

principle in the code of public law, is at present better established, than the common freedom of the seas beyond a very limited distance from territories washed by them. This distance indeed is not fixed with absolute precision. It is varied in a small degree by written authorities, and perhaps it may be reasonably varied in some degree by local peculiarities. But the greatest distance which would now be listened to any where, would make but a small proportion of the narrowest part of the narrowest seas in question.

What are, in fact, the prerogatives claimed and exercised by Great Britain over these seas? If they were really a part of her domain, her authority would be the same there as within her other domain. Foreign vessels would be subject to all the laws and regulations framed for them, as much as if they were within the harbors or rivers of the country.— Nothing of this sort is pretended.— Nothing of this sort will be tolerated. The only instances in which those seas are distinguished from other seas, or in which G. Britain enjoys within them, any distinction over other nations, are first, the compliment paid by other flags to hers.— Secondly, the extension of her territorial jurisdiction in certain cases to the distance of four leagues from the coast. The first is a relic of ancient usurpation, which has thus long escaped the correction which modern and more enlightened times have applied to other usurpations. The prerogative has been often contested, however even at the expense of bloody wars, and is still borne with ill will and impatience by her neighbors.

At the last treaty of peace at Amiens, the abolition of it was repeatedly and strongly pressed by France; and it is not improbable, that at no remote day it will follow the title of "King of France," so long worn by the British Monarchs, and at length so properly sacrificed to the lessons of a magnanimous wisdom. As far as this homage to the British flag has any foundation at present, it rests merely on long usage and long acquiescence, which are construed, as in a few other cases of maritime claims, into the effect of a general though tacit convention. The second instance is the extension of the territorial jurisdiction to four leagues from the shore. This too, as far as the distance may exceed that which is generally allowed, rests on a like foundation, strengthened, perhaps, by the local facility of smuggling, and the peculiar interest which G. Britain has in preventing a practice affecting so deeply her whole system of revenue commerce, and manufactures; whilst the limitation itself to four leagues necessarily implies that beyond that distance no territorial jurisdiction is assumed.

But whatever may be the origin or value of these prerogatives over foreign flags in one case, and within a limited portion of these seas in another, it is evident that neither of them will be violated by the exemption of American vessels from impressments, which are no wise connected with either; having never been made on the pretext either of withholding the wonted homage to the British flag, or of smuggling in defiance of British laws.

This extension of the British law to four leagues from the shore is inferred from an act of Parliament passed in the year 1736 (9 G. 2. C. 35) the terms of which comprehended all vessels, foreign as well as British. It is possible, however, that the former are constantly excepted. Should your enquiries ascertain this to be the case, you will find yourself to be on better ground than the concession here made.

With respect to the compliment paid to the British flag, it is also possible that more is here conceded than you may find to be necessary. After the peace of 1763, this compliment was peremptorily withheld by France, in spite of the remonstrances of G. Britain; and it remains for your inquiry, whether it did not continue to be refused, notwithstanding the failure at Amiens to obtain from G. Britain a formal renunciation of the claim.

From every view of the subject, it is reasonable to expect that the exception of the narrow seas, from the stipulation against impressments, will not be inflexibly maintained. Should it be so, your negotiation will be at an end. The truth is, that so great a proportion of our trade direct and circuitous, passes thro' those channels, and such is its peculiar exposure in them, to the wrongs practised, that with such an exception, any remedy would be very partial. And we can never consent to purchase a partial remedy, by confirming a general evil, and by subjecting ourselves to our own reproaches as well as to those of other nations.

3d. It appears, as well by a letter from Mr. Thornton, in answer to one from me, of both which copies are enclosed, as from conversations with Mr. Merry, that the facility

which would be given, particularly in the British channel, by the impunity claimed for American vessels, to the escape of traitors, and the desertion of others whose services in time of war may be particularly important to an enemy, forms one of the pleas to the British practice of examining American crews; and will be one of the objections to a formal relinquishment of it.

This plea, like all the others, admits a solid and satisfactory reply.— In the first place, if it could prevail at all against the neutral claim, it would authorize the seizure of the persons described only, and in vessels bound to a hostile country only; whereas the practice of impressing is applied to persons, few if any of whom are alleged to be of either description, and to vessels whithersoever bound, even to Great-Britain herself. In the next place, it is not only a preference of a smaller object on one side to a greater object on the other; but a sacrifice of right on one side, to expediency on the other side.

Disputed Boundary settled.

We have the pleasure to lay before our Readers the Report of the Commissioners of this State and the State of Georgia, on the subject of the long disputed Boundary; together with the Conventional Agreements entered into by the said Commissioners.

