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[To accompany bill H. R. No. 270.]

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

The information required by a resolution of the House of Representatives of the 19th instant, in relation to the boundary line between the State of Georgia and the Territory of Florida.

DECEMBER 29, 1831.—Read, and referred to the Committee on the Judiciary.

FEBRUARY 4, 1834.—Reprinted by order of the House of Representatives.

WASHINGTON, *December 29, 1831.*

In compliance with the resolution of the House of Representatives of the 19th instant, requesting the President of the United States to communicate to it "the correspondence between the Governor of Georgia and any department of this Government, in the years 1830 and 1831, in relation to the boundary line between the State of Georgia and the Territory of Florida," I transmit herewith a communication from the Secretary of State, with copies of the papers referred to.

It is proper to add, as the letter and resolutions on this subject, from the Governor and Legislature of Georgia, were received after the adjournment of the last Congress, and as that body, after having the same subject under consideration, had failed to authorize the President to take any steps in relation to it, that it was my intention to present it, in due time, to the attention of the present Congress by a special message. This determination has been hastened by the call of the House for the information now communicated; and it only remains for me to await the action of Congress upon the subject.

ANDREW JACKSON.

DEPARTMENT OF STATE,

Washington, December 28, 1831.

The Secretary of State, to whom has been referred, by the President, a resolution of the House of Representatives of the 19th of this month,

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requesting the President to furnish that House with a copy of any correspondence which may have taken place in the year 1830 or 1831, between the Executive of Georgia and any department of this Government, relative to the boundary line between the State of Georgia and the Territory of Florida, has the honor to transmit, herewith, to the President, the copy of a letter under date of the 22d of March, 1831, from the Governor of Georgia, addressed to the President himself, upon the subject in question, together with a copy of the resolution of the Assembly of Georgia therein referred to; which letter and resolution were deposited, by order of the President, in this department.

That communication comprehends all the correspondence within the purview of the resolution of the House of Representatives, which is to be found in this office; but an indistinct recollection is nevertheless entertained here, that the letter of the Governor of Georgia was answered by the President, though it does not appear that a copy of his letter was kept.

Respectfully submitted.

EDW. LIVINGSTON.

EXECUTIVE DEPARTMENT, GEORGIA,

Milledgeville, March 22, 1831.

SIR: Congress having failed, at its last session, to make provision for running the dividing line between Georgia and Florida, the Legislature of this State has directed me to cause that line to be run by commissioners appointed for that purpose.

The President is informed that commissioners have accordingly been appointed, and received instructions to meet at the town of St. Mary's on the 1st of May next, and to proceed, without delay, to run and plainly mark the line from the junction of the Chattahoochie and Flint rivers to the head of St. Mary's, agreeably to the treaty of 1795 between the United States and Spain.

The opinions and motives of the Legislature which induced this proceeding, are fully explained to the President in the report and resolutions of that body, copies of which accompany this communication. Since 1827, when it was first discovered that the place fixed upon by Ellicott and Minor did not truly represent the head of the St. Mary's intended by the treaty of 1795, the State of Georgia has been continually urging upon the Government of the United States the propriety of causing such an examination and survey to be made, as would terminate the uncertainty as to the place which ought to be so considered.

The State does not desire the acquisition of any territory, and claims none but what is believed to be secured to it by the highest evidence of title. The obligation, therefore, is imperative upon those who administer the Government of the State, to preserve its territory inviolate. The boundary described in its constitution is the same, from the junction of the Chattahoochie and Flint rivers to the St. Mary's, as that which formed its dividing line from East Florida when Georgia was a colony of Great Britain. By the proclamation of the King of Great Britain, in 1763, forming the Governments of East and West Florida, and extending the

southern boundary of Georgia, that line was described as running from the junction of the Chattahoochie and Flint rivers to the source of the St. Mary's. By the commission granted to Governor Wright, in 1764, the same line is described as extending to the southernmost stream of the St. Mary's. By the definitive treaty of peace of 1783, Great Britain ceded to Georgia as an independent State, and as one of the parties to that treaty, all the territory which belonged to it when it ceased to be a colony. The line in question was described in that treaty as running from the junction of the Chattahoochie and Flint rivers, straight, to the head of the St. Mary's. By the term head of the St. Mary's, as used in that treaty, was understood the same place which was described in the proclamation of 1763, and in the commission to Governor Wright, in 1764, as the source or most southern stream of the St. Mary's. The same must be intended to have been meant by the term the head of the St. Mary's in the treaty of 1795, because it corresponds exactly with the description of the same place in the treaty of 1783, and because, although there were disputes between the United States and Spain, and the United States and Georgia, as to the boundary line between that State and West Florida, none are believed to have existed as to the line between Georgia and East Florida. If, therefore, the place fixed upon by Ellicott and Minor does not truly represent the head of the St. Mary's, surely the United States ought not to insist upon its being so considered, especially since Florida has become a part of its own territory.

In communicating to the President, by the request of the Legislature, the appointment of commissioners, and the time when they are instructed to proceed to run the line from the junction of the Chattahoochie and the Flint rivers to the head of the St. Mary's, I have thought it my duty to present this brief justification of the course which has been pursued by the State in ascertaining the extent of her territorial rights.

Very respectfully, yours,

GEORGE R. GILMER.

To the PRESIDENT of the United States.

The Committee on the state of the Republic, to which was referred that part of the Governor's message which relates to the boundary line between the State of Georgia and the Territory of Florida, with the accompanying documents, have had the same under consideration, and report :

That the deep interest which Georgia has in the question of the final and satisfactory settlement of her boundaries, is such as to impose on her constituted authorities the duty of prosecuting the subject to some final termination. And at this time your committee believe that the constituted authorities of this State would be liable to the charge of dereliction of duty to her citizens, were they to permit the boundary which separates Georgia from the Territory of Florida, from the junction of the Flint and Chattahoochie rivers, thence to the head of the St. Mary's river, to remain, as it now does, unascertained, and not run and marked.

Your committee, in again presenting a condensed view of the subject referred to their consideration, will purposely be very brief, as the merits of the question have been so often presented to the Federal Government,

and particularly in the report and resolutions agreed to by the General Assembly of this State, on the 16th day of December, 1828, which your committee beg may be referred to, as presenting most of the evidences and facts on which Georgia claims a final settlement of the boundary line between this State and the Territory of Florida.

By referring to the charter of Georgia, which was granted in the year 1732 to certain persons, and its surrender to the King of Great Britain in the year 1752 by the trustees, and the proclamation of 1763, establishing the Government of East and West Florida, and extending the southern boundary of Georgia, and the commission of Governor Wright, at which time both Georgia and Florida were British colonies or provinces, dated the 20th day of January, 1764. the only legitimate inference from each of the recited evidences is, that the southern line of Georgia was to run from the most southern stream of a river St. Mary's, and westward from thence, and consequently leaving the whole of the head waters of that river within the boundary of Georgia; and every other public document which relates to the said boundary, either as a boundary line of the United States or the State of Georgia, is in palpable accordance with this conclusion, until the year 1800.

In the year 1795, the Government of the United States and Spain concluded a treaty, by the second article of which it was agreed that a line should begin from a point at the junction of the Flint and Chattahoochie rivers, and to run from thence to the head of the St. Mary's river. Under the provisions of said treaty, commissioners were to be appointed to run and plainly mark said line, and commissioners were accordingly appointed; and in the year 1800, Mr. Ellicott, the commissioner on the part of the United States, and the commissioner on the part of Spain, met, and attempted to run and mark the said line, from the junction of the Flint and Chattahoochie rivers to the head of the St. Mary's, but, from causes which it is now necessary to state in detail, the line was not run, but the commissioners fixed on a spot near a branch of the river St. Mary's, and erected a mound, and agreed that the mound so erected by them near the Okefenokee swamp should be taken as the true head of the St. Mary's river, and that a line should be run from the junction of the Flint and Chattahoochie rivers to said mound, and that it should be taken as the true line; provided, if said line did not pass within one mile north of said mound, it should be correct to carry it to that distance.

Your committee, after having recited some of the evidences on which Georgia claims that the boundary line between this and the Territory of Florida had not been either finally or satisfactorily settled, take leave to state that, until the year 1819, very little was known of the section of country about the head of St. Mary's river. The Okefenokee swamp, in which it has its head, anterior to that time was an almost impenetrable wilderness, and was very little known to civilized man, and the explorations made by the authority of the Legislature of this State, in the year 1818, were not intended to do more than to collect information of a part of the lands and boundary line of Georgia. But, since that time, the Indian right of occupancy has been extinguished to all the lands in this State, from the junction of the Flint and Chattahoochie rivers to the head of the St. Mary's river, and that section of this State is now generally settled, and the country generally known. It is therefore now believed that it will not be difficult or uncertain to ascertain the true head of the St. Mary's river. Your committee believe

the Legislature will not discharge a duty it owes to the good citizens of this State, without once more asking and requesting the Federal Government to co-operate in this desirable object, and have the said line run and plainly marked.

Your committee have too much confidence in the authorities of the General Government, to indicate an opinion that the rights of Georgia are not attended to from improper considerations.

The reports made to Congress by the Judiciary Committees to which the subject has been referred, one on the 21st day of March, 1828, and another on the 30th day of January, 1830, have been carefully examined by your committee: but as the said reports do not contain any new evidences of the claim on which the United States maintain that the mound erected by Mr. Ellicott was truly and carefully placed at or near the head of the St. Mary's river, they have considered it improper, at this time, to make any examination of the conclusions arrived at by the arguments relied on in said reports.

In conclusion, your committee are satisfied that it is their duty to state, that if the question of the settlement of boundary between Georgia and the Territory of Florida is not fully and finally settled under the provisions of the resolutions which are attached to this report, no further attempts should be made by this State in the way now sought to effect the desirable object, but that the question ought to be carried for decision before the proper judicial tribunal; and to effect the objects embraced in this report, your committee recommend the adoption of the following resolutions:

Resolved. That it is the opinion of this Legislature that the dividing line between Georgia and Florida ought to be run from the junction of the Flint and Chattahoochie rivers to the head of the most southern branch, or head of the St. Mary's river, and that the said line ought to be marked without more or further delay.

Resolved. That Congress be earnestly requested, as an act of justice, during its next session, to repeal, alter, or amend the act of the 14th of May, 1826, which provided for the running of and marking the line dividing Georgia from the Territory of Florida, and to make additional and suitable provisions for the appointment of commissioners on the part of the United States to join commissioners on the part of Georgia, to run and plainly mark the dividing line between this State and the Territory of Florida, agreeably to the second article of the treaty of the 27th day of October, 1795, between the United States and Spain.

Resolved. That should commissioners be appointed on the part of the United States, during the next session of Congress, to meet commissioners on the part of this State, to run out and mark the dividing line between Georgia and the Territory of Florida, as soon as his Excellency the Governor shall or may be officially informed of the same, that he be, and is hereby, empowered and requested to appoint, without delay, a competent commissioner, artist, and surveyor, on the part of this State, to meet the commissioners on the part of the United States; and that he open a correspondence on the subject with said commissioners on the part of the United States, requesting a meeting of the commissioners on the part of this State and the United States, at the earliest day convenient, for the purpose of discharging the duties assigned them with the least possible delay.

Resolved. That if the commissioners on the part of the United States and Georgia shall meet agreeably to the provisions of the preceding resolutions,

and shall fail to effect the object of their appointment, that it is desirable that they report and recommend terms and conditions on which the said disputed and unsettled line ought to be fully and finally settled : if, therefore, the Federal Government shall give authority to the commissioners appointed by said Government to make such recommendation to the said Government, that his Excellency the Governor be, and is hereby, requested to give to the commissioners on the part of Georgia instructions to join in such recommendation, if they should agree that the same is just and proper.

Resolved, That should Congress, at its ensuing session, refuse or neglect to make provision for running out and plainly marking said line, by the appointment of a commissioner to meet the commissioner who may be appointed on the part of Georgia, that his Excellency the Governor be, and he is hereby, authorized and requested, as soon after the adjournment of the next session of Congress as may be consistent, to appoint two commissioners, and an artist, and surveyor, to meet, as early after their appointment as may be convenient, and run out and plainly mark the said line dividing Georgia from the Territory of Florida, from the junction of the Flint and Chattahoochie rivers to the head of the St. Mary's river, agreeably to the second article of a treaty between the United States and Spain of the 22d day of October, 1795 ; and that his Excellency the Governor do, in such case, inform the President of the United States of the time at which the commissioners on the part of Georgia will proceed to run out and plainly mark the said line.

Read and agreed to, November 19, 1830.

THOMAS STOCKS,

President.

Attest: JOHN A. CUTHBERT, *Secretary.*

In the House of Representatives, read and concurred in.

ASBURY HULL, *Speaker.*

Attest: W. C. DUNSON, *Clerk.*

Approved : December 16, 1830.

GEORGE R. GILMER,

Governor.

WILLIAMSON'S HOTEL,

21st December, 1829.

DEAR SIR : Though still detained in my room, I have made inquiries respecting Mr. Ellicott's report : and, knowing that the map accompanying it could only have been wanted at the Treasury, as connected with the public surveys adjacent to the line, my inquiry was directed to the Land Office.

Mr. Robert King, who has been the draughtsman attached to that office ever since 1803, recollects perfectly well Mr. Ellicott's map of the line ; that it was deposited in the office, and that Mr. Freeman, who was once surveyor general of the public lands south of Tennessee, took a copy of it. The original remained in the office till the year 1812, and for some time later, when Mr. Tiffin, Commissioner of the Land Office, lent it, for some public purpose, to the chairman of a committee of Congress, probably a land committee. The map never was returned ; and, if burnt, it was, to-

gether with the records of Congress, in the Capitol. You may however inquire from the clerks of the two Houses, as Mr. Tiffin was commissioner subsequent to the capture of Washington, and Mr. King does not recollect the precise date when the map was loaned by him.

