

RALPH REGISTER,

D NORTH-CAROLINA GAZETTE.

THE PLANS OF FAIR DELIGHTFUL PEACE, UNWARP'D BY PARTY RAGE, TO LIVE LIKE BROTHERS."

THURSDAY, MARCH 31, 1831.

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MESSAGE

From the President of the United States, in compliance with a Resolution of the Senate, relative to the execution of the act to regulate trade and intercourse with the Indian tribes and to preserve peace on the frontiers, passed the 30th March, 1830.

To the Senate of the United States:

I have received your Resolution of the 15th instant, requesting me "to inform the Senate whether the provisions of the act entitled 'An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers,' passed the 30th of March, 1830, have been fully complied with on the part of the United States Government, and, if they have not, that he inform the Senate of the reasons that have induced the Government to decline the enforcement of said act;" and I now reply to the same.

According to my views of the act referred to, I am not aware of any omission to carry into effect its provisions in relation to trade and intercourse with the Indian tribes, so far as their execution depended on the agency confided to the Executive.

The numerous provisions of that act, designed to secure to the Indians the peaceful possession of their lands, may be reduced, substantially, to the following:—That citizens of the United States are restrained, under sufficient penalties, from entering upon the lands, for the purpose of hunting thereon, or of settling them, or of giving their horses and cattle the benefit of a range upon them, or of travelling through them without a written permission—and that the President of the United States is authorized to employ the military force of the country to secure the observance of these provisions. The authority to the President, however, is not imperative. The language is, "it shall be lawful for the President to take such measures, and to employ such military force, as he may judge necessary to remove from lands belonging to, or secured by treaty to any Indian tribe, any citizen who shall make a settlement thereon."

By the 19th section of this act, it is provided that nothing in it, shall be construed to prevent any trade or intercourse with Indians living on lands surrounded by settlements of citizens of the United States, and being within the ordinary jurisdiction of any of the individual States." This provision I have interpreted as being prospective in its operation, and as applicable not only to Indian tribes which at the date of its passage were subject to the jurisdiction of any State, but to such as also should thereafter become so. To this construction of its meaning I have endeavored to conform, and have taken no step inconsistent with it. As soon, therefore, as the sovereign power of the State of Georgia was exercised, by an extension of her laws, throughout her limits, and I had received information of the same, orders were given to withdraw from the State the troops which had been detailed to prevent intrusion upon the Indian lands within it; and these orders were executed. The reasons which dictated them shall be frankly communicated.

The principle recognized in the section last quoted was not for the first time then avowed. It is conformable to the uniform practice of the Government before the adoption of the Constitution, and amounts to a distinct recognition by Congress, at that early day, of the doctrine that that instrument had not varied the powers of the Federal Government over Indian affairs from what they were under the articles of confederation. It is not believed that there is a single instance in the legislation of the country in which the Indians have been regarded as possessing political rights, independent of the control and authority of the States within the limits of which they resided. As early as the year 1782, the journals of Congress will show that no claim of such a character was countenanced by that body. In that year the application of a tribe of Indians residing in South-Carolina to have certain tracts of land which had been reserved for their use in that State secured to them, free from intrusion, and without the right of alienating them, even with their own consent, was brought to the consideration of Congress by a report from the Secretary of War. The resolution which was adopted on that occasion is as follows:

Resolved, That it be recommended to the Legislature of South-Carolina to take such measures as will protect the land and security of said tribes as

general Government had the power, in their relations with the Indians, to control or oppose the internal polity of the individual States of the Union; and if such was the case under the articles of confederation, the only question on the subject since must arise out of some more enlarged power or authority given to the General Government by the present Constitution. Does any such exist?

Amongst the enumerated grants of the Constitution, that which relates to this subject is expressed in these words:—"Congress shall have power to regulate commerce with the Indian tribes." In the interpretation of this power, we ought certainly to be guided by what had been the practice of the Government, & the meaning which had been generally attached to the resolves of the old Congress, if the words used to convey it do not clearly import a different one, as far as it affects the question of jurisdiction in the individual States. The States ought not to be divested of any part of their antecedent jurisdiction, by implication or doubtful construction. Tested by this rule, it seems to me to be unquestionable, that the jurisdiction of the States is left untouched by this clause of the Constitution, & that it was designed to give to the General Government complete control over the trade and intercourse of those Indians only who were not within the limits of any State.