Rutherford Court House, N. C. }
July 24, 1807. }

SIR,
In pursuance of your Excellency's appointment, we arrived at Buncombe Court-house on the 15th of last month, where we met Thomas P. Carnes and William Barnett, Esquires, two of the Commissioners on the part of Georgia, the other Commissioner of that State, Mr. Flournoy, did not attend, and his colleagues having concluded to proceed without waiting for him, we entered on the business assigned to us, on the morning of the 16th day following our arrival.

After having exchanged our commissions, and the Legislative acts under which they were respectively issued, and having declared that the Commissioners of each state were satisfied with the powers of the other, it soon appeared that the principal obstacle to an adjustment arose from the expectation, which we expressed, that if on ascertaining the 35th degree of North Latitude and running the line corresponding therewith, it should happen that lands claimed under the authority of North-Carolina should be found to be within the State of Georgia, that that State would confirm the said claims, and provide in some proper way to render them legally valid.— It appeared to us, that this preliminary should be discussed and agreed to before we proceeded to ascertain the point from which the line would probably begin, as while that point remained unknown or uncertain, the minds of the Commissioners of both States would be more likely to come to a just and unbiased determination.

To give your Excellency a view of all the arguments we thought it our duty to urge on this subject, would swell our report beyond the bounds which appear to us at present to be necessary. It will be sufficient, we hope, to inform you, that we omitted nothing which occurred to us to be material and pertinent. We endeavored in as clear a manner as we could, to show that the expectations of the State of N. Carolina in this respect were founded on justice, reason, and the precedents established by other States; and that to disregard the influence and equity of these, would not comport with that liberal & magnanimous policy which Governments, united in harmony and political friendship should on all occasions evince towards each other.— We also endeavored to establish the following points, viz.

1st. That the claim of the State of Georgia to the soil and jurisdiction of the territory in question, was a recent one, acquired and commencing only in the year 1802, while we could shew from the dates of grants & other authentic documents, that the State of N. Carolina had not only claimed and exercised an uninterrupted jurisdiction since the conclusion of the revolutionary war; but that soon after the commencement of that war, an army of N. Carolina, commanded by Gen. Rutherford had actually reduced that territory by the force of arms, and marched into the country of the enemy far beyond it.

2d. That as North-Carolina acquired the possession of the soil in this manner in her exertions for the establishment of American freedom and independence, and conceived it to be within our limits as defined by ancient charters and conventional agreements, to grant the lands to individuals could not be deemed disrespectful, nor invasive of the territorial rights of any other government, and if not disrespectful nor invasive of those rights intentionally,

the purchaser from North-Carolina should be considered as innocent, and of course entitled by considerations of equity, to have their entries and grants confirmed.

3d. That the lands granted by N. Carolina were paid for in certificates, obtained for services performed in the common cause of the American Revolution, or in money to be applied to the discharge of those certificates, and consequently, if any portion of the grants issued should be found to be for lands within the State of Georgia, this consideration should have weight and operate as an inducement with the Government of that State to confirm and give them their validity.

4th. That it must be manifest from the uncertainty which existed on both sides, at the meeting of the Commissioners, as to the place where the line would be found to be, that the State of North-Carolina never issued a single grant for any tract of land knowing it to be within the bounds of another State, and consequently whether the number thus issued in mistake, should, on the actual running of the line, appear to be few or many, the principle was the same, and they ought, from considerations of respect to a Sister State to be confirmed.

In reply to the arguments advanced by us to establish these several points, the Gentlemen of Georgia, with great candor and liberality admitted the justice and reasonableness of a certain proportion of the claims: but declared, that after having deliberately reflected on the subject, they had come to the conclusion, that whatever might be their impressions as individuals, they did not consider their powers competent to enter into any stipulations, which would bind the State of Georgia in positive terms, to confirm those claims and give them validity in the manner which we wished for and expected: They would, however, willingly undertake to recommend them to the liberality of their Government, not doubting but the Legislature would provide by law for their confirmation & establishment, in a manner which would afford a satisfactory and adequate relief. The preliminary discussions were closed, and the Commissioners divided themselves into two Committees, one for the purpose of preparing the draft of a convention in proper form, the other for making the necessary preparations for our departure to the mountains in search of the 35th degree of North latitude. The preparatory arrangements were all made, and the convention marked A, herewith transmitted, agreed to on the morning of the 18th of June, immediately after which the Commissioners proceeded to the house of Major Amos Justice, at the foot of the Blue Ridge, near the Saluda, on Flat Rock Gap, where the great road from South-Carolina to Knoxville passes it.

