

RALEIGH REGISTER

AND NORTH-CAROLINA GAZETTE.

"Ours are the plans of fair delightful peace, unwarp'd by party rage, to live like brothers."

THREE DOLLARS Per Annum,
ONE HALF IN ADVANCE.

TUESDAY, MARCH 8, 1836.

VOLUME XXXVII.
NUMBER 17.

PUBLISHED EVERY TUESDAY,
By Joseph Gates & Son.

TERMS.
Three Dollars per annum—one half in advance. Those who do not, either at the time of subscribing or subsequently, give notice of their wish to have the Paper discontinued at the expiration of the year, will be presumed as desiring its continuance until countermanded.

ADVERTISEMENTS.
Not exceeding sixteen lines, will be inserted three times for a Dollar; and twenty-five cents for each subsequent publication: those of greater length, in proportion. If the number of insertions be not marked on them, they will be continued until ordered out and charged accordingly.

CONGRESS.

IN SENATE OF THE U. STATES.

Mr. EWING made the following Report from the Committee on Public Lands, to whom was referred a bill to appropriate, for a limited time, the proceeds of the sales of the Public Lands of the United States:

The Committee look upon the leading measure proposed by the bill as one of great national importance. The gradual operation of a system devised in the early history of our Government, for the support of the public credit, and for reducing the public debt, has, within a short time past, produced its full and final effect. The public debt is discharged, and existing commercial relations, which the condition of our country renders indispensable, together with the sales of the public lands, bring yearly a large surplus fund into the Treasury. This fund, which is no longer taken up in the payment of a national debt, and which still remains unappropriated, has already arisen to the amount of about twenty-four millions of dollars; and as it does not arise from transient causes, it goes on increasing, and must continue to increase. This state of things is not at all desirable. Its natural tendency is to produce extravagance in the appropriation and wastefulness in the expenditure of public money. Indeed, it seems to be conceded by all, that this large surplus ought not to remain and accumulate in the public Treasury; and there have been suggested, as means of lessening the amount and preventing a future accumulation—

First, The reduction of the customs; Second, Increased expenditures in the navy and fortifications;

Third, A reduction of the price of public lands, and the surrender of large portions of them to the States in which they lie; and,

Lastly, This bill, which proposes to distribute the proceeds of the public lands among the several States, leaving the receipts from customs to defray the ordinary expenses of Government in time of peace.

The first-named measure—a reduction of the customs—cannot be resorted to without awakening feelings dangerous to the peace and harmony of the country. The tariff law in force, is the result of a compromise of the opinions of the citizens of different sections of the Union, and ought not to be disturbed, unless a strong political necessity call for its modification. Under this law, or, indeed, any law, keeping up such duties as are necessary for the proper regulation of commerce, it is believed that the customs will produce a revenue, at least equal to the ordinary wants of the Government. The surplus, therefore, cannot be reduced by lessening the amount of the customs.

The next measure proposed, is a large increase of appropriations upon our fortifications and navy, so as to absorb the surplus revenue, and at the same time put the country in an attitude of defence in the event of a foreign war. Such increased appropriation, to some extent, is in the opinion of your committee, necessary and proper. There ought to be dealt out with a liberal hand, all that can be well applied to render the seaboard safe from foreign aggression; but the amount asked by the Executive for both these purposes, does not, with the other current expenses of Government, exceed the probable receipts from customs for the ensuing year, if the country be not involved in war. And it is not, in the opinion of your committee, proper that an expenditure should be made in the construction of fortifications or naval armaments for the purpose of exhausting the surplus revenue. If it be, the expenditure of money is made at once the primary object, and the improvement of the national defenses but subordinate or auxiliary thereto. This would be true in fact as well as in form. If much money were expended, it would necessarily be applied to little purpose. We might on a sudden emergency, in a short time, by large expenditure, prepare fortifications which would serve the purpose of a temporary defence; but all those substantial works which are to stand as our future and permanent fortresses require time, a selection of materials, and skillful engineers, which it is not in our power to supply much beyond what is necessary in expending judiciously and skillfully our ordinary appropriations. So, also, with respect to the navy.