I beg leave to suggest—

1. An application to Mr. Graham, that a search may be made in his office for the report, which may possibly be there.
2. A request that he will direct Mr. Freeman's successor to send back the copy of the map which he had taken.
3. That Mr. King's evidence may be perpetuated, as he is old and infirm.

It is possible, though not probable, that when the map, of which I have myself no recollection, was obtained from the Department of State for the purpose aforesaid, I took the report home to read, and neglected to return it. I have lost none of my papers; and, on my return to New York, I will make a thorough search. If there, it must be found, and have got mixed with pamphlets; for, as to *public papers*, they were, as such, all returned when I left Washington.

Respectfully, your obedient servant,

ALBERT GALLATIN.

The Hon. JOSEPH M. WHITE,

of Florida, in Congress.

GENERAL LAND OFFICE,

March 2, 1830.

SIR: In answer to your inquiry respecting the map of the line between the Floridas and the United States, called Ellicott's line, I beg leave to observe, that, in the summer of 1802, Mr. Thomas Freeman (who was surveyor of that line with Mr. Ellicott) was employed to make a map exhibiting the country north of that line, for the use of the Treasury Department, whereon the line was accurately delineated as the basis for said map. I was frequently with him during the time he was employed on it, and, to the best of my recollection, he took it from another which appeared to have been drawn by him as surveyor, and which might have been the original. All this was previous to my appointment as draughtsman, which was in April, 1805. At that time, the map by Mr. Freeman was in the office, and remained there until loaned by Mr. Tiffin to a committee of Congress, or the commissioners appointed to settle the Yazoo claims, (I think the latter,) and never has been returned.

I do not recollect that the original plat signed by the commissioners appointed to run the line was ever on file with the maps belonging to the General Land Office, as the copy alluded to was all that could ever be wanted in this office.

It is probable that a copy may be found at the topographical bureau of the War Department.

The journal of Mr. Ellicott, I believe, was published in 1803, with the map, &c. and may be in the Congress Library.

I am, sir, your obedient servant,

ROBERT KING,

Draughtsman, General Land Office.

The Hon. JOSEPH M. WHITE,

of Florida, House of Representatives.

MARCH 21, 1828.

The Committee on the Judiciary, to which was referred the message of the President of the 22d of January, 1828, transmitting copies of communications from the Governor of Georgia, relating to the line dividing that State from the Territory of Florida, report :

The correspondence between the President and the Governor of Georgia, thus referred to the committee, presents the question, What is the correct boundary between that State and the Territory of Florida? To enable the House to decide this question, the committee beg leave to present to their consideration a condensed view of the evidence in relation to it.

The charter of Carolina to the lords proprietors, in 1663, extended southwardly to the river Matheo, now called St. John's, supposed, in the charter, to be in latitude 31°, and so west, in a direct line, as far as the South Sea.

It appears, by an extract from the charter of Georgia in 1732, that the boundaries were "all those lands, countries, and territories, situate, lying, and being in that part of South Carolina, in America, which lies from the northern stream of a river commonly called the Savannah, all along the seacoast to the southward, unto the most southern stream of a certain other great water or river called the Altamaha, and westward from the heads of the said rivers, respectively, in a direct line, to the South Seas." Before the date of this charter to Georgia, by a second charter to Carolina, in 1667, its limits had been extended south and westward as far as the degree of twenty-nine, inclusive, of northern latitude. The Government of Carolina having been, in its origin, a proprietary one, was, in 1729, surrendered by seven out of eight of the proprietors, and afterwards by the eighth, and then became a regal one; and the province was divided into the two Governments of North and South Carolina. The order of Council making this division, and fixing the boundaries, is not accessible to the committee, nor is it deemed material.

The trustees of Georgia, in 1752, surrendered the whole territory to the King, and the Government was afterwards entirely regal.

The King, by a proclamation of the 7th October, 1763, annexed to the province of Georgia all the lands lying between the rivers Altamaha and St. Mary's, and, by his commission to Governor Wright, of the 20th January, 1764, declares the boundaries to be on the north by the most northern stream of a river, there commonly called Savannah, as far as the head of said river, and from thence, westward, as far as our territories extend; on the east by the seacoast, from said river Savannah to the most southern stream of a certain other river, called St. Mary, including all islands within twenty leagues of the coast, lying between the rivers Savannah and St. Mary, as far as the head thereof; and from thence, westward, as far as our territories extend, by the north boundary line of our provinces of East and West Florida.

By the treaty of peace, in 1783, between the United States and Great Britain, the southern boundary of the United States is thus described: "South, by a line to be drawn due east from the determination of the line last mentioned, in the latitude of thirty-one degrees north of the equator, to the middle of the river Appalachicola or Chattahoochie; thence, along the middle thereof, to its junction with the Flint river; thence, straight, to the head of St. Mary's river; and thence, down along the middle of St. Mary's river, to the Atlantic Ocean."

By the proclamation of 1763, before referred to, the King had declared that part of the northern boundary of East Florida, which is now the subject of inquiry, to be as follows, viz. To the northward, by a line drawn from that part of said river (Appalachicola) where the Chattahoochie and Flint rivers meet, to the source of St. Mary's, and, by the course of the said river, to the Atlantic Ocean. Spain having obtained from Great Britain a cession of the Floridas, without, as is believed, any description of limits, but with a knowledge of the provisional treaty of November, 1782, and under what were the boundaries of those provinces in the hands of Great Britain, some difficulty arose between the United States and Spain, in relation to this boundary, which led to the treaty of 27th October, 1795, commonly called the treaty of San Lorenzo el Real; by the second article of which, it was agreed that the boundary line between the United States and the Floridas shall be designated by a line beginning on the river Mississippi, at the northernmost part of the 31st degree of latitude north of the equator, which from thence shall be drawn due east to the middle of the river Appalachicola or Chattahoochie; thence, along the middle thereof, to its junction with the Flint; thence, straight, to the head of St. Mary's river; and thence, down the middle thereof, to the Atlantic Ocean.

It was provided by the third article of that treaty that a commissioner and surveyor, to be appointed by each of the contracting parties, should run and mark the boundary, according to the stipulations of the 2d article, above recited. It was further stipulated that they should make plats, and keep journals of their proceedings, which should be considered as part of the convention, and have the same force as if they were inserted therein. In conformity with this stipulation, Andrew Ellicott was appointed commissioner, and Thomas Freeman surveyor, on the part of the United States, for the purpose of running the line mentioned in the 2d article. This appointment was made in May, 1796: it appears from a letter of the commissioner, dated 22d March, 1800, to the then Secretary of State, that a report of what had been done would soon be completed: but that report, if made, is not now, as far as the committee are informed, to be found. It appears from the same letter that our commissioner experienced great difficulty and embarrassment in the execution of the duty assigned to him, from the Indians, and, he intimates, at the instigation of others. The journal of Ellicott was published in 1803. It appears that the commissioners did not run and mark the line from the junction of Chattahoochie and Flint rivers to the head of St. Mary's; but they designated a point, which should be taken as the one to or near which a line should be drawn from Flint river, which, when drawn, was to be final; provided, it passed not less than one mile north of a certain mound erected by them; but if, on experiment, it should be found to pass within less than a mile north of said mound, it should be corrected to carry it to that distance. This mound is near the Okefeukkee swamp. It appears from a report of John McBride, a surveyor, appointed by Georgia, in the year 1827, that there is a stream, called by him the South Branch of the St. Mary's, much further south than the one considered the head branch of that river by the American and Spanish commissioners; and he says, that both its length, its volume of water, and general direction, coincide in favor of the South Branch. It appears, by a document referred to as part of this report, marked A. that, under a resolution of the Senate of Georgia, in 1818, the Governor of that

State appointed commissioners to examine and report whether Ellicott's mound was the true head of the St. Mary's; and, from the letter of the Governor in 1819, to the Secretary of War, it appears that the commissioners had reported that, after a careful examination, they found the head of St. Mary's to agree with the report made by Mr. Ellicott. Two of the commissioners, in a paper referred to as part of this report, marked B, think it probable that they may have been misled by their guide, assigning as the reasons of that impression: 1st, that they recollect to have seen what appeared to them, through thick brushwood, to be a lively little stream, emptying in through the opposite or right bank of the southern or middle fork of the St. Mary's; which, being pointed out to the pilot, he replied, that the branch they were pursuing was the right one; and, 2d, by the representation given by the survey of McBride. After this review of the evidence, it will be seen by the House that the question is, What is the head or source of the St. Mary's? for the other end of the line, to wit, the junction of the Chattahoochie and Flint rivers, being uncontested, so soon as the head of the St. Mary's is ascertained, all difficulty ceases as to the boundary. The committee are of opinion, upon the whole view of the case, that the point designated by the American and Spanish commissioners ought to be considered as the head of St. Mary's. They consider the solution of the question to depend on this, which stream is to be considered the true St. Mary's river, according to reputation, and the understanding and acquiescence of the parties concerned? As far back as 1800, the commissioners of the two Governments considered, upon examination, what is now called the North Branch as the St. Mary's; and the Georgia commissioners, in 1819, concur with Mr. Ellicott, as to the head of that river; although another river unites with this, which vents more water, and is longer, yet, if it were not called, or known by the name of St. Mary's, these circumstances would not alter the case. The committee infer that it was not so called, or known, from these circumstances: 1st, that the commissioners of two Governments were appointed to settle and decide a contested question of boundary: to do this, the head of the St. Mary's being one of the termini, it became their duty to seek for information from every source accessible to them, as to which stream was the St. Mary's, and what was its head. Having fixed upon a particular stream as being the true river, and designated a point as its source, and this being matter of notoriety, Georgia acquiesced, without objection, as far as the committee are informed, till 1818; and then the report of their own commissioners coincided with Ellicott's designation, and that, too, though they had, as their pilot, as the committee believe, the very person on whose suggestion they had been appointed. In this report Georgia acquiesced, as far as the committee is informed, until recently. As far as the nature of this unsettled country will admit of reputation as to the names of its streams, these facts may be considered as probably the best evidence which was the St. Mary's river, and the head of that river, as intended in the several State papers above recited. There is an example mentioned in one of the printed documents, which will illustrate the idea of the committee. It is now believed to be a geographical fact that the Missouri is a longer stream than the Mississippi, and we believe vents more water; and yet, as it never has been called by the name of Mississippi, if we were now called upon to decide what was the head of the Mississippi, we should take, not the source of the Missouri, though it unites with the other stream, but

the source of what is and has been called the Mississippi. It is not intended to say that the case in question is as palpable ; but, after settling the principle, that, in ascertaining the head of a stream of a given name, we must inquire where two streams unite, not which is the longest, or vents the most water, but which has been called and known by the given name, we are then to decide, upon the best evidence in our power, as to that fact ; and we think the evidence is in favor of the stream designated by Ellicott.

Resolved, therefore, as the opinion of the committee, that, in running the boundary line between Georgia and Florida, the point designated by the commissioners under the 3d article of the treaty of 1795 between the United States and Spain, ought to be the termination of the line from the junction of the Chattahoochie and Flint rivers.

A.

IN SENATE, 12th December, 1818.

Resolved, That his Excellency the Governor be requested to appoint two fit and proper persons to proceed, without delay, to ascertain the true head of the St. Mary's river ; and if it shall appear that the mound thrown up by Mr. Ellicott and the Spanish deputation, is not at the place set forth in the treaty with Spain, that they make a special report of the facts to the Governor, who shall thereupon communicate the same to the President of the United States, accompanied with a request that the lines may be run agreeably to the true intent and meaning of the aforesaid treaty.

And it is further resolved, That the Governor order out a suitable detachment of militia to protect the said commissioners in the performance of their duty.

Approved : 19th December, 1819.

EXECUTIVE DEPARTMENT, GEORGIA,

Milledgeville, 17th February, 1819.

SIR : I take the liberty to call your attention to the subject of the contemplated line between this State and the province of East Florida, which you no doubt recollect is expected to be run this spring by the General Government.

Preparations are making to commence surveying that section of country in a short time : it is, therefore, very desirable that the line should be defined as early as possible.

The Legislature of this State, at their late session, having received satisfactory information that the mound thrown up by Mr. Ellicott and the Spanish deputation, on the Okefenokee swamp, is not the true head of St. Mary's river, as contemplated in the treaty with Spain, directed me to appoint commissioners to ascertain the fact, and to communicate the result to the President of the United States, with a request that the line might be laid out agreeably to their report. Majors General Floyd and Thompson, and Brigadier General Blackshear, have been appointed to, and are now engaged in, the performance of that duty. Their report shall be transmitted to you as soon as I receive it.

I have every reason to believe that the head of that river will be found at least twenty miles south of the point agreed on by Mr. Ellicott and the Spanish commissioners. Should this conjecture prove to be a fact, the State of Georgia will be entitled to the land within that boundary, according to the treaty with Spain. In any event, it is of great importance that one of those lines should be completed as soon as circumstances will justify the measure. Enclosed, I hand you a resolution of the Legislature on the subject.

With high respect, I am, sir,
Your obedient servant,

WM. RABUN.

The Hon. JOHN C. CALHOUN,
Secretary of War, Washington City.

EXECUTIVE DEPARTMENT, GEORGIA,

Milledgeville, 3d March, 1819.

SIR: On the 17th ultimo, I had the honor to address you on the subject of the contemplated line between this State and the province of East Florida. I stated that the Legislature of this State had directed me to appoint commissioners to ascertain the true head or source of the St. Mary's river, and I promised to forward their report to you as soon as the same was received. The commissioners have returned, and reported that, after a careful examination, they found the head of that river to agree with the report made by Mr. Ellicott, and prove, beyond the possibility of doubt, that the information received by the Legislature of this State relative to that subject was incorrect. I flatter myself that directions will be forwarded to Mr. Lumpkin immediately to close that line according to the treaty with Spain. And if the General Government can afford us assistance in guarding the surveyors who will be engaged in laying out the country, it will be acknowledged as a great accommodation.