From a view of the acts referred to, and the uniform practice of the Government, it is manifest that, until recently, it has never been maintained that the right of jurisdiction by a State over Indians within its territory, was subordinate to the power of the Federal Government. That doctrine has not been enforced, nor even asserted, in any of the States of New-England, where tribes of Indians have resided, and where a few of them yet remain. These tribes have been left to the undisturbed control of the States in which they were found, in conformity with the view which has been taken of the opinions prevailing up to 1789, and the clear interpretation of the act of 1802. In the State of New-York, where several tribes have resided, it has been the policy of the Government to avoid entering into quasi-treaty engagements with them, barely appointing commissioners occasionally, on the part of the United States, to facilitate the objects of the State in its negotiations with them.

The southern States present an exception to this policy. As early as 1784 the settlements within the limits of North-Carolina were advanced further to the west than the authority of the State to enforce an obedience of its laws; or other were in a similar condition. The necessities, therefore, and not the acknowledged principles of the Government, must have suggested the policy of treating with the Indians in that quarter, as the only practicable mode of conciliating their goodwill. The United States at that period had just emerged from a protracted war for the achievement of their independence. At the moment of its conclusion, many of the tribes, as powerful as they were ferocious in their mode of warfare, remained in arms, desolating our frontiers; settlements. Under these circumstances the first treaties, in 1785 and 1790, with the Cherokees, were concluded by the Government of the United States, & were evidently sanctioned as measures of necessity, adapted to the character of the Indians, and indispensable to the peace and security of the western frontier. If they cannot be understood as changing the political relations of the Indians to the States or to the Federal Government.—To effect this would have required the operation of quite a different principle, and the intervention of a tribunal higher than that of the treaty-making power.

To infer from the assent of the Government to this deviation from the practice which had before governed its intercourse with the Indians, and the accidental forbearance of the States to assert their right of jurisdiction over them, that they had

surrendered this portion of their sovereignty, and that its assumption now is usurpation, is conceding too much to the necessity which dictated those treaties, and doing violence to the principles of the Government and the rights of the States, without benefiting in the least degree the Indians. The Indians thus situated, cannot be regarded in any other light than as members of a foreign Government, or of that of the State within whose chartered limits they reside. If in the former, the ordinary legislation of Congress in relation to them is not warranted by the Constitution, which was established for the benefit of our own, not of a foreign people; if in the latter, then, like other citizens or people resident within the limits of the States, they are subject to their jurisdiction and control. To maintain a contrary doctrine, and to require the Executive to enforce it by the employment of a military force, would be to place in his hands a power to make war upon the rights of the States and the liberties of the country—a power which should be placed in the hands of no individual.

If, indeed, the Indians are to be regarded as people possessing rights which they can exercise independently of the State, much error has arisen in the intercourse of the Government with them. Why is it that they have been called upon to assist in our wars, without the privilege of exercising their own discretion? If an independent people, they should, as such, be consulted and advised with; but they have not been. In an order which was issued to me from the War Department, in September, 1814, this language is employed:—"All the friendly Indians should be organized and prepared to co-operate with your other forces. There appears to be some dissatisfaction among the Choctaws: Their friendship and services should be secured without delay. The friendly Indians must be fed and paid, and made to fight when and where their services may be required." To an independent and foreign people, this would seem to be assuming, I should suppose, rather too lofty a tone; one which the Government would not have assumed if they had considered them in that light. Again: By the Constitution, the power of declaring war belongs exclusively to Congress. We have been often engaged in war with the Indian tribes within our limits; but when have these hostilities been preceded or accompanied by an act of Congress declaring war against the tribe which was the object of them? and was the prosecution of such hostilities an usurpation, in each case, by the Executive which conducted them, of the constitutional power of Congress? It must have been so, I apprehend, if these tribes are to be considered as foreign and independent nations.

