

The Raleigh Minerva

FRIDAY, FEBRUARY 5, 1819.

Vol. 1.

No. 2.

RALEIGH, (N. C.) PRINTED, WEEKLY, BY HARVEY AND GASSO, EDITED BY A. LUCAS.

POLITICAL.

FROM THE RICHMOND ENQUIRER, JAN. 12. To the hon. John Quincy Adams, secretary of state.

Sir—Your letter to Mr. Erving, refers to a vast mass of evidence, of which I have not been able with the utmost pains and diligence to collect the whole, if indeed the whole be yet published.

Let all the facts you assert, be granted; that Spain, either through weakness or bad faith, failed to fulfil the stipulations of her treaty with the United States, in neglecting to employ an adequate force to restrain the Indians, residing within her territory, from hostilities against us; that her officers in Florida, admitted a foreign incendiary into that province, with full knowledge of his wicked designs: that the "complicity" of the commander at St. Marks and the governor of Pensacola, with that incendiary with the Seminoles, the outlawed Red-Sticks, and the negroes, is really "demonstrated": that these officers took an active part in inciting this barbarian war against us; encouraged the devastation of our frontier, by affording a market for the spoils; supplied our savage foe with the means of war, and gave him shelter and protection in their fortresses.

Did all the wrongs combined, of which we complain, furnish justifiable cause of war against Spain or her dependences, without a previous representation of them to her government, without a formal demand of redress for the past and security for the future, and refusal or unreasonable delay on her part, to comply with such demand? To determine this question, sir, let us appeal to approved authority, in the first place, and then to examples, with which, happily, our own history abounds.

Vattel says—"A sovereign ought to shew in all his quarrels, a sincere desire of rendering justice and preserving peace. He is obliged, before he takes up arms, and after having taken them up also, to offer equitable conditions; and then alone his arms become just against an obstinate enemy, who refuses to listen to justice or to equity."

neath him, to send an ambassador extraordinary to Turin, to give satisfaction for that violence," "It would be too contrary to the peace, the repose and the safety of nations, to their mutual commerce, and to the duties which bind them to each other, for any one suddenly to apply to force, without knowing whether the other is disposed to do him justice or to refuse it."

I know, sir, there are exceptions to these general principles; cases, in which there is good reason to dispense with the observance of them. "If any one would ravage from a nation an essential right, or a right without which it could not hope to subsist: if an ambitious neighbour threatens the liberty of a people; if he resolve to subdue it, and bring it into subjection; that republic will take counsel only from its courage. It will not even attempt to wait the method of conferences on so odious a pretention: it will bring into this quarrel, all its efforts, its last resources, and all the best blood it is capable of shedding. It is risking every thing only to listen to the least proposition: then they may truly say, una salus nullam sperare salutem." And again—"It is not always necessary to authorise having recourse to arms, that all the methods of reconciliation have been expressly rejected; it is sufficient that there is the utmost reason to believe, that the enemy would not even enter into these measures with sincerity, that the issues of them could not be happy, and that a delay could only tend to put the state in greater danger of being oppressed. This maxim is incontestible, but the application of it to practice is very delicate. A sovereign, who would not be considered as the disturber of the public repose, will not be induced abruptly to attack him who has not refused pacific measures, if he is not able to justify to the whole world, that he has reason to consider these appearances of peace, as an artifice tending to amuse and surprise him. To pretend to be authorised by his mere suspicious alone, is to shake all the foundations of the safety of nations." "That our case falls not within either of these exceptions, there is no need of argument to prove. I am spared that labor. Our government has offered to restore to Spain the possessions conquered from her by general Jackson; though whether the offer be of any avail or not, without his concurrence, may well admit of doubt; since his conduct is approved and justified throughout; and, consequently, his power of waging war against Spain, and of conquering her dominions, is in effect allowed. Now, in general, he in whom the power of making war resides, is alone competent to adjust the basis of accommodation, whether the *uti possidetis* or *status quo ante bellum*. The constitution of the United States is anomalous in that respect. To return to the restoration of her possessions to Spain, amounts to a distinct admission by our government, that the wrongs committed against us by her, constituted no such privation or invasion of our essential rights, and afforded no such reason to apprehend danger to our safety from the delays incident to negotiation, as to justify according to the principles of the law of nations, an abrupt and unceremonious recourse to arms. This alone were conclusive. But more: at the very moment of general Jackson's irruption into Florida, and of his forcible seizure of Pensacola, and its dependences, a negotiation was actually pending between the United States and Spain, the objects of which were compensation for all the injuries we complain of at her hands, and the cession of both the Floridas.