But to this project there is another and a serious objection. The expenditures in support of the Government are, much the larger portion of them, upon our sea-coast, and in our great commercial cities. This proposed extraordinary expenditure would very much increase that amount, and draw to the sea-coast other large sums of money which ought properly to have a general distribution over the whole United States. Nor could we expect such a system, if once adopted, to cease, or even to diminish for ages. No nation was yet ever known voluntarily to lessen its expenditures. If we commence a system of fortifications for the purpose of expending money, chiefly, and but in a secondary degree only, for defenses, there will be no limit or end to the means it will furnish us of exhausting our national resources. Hundreds of millions may be expended with a tolerable show of public necessity or convenience, when it is not, on the other hand, deemed necessary to guard and to save the public treasure. It appears clear to your Committee, therefore, that an amount of money large enough to exhaust the surplus revenue, could not, at present, be expended advantageously to the country.

The reducing of the price of the public lands and ceding them to the States in which they lie, is another mode proposed to lessen the receipts into the Treasury, and thus prevent the influx of a surplus revenue.

Propositions such as these were referred to the Committee on Manufactures, at the first session of the twenty-second Congress, and on the sixteenth of April, eighteen hundred and thirty-two, they presented a detailed report to the Senate, in the general views and reasoning of which, your committee concur; and they herewith present the same, and make it a part of their report. That paper, in the opinion of your committee, demonstrates the injustice and impolicy of such a disposition of the national domain, and subsequent experience has confirmed their reasoning.

But other similar propositions, varying from those considered in that report, in some of their features, have been referred to your committee. Among these are

A proposition to graduate the price of the public lands according to quality; and

To grant the lands to the States in which they lie, after they shall have been offered for sale for a given time.

To each of these your committee have given a careful consideration.

These propositions appear to be suggested for the benefit of the States in which the public lands are situated; for it is to prove that the interests of the United States, as the great landed proprietor, would not be subserved by either of them. The graduation of the price of the public lands is in no wise necessary or expedient, as a measure to effect their sale. Lands which have been long in market become surrounded by settlements. If they be hilly, they become valuable for their timber and stone, and other mineral productions. If swampy, or barren, they form a convenient appendage to neighboring farms for pasturage; and if not worth entering at the minimum price for any of these purposes, the public suffers no loss in permitting them to remain open and unappropriated.

Experience has fully shown, that the rise in the value of the public lands increases in proportion to the time that it is in market, or rather, to the number of the sales and density of the settlement near and around it. This fact is strongly illustrated by a reference to the sales of the public lands at the several Land Offices for a series of years. By this it will be seen that a larger per centum of the lands actually sold at private sale, has generally sold at the old than at the new offices, and that per centum has generally increased in proportion to the time the lands have been in market. It is a remarkable fact, bearing upon this proposition, that in no State or Territory, has the sales of public lands at private sale been so great in proportion to the quantity in market within the last five years, as in Ohio, in which State the public lands have been longest exposed to sale.

Your committee are also of opinion, that such graduation or reduction in the price of the public lands would operate to the injury, and not the benefit, of the section of country in which such lands lie. If the amount of public land the price of which was thus reduced, be great, its first and immediate effect would be to reduce the value of all the lands in its vicinity, *pro rata* with the reduction of the public lands. To those who were full handed, and able to make large purchases, it might open a fine field for speculation, and profitable investment of capital, and if the price were reduced low, so as to make it an object with the capitalist, the public lands would be purchased up at once, on speculation, and retained at an advanced price. It would thus cause a fluctuation in the value of land, a fall and a rise in its price, which is ever favorable to the sharp-sighted and sagacious speculator, but inimical to the interests of the agricultural portion of the community. Your com-

mittee therefore think, that no interest which ought to be cherished and protected by the Government, requires the graduation of the price of the public lands.

The proposition to cede the public lands to the States in which they lie, after they shall have been offered for sale a given number of years, is liable to many and serious objections. This project is, no doubt, well calculated to meet with favor in those States, in which there is yet much public land unsold, as it holds out to them an apparent prospect of a vast accession to their resources. But it is, in the opinion of your committee, entirely delusive. The several States which form parties to the national compact have all an equal right to, and an equal interest in, the national domain, and such an application of it to the use of some of the States, which is not just to all, cannot be expected to meet with general favor.

