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B. LETTER

From the Commissioners of Georgia, to the Commissioners of North-Carolina.

Near Douthard's Gap of the Blue Ridge, 25th of June, 1807.

GENTLEMEN,

The crisis has now arrived, when from observations at three several times in places, by the Astronomers attending the Commissioners of each State, it appears that the thirty-fifth degree of North Latitude will not be found North of the Blue Ridge, and within the temporary boundary lines of the States of North Carolina, South Carolina or Georgia; so that any further attempt to obtain the aforesaid thirty-fifth degree of North Latitude and to discover it on part of the Blue Ridge, and within the temporary jurisdiction of either of the States concerned for the purpose of fixing the same the permanent boundary between the States of North-Carolina and Georgia, will be fruitless and void:—The Legislature of Georgia by their act of the 10th day of December in the year eighteen hundred and three, expressly declare that all the Territory, situate South of the Southern boundary lines of Tennessee and North-Carolina, at the head of French Broad River, the Indian title to which Territory had theretofore been extinguished, should be laid out into a county, not doubting but that the State of Georgia by their purchase from the United States, had acquired the right both of soil and jurisdiction to the lands lying at the head of French Broad River, and the North side of the Blue Ridge; and venturing the opinion which at that time had universally obtained in the State of Georgia, that the said thirty-fifth degree of North Latitude would be found on the summit of some part of the Blue Ridge, North of the temporary boundary lines run by General Pickens and Col. Meigs, and to which land the Indian title had been extinguished, appointed their Commissioners to ascertain and plainly mark the said line.

We are assured that the Legislature of Georgia, at the period of passing the law laying out and organizing the county of Walton, entertained the opinion that the following points were acquiesced in by all parties having the most remote interest, to wit:—

First.—That the State of South Carolina previous to her cession of Western Territory to the United States, possessed lands of considerable extent on the North side of the Blue Ridge.

Secondly.—That a valuable consideration was given by the State of Georgia to the United States, for a scope of territory including the head waters of French Broad River and West of the Blue Ridge, which Territory the contracting parties considered of sufficient extent to form a county of ordinary size East of the temporary boundary line.

Thirdly.—That the observations heretofore made have been in a great degree uniform in fixing the thirty-fifth degree of North Latitude at least twelve miles North of Douthard's Gap—and

Fourthly.—That the State of North-Carolina being heretofore tenacious of the provisionary clause contained in her act of eighteen hundred and three, argues strongly, that they were in the firm belief that the Territory acquired by Georgia from the United States would include a number of persons who had made entries and obtained grants for land under the authority of North-Carolina; indeed the articles entered into by the board of Commissioners before leaving Asheville and the correspondence between the Executives of the two States abundantly confirm this opinion. These considerations, together with the observations made by the Astrono-

mical gentlemen, since the forming of the joint board, and comparing them with such as have heretofore been made, ought, as we conceive, to raise in our minds a rational doubt, as to the accuracy of the instruments now made use of.

In addition to this, a fiderial observation was made last evening by the Astronomer on the part of Georgia, when it was found that the point *we are now on* is four minutes South of the thirty-fifth degree of North Latitude. Contemplating the case therefore in all its various shapes and forms, the truth, (which is of all things the most desirable to attain,) cannot be come at, short of a further trial, and a comparison of those now used with other Astronomical instruments. We have no difficulty in conforming to the wishes of the Commissioners of North Carolina by proceeding to the Feeding Rock and thereabouts, endeavoring to find the thirty-fifth degree of North Latitude on the summit of the Blue Ridge and East of the temporary boundary line; although candor at the same time obliges us to confess, that we have no hopes of finding the desired point in that quarter from the observations which have been already made and with the instruments now used.

We are free to confess and make the declaration with great pleasure that the deportment of the Commissioners on the part of North Carolina hath been of such a cast since we were made known to each other, as to evince a disposition that amity and good will should constantly be preserved from the commencement to the completion of our labors; and we hope that we shall not be found to fall short of evincing the same disposition on our part.

The good will and harmony which the two States are desirous of maintaining towards each other, ought by all possible means to be preserved, and to this end it seems desirable that each party should be completely satisfied with the result of our exertions; as *this is not our case*, we conscientiously believing that there is great inaccuracy in the instruments now used, it would be grateful to us to have a postponement of the present pursuit, or an adjournment of the board until some future day. It is matter of great regret with us to be informed, that the sheriff and tax collector of Buncombe county are hovering around the camp of the Commissioners, in order as we have reason to believe, to execute final civil process upon the persons and property of the inhabitants of Walton county, so soon as they are found or believed by our present observation to be within the limits of North-Carolina.

It certainly doth not comport with the dignity and majestic attitude, which a sovereign State ought to assume to suffer their officers to deprive innocent women and children of the means of subsistence and confine husbands and fathers in a loathsome jail when their greatest fault was their attachment to the power to which they thought themselves legally bound. We hope this view of the subject will have all the influence on the minds of the Commissioners which the importance of it requires; and that measures will be immediately and effectually taken to prevent the evils above contemplated.

We have already agreed to recommend an amnesty to be provided by Legislative interference for all crimes under the degree of capital, committed within the supposed limits of Walton county since the 10th of December, eighteen hundred and three, and we conceive that the reasons are equally strong why provision should be made for the cases now under consideration until the line shall be ascertained in such manner as will be satisfactory to each State.