I am, with high respect,
Your obedient servant,

WM. RABUN.

Hon. JOHN C. CALHOUN,
Secretary of War.

B.

In the year 1817, Captain William Cone, then a member of the Legislature of Georgia, represented, on his own knowledge of the St. Mary's river, that Mr. Ellicott had mistaken its true head or source; and that an accurate survey would establish the fact that the head or source of the middle fork or branch, (perhaps then called the South Branch,) which was twenty miles south of Mr. Ellicott's mound, would be found to be the true source of the St. Mary's river, and, therefore, the true point of demarcation between the State of Georgia and the then Spanish province of East Florida. The Governor of Georgia was authorized by the Legislature to appoint commissioners to ascertain the truth of the facts alleged by

Captain Cone. The undersigned, with Brigadier General David Blackshear, were appointed and specially instructed by the Governor of Georgia. They employed Captain Cone as a pilot, and, with a competent surveyor, caused to be measured (beginning at or near the point designated by Ellicott as the head of the St. Mary's river) the distance from that point, by the meanders of the northwest branch, to its junction with the stream or branch represented by Cone to be the true source of the St. Mary's, and up the left bank of the latter branch, until the commissioners reached an extensive swamp, into which the pilot, with two of the commissioners, (the undersigned,) penetrated about half a mile, and saw no water or water channel. Capt. Cone was then directed by the commissioners to pass entirely across the swamp, (to the pine barren beyond the swamp,) who, on his return, reported that there was no stream of water or water channel in the swamp; and that we had reached the head of the branch to which he had referred in the information given by him to the Legislature. On a comparison of the length of the two streams, it was found that the latter, from its junction with the other to the swamp above referred to, was much the shortest; and the commissioners consequently reported in favor of the former as the head or source of the St. Mary's river.

It is, however, more than probable that the commissioners may have been misled by the inadvertency of Captain Cone, who professed to be intimately acquainted with the geography of that part of the country, and on whom they were instructed to rely, who may have been diverted from the principal stream by mistaking a branch of it. And we, the undersigned, are inclined to this belief, first, because we recollected to have seen, a short distance below the swamp to which we have referred, what appeared to us, through thick brushwood, to be a lively little stream, emptying in through the opposite or right bank of the southern or middle fork of the St. Mary's, which was pointed out to the pilot, who replied that the branch we were then pursuing was the right one; and because of the representation given by the survey of McBride.

JOHN FLOYD.
WILEY THOMPSON.

February 29, 1828.

MARCH 3, 1829.

Mr. White submitted the following letter from D. B. Douglass, relating to the boundary line between the State of Georgia and the Territory of Florida.

WEST POINT, 11th February, 1829.

DEAR SIR: I was duly honored with your note of the 20th ultimo, requesting information respecting the official report of Mr. Ellicott, as commissioner for executing the treaty of 1795; and I have since employed myself, as opportunity offered, in searching among the correspondence and documents in my possession, with a view of complying, if possible, with your request.

I am sorry to say that, as regards the report, or any of the charts or other documents connected with it, my search has, thus far, proved ineffectual. I find it very often referred to in different parts of the corre-

spondence, particularly that with Mr. Jefferson and Mr. Madison, but nowhere in such a way as to indicate the grounds, or any of the subject-matter of the report: and the most I can do, therefore, is to transcribe a few extracts from letters in which the report is spoken of, for the mere sake of historical truth, and in the hope that *possibly* they may throw a ray of light upon your further researches.

1. Speaking of his astronomical observations, which he had arranged for publication, Mr. Ellicott, in a letter (believed to have been) addressed to Mr. Jefferson, dated 17th September, 1800, says: "The astronomical journal is very lengthy, but will be of no use to the public, till accompanied with the charts of the line. When these can be had, is uncertain, as the originals were annexed to the report, and I had not time to take copies." This was written about four months after his return.

2. February 5, 1801, in a letter to Mr. Jefferson, he says: "Ever since I heard of the burning of the Treasury Department, I have been alarmed on account of the maps, charts, and plans, annexed to the report respecting our southern boundary, as I had not the privilege of taking copies, and they could not be replaced but by sending to Madrid." And again: "The report, by the third article of the treaty between the United States and his Catholic Majesty, was 'to become a part of the original compact, and equally binding on both nations,' and therefore equally entitled to the same publicity, but I do not see that the President has taken notice of it in any of his messages to the two Houses."

3. In another letter, dated May, 1801, he says: "The publication of the fifth volume of the Transactions of our Philosophical Society will be delayed for want of the charts, or the copies of them, annexed to the report respecting our southern boundary. Those charts are the originals, and I intended to have replaced them by copies done in a better style, but in this I have been disappointed."

4. In another, dated June 4, 1801, he adds to the same effect: "The want of those references and charts will delay, for some months, the publication of the fifth volume of our Philosophical Transactions, the letter press of which will be completed this week. If I had supposed that those papers, or copies of them, would have been withheld till this time, I should have endeavored to obtain, through the Spanish minister, copies of those sent to his court."

5. It appears from what follows that Mr. Ellicott must have been called to Washington soon after the date of the preceding extract, for the purpose of transcribing the charts, and of executing a fair copy for the State or Treasury Department. On the 18th of August, he thus writes, (still to Mr. Jefferson :) "Immediately after my return from the city of Washington, I began the reduction of my charts to a scale of eight inches to a mile, [qu. eight miles to an inch?] which I find will be as small as they can be reduced, and at the same time retain all the waters and bends or crooks of the rivers."

6. On the 4th of September he reports the progress of the large map to the Secretary of the Treasury, and on the 10th October reports it finished. In a letter to Mr. Jefferson, of the same date, he says: "It comprehends the Mississippi from the mouth of the Ohio to the Gulf of Mexico, the province of West Florida, and the whole southern boundary of the United States, accompanied with thirty-two pages of manuscript remarks on the navigation of the rivers, proper positions for military

“works, &c.” And again : “ I am anxious to have it forwarded as soon as possible ; but, from the size of the map, being upwards of six feet north and south, and the same east and west, I fear it would be difficult to find a person willing to take charge of it, unless it was made his particular business.”

7. On the 31st December, 1801, in forwarding it to Mr. Gallatin, he writes as follows : “ I have forwarded by the bearer, Captain Duane, the map of the Mississippi, from the mouth of the Ohio to the Gulf of Mexico, to which is added the south boundary of the United States, and the whole of West Florida. In examining the map, it will be necessary to have reference to the manuscript explanation, which was forwarded to the President some time ago.” * * * * “ Not having time to take a copy of the map, I wish no person may be allowed that privilege till I have time to do it myself.”

Other extracts might be furnished, of a similar character, down to the date last quoted, but, from that time forth, I find no distinct reference to the subject, nor to the affairs of the commission, in any way, except in the settlement of the accounts.

The conclusion, I think, is irresistible, from these extracts, and from the whole face of the correspondence, that Mr. Ellicott made his report in due form, immediately after his return, and that an authentic copy was rendered also to the Spanish Government, which implies, if I am not deceived, that it was the joint report of the two commissioners. That it was received and accredited on the part of the United States Government, “ *as containing the results of the demarcation of the southern boundary,*” might be shown from many parts of the correspondence, particularly the letter of Mr. Madison, dated November 18, 1801, from which the underscored words are quoted.

If there *was* any deficiency, then, in the legal execution of the treaty, it is clear to my mind that it must regard some merely diplomatic form, or, at all events, that it does not vitiate any part of Mr. Ellicott’s work.

What has become of this report, you will inquire, since no remains of it are to be found in the Department of State ? From personal communications with Mr. Ellicott during his lifetime, I am fully persuaded that they were destroyed by fire ; but at what time, or in what manner, I cannot now say : the particulars, if they were ever communicated to me, have escaped my recollection ; but I distinctly remember hearing Mr. Ellicott, on more than one occasion, bitterly lament the destruction of the documents and drawings, which had cost him so much labor, and with the execution of which he had so much reason to be satisfied. Whether all the papers were involved in the same fate, I cannot say, (have you sounded the Treasury Department ?) nor do I know whether the originals were retained or restored after the fair copy was made. I think the latter was made for the Treasury Department, and that the former must have belonged to the Department of State. There is a possibility, however, that the originals were retained by Mr. Ellicott ; and if so, his son, in the western part of this State, must know something of them. I have already written to him for information, and, as soon as it is received, will lose no time in communicating it ; and I assure you it will afford me great pleasure to add anything to the little I have as yet gleaned for you.

I just recollect that Colonel Gadsden once borrowed a large manuscript chart of the St. Mary’s from Mr. Ellicott. I presume it was returned :

but it furnishes another link in our little chain of information, which may be of some assistance.

I remain, very sincerely, yours.

D. B. DOUGLASS.

Colonel WHITE.

Documents relating to the boundary between Florida and Georgia, accompanying the President's message at the commencement of the 1st session of the 20th Congress.

DEPARTMENT OF WAR,

7th November, 1826.

SIR : I have the honor to inform you, that by virtue of the power vested in the President of the United States, by act of Congress, approved May 4, 1826, and which provides for the running and marking the line dividing the State of Georgia from the Territory of Florida, the President has appointed you a commissioner, to act in conjunction with a commissioner to be appointed by the constituted authorities of the State of Georgia, in running and marking said line; the act of Congress itself defining the beginning and termination of the line, and the direction in which it is to be run. I enclose to you, herewith, a volume of acts of Congress, which contains the act aforesaid, at pages thirty and thirty-one, for your government.

Your compensation will be the same as that allowed by the State of Georgia to her commissioner, and which is stated by Governor Troup, in his letter to this department, of the 26th October, to be "eight dollars per day, including necessary expenses."

You will, should this appointment be accepted, signify the same to the department, and repair immediately to Milledgeville, in Georgia, and state to his Excellency Governor Troup your readiness to enter upon the duties embraced in this trust.

You will be particular in keeping a regular and correct journal of your proceedings; and this, together with your map and field notes, you will forward, signed by yourself and the commissioner who may be appointed on the part of Georgia, to this department.

I have the honor to be,

Your most obedient servant,

JAMES BARBOUR.

To THOMAS M. RANBOLPH, Sen. Esq.

ALBEMARLE, Nov. 12, 1826.

SIR : I had the satisfaction, late yesterday evening, to receive a communication from your department, under date of the 7th instant, with your signature, announcing to me that the President had appointed me a commissioner, to act in conjunction with a commissioner to be appointed by the constituted authorities of the State of Georgia, for running and marking the line dividing that State from the Territory of Florida. For this unexpected honor, I at present only return my very sincere and most respectful thanks to yourself, hoping to have the farther honor of making my acknowledgments to the President, when I shall have the good fortune.

to have fulfilled his commission to his satisfaction. I should be unworthy of the respect shown me in this matter, if I were to accept the commission precipitately and inconsiderately, without any instruction from the department entrusted with the execution of this law, or any intimation of the President's views with regard to the manner of proceeding in the case. The President's perfect knowledge of the infallible geometrical principles, according to which such a work must be performed, makes me more anxious to learn what his thoughts are as to the plan of the technical and scientific processes requisite. My idea, in the very first moment, was to propose to the commissioner of Georgia, to have the latitude and longitude of the junction of the rivers Chattahoochee and Flint determined with precision, and also that of the point designated as the head of the St. Mary's river by the commissioners under the treaty with Spain of 1795. That done to the satisfaction of both, then for them to separate, and commence running and marking the line from opposite extremities at the same time, until they meet in a middle point; the latitude and longitude of which should also be determined with the utmost precision; and the line is, I believe, not westward and eastward only, but crosses many fractional parallels of latitude, if it should not extend to a degree. Afterwards, if required by either, that each commissioner should run over again that part of the line run by the other. All elevations and depressions of the surface should of course be accurately measured, and such notice taken, chorographical and topographical, as can be done, en passant. If I did not know the considerate disposition of the personage to whom I have now the honor of addressing myself, I should not venture to ask if it is likely that the President will appoint a surveyor himself, or will leave that to the discretion of the commissioner, in faith that, if he should find it requisite, the President will adopt his opinion, which would entitle the person so engaged by him to such compensation as Georgia may grant to her surveyor on this occasion. The surveyor should understand taking latitudes and longitudes as well as running out courses and measuring distances accurately, and should have fit instruments for the former purpose besides. I cannot refrain from suggesting that the persons to be employed as chain carriers, on such an occasion, ought not, perhaps, to be taken all from the State; and, of course, that an authority to the commissioner for engaging elsewhere the requisite assistants, and defraying their travelling expenses, might not meet the disapprobation of the President.

I am, sir, &c.

TH. M. RANDOLPH, Sen.

JAMES BARBOUR, Esq. &c.

DEPARTMENT OF WAR,

17th November, 1826.

SIR: I have the honor to acknowledge the receipt of your letter of the 12th instant, and have submitted the same to the President. The President sees no exception to your suggestion as to the mode of proceeding in the execution of the trust reposed in you as commissioner. A surveyor will be appointed by the President, and directed to report to the commissioners at Milledgeville. Upon him, under the direction of the commis-

sioners, the duty will devolve of procuring the necessary attendance in chain carriers, &c.

I will issue a requisition in your favor, to be remitted to you, at Everettsville, by the Treasurer, for three hundred dollars, under the provision of the first section of the act concerning the disbursements of the public money, for which you will be held accountable on the settlement of your account for salary as commissioner.

I have the honor to be, &c.

JAMES BARBOUR.

To THOMAS MANN RANDOLPH, Sen. Esq.

NORTH MILTON, in ALBEMARLE, Va.

Near Everettsville P. O. Nov. 22, 1826.

SIR: I have this moment had the honor to receive the letter from your department, of date 17th instant.

