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GENERAL ASSEMBLY.

Mr. Bryan's Speech on the Land Resolutions.

SENATE, Saturday, Dec. 12, 1835.

The Senate resumed the consideration of the unfinished business of yesterday, the resolutions respecting the public lands. The resolutions submitted by Mr. Waugh are as follows:

Resolved, by the General Assembly of North Carolina, That if Congress should give the unsold territory or public lands of the United States, to the States in which said lands are situated, it would be a plain breach of the public faith and a dangerous violation of the rights of all the States.

II. Resolved further, That all the public revenues are collected from the people, directly or indirectly, and ought never to exceed the amount of expenditures necessary to an economical administration of the government; and therefore, whenever the proceeds of the sales of the territory or public lands of the United States, are not required (in aid of other revenues) for the legitimate purposes of the National Government, we believe it the duty of Congress to devise and recommend some safe method for distributing, among all the States, any surplus proceeds of the public lands, which may from time to time remain in the Treasury of the United States, after defraying its expenditures.

III. Resolved further, That Congress cannot distribute the proceeds of the sales of the territory or public lands belonging to the United States, or the public lands themselves, in any manner which gives a preference to the new States in which they are located, without violating the rights, and prejudicing the claims of all the States of the Union.

IV. Resolved further That we sincerely deprecate all attempts on the part of the citizens of this State to increase the difficulties, and magnify the jealousies, already existing upon national questions, in respect to our public lands, by giving to them a party character, which does not properly belong to the subject, and thereby holding out inducements to the new States to put forth urgent and unreasonable demands, and on the other hand, by denouncing their claims with bitter reproaches, so as to kindle a blaze of discontent in the nation, and do great injury to the peace and prosperity of the best government on earth.

V. Resolved, That his Excellency the Governor of this State, be requested to transmit, forthwith, a copy of the foregoing Resolutions to each of the Senators and Representatives from North Carolina, in the Congress of the United States.

Mr. Little having moved the following resolutions as a substitute, the question was upon striking out the original resolutions, and inserting the amendment, viz:

Resolved, As the opinion of this General Assembly, that any act by which the Congress of the United States shall give the public lands to the States in which they are situated, or any act by which the minimum price of these lands are now sold, shall be reduced, would seriously affect the prosperity of all the old States, and do great injury to those States by which they were originally ceded to the Confederacy.

II. Resolved further, As the opinion of this General Assembly, that the public debt having been extinguished, and the object for which the cession of the respective portions of the public domain by the States which originally held them, having thus been accomplished, that such disposition of the public lands, or the proceeds thereof ought to be made among the States of the Union, as shall be proportioned to the respective sacrifices and expenditures incurred by them in support of the Federal States; or, at least, in proportion to their Federal population.

III. Resolved, That the Governor be, and he is hereby requested, to transmit copies of these resolutions to the Senators and Representatives from this State in the Congress of the United States.

MR. BRYAN said that the advocates of the resolutions which had been introduced as amendments of those brought forward by the gentleman from Surry, (Mr. Waugh) had been charged with an attempt to give to this debate a party character. No expression of opinion, which could be cited as evidence of the correctness of the charge, had as yet reached his ear; and he believed that a consciousness, on the part of the accuser, that the original resolutions were intended to shield a certain party from all responsibility to the country in the just and correct disposition of the vast and extensive public domain, was the main inducement why this charge was made in advance. We will not bear the burden of their political sins; they are not responsible to us, but to their constituents, and before them we will arraign their opinions and submit our own, as being the only legitimate arbiters, whose duty and interest it is to decide this important controversy. What has any government or people ever gained by an abandonment of principle, and an adherence to men? In what manner have the honor and prosperity of North Carolina ever been advanced by a blind and senseless devotion to the political elevation of any man to the Presidency? True, in better days, when "honesty was a jewel" and merit the badge of distinction, a Davis and an Irwell were honored and distinguished; and in more modern times, a political recognition was made of Guatemala, as if thereby to create an heir loom for the political inheritance and distinction of two of her sons, neither of whom seem to have been destined to enjoy these transcendent honors. With one other exception, they constitute the only honors which the General Government, in the long lapse of now nearly sixty years, have seen fit to confer upon our good old State. Why have her just claims been thus overlooked? Why has this great distinction and preference been made and shown between her and her sister States? It is not because her sons are deficient in merit and ability; but it arises from an indifference to her own interests and rights, a want of state character and independence, a blind devotion to men, without a knowledge of their merits or qualifications, and a too ready credulity to the wild misrepresentations of designing politicians. But her political regeneration is near at hand. Coming events cast their shadows before them, and give signs that justice at last is about to be done to our much injured and long neglected State. The influence of all these causes are now in full operation here, and the just and rightful claim of North Carolina to her share of the proceeds of the public lands is about to be sacrificed

