



AND North-Carolina State Gazette.

These are the plans of fair, enlightful Peace, Unwar'd by party rage, to live like Brothers.

Vol. XII.

THURSDAY, JANUARY 17, 1811.

No. 591

DEBATE

In the Senate of the U. States, on the subject of the Territory West of the Perdido, Dec. 27.

The Bill "declaring the laws now in force in the Territory of Orleans to extend to, and have full force and effect to the River Perdido, pursuant to the treaty concluded at Paris, on the 30th April, 1803—and for other purposes," being under consideration; and the question being on its passage to a third reading,—

Mr. POPE.—Mr. President, I regret that the honorable Chairman of the Committee, who reported this bill, is not here, to give it that support which his talents and information, and the importance of the subject, authorised us to expect. His absence has devolved on me as a member of the committee, and a representative from that part of the Union more immediately interested in the subject before us, to explain to the Senate some of the grounds which induced them to make this report. The first important question which the proclamation of the President and this bill present for consideration is, whether or not the United States have a good title to the territory in question. Before I examine the treaty of cession from France to the United States, of 1803, the source of our claim, permit me to enquire what were the limits of Louisiana in that quarter to which this subject leads us, before the treaty and cession of '62-3 between France, Spain and G. Britain. On this subject, however, I believe there is no variety of opinion—Before this period Louisiana extended east of the Mississippi to the Perdido. France and Spain, by the treaty of 1719, established this boundary between Florida, now called East Florida, and Louisiana. The ancient limits of Louisiana have been so fully ascertained by the documents laid before Congress at different times, and the numerous discussions the subject has undergone, that I should only waste the time of the Senate in attempting to throw any new light on it. I shall only refer the Senate to one additional evidence, that this river was the ancient eastern boundary of this province. Mr. Smollet, in his continuation of Hume's history of England, states the answer of the British government to the proposition made by the French government for peace, early in the year 1761; from which it appears that France then claimed the river Perdido as their eastern limit, nor does this fact appear to have been contested by the British Minister. It appears that previous to the war which terminated in 1763, Louisiana comprehended nearly the whole country watered by the Mississippi and its branches. I find it stated in a pamphlet published at New-York, that France, by a secret cession, contemporaneous with the treaty called the family compact of 1761 transferred this country to Spain, to induce her to become her ally in the war against Great Britain; and altho' I can find no evidence to support this statement, yet the event of that war, previous to that period, renders it at least probable. It will be remembered that the arms of Great-Britain had triumphed over those of France both by sea and land; France had lost Canada and a great number of her ships of war; Spain was not then a party in the war, and to induce her to become so, it seems probable that France, under the pressure of adverse fortune, ceded to her this province. But as this statement does not correspond with the documents on our tables, nor the views of others who have examined this subject, we are compelled to take it for granted, that the cession of West-Louisiana, with the Island of N. Orleans, to Spain, and of East Louisiana, since called West Florida, to Great-Britain, were made at the same time, in the year '62. It is, however, well known, that France made the cession to Great-Britain at the instance and for the benefit of Spain, to enable her, with the cession of Florida (now called East-Florida) to obtain a restitution of Cuba. The whole of Louisiana, not conquered by G. Britain, may with propriety be said to have been given up to Spain. Let us now examine that part of the treaty of cession between the U. States and France of 1803, which relates to this question.—By that treaty we acquired Louisiana as full, and in the same manner as it had been acquired by France from Spain, in virtue of the treaty of St. Idefonso of the 1st of October, 1800. By this treaty Spain had "retroceded Louisiana to France with the same extent it then had in the hands of Spain, and that it had when France pos-

