\circ} 33' 34''$.

When the river is low, the tide ebbs and flows several miles above the line, and is sometimes observed as high as Fort St. Stephen's; but when the river is full, there is but little, if any, tide above the town of Mobile. It was in the latter state when I ascended it; and notwithstanding the current being constantly against us, and but little fair wind, we reached the place of our encampment north of the boundary in four days: my vessel was about forty tons burthen.

About six miles north of the boundary, the Tombeckby and Alabama rivers unite, and after accompanying each other more than three miles, separate: the western branch from thence down to the bay is called Mobile. The Alabama retains its name till it joins some of its own waters, which had been separated from it for several miles, and then takes the name of Tensaw, which it retains till it falls into the head of the bay.

The easiest way from the Gulf of Mexico by water into the United States, is up those rivers, the navigation of each being equally good.

The upland on those rivers is of an inferior quality, from their mouths up to the latitude of Fort St. Stephen's, and produces little besides pitch-pine and wire-grass; but is said to become better as you ascend the rivers. The lands on those rivers have, notwithstanding, had a good character for fertility; but this has arisen from not discriminating between the upland, which is unfit for cultivation, and the banks of the rivers, which are fertile in the extreme, and to which agriculture is almost wholly confined for a number of miles above the boundary. But those lands are subject to a great inconvenience from the inundations of the rivers.

Planting is not attempted in the spring till the waters have subsided, and it sometimes happens that inundations follow the first fall of the waters in the spring, and wholly destroy the previous labors of the planters. This was the case in May, 1799, after the corn was two feet high; but this inconvenience is by no means so great as it would be in a more northerly latitude; there still remains summer sufficient to bring a crop of corn to full maturity.

The large swamp through which the rivers meander is intersected in almost all directions by smaller water-courses, which keep up a constant connexion between the main branches—such of them as were used by our people in passing and re-passing from one side to the other.

At the mouth of the Mobile river stands the town of that name. The situation is handsome, and some of the houses tolerably good, and for a place of its size the trade is considerable. The place is said to be unhealthy during the months of July, August, September, and October.

The fort stands a short distance below the town; it is a well built, regular work, and was taken from the British by Don Galvez, during our revolutionary war. Since that time it has been repaired, and put in a good state of defence, by the officers of his Catholic Majesty.

From the traverse of the river, the latitude of the town appears to be about $30^{\circ} 36' 30''$ north, and the longitude $5h. 52' 17''$ west from the royal observatory at Greenwich.

The bay is extensive, and supposed to be about nine leagues in length; but too shoal for large shipping. The latitude of the bar at the entrance into the bay from the Gulf of Mexico, I found, by a mean of two good observations, to be about $30^{\circ} 12' 30''$ north, and as the course of the bay is nearly north and south, the longitude must be nearly the same as that of the town.

Of the Conecuh.

The Conecuh has generally, though erroneously, been called the Scambia and Escambia, which is the name of a much smaller stream that falls into it from the west, and unites a short distance above, where the transit of Mercury was observed in the year 1799.

The banks of the Conecuh, during a large portion of the spring, are inundated for many miles above the line down to Pensacola bay,

with very few exceptions. The upland is poor as far up the river as we saw it, but it was said to be tolerably good about the head branches.

The river is navigable for small craft a considerable distance above the boundary. All our tents, stores, instruments, &c., were taken up to our camp by water. The tide ebbs and flows but a few miles up the river.

The Conecuh falls into the head of Pensacola bay, which is a beautiful body of water, well stored with a variety of fine fishes, crabs, and oysters, and is justly considered one of the best harbors on the whole coast; vessels drawing not more than twenty-one feet water may cross the bar at all times with safety.

The town of Pensacola stands on the west side of the bay; the situation is delightful, and the place remarkably healthy; but the water is shoal in front of the town.

Pensacola was the capital of West Florida while that province was in the possession of his Britannic Majesty: at that time it made a very respectable appearance; but, since the conquest of that colony by the Spaniards, under Don Galvez, it has been on the decline.

The old fortifications stood on some sand-hills back of the town, and too distant to yield it any substantial protection; notwithstanding this circumstance, the Spaniards never once attempted to molest the inhabitants, or to injure the town during the siege of the forts, which lasted two months. The garrison made a gallant defence, and the surrender was hastened by one of the magazines accidentally blowing up. During the whole siege, as well as after the surrender, Don Galvez conducted himself both as a man of courage and humanity. Mr. Bowles, (commonly called General Bowles,) Mr. Philip Key, of the State of Maryland, and several other Americans of distinction, were at that time officers under General Campbell, who commanded the troops of his Britannic Majesty.

The trade of Pensacola is at this time principally carried on by the house of Panton, Leslie, Forbes, and Company. The latitude of the town is $30^{\circ} 23' 43''$ north, and the longitude, by our measurement from the Mississippi, and traverse of the Conecuh river, is about $87^{\circ} 14' 15''$ west from Greenwich; but, from the observations of Sir John Lindsay and Doctor Lorimer, $87^{\circ} 40'$. It may lie between the two, but I suspect much nearer the former. The latitude of the bar, at the entrance into the bay, is about $30^{\circ} 18'$ north, and the longitude, from our measurement and traverse, $87^{\circ} 17'$ west from Greenwich. The harbor, as well as all the others east of the Mississippi, is rendered much less valuable on account of the worms. They are so numerous in this bay, that a vessel's bottom has been known to be ruined in two months; and it is absolutely necessary for all vessels not copper-bottomed, lying in the harbor, to be hove down, cleaned, and payed, every five or six weeks.

The entrance into the bay is defended by a small fort on the west end of St. Rose's island, and a battery on the main land nearly opposite to it.

Of the Chattahoochee or Apalachicola.

This is a fine large river, and navigable for boats and galleys that use oars a considerable distance north of the boundary. A sloop in the service of his Catholic Majesty's commissioner, and a small schooner in our employ, ascended up to the mouth of Flint river, which falls into the Chattahoochee about twenty-one miles below the parallel of 31° ; but this was attended with some difficulty. The United States schooner Sally ascended about thirty miles, but for want of oars proceeded no higher. From the mouth of the river up, for the distance of at least forty miles, the banks are very low, and, with the exception of a few places, inundated whenever the water is moderately high. But, as you ascend, the banks become more elevated, and some of them, which may be called bottom land, are seldom overflowed. These are remarkably rich, and extremely fertile; and are almost the only lands under cultivation by the Indians who reside on the river.

A few miles below the mouth of Flint river, limestone begins to make its appearance, and extends far up into the country; it is open and porous and of a dirty bluish color. On the east side of the mouth of Flint river, and for a considerable distance up it, large quantities of iron ore may be seen.

The upland on the Chattahoochee and Flint rivers, from the boundary southward, is of an inferior quality, though much better than on some of the waters already mentioned.

The Chattahoochee empties itself into St. George's sound by three mouths. The most eastern one is at present only navigable for canoes and small boats, on account of the lodged timber and rafts. Our vessels ascended the most westerly one, which is at this time the main channel; but the navigation of this is troublesome for those not acquainted with it; not on account of logs and such impediments, but from its connection with lakes and swamps by branches apparently larger than itself. We took two of them coming in from the westward; the first led us into a lake about three leagues in length, and a half in width: the other, a few miles from the main branch, was divided in such a manner into smaller ones that we soon discovered our mistake. The latitude of the mouth of the western branch is about $29^{\circ} 42'$ N., and the longitude, by a lunar observation, $5h. 39' 23''$ west from the royal observatory at Greenwich.

St. George's sound is principally formed by three islands; between the most westerly one and the main land the channel is narrow and shoal, and only fit for canoes; between this island and St. George's, which gives the name to the sound, is a bar on which some bushes are growing. The coasting vessels pass between those islands. St. George's island is supposed to be about six leagues in length, but in no place more than one wide. The distance from St. George's island across the sound is from one to two and a half leagues. The next island is not laid down in any of our charts; it is about two leagues in length, and two miles east of St. George's island. The main channel into the sound is near the west end of this island. From this

island to the next (which at low water sometimes joins the main land) it is too shoal for any other than coasting vessels.

The latitude of the east end of St. George's island is $29^{\circ} 44' 38''$ N., and the longitude (by taking the result of the lunar observation before mentioned, as a correct point) $5^{\text{h.}} 38' 35''$ west from Greenwich. The sound is so full of oyster banks and shoals, that it is difficult to navigate it without a pilot.

The coast on the north side of the sound is intersected and cut to pieces by such a variety of water-courses, several of which have evidently, at some former period, been mouths of the river, that it is extremely difficult to find the true branches; we were constantly employed five or six days in discovering them.

Of the St. Mary's River.

The river St. Mary's is a part of the southern boundary of the United States. It is navigable for top-sail vessels at all times up to Trader's Hill, and from thence up, for small boats and canoes, almost to the Okefenoke swamp when the water is moderately high, were it not for logs, drift-wood and rafts, which in many places extend across the stream. A large branch comes in from the west above our encampment, which is noted on the map: it is but little inferior to the one considered as the true St. Mary's, which is formed by the water draining out of the Okefenoke swamp. The swamp is very large, though much less than has been generally supposed, and furnished subjects for a number of fabulous stories. The swamp is watered by a vast number of small streams and drains, which generally rise within its vicinity. The river St. Juans,* which falls into the Gulf of Mexico, as well as the St. Mary's, has its source in this swamp.

A large portion of the banks on both sides of the St. Mary's are annually inundated. The upland is generally of an inferior quality, producing little besides wire-grass and pitch-pine.

A Note respecting West Florida.

The upland in West Florida, as it is now bounded, is generally of a very inferior quality, except on the Mississippi, and is of but little value for either planting or farming. The river bottoms are all fertile, but too inconsiderable as to quantity, or too low and marshy, to give much value to the province.

It may be observed that no restrictions in this country have been found so effective as to prevent settlements being made where the land has been good; a conclusion may therefore be fairly drawn, that this province, which has been aided by France, Great Britain and Spain, each in her turn, and yet remains unsettled, must be materially defective in point of soil.

It is true, that the towns of Mobile and Pensacola have been flourishing places; but this was owing to causes not immediately dependent upon the soil. The latter was the seat of government while the

*Another of the same name falls into the Atlantic between the St. Mary's and Augustine.

province was held by Great Britain, and from the excellence of the harbor, it was much frequented by the shipping of that nation, and both places well situated for carrying on the Indian trade, which was at that time very great; but that trade having greatly declined, and but little other for want of inhabitants, and the necessary articles for exportation, those towns have declined also. Mobile is beginning to recover, but this is owing to the settlements forming north of the boundary, on the Tombeckby and Alabama rivers. Notwithstanding the favorable situation of those towns, they can never be of much consequence, but from the settlement of the country north of the boundary, which has greatly the advantage in point of soil and climate.

Although West Florida is of but little importance when considered alone and unconnected with the country north of it, it is of immense consequence when viewed as possessing all the avenues of commerce to and from a large productive country—a country extending north from the 31st degree of north latitude, to the sources of the Pearl, Pascagoula, Mobile, Alabama, Conecuh, Chattahoochee and Flint rivers, and at least 300 miles from east to west. The coast of this province furnishes live oak and cedar, in considerable abundance, fit for ship-building, which is not to be met with in any quantity north of the boundary.

From the safety of the coast of this province, added to the great number of harbors proper for coasting vessels, (that of Pensacola, into which a fleet may sail and ride with safety, and that of St. Joseph's, into which vessels, not drawing more than seventeen feet water, may sail at all times,) it must be considered important in a commercial point of view; and if connected with the country north of it, be capable of prescribing maritime regulations to the Gulf of Mexico.

In a political point of view, West Florida may be viewed as an object of the greatest importance to the United States; because that nation which holds the avenues to commerce may give a tone to the political measures of another unfriendly both to liberty and happiness.

Of East Florida.

East Florida is but little better than a wilderness; the soil is not superior to that of West Florida; and none of its navigable waters rising in the United States, it does not appear equally interesting: it is nevertheless of considerable importance, having two remarkably fine harbors on the west side, opening to the Gulf of Mexico, viz: Hillsborough bay and Charlotte harbor. The first is very capacious, and will admit with safety any vessel drawing not more than 23 or 24 feet water; the latter is a good harbor, but will not admit vessels drawing more than 15 or 16 feet water.

The first Englishman who explored Hillsborough bay was a Captain Braddock, who commanded a privateer from Virginia, and cruised on the west coast of East Florida in the years 1744 and 1745.

East Florida must derive its principal importance from its proximity to the West India islands, and the great number of harbors, and fit stations for cruisers, which it furnishes among the small islands and

in the reef, on the edge of the Gulf Stream, which is the outlet to the Gulf of Mexico.

We have not one chart of the coast of East Florida which can be depended upon for accuracy. A survey of the east side of it was submitted by the British government to Mr. John de Brahm, and the west side to Mr. George Gauld; but the labors of those gentlemen have never been made public.

Of positions for military works near the boundary.

There are several places on the Mississippi, between the mouth of the Ohio and the southern boundary of the United States, that would answer very well for military establishments; but the best appear to be at the Chickasaw bluffs, Walnut hills, and Loftus' heights. The two latter appear to have the best command of the river. At one of the three bluffs above the Chickasaw bluffs. (but I cannot recollect which,) a fort might be advantageously erected. Fort Prudhomme was built upon the middle one.

It will be difficult to erect works on any part of the Mississippi, below the mouth of the Ohio, that will prevent the descent of troops. The rapidity of the water and the width of the river will enable a boat, with some exertion, to pass any of the forts with but little if any damage; and there is no place where a cross-fire could be brought to bear with much advantage. But the ascent of boats is so slow, that a few pieces of artillery, well directed and served, would stop the progress of any vessel used on the river.

On the Pearl, or Half-Way river, a very short distance above the boundary, is a commanding eminence, where a fort might be erected, that would easily prevent the ascent of such boats and pirogues as would be proper for that navigation.

My knowledge of the Pascagoula is too limited to justify an opinion; but, from its distance both from the Pearl and Mobile rivers, and direct communication with the Gulf of Mexico, added to its magnitude, I should suppose it worthy of as much, if not more attention, than the Pearl river.

The Mobile, Tombeckby, and Alabama rivers are at this time of much more importance to the United States than all the other waters between the Mississippi river and the Atlantic ocean; being the only rivers which are navigable for square-rigged vessels from the Gulf of Mexico, into that part of the United States lying on the north boundary of West Florida. But exclusive of this consideration there is another, which arises from the lands on those rivers being already partially settled, and, at this time, the most valuable part of the Union.