If the doctrines quoted from Vattel, were less unequivocal and unauthoritative than they are, I should still find ample support for the opinions I entertain, in the invariable practice of our own government, through a series of years, under every administration, in a variety of cases, and those of incomparably greater urgency and importance than that in which general Jackson saw no remedy but instant war. Examples rise in quick succession to condemn his rash (not to say mad) recourse to arms, and to confound his defenders. The retention of the western posts by Great Britain, in violation of the treaty of peace—the spoils, to the amount of millions, committed by France upon our commerce, before and during your father's administration; the denial by Spain of our right of deposit at N. Orleans, contrary to her solemn engagements; the attack upon the Chesapeake, than which a more shameful abuse of the hospitality, and violent outrage upon the sovereignty of the nation, can hardly be imagined; the impressment of our seamen, by British cruisers, on the high seas, in spite of their protections,

† Ibid. § 388. † Ibid. § 313. § Ibid. § 354. † Ibid. § 339. † Ibid. § 336.

persisted in for years; the sacrifice of neutral rights to belligerent interests, which was the avowed purpose and certain effect of the French Berlin and Milan decrees, and the British orders in council: all these wrongs were the subject of long and patient negotiation. Nor did the nation resort to arms except in one single case; and then not till every effort of negotiation, every milder method of redress and contravention, had, in the opinion of the government, been tried in vain and exhausted. I know, that the history of military government furnishes cases enough of a contrary complexion; and if we imitate their example, we shall as justly deserve, as we shall surely incur, the same punishment which Providence has visited on their folly and madness.

But, to my utter astonishment, you intimate an opinion, that the proceedings of general Jackson in Florida, ought not to be regarded as measures of hostility against Spain. But for the weakness of that power, and the inability of her government, she would resent such an insinuation as an insult more unpardonable than the injury. Neither gen. Jackson's acts are equivocal, nor are his motives and designs left to conjecture. As to St. Marks, if the facts were as you state (and I may not contradict your facts), that "as he approached that place, he was informed, direct from the governor of Pensacola, that a party of hostile Indians had threatened to seize the fort, and that he apprehended the Spanish garrison there was not in sufficient strength to defend it against them." I will not deny that he was warranted by the law of nations (supposing the orders of his own government imposed no restraint upon him) "in anticipating his enemy, by the amicable, and that being refused, by the forcible occupation of the fort."—But, for his operations against Pensacola, no such excuse is pretended. They amounted to open war, in fact, in fact, and in consequence. I want no evidence but his own. In his letter to the Spanish governor, of the 27th April, 1818, he details the facts, which, in his judgment, proved the unjust conduct of the Spanish agents in Florida, and concludes with a distinct menace of war: "Their conduct," he says, "can no longer be tolerated; and although a republic, for I of peace, the United States know her rights and, at the expense of war, will maintain them. The meaning of this menace was not long left doubtful; it was not by the United States acting by the constituted authority alone competent to such a measure, but by the United States acting by the instrumentality of gen. Jackson's heart, head and hand, deliberating, resolving, executing, through his will and power, that the rights of the nation were to be maintained at the expense of war. The language of his letter to the Spanish governor of the 23d May, demanding the surrender of Pensacola and the Barancas, is explicit: "If (says he) the peaceable surrender be refused, I shall enter Pensacola by violence, and assume the government until the transaction can be amicably adjusted between the two governments. The military in that case must be treated as prisoners of war." The peaceable surrender was refused: the general instantly proceeded to violence; and captured the town, the fort, the citizens and the garrison. In his official despatch, of the 2d June, he calls the Spaniards "a conquered enemy": he states that the articles of capitulation, "with but one condition, amount to a complete cession to the United States, of that part of the Floridas hitherto under the government of Don Jose Masot," the Spanish governor of Pensacola; and that he had organized a provisional government; rescinded the Spanish commercial code; established the revenue laws of the U. States, and appointed a collector. With respect to Spain, this was not only war, but conquest: with respect to the United States, it was something more; it was the exercise of powers of legislation, belonging exclusively to congress, and of the power of appointment confided to the president and senate.