by her own Legislature, because she thereby asserts a right which militates against the opinions of a certain political favorite, who is said to be in the line of safe precedents.

What has this Legislature to do with *President making*? or in what manner is it bound by the political opinions of any candidate for the Presidency? Our constituents sent us here to enact wholesome and just laws for their benefit, and to advance the prosperity and welfare of North Carolina. We recognize, therefore, no authority, save their will and the constitutions of the State and Federal Governments. Why interpose the moral influence of any man's opinion, which militates against the interests of our State? Why thus deprive his partisans of the independence of their opinion, when it conflicts with the dearest interest of North Carolina?—Sir, "I love Rome more than I do Caesar;" and if the influence of Mr. Van Buren's opinions are to be thus brought in conflict with this great interest of my native State, I can only say, as every patriot ought to say, fearless of the consequences, I love North Carolina more than I do Martin Van Buren. What will he, or what can he do for us, compared with the great and transcendent advantages which we shall derive from a proper and useful application of our share of the proceeds of the public lands? I deprecate the introduction of party politics into this debate; but he that was guilty, having cast the first stone, made it my incumbent duty to give a passing notice to this extraordinary departure from the legitimate subject matter of discussion.

The Senate will pardon me, whilst I call attention to the history of the public lands, and the rights therein, which are reserved to the States by the deeds of cession, and recognized by the constitution of the U. States. The early settlements of our country were made upon the Atlantic border, as affording not only a more easy communication with each other and the old countries, but as being better adapted to commercial pursuits and social happiness, and calculated to insure protection and security from a wild and savage foe, and the unknown dangers of an uninhabited and trackless wilderness. The boundaries of many of the States, more immediately on the coast were soon defined, not only by natural objects, but by those which were common with the adjoining States, immediately in their rear; whilst others were circumscribed by no definite limits, and contained an unknown territory, inhabited only by the Indians, and the beasts of the forests. The former of these States, thus eligibly located, whilst they were colonies of Great Britain, and dependent upon the mother country, boasted of the security of their situation and fully enjoyed all the benefits to be derived therefrom; whilst many of the other States, which had an unprotected frontier, were exposed to the merciless incursions of the savage Indians; subjected to all the horrors of their cruel and uncivilized warfare; compelled to incur the grievous and heavy expense of protecting their citizens, in their then infant and helpless state; and jeopardized their lives, in settling and extending their territory. This may be considered as the foundation of the title by which the old States laid claim to the territory which we shall presently see was ceded, for certain purposes, to the United States.