sessed it, and such as it should be after the treaties subsequently entered into between Spain and other states." That this extract from that treaty is correct, cannot be doubted, as it has never been denied by Spain: The word 'retrocede,' in this treaty has, I believe, occasioned more doubt with regard to the meaning of this cession than any expression contained in it, but cannot when the subject is properly examined, have the effect contended for. It is said that as France ceded to Spain, in 1762, Louisiana West of the Mississippi, including the Island of New-Orleans; the word retrocede must limit the cession to what had been previously ceded by France to Spain—but if it be true that the whole of Louisiana East and West of the Mississippi, was ceded to Spain in the year 1761, although East Louisiana was afterwards ceded by France with the consent of Spain to Great-Britain, the word retrocede might with propriety be used with reference to the original grant to Spain in 1761, or if, what will not be denied, the cession of East Louisiana to Great-Britain by France, was at the instance, and for the benefit of Spain; Spain, in 1800, after she had acquired East Louisiana alias West-Florida, so called by Great Britain after 1763, could well say to France, I regrant to you what you ceded to me, and on my account, or at least so much as I can regrant consistent with the treaties I have since made; and this seems to be the plain and evident meaning of the instrument. If the parties had meant to confine the retrocession to the limits of the cession made by France to Spain, of Louisiana West of the Mississippi including the Island of New Orleans, they would have used the same description. They would certainly have stopped after saying the extent it then had in the hands of Spain—but to prevent mistake or misconception, they add 'that it had when France possessed it;' and what is still more conclusive of the meaning of the parties, they go on to say—'and such as it should be after the treaties subsequently entered into between Spain and other States.' As Spain had never entered into any treaty with regard to the Western boundary of Louisiana, and as the only treaties to which the parties could have alluded, was that of 1783 with G. Britain, and of 1795 with the U. States, both relative to limits on the East side of the Mississippi, it is perfectly clear that the contracting parties meant to comprehend whatever of Louisiana on the east side of the Mississippi Spain had a title to. If the construction I contend for is not admitted, then the latter part of the description will have no effect, contrary to a settled principle of law and common sense, that every part of an instrument shall have effect if it can by any reasonable construction. To strengthen the construction for which I insist it may not be amiss to consider the views of the French government at the time this treaty of St. Idefonso was made. They no doubt acquired this province with an intention of making it, and it was an object of national pride, to regain as much as practicable of the colonies which had been lost under the old government.— Besides they could not be ignorant of the importance of East Louisiana now West-Florida, to the security of New-Orleans; and as the practicability of obtaining it at that time from Spain, cannot be doubted, the presumption is irresistible, that the cession was intended to embrace it. I had intended to have ascertained at the Department of State, the ground of objection with Spain, to the surrender of that country to the U. States, but have not made the enquiry. I do not however think it difficult to account for the conduct of Spain. My conjecture is, that France after she had sold Louisiana to the U. States and received the price stipulated, secretly advised Spain not to surrender it, having at that time formed the project, which she is now attempting to execute, of acquiring the whole Spanish Empire; her interest was therefore identified with that of Spain, and she no doubt was willing to unite with Spain in giving the most limited construction to the cession to the U. States. I find that Congress, by an act passed on the 24th of February 1804, have solemnly asserted our right to this Territory, and authorised the President to take possession of it, and to establish a port of entry, &c. on the Mobile, whenever he should deem it expedient. The time when, and circumstances under which this step should be taken, were submitted to the discre-