I have only two more observations to add on this part of the subject. The first is, that while I agree the Floridas would be a valuable acquisition to the United States, and one which it is wise and right in us to insist on, I should think them dearly purchased at the expense of our own character for moderation and justice, much more at the expense of the constitution. The other is, that discarding all respect for the laws of nations, all concern for the rights of Spain, sound policy required, that for our own sake, General Jackson's proceedings in Florida should have been disavowed, disapproved and reprobated by our government. I doubt if you could have devised a course better calculated to prevent the voluntary cession of that province by Spain to the United States, than this open contempt of her sovereignty. You have piqued her pride, and confirmed her obstinacy; and while a spark of life shall animate her sinking empire, the sense of the indignity will still rankle at her heart, and I fear withhold her from the relinquishment of a territory, useless to her own power and interest, and beneficial only to us; a cession which sound

policy not only justifies us demanding, but should prompt her to make. And, if at last we go to war with her, (as we probably soon shall,) we may find, in the jealousies excited abroad, and divisions at home, if not in the dispensations of Providence, that it is an immutable maxim of wisdom and policy "to be absolutely certain always in whatever contest we are engaged, that our adversary be in the wrong."

Hitherto, I have considered Gen. Jackson's conduct with a view of its bearing on our relations with Spain; but these transactions present other questions of far deeper interest, touching the relations between that officer and executive, and between the executive and the nation.

It is now ascertained beyond doubt, from the documents accompanying the President's message to Congress (if some information be not purposely withheld from the public, which I am far from suspecting) that in his hostile operations against the dominions and subjects of Spain, General Jackson acted not only without orders from government, but directly contrary to orders.—The government hesitated long, before it would authorize its forces, to cross the line into Florida, in quest of their savage foe; and when at last it gave the order, its instructions were marked with a caution, suitable to the delicacy and importance of the measure. You inform us yourself, "that the officer in command immediately before General Jackson, was specially instructed to respect, as far as possible, the Spanish authority, wherever it was maintained; and copies of those orders were furnished Gen. Jackson, upon his taking the command." To ascertain Gen. Jackson's instructions, therefore, we must refer to those which had been given to Gen. Gaines. It seems that Gen. Gaines had suggested the propriety of such instructions: which nevertheless (as we learn from the two letters to that officer, from Mr. Graham, acting secretary of war, of the 30th October, and 2d December 1817) had been twice refused, as unnecessary and impolitic. The instructions that were at length given him from the war department, appear in two letters of the secretary, Mr. Calhoun, of the 6th and 16th December. In the first, the secretary says: "Referring to the letters addressed to you from this department, on the 30th of October and 2d December, as manifesting the views of the President, I have to request that you conform to the instructions therein given. Should the Indians, however, assemble in force on the Spanish side of the line, and persevere in committing hostilities within the limits of the United States, you will in that event exercise a sound discretion, as to the propriety of crossing the line, for the purpose of attacking them and breaking up their towns." Thus regulating his discretion in the execution of his orders, by designating the objects to which he was to confine his operations. The other letter is in these words: "On the receipt of this letter, should the Seminoles still refuse to make reparation for their outrages and depredations on the citizens of the United States, it is the wish of the President, that you consider yourself at liberty to march across the Florida line, and to attack them within its limits, should it be found necessary, unless they should shelter themselves under a Spanish fort.—In the last event, you will immediately notify this department." Here, the government warily and expressly reserves to itself, the control and direction of any measures that might affect the neutrality of Spain. In my opinion, Gen. Jackson violated these orders when he seized St. Marks: it was a measure, which the orders did not place within his discretion, and before he took such a step he ought to have consulted his government. But the governor of Pensacola, we are told, had given him an apology for that proceeding. For the seizure of Pensacola (I repeat) no such apology can be pretended. Before he marched against that place, he must have given his instructions to the winds. Upon what plea does he rest his excuse for this violation of his orders? Necessity again. "On the immutable principle of self-defence authorized by the law of nature and nations, have I bottomed all my operations." He conquered Pensacola on the 28th May, on the immutable principle of self-defence! He, who believed as early as the 29th April, that "the Indian war was at an end, and should be renewed, the position he had taken, would enable a small party to put it down promptly!" He, who declared on the 26th April, that the Indians "had not the power, if the will remained, of again annoying our frontier!"

Why has this officer been permitted to transgress his instructions? to counteract the declared policy of the executive: to take measures on the strength of his own judgment alone, that directly affect the peace of the nation? measures, which the government expressly told him; it did not intend to place within his discretion? Why has he not been punished? Why not even called to account? Why has he been countenanced, justified, applauded? Hearken, sir, at length, to the warnings of experience; open your eyes to the light of history; and you will learn, that the government, which tolerates open disobedience, in effect relinquishes its authority, and the soldier, who may violate his orders with impunity, soon comes to dictate orders to his superiors.

If Gen. Jackson had only disobeyed and violated his orders; if his offence had gone no further than the prostration of the executive authority and dignity: even this had been execrable and most pernicious. But would to God this were the head and front of his offending!—He has violated the constitution of the United States in one of its most essential provisions. In vain have the people and the states confided