We were assisted by Doctor Joseph Caldwell, President of our University, and the Reverend James Hall, as Artists, with the best instruments which could be procured, principally those belonging to the University, which the Trustees of that Institution were polite enough to lend to the Commissioners for the accommodation of the State. The Commissioners on the part of Georgia were assisted by Dr. Josiah Meigs, President of the University at Athens in that State, with the instruments belonging to that institution. It will appear by the joint report of these Gentlemen No. 1, dated June 20th, 1807, that they agreed in making the average or mean of their observations at Major Justice's to be North Latitude 35d 22m. 32s. 20t. and concluded their report by recommending to the Commissioners to proceed further South. This we immediately resolved to do, and directed our next observations to be made in a field on the flat lands of Little River, near the house of Mr. Chas. Lane, which by the written report of the same gentlemen No. 2, herewith, dated at Mr. Lane's, June 22d, 1807, was made by the Artist on the part of N. Carolina to be 35d. 17m. 6s. 93t. by the Artist on the part of Georgia 35d 13m. 10s. 22t. Appearing by these repeated observations to be much too far North, the Commissioners then resolved to proceed to the summit of the Blue Ridge, at or near its most southern bend, which we were advised by some of the inhabitants would be found to be not far from Douthard's Gap, a place about three or four miles from the Table Mountain, and nearly equidistant from the promontory called Caesar's Head in another direction. At this place we were obliged to pitch tents to live in; and though attended with many inconveniences we made preparations to ascertain the point of latitude with as much accuracy as possible. The results of the different observations made here will appear by reference to the

Reports of the Artists No. 3, dated June 24th; No. 4, June 26th; No. 5, June 28th and No. 6, of the same date, made by Dr. Hall, all of which are herewith transmitted.

While the Artists were making these astronomical observations, the Commissioners of Georgia became impressed with an opinion that the 35th degree of North Latitude could not be found on any part of the Blue Ridge, East of the temporary boundary line of the Indians, established in pursuance of the treaty of the Cherokees of the year 1798 with the General Government, and appeared to be extremely desirous to adjourn and leave our proceedings unfinished until the ensuing October. They first suggested this proposition in conversation, and afterwards in the form of a written communication, the original of which is herewith transmitted to your Excellency marked B, dated near Douthard's Gap, June 25th, 1807. To which, after due deliberation, we returned the written answer herewith, marked C, dated at the same place June 26th 1807. After these communications which will explain themselves without comment, several personal interviews took place between the Commissioners of the two States, which terminated in an agreement to the Supplementary Convention, the original of which is herewith transmitted, marked D; and bearing date at Douthard's Gap, the 27th of June 1807. This supplement and the convention of the 18th, agreed to at Buncombe Court-House, marked A, are to be considered as standing together, and forming the final agreement between the two States on the subject of boundary.

Having thus brought our discussions and negotiations, to an amicable conclusion, we considered it to be our duty, without delay, to communicate the result to the Magistrates and other officers civil and military in the county of Buncombe, that they might, as far as depended on them respectively, co-operate in giving effect to the amnesty provided for in the one, and the remission of forfeitures and penalties in the other. With this view we transmitted by express to the Clerk of Buncombe county court the latter, a copy of which is herewith enclosed marked E, and also authenticated copies of the convention and supplement. These, we have no doubt, will be satisfactorily and favorably received in that county; but it may perhaps be advisable, and we beg leave to recommend that your Excellency would be pleased, by Proclamation, to reiterate the injunctions to the several Officers which the Commissioners have made by their above mentioned letter of the 30th of June, and also to join upon them & the citizens generally, a strict observance of the stipulations which we have entered into, whether positive or recommendatory "until the sense of the Legislature shall be had and known thereon."

We have now only to add, that as our proceedings have terminated to the joint satisfaction of the Commissioners, we hope they will be favorably received by the People and Governments of both States; and that those collisions and irritations which had become so dangerous to the public tranquility will in future be effectually and completely prevented.— In all the measures which appeared to us necessary to ensure this great and desirable end we found the Gentlemen who acted on the part of the State of Georgia ready to meet us with the same just, elevated and conciliatory views.

We have the honor to be Sir,
Your Excellency's most Obedient servants,
JOHN STEELE,
JOHN MOORE,
JAS. WELLBORN.
His Excellency Nath. Alexander, }
Governor of North-Carolina. }

Articles of a Conventional Agreement between the States of Georgia & N. Carolina.