To the several points in this communication, which may require it, we hope to receive your reply to soon as it may suit your convenience.

We are with respect and esteem,

Gentlemen,

Your most ob't servants.

THOMAS P. CARNES.

WM. BARNETT.

C.

LETTER

From the Commissioners of North-Carolina to the Commissioners of Georgia, in reply to their communication B, dated June 25th, 1807.

Near Douthard's Gap of the Blue Ridge, June 26th, 1807.

GENTLEMEN,

We have perused with great attention and concern the proposition contained in your letter of yesterday, to separate without completing the business committed to us by our respective States;—a proposition the more to be regretted on our part, as we do not consider ourselves at liberty to accede to it; nor is it in our power consistently with that frankness which we wish to make the rule of our conduct, to acquiesce in the reasons which you have been pleased to urge in support of it. It is certainly practicable, before our separation, to ascertain with accuracy the 35th degree of North Latitude, either on the Apalachean Mountains or elsewhere, and as we do not perceive that you are restricted by the resolutions of the Legislature of the State of Georgia, under which you now act, to that Ridge of Mountains, we flatter ourselves you will continue to co-operate with us until an object so "necessary to the peace and welfare of the Territory" in question, and of the two States generally shall be accomplished.

We must beg leave to decline entering into any discussions concerning the views of the State of Georgia in passing a law to establish and organize the county of Walton, or of the expectations which may have been entertained of the extent of its limits, it being sufficient for the present to observe, that whatever those views or expectations were, it must have been a well known fact at the time, that the State of North-Carolina then claimed the right of soil, and actually exercised jurisdiction over the settlements at the head of French Broad River:—nor can we take any official notice of the vague conjectures which may have been formed, at that or any time since, concerning the point where the 35th degree of North Latitude would probably be found, as whatever observations may have been heretofore made with a view to its discovery, were unauthorized by the government of North Carolina and have never received its sanction:—but if any such observations were made for the purposes of speculation, or for any other private or exparte purpose, we cannot admit that they are entitled to that degree of credit which would tend to invalidate, or call in question the accuracy of the observations which have been lately made in pursuance of our convention at Buncombe Court-House. We think the accuracy of the instruments may be relied on, and is indeed in our estimation established by their remarkable coincidence in all the observations which have been made, and by the skill and abilities of the gentlemen employed by each State to use them,—gentlemen in the highest degree eminent for their science and respectability, and who, as far as we know and believe, have neither entertained nor suggested any doubts of the accuracy of the instruments with which they are respectively furnished. Such being our impressions, we cannot admit a surmise of this kind to be sufficient to induce the Commissioners to separate:—But as an evidence

that *truth and right* are the only objects of our pursuit, we are willing to agree to a free and unreserved interchange of instruments—that the State of Georgia shall have all the advantage of the use of the two Quadrants and other instruments in our possession, as well as of your own—that the observations and calculations shall be made separate and the result only communicated, but communicated to the whole of the Commissioners; or in concert where each will have the aid of the other, as you may prefer. In one or the other of these modes of proceeding, it is scarcely possible that an error of any importance to either State can escape detection, and it is extremely doubtful whether we can expect at any future time to come together either with better dispositions, better instruments, or with gentlemen better qualified to assist the Commissioners of both States than at present.

With respect to the inference which you have been pleased to draw from the article contained in our convention agreed to at Buncombe Court-House, and from the manner in which the government of North-Carolina hath heretofore contended, that the extension of the boundary line should not affect private titles, we beg leave to refer your attention to the act of the last session of our Legislature to repeal a proviso which had been introduced into former laws upon that subject. You will find it expressly declared in the preamble to that act, as the sense of the Legislature, that the provisionary clause contained in former laws was not intended to have relation to the State of Georgia, and that with respect to that State, it "could answer no valuable purpose and might be an impediment to an amicable and speedy adjustment of boundary between the two States." This so far from being an admission on the part of North-Carolina, that Georgia possessed the right of soil and jurisdiction to any considerable portion of the settlements on French Broad River, is we respectfully conceive a document, which plainly proves the reverse, and it can only we think be inferred from the correspondence between the Governors of the two States, that North-Carolina was tenacious of the principle, and whether much or little of the lands patented under the authority of North-Carolina should be found by the extension of the boundary line to be within the State of Georgia, that the titles and possessions of the claimants should not be disturbed. This is the view which the Commissioners of North-Carolina have uniformly given of the subject, as well in our discussions at Buncombe Court-House as elsewhere:—a view which appears to be warranted by considerations of liberal and magnanimous policy, in support of which a great number of precedents might be adduced; and we continue to think, that if by the extension of the boundary line between neighboring States in union and political friendship, a single grant, or any number of grants should be found to have been issued by one of them through mistake for lands within the territory of the other, for which a prior title or titles had not been obtained, it would comport more with the dignity of a sovereign State to confirm, than to permit them to be disturbed or invalidated. This has been the conduct and policy of the States which form our American Confederacy towards each other, and it is under the influence and supported by the equity of such precedents that we have contended, more than for the amount of the property which we considered liable to be affected.

The notice which you have been pleased to take of the fiderial observation made the evening before the date of your letter, is entitled to some attention in our reply. It was made, we under-