The position of Fort Stoddard, on Ward's bluff, is a very proper one; but the works are neither sufficiently extensive nor strong to oppose an enemy possessed of artillery; and so long as his Catholic Majesty holds West Florida, so long will it be necessary for the United States to be formidable in this quarter.

Any works on the Conecuh will for some time to come be unnecessary; there being no inhabitants to protect, nor a sufficient body of

Indians residing on it to make that trade worth attending to. About one mile and a half above the boundary, on the east side of the river, there is a place where a trader formerly resided, that would answer tolerably well for a small military establishment.

At the confluence of the Chattahoochee and Flint rivers the lands are swampy, and annually inundated, and therefore unfit for military works; but there are several bluffs on the east side of the Chattahoochee, which begin about one mile and three-quarters above the mouth of Flint river, where works might be advantageously erected.

On the St. Mary's river we have two military establishments, one at Colerain, and the other at the mouth of the river on Point Peter. Neither of them ever have or will be of any advantage, either in protecting our trade or adding security to our citizens; they possess neither advantage of situation, merit in design, nor strength in the execution. The situation selected by the very judicious General Oglethorpe, on the south end of Cumberland island, where he erected Fort William, appears to me the most eligible, and better calculated for a permanent work, to give security to the harbor and sound, than any other position about St. Mary's.

Of the indigenous plants, shrubby and herbaceous.

Being a very indifferent botanist, I shall be extremely limited on this subject, and only note such productions as particularly attracted my attention for their use, quantity, beauty, or singularity.

At the mouth of the Ohio, and down the Mississippi swamp, the prevailing timber is cotton-wood, (*populus deltoida* of Marshall,) black willow, (*salix nigra*), black ash, (*fraxinus nigra*), sugar maple, (*acer saccharum*),—but this is not in great abundance, and becomes more scarce as you descend the river; and I do not recollect ever seeing but one tree south of the southern boundary—water maple, (*acer negundo*), pecan, (*juglans illinoensis*),—this is met with as high as the Wabash, where it is scarce, but becomes more abundant from thence down to the Gulf of Mexico—papaw, (*annona triloba*),—I have eaten of the fruit in great perfection as early as the 17th July in the Mississippi Territory—button wood or sycamore, (*platanus occidentalis*), hickory, (*juglans hickory*.) The cypress (*cupressus disticha*) begins to make its appearance about the Arkansas, and becomes very abundant a little further south, and appears to be inexhaustible before you reach the 31st degree of north latitude. It occupies many parts of the swamp almost to the exclusion of any other timber. The cypress is a very useful wood, and used generally in that country for covering, flooring, and finishing the buildings. It grows in swamps, marshes, and ponds, but not on high land. The stem or body of the tree generally rises from the apex of a large conical base, above which the workmen have frequently to erect scaffolds before they fall the tree. From the roots of the tree, about this conical base, a number of conical excrescences are sent up, which are called cypress knees; some of them are eight or ten feet high, and, being hollow, are used for bee-hives and other purposes. The long moss (*tillandsia asneoides*) makes its appearance on the Mississippi,

nearly in the same latitude with the cypress, and almost covers a number of trees before you reach the Walnut hills. Sweet bay, (*Laurus barbonia*,) magnolia grandiflora. This most splendid and beautiful tree I do not recollect seeing above the Walnut hills, but have no doubt of its growing much further north. It is common through all the rich lands of Natchez, and east to the Atlantic. The foregoing trees appear to be confined either to very wet or very rich land, and will be met with in all such places along the boundary and through West Florida, with the exception of the peccan, sugar maple, and one or two others. The katalpa (*Bignonia katalpa*) is not uncommon, but appeared the most abundant on the banks of the Conecuh. The *Nyssa aquatica* is common on the Chattahoochee, below the boundary. Exclusive of those plants which are generally confined to low or very rich grounds, the following will be met with in various parts of the country: Sassafras, (*Laurus sassafras*,) which grows to a large size about the Natchez; sweet gum, (liquid amber;) common swamp gum, (*Nyssa integrifolia*,) holly, (*Ilex opaca*,) in great abundance in some parts of the Mississippi Territory, and frequently becomes a large tree; persimmon, (*Diospyros Virginiana*,) very common; locust, (*Robinia pseud-acacia*,) honey locust, (*Gleditsia triacanthus*,) black walnut, (*Juglans nigra*,) hickory, (*Juglans hickory*,) of three species, common to the Middle States; elm, (*Ulmus Americana*,) dogwood, (*Cornus florida*,) red bud, (*Cercis canadensis*,) mulberry, (*Morus rubra*,) wild plum, (*Prunus Chickasaw*,) tulip tree, (*Liriodendrum tulipifera*,) white oak, (*Quercus alba*,) black oak, (*Quercus nigra*,) swamp oak, (*Quercus aquatica*,) chestnut oak, (*Quercus prinus*,) with several other species or varieties; live oak, (*Quercus sempervirens*,) this very useful timber is much confined to the coast, and a short distance from it; I do not recollect seeing it in any quantity in West Florida, as far north as the boundary: red cedar, (*Juniperus Virginiana*,) this is likewise much confined to the coast, and is, in some places, in great abundance: pine, (*Pinus*) of several species, the quantity inexhaustible; buckeye, (*Desmodium illinoense*,) wild cherry, (*Prunus Virginiana*,) great palmetto, or cabbage-tree, (*Corypha* or palmetto of Walter,) cassina yapon, (*Ilex vomitoria*,) myraca inadora of Bartram; from the berry of this shrub the green wax used in candle-making is collected; these two last are confined to the coast: beech, (*Fagus ferraginea*,) chestnut, (*Fagus Americana*,) chincopin, (*Fagus pumila*,) spice-wood, (*Laurus benzoin*,) Bermudian mulberry, (*Calli-carpa Americana*,) Cane (*Arundo gigantea* of Walter) extends through all parts of the Mississippi swamp, and occupies equally the high as well as low land, from the Walnut hills, down the river, to Point Coupee, and easterly, from fifteen miles to more than twenty. The whole of that high, rich, hilly, and broken tract of country, except where the farms are opened, may be considered as one solid canebrake, and is almost impenetrable, but will probably be destroyed in a few years by the cattle, hogs, and fires. Its general height is from twenty to thirty-six feet, but I have met with it on the tops of several hills forty-two feet high. The small cane or reed (*Arundo tecta* of Walter) begins to make its appearance on the boundary, about twenty miles east of the Mississippi river, and, with the *Arundo gigantea* or large

cane, will be found on all the creeks and river bottoms through to the Atlantic. The China root (smilax China) and passion flower (passiflora incarnata) are abundant in the rich grounds. The sensitive brier (mimosa instia) is common to the poor sandy land. Several species of that beautiful and singular plant, the caracina, is frequently met with in the margins of swamps and low grounds; and three or four handsome species of the nymphœa are to be found in the ponds and still waters about the rivers. Along the water-courses, and in the swamps where the land is good, several species of well-tasted grapes are found in great plenty. Many of the trees in the swamps and low grounds are loaded with a variety of vines, the most conspicuous of which are the creeper or trumpet flower (bignonia radicans) and common poison vine (rhus radicans.)

[21ST CONGRESS, 2D SESSION.]

EXTRACT FROM THE JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 2d Sess. 21st Cong., p. 163.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
January 10, 1831.

“ Mr. Haynes presented a report and resolutions adopted by the general assembly of the State of Georgia, in relation to the boundary line between that State and the Territory of Florida; which report and resolutions were committed to the Committee of the Whole House to which is committed the bill (No. 243) supplementary to the act to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia.”

[21ST CONGRESS, 2D SESSION.]

RESOLUTIONS OF THE LEGISLATURE OF GEORGIA ON THE SUBJECT OF THE
 FLORIDA BOUNDARY.

(See H. R. Ex. Docs. 2d Sess. 21st Cong., vol. 2, No. 43.)

IN SENATE.

The Committee on the State of the Republic, to whom was referred that part of the Governor's message which relates to the boundary line between the State of Georgia and the Territory of Florida, with the accompanying documents, have had the same under consideration, and report:

That the deep interest which the State of Georgia has in the question of the final and satisfactory settlement of her boundaries, is such as to

impose on her constituted authorities the duty of prosecuting the subject to some final termination; and at this time your committee believe that the constituted authorities of this State would be liable to the charge of a dereliction of duty to her citizens, were they to permit the boundary which separates Georgia from the Territory of Florida, from the junction of the Flint and Chattahoochee rivers, thence to the head of the St. Mary's river, to remain, as it now does, unascertained, and not run and marked. Your committee, in again presenting a condensed view of the subject referred to their consideration, will purposely be very brief, as the merits of the question have been so often presented to the federal government, and particularly in the report and resolutions agreed to by the general assembly of this State on the 16th day of December, 1828, which your committee beg may be referred to, as presenting most of the evidences on which Georgia claims a final settlement of the boundary line between this State and the Territory of Florida.

By referring to the charter of Georgia, which was granted in the year 1732 to certain persons, and its surrender to the King of Great Britain in the year 1752, by the trustees; and the proclamation of 1763, establishing the government of East and West Florida, and extending the southern boundary of Georgia, and the commission of Governor Wright, (at which time both Georgia and Florida were British colonies or provinces,) dated the 20th day of January, 1764; the only legitimate inference from each of the recited evidences is, that the southern line of Georgia was to run from the most southern stream of a river, St. Mary's, and westward from thence, and, consequently, leaving the whole of the headwaters of that river within the boundary of Georgia; and every other public document which relates to the said boundary, either as a boundary line of the United States or the State of Georgia, is in palpable accordance with this conclusion, until the year 1800.

In the year 1795, the government of the United States and Spain concluded a treaty, by the second article of which it was agreed that a line should begin from a point at the junction of the Flint and Chattahoochee rivers, and to run from thence to the head of the St. Mary's river. Under the provisions of the said treaty, commissioners were to be appointed to run and plainly mark said line, and commissioners were accordingly appointed; and in the year 1800, Mr. Ellicott, the commissioner on the part of the United States, and the commissioner on the part of Spain, met, and attempted to run and mark the said line from the junction of the Flint and Chattahoochee rivers to the head of the St. Mary's; but, from causes which it is now unnecessary to state in detail, the line was not run; but the commissioners fixed on a spot near a branch of the river St. Mary's, and erected a mound, and agreed that the mound so erected by them near the Okefinoke swamp should be taken as the true head of the St. Mary's river; and that a line should be run from the junction of the Flint and Chattahoochee rivers to said mound, and that it should be taken as the true line; provided, if said line did not pass within one mile north of said mound, it should be correct to carry it to that distance.

Your committee, after having recited some of the evidences on which Georgia claims that the boundary line between this State and the Territory of Florida has not been either finally or satisfactorily settled, take leave to state that, until the year 1819, very little was known of the section of country about the head of the St. Mary's river: the Okefinoke swamp, in which it has its head, anterior to that time, was an almost impenetrable wilderness, and was very little known to civilized man; and that the explorations made by the authority of the legislature of this State, in the year 1818, were not intended to do more than to collect information of a part of the lands and boundary line of Georgia; but, since that time, the Indian right of occupancy has been extinguished to all of the lands in this State, from the junction of the Flint and Chattahoochee rivers to the head of the St. Mary's river; and that section of this State is now generally settled, and the country generally known; it is therefore now believed that it will not be difficult or uncertain to ascertain the true head of the St. Mary's river. Your committee believe the legislature will not discharge a duty it owes to the good citizens of this State, without once more asking and requesting the federal government to co-operate in this desirable object, and have the said line plainly run and marked. Your committee have too much confidence in the authorities of the general government to indicate an opinion that the rights of Georgia are not attended to, from improper considerations.

The reports made to Congress by the Judiciary Committee, to whom the subject has been referred—one on the 21st day of March, 1828, and another on the 30th day of January, 1830—have been carefully examined by your committee; but, as the said reports do not contain any new evidence of the claim on which the United States claim that the mound erected by Mr. Ellicott to be truly and carefully placed at or near the head of the St. Mary's river, they have considered it improper at this time to make any examination of the conclusions arrived at by the arguments relied on in said reports.

In conclusion, your committee are satisfied that it is their duty to state that, if the question of settlement of boundary between Georgia and the Territory of Florida is not fully and finally settled under the provisions of the resolutions which are attached to this report, no further attempts should be made by this State, in the way now sought, to effect the desirable object, but that the question ought to be carried for decision before the proper judicial tribunal; and to effect the object embraced in this report, your committee recommend the adoption of the following resolutions:

Resolved, That it is the opinion of this legislature that the dividing line between Georgia and Florida ought to be run from the junction of the Flint and Chattahoochee rivers to the head of the most southern branch or head of St. Mary's river; and that the said line ought to be marked without further delay.

Resolved, That Congress be earnestly requested, as an act of justice, during its present session, to repeal, alter, or amend the act of the 14th of May, 1826, which provided for the running out and marking the line dividing Georgia from the Territory of Florida; and to make additional and suitable provisions for the appointment of commis-

sioners on the part of the United States, to join commissioners on the part of Georgia, to run out and plainly mark the dividing line between the State and the Territory of Florida, agreeably to the second article of the treaty of the 27th of October, 1795, between the United States and Spain.

Resolved, That, should commissioners be appointed on the part of the United States, during the next session of Congress, to meet commissioners on the part of this State, to run out and mark the dividing line between Georgia and the Territory of Florida, as soon as his excellency the governor shall or may be informed of the same, he be, and he is hereby, empowered and requested to appoint, without delay, a competent commissioner, artist, or surveyor, on the part of this State, to meet the commissioner on the part of the United States; and that he open a correspondence with said commissioner on the part of the United States, requesting a meeting of the commissioners on the part of this State and the United States, at the earliest day convenient, for the purpose of discharging the duties assigned them with the least possible delay.

Resolved, That if the commissioners on the part of the United States and Georgia shall meet agreeably to the provisions of the preceding resolution, and shall fail to effect the object of their appointment, that it is desirable that they report, and recommend terms and conditions on which the said disputed and unsettled line ought to be fully and finally settled. If, therefore, the federal government shall give authority to the commissioner appointed by said government to make such recommendations to the said government, that his excellency the governor be, and he is hereby, requested to give to the commissioner on the part of Georgia instructions to join in such recommendation, if they should agree that the same is just and proper.

