

THE STAR, AND NORTH CAROLINA GAZETTE.

NO. 5

RALEIGH, N. C. THURSDAY, JANUARY 22, 1835

VOL. XVI

THE STAR

And North Carolina Gazette.

PUBLISHED WEEKLY, BY LAWRENCE & LEMAY.

TERMS.

Subscription, three Dollars per annum—
half in advance. Subscribers in other States
cannot be allowed to remain in arrears longer
than one year, and persons residing without this
State, who may desire to receive subscribers,
will be strictly required to pay the whole amount
of the year's subscription in advance.
ADVERTISEMENTS, not exceeding fifteen lines
inserted three times for one dollar, and two
cents for each continuation.
Letters to the Editors must be post-paid.

OUTRAGE AT NASSAU.

The following Report and Resolutions, on this
subject, were unanimously adopted by the Leg-
islature of this State, at its late session:

The Joint Select Committee to whom
was referred that part of the Governor's
Message which relates to the "outrage committed on Amer-
ican citizens at Nassau," REPORT:

From a memorial addressed to the
General Assembly, by JOHN WADDELL,
Esq. of Wilmington, and from
other papers in possession of the com-
mittee, they derive the following facts:

On the second day of February last,
the brig *Encomium*, an American
vessel, commanded by an American,
and engaged in lawful trade between
Charleston and New Orleans, sailed
from the latter, bound to the former
place. Among other American citi-
zens on board that vessel, was your
memorialist, JOHN WADDELL, Esq.,
who represents that he there had with
him twenty-two slaves, which he was
removing from North Carolina to lo-
cate on a plantation on Red River, in
the State of Louisiana: That about
fifty-six hours after the departure of
said brig from Charleston, she was
wrecked, at midnight, on the reefs of
Abaco: That after having been confined
for many hours to the wreck, the
passengers were extricated from their
perilous condition by the kind assist-
ance of the inhabitants of Abaco: That
they there procured a vessel, which
conveyed them and the crew of the
wrecked brig to Nassau, in the British
Island of New Providence: That, ar-
rived in the harbour of Nassau, they
sent to the authorities of the island for
permission to land, for the purpose of
procuring means of subsistence, of
which they were destitute: That, to
their astonishment, such permission
was denied; and they were informed
that they "should hold no intercourse
with the shore, not even for the pur-
pose of procuring food;" and if they
presumed to hold such intercourse,
their vessel should be fired into by a
British sloop of war lying in the har-
bour: That after having been kept for
some hours in that situation, they were
ordered up under the guns of the sloop
of war, where they remained for some
hours as prisoners of war: That by the
interposition of one of the passengers,
who was a British subject, they were
at length permitted to land at eight
o'clock at night: That early on the
morning following, the negroes be-
longing to the memorialist, and twenty-
three belonging to other passengers,
were taken on shore by order of the
Lieutenant Governor of the island,
carried before the officer of the cus-
toms, where they were immediately
separated from the rest of the mem-
orialist's party, and directed to repair
to the quarters of a black regiment in
town, where they would be accommo-
dated until they could obtain suitable
situations: That some days after this,
when there were vessels about to sail to
New Orleans, the memorialist, JOHN
WADDELL, addressed a note to the Gov-
ernor, through the American Consul,
respectfully inquiring whether there
were any obstacles to his proceeding on
his voyage with his property; to which
the Governor replied, that if the
memorialist presumed to interfere
with the *manumitted slaves*, it would
be his (the Governor's) duty to
hang him and all accessories.

The foregoing is a brief and simple
statement of the circumstances of the
outrage perpetrated upon your mem-
orialist, and for the redress of which he
says the interposition of this General
Assembly. Although it is not com-
petent for North Carolina, consistently
with her federal relations, to take in-
terposition in a matter of this kind,
yet the committee deem it the
duty of the General Assembly, as the
mediate guardians of the rights of
our citizens, to take such measures for
the vindication of those rights as may
import with the dignity of North Car-
olina, and with her relations to the
General Government and her sister
States.