Thus situated, the American colonies engaged in the war of the Revolution, which was prosecuted with various success, until after the Declaration of Independence, without manifesting a determination to adopt a common form of Government whereby the energies and strength of the whole might be efficaciously wielded and directed, and the common cause otherwise promoted. The exercise of sovereign powers, by so many distinct sovereignties, without a common head, threatened to destroy all the advantages that had been gained from the pending Revolution, &c., and soon suggested the formation of the Confederation, which was subsequently made. Whilst Congress was in session for this purpose, in October, 1777, the States which claimed the territory in question were much surprised to find its deliberations disturbed by the assertion of the right of the Congress to exercise a power and control over the same in the following proposition, which was then submitted, viz:

Resolved That the United States, in Congress assembled, shall have the sole and exclusive power to ascertain and fix the western boundary of such States as claim to the Mississippi or South Sea, and lay out the land beyond the boundary so ascertained, into separate and independent States, from time to time, as the numbers and circumstances of the people thereof may require."

It was contended, in favor of this proposition, that as the war of the Revolution was carried on by all of the States, each contributing, according to its ability, to the common cause, and all making sacrifices for the general good, that these waste lands should not be appropriated to any particular State; whilst on the contrary, the other States held that the lands were contained within their chartered limits, and they were as much entitled to this portion of their territory as to any other. Suffice it to say, that this proposition received only the votes of Maryland in its favour, which State never did possess any of the waste lands, being founded by the old States of Virginia and Pennsylvania, and thus completely shut out from the Western territory; and it was determined not to incorporate it in the articles of Confederation.

The spirit of opposition to the rights of the States that claimed the territory, did not stop here; for when the articles of Confederation were submitted to the Legislatures of the several States for ratification and adoption, the delegates from the States of Maryland, Rhode Island and New Jersey, in Congress, were instructed so to amend them, as to provide "that the waste and crown lands should be considered the common property of the United States." This proposition was likewise rejected, although some of the States still claimed the lands, and all acceded to the articles of Confederation, except Maryland; which State, in the Congress of 1779, filed her protest against the exclusive claim of some of the States to this territory; and whilst she therein denounced their claim as being found-

ed upon an usurpation of power, re-asserted her own, with the evidences of her title.

Thus it will be seen that the title of these States to the territory was never disputed, except by the States of Maryland, New Jersey and Rhode Island; all of which were surrounded and protected by the other old States, and which, when the lands were considered not only as a burden and expense, but as exceedingly injurious to those contiguous States, were very willing not to be incorporated thereby. The States of New Jersey and Rhode Island, not being so pertinacious in their demands as Maryland, acceded to the articles of Confederation; whilst the latter State still continued to manifest a spirit of discontent and insubordination, as will appear by reference to the instructions to her delegates, which were spread upon the Journals of the Congress of 1779.

All difficulties being apparently removed, and this vexed question seemingly settled, Virginia proceeded to open a land office, for the sale of her western lands, which act again excited the wrath and indignation of Maryland, &c.; and she was induced, by the interposition and recommendation of Congress, in October, 1779, "to forbear from settling or issuing warrants for the unappropriated lands, or granting the same during the (then) present war." The ardent wish of every American patriot, in this trying hour of our struggle, was to present an undivided front to our common enemy; and this obstinate and perverse disposition, evinced on the part of Maryland, coupled with her peremptory refusal "to authorize her delegates in Congress to subscribe to the articles of Confederation," were well calculated to retard the progress of our great cause, and to destroy all hope of ultimate success. In March, 1780, the Legislature of New York passed an act, which, after stating, in the preamble, among other things, "that the articles of Confederation and perpetual union, recommended by the Congress of the United States of America, have not proved acceptable to all of the States, it having been conceived that a portion of the waste and uncultivated territory within the limits or claims of certain States, ought to be appropriated as a common fund, for the expenses of the war," authorized a cession of her lands to the United States for certain purposes, as we shall see hereafter. This proceeding on the part of New York, together with the instructions given by Maryland to her delegates, and the remonstrance of Virginia against the claim and interference of certain States, were referred to a committee of Congress, who, after stating, in the preamble to their report, how essential to public credit and confidence, to the support of our army, to the vigour of our councils, and success of our measures, to our tranquillity at home, our reputation abroad, &c., was a liberal surrender of a portion of the territorial claims, recommended the adoption of the following resolution:

Resolved That copies of the several papers referred to the committee be transmitted, with a copy of this report, to the Legislatures of the several States, and that it be earnestly recommended to those States, who have claims to the western country, to pass such laws, and give their delegates in Congress such powers, as may effectually remove the only obstacle to a final ratification of the articles of Confederation; and that the Legislature of Maryland be earnestly requested to authorize their delegates in Congress to subscribe the said articles."