I hope I shall be pardoned for soliciting to have the favor done me of informing the Governor of Georgia, in the first communication made him on this subject, that, on Monday, November 13, I held myself ready to obey orders from your department relative to this commission. It has been my main business since to revive in my memory the information requisite for fulfilling the object well, even in case that the President might not have thought it necessary to appoint a surveyor; which determination is entirely satisfactory to me, independent of the high and willing deference to his judgment, by no means new in my mind.

If the clerk in your department, who encloses to me at Everettsville the requisition on the Treasury, mentioned in the letter of the 17th, would take the trouble to inform me who the surveyor is, and when he is likely to leave Washington for Milledgeville, it would be thankfully received.

I have the honor to be, sir, &c.

TH. M. RANDOLPH, Sen.

JAMES BARBOUR, Esq.

Secretary, &c.

DEPARTMENT OF WAR,

November 23, 1826.

SIR: In reply to your letter of the 22d instant, I have the honor to inform you that a requisition in your favor was issued on the day of the date of my last letter, and that a note accompanied it, requesting it of the Treasury Department to remit the amount, to wit, \$500, to you at Everettsville, which, it is presumed, has been done.

Since my letter of the 17th instant, and on further reflection, it is determined to leave the selection of a surveyor to you. You will, therefore, exercise your discretion in appointing a competent person, and, through him, the necessary attendants. His compensation will be at the rate of five dollars a day, whilst actually employed, and his necessary expenses borne. His account, both for the time in which he may be engaged in the service, and for his expenses, will be accompanied by your certificates, as

commissioners, of its correctness. You will regard the appropriation made by Congress in carrying into effect this trust, and in no case exceed it. It is desirable that every attention be paid to making the undertaking economical, and as much below the appropriation as possible.

Governor Troup has been already advised of your appointment.

I have the honor to be, &c.

JAMES BARBOUR.

To THOMAS MANN RANDOLPH, Sen. Esq.

6 P. M., December 16, 1826.

SIR: I had the honor of addressing a letter to you at a somewhat earlier hour of this day; since which I have ascertained that I shall be disappointed entirely in my hope of getting a copy of the treaty made between the United States and Spain at San Lorenzo el Real on 27th October, 1795; and also of what is much more important to me, a copy of the report made by the commissioners appointed under the third article of the said treaty, "designating" a point as the head of the St. Mary's river, which is the eastern extremity of the boundary line to be run. The term "designate," from the first moment, convinced me that I could not proceed without the documents here mentioned, but I unluckily thought I was very sure of procuring them immediately, yet have failed there and elsewhere, so as to be compelled to ask the favor of you to order them to be sent on to me at Richmond by the first mail after this has arrived. The term "designate" being a little vague, I know not whether the point constituting the eastern extremity of the line may have been marked in some permanent way, or only described as the head spring, at the intersection of a certain meridian and parallel, which may not correspond with the result of my observations and calculations; in which case, another head spring being nearer to them, the commissioners may be at a loss. If the expression of the treaty should in fact be vague, as I have supposed possible, and the report should not have completely removed the difficulty, I beg to have instructions as to the ground I am to take in the conference with the other commissioner. Within an hour I have been informed who he is, and where he resides, viz. at the mouth of St. Mary's, in the town of Darien, which information creates a little doubt where I shall find him, so as to be on the line by the 19th January. I have only to repeat my assurances of all possible efforts to be expeditious, accurate, economical, and accommodating to the other party, in every thing relating to my mission.

I have the honor to be, sir, yours, &c.

TH. M. RANDOLPH,

Commissioner, &c.

JAMES BARBOUR, Esq.

Secretary of War, &c.

DEPARTMENT OF WAR,

23d December, 1826.

SIR: I have had the honor to receive your two letters of the 16th inst. In regard to all the details having reference to the survey, whether these

relate to the selection of a surveyor, or other matters connected with the execution of the trust confided to you, they are referred by the President to your agency and discretion. I have addressed a note to the Secretary of State, requesting the copies of the treaty of San Lorenzo el Real, of the 27th October, 1795, and the report of the commissioners appointed under the third article of said treaty. The moment these are prepared and received, they will be forwarded to you, directed to Milledgeville, in Georgia.

I have the honor, &c.

JAMES BARBOUR.

To THOMAS M. RANDOLPH, Esq.

MILLEDGEVILLE. *February 2, 1827.*

SIR: I arrived here yesterday, in eighteen days from Richmond, which place I could not leave earlier than about noon of January 14, from a variety of circumstances beyond my control. Indeed, the accounts of Indian disturbances on the line between Georgia and East Florida, by rendering it doubtful for a short time whether the commissioners could proceed in their route, if arrived, seem to me fully to justify the short delay I made, in weather of almost unexampled severity as to cold, while suffering an indisposition infinitely the most serious for eleven years back.

I found lying at the post office here a packet for me containing, relative to the claim of Baley for Indian rations, several papers, to the subject of which I shall devote a very particular attention before I leave Georgia, and shall forward a report containing all the information I can obtain, and my opinion as soon as the duty of running the line will permit me. The important packet, containing the papers from the Department of State, mentioned in the communication from that over which you preside, dated December 23, has not yet reached me. The report of the commissioners appointed under the third article of the treaty of San Lorenzo el Real, is a document without which these commissioners cannot well proceed. Since I had the honor last to address the department, I have seen that treaty, and have procured a copy of A. Ellicott's journal, from which I have the first information that the two extremities of the line to be run have been geographically determined, and the eastern, which was not certainly indicated by the treaty, actually marked, so as to be readily and surely discoverable at this time. But I have no evidence that the report made jointly by the two commissioners, which, by a provision in the treaty, was to make a part of it, and, of course, is now binding upon the United States and Georgia, does correspond fully with what is stated in the journal. Still I cannot entertain a doubt about that correspondence, as the journal was prepared for the press after the report had been received and acknowledged by the two Governments. Upon finding that the packet expected in consequence of the communication to me from the Department of War, of December 23, had not arrived, I immediately inquired of the Governor here whether the State or any individual possessed the report in question, and am informed that it cannot be procured here. On that occasion, I found that the journal of the United States commissioner, Ellicott, was here considered as sufficiently authentic, and that it was expected I should

proceed, "in conjunction with the representative of the constituted authorities of Georgia," to run a straight line from the mound thrown up by the two commissioners at the outlet of the waters of the Okfehenokee swamp into the St. Mary's river, to the junction between the Chattahoochie and Flint branches of the Appalachian river, which line was to constitute the permanent boundary between the State of Georgia and the Territory of Florida. The commissioner for Georgia is at his residence in Darien, one hundred and seventy miles from this place. I shall set out for that place on Sunday or Monday next, my horses requiring that much rest before I can resume my journey, with certainty of the performance from them which is requisite. I have only to assure the department that there shall be no want of diligence or fidelity on my part upon the occasion; but I cannot omit to remark that the expense of the work must be greatly increased from the necessity of proceeding without money, there being only eighty dollars in my hands at present. If the report of the commissioners in 1800 should not reach me in time, I shall be under the necessity of proceeding by Ellicott's journal, but shall be very exact in the application of the information it contains, as a very little deviation might leave on the Georgia side of the line some of the most valuable parts of the great Okfehenokee swamp; in which, besides its capacity to undergo general draining, there are some of the most fertile lands of all the South, appearing like islands, or rather oases, in the marshy desert. Nothing requisite shall be neglected so as to allow of any disagreement between that terrestrial arc of a circle which is already the geographical line, and the future boundary of jurisdiction, its constituent, which is now to be traced and marked. The eastern extremity is considered here to be in latitude $30^{\circ} 54' 48''$. I am not yet informed what means are contemplated by the Georgia party for correcting the compass line, so as to ensure its correspondence with the terrestrial arc; but I cannot hear of any astronomical instruments for the purpose being in their possession, nor does it seem to be expected here that any such means will be used. I do not pretend to be a practical astronomer, having never had it in my power to procure the necessary instruments to qualify myself; but I have a sufficient acquaintance with the theory of the science to enable me to detect all errors, and, of course, to guard against them. Nothing whatever, in the guise of advantage, or of the still greater temptation, relief, could induce me to undertake what I did not feel an entire consciousness of the capacity to perform. If I had escaped malicious insinuations, predictions, and constructions, I should have been surprised, in the actual state of our public morals. It shall be my care to ensure the falsity of that future malice which I must as certainly incur as I live.

Very respectfully,

Your most obedient, humble servant,

T. M. RANDOLPH.

The SECRETARY OF WAR.

DARIEN, GEORGIA, *February 14, 1827.*

SIR: I have the honor to inform you that, after waiting at Milledgeville from Thursday, 1st, to Thursday, 8th instant, in the hope of receiving a despatch containing the report of Andrew Ellicott and Don Estevan Minor,

made to the Government by the former in 1800, which still appears to me to be the only authentic document upon which the present commissioners for running the same boundary line can proceed with entire satisfaction to themselves, as the result of those operations, as far as it could then be obtained, is obligatory and final, I repaired to this place. Having now a strong belief that the packet, with its important enclosure, has some way miscarried, I have been engaged since Monday evening, the 12th instant, when I first saw Mr. Spalding, in making arrangements for proceeding immediately to the performance of our duty. A copy of the proceedings necessary before the actual commencement of the work, in the form in which they really took place between us, of questions, reasonings, and decisions, will be forwarded to your department by the next mail. The Georgia commissioner, by a negotiation with the Bank of Darien, made upon Tuesday the 13th instant, has provided the funds requisite for commencement, and it has been agreed that the work shall be performed at joint charge of the two Governments, by a single party under the control of the two commissioners, acting in conjunction, with precisely equal powers. I had the good fortune to procure in Richmond the journal of Andrew Ellicott, which is completely in detail, and was prepared by him for the press after the report was made. I have no hesitation, under the actual circumstances, to consider as entirely authentic what he there says was the result of the joint operations of the two commissioners, and the final agreement between them. I am already assured of the complete ostensibility of the mark which Ellicott says, in his journal, was made in presence of the two commissioners, by their joint order, to designate the eastern extremity of the line. We have nothing, therefore, to do but to run it so that it shall coincide, as nearly as we can possibly make it, with the present geographical line; they are of a terrestrial great circle, never yet traced and marked. From all the accounts hitherto received by us, the Okefenokee swamp is absolutely impenetrable by men bearing compass and chain, without first opening a vista, and then making a foot bridge. We expect to have to depend upon a traverse, as we are not authorized to proceed in that only complete but very expensive way. A competent surveyor could not be procured in Georgia for less than eight dollars a day, all expenses paid besides. I could have brought one from Virginia, far superior to the best in this State, for five dollars. Having, with much pains, satisfied myself of the thorough competency of the surveyor appointed by the authorities of Georgia, I have consented to accept of him, although he is not at all an astronomer, and must proceed by geometrical means alone, unconnected by any astronomical operation, which may answer sufficiently well on the present occasion. His demand was ten dollars per diem, but I cannot consent to give more than four dollars for his compensation from the United States. The men requisite will be engaged from one dollar a day to twenty dollars the month, with the exception of two of a superior order, whose services cannot be dispensed with. The whole provisions and other equipments must be procured in Savannah, and steps are already taken for that purpose. Nothing whatever can be had in or near the country through which the line runs, to which we shall be confined at least three months. We could not make our preparations, even with a smaller sum than fifteen hundred dollars. Mr. Spalding has procured a larger accommodation, and there will be considerable saving from his success in that measure. We concur fully

in the disposition and determination to use all possible economy, and, necessary to that, all the despatch possible consistent with accuracy.

I have the honor to be,

Your most obedient, humble servant,

TH. M. RANDOLPH,

Commissioner, &c.

Hon. JAMES BARBOUR, *Secretary of War.*

DARIEN, *February 28, 1827.*

SIR: I have the honor to inform you that the party destined to run the line between the United States Territory of East Florida and the State of Georgia, has left Darien, fully equipped and provided for that purpose at the expense of Georgia: one-half of all charges incurred to be defrayed by the United States Government, provided the moiety do not exceed the appropriation made by Congress on this occasion.

I have the honor to enclose a transcript of the proceedings of the two commissioners forming a board for the purpose in question, and to beg your attention to it at your leisure.

My last communication from you is dated December 23, 1826.

I am, sir, your most obedient, humble servant,

TH. M. RANDOLPH,

Commissioner, &c.

The Hon. JAMES BARBOUR, *Secretary of War.*

MONDAY, *February 12, 1827.* Governor Randolph, commissioner on the part of the United States for establishing the boundary line between Georgia and Florida, arrived at Darien.

Mr. Spalding, the commissioner on the part of the State of Georgia, waited upon him, when, after deliberation, the following preliminary points were settled, without doubt or contrariety of opinion:

1st. We will commence running the line of separation between Georgia and Florida at the head of the St. Mary's.

2d. There shall be but one surveyor employed.

3d. We will engage from fifteen to twenty men for our various operations, as we may find necessary in the progress of our undertaking.

4th. We shall provision them for the whole operation at this place.

5th. We will employ, for the transport of our provisions, light wagons.

6th. We will make our preparations at all points, at the joint expense of the United States and the State of Georgia.

7th. It will be necessary to provide the sum of two thousand dollars for the procuring of provisions and equipments for the commissioners and the gentlemen that accompany them, for the surveyor and men under him.

8th. It will be necessary to provide the sum of five hundred dollars to meet the accidents to which every human operation is subject, without being reduced to the necessity of sending back for those aids after they have become necessary.

9th. Mr. Spalding, the commissioner for Georgia, will draw upon his Excellency Governor Troup, through the Bank of Darien, the com-

missioner on the part of the United States engaging, on the part of the United States, to refund a moiety of such advance to Georgia.

The commissioners then proceeded to nominate John Randolph, Esq. commissary and commandant of the party, with power to regulate and direct the police of the camp.

They nominated John G. Bell secretary and accountant, and determined that these gentlemen should receive a compensation for their services.

When the Board adjourned.