tion of the Executive.—I may be permitted to ask why, if we had no title to this Territory, the President was urged to take possession by force, and censured for not doing it. If my recollection is accurate, all parties agreed we ought to have the country; they only differed as to the mode of acquiring it. The President, influenced by that policy which has hitherto guided the present administration, of avoiding making this nation a party in the present European war, in the exercise of the discretionary power vested in him by that act, did not think proper to seize upon it by force, but to wait for the occurrence of events to throw it into our hands without a struggle. The expediency of taking possession of this Territory cannot, it appears to me, admit of a doubt. If the President had refused or hesitated to meet the wishes of the people of West-Florida, by extending to them the protection of the American government and they had sought security in the arms of a foreign power, what should we have heard?—He would have been charged with imbecility and fear of incurring responsibility. He would have been denounced as unworthy of the station his country had assigned him. Let it be remembered, that the Orleans country is our most vulnerable part—remote from our physical force—a climate more fatal to our people than the sword of a victorious enemy; and that an enemy in possession of West-Florida can with great facility cut off New Orleans from the upper country. If the fortunate moment had not been seized, this province would have fallen into the hands of a foreign power; or, if time had been given for intrigue to mature itself, another Burr plot would probably have risen from the ashes of the first, more formidable to the integrity of this empire. Burr, like Archimedes, fancied that if he had a place to stand upon, a place beyond the jurisdiction of the U. S. to rally his followers, he could overturn the government. He has, it is true, fled from the frowns of an indignant country. But he was not alone. Let an opportunity be afforded, and a thousand Burrs would throw off the mask and point their arms against the Federal Union. On a subject of such interest it would have been criminal in those appointed to watch over the national safety to have hesitated. I was surprized to hear this procedure pronounced a robbery and making war. Why should our sympathies be awakened in favor of Spain? What claim has the Spanish government upon our moderation and forbearance? What has been her conduct? From the moment we became an independent nation she has been intriguing to separate the western country from the Atlantic States.—She has made at different periods, and as late as the year 1797, in violation of her treaty of 1795 with this country, direct propositions to the western people to secede from the Union, and to accomplish her object she has at least attempted the use of means the most corrupt. What has been her conduct since we acquired Louisiana? If I am correctly informed, our deserters and slaves who have taken refuge in West-Florida in many instances have not been surrendered, and enormous duties have been imposed on our vessels navigating the Mobile. Under these provocations, sufficient to have drawn upon them from most any other nation a declaration of war, our government, influenced by that policy which has hitherto regulated its course towards foreign nations, exercised patience and forbearance; and since the late revolution in Spain, I believe it will not be pretended that this government has manifested any disposition to throw our weight into the scale of France against the Spanish party. Our government has taken no step in relation to West Florida until compelled by a regard to our own safety. The Executive, in the procedure under consideration, has used language the most conciliatory, and on the face of his proclamation given a pledge that this government will at any time enter into amicable negotiations on the subject of our claim to this territory, if it shall be disputed. There are other at least plausible grounds upon which this bill as an original proposition might be supported entirely independent of the cession.—Spain is indebted to us a large amount for spoiliations committed on our commerce; and as there is no government at present towards which the ordinary proceeding can be pursued to obtain

payment, could we not, on the principle of the attachment law, as an act of self justice, seize on this territory to secure satisfaction? As this measure has been emphatically called an act of robbery and war, it may not be amiss to consider the political state of the Spanish colonies in relation to the Spanish government in the hands of the Junta; and the new dynasty about to be established by Bonaparte. It may be said, perhaps that the late alienation of the Spanish crown and the revolution in Spain have dissolved the tie which connects them with the mother country. On this point I will not detain the Senate. If the French arms shall be successful in Spain, of which I believe few entertain much doubt, and the Junta shall be driven from Old Spain to any of the colonies, their political character must cease, and they can no longer claim the exercise of any jurisdiction or sovereignty over the colonies. The colonies are not bound together by any political bond, unconnected with the mother country; they are subject to the mother country; but the moment she is conquered they are at liberty to provide for themselves unless, indeed, the emperor of France or King Joseph can claim them. France in an official expose, & King Joseph, by proclamation, have declared their willingness that the colonies should become independent, provided they do not connect themselves with G. Britain. If France therefore shall, which is probable, conquer the mother country, we are fully authorised by her public declaration to the world to acquire, with the consent of the inhabitants, not only West but East Florida, Cuba, or any other province which we shall deem it expedient to connect with the U. States—This bill may be justified, independent of title, by the law of self-preservation. Have we any assurance that the Spanish government will maintain their neutrality in this territory, if we should be involved in a war with either France or G. Britain? Can they, or will they, prevent the march of an enemy's forces through that territory into the U. States? No sir.—We have every reason to expect the contrary. Considering how vulnerable we are from this territory, its present state, and the aspect of our foreign affairs, it appears to me that we are authorised to take possession of it as a measure of national security. It may be objected that taking the property of others by force tends to relax the morals of the people by destroying that criterion of right and wrong, the observance of which is necessary to the purity of our republic; and I am ready to admit that we ought to proceed upon this principle of necessity and expediency with great caution, and never to act upon it, but in extreme and evident cases. Had we a colony on the coast of England or France, similarly situated, we know they would not hesitate. When we reflect that our property is seized by almost every nation; that the laws and usages of nations are disregarded by nearly all Europe; that their conduct has been entirely marked with a degree of perfidy and rapacity unexampled in the history of the civilized world; that they have in fact become States of Barbary; it appears that we ought not, as regards them, to be over nice or squeamish upon questions of this sort. Shall we sit here with our arms folded until the enemy is at our gates? If we waste our time in discussion and refining abstract questions of right and wrong, we shall lose our independence and we shall deserve it. I had hoped this bill would have passed without much debate; I know the people are tired of long speeches and documents. This fondness for lengthy discussions has even drawn upon Congress the reproaches of the ladies—they begin to say—less talk, more action. (Debate to be continued.)