This resolution, and the proceedings consequent thereon, having failed to produce the desired effect, and the States owning the waste lands being unwilling to appease Maryland, at the expenses of their vast and valuable domain, upon the unlimited and undefined terms contained in the same, Congress again, on the 10th of October, 1780, proceeded to adopt the following resolution, pledging its faith with the States, as to the manner in which the ceded lands should be disposed of, &c. as an inducement for the States to relinquish their claim to the same:

Resolved That the unappropriated lands, which may be ceded or relinquished to the United States, by any particular State, pursuant to the recommendation of Congress of the 6th day of September last, shall be disposed of for the common benefit of the United States, which shall become members of the Federal Union, and have the same rights of sovereignty, freedom and independence, as the other, &c."

Thus it will be seen, Mr. Speaker, that, up to this time, there was a clear and unequivocal acknowledgment of the right of these States to the lands in question, by Congress. If, sir, this claim, on the part of the States, were disputed, why did Congress, for successive years, petition the States to cede their right, and finally adopt the resolution which I have just read to you, in which their claim is admitted, and the necessity of its relinquishment urged? This right never was denied by Congress; neither did the States, as I shall presently shew you, ever abandon all claim to their lands. On the first of March, 1781, the delegates of Maryland in obedience to the instructions contained in an act passed in the preceding February, signed the articles of Confederation, and thus quieted the fears and anxiety of the country, and completed the Federal Union.

The State of New York executed her deed of cession on the first day of March, 1781, which was accepted by Congress on the 29th of October, 1782. The most important matter for our consideration, in this deed, is the condition therein contained, that the lands thereby ceded to the United States "shall be and enure for the use and benefit of such United States as shall become members of the federal alliance of the said States, and for no other use or purpose whatsoever." Next in order of time, was the cession of lands made by Virginia, on the 1st of March, 1784. One of the conditions contained in the deed of cession, upon which alone Virginia was willing to relinquish her claim to the territory thereby conveyed, clearly indicates that she did not intend to abandon or part with all her interest in the lands; but that after the particular purpose and necessity for the cession, which the exigency of the times had created, were answered, that then they should become the common property of all of the States of the Union. It is as follows, viz:

"That all the lands within the territory so ceded to the United States, and not reserved for, or appropriated to any of the before mentioned purposes, or disposed of in violation to the officers and soldiers of the American army,

shall be considered as a common fund for the use and benefit of such of the United States as have become members of the confederation or federal alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure; and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever."