Extract from the minutes.

J. G. BELL,

Secretary to the Commissioners.

Answer to the first query, viz. Shall we commence running the line of separation between Georgia and Florida on the St. Mary's, or at the Chattahoochie ?

If the Okefenokee swamp be penetrable at all by a surveying party, which is not authorized to incur the expense of cutting a vista through it, commencement should be made at the eastern extremity of the boundary line ; for the earlier, after this time of the year, the attempt is made, the less difficulty, risk, and labor will attend it, and the greater the probable accuracy of the operations to be performed.

The season will be too far advanced to allow of any such attempt, when the line has been first extended from the western extremity to the western margin of the Okefenokee. The time requisite to reach the mouth of Flint, 300 miles from Darien, along the zigzag course which must be pursued, there being no direct route thither, may perhaps be better employed in proceeding more slowly and more exactly in running the line from the eastern extremity at once. The saving of that time will give more leisure for the most difficult part of the work, of which a greater degree of accuracy will be the sure effect, and the healthier early season will render hurry unnecessary. The present is the exact time for such operations. Upon such ground as the swamp, the water will be sufficiently warm for wading, and the foliage greatly thinner now than later. Again, if the Okefenokee be absolutely impenetrable with compass and chain, and the intention to run the line through it be accordingly found altogether impracticable, the fact can be determined only by going there and making the experiment ; in which case, very certainly it will be most advisable to make a traverse, and find thereby the point at which the line would have come out of the swamp, if it had been run through it, so as to give the power of proceeding westward at once. In that case, the random or guide line will probably diverge more from the true line than if it had begun at that end where no traverse is necessary. But if that should be the result, as is highly probable, the greater accuracy so attained in running cannot be demonstrated without continuing on to the end, which the case supposes cannot be done, and the advantage may be lost in the traverse, so as at last to leave a doubt whether the line actually run will, if ever it should be continued throughout by a broad vista and foot bridge, strike the point designated as the head of the St. Mary's river or not. It would not be determined, with sufficient certainty, what the deviation had been, nor whether the error had been made in coming on from the Chattahoochie to the western margin of the swamp, or in the traverse made to find where the line

ought to come out of the swamp, on the east side of it : upon which grounds, I give it as my opinion that we should begin at the point designated by Ellicott and Minor as the head of St. Mary's as near as they could approach it, taking care to consider the point designated as the true head, source, origin, and not the point marked by a mound, as the point of our commencement ; that we should calculate our course from the latitudes and longitudes of the two ends, as given by the said commissioners, and proceed upon that course, making the correction requisite as we proceed, to the Chattahoochie, whence we should return, correcting and marking the line in our progress, until we reach the absolutely impenetrable part of the Okefenokee, where we should erect a durable monument of some kind, and another such where our line, by computation, should come out of the impenetrable part of the swamp, on the east side thereof, taking care, at the same time, to renew Ellicott and Minor's mark.

Answer to the second question : Should there be one or two surveyors employed ?

I am not of opinion that more than one can be employed at one time, if the two parties act in conjunction, literally, according to the interpretation of the language of the law of the United States upon this subject, acquiesced in by the commissioner of Georgia. I find that a surveyor fit for the purpose cannot be engaged in Georgia for the compensation allowed by the Government of the United States. I have satisfied myself fully, with much pains, that the one appointed by the authorities of Georgia is entirely competent every way. I am willing to take his place myself for a time, should any accident happen to suspend his progress in the work, so that it shall not stop, but shall be kept in progress until he can resume his functions. I have no objection to fixing his compensation at eight dollars a day during all the time he is employed, provided one-half of that compensation be paid by Georgia, the other half by the United States. I think that all his expenses must necessarily be borne, besides his compensation, at the joint charge of the two Governments.

Answer to the third question : What number of men shall be engaged ?

In addition to the number required by the surveyor, which cannot possibly be fewer than two chain carriers, four pioneers, and three signal bearers, in all nine, there should be, in my opinion, four supernumeraries, armed with rifles ; two to hunt every day alternately, to procure fresh meat for the party, the other two to attend as a guard against the insolence and pilfering of the strolling Indians.

These men should be engaged to take the places of the surveyor's attendants, whenever fatigue, accident, or indisposition may disable any of them. They should be hired by the month, at a rate not over \$20. Of course, there must be drivers to the wagons used in the transportation of provisions and camp equipage for the commissioners, surveyor, and men of all kinds of service. Such a party, employed for a purpose which keeps them for several months in an unsettled country, manifestly needs one gentleman to act as commissary for procuring, preserving, and issuing the necessary stores, and another to act as secretary and accountant ; the two to exercise authority over the men at all times when off their daily duty, so as to prevent disorderly conduct, or strolling, or negligence in what may be required of them at such times, and to see that they observe the rules declared in the articles of agreement for service made with them by the commissioners. Upon the commissary will depend the attendance, as far

as practicable, of the provision wagons, the drawing of supplies from them, the preparations for encampment every night, and diet at the proper times.

It will be the duty of the secretary to make out, every night, a correct copy for each of the commissioners of the surveyor's field book for the day, that they may know with certainty how the work is proceeding in regard to accuracy. A necessity might arise for holding intercourse with the Indians, who are numerous not far from the line towards the western end, in which case such an officer as the last mentioned would be wanted.

Surveyor's attendants, 9 ; supernumeraries, to serve as guard and hunters, alternately, 4 ; officers, 2 ; wagoners and one cook will be wanting.

The above is respectfully submitted, in part, to Mr. Spalding, by his most obedient, humble servant,

TH. M. RANDOLPH,
Commissioner, &c.

DARIEN, *Wednesday, Feb. 14, 1827.*

Fourth Query. Shall we provision for the whole operation at this place, and for how long ?

T. M. Randolph acknowledges himself unable to give an opinion upon this question, and leaves the decision upon it entirely to the better judgment and information of Mr. Spalding. All that he has been able to learn on the road through the Carolinas and Georgia tends to convince that such a party as is indispensably necessary on this occasion must be provisioned beforehand, or subsist upon game killed in the woods through which the line is to be run : for the country is all new, and, as yet, but little cultivated ; much the smaller part of every crop actually made furnishes food for man ; continued emigration to places near keeps all such articles constantly up to a high price. The troops lately sent to suppress the Indian insurrection in the same country must have consumed all that could be had far and near, within their or our reach. If the provisions are to be procured so as to be carried out with the men, the place of the greatest trade nearest to the rendezvous at Darien must, of course, be the best for that purpose. If the party is to rely upon game for subsistence, it will inevitably disperse before the work can be half finished.*

Fifth Question. Shall we employ for transport light wagons or pack-horses ?

The former seems preferable, because half the number of horses will answer ; and if it should be found that the wagons cannot always accompany the party, still they can always keep near enough to pack from them to it, upon the same horses, the supplies necessary for daily consumption.

Sixth. Shall we make our preparations in all points with joint expense ?

Answer. The United States commissioner, in answer to this question, lays before Mr. Spalding the law of the United States on this subject, and the letters to him from the Secretary of War.

The second section of the act requires a joint report upon the operations necessary for the purpose intended, and the result, after the same shall have been performed, and obtained by the persons employed by the two Govern-

* In answer to the inquiry, "and for how long," the commissioner of the United States can only say that he will concur with Mr. Spalding and the surveyor, Mr. McBride, in whatever opinion they may together form upon that point, not exceeding three months.

ments "acting in conjunction." The third section appropriates \$5,000 to defray the expense on the part of the United States. One of the letters from the Secretary of War to that commissioner, acting under his orders, says, "you will regard the appropriation made by the Congress, in carrying into effect this trust, and in no case exceed it. It is desirable that every attention be paid to making the undertaking economical, and as much below the appropriation as possible." Another uses this language: "In regard to all the details having reference to the survey, whether these relate to the selection of a surveyor, or other matters connected with the execution of the trust confided to you, they are referred by the President to your agency and discretion."

The commissioner of the United States cannot hesitate to believe that he is fully authorized to give an opinion on this subject; and, accordingly, he declares to Mr. Spalding that he is fully convinced himself of the propriety of making all preparations and carrying all operations on at the joint expense.

Seventh. What sum may be deemed necessary for the procuring of provisions and equipments for the commissioners and gentlemen who attend them, with the surveyor and men engaged under him?

The number of persons once determined by the two commissioners, and actually selected and employed by the surveyor, also the probable time the operations may take, once calculated, Mr. Spalding, who knows best what articles are requisite, as well as their prices in the nearest great market towns, can best determine what sum it may require to procure them. The commissioner of the United States will readily acquiesce in any which the appropriation made by Congress will justify.

Eighth. Will it be necessary to be furnished with moneyed means to meet the accidents to which every human operation is subject; or shall we depend upon sending for these aids after they have become necessary?

Answer. Money might be wanted to pay off men discharged for any one of a variety of causes which it is obvious may possibly produce that effect: something indispensable might be lost, or in some unavoidable way rendered useless; in which case, to save time and expense, it must be replaced from the nearest settlement where it can be procured. Whatever money may be carried, will be as entirely safe in the pocket of Mr. Spalding as anywhere it could be put. It need not be remarked that such a circumstance should be a profound secret, for the knowledge of it might excite daring cupidity in Indians or others.

Ninth. In what manner shall we procure the funds necessary for carrying into effect our resolutions?

Answer. If Mr. Spalding cannot procure them from the resources of Georgia, by application to the Governor, or in some more immediate way here, the commencement of the survey cannot be made until communication between the commissioner of the United States and his Government shall be had, and the orders of the President received.

Money can only be drawn from the Treasury of the United States, under the appropriation for this purpose, by the requisition of the head of the War Department. That the United States Treasury will be liable to the authorities of Georgia for any advance it may make for the purpose of running this line, provided it neither exceed one moiety of the expense actually and unavoidably incurred in the prosecution of the intention of Congress in this particular case, nor yet exceed the whole amount of the

appropriation made by them on the occasion, need not be demonstrated to the authorities of Georgia.

Mr. Spalding may rely upon the commissioner of the United States for whatever co-operation he may require from him in this and all other points.

Most respectfully submitted, by

THOMAS M. RANDOLPH, Sen.

Commissioner, &c.

To THOMAS SPALDING, Esq.

Commissioner, &c.

Memoranda of points to be determined with Governor Randolph.

1st. Shall we commence running the line of separation between Georgia and Florida on the St. Mary's or at the Chattahoochie ?

2d. Shall there be one or two surveyors ?

3d. What number of men shall be engaged ?

4th. Shall we provision them for the whole operation at this place, and for how long ?

5th. Shall we employ, for transport, light wagons or pack-horses ?

6th. Shall we make our preparations in all points at the joint expense ?

7th. What sum may be deemed necessary for the procuring of provisions and equipments for the commissioners and gentlemen who attend them ? for the surveyor and men engaged under him ?

8th. Will it be necessary to be provided with moneyed means to meet the accidents to which every human operation is subject, or shall we depend upon sending for these aids after they become necessary ?

9th. In what manner shall be procured the funds necessary for carrying into effect our resolutions ?

Respectfully submitted to Governor Randolph, by

THOMAS SPALDING,

Commissioner, &c.

DARIEN, February 13, 1827.

EAST FLORIDA, NEAR LAKE OKLAHATCHE,

Saturday, March 24, 1827.

SIR: I have the honor to inform the President of the United States, through that department over which you preside, that the party occupied in running the boundary line between Georgia and Florida arrived on the St. Mary's upon the 6th day of March. On the 8th, Mr. McBride, the surveyor appointed by the Governor of Georgia, with a company of men of his own selection, commenced that operation by measuring one mile due north from the mound made by Ellicott and Minor, in the spring of the year 1800, to indicate the vicinity of the head of St. Mary's, then inaccessible by them. From the extremity of that one mile, they began a line in the course north $85^{\circ} 46' 45''$ west, calculated and intended to reach the junction of the Flint and Chattahoochie arms of the Appalachian river, by a deflexion to the west of $2' 27''$ in every five miles. The line soon entered a swamp of such extent, that, although completely separated from

the Great Okefenokee by a narrow and low but dry isthmus, covered with long-leaved pine and fan palmetto, it did not emerge under fifteen miles. In a few chains under thirty miles, the Suwanee river was crossed without making an offset; and there is now no ground to apprehend that such an intermission in the work will take place on the part of the line, except in the case of ponds too deep to pass, but beyond which the signals can be distinctly seen. The line misses the Suwanuchee, but intersects the Alapahaw and Wythlacoochie branches of the Suwanee river. Of the chain of lakes lying on this part of the line, all except this, near which we now are, will be in Georgia; some of the others are ten or fifteen miles in circumference. This is a mile long, and not much less in width, with transparent waters and dry banks, in the midst of a fertile country, with scenery truly picturesque, and highly beautiful. Of the climate, I can say nothing more than that, since the 25th day of January, when I entered South Carolina, there has been an uninterrupted continuance of the finest spring weather I ever witnessed in my life, with no more rain than what has afforded a variation as agreeable as necessary to vegetation. I have not had the honor as yet to receive any communication from your department since I left Richmond, but trust that I may, nevertheless, before I reach the Chatahoochie, be gratified with the answer I have so long and so much desired, to my application from Albemarle, early in December, for a copy of the report made by Ellicott and Minor in 1800. As yet, I cannot myself say what resolution I shall take as to making the line permanently, if I remain unprovided with that important document, which must have been lost in the endeavors to transmit it to me by mail. I shall go to Tallahassee from the nearest point of the line to that place, with the hope of finding the important communication there. I have strong hope that the line now running will terminate so near to the western extremity of the true boundary, that the return line will soon coincide with it; in which case, we have no more to do than to make a small mound at each of the mile stakes already erected, and inscribed with the distance, as the line has advanced. The last operation will be to continue the boundary eastward until it reaches the St. Mary's river. The two most important geographical facts already ascertained are, that the head spring of St. Mary's lies to the south of the point where the line will intersect that river, and that no part of the Great Okefenokee swamp lies in Florida. Ellicott and Minor appear to have made a judicious compromise: for a straight line from the mouth of the Flint river, passing through the point designated as the head of St. Mary's, would certainly cut off a slip of territory lying on the south side of St. Mary's river, and the north side of the line.