Resolved, That, should Congress, at its ensuing session, refuse or neglect to make provision for running out and plainly marking the said line, by the appointment of a commissioner to meet the commissioner who may be appointed on the part of Georgia, that his excellency the governor be; and he is hereby, authorized and requested, as soon after the adjournment of the next session of Congress as may be consistent, to appoint two commissioners, and an artist, and surveyor, to meet as early after their appointment as may be convenient, and run out and plainly mark the said line dividing Georgia from the Territory of Florida, from the junction of the Flint and Chattahoochee rivers to the head of the St. Mary's river, agreeably to the second article of the treaty between the United States and Spain, of the 27th day of October, 1795; and that his excellency the governor do, in such case, inform the President of the United States of the time at which the commissioners on the part of Georgia will proceed to run out and plainly mark said line.

Resolved, That his excellency the governor be requested to forward a copy of this report and resolutions to our senators and representatives in Congress, to be by them laid before Congress early in the ensuing session, with a request that they may use, in the most earnest manner, every means in their power to get the government of

the United States to meet Georgia by commissioners, with full power and authority finally to settle this long standing and unpleasant controversy.

Read and agreed to, November 19, 1830.

THOMAS STOCKS, *President.*

Attest: JOHN A. CUTHBERT, *Secretary.*

In the House of Representatives.—Read and concurred in.

ASBURY HULL, *Speaker.*

Attest: WM. C. DAWSON, *Clerk.*

Approved 16th December, 1830.

GEORGE R. GILMER, *Governor.*

[21ST CONGRESS, 2D SESSION.]

EXTRACT FROM JOURNAL OF THE SENATE.

(See Senate Journal, 2d Sess. 21st Cong., p. 81.)

IN THE SENATE OF THE UNITED STATES,

January 11, 1831.

“Mr. Troup presented several resolutions of the legislature of Georgia on the subject of the boundary line between that State and the Territory of Florida; and,

“On motion by Mr. Troup,

“*Ordered*, That they lie on the table, and be printed.”

[21ST CONGRESS, 2D SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 2d Sess. 21st Cong., p. 178.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

January 13, 1831.

“*Ordered*, That the Committee of the Whole House, to which is committed the bill (No. 243) supplementary to the act to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia, be discharged, and that the said bill be committed to the Committee of the Whole House on the state of the Union.”

[21st CONGRESS, 2d SESSION.]

EXTRACT FROM JOURNAL OF THE SENATE.

(See Senate Journal, 2d Sess. 21st Cong., p. 89.)

IN THE SENATE OF THE UNITED STATES,
January 14, 1831.

“On motion by Mr. Forsyth,
 “*Ordered*, That the resolutions of the legislature of the State of Georgia on the subject of boundary between that State and Florida be referred to the Committee on the Judiciary.”

[21st CONGRESS, 2d SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 2d Sess. 21st Cong., p. 407.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
March 2, 1831.

“The House resolved itself into a Committee of the Whole House on the amendments of the Senate to the bill (No. 516) entitled ‘An act to ascertain and mark the line between the State of Alabama and the Territory of Florida, and for other purposes;’ and, after some time spent therein, the Speaker resumed the chair, and Mr. Irvin, of Ohio, reported the agreement of the committee to the said amendments.

“The said amendments were then again read, when

“A motion was made by Mr. Wilde to amend the same by adding thereto the following additional sections:

“SEC. . *And be it further enacted*, That the President of the United States be, and he is hereby, authorized, in conjunction with the constituted authorities of the State of Georgia, to cause to be run and distinctly marked the line dividing the Territory of Florida from the State of Georgia, from the junction of the rivers Chattahoochee and Flint to the head of St. Mary’s river, according to the second article of the treaty of the 22d of October, 1795, between the United States and Spain; and for that purpose he is authorized to appoint a commissioner or surveyor, or both, as, in his opinion, may be necessary.

“SEC. . *And be it further enacted*, That, if the commissioner on the part of the United States and the commissioner on the part of the State of Georgia should find it impossible to agree upon the true line, they shall propose, adjust, and recommend to their respective governments the terms and conditions on which the said disputed line ought to be fully and finally settled; and, in that event, the

President of the United States is hereby authorized to make immediate arrangements with the proper authorities of the State of Georgia for amicably terminating said dispute by the appointment of an arbitrator to decide the question, or in such other mode as may be deemed most expedient by the President and the State of Georgia.

"SEC. . . *And be it further enacted*, That so much of the act of the 4th of May, 1826, on the subject of the said dividing line, as provides that the same shall be run and marked straight from the junction of the rivers Chattahoochee and Flint to the point designated as the head of the St. Mary's river, by the commissioners appointed under the third article of the treaty of friendship, limits, and navigation between the United States of America and the King of Spain, made at San Lorenzo el Real on the 27th of October, 1795, be, and the same is hereby, repealed.

"SEC. . . *And be it further enacted*, That there be appropriated, for the purpose of defraying the expense of effecting the objects aforesaid, the sum of five thousand dollars, to be paid out of any money in the treasury not otherwise appropriated.

"And the question being put to agree to this amendment,
"It was decided in the negative."

[22D CONGRESS, 1ST SESSION.]

EXTRACTS FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 22d Cong., pp. 56, 70.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
December 15, 1831.

'Mr. White, of Florida, moved the following resolution; which was read, and laid on the table, viz:

"*Resolved*, That the President of the United States be requested to communicate to this House the correspondence between the governor of Georgia and any department of this government, in the years 1830 and 1831, in relation to the boundary line between the State of Georgia and the Territory of Florida."

DECEMBER 19, 1831.

"The resolution moved by Mr. White, of Florida, on the 15th instant, and laid on the table, was read, considered, and agreed to by the House."

[22^D CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 22d Cong., p. 121.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
December 29, 1831.

“The following message, in writing, was received from the President of the United States, by Mr. Donelson, his private secretary, viz:”

[Here follows the message of this date, inserted below, which was read and referred to the Committee on the Judiciary.]

[22^D CONGRESS, 1ST SESSION.]

MESSAGE FROM PRESIDENT ANDREW JACKSON, TRANSMITTING THE INFORMATION REQUIRED BY A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE 19TH INSTANT, IN RELATION TO THE BOUNDARY LINE BETWEEN THE STATE OF GEORGIA AND THE TERRITORY OF FLORIDA.

(See H. R. Ex. Docs., 1st Sess. 22d Cong., vol. 2, No. 43.)

WASHINGTON, *December 29, 1831.*

In compliance with the resolution of the House of Representatives of the 19th instant, requesting the President of the United States to communicate to it “the correspondence between the governor of Georgia and any department of this government, in the years 1830 and 1831, in relation to the boundary line between the State of Georgia and the Territory of Florida,” I transmit, herewith, a communication from the Secretary of State, with copies of the papers referred to.

It is proper to add, as the letter and resolutions on this subject from the governor and legislature of Georgia were received after the adjournment of the last Congress, and as that body, after having the same subject under consideration, had failed to authorize the President to take any steps in relation to it, that it was my intention to present it, in due time, to the attention of the present Congress by a special message. This determination has been hastened, by the call of the House for the information now communicated; and it only remains for me to await the action of Congress upon the subject.

ANDREW JACKSON.

DEPARTMENT OF STATE,
Washington, December 28, 1831.

The Secretary of State, to whom has been referred, by the President, a resolution of the House of Representatives, of the 19th of this month,

requesting the President to furnish that House with a copy of any correspondence which may have taken place in the year 1830 or 1831, between the Executive of Georgia and any department of this government, relative to the boundary line between the State of Georgia and the Territory of Florida, has the honor to transmit herewith, to the President, the copy of a letter under date the 22d of March, 1831, from the governor of Georgia, addressed to the President himself upon the subject in question, together with a copy of the resolution of the assembly of Georgia therein referred to; which letter and resolution were deposited, by order of the President, in this department.

That communication comprehends all the correspondence, within the purview of the resolution of the House of Representatives, which is to be found in this office; but an indistinct recollection is nevertheless entertained here, that the letter of the governor of Georgia was answered by the President, though it does not appear that a copy of his letter was kept.

Respectfully submitted :

EDW. LIVINGSTON.

EXECUTIVE DEPARTMENT, GEORGIA,
Milledgeville, March 22, 1831.

SIR: Congress having failed, at its last session, to make provision for running the dividing line between Georgia and Florida, the legislature of this State has directed me to cause that line to be run by commissioners appointed for that purpose.

The President is informed that commissioners have accordingly been appointed, and received instructions to meet at the town of St. Mary's, on the first of May next, and to proceed, without delay, to run and plainly mark the line from the junction of the Chattahoochee and Flint rivers, to the head of St. Mary's, agreeably to the treaty of 1795, between the United States and Spain.

The opinions and motives of the legislature which induced this proceeding are fully explained to the President in the report and resolutions of that body, copies of which accompany this communication. Since 1827, when it was first discovered that the place fixed upon by Ellicott and Minor did not truly represent the head of the St. Mary's intended by the treaty of 1795, the State of Georgia has been continually urging upon the government of the United States the propriety of causing such an examination and survey to be made as would terminate the uncertainty as to the place which ought to be so considered.

The State does not desire the acquisition of any territory, and claims none but what is believed to be secured to it by the highest evidence of title. The obligation, therefore, is imperative upon those who administer the government of the State, to preserve its territory inviolate. The boundary described in its constitution is the same, from the junction of the Chattahoochee and Flint rivers to the St. Mary's, as that which formed its dividing line from East Florida when Georgia was a colony of Great Britain. By the proclamation of the King

of Great Britain, in 1763, forming the governments of East and West Florida, and extending the southern boundary of Georgia, that line was described as running from the junction of the Chattahoochee and Flint rivers to the source of the St. Mary's. By the commission granted to Governor Wright, in 1764, the same line is described as extending to the southernmost stream of the St. Mary's. By the definitive treaty of peace of 1783, Great Britain ceded to Georgia as an independent State, and as one of the parties to that treaty, all the territory which belonged to it when it ceased to be a colony. The line in question was described in that treaty as running from the junction of the Chattahoochee and Flint rivers, straight, to the head of the St. Mary's. By the term head of the St. Mary's, as used in that treaty, was understood the same place which was described in the proclamation of 1763, and in the commission to Governor Wright, in 1764, as the source or most southern stream of the St. Mary's. The same must be intended to have been meant by the term the head of the St. Mary's in the treaty of 1795, because it corresponds exactly with the description of the same place in the treaty of 1783, and because, although there were disputes between the United States and Spain, and the United States and Georgia, as to the boundary line between that State and West Florida, none are believed to have existed as to the line between Georgia and East Florida. If, therefore, the place fixed upon by Ellicott and Minor does not truly represent the head of the St. Mary's, surely the United States ought not to insist upon its being so considered, especially since Florida has become a part of its own territory.

In communicating to the President, by the request of the legislature, the appointment of commissioners, and the time when they are instructed to proceed to run the line from the junction of the Chattahoochee and the Flint rivers to the head of the St. Mary's, I have thought it my duty to present this brief justification of the course which has been pursued by the State in ascertaining the extent of her territorial rights.

Very respectfully, yours,

GEORGE R. GILMER.

To the PRESIDENT OF THE UNITED STATES.

[The report and resolutions of the legislature of Georgia relative to the boundary between that State and Florida, accompanying the foregoing message, are omitted here, having been inserted in a previous part of this compilation.]

WILLIAMSON'S HOTEL,
December 21, 1829.

DEAR SIR: Though still detained in my room, I have made inquiries respecting Mr. Ellicott's report; and, knowing that the map accompanying it could only have been wanted at the treasury as con-

nected with the public surveys adjacent to the line, my inquiry was directed to the Land Office.

Mr. Robert King, who has been the draughtsman attached to that office ever since 1803, recollects perfectly well Mr. Ellicott's map of the line; that it was deposited in the office, and that Mr. Freeman, who was once surveyor general of the public lands south of Tennessee, took a copy of it. The original remained in the office till the year 1812, and for some time later, when Mr. Tiffin, Commissioner of the Land Office, lent it, for some public purpose, to the chairman of a committee of Congress, probably a land committee. The map never was returned; and, if burnt, it was, together with the records of Congress, in the Capitol. You may, however, inquire from the clerks of the two houses, as Mr. Tiffin was Commissioner subsequent to the capture of Washington, and Mr. King does not recollect the precise date when the map was loaned by him.

I beg leave to suggest—

1. An application to Mr. Graham, that a search may be made in his office for the report, which may possibly be there.
2. A request that he will direct Mr. Freeman's successor to send back the copy of the map which he had taken.
3. That Mr. King's evidence may be perpetuated, as he is old and infirm.

It is possible, though not probable, that when the map, of which I have myself no recollection, was obtained from the Department of State for the purpose aforesaid, I took the report home to read, and neglected to return it. I have lost none of my papers; and, on my return to New York I will make a thorough search. If there, it must be bound, and have got mixed with pamphlets; for, as to *public papers*, they were, as such, all returned when I left Washington.

Respectfully, your obedient servant,

ALBERT GALLATIN.

The Hon. JOSEPH M. WHITE,
Of Florida, in Congress.

GENERAL LAND OFFICE, *March 2, 1830.*

SIR: In answer to your inquiry respecting the map of the line between the Floridas and the United States, called Ellicott's line, I beg leave to observe, that, in the summer of 1802, Mr. Thomas Freeman (who was surveyor of that line with Mr. Ellicott) was employed to make a map exhibiting the country north of that line, for the use of the Treasury Department, whereon the line was accurately delineated as the basis for said map. I was frequently with him during the time he was employed on it; and, to the best of my recollection, he took it from another which appeared to have been drawn by him as surveyor, and which might have been the original. All this was previous to my appointment as draughtsman, which was in April, 1805. At that time, the map by Mr. Freeman was in the office, and remained there until loaned by Mr. Tiffin to a committee of Congress, or the commis-

sioners appointed to settle the Yazoo claims, (I think the latter,) and never has been returned.

I do not recollect that the original plat signed by the commissioners appointed to run the line was ever on file with the maps belonging to the General Land Office, as the copy alluded to was all that could ever be wanted in this office.

It is probable that a copy may be found at the topographical bureau of the War Department.

The journal of Mr. Ellicott, I believe, was published in 1803, with the map, &c., and may be in the Congress library.