The lands conveyed by this deed, Mr. Speaker, to the United States, comprehend that immense tract of country which now constitutes the States of Ohio, Indiana, Illinois, the would be State of Michigan, and the northwestern territory of Ouisconsin. This latter territory is in length, from east to west, about 550 miles, and 400 in breadth, from north to south, and contains an area of about one hundred thousand miles square. During the years 1785, 1786 and 1787, Massachusetts, Connecticut, and South Carolina, by deeds of cession, conveyed to the United States all their claims to the vacant and unappropriated territory, which belonged to them, upon similar conditions as contained in the Virginia deed of cession. Our own State, (North Carolina), in December, 1789, proceeded to pass an act, in which, after suggesting that "whereas the United States, in Congress assembled, have repeatedly and earnestly recommended to the respective States in the Union, claiming or owning vacant Western territory, to make cessions of part of the same, as a further means, as well of hastening the extinguishment of the debts of establishing the harmony of the U. States," she authorized the Senators of this State, in the Congress of the United States, or one of the Senators and two of the Representatives of this State in Congress, to execute a deed, on the part and behalf of this State, conveying to the United States all that portion of territory now constituting the State of Tennessee, upon certain conditions; one of which was, that all the lands intended to be ceded, by virtue of this act, to the United States of America, and not appropriated as before mentioned, shall be considered as a common fund for the use and benefit of the United States, North Carolina inclusive, according to their respective and usual proportion in the general charge and expenditure; and shall be faithfully disposed of for that purpose, and for no other use or purpose whatsoever." This deed of cession was duly executed by Samuel Johnston and Brumfield Hawkins, our then Senators in Congress, on the 25th day of February, 1790, and accepted by an act of Congress, approved April 2nd, 1790. The State of Georgia, by an act, passed in 1802, after reserving to herself, out of the net proceeds of the lands ceded, one million two hundred and fifty thousand dollars, conveyed to the United States her waste lands, upon the same conditions as specified in the deeds of cessions of Virginia and North Carolina. This cession, together with that made by South Carolina, comprehended that extensive and fertile region of country now constituting the States of Alabama, Mississippi, &c. and completed the title, whatever it may be, of the United States to the public lands lying within the boundaries of the old Confederacy.

The two great inducing causes which impelled these States to cede their lands thus to the General Government, were, in the language of the preamble of the North Carolina act, "the hastening the extinguishment of the debts, and the establishing the harmony of the United States." I am given to understand that during my absence from the Senate, the gentleman from Warren (Mr. Edwards) has endeavored, in his argument, to sustain two positions taken by him against the claim of the States, and distribution of the proceeds of the public lands among them, viz: first, that they were ceded by the States to the Government of the United States, and that they belong absolutely to it; and secondly, that it would be unconstitutional now to distribute the proceeds of the sales of them among the States. As Virginia, sir, ceded by far the largest and most valuable portion of what is now denominated the public lands, and as the condition contained in her deed of cession similar to that of the other States, I will call the attention of the Senate to its consideration:

"All the lands, &c. so ceded to the United States, &c. shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become members of the confederation, or federal alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure; and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever."

This deed most clearly constituted the United States a trustee of those lands, for the use and benefit of such of the United States, &c., Virginia inclusive, as were or should become members of the federal alliance. If the deed were intended to convey the lands, absolutely to the General Government, why make provision for such States as had not joined the confederation? and why mention Virginia by name? She constituted one of the Union, and would have participated in all the benefits that would have accrued from giving them to the United States, if the deed did not contemplate a distinct and individual interest to the separate States. The grant, as has been remarked, is not for the benefit of the confederation, but for that of the several States which compose the confederation. The fund is to be under the management of the confederation collectively, and is so far a common fund; but it is to be managed for the use and benefit of the States individually, and is, so far, a separate fund, under a joint management. Moreover, sir, this fund, by the deed, is considered a common fund of the individual States, to be disposed of by the United States, "for their benefit, according to their usual respective proportions in the general charge and expenditure; and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever."

Now, sir, if this were an absolute cession of these lands, to the General Government, why is it that the Government cannot have an absolute and uncontrolled disposition of them? Why is it limited, and bound to dispose of them for a certain purpose, and "for no other use or purpose whatsoever?" The answer is obvious. They

were only ceded for a certain purpose to the United States; and as the Government could only use them for that purpose, when that purpose was answered, and the payment of the debts for which they were surrendered to the United States effected, the United States could have no other title to them than that of a faithful trustee, for those who were entitled to them.