A leading object of the States, in con-
sidering, was mutual defence against
foreign aggressions; and whenever the
weakest citizen is aggrieved by a
power beyond the reach of the civil
laws of the country, he has a right
to appeal to the General Government;
and it is the duty of that Government
to extend over him its protecting or
avenging arm.

The committee believe that the case
referred to their consideration is one
of imperious demands the inter-
vention of North Carolina, in the
case adverted to, and the decision
of the General Government.

It is not for the peculiar condition

of North Carolina, in common with all
the Southern States, in one particular
of innumerable consideration, the Gen-
eral Assembly might be content with
barely communicating to the General
Government the facts herein recited, in
full confidence that the justice and the
energy of that Government would be
speedily and duly exerted in behalf of
the injured memorialist.

But under those peculiar circum-
stances, it should not be concealed
that she feels much anxiety, and can-
not but anticipate the direct calamities
to herself, to the whole South, and,
indeed, to the whole Confederacy, if
the Federal Government should permit
so flagrant an outrage upon the pecu-
liar rights of Southern citizens to pass
unheeded.

Not many months have elapsed since
events occurred in a portion of our
own country well calculated to excite,
as they did, the most serious appre-
hensions.

Happily for our common country and
her free institutions, the justice, prudence
and patriotism of the great mass
of society, whose those events trans-
pired, triumphed over the wild fanaticism
of the misguided few, and in-
spired the Southern people with fresh
confidence in the good feelings and good
faith of their Northern brethren.

But the recent manumission of the
slaves in the British West Indies, the
vicinity of those islands to our coast,
our frequent intercourse with them,
and the outrage from that quarter,
which is the subject of this report, all
concur in admonishing us that the
situation of the Southern States is per-
ilous; that they cannot rely for security
upon the imbecile or corrupt function-
aries of a foreign power; but that
they must look for protection to the
Government whose duty it is to afford
it: even at the hazard of the last resort
of nations. For, although peace, not
war, is the favorite element of this
Confederacy, history teaches us that
peace obtained at the sacrifice of honor,
or a tame submission to injury, is
never permanent, unless it terminates
in entire subservency to the nation per-
petrating the wrong.

As much, therefore, as North Car-
olina would deprecate a war, especial-
ly with that nation whence are derived
so many valuable principles, of our
free institutions, she would not hesi-
tate to choose it in preference to
peace, preserved at the expense of
private rights and the national honor.
But it is confidently believed that
both alternatives may be avoided by
prudent, yet firm and energetic con-
duct on the part of the General Gov-
ernment, in demanding indemnity to
our citizens for injuries committed by
the authorities of the British Crown,
and the adoption of such measures as
may tend to prevent a recurrence of
such injuries.

After a mature consideration of all
the circumstances connected with this
unfortunate affair, and of the conse-
quences that may result from it, the
committee recommend to the Legisla-
ture the adoption of the following res-
olutions, viz:

Resolved, That the forcible deten-
tion, by the authorities of the British
Island of New Providence, of the prop-
erty of American citizens thrown upon
that island by shipwreck, was a
breach of the rites of hospitality, and
an infraction of the laws of nations.

Resolved, That the General As-
sembly of North Carolina will not recognize
any distinction in principle between
property in persons, (as known to the
Constitution of the United States,) and
property in things.

Resolved, That the General As-
sembly of North Carolina has full con-
fidence in the good faith of the respec-
tive members of the Union, in regard
to all those rights guaranteed to each
by the Federal Compact, and doubts
not that the General Government, as
the common agents of the States, will
take such measures, at the present
juncture, as may be wise and expedi-
ent.

Resolved, That his Excellency the
Governor be requested to transmit a
copy of this report and these resolu-
tions to the President of the United
States, to the Executive of each of
the States, and to the Senators and
Representatives of North Carolina in
the Congress of the United States.