I am, sir, your obedient servant,

ROBERT KING,

Draughtsman, General Land Office.

The Hon. JOSEPH M. WHITE,

Of Florida, House of Representatives.

[All the subsequent papers accompanying the foregoing message are omitted here, having been previously inserted in another part of this compilation.]

[22D CONGRESS, 1ST SESSION.]

EXTRACT FROM THE JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 22d Cong., p. 158.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
January 6, 1832.

“ Mr. Davis, of South Carolina, from the Committee on the Judiciary, to which was referred the message of the President of the United States, of the 29th of December, ultimo, reported a bill (No. 221,) supplementary to an act entitled ‘ An act to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia ;’ which bill was read the first and second time, and committed to a Committee of the Whole House to-morrow.”

[22D CONGRESS, 1ST SESSION.]

Mr. DAVIS, of South Carolina, from the Committee on the Judiciary, reported the following bill :

A BILL supplementary to the act entitled “ An act to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia.”

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the

United States be, and he is hereby, authorized, in conjunction with the constituted authorities of the State of Georgia, to cause the line dividing the Territory of Florida from the State of Georgia to be completed, under the provisions of the act entitled "An act to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia," passed on the fourth day of May, one thousand eight hundred and twenty-six; and for that purpose, he is hereby authorized to appoint a commissioner or surveyor, or both, as, in his opinion, may be necessary.

SEC. 2. *And be it further enacted*, That for the purpose of carrying this act into execution, the sum of three thousand dollars be, and the same is hereby appropriated, to be paid out of any money in the treasury not otherwise appropriated.

SEC. 3. *And be it further enacted*, That if the constituted authorities of the State of Georgia fail or refuse to unite with the United States government in running and marking said line, according to the provisions of the act passed the fourth of May, one thousand eight hundred and twenty-six, then, and in that case, the President is authorized and required to cause to be run and marked, and draughts or maps to be made of the line, in conformity with the direction of said act; which said draughts and maps shall be certified by the commissioner so employed on the part of the United States, and deposited in the General Land Office.

[22^d CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 22d Cong., p. 386.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
February 20, 1832.

"Mr. Joseph M. White presented a report and resolutions of the legislative council of Florida, soliciting that provision be made for running the line between that Territory and the State of Georgia; which report and resolutions were committed to the Committee of the Whole House, to which is committed the bill (No. 221) supplementary to an act to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia."

[23^d CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 23d Cong., p. 223.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
January 20, 1834.

"On motion of Mr. White, of Florida,
"Resolved, That the Committee on the Judiciary be instructed to

inquire into the expediency of providing, by law, for running and marking the boundary line between the State of Georgia and the Territory of Florida.”

[23D CONGRESS, 1ST SESSION.]

EXTRACT FROM THE JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 23d Cong., p. 276.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
February 4, 1834.

“Mr. Bell, from the Committee on the Judiciary, which was instructed, on the 20th of January, ultimo, to inquire into the expediency of providing for running and marking the boundary line between the State of Georgia and the Territory of Florida, reported a bill (No. 270,) supplementary to the act entitled ‘An act to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia,’ passed the 4th day of May, 1826; which bill was read the first and second times, and committed to a Committee of the Whole House to-morrow.”

[23D CONGRESS, 1ST SESSION.]

Mr. BELL, from the Committee on the Judiciary, reported the following bill:

A BILL supplementary to the act entitled “An act to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia,” passed on the fourth day of May, eighteen hundred and twenty-six.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized, in conjunction with the constituted authorities of the State of Georgia, to cause the line dividing the Territory of Florida from the State of Georgia to be completed, under the provisions of the act entitled “An act to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia,” passed on the fourth day of May, one thousand eight hundred and twenty-six; and for that purpose he is hereby authorized to appoint a commissioner or surveyor, or both, as, in his opinion, may be necessary.

SEC. 2. *And be it further enacted,* That, for the purpose of carrying this act into execution, the sum of three thousand dollars be, and the same is hereby appropriated, to be paid out of any money in the treasury not otherwise appropriated.

SEC. 3. *And be it further enacted*, That if the constituted authorities of the State of Georgia fail or refuse to unite with the United States government in running and marking said line, according to the provisions of the act passed the fourth of May, one thousand eight hundred and twenty-six, then, and in that case, the President is authorized and required to cause to be run and marked, and draughts or maps to be made of the line, in conformity with the direction of said act; which said draughts and maps shall be certified by the commissioner so employed on the part of the United States, and deposited in the General Land Office.

[23D CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 23d Cong., p. 295.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
February 8, 1834.

“Mr. Gilmer moved the following resolution, viz :

“*Resolved*; That the President be requested to communicate to this House all papers which he may have received from, or correspondence which he may have had with, the Executive Department of Georgia, upon the subject of the boundary line between the State of Georgia and the Territory of Florida, which has not already been communicated to this House.

“The House, by consent, proceeded to the consideration of the said resolution, and agreed thereto.”

23D CONGRESS, 1ST SESSION.

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 23d Cong., p. 323)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
February 14, 1834.

“Two messages, in writing, were received from the President of the United States by Mr. Donelson, his private secretary, as follows:

[Here follows the message of the 12th instant, as below.]

“*Ordered*, That the said message do lie on the table.”

[23D CONGRESS, 1ST SESSION.]

MESSAGE FROM PRESIDENT ANDREW JACKSON, TRANSMITTING A REPORT FROM THE SECRETARY OF STATE IN RELATION TO THE BOUNDARY BETWEEN GEORGIA AND FLORIDA.

(See H. R. Ex. Docs., 1st Sess. 23d Cong., vol. 3, No. 100.)

WASHINGTON, *February 12, 1834.*

I transmit to the House of Representatives a report from the Secretary of State, in relation to the subject of a resolution of the 8th of this month.

ANDREW JACKSON.

DEPARTMENT OF STATE,
February 12, 1834.

The Secretary of State, to whom has been referred by the President a resolution of the House of Representatives of the 8th instant, requesting the President to communicate to that House all papers which he may have received from, or correspondence which he may have had with, the Executive Department of Georgia, upon the subject of the boundary line between the State of Georgia and the Territory of Florida, which have not already been communicated to that House, has the honor to state that the files of this office furnish no papers communicated by said Executive Department to the President, in relation to the subject mentioned in the resolution, other than those heretofore sent to the House, in compliance with its resolution of the 19th of December, 1831; and that no correspondence of the President with said Executive Department, in relation to that subject, appears on the records of this office.

LOUIS McLANE.

To the PRESIDENT OF THE UNITED STATES.

[23D CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 23d Cong., p. 389)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
March 6, 1834.

“Mr. Gilmer presented sundry documents in relation to the boundary line between the State of Georgia and the Territory of Florida, which documents were committed to the Committee of the Whole House, to which is committed the bill (No. 270) supplementary to the act entitled ‘An act to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia,’ passed on the 4th day of May, 1826.”

[23D CONGRESS, 1ST SESSION.]

DOCUMENTS RELATIVE TO THE DIVIDING LINE BETWEEN GEORGIA AND FLORIDA.

(See H. R. Ex. Docs., 1st Sess. 23d Cong., vol. 3, No. 152.)

Extract from the annual message of the Governor of the State of Georgia to the General Assembly, in the year 1831.

“The Congress of the United States having failed, at its last session, to accept the terms proposed by the legislature for the ascertainment of the dividing line between this State and the Territory of Florida, I proceeded to cause that line to be run by two commissioners, an artist and surveyor, as directed by your resolutions. The President was informed of the time and place of their meeting to enter upon the discharge of this duty, and in answer stated his intention of laying the subject before Congress at its next session.

“The commissioners, after the most accurate examination of the different streams which form the river St. Mary’s, and the surrounding country, came to the conclusion, upon evidence which is believed to be entirely satisfactory, that the St. Mary’s, as defined in the treaty of 1795, is to be found at the source of its middle or western branch; that stream being longer, having more water, and agreeing better with contemporaneous opinion than either of its branches. The quantity of land between the line run by the commissioners and that from the junction of the Chattahoochee and Flint rivers, to the place designated by Ellicott and the Spanish commissioners for the head of St. Mary’s, is one million three hundred thousand acres. Most of it is exceedingly sterile, but intersected occasionally with tracts of very productive soil. Much of that which is valuable has been sold and granted by the United States. It will therefore be necessary for you to have the title tried, and direct the manner in which the territory is to be disposed of if the determination shall be in favor of the State.”

To his Excellency GEORGE R. GILMER:

SIR: The undersigned, appointed by your excellency, agreeably to a resolution of the general assembly, to ascertain the true head of the St. Mary’s river, and thence to run out and mark to the junction of the Flint and Chattahoochee rivers the boundary line between the State of Georgia and the Territory of Florida, having performed the duties assigned them, respectfully submit the following report of their proceedings:

The question, which is the true head or principal stream of the St. Mary’s river, being, both in point of fact and general opinion, limited to the three branches into which it is ramified at the distance of about 100 miles from its mouth, and which are usually known as the north,

middle or west, and south prongs of the St. Mary's river, our examinations were directed and confined to them.

On the 18th of May the expedition arrived in the vicinity of the north branch, and from that time until the 8th of June we were engaged in examining it to its confluence with the south branch; the latter to its head, and the middle or west branch from its junction with the north to its source in Lake Randolph. Accurate surveys* were made by Mr. Thomas of the north and middle branches; and he would have been directed to execute one of the south branch, had not that work been already performed by the late Mr. McBride, and had it not been found, by a general examination of that stream, unnecessary, in order to decide on the true head of the river, and imprudent, from the advanced state of the season and the ill health of the party.

The discharges of water, and the areas of the channels,† whenever a comparative examination was deemed requisite, were ascertained with care and exactness by Mr. Camak, who, in the selection and number of the points of observation and in the repetition of the experiments, avoided, as far as practicable, the sources of error arising from partial circumstances.

The scientific attainments and habitual accuracy of the latter gentleman, and the skill, experience and fidelity of the former, have insured that full and able discharge of the labors intrusted to them, which was to have been anticipated; and in submitting the results to your excellency, it is done with the strongest assurance of their accuracy.

In addition to the operations of the artist and surveyor, a minute and extensive examination, aided by the best local guides, and all the information which was accessible, was made as far as it was deemed necessary, in order to decide on the relative importance of the three branches, their tributary streams, the swamps connected with them, and of the general features of the surrounding country.

The examinations were made under circumstances the most favorable for accuracy, as, during the time occupied in them there was no rain, and none had occurred from the middle of April. About that time, a storm of unusual violence and extent had raised all the water-courses throughout the southern part of Georgia and Florida to an almost unprecedented height; and from that time to our arrival, the waters of the St. Mary's had been gradually subsiding, and were then in a state lower than their usual average height.

A small drain, called the Hog-pen branch, having been pointed out as the longest of those which form the north branch of the St. Mary's river, the survey and examination of that stream were commenced at its head.

The general course of the north branch, from the source of the Hog-pen branch to Ellicott's mound B, a distance of six and a quarter miles, is something south of west; half a mile further it becomes nearly south, and that direction is kept for three miles, when, after

* See the accompanying chart (A.)

† See the report of scientific observations (B.)

receiving the Alligator creek, which falls into it from the west, the stream pursues a S. S. E. course to its confluence with the middle branch, nineteen and three-quarter miles from its head. The country lying to the south, from the head of the Hog-pen branch to the Alligator creek, is a low pine barren of unusual flatness, and almost covered with a net-work of cypress glades, savannahs, ponds and bays. It occupies a space of about seven miles in length by three in breadth, and discharges its redundant waters into the north branch by several shallow drains, the most extensive of which, known as the River of Sticks, has by some persons been erroneously supposed to be the principal stream of the north branch. From the lowness and flatness of the land of this section, its surface passes alternately from the extremes of wet to those of dryness; being either, during seasons of heavy rains, a continued sheet of water, or, on the occurrence of a drought, a thirsty plain.

To the north of the branch, for the distance of one and a half miles west from its head, the country is a low, level pine barren; it then changes into an extensive cypress swamp, which was traced in a N. N. E. direction for ten or twelve miles, without arriving at its termination. The channel of the branch passes through the southern skirt of this swamp, which is here a cypress flat, for a distance of five miles, when the swamp recedes from it to the north and west, and leaves an intermediate strip of low pine land, varying in width from one to two miles, through which several small drains and narrow bays pass, connecting the swamp for a further distance of one and a half miles with the north branch.

Below this point no further connexion exists, and the pine land becomes more elevated, until, a quarter of a mile below the old Indian crossing-place, the Pine Log, it again sinks at the junction of the Alligator creek with the north branch.

As the opinion has, within a few years, been held by many persons, that the St. Mary's river is unconnected by any of its branches with the Okefenokee swamp; and as the connexion, if any, must exist at this part of the north branch, our examinations were particularly directed to ascertain whether the swamp, which we had found to communicate with it, was separated by any dividing ridge from that which is usually known as the Okefenokee. For this purpose the best local guides were procured, among whom were two who had previously believed in the existence of such ridge, and beginning at the Hog-pen branch, the swamp communicating with it, and lying to the north, was twice carefully examined along its eastern border, for a distance of about ten miles, in search of some opening by which it might be passed. None, however, could be found; and, as it grew deeper and more impervious, the farther it was traced, and terminated in what is popularly known as the Okefenokee, the pursuit in this direction was abandoned. The next object of inquiry was to ascertain whether a ridge was to be found between the Okefenokee and the swamp mentioned as communicating by small drains with the north branch. Commencing at the southern edge of the swamp, it was traced with care to the north and east, for about seven miles, to its termination at the point where the principal channel of the branch

enters it, without the discovery of any passage. As the north branch passes through the five miles of swamp intermediate between the points examined, it appears that it is in fact connected with a swamp, the border of which was examined for a distance of twenty-two miles, without finding any opening or dividing ridge. This swamp having always been known as the Okefenokee, the conclusion seems to be irresistible that the north branch communicates, as has generally been supposed, with the Okefenokee swamp.