Such a disposition of the public lands would be, indeed, a violation of a contract which was adopted by, and made binding under the Constitution of the United States. The deed of cession of Virginia, by virtue of which we hold by far the largest and most valuable portion of our territory east of the Mississippi river, contains a clause, common to all the cessions of the several States, which provides that, after certain reservations shall have been made, and certain bounties satisfied, that the lands so ceded "shall be considered a common fund for the use and benefit of all of the United States, members of the federal alliance," and shall be *faithfully & bona fide* disposed of for that purpose, and for no other use or purpose whatsoever." This deed of cession was made by Virginia and accepted by Congress prior to the adoption of the constitution. It therefore became and was a compact before the adoption of the constitution, and is referred to and made binding by the first section of the fifth article of that instrument. It is, in the opinion of your committee, too clear to require an argument, that the giving of all the residue of these lands to the States in which they lie, after they shall have been offered for sale for a period of years, will not, if any lands of value remain unsold, be disposing of them *bona fide*, for the benefit of all the States, according to the requisition of this contract. The principle on which grants of land have been made to the several States in which the public lands lie, for public works of any kind, is, that the United States being a large landholder, have, in the management of that property, a right to do what any other landholder, who consulted his own interest, would do—appropriate a portion of his lands, or their proceeds, to open roads and canals, and to construct public works in their neighborhood, so as to enhance their value or bring them sooner to a market. But this proposed gift or cession of the residue of the lands, after they shall have been in market five or ten years, cannot be sustained on that ground. A gift or conveyance of a part, on condition that it be so applied as to make the residue more valuable than the whole would otherwise have been, is a *bona fide* disposition of such part of the fund for the use of all those who are entitled to share in it; but, if we give away the *whole residue* at any time, when that residue possesses value, we as certainly misapply the fund and abuse the trust; for, in that state of things, nothing remains to be enhanced in value, and the gift is to one State or a few States—whereas, the trust is for all, and Congress is required to dispose of the land *bona fide* for the benefit of all.

But if Congress had the right to give the residue of the lands, after they should have been offered for sale five or ten years and still remain unsold, to the States in which they lie, such a disposition of them would be unequal among themselves, and therefore unjust. It would not give them lands in proportion to the population of each, to the amount that each, or the citizens of each, had paid for lands into the public Treasury. The State of Ohio would receive, on this proposition, certainly less than four millions of acres, (the amount depending upon the time the land should be in market before it be surrendered,) that is, about four acres to each individual in the State, while the public lands in the State of Ohio have brought into the Treasury about seventeen millions of dollars, besides satisfying, to a large amount, the debts of the Government.

Missouri, upon a like mode of distribution or surrender, would have not less than twenty-five millions of acres, or about one hundred and sixty acres to each individual, black and white, according to the census of 1830. Thus, one inhabitant of Missouri would receive a quantity of land equal to what would be received by forty inhabitants of Ohio; and, while the lands in Ohio have brought seventeen millions into the public Treasury, the lands in Missouri have brought in less than three millions. This disparity, therefore, would be very unjust to Ohio, but still more so to the other States of the Union having equal rights, and which, on this principle of surrender, would receive nothing. It cannot, there-

fore, be expected by any one, however strongly solicitous he may, feel for the advancement of the new States, that such a measure will be adopted. Something more equal and more just must be thought of by those who wish to promote their interests and add to their prosperity.

There are other measures proposed which, if adopted, would effect, more or less, the interest of the United States in the public land, by lessening its general value and rendering its management more complicated and difficult. One of the first, and not the least important of these, is the law granting pre-emptions to actual settlers, which was first passed on the 29th of May, 1830; and which with some modifications, is still in force. The intent of this law was that of kindness and benevolence. It was enacted for the benefit of the poorer class of citizens, who having pushed forward beyond the lands offered for sale, settled and improved the public lands, and made themselves a home, with some comforts around them, and had become able, by their industry, to pay for these lands at the minimum price. It seemed hard that these pioneers, who had thus improved the lands by their labor, should be compelled to enter into competition with new adventurers at the sales, & thus pay for improvements which they themselves had made. Such appear to have been the reasons for the enactment of these laws. They provided that when two individuals cultivated one quarter section of land, each should be entitled to the pre-emption of half the tract so jointly cultivated, and each, also, to a pre-emption of eighty acres anywhere in the same land district; and, by a supplementary law the claims were made assignable.