The United States and France.—
Being unable at this time to publish
the Report recently made in the
Senate, by the committee of Foreign
Relations, on our relations with
France, we avail ourselves of the
following synopsis of its contents,
furnished by the National Intelligen-
cer:

The reading of the Report occupi-
ed about two hours. Having had no
access to it, and having only our
hearing to depend upon, we shall
attempt nothing like a literal report
of its contents, but will endeavor,
for the gratification of the public
curiosity, to make a rapid sketch
of the outline of it.

The Report sets out with express-
ing the entire concurrence of opin-

ion of the Committee with the Pre-
sident as to the justice of the claims
for the payment of which the Treaty
between the United States and
France makes provision. They had
their origin in flagrant violations
of the law of Nations, and of our
neutral rights, for which the pre-
tence alleged at the time afforded
no justification. At the period of
those aggressions, the Government
of the United States would have
been fully justified had it then ap-
pealed to arms to vindicate our out-
raged rights; and it was a fact
known to those who were conversant
with the history of the times, that
the expediency of such a measure
had been seriously considered in
the councils of the United States.
The selection between the two bel-
ligerents, by which another Nation
became the enemy at that time,
arose not from any insensibility to
the injuries received from France,
but from a consideration of a differ-
ent nature. Restrained by prudent
considerations from then making
war upon France, the United
States had yet resolved never to ac-
quiesce in the wrong and unjusto-
done to them, but to persevere in
the demand of indemnity until it
should be obtained. As early as
1812, one of our most distinguished
citizens, appointed Minister to
France, was instructed to demand
reparation for these wrongs, and the
demand had been persisted in, by
every Administration, from that
day down to the conclusion of the
Treaty of 1831.

The report then goes on to say
that of these claims the amount had
not previously to the Treaty been
fully ascertained, and could not be
exactly known until they were final-
ly adjudicated; but the Committee
concur entirely with the President
in the opinion that the amount
awarded by the Treaty, by way
of indemnity, falls far short of the
just claims of our citizens, including
claimants themselves, to those
wrongdoers who have received in this
country the general satisfaction for
several reasons, but, more than all,
for the reason, that the People of the
United States saw in it the removal
of the only obstacle to perfect har-
mony between this country and a
nation, the remembrance of whose
ancient friendship was always dear
to them. It had not been for a mo-
ment supposed that a Treaty be-
tween the two countries, bringing
on the face of it a perfect obligation,
would be violated by the failure of
either party to perform the stipula-
tions on its side, &c. and so little
did Congress apprehend such a
state of things, that they passed
several acts upon the Treaty, one
of which was to provide for the
investment of the money to be re-
ceived under the Treaty in some
productive fund, for the benefit of
the claimants, until the adjudica-
tion of the claims should be complet-
ed. In consequence of this last
provision, when the first instalment
became due, a draft was drawn for
the amount, the protest of which
was the first notice of the non-ex-
ecution of the Treaty. To the man-
ner in which this draft was drawn,
perhaps on the score of formality
or etiquette some exception might
be taken; but the Committee are
unanimously of opinion that the
mode adopted, of drawing for the
money, was fully justified by the
terms of the treaty. It is with pro-
found regret, says the report, that
the Committee have learnt the fail-
ure of the reasonable expectations of
the Executive and of the country,
as to the execution of the Treaty.