Notwithstanding, however, the connexion which seems thus to be established, the north branch does not appear to be the drain of any considerable portion of this swamp; but, in skirting it to the south and east, to receive the waters of its extreme border only. This opinion is founded upon the facts that the principal channel of the north branch penetrates but a short distance into the swamp; and that the connecting drains are narrow and shallow, and rapidly diminish in size to their origin from the swamp, where all traces of a channel soon cease. The small size of the north branch, below the drains, and the circumstance that they and it not unfrequently go dry, are also inconsistent with the belief that any large portion of the swamp is drained by this stream. This is rendered the less probable by the well established fact, that the Suwanee river forms the great drain of the Okefenokee; that, rising in the pine lands of Ware county, to the north of that swamp, it runs nearly through the centre of it, receiving creeks of considerable size during its passage, and that it flows out from its southwest corner; a river having usually a width of forty yards and a depth of three feet, with a current of considerable rapidity, contrasting strongly with the ordinarily diminutive stream of the north branch of the St. Mary's.

The exact extent of swamp between these two rivers, we had no means of ascertaining; but the probability is that it does not exceed ten miles, the half of which, at least, may be supposed to vent its waters down the Suwanee. The Okefenokee, instead of one deep and continued swamp, broken only by a few islands, as has been generally supposed, being, in fact, an immense net-work of bays, ponds, and swamps, with intervening islands of very low pine land, which together form a chain of swamps rather than a single one, it is highly probable that in so extensive a morass slight elevations, scarcely appreciable to the eye, may divide its waters, and cause them to flow in different directions. While the character of the swamp is, therefore, favorable to the belief that such a division exists, as to cause a small part of its waters to flow into the north branch of the St. Mary's river, it is at the same time adverse to the opinion that at any point a high dividing ridge passes through it.

Notwithstanding the fruitlessness of our researches, we would not be understood to assert that the great body of the Okefenokee is not separated by high land from the extensive swamp which we examined; it may, however, be safely advanced that there is no positive evidence of the fact, and that the existence or non-existence of such a division is very immaterial to the subject of inquiry, which is, whether there is a connexion between the north branch of the St. Mary's river and a large swamp usually known as the Okefenokee; and not whether

that has at any point a ridge of high land running through it. The negative evidence is, however, of some weight. The Indians on their journeys from the country lying to the southwest of the Okefenokee swamp, to St. Mary's, used the trail which skirts the swamp to the south, and crossed the north branch at the Pine Log, leaving that part of the stream which we found connected with the swamp to the left. Had a high dividing ridge existed, is it likely that it would have been unknown to them, and that they would not have availed themselves of it to shorten their journeys? This section of country has, moreover, been long pastured by large droves of cattle; and it is well known how sagacious these animals are in discovering passages through swamps, wherever practicable: yet Mr. Barber and others, although annually engaged in herding stock in this very district of country, have, in the minute searches required in this pursuit, been led by no trail to the discovery of such a ridge. Mr. Dyall, who was reported to have a knowledge of the ridge, when questioned, said that by it he meant, and others with whom he had conversed on the subject also meant, nothing more than that, during a season of great drought, a dry passage might be found between the north branch and the swamp, across the small drains already described as connecting the two, and through the cypress swamp beyond them. Of this we entertain no doubt; and the probability is that in some such misapplication of language the reported existence of a dividing ridge has originated.

The Alligator creek, which unites with the north branch ten and a quarter miles below the head of Hog-pen branch, and nine and a half miles above the middle branch, is its principal tributary stream. It is inferior in size to the north branch; and on the 20th of May, the volume of water discharged from it per minute, at the point of junction, was 556 cubic feet, while that of the latter was 845 cubic feet. No survey was made of this creek; but, from a general examination and information obtained, it was found to extend in a west direction from eight to ten miles, and to pass along the border of the Okefenokee swamp to the south, in the same way as the north branch does.

From the Alligator creek to the middle branch, the country through which the north branch passes is moderately elevated; and several small branches occur; none of which, however, are worthy of any notice, as their usual length is only from one to three miles. In approaching the point of junction with the middle branch, the north branch rapidly increases in size. The occurrence here of ravines, or waterways, parallel to, and communicating with, the principal channel, together with masses of drift-wood, both on the banks and across the bed of the stream, show that during the highest freshets the water spreads out over the adjoining land; and that at such times it assumes the character of a torrent, and discharges a large volume of water. These indications of a great occasional discharge form a strong contrast with the small quantity of water usually passing down its channel; an alternative, however, from the fullness of the torrent to the scantiness of the rill, which is the necessary effect of the flat and low country from which its waters are principally derived, and of the cir-

cumstance that its branches are nearly equal in length, and radiate as it were from a common centre.

From the first cause it happens, but little rain being required to saturate the ground, that the great body of it runs, immediately as it falls into the branches, and swells them for a short time to a great size. When, however, this flood has passed off, and the surface moisture has evaporated, which soon takes place when a thin sheet of water is freely exposed to the rays of the sun, no spring existing, the only permanent supply is reduced to the scanty percolations from ponds and swamps. The tendency of the depressed surface of the country to produce sudden and temporary rises of water, is much increased by the comparative equality in length and the opposite courses of the two principal streams which form the north branch. The rain which falls on the low districts drained by them, arriving almost simultaneously at their point of confluence, produces a temporary glut, which could not occur to the same extent where a single stream of greater length drains an equal surface of country. In the latter case, the water from the lower districts being partially discharged before that from the upper can come down, the rise in the stream, although of longer continuance, will at no time be so great.

The channel of the north branch, immediately above its union with the middle branch, has an average depth from the top of the banks of about 10 feet, with an average section the area of which is 464 square feet. On the 26th of May, 14 feet only of this space were occupied by the current of water; which, flowing with a mean velocity of 66 feet per minute, discharged during the same time 950 cubic feet of water. The extent of country drained by this branch may be estimated at about 174 miles. This calculation, which is founded on the lengths of the water-courses, and the average breadth of the country drained by them, is without that precision which can only be obtained by a minute and extensive survey of the whole country: it is, however, believed to be a tolerably near approximation to the truth; and, as the same principles are adopted with respect to the other branches, the error, whatever it may be, will not affect the correctness of the comparison.

The middle or west branch forms the drain of the country lying to the south of the Okefenokee swamp, and between it and the south branch; it rises farther to the west than any other of the headwaters of the St. Mary's river, and has its source in Lake Randolph, usually known as the Ocean pond. This lake is a sheet of clear water, nearly circular, two miles in diameter, and with an average depth of from 8 to 10 feet. The surrounding country is elevated but a few feet above the level of the lake, and drains into it for several miles, except to the southeast and south, when the headwaters of the Oaluskee, a tributary of the Santa Fe, approach to within a mile. The redundant waters of the lake are discharged into the middle branch by several drains which, with the intervening morass, occupy a portion of the border of nearly a mile in length. At their points of connexion with the lake these drains are deep and wide: they, however, gradually diminish in size; and at the distance of two and three-quarter miles, after having previously united into one stream, the branch formed by

them leaves a deep cypress swamp, which extends from the lake to that point, and passing by a shallow channel, varying in width from 50 to 100 feet, through a low pine barren, it enters Gum swamp five miles from the lake. Between the 2d and 5th of June, when our examination was made, there was water in the channel, and a perceptible current from the lake to the termination of the cypress swamp. Thence to the Gum swamp the channel was dry, and at the latter point the water was again found to flow. On the 16th of August, when the expedition returned to this point, a stream of water from 30 to 40 feet wide and 6 inches deep was found flowing with a brisk current through that part of the channel which had previously been dry. Gum swamp, through which the middle branch passes for ten miles, is a deep and extensive swamp, connected to the west with a long chain of ponds and swamps, which are said to reach to within ten miles of the Suwanee river. The drain by which these waters are discharged into the middle branch was followed up for several miles, until it was found to end in a shallow swamp. After leaving Gum swamp, the country, which from Lake Randolph is flat and low, becomes gradually higher, and a number of small, clear, running branches fall into the middle branch. Little river, a bold creek, flows into it about 26 miles below Lake Randolph, and is its principal tributary; in size it is about one-third of the branch, and was reported to extend about 6 miles in a northwest direction. From this point to the junction of the middle with the north branch, which is 33 miles from the head of the lake, the country becomes still higher, and is intersected with several small branches. On approaching the confluence of these two streams, the water channels, drift-wood, and other indications of a large discharge of water, previously described, are to be met with on this branch. In these respects, and in general size, the two streams are so nearly alike, that their comparative superiority is to the unassisted eye a matter of doubt. Resorting to measurement, the channel of this branch immediately above the junction was found to have an average sectional area of 493 square feet, of which the water occupied only 20 feet. The volume of water discharged on the 26th of May was 1,584 cubic feet, and the mean velocity of the current 78 feet per minute. The country drained by it and its tributaries may be estimated at 250 square miles. If with these data the north is compared with the middle branch, it will be perceived that the latter is superior to the former in length, surface of country drained, volume of water discharged, and sectional area of channel; the first being as 33 to 19 $\frac{3}{4}$, the second as 250 to 174, the third as 1,584 to 950, and the last as 493 to 464. That the same relative difference does not exist in the last circumstance as in the others, may be explained on the principle that, in a country of a loose and friable soil, the size of the channel is dependent on the greatest, and not on the habitual discharge of water. It has already been attempted to show why the north branch, being more central to the district which it drains, should, in discharging the same quantity of water, effect it in a shorter time and in a greater volume than another stream, which, like the middle branch, although draining a more extensive tract of country, is yet longer, and passes through a region of greater elevation.

The conclusion to which we arrived, of the superiority of the middle branch, is supported by the concurrent belief of the most intelligent inhabitants of the country, who coincide, without exception, as far as our inquiries extended, in the opinion that although partial rains affect the relative sizes of the two, yet the middle branch does ordinarily, and during the course of the year, discharge much more water than the north, and is in fact the larger stream. Having been led to the conclusion that the middle branch is larger than the north, the next object of inquiry was whether the stream formed by their united waters was inferior or superior to the south branch.

After the confluence of the two branches, the river formed by them, which we shall designate as the north branch, winds by a very circuitous course through a country of somewhat increasing elevation, for a distance of $11\frac{3}{4}$ miles to its junction with the south branch, receiving in its progress several small streams, none of which are worthy of notice except Cedar creek, which enters into it from the right bank $5\frac{3}{4}$ miles below the middle branch, and a short distance above Elliott's mound of observation A. This creek drains the country lying between the north and middle branches, and is about 12 miles in length. The channel of the north branch throughout this distance is much obstructed by drift-wood, and exhibits strong evidence of a great and unequal discharge of water. Bars of sand are thrown up, and deep holes scooped out in continued succession along the whole length of the channel, producing alternately expanses of deep and sluggish water, or shallow and rapid currents. At a short distance above the confluence of the south branch, the average of three sections of the channel of the north gave an area of 763 square feet; of which $37\frac{1}{2}$ only were occupied by water. At the same point, on the 29th of May, the mean velocity of the current was 105 feet per minute, and the volume of water discharged was 3,957 cubic feet. The surface of country drained by the north and middle branches, the united waters of which, together with that by Cedar creek, here form the north branch, may be estimated at 546 square miles.

The south branch is a stream widely differing in its general character and appearance from those which we have already described. Its waters, instead of the warmth and brown color of those of the north and middle branches, which show that they have been derived from the low lands, swamps, and ponds, were, at the time of our examination, cold and clear, indicating their origin to have been in the springs of a more elevated country. Its narrow channel, uniformity of bed, and velocity of water, and the comparative absence of drift-wood and ravines, are all proofs of a stream more uniform in its discharge of water, and less subject to sudden and great alternations than the north branch. The causes of this difference are readily found in the undulating surface and elevation of the country through which it passes for the greater part of its course, particularly that portion of it which lies near its mouth, and to the south. This formation, which abounds in small spring branches, extends about two-thirds of its whole course. In ascending this branch, it rapidly diminishes in size, and within five miles of its mouth the channel is so narrow that trees of a moderate size interlock across it. Above Turkey creek, which is

about eight or ten miles from the junction, it becomes a very inconsiderable stream, with a narrow and shallow channel, and a run of water so small as to admit of being easily straddled. Turkey creek, which is the most important of the streams falling into this branch, has its source from six to eight miles to the south. Its channel is in size about one-fourth of that of the south branch, notwithstanding which inferiority, the volume of water passing down it was on the 30th of May 175 cubic feet, while that from the latter did not exceed 113 per minute.

About sixteen miles from its mouth, the running water of this branch was diminished to a stream a foot in width, with a depth of a few inches, oozing through a bed of moss and grass which obstructed a shallow channel of from ten to fifteen feet wide, and two deep; at a mile above, the channel was dry and dusty; immediately beyond the latter point, the country becomes low, and the channel of the stream is lost in a chain of swamps, bays, and ponds, which, after diverging from each other, and covering the country for a distance of nine or ten miles with their various ramifications, reunite a short distance from Lake Spalding, and communicate with it by a narrow and shallow channel. This channel was at the period of our examination quite dry, and, from its size and the general indications around, the current of water passing down it must, during even the most rainy seasons of the year, be small. Lake Spalding, which by a traverse was ascertained to lie between four and five miles to the S.S.E. of Lake Randolph, resembles the latter in its general appearance, with water, however less clear, the surrounding land more swampy, and a surface of small extent. As no instrumental survey was made of this branch during the expedition, the distances given have been taken either from Mr. McBride's chart, or on those which are received as the true ones by the inhabitants of the neighborhood. Assuming the total length to be thirty miles, as stated by Mr. McBride, the surface of country drained by it may be estimated at two hundred and twenty-two square miles. The mean of three sections of the channel, near its junction with the north branch, gave an area of four hundred and twenty square feet, twenty of which were only occupied by water. The mean velocity of the stream was, on the 29th of May, 71 feet per minute, and the volume of water discharged during the same time was 1,450 cubic feet. Instituting a comparison between the north and south branches, it appears that the former is to the latter in length, from the head of the middle branch to the confluence, without including the north branch proper, and excluding also Cedar creek, as $44\frac{1}{2}$ miles to 30, in surface of country drained as 546 miles to 222, in volume of water discharged as 3,957 cubic feet to 1,450, and in sectional area of channel as 763 square feet to 430: a superiority, in reference to every criterion of size, so very great and manifest as to admit of no doubt in arriving at a decision unfavorable to the south branch.