The steps taken to prevent intrusion upon Indian lands had their origin with the commencement of our Government, and became the subject of special legislation in 1802, with the reservations which have been mentioned in favor of the jurisdiction of the States. With the exception of South-Carolina, who has uniformly regulated the Indians within her limits without the aid of the General Government, they have been felt within all the States of the south, without being understood to affect their rights or prevent the exercise of their jurisdiction, whenever they were in a situation to assume & enforce it. Georgia, though materially concerned, has, on this principle, forbore to spread her legislation further than the settlements of her own white citizens, until she has recently perceived within her limits a people claiming to be capable of self-government, sitting in legislative council, organizing courts, and administering justice. To disarm such an anomalous invasion of her sovereignty,

pray their expenses, to supply them the means of transportation, and a year's support after they reach their new homes—a provision too liberal and kind to deserve the stamp of injustice. Either course promises them peace and happiness, whilst an obstinate perseverance in the effort to maintain their possessions independent of the State authority, cannot fail to render their condition still more helpless and miserable. Such an effort ought, therefore, to be discountenanced by all who sincerely sympathize in the fortunes of this peculiar people, and especially by the political bodies of the Union, as calculated to disturb the harmony of the two Governments, and to endanger the safety of the many blessings which they enable us to enjoy.

As connected with the subject of this inquiry, I beg leave to refer to the accompanying letter from the Secretary of War, enclosing the orders which proceed from that Department, and a letter from the Governor of Georgia.

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AMERICAN COLONIZATION SOCIETY.
From the African Repository.
RESOLUTIONS OF THE BOARD.—The Managers of the American Colonization Society have considered their course of duty for the present year, and adopted the following resolutions:

Resolved, By the Board of Managers of the American Colonization Society, that encouraged by the kind providence which has thus far favored their efforts, they will immediately commence arrangements for obtaining the necessary funds, and sending to Liberia within the present year, six vessels, from different ports of the United States, on the first days of May, July, September, November, January and March. The first vessel shall sail from New-York on the first of May; the second from Baltimore, on the first of July; the third from Philadelphia, on the first of September; and the others from different places, whenever such places shall, with the other means at the command of the Society, secure the requisite funds; such places to be designated in due time.

Resolved, That the Society's Agent in Liberia, be directed to ascertain whether settlements can be formed, by Colonists from Liberia, at Grand Bassa, Cape Palmas, or the Island of Bulama; & upon what terms, and in what manner, a sufficient and suitable territory can be obtained at all or either of those places, and what are the peculiar advantages and disadvantages of those situations, and give the earliest information in his power to the Board on these subjects. And that in the discharge of these duties he may (if circumstances should permit it) associate with himself either of the Physicians now in the Colony.

The Board of Managers trust to the benevolence and patriotism of their countrymen to sustain them in these efforts in behalf of the two great objects embraced in these resolutions.

The accomplishment of the first will produce most beneficial results both here and in Africa. The state of suspense, in which many of the persons who had prepared for emigration, have been kept for several years, is exciting in many places very unfavorable impressions in the minds of the colored people, and of the friends of the Society. These impressions can only be removed by gratifying the long-repeated wishes of a considerable number within the present year; and the security and prosperity of the colony will be greatly promoted by such an accession of well-selected colonists to its present population.

The second object is one of deep interest. The information which the Board has obtained of the state of the coast of Africa, leaves them no room to doubt the practicability of forming other settlements upon easy and advantageous terms, at the points designated in the resolution, and perhaps also in other important situations. Of the great advantages of such an operation, when time and circumstances would justify it, the Board have been always equally convinced. They have reason to believe that a small settlement from Liberia might now be commenced at one of these places, which, instead of weakening, would add greatly to its strength and security; and in time there may be formed a line of such establishments upon the coast, as may confer mutual benefits upon each other; present more numerous outlets and greater facilities of emigration to an unfortunate class of our population; invite to a commerce enriching our country, save that portion of Africa from the horrors of the slave trade, and dispel by their light the darkness around them.

The Board appeals therefore with confidence to the American people, and trusts to the mighty mover of all hearts that it shall be answered as becomes a great and free, and christian nation.

Mr. Madison's Opinion

ON BANKING & BILLS OF CREDIT.

During the debate in the Pennsylvania House of Representatives on the Bank Resolutions, Mr. Ingersoll read the following letter from Mr. Madison:

Montpelier, Feb. 2, 1831.

DEAR SIR:—I have received your letter of Jan. 21, asking:

1. Is there any state power to make banks?

2. Is the federal power as has been exercised, or as proposed to be exercised by President Jackson, preferable?

The evil which produced the prohibitory clause in the constitution of the United States, was the practice of the States in making bills of credit, and in some instances apportioned property "a legal tender." If the notes of State banks, therefore, whether chartered or unchartered, be made a legal tender, they are prohibited; if not made a legal tender, they do not fall within the prohibitory clause.—The No. of the "Federalist" referred to was written with that view of the subject; and this, with probably other contemporary expositions, and the uninterrupted practice of the states in creating and permitting banks without making their notes a legal tender, would seem to be a bar to the question, if it were not inexpedient now to agitate it.