The report goes on to say, as the
President in his message justly re-
marks, that the idea of acquiescence
in the refusal to execute the Treaty,
can never be for a moment entertain-
ed. The United States can never
abandon their rights under it.—
When negotiation for procuring the
execution of the Treaty shall be ex-
hausted, it will then be for the United
States to consider what other
measures are necessary to procure
their rights to be respected. In
the opinion of the President, that
period has already arrived, and he
has recommended to Congress to
authorize Reprisals in the event of
a failure of France promptly to
make payment, &c. The Presi-
dent, however, does not present the
course of Reprisals as the only one
open to Congress, but by the admis-
sion of the alternative of waiting a
further time for the action of the
French Chambers, leaves to the
choice of Congress the two courses,
of further negotiation or of a con-
tingent measure which, in its con-
sequence, may possible lead to war,
extra meeting of the Chambers
As to the latter course, if the habits,

and interests of this
People are opposed to war, when
not unavoidable, with what added
force do not all these objections ap-
ply to a war with an ancient ally,
towards whom the people of the
United States entertain the kindest
sentiments! Partaking of this sen-
timent themselves, the Committee
extended their inquiry, first, into
the practicability and expediency of
the peaceful alternative presented by
the message.

The report here proceeds to a
critical analysis of the correspondence
(between our Minister and the
French Ministry) which preced-
ed the formation of the Treaty,
showing by various quotations from
it, that, throughout the negotiation,
the King of France evinced the
most friendly feelings towards the
United States, and took an unusual
interest in the adjustment of the
question between the two countries.
Our Minister had been reminded,
over and over again, of the difficul-
ties which the Ministers would have
to encounter from the Chambers in
consequence of the Treaty, &c. To
this history of the negotiation the
Committee did not advert to justify
the omission of the French Gov-
ernment to carry into effect the
Treaty; the difficulty now ex-
perienced in the French Chambers
being an affair between them and
their own Government, and not be-
tween them and our Government.
But the Committee had recourse to
this correspondence, because, after
the warnings which were given of
the difficulties which would have to
be encountered, a fair construction
ought to be put upon the course of the
King and his Ministers in this mat-
ter. If the King has throughout acted
with good faith, and is still laboring
to effect the passage of a bill in the
Chambers to carry into effect the
Treaty, it would be not only unjust,
as respects the French Government,
but impolitic, and unwise as respects
the claimants themselves, to throw
obstacles in the way of the success
of the King's exertions by the adop-
tion of rash or hasty measures, even
contingently, which might convert
some of the warm friends in the
Chambers into bitter enemies of the
claim.

The report then proceeds to the
consideration of what has transpired
since the ratification of the Treaty;
carefully reviewing and analyzing
the correspondence which has since
passed between the Ministers of the
two countries, &c. The Committee
express the great pleasure they have
in concurring with the President of
the United States, and Mr. Living-
ston in entire confidence in the good
faith of the King, &c. as professed
in several of the letters from our
Secretary of State and our Minister
in France; and they consider it due
to candour to declare that they have
seen no reason since to distrust the
sincerity or perfect integrity of the
King in this matter.

It having been arranged in the
correspondence which followed the
rejection of the bill by the Cham-
bers, that this Government should
await further action of the French
Chambers before taking any other
step, the committee proceeded to
examine on what ground the Presi-
dent now recommends action without
waiting. They review the corres-
pondence between the French Min-
ister here and our Secretary of State,
in reference to the supposed pledge
of the French Minister for an ex-
traordinary convocation of the
Chambers. The Committee do not
find such a pledge, though they find
every assurance that the earliest
practicable opportunity will be seized
for pressing the bill upon the
Chambers.

They find an expression of an
expectation on the part of the Presi-
dent that the King will use his
whole constitutional power, (which
includes the power to convene the
Chambers at any time,) but they do
not find that expectation to have
been responded to by the French
Minister; or if it was, the document
containing the response has not been
communicated to Congress, &c. &c.
If the Chambers had been convened
earlier than usual, though nothing
should have been done by them, at
the time that Congress met, it is
not probable, says the Report, that
the President would have held the
language towards France, which is
contained in his Message; nor
would he, if he had known what
the subsequent intelligence has disclo-
sed, that the Chambers were to meet
on the 1st of December.