It will be perceived, on reference to Mr. McBride's report of the examinations made by him in July, 1826, that a difference exists between the comparative discharges of water by the two streams, as observed by him and ourselves; the volume of water from the north branch being at that time only 993 cubic feet, while from the south it

was 1,369 per minute. The discrepancy is, however, not at all surprising, when it is recollected that he visited this region during a period of extraordinary drought, at a time when, the surface waters of the country being dried up, the south branch, from the greater number of spring branches flowing into it, might be expected to contain a larger mass of water. It is also possible that the relative size of the streams might have been influenced by a greater fall of rain on the country drained by the south branch, at a period not very remote from that of his examination. These disturbing causes, with others, render any comparison of the two streams, which is founded exclusively in a few observations of the quantity of water discharged by them, so very fallacious, as to be of no value unless the measurements are made under very favorable circumstances, and then the results are to be regarded only as facts useful as accessories, but, separately, inconclusive.

The examinations of the three branches having resulted in the conclusion that the middle or west was the true head of the St. Mary's river, we decided on a point on the southern border of Lake Randolph as the eastern extremity of the boundary line. Our reasons for this selection were, that this point is in the general direction of the stream, opposite to the outlet of the lake, and that a line connecting the two divides the lake into two equal parts; thus corresponding with the conditions of the treaty of peace with Great Britain of 1783, and of that with Spain of 1795, both of which define the course of the boundary line between Georgia and Florida to be "to the head of the St. Mary's river; and thence, down along the middle of the St. Mary's river, to the Atlantic ocean."

From this point the guide or random line was commenced on the 8th of June, and, owing to the daily occurrence of rain, was only finished on the 18th of July. On the latter day the true line was begun at the extreme point of the tongue of land between the Flint and Chattahoochee rivers, which is well defined, and terminated on the 16th of August at the point selected on Lake Randolph. The course of the line from the junction of the Flint and Chattahoochee rivers is south $77^{\circ} 49' 32''$ east, subject to a correction of $1^{\circ} 11' 50''$, to be subtracted from the south, to rectify the deviation of the rhomb line from the arc of a great circle, being nearly $29''$ per mile. The length of the line was one hundred and forty-eight miles. The whole was distinctly marked, the line-trees lettered, and the distance noted on the trees, with the exception of that part of it which lies between the seventy-fifth and eighty-second miles, from the western extremity, and another interval of one and a fourth mile, about the sixty-ninth mile. These sections lying through an almost impervious morass, and containing at the time a depth of from three to four feet of stagnant and almost putrid water, could only have been run and marked at the imminent risk of the lives of the party, then diseased and nearly broken down by their long continued exposure, during a sickly season, to incessant rains, a tropical heat, and all the difficulties of a country peculiarly unfavorable for such operations. The omission was submitted to with the less reluctance, as, from the general absence of trees, the course of the line could scarcely have been marked, and the

character of this section forbids the idea of its ever being reclaimed from its present state. Should it, however, be deemed necessary, the deficiency may, at a more favorable season, be supplied by a common surveyor, who will only have to connect two distinctly marked points. By the present selection of the eastern extremity of the boundary line, the territory embraced within the limits of the State of Georgia, beyond that which it would contain if the point designated by Ellicott were established, is about two thousand square miles, or nearly 1,300,000 acres, being a triangle, the north side of which is about one hundred and fifty-eight miles long, the southeast twenty-nine and a quarter, and the southwest one hundred and forty-eight. The territory embraced within these limits is, in proportion to its extent, of very little agricultural value. That portion which lies about the head streams of the St. Mary's river, a flat and low district of pine land, offers generally a good pasturage for stock, but, from its want of elevation and fertility, affords but a few spots, widely separated, that are fit for tillage. In approaching the Suwanee river, the country becomes more elevated, but its general character of sterility continues until about twenty miles west of it. The Hickstown track offers the first extensive body of rich lands. Thence to the Ocilla river the country is low, and thickly studded with ponds and bays. Between the Ocilla and Ochlochney rivers lies a district of country, which, although generally objectionable on account of its hilly surface, and containing much land that is poor, is yet, on the whole, one highly favorable to agriculture. Within it, particularly near the lakes Mickasuky, Yamonnia, and Jackson, are extensive tracts of rich oak and hickory lands, and considerable bodies of valuable hammock. From the Ochlochney to Flint river, elevated pine lands of good quality predominate, with strips of rich hammock on Little river, Attapulgus Swamp creek, Wythlacoohie, and other streams, which, thickly intersecting this district, make it the best watered of any through which the line passes.

The discussions on the subject of the boundary line having given importance to the question, whether either of the branches had been popularly and exclusively called the St. Mary's river, our inquiries were directed to procure testimony with reference to it. The country in which these streams are situated having been but recently settled, and the adjoining territory of Georgia at all times very sparsely inhabited, the sources of information were found to be very defective. We were, however, assured by Major Clark, whose long residence in St. Mary's, and familiar acquaintance with the country, entitle his opinion to the greatest weight, that neither of the branches has, within his knowledge, been exclusively called the St. Mary's river, or head stream of it; but that, on the contrary, they have always been spoken of as the north, middle, or west and south prongs of the St. Mary's. Mr. Israel Barber, who has resided twenty-six years in the vicinity of the north branch, and who was the first white settler of that part of the country, as well as every individual questioned on this subject, concurred in this statement. The fact that at the present time these streams are universally spoken of as the branches or prongs of the St. Mary's, and neither exclusively as that river, is a

negative evidence of some weight on the subject, as it is not probable that any designation which had been originally used would have been discontinued, particularly as Mr. Ellicott's selection of the north branch would have tended to confirm to that stream the sole and exclusive title of the St. Mary's river, had it previously existed.

We have the honor to be, with great respect, your Excellency's most obedient servants,

J. CRAWFORD.
J. HAMILTON COUPER.

[23^D CONGRESS, 1ST SESSION.]

EXTRACT FROM THE JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 23d Cong., pp. 703, 704.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
June 5, 1834.

“The further consideration of the bills numbered 270, 323, and 202, was postponed until to-morrow, the amendments of the Committee of the Whole not having been concurred in by the House.”

[23TH CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE HOUSE OF REPRESENTATIVES.

(See House Journal, 1st Sess. 23th Cong., pp. 132, 133.)

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
December 28, 1843.

“Petitions, memorials, and resolutions, were handed to the Clerk, by Mr. Levy, under the 24th rule, as follows:

* * * * *

“A resolution of the Legislative Council of Florida, on the subject of the boundary line between Florida and Georgia.

* * * * *

“*Ordered*, That the said memorial and resolutions be referred to the Committee on the Territories.”

[29TH CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE SENATE.

• (See Senate Journal. 1st Sess. 29th Cong., p. 125.)

IN THE SENATE OF THE UNITED STATES,
February 2, 1846.

“Mr. Westcott presented resolutions passed by the legislature of the State of Florida, relative to the appointment of a commissioner on the part of the United States, to act with the commissioners on the part of the States of Georgia, Alabama, and Florida, in running and marking the boundary line between those States; which, with documents submitted by Mr. Westcott, in relation to the subject, were referred to the Committee on the Judiciary, and ordered to be printed.”

[29TH CONGRESS, 1ST SESSION.]

RESOLUTIONS OF THE LEGISLATURE OF FLORIDA, IN RELATION TO THE DISPUTED BOUNDARIES BETWEEN THAT STATE AND GEORGIA AND ALABAMA.

(See Senate Docs. 1st Sess. 29th Cong., vol. 4, No. 96.)

Resolutions relative to the appointment of a commissioner to act with commissioners of Alabama and Georgia, to run the boundary line between Florida and the States of Georgia and Alabama.

Be it resolved by the Senate and House of Representatives of the State of Florida in General Assembly convened, That his excellency the governor of Florida be, and he is hereby, authorized to appoint a fit and competent person to act and confer with persons to be appointed by the governors of Georgia and Alabama, to act as commissioners to run and mark a boundary line between the States of Georgia, Alabama, and Florida, in conformity with the treaty of 1795 between the United States and the King of Spain; and his excellency the governor be further authorized to furnish said commissioner, on the part of Florida, with such assistance as may in his opinion be necessary.

Be it further resolved, That the governor of Florida be, and he is hereby, authorized and required to ask the general government, through its proper authorities, to send a commissioner on the part of the United States to confer with the commissioners of Georgia, and Alabama, and Florida, in running and marking said line, and to act as umpire in any disagreement which may occur between them; and that our senators and representatives in Congress be asked to endeavor to obtain an appropriation from Congress to pay the same.

(Adopted by the House of Representatives December 17, 1845; adopted by the Senate December 20, 1845; approved by the governor December 24, 1845.)

STATE OF FLORIDA :

I, James T. Archer, Secretary of State of Florida, do hereby certify that the foregoing is a true transcript from the original in my office.

Witness my hand and the seal of the State, at the Capitol, in
[L. s.] Tallahassee, this 24th day of December, A. D. 1845, and
70th year of American independence.

JAMES T. ARCHER,
Secretary of State of Florida.

EXECUTIVE OFFICE,
Tallahassee, December 25, 1845.

SIR: I herewith enclose you a copy of "resolutions relative to the appointment of a commissioner, to act with commissioners of Alabama and Georgia, to run the boundary line between Florida and the States of Georgia and Alabama," in which "our senators and representatives in Congress are asked to endeavor to obtain an appropriation from Congress to pay the same," when said States shall have acceded to the propositions contained in these resolutions, of which you will be informed.

I have also transmitted copies of these resolutions to the governors of Georgia and Alabama, to the President of the United States, to the Hon. Mr. Levy, and to our representative in Congress.

I have the honor to be, very respectfully, your obedient servant,
W. D. MOSELEY.

Hon. J. D. WESTCOTT,
U. S. Senator from Florida.

EXECUTIVE OFFICE,
Tallahassee, January 3, 1846.

SIR: A communication was received to-day from the governor of Georgia, a copy of which is herewith sent to you.

I shall proceed forthwith to appoint commissioners on the part of this State, with a surveyor and such other agents as may be found necessary to accomplish this long delayed object. You, of course, are apprized of our poverty, and can form a fair estimate of the probable expense attending it. Is there no way of placing the burden upon the purse of the United States? If there be, I should be obliged to you for any aid that you may afford us. I have selected as commissioners on the part of this State, Governors Duval and Branch. They have not as yet advised me of their acceptance.

Very respectfully,
W. D. MOSELEY.

Hon. J. D. WESTCOTT, Jr.,
United States Senator.

P. S.—I have addressed a note to the President, of this date, on the same subject.

W. D. M.

EXECUTIVE DEPARTMENT,
Milledgeville, December 20, [30] 1845.

SIR: I have had the honor to receive yours of the 25th instant, accompanied by a resolution of the general assembly of Florida, in relation to the boundary of that State and of Georgia. I hasten to lay before you a copy of a resolution on the same subject, which the legislature of this State lately passed. This simultaneous movement of both States, acting upon the suggestion of Florida, I trust may be regarded as an earnest of the inclination prompting each State to an early and amicable settlement of their limits.

It will be my purpose to organize the Georgia commission with the greatest despatch, and give notice thereof to your excellency. I shall hope to accomplish this duty in the course of thirty days, and in the mean time shall be pleased to be informed of the corresponding action by the authorities of Florida on this subject.

You will allow me to remark, that the proposition as to the umpire is objectionable, for various reasons; that the federal government is, to some extent, directly or indirectly concerned in the decision of the question of boundary; that the two States have exclusive authority over the question, and may be presumed not only capable but willing to decide it, according to the conceded premises, with mathematical accuracy, and that delay might arise in the execution of the work from a want of congressional action. This latter suggestion is made from the previous course of the federal government, when Georgia desired, as evinced by her legislature through a series of years, to have the question of boundary definitely settled whilst Florida was a Territory.

I will only add, that in relation to the expenses of the commission, on the part of Georgia, the last legislature have made adequate provision.

I have the honor to be, with great respect, your very obedient and humble servant,

GEO. W. CRAWFORD.

His Excellency W. D. MOSELEY, *Tallahassee.*

IN SENATE.

Resolved by the Senate and House of Representatives of the State of Georgia in General Assembly met, That his excellency the governor be, and he is hereby, authorized and requested to appoint two commissioners on the part of this State, to meet such commissioners as may be appointed on the part of Florida, for the purpose of settling the boundary between said States, under such restriction as he may deem necessary.

Agreed to, December 6th, 1845.

ABSALOM H. CHAPPELL,
President of the Senate.

Test: THOS. R. R. COBB,
Secretary of the Senate.

In House of Representatives.—Concurred in, December 23d, 1845.
 CHARLES J. JENKINS,
Speaker of the House of Representatives.

Test: JOHN J. WOOD,
Clerk House of Representatives.

Assented to, December 29th, 1845.
 GEO. W. CRAWFORD, *Governor.*

SECRETARY OF STATE'S OFFICE,
Milledgeville, December 30, 1845.

I certify that the above is a true copy from the original deposited in this office.

[L. s.] Given under my hand and seal of office.
 N. C. BARNETT,
Secretary of State.

[29TH CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE SENATE.

(See Senate Journal, 1st Sess. 29th Cong., p. 127.)

IN THE SENATE OF THE UNITED STATES,
February 2, 1846.

“Mr. Westcott submitted the following resolution; which was considered by unanimous consent, and agreed to:

“*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for the appointment of a commissioner to act on the part of the United States, in the settlement of the boundary lines between the States of Georgia and Florida, and the States of Alabama and Florida, and of providing for the payment of the expenses of settling said lines.”

[29TH CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE SENATE.

(See Senate Journal, 1st Sess. 29th Cong., p. 131.)

IN THE SENATE OF THE UNITED STATES,
February 3, 1846.

“Mr. Westcott submitted a document relative to the disputed boundary line between the State of Florida and the States of Alabama and Georgia, which was referred to the Committee on the Judiciary.”

[29TH CONGRESS, 1ST SESSION.]

REPORT OF THE ATTORNEY GENERAL OF FLORIDA, ON THE BOUNDARY BETWEEN FLORIDA AND THE STATES OF ALABAMA AND GEORGIA.

(See Senate Files, 1st Sess. 29th Congress.)