I have the honor to be, sir, yours, &c.

THOMAS M. RANDOLPH, Sen.

Commissioner, &c.

THE HON. JAMES BARBOUR,
Secretary of War.

TALLAHASSEE, April 7, 1827.

SIR: I have the honor to inform you that the line passed the Yamonia lake on Thursday, 5th inst. The distance of 115 miles was measured to the main post road to this place, where it passes that body of water. The

divergence north, from all former lines, has been constantly increasing. It was there two miles; and there is now every reason to apprehend that our experiment line will terminate north of the settled western extremity of the true boundary. Nevertheless, having once ascertained the true cause with precision, we can avail ourselves of it fully on our return, to correct by; and we shall have no need of going through the swamps again; for we can always find the true line beyond by measuring very exactly the rectangular distance between the two, where they enter such places. I am still without any communication from you since December 23d. That circumstance places me on ground upon which the subordinate officer of the President of the United States ought not to be permitted to stand. As I have to depend on my own resources of all sorts, I feel even a higher responsibility, and more zeal and impatience, than I might otherwise have done. But it is manifest that I can have no control whatever over the expenditure; and, also, that a continuance of the same determined support of the interests of the United States on the occasion may put an end to all further proceeding, and render that expense fruitless, and all our labor unavailing. I shall act as I persuade myself the President would do, if he were, in every respect, in my situation. I shall use every endeavor to attain the end desired without further cost, and, of course, shall be ready to adopt any fair and just compromise offered to bring the matter to a conclusion, knowing that what I assent to cannot bind the Government, if I am wrong. Every thing possible, with the means we have, shall be done to run the shortest possible line between the two settled extremities of the boundary. But if Ellicott and Minor have erred in assigning their geographical position to those two points, it is manifest that the line between them, traced according to calculation founded on their results, cannot be the true boundary. The space of such possible error corresponds with lands on the St. Mary's and Suwanee, of no value whatever, as they are barren naturally, and occupied by marshes, which never become dry, for the most part. There are, indeed, some truly valuable lands included within the doubtful limits, but scarcely enough to defray the charge of the exact operations requisite to give mathematical accuracy.

I have the honor to be, sir, yours, &c.

[No signature.]

P. S. Knowing that no apology is ever received for slovenly handwriting, I should not think of making any, but I cannot refrain from remarking that the Georgia commissioner has a secretary attending him at five dollars per diem, and that every man of the party is a Georgian but myself, left to depend upon myself alone, uninstructed, unaided, unprovided, obliged to act in contrariety to their leader upon important points, among men who join him in support of an opinion, daily, almost, declared by him, that Georgia will be forever cramped in her growth, and retarded in improvement, until she separates from the Union. I find the variation of the needle, admitted by the surveyor general here, to differ almost a degree from the quantity settled by two corresponding observations, made on the St. Mary's by the person employed to run the line at present. Yet the means of ascertaining have been exactly the same, viz. the sight vane, plumb line, and polar star, at its greatest elongation from the pole. The extraordinary divergence north may have happened from inaccuracy on the occasion mentioned. Yet the operation was conducted with as much preci-

sion as I ever witnessed; and I had not, myself, the smallest suspicion of error. My confidence in the Georgia surveyor is unabated. He is a man of science, of expertness, and diligence, with a constancy not to be shaken, and a moral character not to be impeached.

[No signature.]

ENCAMPMENT NEAR LAKE YAMONIA,

Of East Florida, April 17, 1827.

SIR: I have the honor to inform the President of the United States, through you, that, when the experiment line run from the point designated by Ellicott and Minor as the head of the St. Mary's river, toward the junction of the rivers Flint and Chattahoochie, had, so nearly as three or four miles, approached its termination, a despatch was received by the commissioners of Georgia from the Executive authority of that State, and communicated to the commissioner of the United States, which instantaneously arrested the progress of the line, as it was, according to instructions accompanying it, put immediately, without any demand or application, into the hands of the latter. The Governor of Georgia recalls the assent of Georgia, heretofore supposed to have been deliberately and distinctly given, to the concurrent operations provided for by the act of Congress relative to the Florida boundary in continuance and completion of those formerly conducted by the commissioners of the United States and Spain, with the same object, but left by them unfinished. He declares that another investigation of the source of the St. Mary's, and a more satisfactory demonstration of its locality, must be made, before Georgia will consent to receive, as her southern boundary, any line run between the geographical points determined and designated as the terminations east and west of such a line; unless it should be found that one of these points, the eastern, has, in fact, been placed further to the south than its true position, when precisely determined according to the conditions prescribed by the treaty between the United States and Spain, in 1795. He, moreover, advises, but does not command, the commissioner of Georgia to institute operations tending to make such discovery, and communicate the result before he proceeds further in the work. He requires him, however, to act in conjunction with the commissioner of the United States in such operations, or, in case of his refusal, not to prosecute them at all. That commissioner, having no authority which would justify his deliberating, for one moment, on such a proposition, proposed to suspend all further proceedings until he could consult his Government, or to run the course recommended by Ellicott in his journal, with the deflexion prescribed, from the junction of the rivers, and see where it would strike the St. Mary's river. To neither was the commissioner of Georgia willing to give his assent. Both thought the public good would be most promoted by continuing the endeavor to terminate the affair, and prevent the difference likely to arise, by procuring a result which would thoroughly fulfil the act of Congress, and be, at the same time, likely to give sufficient satisfaction to Georgia. After the arrangements made at Darien, the expense actually incurred, all the benefit of which would be lost, the pledge given to the men employed to bring

them back to that place, and the agreement made between the commissioners themselves to compromise differences on all occasions, if possible, and use all practicable means to attain the end in view, fairly in the progress, and equally in the termination, great reluctance to discontinue altogether, of course existed in the minds of both. It was at length concluded to run a line back by the course which the resolution of the plain triangle would give, found by the experiment line computed out by an offset to the lines formerly run for the same purpose, the one mile line at the St. Mary's river, and the intended line protracted before run. The deflexion necessary in running a plumb line has, of course, been observed. Forty-five miles of such a line have been already run, and the calculated distance from former lines, so far, corresponds with the actual rectangular distance found to exist. A few more ostensible marks than on the experiment line have been made. The work is no longer considered as capable of producing a final result; but sanguine hopes are entertained that it may prove so satisfactory, in the issue, as to reconcile both authorities to an acceptance of it as a compromise the best likely to be made, because the whole proceedings, from the act of Congress to the end of the geographical process, have been founded upon a former compromise, which has remained unimpeached for twenty-seven years, and, moreover, has been confirmed by repeated operations ordered by legislative or executive acts, founded upon the general conviction that it was not only equitable, but the best possible to be made, according to all the information acquired in the time elapsed since the date of it. [See letter of the United States to Georgia commissioner, April 9.] The experiment line was apart and north from that run by Mr. McNeill, under orders of the surveyor general of Florida, pursuant to an Executive mandate, under the administration of Monroe, full two miles, when more than ten miles from its computed end. As the commission is constituted, the surveyor appointed by Georgia, and accepted by the officer of the United States, not the less considerably and willingly because he had no other resource, was, of course, the sole umpire in cases of difference of opinion; and, as such, of course, the United States commissioner had no control over him in any way. The commissioner of Georgia attributed the extraordinary divergence here mentioned to an error in determining the magnetic variation. That taken was 50" less than the allowance now at Tallahassee, ascertained by order of the surveyor general, three and a half years ago, in the very same way, viz. sight vanes, plumb line of thirty feet length, with plummet in water to guard against agitation by wind, and the polar star at its greatest observed elongation, determined by observation. The correspondence of two observations, made through separate nights, near Ellicott's mound, gave confidence, although the mode was not that the commissioner of the United States would have preferred. There is much reason to believe that the geographical data for the calculation of the course used, which were assumed from Ellicott, are incorrect, and have vitiated the result. But the geographical point, the junction of Chattahoochee and Flint, is indefinite. Junction of the rivers means junction of their waters, which are identified only by their common natural banks in their ordinary fullness. The union of these is the junction of two rivers. The term confluence of their streams would have had a different meaning. The experiment line now run would have come very near that naturally marked point, although far north of the ex-

treme of the submerged grounds projecting from the same, and indicating the confluence of the main streams or currents.*

Very respectfully,

Your obedient servant,

TH. M. RANDOLPH.

JAMES BARBOUR, Esq.

MILLEDGEVILLE, *May 15, 1827.*

SIR : I have had the honor to transmit to you, by mail, three several packets, containing the communications made by the Governor of Georgia to the commissioner of that State, while we were upon the line, and a correspondence between the two commissioners, which took place upon the suggestion of Mr. Spalding, who declared that he deemed that formality necessary. In consequence of the last communication from Governor Troup, all further proceedings stopped on the 28th April, the commissioner of the United States being entirely unprovided with means to continue them, or any accrediting testimonial which might have supplied the place : which he regrets the more, from the conviction he is under that the result would have been accepted by the Legislature of Georgia, and a final boundary established without that additional expense which has been, by the interference, rendered unavoidable. The expenditure made on this occasion has proved much greater than any one expected : but it is manifest that the United States commissioner could have no control over it, and that he could not do otherwise than submit to the judgment of the commissioner of Georgia upon every question of that nature, for the alternative to require the commissioner of Georgia to submit to him, who was much less qualified to judge of such things in Georgia. Much might have been saved by bringing out one-half at least of the party from Virginia, as was proposed. In that case, the work would have been completed, and a new investigation for the head of the St. Mary's made, which the two commissioners had indeed agreed to make when they arrived at the eastern end of the line ; that of the United States having proposed to take the responsibility upon himself of concurring, from the entire conviction that the result would thoroughly support the view taken by Congress. By crossing the St. Mary's at Ellicott's mound, above and below, on horseback, repeatedly, while Mr. Spalding had crossed it only once upon a log, I had satisfied myself of the accuracy of Ellicott and Minor. Immediately above the mound B, the river could not be navigated in a canoe, for it is a narrow rivulet, in the middle of a wide bog ; while immediately below, all in sight of B, if the ground was cleared of trees and shrubs, it is a river boatable for fifteen tons ; above, it came to my horse's knees ; below, half way up the saddle skirts at the same time. It is true that, following the course of the greatest length of one of the swamps which supply the river, you will go southwardly a little : and that swamp, after rains, has a perceptible motion in its waters, but another turns west, and is much more extensive, with much the greater part of its extent on the north of our line. The question made by Georgia now is too trifling, in my opinion, to have produced those consequences which the ferment excited about Milledgeville,

* Trees grow there which would not live out of the water. The junction of two rivers cannot be at a place a mile or more below that at which their waters have been already joined, supposing the natural banks or sides of the channel to identify the waters.

I conclude, has rendered expedient. A letter from a Secretary of War, in 1819, authorized Georgia to expect a new investigation to determine the exact locality of the head of St. Mary's. The expression used is, "the acquisition of the Floridas may change the character of the boundaries." But that investigation was really made by Georgia in 1819, and the report concluded in these words: "We are therefore of opinion that Mr. Ellicott and the Spanish deputation were correct in establishing on the northern bank the point of demarcation between the State of Georgia and the province of East Florida." The question now made did not occur to the three commissioners of 1819, all appointed by Georgia. This correspondence will be found in the Department of War, and the report, as communicated by Governor Rabun. It is proposed here to send a Georgia surveyor to search for the head of the river. I cannot omit to declare my sentiments in regard to this proposal, that they may not be unknown when that case comes up hereafter. Whoever he may be, he will not venture to give an opinion adverse to the public wishes, if the excitement in the public mind should be considerable at the time upon the question, which is not the case now generally, I am very sure: for many more persons have expressed their regret at the interruption, than the contrary. Yet, no doubt, by taking a dry time, a survey may be made of the rivulet running into St. Mary's near the mound, and the point determined geographically where it ceases to be a rivulet and becomes a bog, supposing the astronomical results of Ellicott, by which the geographical position of the mound has been determined, to be correct, and their verification by a practical astronomer, furnished with perfect instruments, and allowed several weeks at each extremity of the line, ought not to be omitted on such an occasion. With respect to the western extremity, inquiry should then be made whether a point in the bed of the river, rarely ever uncovered there, has not been taken for the junction, one mile or more south of the cape or headland forming the point of the fork where the banks of the two rivers unite, and their waters join, except in very uncommon dry seasons. Cypress and other aquatic trees grow all over the beds of the rivers to the south, and their streams are seen meandering through them. That is the case with Suwanee, where it is very rapid. I must be permitted to declare my opinion, that, if Georgia and the United States were to leave the geometrical operations precisely as they now stand, it would give general satisfaction hereafter. If the line run westward on this occasion as far as the Wythlacoochie, 68 miles, and the line run eastward to the same, 93 miles, with the short course of river between, were adopted as the permanent boundary, there could not be any dissatisfaction on either side, now or hereafter, and no further expense would be requisite. One straight line will intersect the Wythlacoochie more than once, and will leave small portions of Florida on its north, and like fragments of Georgia on the south, forming fractional parts, upon a general survey, of no value whatever. These two lines are sufficiently marked as they are now; the first here mentioned by mile stakes numbered, and the second by five mile hillocks, made with a hoe, and both well, by blazing trees on both sides.