What was the object of the cession of these lands to the United States? It was, in the language of the deed, to pay "the usual respective proportions in the general charge and expenditure of each of the States of the confederacy." Let us see, sir, what constituted this general charge and expenditure. The war of the Revolution involved the States in a debt of between 60 and 70 millions of dollars, with no apparent means to liquidate and discharge the same; the articles of Confederation were so weak and powerless as to disable the General Government from raising, by taxation, a sufficient amount of monies to meet its necessary wants; and each State was required to make "fixed and known contributions" in aid of the contingent charges and expenses of the Government. The large and repeated demands upon them, arising from the exigencies of the times and the prosecution of an expensive war, exhausted their means and impoverished their treasuries; notwithstanding the States, by uncommon and highly patriotic exertions, continued their respective contributions up to the time of the cession of these lands and the adoption of the Constitution. In this state of things, with a large and increasing national debt, coupled with the discontent and dissatisfaction evinced by the States to which I have already alluded, in consequence of the exclusive claim of the other States to the lands now denominated the public domain, the General Government anxiously directed its attention to these lands as the only means by which "the respective proportions of the several States, in the general charge and expenditure," could be raised and discharged, and the malcontent States satisfied and appeased; and, accordingly, sir, we find that, in compliance with the urgent and repeated solicitations of the Government, they consented to yield their lands, upon the condition that they should be considered as a common fund, "for the use and benefit of such of the United States as have become or shall become members of the confederation or federal alliance of the said States," the State ceding them "inclusive, according to their usual respective proportions in the general charge and expenditure; and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever." And thus we see, sir, that when Maryland, New Jersey and Rhode Island joined the confederacy, they became entitled to their share of these lands, which were ceded to the Government for the common use and benefit of all the States, individually, according to their usual respective proportions in the general charge and expenditure; and that the General Government became bound, by the very terms of the deed, that she would faithfully and bona fide dispose of them for that purpose, and for no other use or benefit whatsoever. If the General Government is disposed to perform this contract, and considers herself bound by the high and moral considerations of honor, integrity and justice, what becomes of the argument that these lands belong to the General Government, and that she has the absolute and uncontrolled disposition of them? Sir, she may arrogate to herself the power to do so; but in so doing she violates her plighted faith, is guilty of a breach of the confidence and trust reposed in her by the States, and is totally regardless of the very terms and letter of the deeds by which alone she can assert any title to the lands.

The States were and are distinct sovereignties, as to their domain, and the General Government cannot interfere with the same, unless by their consent. If, therefore, she should disregard these deeds as conveyances, &c., she is bound to respect and observe them as compacts or treaties, between sovereign and sovereign, which each have the right to enforce and exact the performance of, according as they may be violated and disregarded by the one or the other. This, sir, is natural justice, which cannot be avoided, except the General Government, unmindful of its obligations, and in violation of its faith and honor, by the exercise of arbitrary power, or an appeal to superior force, shall cut the Gordian knot which binds together the rights and interests of the States.

Let us proceed with the further history of these lands, and we will soon perceive, that the argument of the gentleman from Warren becomes weaker as we progress. In May, 1789, Congress, in the performance of its duty, contemplated by the deeds of cession, proceeded to dispose of a part of these lands, and directed the amount of sales to be paid into the treasury of the United States, and in August, 1790, passed an act, directing the proceeds of the sales to be applied towards the sinking or discharging of the debts of the United States, &c. In the year 1787, three years after Virginia had ceded her lands to the General Government, upon the conditions already mentioned, the Congress of the United States, in granting a government for the very territory so ceded by Virginia, ordained and declared, "that the following articles shall be considered as articles of compact between the original States and the people and States in the said territory, and for ever remain unalterable, unless by common consent;" and among the articles so formed, it is declared that "the legislatures of these districts or new States, shall never interfere with the primary disposal of the soil, &c." which provision has been adopted into the constitutions of many of the new States, and forms the condition which is exacted from all of them before they can be admitted into the Union. Now, sir, if these lands belonged absolutely to the General Government, these articles of compact should have been formed between it and the people and States of the territory, and should not have been made unalterable, unless by the common consent of the original States. If the original States had parted with all their interest