Your committee have satisfactory information that these laws have been the cause of frauds and perjuries, to an amount and number almost incredible. Thousands of pre-emptions have been proved under them & certificates granted when the whole case was without the least shadow of foundation. In other cases, the cutting down a single tree, the marking it with a hatchet, or encamping for the night, has been made the ground of pre-emption claims. In most of the last-named cases, two individuals would together cut down their sapling, or tie each his horse upon the same quarter section of land; this, with the oath founded upon it, which appears to be always according to form, would get for each of the individuals a certificate or warrant, now familiarly called "a float," which they might lay on any of the lands of the United States which was surveyed, and not offered for sale; thus taking, at the minimum price of \$1 25 per acre, lands worth, in many instances, more than twenty times that sum. Large companies, it is believed, have been formed, who procure affidavits of improvements to be made, get the warrants issued upon them, and whenever a good tract of land is ready for sale, cover it over with their floats, and thus put down competition. The frauds upon the public within the past year, from this single source, have arisen to many millions of dollars.

Your committee believe that a great error was committed by the passage of these laws, and that no amendment or modification will guard against the mischiefs which they have heretofore produced. Claims of this kind cannot, in the very nature of things, be subjected to judicial investigation; or, if they were, the means of eliciting truth, the confronting of witness against witness by parties, who stimulated on both sides to the uttermost to rebut and repel, cannot be brought to bear upon the examination of these claims. Hence a few individuals, whose evidence can be purchased with a price, and who can appear under different names at pleasure, may under the auspices of these laws, divert millions of money from the public Treasury into the coffers of their employers.

The system early adopted for the disposition of the public lands of the United States is admirable, and, in the opinion of your committee, ought not to be broken in upon or departed from. The pre-emption laws have, more than any other cause, tended to unsettle and derange them, and they have thrown upon the General Land Office a mass of labor, most unpleasant in its character, and difficult to be performed. The good which they do bears no comparison to the evil, for every dollar which the poorer settlers save by them, hundreds are lost by the Government, and fraud, and perjury, and unlawful combination & lawless violence to put down competition at public sales, have arisen out of their provisions. In the opinion of your committee, they ought to cease.

There are also connected in some measure with this subject, several bills and memorials referred to your committee, proposing or praying for grants of land for seminaries of learning, for public education, or to aid in constructing works of internal improvement. These are all meritorious objects, and your committee are disposed to give them the most favorable consideration. But there are many difficulties attending the action of Con-

gress on these special subjects. The very great extent of our country, the general feeling that all parts of it have equal rights to the munificence of Congress, the impossibility of determining which, among many institutions in the same State, ought to have such bounty as Congress might be disposed to bestow on objects of this kind, all lead to the conclusion that it were better to put it in the power of the several States to confer these bounties, and select the most worthy objects, than to attempt here to perform that office.

The rapidity with which the public lands now sell, the ease with which they are converted into money, the abundance of money now in the treasury, and the moral certainty that there will be, for a long time, enough, and more than enough, to meet the current expenses of the Government, have impressed strongly upon your committee the opinion, that it is impolitic and inexpedient to make a donation of land for any object, where a donation of money may be as lawfully made, and will effect the same end. These donations or transfers of land are liable to the objection that they tend more or less to confuse and complicate the land system. They all add something to the duties of the officers of the United States who have charge of the public lands, and they serve to embarrass the purchaser, who has not, as he would without them, have, one set, and one only, of land offices to whom he is to resort for the entry of lands. There is another objection. Though it be the fact that a donation of land by law is equivalent to a donation of money, yet we do not always feel it exactly so. There is a natural tendency to consider it more highly than it deserves, and to treat it too highly in legislation.

Your committee, on the whole, believe that it is better, if Congress have the constitutional power, to distribute among the several States, according to their respective rights, the proceeds of the sales of the public lands, allowing the States to use it for any or all of the purposes set forth and recommended in these bills and memorials. But that the lands themselves should not be assigned over, given away, or granted by Congress; that the ancient system of sales should be carefully preserved, and that all the deviations from it, which have caused much waste and confusion, should, as soon as possible, be corrected, and the former order of things fully restored.

The question of constitutional power has occupied the careful and sedulous attention of the committee; and they here present to the Senate the course of reasoning on that subject which they consider sound and just, and which has led them to the conclusion that Congress possesses the power to distribute the proceeds of the public lands according to the principles of this bill.

At the time the deed of cession from Virginia was made and accepted, the Union was held together by the articles of confederation of 1778, which, in its 8th article, provides "that all charges of war and other expenses that shall be incurred for the common defence, or general welfare, and allowed by the United States in Senate assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States."