ATTORNEY GENERAL'S OFFICE,
Tallahassee, October 25, 1845.To Hon. WILLIAM D. MOSELEY,
Governor of the State of Florida:

The boundary between the State of Florida and the States of Alabama and Georgia, about which the Attorney General, by resolution of the last session of the general assembly, was "instructed to make full inquiry and report," is the same with that which divided the United States, on the south, from the Spanish colonies of East and West Florida, prior to the treaty of 22d February, 1819, between Spain and the United States. The territory which Spain by that treaty ceded to the United States, with the boundaries as they then existed and were recognised, now constitutes the State of Florida. It will not, then, be difficult to ascertain correctly what the boundary was then, and to determine what it is now—for, fortunately, we are not left to idle conjectures, nor compelled to grope amidst vague and conflicting statements, this boundary having been amicably and definitely agreed upon by treaty stipulations, deliberately made at San Lorenzo el Real, on 27th October, 1795, between the United States and Spain, and which were solemnly ratified by both nations. The second and third articles of this treaty thus define and provide for the running and marking of the line which divided the United States from the Floridas:

ART. 2. "To prevent all disputes on the subject of the boundaries which separate the territories of the two high contracting parties, it is hereby declared and agreed as follows, to wit: The southern boundary of the United States, which divides their territory from the Spanish colonies of East and West Florida, shall be designated by a line beginning on the river Mississippi, at the northernmost part of the thirty-first degree of latitude north of the equator, which from thence shall be drawn due east to the middle of the river Apalachicola or Chattahoochee; thence along the middle thereof, to its junction with the Flint; thence straight to the head of the St. Mary's river; and thence, down the middle thereof, to the Atlantic ocean."

ART. 2 [3]. "In order to carry the preceding article into effect, one commissioner and one surveyor shall be appointed by each of the contracting parties, who shall meet at the Natchez, on the left side of the Mississippi river, before the expiration of six months from the ratification of this convention, and they shall proceed to run and mark this boundary according to the stipulations of the said article. They shall make plats, and keep journals of their proceedings, which shall be considered as part of this convention, and shall have the same force as if they were inserted therein."

In conformity with the stipulations of the third article, in May, 1796, Andrew Ellicott was appointed commissioner, and Thomas Freeman surveyor, on the part of the United States, for the purpose of running and marking the boundary mentioned in the second article. The American and Spanish commissioners having met at the place designated by the treaty, on the left bank of the Mississippi, proceeded to run and mark the line as far as the junction of the Flint and Chattahoochee rivers. The country, however, between this point and the head of the St. Mary's river, being a wilderness infested by bands of savage and hostile Indians, determined to resist the running and marking of the line through that section of the country, the commissioners were compelled to desist from doing so. Knowing, however, that the junction of the Flint and Chattahoochee rivers on the west was a fixed and permanent geographical point, and anxious to terminate this vexatious dispute, with a praiseworthy energy and wisdom, they agreed to seek out and designate the head of the St. Mary's river the eastern terminus, by the treaty, of the line to be run and marked, and there to erect some durable and ostensible land-mark, which would not only mark the limits of each government, but remove every colorable ground for cavil or disagreement. Having done this, the intermediate line between these two fixed points could be run and marked at a future period, when the disposition of the Indians was more favorable to that object. Accordingly, the commissioners proceeded to the St. Mary's river: ascending it, they ascertained and agreed upon a spot which was to be considered as "the head of the St. Mary's river," mentioned in the treaty, and here, at the point agreed upon, they, on the 26th February, 1800, erected a mound of earth which is now commonly known as Ellicott's mound. Mr. Ellicott in his journal says: "It was, therefore, agreed that the termination of a line supposed to be drawn N. 45 deg. E. 640 perches from the mound B, should be taken as a point to, or near which, a line should be drawn from the mouth of the Flint river; which line, when drawn, should be final, and considered as the permanent boundary between the United States and his Catholic Majesty," &c. The spot thus agreed on as being the head of the St. Mary's river, and designated not only by the mound of earth, but also by astronomical observations, was noticed in their plats and the journals of their proceedings, kept by the directions of the treaty, and which were to be considered as part thereof, and "have the same force as if they were inserted therein." The commissioners having closed their labors, submitted to their respective governments "plats and the journals of their proceedings." These plats and journals were approved of, and the acts and doings of the commissioners thereby sanctioned. Thenceforth their proceedings [of these commissioners] became as binding and obligatory as the treaty itself; the point designated by them as the head of the St. Mary's river became the terminus on the east of the line, to be run and marked from the junction of the Flint and Chattahoochee on the west. The line being fixed, the secondary and mechanical operation of running and marking it could be deferred to a future day.

Thus one of the principal objects had in view in negotiating and

concluding the treaty of San Lorenzo el Real was attained. The southern boundary of Georgia, whose territorial limits, by becoming a member of the confederacy, she had intrusted to the United States, and which the United States was bound by the constitution to guard and protect, was settled and defined. Georgia was satisfied; she raised not a murmur of disapprobation at home, nor did her representatives in the halls of the nation give evidence of any dissatisfaction. Her senators in Congress, it can scarcely be doubted, with pleasure voted for the ratification of this treaty, which satisfactorily and honorably adjusted her disputed boundary; and her representatives voted the necessary appropriations to carry the stipulations into effect; whilst their constituents, whom, from interest and location, we must presume, had thoroughly scanned and understood the provisions of the treaty, and the proceedings of the commissioners approved. From no quarter came there an objection. Is not, then, this question of boundary between Alabama and Georgia and the Floridas definitely and finally settled by the treaty of San Lorenzo el Real, and the proceedings of the commissioners appointed under and by virtue thereof? Had the Floridas continued Spanish colonies, would it not be in bad faith, on the part of the United States, at this day to attempt to stretch her southern boundary farther south than the point designated by the commissioners at the head of the St. Mary's river? And if she did so, could not Spain triumphantly, in the eyes of the civilized world, repel her claims, and, by the laws of nations and of honor, hold her to the act of her commissioner, under the treaty of 1795, and which she has so fully sanctioned? Or would the United States, prior to the purchase of the Floridas, have listened to a claim from Spain, whereby the boundary line was to be pushed north of the spot designated by the commissioners, under the treaty of 1795, as the head of the St. Mary's river?

The fact that the United States has subsequently acquired the Floridas by purchase from Spain, and admitted them as a State into the Union, in nowise varies or unsettles the boundary by which she is divided from Alabama and Georgia. The territorial limits of the Floridas as colonies of Spain, and as a free and independent State, are declared to be the same both by the treaty of cession of February 22, 1819, and by the act of Congress admitting her into the Union. The act of Congress thus defines her boundary: "That said State of Florida shall embrace the territories of East and West Florida, which by the treaty of amity, settlement and limits, between the United States and Spain, on the twenty-second day of February, eighteen hundred and nineteen, were ceded to the United States." The northern boundary of Florida, or the line dividing it from the States of Alabama and Georgia, is thus rendered clear and unquestionable. It is guaranteed and defined by treaty stipulations sacred in their character, and which the constitution declares to be the *supreme law* of the land.

By the treaty of San Lorenzo el Real, it will be noticed, the Floridas were recognised as embracing all the country south of the thirty-first degree of latitude, or that portion of the States of Alabama, Mississippi and Louisiana south of that point. This country, however, lying between the Perdido and Mississippi, was seized by the

United States as being comprised in the treaty made with France, in 1803, by which she acquired Louisiana. This claim by the United States, Spain never recognised; on the contrary, she loudly remonstrated against it. Whatever rights Spain possessed in this respect, the State of Florida has succeeded to. But it would be useless here to go into an examination or explanation of the circumstances by which Florida ceased to extend to the Mississippi river. Whether she was rightfully or wrongfully contracted to her present limits on the west—although with much show of reason maintained to have been so wrongfully—is immaterial to the present inquiry. Our object would be but little advanced were we to show that the acts of the United States in seizing the country between the Perdido and Mississippi were acts of aggression on a weak and distracted neighbor. Florida not willing to encroach upon the rights of her sister States, by asserting a claim—however well founded in reason and justice—to a portion of their territory, is content to abide the construction given by this government to the treaty under which she was deprived of so large and valuable a portion of her territory, and to regard this question as *res adjudicata*. Suffice it to state the fact, to explain why the boundary begins not “on the river Mississippi, at the northernmost part of the 31st degree of latitude,” as described in the treaty of 1795.

Although Florida was thus disseized of a part of her territory on the west, her northern boundary dividing her from Alabama, so far as it runs westward, is the same, to wit: the thirty-first parallel of latitude. I am not aware that Alabama seriously claims any other as the dividing line between her and Florida, and therefore apprehend no difficulty which will not admit of easy and speedy adjustment. On the 2d March, 1831, Congress passed a law authorizing the President to have the line dividing Alabama and Florida run and marked on the thirty-first degree of north latitude, which is in accordance with the treaty of San Lorenzo el Real.

Notwithstanding the line which divides Florida from Georgia was clearly defined and finally settled by the treaty of San Lorenzo el Real, and the proceedings of the commissioners under it, Georgia claims and insists upon another line, which should run from the junction of the Flint and Chattahoochee, to a point *farther south* than the mound erected by the American and Spanish commissioners, commonly known as Ellicott's mound. She insists that Mr. Ellicott mistook the head of the St. Mary's river, and that the line ought to run to the head of the *most southern branch* or stream of the St. Mary's. If the line claimed by Georgia be the true line, a triangular slip, with an area of two thousand miles, or one million and a half of acres of land, will be taken from the territory heretofore regarded as belonging to Florida and annexed to the State of Georgia. It will embrace within its limits a vast quantity of land sold by the United States as of the public domain, and secure to Georgia thousands of acres now supposed to be the rightful property of the United States. It will unsettle the titles of many of our citizens to their lands, who have for upwards of the half of a century been quietly reposing in imagined security on the treaty stipulations of the government, or the

grants of that government itself; in short, all the evils usually resulting from the removal of the ancient land-marks between nations will follow thick and fast. This enormous claim of Georgia we will examine, that it may be seen whether it is founded in reason or the ambitious love of territory.

From reports made to her legislature, it is gathered that Georgia objects to the line as designated by the commissioners under the treaty of 1795, for the following reasons:

1st. Because the charter of Georgia granted in 1732, the proclamation of the King of Great Britain upon taking possession of the Floridas, under treaty with Spain in 1763, the commission of Governor Wright in 1764, the treaty between Great Britain and the United States in 1783, and her State constitution, call for a boundary different from the one designated by the commissioners under the treaty of 1795.

2d. Because the commissioners mistook the head of the St. Mary's river, and transcended their powers in agreeing that the mound erected by them should be considered as its head.

A reference to each of the instruments enumerated above as the ground of the first objection, will show that the boundary of Georgia in this particular is thus defined: By the charter granted in 1732, the southern boundary of Georgia extended so far as "the southern stream of a certain other great water or river, called the Altamaha." The pertinency of this document is not perceived; nor does a reference to the proclamation of George the Third, in 1762, whereby there was annexed to Georgia "all the lands lying between the rivers Altamaha and St. Mary's," elucidate its applicability, except by inducing the belief, from the relative position of these streams to each other, that the *northern* branch of the St. Mary's, which is nearly parallel with the Altamaha, was intended to be the southern boundary of Georgia. The southern branch of the St. Mary's being far to the south of the north, and running almost at *right angles* with the Altamaha, it is scarcely presumable the King would have sought to have annexed the country *between* them. In the proclamation of the King of Great Britain upon taking possession of the Floridas, dated October 7, 1763, their boundary is thus set forth: To the northward, by a line drawn from that part of said river where the Chattahoochee and Flint rivers meet, *to the source of the St. Mary's river*. The treaty of peace between Great Britain and the United States, in 1783, describes it as follows: "Thence along the middle thereof, to its junction with the Flint river; *thence straight to the head of the St. Mary's river*." The constitution of Georgia says, "thence straight to the head of the St. Mary's river." I have quoted the language of these documents, so often referred to, to show that it is a formidable array of authority to support the claim of Georgia, only when cited by their titles. Could the same intention be expressed at different times and by different persons, in language more similar? And is not the intention, indeed language, identical with that used in the treaty of San Lorenzo el Real, when defining this part of the boundary of Florida? How, then, has the treaty of San Lorenzo el Real infringed upon the rights of Georgia, by giving her a boundary different from that which her charter, the treaty of peace with Great Britain, and her constitution gave

her? The commission of Governor Wright, dated January 20, 1764, I learn [from the reports before me] calls for the *southern stream* of the St. Mary's river. This being only a commission, and not an instrument to define the limits of the country, would give jurisdiction only within such boundaries as were known and settled when it was granted. It matters not, however, what were the limits mentioned in this commission, for had it merged the half of the Floridas into Georgia, the treaty of peace between Great Britain and the United States in 1783, subsequently made, and by which the southern boundary of Georgia was designated, nullifies the provisions not only of this commission, but of all prior documents in conflict therewith. It surely was competent for the United States, which has the sole and exclusive right and power of entering into treaties, to fix and define by treaty the boundaries of Georgia. The Supreme Court of the United States has declared, "It is a settled principle of this court, that the boundaries of the United States as fixed by the treaty of peace in 1783, were the boundaries of the United States." The Floridas having passed from Great Britain under the dominion of Spain, the treaty of San Lorenzo el Real was a recognition by that power of the boundary agreed upon by the treaty of 1783 with Great Britain.