The reasons assigned by the
French Ministry for not calling an
extra meeting of the Chambers
carry the Treaty into effect, but
even supposing it possible that their

do not command conviction, would
justify acquiescence in the course of
the King, if, as the Committee are
entirely convinced, throughout the
negotiation, and on all occasions,
before the treaty and after the treaty,
the King has invariably shown an
anxious desire for the satisfacto-
ry adjustment of the differences be-
tween France and the United States.
The opposition to the execution of
the treaty had not proceeded from
the King of France or his Ministers,
but from the Chamber of Deputies.
Whilst these exertions are making
by the French Government, the pol-
icy of this Government is to strenghten
them—to second them—and, above
all, to do nothing to impair the
force of them.

The refusal of one branch of a
Government, it is true, (says the
report) to execute a Treaty may
be regarded as the refusal of the
whole Government; but when the
head of the Government evinces the
earnestness which has been shown
in this case by the political head of
the French Government—such a con-
clusion ought not to be hastily drawn.
Upon the whole the Committee are
of opinion that the time has not yet
arrived when Congress is called upon
to go into the consideration of the
very serious question, whether they
will enter into any measure for the
purpose of taking into their own
hands redress of wrongs by France.
The Committee are of opinion that
Congress ought to avoid any resort
to war, or to the measures which may
lead to it, and rather wait to see
the result of the exertions which the
French King is undoubtedly making
to carry the Treaty into full effect.
The Committee agree in opinion
with the President, that we cannot
now go behind the Treaty, that the
question of the fact of wrong and
the amount of indemnity must be
considered as closed by it. But,
for all other purposes, the commit-
tee say, the door is still open to ne-
gotiation. The misapprehensions
on the subject of this treaty and the
claims of the United States, which
appear to have existed in the French
Chambers, and prevented their legi-
slative action on the Treaty, may
be removed by explanations, &c.
which the United States should be
ready and willing to make. We
might indeed proudly and coldly
hold up the treaty in our hands, and
say to France, for our only argument
here is your bond! But it is due
to the dignity and character of
this nation to satisfy France and
the world that, though she has given
her obligation to pay the money,
we would scorn to accept it if it could
be shown that it was not accorded
in conformity to the principles of
immutable justice.

Many cases have occurred in our
history in which we have received
from other nations injuries which,
if so inclined, the United States might
have considered just cause of war,
which might have been prosecuted
at the expense of thousands of lives
and millions of money. Other and
better counsels, however, had pre-
vailed, and peace been preserved
with ultimate advantage to the coun-
try. Even in the case of France,
our claims resisted for more than
twenty years, have been at length ac-
knowledged, as they ought to have
been at first. We have the act of
the treaty making power for liqui-
dating them, and, sooner or later,
says the Report, the provisions of
the Treaty must be fulfilled by the
other branches of that Government.

Heretofore the Report goes on to say,
the committee might stop having ex-
pressed their opinion in favor of the
alternative discussed. But they feel
bound to say something on the other
branch of the President's suggestion,
that we ought to take redress into
our own hands without further de-
lay, should the appropriation for
the treaty not be forthwith made by
the French Chambers. In regard to
Reprisals recommended by the Mes-
sage as a pacific measure, the re-
port says they are indeed not war, but
they may lead to war. It is incon-
ceivable that a powerful and chival-
rous nation like France would quietly
submit to the seizure of the property
of its unoffending citizens pursuing
a lawful commerce. In our own
Constitution, the power to grant
letters of Reprisal is specifically
classed, among the powers of
Congress, with the power to declare
war, and the Committee are not
satisfied that Congress can constitu-
tionally delegate the power to make
Reprisals. The committee cannot
conceive, the Report says, any reason
why an appropriation should not be
made by the French Chambers to
carry the Treaty into effect, but
even supposing it possible that their