When the party broke up, the majority proceeded to Darien with the provisions which remained, while the commissioner and secretary, with the surveyor, chain carriers, and signal bearers, set out directly by the head of the Allassaha, a branch of the Suwanee river, and the south bend of

Altamaha, for Milledgeville. I accompanied those, of course, with the view, first, to close the commission and get copies of all the documents, and, next, to obey the order of the department issued from the office of Indian affairs, under dates of December and February last, in regard to the claims of Baley and Brodnax, for supplies furnished to the friendly Creek Indians, who had been expelled from their country when McIntosh was assassinated. When we arrived at the Altamaha, the waters of Oakmulgee were so high that it could not be crossed, and we had to make our way, after separating from the surveyor and his men, along its banks, for fifty miles up to the ferry at Hartford; before we arrived at which, we had numerous creeks to pass, by wading up to the shoulders, on account of the unsoundness of their bottoms, and were thereby delayed until the night of the 6th. On the morning of the 10th, the commissioners separated. I have a copy of the accounts of the expenditure, but I have as yet received nothing from the surveyor, for whose residence, in Putnam county, I shall set out to-morrow, being sure of concluding to-day the business devolved on me from the office of Indian affairs. Here I may be allowed to inform you that the Creek Indians of the party friendly to the United States are, at this time, almost starving; the only subsistence of men, women, and children being the root of a kind of bamboo, called here China briar, (the *Smilax Suedo China* of the botanists,) which is rendered esculent only by a tedious preparation, and has not nutritive virtue enough to save the lives of their children, all of whom will probably perish without immediate relief from the United States, as most of those of the Seminoles in the peninsula of Florida have already done, from want of wholesome food. No other aid from the United States than the issue of one peck of corn a head per week would be necessary or expedient. Brigadier General Ware, of the Georgia militia, would be the best person to address to on this occasion, if it should be resolved to do any thing in this case of the utmost possible wretchedness into which their civil broils have brought the part of the nation always faithful to the United States. I have no doubt that the whole Creek nation could be easily prevailed upon now to consent to move over the Mississippi, and the Seminoles will gladly share their destinies at this time. But a special mission from the President, best perhaps composed of the military of some rank, will be necessary on the occasion, in my opinion. Nothing is likely to be done, unless the authority be so new and of such dignity as to render useless, or vain and unavailing in result, all factious contrivances to thwart the views of the Government, from ill will to the agents employed by it. These savages are as credulous and indecisive as they are ignorant and capricious. With them idle tales or malicious representations and statements have as much effect as accurate information. Every thing which fosters and strengthens their natural suspicion and jealousy is well received by them. Whatever is done with them, then, must be quick done, and by a commanding influence. I trust what I have here said needs no apology, as my attention has been turned to this subject by duties which have been assigned to me from a branch of your department. I have already forwarded my report in the case of Baley, and shall send that in the case of Brodnax by to-morrow's mail. The decisions I have made in these cases have been founded upon evidence which would have satisfied my mind as a juror, in making up my opinion for a verdict in concurrence with the others. If I have been deceived, all the persons to whom I have had access, and who were in the way to be informed at the time, have been deceived

also. Assertions made by the disappointed, springing from jealousy of the success of others, have been duly considered by me, notwithstanding their want of weight from want of character.

I am authorized to say, in regard to the question with Georgia, about the head of St. Mary's, that, if General Bernard, now in that quarter, were required to examine and report, it would be speedily decided, without additional expense, in great probability, by the next Georgia Legislature and Congress.

I have the honor to be, sir,

Your most obedient,

TH. M. RANDOLPH.

The Hon. JAMES BARBOUR, *Secretary of War.*

P. S. I consider the departure of Colonel Brearly, before the extreme distress for want of food had fallen upon the Creek Indians of McIntosh's party, as very unfortunate: and I feel very sure the Colonel has had some bad, if not insidious advice given him on that subject. They would not only enter their names now, but would actually follow him like hungry dogs to be fed, anywhere he might lead. My information is derived from many persons whom I have met, at different times, some every day for a few days back, immediately from among them. The wretchedness of the Florida Indians was communicated to me through sure channels of information, while I was in the Territory.

T. M. R.

April 4, 1827.

MY DEAR SIR: I have considered the subject of your letter addressed to me this morning, with all the capacity I have, and with sentiments of the highest possible respect for your knowledge, judgment, and zeal, to procure a just and accurate termination of our undertaking.

With respect to the lines formerly run, I have never had much confidence in them, because they have, two or three times, as I understand, diverged, converged, intersected, coincided for a space, and separated again.

I have conjectured that Watson followed the course recommended by Ellicott without making the deflexion proposed by him, and that McNeil reserved the course simply, and made the deflexion, but, having Watson's setting out at hand, as he approached the western end, corrected by it, so as to ensure the same termination.

I begin to fear with you that our variation may not have been determined with perfect precision: but still, when Mr. McBride finds *that* with certainty, he can make use of the guide line, nevertheless, with equal advantage. I have approved of his putting down small temporary mile posts, with the number of miles inscribed on each, for obvious reasons: and I have no objection at all to having them removed, at the joint charge, as we return. With respect to the unpleasant feelings excited in the minds of *the people*, as we do not agree in opinion as to the fact itself, I cannot express any other sentiment than that of sorrow, that any one person, settled near the boundary, should be so affected, even for a few days. I propose to you, for your consideration, to print an explanatory handbill at Tallahassee immediately, if there be a press there; if not, to let the secretary employ

himself in writing a number, to be distributed as widely and speedily as possible. My wish is that this experiment line should be continued as begun. It cannot make a difference in time of more than four days, if that. We may then commence anew, at the western extremity, upon Ellicott's course, if you please, with his deflexions, offsetting to the end of our guide line, which, it seems, must terminate north of the junction, effacing it as we return, and making the real boundary by mounds as well as stakes. I think it would not be justifiable for me to accede to your proposal to abandon a line already run 115 miles out of 155, because its course has been farther north than was expected. I trust you will consent to its continuance unchanged in any way, even if it should threaten, before ended, more than at present, to be wholly unavailing.

I beg you to be assured, my dear sir, of the cordiality and sincerity of the sentiments of respect and esteem which it gives me so much pleasure to express, on all occasions, with regard to you.

Writing, as I do, on my knees from a log, I fear my hand will be scarcely legible. It mortifies me extremely to be a bad penman at all times; but I am now too old to improve in that at least, and must ask your indulgence for my inability to write under such circumstances.

I am, dear sir,

Your most obedient servant,

T. M. RANDOLPH,

Commissioner, &c.

THOMAS SPALDING, Esq.

Commissioner, &c.

P. S. I will reply more in detail to your favor of to-day, as soon as it may be necessary, and I beg your indulgence for the delay.

JUNCTION OF THE FLINT AND CHATTAHOOCHEE RIVERS,

Monday, April 9, 1827.

MY DEAR SIR: I have this moment received a communication from Governor Troup, which, in the frankness of his character, he permits me to lay before you. This letter contains, in detail, the many reasons which, from time to time, I have taken the liberty to suggest to you as giving a claim to Georgia that the boundary line should not, at any event, be extended beyond the mound that Ellicott erected near the eastern branch of the St. Mary's river; believing, as I have done, from the beginning of our survey, that both the streams into which the St. Mary's is divided, take their source far south of the mound: but it is unnecessary for me to attempt to add any thing to the lucid exposition which Governor Troup has given, and I only allude to my opinion here, lest it should have been supposed I could have lost sight of the rights of Georgia upon this subject.

Yours, most respectfully,

TH. SPALDING.

To Gov. RANDOLPH, *Commissioner, &c.*

THOMAS COUNTY, *April 4, 1827.*

MY DEAR SIR: Mr. McBride having joined us in camp, I beg leave to renew to you the proposition I made two days ago, that we should here suspend the experiment line, which can, in no circumstance, be any longer necessary; and I beg to submit to you some reasons in addition to those

which were contained in my letter to Mr. McBride, and which letter I read to you for your approbation. Since that time, Mr. McBride has run twenty-eight miles, and, instead of diverging towards either Mr. McNeil's or Mr. Watson's lines, he is now eleven chains farther from Mr. McNeil's, and five chains farther from Mr. Watson's. It is impossible, therefore, that we can imagine that, in the scarce forty miles which remains to be run, his line will diverge so far south as to unite with those lines which are now distant from his experiment line two miles and an eighth. It seems to me that our difficulties have arisen from permitting ourselves to suppose that Mr. Watson and Mr. McNeil ran straight lines, and not lines describing the arc of a great circle. The continued divergence of Mr. McBride's line from the lines of these gentlemen demonstrates, to my mind, conclusively, that they, like him, must have pursued the arc of a circle, and that our deviation to the north must have arisen in a mistaken allowance for variation, and this, too, is now Mr. McBride's opinion. As we are to commence upon our real line at the junction of the Flint and Chattahoochie rivers, now distant but forty miles, to proceed at once there, and take up Mr. Ellicott's indicated course before any error of any consequence, at all important, can have arisen, we will have reached this point, when Mr. McBride's experiment line will serve all the purposes for which it was originally intended: it will serve to correct and to verify our labors upon the line.

This arrestment of the experiment line has become the more necessary, because we have arrived at a part of the country thickly inhabited, and, at every progressive mile, we are filling these inhabitants with uneasiness and alarm for their vested rights. It is known to us that the line we have been running is but an experiment line, and that its demarcation and measurement is only intended for the purpose of more readily and more truly verifying our future work, but all this is not known to them; and, although we may say this to those that we may meet in our way, words are fleeting and are perishable, while our course has been written upon the trees, and their alarms must and will be renewed as soon as we have passed. You will remember, my good sir, that, from the beginning, I have been reluctant in consenting to such demarcation, and have only yielded, from the conviction in my own mind that the superior knowledge which you yourself and Mr. McBride possessed upon this subject, might make that necessary which to me did not appear so. This necessity, however, can certainly now no longer exist; and I appeal to the feelings of liberality, which I have uniformly found in your bosom, for an indulgence of those feelings which you are now sensible must exist in mine; for suppose, sir, that, by any circumstance, after this experiment line should have been run, our work should be interrupted—and we hear rumors of Indian war at the present moment—would not the labors that we have executed do a serious injury, by alarming all persons who are embraced within these two lines? Might it not even generate feuds between Georgia and Florida upon the subject of their boundaries, where now there are none? But I trust, my dear sir, I have said enough upon this subject; and I therefore most respectfully request your perusal of this letter, with the copy of the letter addressed, two days ago, to Mr. McBride.

Yours, &c.

T. SPALDING.

To TH. M. RANDOLPH, Esq.

EXECUTIVE DEPARTMENT,

Milledgeville, 30th March, 1827.

DEAR SIR: I have received your two several communications from the Florida line, of the 7th and 12th instant. In draughting your original instructions, it was confidently believed, from the best sources of information accessible to me, not only that the latitude and longitude of the two mounds, viz. the one at the mouth of the Flint, the other at the head of the St. Mary's, had been established with the greatest accuracy and precision, but that the latter mound was, in its position, very nearly identical with the true source or head of the St. Mary's. I do not learn, from either of your communications, that this is not the fact: without knowing the relative position of the mound to the head of the river, it would seem that the commissioners, in a spirit of compromise, resolved to run the northeast line of 640 perches, supposing the head of the river would be found within that line.

The United States had unquestionably the constitutional right to form a treaty of boundary with Spain: to that treaty Georgia was no otherwise a party than as she was bound by the terms and stipulations of it when constitutionally made, as one of the States of the confederacy. It has not been settled how far, in forming treaties of boundary, the treaty-making power can proceed in surrendering, without their consent, territory claimed by the States. Apart from any constitutional doubts about it, it would seem sufficiently evident, in the eye of justice and equity, that, if the United States, in a treaty of boundary with any foreign State, should exercise the power of conceding the territory of a State without her consent, such State would have a fair claim of indemnity or equivalent against the United States—exclusive sacrifices by one State not being demandable of right by the United States for the common benefit of all the States. If, therefore, the United States, under the Spanish treaty, had knowingly or otherwise, surrendered territory of Georgia to Spain, Georgia, under any circumstances, would have a just claim of indemnity on that account against the United States. If, in the course of events, the territory so surrendered should become the property of the United States, (Georgia, in the mean time, not having been indemnified,) that State might be considered as having a just claim on the United States, either for the restoration of the territory specifically, or its equivalent. If, by the act of the United States, the boundary had been incorrectly established by the United States, in consequence of which Georgia lost territory, the obligations of the one party and the rights of the other would not have been weakened on that account. Georgia would still have lost territory, not by her own act of omission, but by the act or omission of the United States. The United States would be bound, and most strongly bound, by her own act: if that act produced benefit to Georgia, Georgia might take advantage of it. The United States could not, by such an act, acquire benefit to themselves at the expense of Georgia. The rights of Georgia are independent of any act of the commissioner of the United States, charged with carrying into effect the treaty with Spain: they rest on her own charter, on the treaty of peace, the constitution of the United States, and her own constitution.

If the United States commissioner was correct in establishing the true line, Georgia will cheerfully acquiesce. If he was incorrect, the United

States will not consider his act as binding and obligatory on Georgia, more especially as now the question is not between the United States and Spain, but between the United States and Georgia; and the more especially, too, as the line not having been yet run and marked by the joint act of the United States and Georgia, the question may be considered open for the ascertainment of the true line. If the mound B, therefore, and the true head of the St. Mary's, shall coincide, or nearly coincide, we would have no objection to that mound as the point of departure. If, by his N. E. line of 640 perches, Mr. Ellicott has passed the head or source of the river, or if, by his stipulating the termination of the mile due north from the mound as the true point, the line shall pass to the north of the head or source of the river, it will not be expected by the United States that Georgia will adopt that line as matter of course.