THOMAS HACKETT, BOOT AND SHOE MAKER, Green Street, Fayetteville.

TAKES the liberty to inform his Customers, and the Public in general, that he has received from Philadelphia, a general assortment of Leather, which is equal, if not superior to any in this place—which he is making up in the neatest manner, and newest fashion, and thinks it unnecessary to say anything about the work, as it is well known. N. B. Wanted immediately, from four to six JOURNEYMEN, who are good workmen, to whom constant employment and generous wages will be given. Cash given for Shoe Thread of good quality Dec. 24, 1810.

DOCUMENTS

Accompanying the President's Message CONTINUED.

[Here follows Mr. Pinkney's letter to Lord Wellesley, on the subject of Mr. Jackson's insulting demeanor, with Lord Wellesley's reply thereto, which were published in the Raleigh Register, in June last.]

Mr. Pinkney to Mr. Smith.

London, April 8, 1810.

SIR—In a short letter of the 2d inst. by Mr. John Wallace, in the British packet, I had the honor to acknowledge the receipt, on the 31st last month (by Dr. Logan) of your letters of the 20th of January and the 16th of February, and to inform you that I had, in consequence, an appointment to meet Lord Wellesley on the third.

At the interview which took place in pursuance of that appointment, I explained to Lord Wellesley the nature of the powers now confided to me, and as far as was necessary, the subjects to which they related. The result of the conversation which ensued, was an understanding, that we should begin with an attempt to settle the affair of the Chesapeake, and that attempt being successful, that we should proceed to consider next, the subject of the orders in council, and lastly, the commercial and other concerns, embraced by the commission of 1806, to Mr. Monroe and myself.

In conformity with this understanding, it was agreed, that I should immediately follow up the conference with a note, stating my authority to adjust with the British government, the case of the Chesapeake; and I have accordingly prepared and sent to Lord Wellesley the letter, of which a copy is enclosed. I have not since heard from his Lordship, to whom, of course, it now belongs to make proposals.

It will not, I trust, be thought, that my letter, which is simply an official notification in civil terms, of my power to receive a direct act upon such overtures as this government may choose to make, goes too far.

P. S. April 9th. I have just received from Lord Wellesley a note, of which a copy is enclosed, inviting me to a conference on Thursday next (the 12th) doubtless on the affair of the Chesapeake.

Mr. Pinkney to Lord Wellesley.

Great Cumberland Place (without date)

MY LORD—I have the honor to state to your Lordship, in conformity with my verbal explanations in a recent conference, that I am authorised to adjust with his Majesty's government, the case of the attack on the American frigate Chesapeake, in the month of June, 1807, by the British ship, the Leopard.

It will give me a sincere pleasure to communicate with your Lordship on this interesting subject in such manner as shall be thought best calculated to lead to a fair and honorable arrangement of it, preparatory to the restoration of kindness and beneficial intercourse between the two countries.

Lord Wellesley to Mr. Pinkney.

The Marquis Wellesley presents his compliments to Mr. Pinkney and will be happy to have the honor of seeing him, at the Foreign Office, Thursday next, at 2 P. M. if that hour should suit his convenience.

Foreign Office, April 9th, 1810.

Mr. Pinkney to Mr. Smith.

London, April 9th, 1810.

SIR—I have, upon full reflection, thought it necessary to prepare a letter to Lord Wellesley, reciting the French Minister's official statement to General Armstrong, of the conditions on which the Berlin decree would be recalled; and inquiring whether there exists any objection, on the part of the British government, to a revocation (or to a precise declaration that they are no longer in force) of the blockade of May, 1806, and of that of Venice, especially the former. As the answer to this letter (upon which I wish to converse with Lord Wellesley before I deliver it) will not probably be very prompt, I have, in the mean time, sent Mr. Lee to Paris, with two letters to General Armstrong, of which copies are enclosed.

Mr. Pinkney to Gen. Armstrong.

London April 6th 1810.

DEAR SIR—I do not know, whether the statement, contained in my letter of the 27th of last month, will enable you

(Continued in the last page.)