The mode of determining the proportion which each of the States shall bear of the public charges, is particularly pointed out, and it is there provided that "the taxes for paying that proportion shall be laid and levied by the authority and direction of the several States." To this state of things, existing at the time of the delivery of the Virginia deed of cession, its provisions must necessarily apply. It was to a confederacy of independent States, who keep up a common treasury out of contributions from each of its several members, according to a determinate regulation, that this deed was made, and after making certain reservations, specially set forth, it declares the trust in the following distinct and unequivocal terms: "That all the lands within the territory so ceded to the United States, and not reserved for or appropriated to any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederation, Virginia inclusive, according to their usual respective proportions in the general charge and expenditures, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever." If, then, we had still continued, down to the present time, a confederation of States, bound together by the articles of 1778, and if, as is now the case, the public debt were discharged, the public expenses borne by revenues from other quarters, and the public land pouring its millions into the treasury, what ought Congress, as the trustee of that common fund, to do with it? It is a trust fund, placed in the hands of Congress "for the use and benefit of the several States," and it is to be disposed of "bona fide" for that purpose, "and for no other use or purpose whatsoever."

So long as there was a public debt to be paid, this fund was well applied for the common charge upon all, "according to their usual respective proportions in the public expenditures." And so long as it was necessary for the support of Government, its application to that purpose was right, for the same reason; but when this state of things has ceased, when the proceeds of the public lands are no longer necessary for either of these purposes, what is it the duty of the trustee to do with it, according to the letter and spirit of the deed of trust? And what, were it a case between individuals, would a court of equity compel him to do? The answer is plain and obvious. He not only *might* pay it, but he would be *bound* to pay it over to those for whose benefit he held it. If it were not necessary to disburse it for them, he must restore it to them. This, as between individuals, would be a plain case, and your committee cannot perceive how it is varied when applied between States and nations. If, then, we had remained, as we were, members of the old confederation; if the constitution had not intervened, to change, in anywise, the relations of the States to each other, or to the whole, it would have been not only the right, but the duty of Congress, pursuant to the spirit of that deed of cession, to have distributed among the several States the proceeds of the sales of the lands contained within the bounds of that grant. The delivery and acceptance of this deed amounted to a contract, and the above is, according to the opinion of your committee, the just construction of that contract.

But the rights and duties of the United States as a contracting party, are not at all changed by the adoption of the constitution. The 1st section of the 6th article of that instrument provides "that all debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this Constitution as under the confederation," so that our rights, and our duties, with regard to this trust, are the same precisely that they would have been under the old confederation. All that has been said relative to the deed of cession from Virginia, applies equally to the cessions from the other States, except Georgia, whose deed bears date after the adoption of the Federal constitution; but, with this exception, it is in tenor and spirit the same with the deed above considered.

Your Committee are hence led to the conclusion, that with respect to the proceeds of all the lands north of the 31st degree of latitude, and east of the Mississippi river, Congress not only has the constitutional power to make the proposed distribution, but it is a duty enjoined on them by a contract which is recognized and adopted by the Constitution.

As to the land lying within the bounds of the original purchase of Louisiana and Florida, our right so to apply it rests upon no less satisfactory grounds. We have no compact concerning it; no constitutional provision, or any agreement recognized by the Constitution, which expressly authorized the purchase of this additional territory, or which places the land so purchased in the same situation with that which was originally transferred to Congress by the States. But the right to acquire the additional territory is no longer an open question. It has been settled, and by virtue of its adjustment, we have already received into the Union two States, and the prosperity of the whole country, has been thereby greatly enhanced. It would seem, that when a large extent of territory was added to that which heretofore belonged to the United States, it ought to be subjected to the same constitutional and legal principles which governed in the disposition and management of the lands which we held at the time of the formation of the constitution. It has been so, strictly, in all things, so far as it related to jurisdiction: it would seem just and reasonable that it should be so as to soil also.

But, in every estimate which has been as yet presented of the costs and the proceeds of the public lands, whether by the Secretary of the Treasury or by committees of Congress, the money paid for Louisiana and Florida has been charged to this fund, and it continues to be so down to the last report of the Secretary of the Treasury, of the 8th of Dec. 1835. If this be correct, if the public lands have been made the fund out of which this large purchase has been paid, it is in truth but a conversion of the receipts for land into other lands, which would, as a necessary consequence, follow the same law of distribution which applied to the original subject out of which the payments were made. The fact that other great and important advantages were derived to the Union from the purchase of these two territories, does not at all weaken the force of the argument, but leaves it in this particular instance, precisely as it would have stood if there had been a purchase of land merely out of the funds arising from the sales of lands; and by the well-known principles of equity, the trust attends the fund, whomever it vests.