just expectation in this respect should
be disappointed, the Committee,
without entertaining an unreasonable
distrust of the Executive, express
the opinion that Congress ought
to retain to itself the right of
judging at what time, and upon
what state of things, reprisals ought
to be resorted to. For the present
the Committee are of opinion that
Congress should refrain from any
action which would evince a doubt
of the sincerity of the French Gov-
ernment. The President has, indeed,
in his recommendation of Reprisals,
sought to guard it from the imputa-
tion of being a menace. But, if fol-
lowed up by an act of Congress,
that act might be liable to be viewed
as a measure of intimidation. The
French Government and People will
look to our acts and not to our pro-
fessions, and Congress itself would
do the same, were the present rela-
tions of France and the United States
inverted, &c.

But, should the inquiry be made,
if France persists in refusing to ex-
ecute the Treaty, what shall then be
done? the Report says, the Commit-
tee will not anticipate such a result.
They looked at things as they now
exist, and will not attempt to antici-
pate the impenetrable future.—This
Nation has shown, when less pow-
erful in numbers and resources than
at present, that it knows how to vin-
dicate its rights, when a resort to
measures of redress is expedient and
proper. When necessary, we shall
not shrink from what duty may
again demand of us. Whenever the
occasion may arise, it cannot be
doubted that our united councils will
triumphantly maintain the rights,
the honor, and the interests of the
country by all means within their
power. As things now are, how-
ever, the Report concludes by saying
that the Committee think it expedi-
ent to leave Congress unfettered
and free to act according to circum-
stances as they may hereafter oc-
cur.

Appended to the Report is a reso-
lution embodying this conclusion of
the Committee, which has been
made the order of the day in the
Senate for Tuesday next.

Report on the subject of Divorces.—
The following Report was made to the
Legislature, at its late session, by
Mr. Barringer, Chairman of the com-
mittee on the Judiciary:

The Committee on the Judiciary,
to which was referred a Resolution
instructing them "to inquire into the
propriety of extending the power of
the Superior Courts of this State in
granting Divorces;" and also a Reso-
lution instructing them to report a
Bill, providing that in all applications
hereafter for Divorces, that the cause
set forth in the petition shall be re-
garded by the Courts as a matter of
fact—and if adjudged by a Jury to be
sufficient, that the Courts shall pro-
nounce a divorce according to the ver-
dict, either from the bonds of mar-
riage, or from bed and board—having
considered the same, respectfully
Report: That the object of the Resolu-
tion is to institute an inquiry, whe-
ther the jurisdiction in all cases of
divorces cannot, with propriety, be
transferred to the Courts, instead of
the Legislature. If a liberal construc-
tion had been given to the act of 1827
—by which the Superior Courts have
"sole and exclusive jurisdiction in all
cases of applications for divorce,
whenever they may be satisfied upon
due evidence presented, of the justice
of such application"—this object
would seem to have been attained.
But that act having afforded no rule
or standard by which the Courts in
the exercise of this unlimited discre-
tion, should be regulated, they have
settled on a construction, which nar-
rows the exercise of the power in the
Courts to divorce, to limits which
embrace little more than the causes
for which, under the act of 1814, di-
vorces are allowed. If we are to
judge from the general phraseology of
the act of 1827, this construction has,
to some extent, defeated the intention
of the Legislature—although it is
scarcely possible that the Courts,
which are usually governed by fixed
rules, could have concurred in a dif-
ferent construction of an act which vests
them with the most wild and unguar-
ded discretion, in a matter involving
the morals and welfare of the whole
community. This adjudication hav-
ing been made, it now becomes nec-
essary to inquire, whether the Legisla-
ture will again invest the Courts with
unlimited power on the subject of Di-
vorces—and whether it will establish
any rules, governing them in the ex-
ercise of this power; for without these
standards, the power would be inef-
fectual. This is the inquiry submit-
ted to the Committee: And in the in-
vestigation of the subject, they find it
involved in more difficulty than a
superficial attention would indicate.
On the one side, the Committee are