The Commissioners on the part of the States of Georgia and North-Carolina having freely exchanged ideas on the subject of their mission, and believing that every measure ought to be pursued which would bear the stamp of conciliation and goodwill, have agreed to the following articles:

ARTICLE 1. It is mutually agreed and admitted, that the Territories of the said States of Georgia and North-Carolina, as far as they adjoin each other, are, and of right ought to be, separated and bounded by the thirty-fifth degree of North Latitude; and for the purpose of preventing in future all manner of dissensions concerning jurisdiction, the underwritten Commissioners will proceed forthwith to ascertain the said thirty-fifth degree of North Latitude, and to run and mark the line accordingly; which line, when ascertained and completed, with joint concurrence, shall forever after be regarded as the line of separation and boundary between the two States.

ART. 2. The Commissioners on the part of Georgia do not consider their powers competent to enter into any stipulations which would bind the Government of the said State to confirm entries or grants of land heretofore made or obtained under the authority of the State of North-Carolina, which land on the running of the line may be found to be within the State of Georgia. But impressed with the justice of a certain proportion of the said claims, and the peculiar circumstances which entitle them to consideration, the said Commissioners promise and agree to recommend them in a special manner to the liberality of their Government, not doubting but that the Legislature thereof will by law provide for the confirmation and establishment of the said titles, in a manner which will afford a satisfactory and adequate relief.— And to this end, the said Commissioners will recommend the establishment of an impartial Tribunal for the special purpose of enquiring into and ascertaining the various descriptions of such claims, and of determining on each according to their respective merits, and as reason and equity may require; which Tribunal the said Commissioners will also recommend to be composed of three persons to be appointed and paid by each State; but they shall convene and hold their meetings in the State of Georgia, and their decisions shall be conclusive.

ART. 3. There having been great dissensions between the people resident in the neighbouring counties of Buncombe and Walton, and the said dissensions having produced many riots, routs, affrays, assaults, batteries, trespasses, wounding and imprisonments, as well on the one side as on the other, and it being of primary importance that peace & tranquillity should be restored, and all animosity and ill-will forever buried between people who, from their local situations, will in all probability be constrained to continue in the vicinity of each other, and as the several outrages committed on both sides proceeded more (as the undersigned are impressed) from a mistaken zeal to support the Government to which they thought themselves constitutionally bound, than from a wish to injure their neighbors, or disturb the public peace, the undersigned agree to recommend, in the most earnest manner, to the Legislatures of their respective States to pass laws of amnesty, forgiveness and oblivion for all such offences (under the degree of capital) as may have been committed within the said counties of Buncombe and Walton respectively, subsequent to the tenth day of December in the year 1803, and which shall have arisen from, and had relation to the disputes which existed concerning the jurisdiction of the two States.

In testimony whereof, these articles were signed and sealed by all the Commissioners, on the 18th of June.

ARTICLES In addition and supplementary to the Convention agreed, between the Commissioners of Georgia and N. Carolina.

The Commissioners of the States of Georgia and N. Carolina having discovered by repeated astronomical observations made on the Blue Ridge and elsewhere, that the 35th degree of North Latitude is not to be found on any part of the said Ridge of Mountains East of the line established by the General Government as the temporary boundary between the white people and the Indians, and having no authority to proceed over that boundary for the purpose of ascertaining the said 35th degree of North Latitude, and of running and marking the line accordingly:—And being desirous that all causes of collision and irritation between the jurisdictions and people of the two States may be effectually and completely prevented, have agreed to the following Articles, in addition and supplementary to the Convention agreed to on the 18th day of the present month, viz.

ARTICLE 1. The Commissioners of Georgia, for and on the part of their State, acknowledge and admit, which acknowledgement and admission are founded on the aforesaid astronomical observations, that the State of Georgia hath no claim to the soil or jurisdiction of any part of the Territory North or West of the Ridge of Mountains which divides the Eastern from the Western Waters, commonly called the Blue Ridge, and East or South of the present temporary boundary-line between the white people and the Indians.— And that they will consequently recommend to the Legislature of the State of Georgia to repeal, at their next ensuing session, the act to establish the county of Walton, and to abrogate and annul all executive, ministerial or other proceedings for the organization thereof.

ART. 2. The Commissioners on the part of the State of North-Carolina promise and agree to recommend to their Government, and particularly to the Magistrates, Sheriff, and other officers, civil and military in the county of Buncombe, to execute the laws concerning forfeitures and penalties, and in every other respect where the State may be concerned (under the degree of felony) upon and towards the people who have adhered to the State of Georgia in the late dissensions concerning jurisdiction with mildness and clemency; and if the said officers can do it consistently with their obligations of official duty, that they exert to institute suits and to restrain or execute for forfeitures and penalties incurred as aforesaid, between the tenth day of December, in the year 1803, and the date of the agreement, until the sense of the Legislature shall be had and known thereon.

In testimony whereof, these additional articles were signed and sealed by the Commissioners on the 27th of June.

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