The second objection urged by Georgia, that the point designated by the commissioners as the head of the St. Mary's river is not its true head, and that the commissioners, in designating it as such, transcended their powers, will, upon examination, be found to be as untenable as the first. But were it true, as alleged, that the point designated by Ellicott's mound, as the head of this river, was not the true and proper head, and that the commissioners had transcended their powers, the subsequent ratification by both Spain and the United States of their proceedings, gives this act a force as obligatory as if the head of the St. Mary's river had been described in the treaty to be at this point, or the power to designate it had been given them in direct language. The commissioners having acted, and the United States having sanctioned their acts, their proceedings are *final* and binding, not only on the United States, but Georgia and Florida. Indeed Georgia, in an especial manner, is estopped from objecting in aught, by her long acquiescence, by her sanction given through the general government, which in questions of this character is the constitutional exponent of her will, and by her own action as a separate and independent State. A retrospect of some of her proceedings on this subject, since the conclusion of the treaty of San Lorenzo el Real, will aid in appreciating the merits of the claim now set up by her. Her southern boundary being unsettled and in dispute with a foreign power, the United States negotiated and concluded a treaty in 1795, amicably defining this boundary. The treaty stipulating that a commissioner should be appointed by each government to run and mark the line agreed upon, and that they should make plats and keep journals of their proceedings, which "shall have the same force as if they were inserted therein," they were accordingly appointed. These commissioners, after examination, and doubtless after diligent inquiry among the settlers in that section, agree which is the St. Mary's river, and designate the head

thereof by the erection of a mound of earth to mark the spot. They make plats and keep journals of their proceedings, which they deposit with their respective governments. Both governments acquiesce in, and sanction their proceedings. Georgia, whose interest was involved, makes no objection, either at home or abroad. The United States and Spain understand that a difficult question of boundary between them has been terminated, and recognised, so long as the Floridas continued Spanish colonies, that as the line dividing their territories which their commissioners had agreed upon; for nowhere, that I am aware of, will we find either party, in the angry and protracted dispute between Spain and the United States about a portion of this very territory, insinuating that this part of the boundary was an open question. After an acquiescence of nearly twenty years, Georgia, for the first time, exhibits some dissatisfaction; only, however, by inquiring into the matter, that, it would seem, she too might in an equivocal manner add the seal of her approbation. On the 19th December, 1818, resolutions were adopted by her legislature requiring the governor of the State to appoint two fit and proper persons to ascertain whether Ellicott's mound was at the head of the St. Mary's river. Commissioners were appointed, who proceeded to discharge the duties assigned them, with the individual as their pilot "who had represented, of his own knowledge of the St. Mary's river, that Mr. Ellicott had mistaken its true head or source." They reported as the result of their examination, that Mr. Ellicott *had not mistaken* the true head of the St. Mary's river. The governor of the State, in communicating this fact to the Secretary of War, by letter dated 3d March, 1819, uses the following language: "The commissioners have returned and reported that, after a careful examination, they found the head of that river [the St. Mary's] to agree with the report made by Mr. Ellicott, and proves, beyond the possibility of doubt, that the information received by the legislature of this State relative to that subject was incorrect. I flatter myself that directions will be forwarded to Mr. Lumpkin immediately, to close that line according to the treaty with Spain." So perfect was the satisfaction and acquiescence of Georgia, that, upwards of nine years afterwards, one of her senators in Congress introduced a bill directing the running and marking of the line between Georgia and the Territory of Florida, which became a law on the 4th May, 1826, and which provided "that the line so to be run and marked shall run straight from the junction of said rivers Chattahoochee and Flint, to the point designated as the head of the St. Mary's river by the commissioners appointed under the third article of the treaty of friendship, limits, and navigation, between the United States of America and the King of Spain, made at San Lorenzo el Real on the seventh day of October, one thousand seven hundred and ninety-five." This law is still in force; as Georgia procured its passage, she should yield it a ready and willing compliance. Approving of it at the time of its passage, she appointed a commissioner and surveyor to act in conjunction with those of the United States in running and marking this line, as provided in the act of Congress. It was not until these commissioners, thus concurrently acting, had been laboriously engaged for nearly two months in

the swamps and wilderness in the performance of their duty, at a heavy expense both to the general government and the State of Georgia, and had run and marked from Ellicott's mound to within three or four miles of the junction of the Flint and Chattahoochee, that Georgia manifested any unwillingness to abide by the line as defined and directed to be run by the act of Congress. The governor of Georgia having required the commissioners of that State to desist from further co-operation with the commissioner on the part of the United States, until the true head of the St. Mary's river was ascertained, the boundary line was left incomplete, and has remained so ever since. But for Georgia to attempt to withdraw her assent at so late a period and under the circumstances, was as futile as it was trifling with the general government. If this acquiescence on the part of Georgia for more than the quarter of a century, fortified by these open, unequivocal acts of recognition, after careful examination by her own commissioners, does not preclude her from further objecting to the head of the St. Mary's river, as designated by Mr. Ellicott and the Spanish commissioners, men, as well as nations, must cease to judge of each other by their acts; and, withdrawing that confidence which civilization has taught them to place in the implied as well as expressed agreements of their fellow-men, must disregard the first and most essential principles of organized society, by viewing that alone as being settled which might and force will make so. An enlightened public will compel her to stand by her acts and those of her constitutional agent—the general government; or else the extraordinary privilege claimed by her, of reviving and unsettling what had for years been adjusted in the most solemn manner known to the laws regulating the intercourse of nations, if legitimate, would uproot from its very foundations the broad basis on which the peace and harmony of the civilized world at present rests.

Conceding, however, this to be an open question, a slight investigation will show that the pretensions of Georgia cannot be supported by the facts. The commissioners neither transcended their powers, nor mistook the head of the St. Mary's river. The head of this river being unknown and undetermined at the time of the negotiation of the treaty, examination by parties on the spot was necessary to ascertain it. If it had been known, it would have been specifically inserted in the treaty. The two governments acted wisely, when they agreed to obviate this difficulty in the negotiations by appointing commissioners to ascertain it, whose acts should, of course, unless grossly corrupt, be binding upon both. Would not the appointment of commissioners to run and mark the line from a given, known, and fixed point, to one which was indefinite, and unknown to the appointing powers, and which the commissioners were not invested with powers to ascertain, have been a mockery unworthy of the two governments? The language of the treaty must convince every mind unbiassed by interest, that it was intended that these commissioners, each representing and as agent of his government, should ascertain and determine by examination and inquiry, made on the spot, the locality of the head of this river—a question of secondary importance, and of

easy ascertainment—which, when thus ascertained and agreed upon, should be the other point to which the line should be run and marked.

But we ask, who is to judge and decide whether these commissioners exceeded their authority in designating, as they did, the head of the St. Mary's river? Most clearly not Georgia, who was not and could not be known in the negotiation; but the United States, a party to the treaty, and which had the exclusive power of entering into it. If the United States is to decide, the opinion of Georgia is entitled to no weight, especially when the government of the United States has not only wholly failed to charge her agent on this occasion with having transcended his powers, but has so repeatedly sanctioned his acts.

All the influence which so powerful a State as Georgia, represented by an able and active representation, could bring to bear in Congress, has only had the effect of producing renewed recognitions by the United States of this point as the head of the St. Mary's river. The act of Congress of May 4, 1826, directing how this line should be run and marked, has already been referred to. In 1828, the claim now set up by Georgia was brought to the attention of Congress; all the evidence, in the shape of resolutions by the legislature of that State, elaborate reports to that body, and urgent letters from her Executive to the President of the United States, and other documents elucidating and enforcing the claims of that State, were referred to the Committee on the Judiciary. This committee, after thorough investigation, reported against the claim of Georgia, and that the line should run from the point agreed upon and designated by the American and Spanish commissioners as the head of the St. Mary's river. In 1830 the matter was again pressed upon the attention of Congress, but with no better success than in 1828, the Committee on the Judiciary again reporting unfavorably to the claim set up by Georgia, and that the line ought to run from the junction of the rivers Flint and Chattahoochee, to the point designated as the head of the St. Mary's by the commissioners appointed under the treaty of San Lorenzo el Real.

The American and Spanish commissioners, thus acting within the scope of their authority, did not err in designating the true head of the St. Mary's river. Beyond bold assertion, contained in voluminous reports, Georgia has advanced no satisfactory evidence that they did. It will be borne in mind, that the examination by the American and Spanish commissioners was made immediately after the treaty, and was stimulated, guided, and controlled by those feelings of jealousy which opposition of interest will produce, and which would secure the vigilance of each to prevent any encroachment upon the territory of his government. In 1818 the commissioners appointed by the State of Georgia declared, after careful examination, that Ellicott's mound properly designated the head of this river; and Gov. Randolph, the commissioner appointed by the United States under the act of Congress of 4th May, 1826, and who had in that capacity examined this section of the country, says, "he had satisfied himself of the accuracy of Ellicott and Minor." This concurrent testimony of several whose examinations were made at different times in a series of years, and under different circumstances, is of superior force to the

isolated opinion of Mr. McBride, selected by the State of Georgia, in 1828, to examine whether Mr. Ellicott had mistaken the head of this river, that the southern branch of the St. Mary's river was the largest, and that Mr. Ellicott had erred or been deceived. The plan pursued by Mr. McBride to ascertain "the head of the St. Mary's river," is, besides, to say the least of it, highly questionable. He conceived that, to determine the head of this river, he had nothing to do but "to ascertain the source of each of these branches, their length and relative magnitude, at their points of confluence with each other." An investigation made in this way in 1828 would not satisfy the treaty of 1795, which referred to what was at that day known as the head of the St. Mary's river. He should have made it a part of his inquiry to have ascertained which stream, at the time of the making of the treaty, was, by reputation, the St. Mary's; for although the southern branch, or, as called in that day, "the southern prong," should be much the longest and largest stream, if it was not known or recognised as the St. Mary's at the time Ellicott threw up his mound, it cannot now be taken as the St. Mary's alluded to in the treaty.

Again, because the southern branch discharged a greater quantity of water in a given time, at the time of McBride's observations, it does not follow that at all seasons of the year it would do so. It is likely, from the descriptions given of the country in which each of these streams have their source, that the northern branch, at another time, would have discharged ten times the quantity of water which the southern branch would, in the same time. This is rendered the more probable from a fact which Mr. McBride mentions in his report. He says, "the channel of the northern branch is wider than that of the south; its depth is greater, and the water of a dark reddish color." Did, however, the test applied by Mr. McBride prove beyond reasonable doubt that the southern stream was, in 1828, the longest and largest, it cannot be regarded as establishing that it was so at the time when Mr. Ellicott made his examination. A quarter of a century will produce many and great changes in a country like this, where streams frequently change their course, and sometimes totally disappear, or, disappearing for a considerable distance, re-appear; and where the hand of industry and improvement is busily engaged in removing those obstructions which had directed their meanderings. The northern branch, moreover, having its source in the swamps and marshes of the Okefonoke swamps, which are covered annually by a luxuriant vegetation, it is probable that the plane of these swamps and marshes has been elevated by the decomposition of vegetable matter, so as to choke up this source, or so as to spread the water of these swamps over a more extended area, and thereby caused a much greater quantity than formerly to be taken off by evaporation.

I have thus, as briefly as possible, stated the facts relative to the disputed boundary with Georgia, which I have been able to collect from the numerous documents through which they are scattered. This claim set up to a part of our territory is so feebly supported, by either facts or arguments, that I cannot think that Georgia will longer persist in it. To wage an unjust contest with a neighbor would add

nothing to that greatness to which the intelligence of her citizens, her great enterprise and the vastness of her resources, so well entitle her. If, whilst Florida was a Territory, it was hoped to induce Congress to recognise her claim, now that Florida has become a State and is the defender of her own rights, Georgia must be sensible that a continued persistence in it will have no other effect than to irritate and exasperate, where harmony and good will should exist.

JOSEPH BRANCH.

[29TH CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE SENATE.

(See Senate Journal, 1st Sess. 29th Cong., p. 148.)

IN THE SENATE OF THE UNITED STATES,
February 12, 1846.

“Mr. Westcott submitted documents relative to the appointment of commissioners by the States of Florida and Georgia for running and marking the boundary line between those States; which were referred to the Committee on the Judiciary, and ordered to be printed.”

[29TH CONGRESS, 1ST SESSION.]

DOCUMENTS IN RELATION TO THE DISPUTED BOUNDARY LINE BETWEEN THE STATE OF FLORIDA AND THE STATE OF GEORGIA.

(See Senate Docs., 1st Sess. 29th Cong., vol. 4, No. 133.)

EXECUTIVE DEPARTMENT,
Milledgeville, January 26, 1846.

SIR: In the further prosecution of the wish, as recently expressed by the authorities of Florida, and readily concurred in by those of Georgia, of having definitely established the boundary between them, I have now to say to your excellency, that James Hamilton Couper and Joel Crawford, esqs., have been appointed commissioners on the part of Georgia, to join such as may be designated on the part of Florida.

I have availed myself of the first moment since the acceptance of these gentlemen has been notified to this department, to inform your excellency of our proceedings on this subject, and beg leave, with great respect, to suggest that the business of the commission may be commenced at the shortest period compatible with the convenience of the commissioners. I have taken the liberty of saying to the gentlemen representing Georgia, that I shall indicate a wish to your excellency that the work may be commenced early in April next, and to request that they will then be ready for the service.

In the mean time, I shall be happy to hear from your excellency any suggestions which may expedite and conclude this controversy of territorial limits, hitherto peaceful, between the States of Georgia and Florida, and in which I am assured that both desire an adjustment only in accordance with their respective rights.

The inquiries made suggestively of your excellency, especially in reference to the period of commencing operations by the commissioners, will induce me to expect the reply of your excellency at your earliest convenience; and, in the mean time, to say that I remain, with great respect, your excellency's very obedient, humble servant,
G. W. CRAWFORD.

His Excellency W. D. MOSELEY,
Tallahassee.

EXECUTIVE DEPARTMENT,
Tallahassee, February 2, 1846.

SIR: Your communication of the 26th ultimo was received this day. In reply, I have the honor to state that the commissioners on the part of this State, John Branch and W. P. Duval, esqs., propose to meet the commissioners on the part of the State of Georgia, at the town of St. Mary's, on the second day of April next, as the most suitable place for the commencement of their labors. Should it be more agreeable, however, to the commissioners of the State of Georgia to select some other day and place, such selection will be acquiesced in with pleasure on the part of the commissioners of this State, being duly notified of the same.

I have the honor to be, very respectfully, your obedient servant,
W. D. MOSELEY.

His Excellency G. W. CRAWFORD,
Milledgeville.

[29TH CONGRESS, 1ST SESSION.]

EXTRACT FROM JOURNAL OF THE SENATE.

(See Senate Journal, 1st Sess. 29th Cong., p. 178.)

IN THE SENATE OF THE UNITED STATES,
March 4, 1846.

"Mr. Westcott, from the Committee on the Judiciary, to whom were referred the resolutions of the State of Florida in relation to a boundary line of that State, reported a bill (S. 107) respecting the settlement of the boundary line between the State of Florida and the State of Georgia," which was read and passed to a second reading.

[29TH CONGRESS, 1ST SESSION.]

A BILL respecting the settlement of the boundary line between the State of Florida and the State of Georgia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to invest such commissioner or commissioners as have been or may be appointed by the authorities of the State of Florida, to settle the boundary line between said State and the State of Georgia, with full power and authority to act for and in behalf of the United States in the settlement of said boundaries, and to ascertain, cause to be surveyed, and to definitively settle and establish and mark, on the part of the United States, the said boundary lines; and that the proper accounting officers of the United States treasury be authorized to allow said commissioners, for their reasonable compensation and for all expenses of every kind whatever, an amount not exceeding in the aggregate the sum of—— dollars, and to pay the sum, upon proper vouchers being presented and filed by said commissioners, out of any money in the treasury not otherwise appropriated.