A virtual and incidental enforcement of the depreciated notes of State Banks, by their crowding out a sound medium, though a great evil, was not foreseen; and if it had been apprehended, it is questioned whether the constitution of the U.

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A virtual and incidental enforcement of the depreciated notes of State Banks, by their crowding out a sound medium, though a great evil, was not foreseen; and if it had been apprehended, it is questioned whether the constitution of the U.

S. which had so many obstacles to encounter, would have ventured to guard against it by the additional provision.—A virtual, and it is hoped, an adequate remedy, may hereafter be found in the refusal of State paper when debased, in any of the federal transactions, and in the control of the Federal Bank, this being itself controlled from suspending its specie payments by the public authority.

On the other question, I readily decide against the project recommended by the President. Reasons more than sufficient appear to have been presented to the public in the reviews and other comments which it has called forth. How far a hint for it may have been taken from Mr. Jefferson I know not. The kindred ideas of the latter may be seen in his memoirs, &c. vol. 4. p. 196, 227, 526, and his view of the State Banks, vol. 4. p. 199, 220.

There are sundry statutes of Virginia prohibiting the circulation of notes payable to bearer, whether issued by individuals or unchartered banks.

These observations, little new or important as they may be, would have been promptly furnished, but for an indisposition in which your letter found me, and which has not yet entirely left me. I hope this will find you in good health, and you have my best wishes for its continuance, and the addition of every other blessing.

JAMES MADISON.
Charles J. Ingersoll, Esq.

Mr. Crockett of Tennessee, has issued a Circular Letter to his Constituents, which is a sensible, straight forward exposition of facts as he found them at the last session of Congress.—His known honesty gives to his statements a weight which more varnished and highly wrought productions do not always carry with them. The following is an extract from his Circular:—

"You know what a noise was made about Mr. Adams and Mr. Clay spending and wasting the public money, and that the friends of Gen. Jackson made us believe that if they got into power, that they would reform the government, and retrench the expenses thereof. I am sorry to say that none of their promises have been performed; the expenses of every branch of the government have been increased; and all their boasted economy was a mere trap set for us—they caught us and we put them in power; they now not only do what they denounced; but they push their waste of money further—the Appropriation bills will show it. They have sent a Minister to Russia, paying him \$2,000 outfit to furnish a house, and \$9,000 a year salary; and before he went they granted him the right to leave there and go wherever he chose, and he went to England, staying in Russia but ten days or so. He is not going back to Russia; he is coming home, and has been announced a candidate to Congress, and I am told he says he was only sent out for one year. I may ask you what you think of this most unprincipled waste of your money, (to give it to a rich favorite) practised by men boasting of their political honesty and love of economy; search every department of the government from its commencement to the present time, and nothing like it can be found; this shows what little reliance can be placed on those who have the management of public affairs.

The men now in power used to argue in Congress that our ministers abroad were too numerous, and paid too high. They have not reduced their number—they have tried to increase their pay; and the Secretary of State, professing to act in obedience to the wish of the President, has recommended the most extravagant and splendid embassy that was ever dreamed of in this country. He recommends that a minister should be sent to the Grand Turk at Constantinople, at an expense of nearly eighty thousand dollars for the last year; \$50,000 of which are for the Contingent Expenses, to be laid out in presents to the Grand Seigneur. The Secretary does not state how the \$50,000 are to be laid out, but he has left to the discretion of the ambassador. The Clerks in the Departments, when Mr. Adams was in power, they said were too numerous and too lazy; now further pay is asked for them, and their number is too small! It appears also, that the Post Office Department, instead of supporting its own expenses must now be supported by the Treasury."

THE CHEROKEE NATION VS. THE STATE OF GEORGIA.—We are informed that Mr. Peters, the Reporter of the Decisions of the Supreme Court, intends to publish this case immediately, in a separate volume from the reports of the Term, as well as to include the case in the fifth volume of the Reports.

He has made arrangements, by which the whole of his arguments in the language of the Counsel will be given to the public; that of Mr. Wirt having been taken down by a stenographer engaged for the purpose. The proposed publication will also comprehend other interesting matter connected with the case.

The public will look with deep interest for this publication, of a case which has attracted so much attention, and excited so much sensibility.—*Nat. J.*