The commissioner assumed the right so far to depart from the letter of the treaty, as to adopt as the point of termination of departure, not the head or source of the St. Mary's, but a point one mile due north from the mound B, whether the source or head of the St. Mary's fell within and south of that point or not; whilst, therefore, the United States may be governed by that point, if the head of the St. Mary's should be found north of it, the State of Georgia will not be governed by the same point, if the head of the St. Mary's should be found south of it. Georgia can rightfully resort to the true head of the St. Mary's, if she finds benefit or advantage in doing so, no matter whether that head be found within the N. E. line of 640 perches, or south of it, that being the true point recognised by the treaty. The United States cannot take advantage of their own error, to occasion loss to Georgia; but Georgia can insist on the act of the United States as obligatory on themselves, whether the United States suffer loss by it or not. Georgia is not disposed to derive to herself advantage from any error or mistake committed by the United States. In this respect, she will be satisfied with a result that will approximate nearly to her just claims under the charter, the treaties, and the constitution. The Governor does not undertake to decide that the point at which the commissioners have commenced is not the true point; because he has no means of ascertaining whether that point coincides or nearly coincides with the head of the St. Mary's. The commissioners are best qualified to determine that fact. He only suggests to the commissioner of Georgia the propriety of adopting, as his guide, not what has actually been done by the commissioner of the United States under the treaty of 1795, but what, according to that and other treaties, ought to have been done. As, in a transaction of this kind with the United States, there can exist no motive for concealment or disguise, and the less so because of the high and honorable character of the gentleman who represents the United States, you are at liberty to disclose to him, without reserve, the contents of this paper. If the views presented by it are not in accordance with his own, he will candidly inform you what his own are.

The propriety of recognising the grants of Georgia for lands which may be left out by the permanent line, is obvious, and would have been expected from the well known liberality of Governor Randolph.

It was not the intention of the instructions that the mound near to the junction of the Flint and Chattahoochee should be taken as the point of termination or departure, but the junction itself. Whatever be the result of the joint proceedings of the two commissioners, permit me to suggest the

expediency of (provided the season should prove favorable for the object) an accurate survey, if practicable, of the course of the St. Mary's, from the mound B to its true source. Should the true source not be found at the mound B, but above it, it is very desirable, for more reasons than one, that all doubts on this subject should be removed, and on the highest authority.

You will not attempt it without the concurrence of Governor Randolph, who, I am persuaded, will not withhold that concurrence, particularly as the adjustment of any unfortunate difference which may be the result of your common efforts, must chiefly depend on a knowledge of this fact.

Very respectfully and sincerely, yours,

G. M. TROUP.

To THOS. SPALDING, Esq.
Commissioner, &c.

ENCAMPMENT IN THE WOODS,

Near the junction of Flint and Chattahoochee,

Tuesday, April 10, 1827.

DEAR SIR: For your prompt communication of the recent despatches received by you from Governor Troup, I make my cordial acknowledgment. I shall certainly have no hesitation in communicating to you whatever instructions I may receive on this occasion; for, as I understand our duty, there can be no collision or misunderstanding bearing any relation to it; as we have merely to complete operations formerly commenced, and left unfinished, having their foundation in views and decisions settled by an acquiescence of twenty-seven years on the part of Georgia, and even acted upon by her authorities on more than one occasion before, of the same nature with this. I can do no more than co-operate with you in carrying into execution an act of Congress, by running a straight line, which can only mean the shortest possible line between two points geographically determined twenty-seven years ago. The eastern point is that designated by the commissioners Ellicott and Minor, who have distinctly declared that the head of St. Mary's is so far indeterminate, that it lies within a certain described circle of considerable radius, and has a certain longitude and latitude, but has never been marked or described in any other way, or even found with certainty as yet.

The western point is the junction of the waters of two rivers, by which is plainly meant the extremity of the tongue of land between them, or that spot upon which, when you stand, one of your arms is extended over the waters of one river, and the other over those of the other river. It is obvious that the river must, at the time of decision, be completely within its banks, and yet not at the lowest state of its waters. The western point once fixed upon thus, and a proper trigonometrical calculation made, a line may be run by the compass, making a calculated deflexion from an ordinary compass or thumb line, which is demonstrably the shortest line between the two points, and therefore the straight line demanded. As the commissioner of the United States, Ellicott, has given the course and deflexion wanted, with the calculation by which he arrived at it, I do not think any other should be attempted, and I am willing to proceed immedi-

ately with that. I should be satisfied, myself, to co-operate with you in a further investigation to find the source of the St. Mary's river, and a more exact demonstration of its locality; but I have no authority to concur in such operations, and could not suffer myself to indulge one moment's thought about it; besides, I believe the said source not only to be indeterminate, but indeterminable by any geometrical or any physical process whatever. If the river derived its supply of water from springs, that which furnished the most water in the course of the year might be found and declared to be the head spring, or that which happened to be the farthest from the mouth of the river. But, in fact, the river in question has its origin in a marshy country, of great extent, with few or no springs, deriving its waters from rain altogether; of course, affording unequal supplies from any given surface, in any given time. In such a case, the dispute could be settled by compromise only, and such a compromise was made in the most regular manner twenty-seven years ago, accepted with consent at the time by Georgia, and never complained of until now.

It is my opinion that a better could not now be made by any persons whatever, nor can I believe that any cession was made of territory belonging to Georgia. An adjustment of boundaries with Spain *then* can no more be considered a cession of territory belonging to a State, than with Great Britain *now*, under the treaty of Ghent. To conclude, it is my deliberate opinion that we ought not to proceed any further at present, but separate, consult the authorities by which we are constituted, and meet again in November, to finish then. I am willing to concur with you as far as I can without compromising myself.

Pardon my bad writing: I am willing to do every thing in my power, and I conscientiously believe myself competent to what I have undertaken, both in mind and body; but if penmanship be a necessary requisite, I may retire from the undertaking with as much despatch as I should with satisfaction, having no motive whatever to influence me, but barely the determination to do my duty as accurately as I possibly can, however roughly it may be.

Permit me to declare my high esteem and cordial regard for yourself, and gratify me so far as to assure Governor Troup of my continued sentiments of admiration for his character.

Your most obedient, humble servant,

TH. M. RANDOLPH.

T. SPALDING, Esq., *Commissioner, &c.*

EXECUTIVE DEPARTMENT, GEORGIA,

Milledgeville, 18th April, 1827.

MY DEAR SIR: I received your despatch of the 10th instant this afternoon. I am not insensible to the many difficulties you have had to encounter in running the line; difficulties rendered supportable only by the harmonious and friendly intercourse which has been uninterruptedly maintained, and very much to my own gratification, between Governor Randolph and yourself. Reposing the highest confidence in your patriotism and ability, it was already known to me that the rights and interests of Georgia would be sustained as they ought to be, and that, at your hands, they could suffer no detriment but from causes for which you could by no means be

held responsible. It was equally well known that if Georgia suffered injury by the agency of Governor Randolph, the fault or blame would not be his; he would willingly do wrong to nobody.

It was apprehended, on the receipt of your letter of the 12th ultimo, that there must be something imperative in the instructions of the United States commissioner, which prohibited him from adopting the mound. It is now certain that his instructions, given in conformity with the act of Congress, limit him expressly, not to the head of the St. Mary's, but to the point agreed on by the United States and Spanish commissioners, under the treaty of '95. You have discovered, to your own satisfaction at least, that the head of the St. Mary's is different from, and south of, that point, and even south of the mound itself. There is no alternative now, but to adopt the proposition of Governor Randolph, and postpone, for the present, further operations, until the two Governments shall come to an understanding whether the line adopted by Messrs. Ellicott and Minor, under the influence of error and mistake, and in a spirit of compromise, shall be the true line, or whether that established by the charter of Georgia, the treaty of '83, the treaty of '95, and the constitution of Georgia, shall be.

The approach of the hot season, on a low and marshy country, abounding with insects, and exposing you and your party to disease, the expense of running and marking a line, which may or may not be adopted by the two Governments, the temporary evil resulting from conflicting jurisdictions to which the establishment of such a line may give rise, besides the apparent countenance and sanction given to it by the act of Georgia, and my decided impression that the Legislature of Georgia will not consent to sanction that line, all concur in recommending the expediency of discontinuing your operations for the present. It is true that the act of Congress cannot make that right which is essentially wrong: it cannot legalize contradiction or inconsistency: it cannot, for the purpose of carrying into effect the treaty of '95, assume a point different from that assumed by the treaty. This would be a violation, not an execution of the treaty. The United States had not the power, much less had Mr. Ellicott, to designate a point one mile north of the head of the St. Mary's. The United States and Spain, in carrying that treaty into effect, had not the power to do it, to the injury of a third party. Mr. Ellicott himself had no conception that he was vested with any discretion to do so. He sought the head of the St. Mary's as the only true point; if he missed it, it will not be made a question whether Georgia and the United States shall take the treaty itself, or Mr. Ellicott's mistake, as their rule of conduct.

Whilst, therefore, it was plain enough that Congress had adopted the mistake of Mr. Ellicott, it was sincerely hoped that the instructions to Governor Randolph might so far deviate from the letter of the act as to have permitted him to adopt the letter of the treaty, rather than the letter of the act inconsistent with it; and the more so, as the one is the supreme law, the other not. It is not designed to enter upon a discussion of this matter here, but (in passing) it is well to remark that the United States commissioner is under a misapprehension when he believes that Georgia has acquiesced for twenty-seven years in the correctness of the work of Mr. Ellicott and Mr. Minor. Georgia has given no sign or demonstration of such acquiescence, either express or implied, within that time. On the contrary, when any question occurred requiring any sign or demonstration in relation to it, Georgia has invariably looked to the head or

source of the St. Mary's as the true point; and it is known to you that, many years since, looking to that source as the only true point, her Legislature had authorized commissions charged with the ascertainment of the true head or source of that river, and with a view, as expressly stated in their resolutions, to the correction of any error which may have been committed by Mr. Ellicott. The results of those commissions were communicated to the War Department, for the information of the President.

The President may believe himself authorized to conform the instructions of the commissioner to the terms of the treaty: if so, your operations can be renewed in the fall. Otherwise an opportunity must be afforded to the Congress to reconsider the subject, that the provisions of the act may be made to correspond with the provisions of the treaty.

With great consideration, dear sir,

Your friend and servant,

GEORGE M. TROUP.

To THOMAS SPALDING, Esq.
Commissioner, &c.

Copied from the original.

J. G. BELL, *Secretary, &c.*

ENCAMPMENT IN THE WOODS,

Near the junction of Flint and Chattahoochie,

Tuesday, April 10, 1827.

DEAR SIR: Without entering further into the discussion, at this time, of what ought to have been the boundary line between Georgia and Florida, I believe I shall but consult the interests of both, by joining with you in extending the line between the junction of the Flint and the Chattahoochie rivers, and the point of our departure at St. Mary's. If, hereafter, the Governments we represent believe the object worthy of a more deliberate examination, I rely, with confidence, that justice will not be denied to the party that might be aggrieved by our determination. And I beg of you to accept assurances of my sincere respect and esteem.

T. SPALDING.

To Gov. RANDOLPH, *Commissioner, &c. &c.*

ENCAMPMENT ON THE WYTHLACOOCHEE,

Between McNeil's and McBride's Lines,

April 26, 1827.

MY DEAR SIR: Having this moment returned from the compass and chain party, I am the better reconciled to the manifest result of the intelligence communicated, by having just found the return line intersect the Wythlacoochee twice upon this day, thereby leaving a slip of land on its north and east side belonging to Florida, and another smaller slip on its opposite side belonging to Georgia. The torrents of rain lately fallen, which bar our passage eastward from this, by the swell of small creeks, at present, have, of course, swelled the Wythlacoochee also so greatly as to make long offsets, upon uneven and roughly covered ground, absolutely necessary, and I left the surveyor employed in making them. He has, in person, swam the river once, with every man of the party this time, and

would have it to swim again twice more : indeed, it is by no means certainly otherwise than twice more in addition, if we were to deny him the facility of an offset, the error of which (and such operations are never without error) must inevitably be carried on, augmenting with the distance, to the eastern end of the line, as already agreed upon according to the previous understanding between us of our respective authorities. Now, all our consolation hitherto has been derived from the hope that we should, in returning, strike so very close to the point of our original departure as to satisfy all minds, and put an end to questions about boundaries older than the Government of Georgia itself, as much older as that is than our United States. All such hope being now extinguished, I cannot pass over this opportunity, hurried and constrained in conveniences as it is, to make it publicly known, for future benefit, that, at another and a healthier season than that of the tropical rains, which we have lately borne without any other roof than a very flimsy tent, it would be quite pleasant to ford the same river, not more than knee deep, at the very same places. The offset which became absolutely necessary at the Ochoelmeiy, had already given us discouragement enough.

This is the time for me to write, what I have repeatedly said to you, that the President of the United States ordered the Secretary of War to give me the act of Congress, and the report of the commissioners appointed in consequence of the obligatory provisions of the treaty between Spain and the United States, of October, 1795, as all my instructions, accompanied with the usual injunctions of all possible economy in the expenditure of the appropriation, which a hope was expressed might be found more than sufficient, and a charge as to accountability, with a requisition to note and communicate all the information I might probably obtain, geographical or other, which might possibly be of use to the Government of the United States at any future time. I did myself raise the question about the meaning of the term "junction of the rivers," believing, before, that the geographical position of the two ends of the line had been long ago settled; and, unexpectedly finding that the eastern was disputed, I naturally enough threw open that of the western also, by showing that it was fairly disputable: for Watson had, *ex parte*, determined it for Georgia, supposing the decision of Ellicott and Minor rejected, and McNeil had adopted Watson's decision. Now, Watson's mark of the western extremity is many feet higher than that of McNeil, upon the same trees, of a kind which cannot live out of water; and the latter is one mile, or perhaps more, to judge by the eye and report, without measuring, below the real "junction" of the waters of the rivers, which have really been blended that distance above, at the point where the banks before separate, and, identifying the different rivers, have united. I did also give it as my private opinion, that the Spanish words used in the treaty of 1795 had been falsely translated: for it did not mean head springs, but source or origin of the river St. Mary's. ("nacimiento,") which makes a very important difference: for that river had its origin in very extensive marshes, which are supplied entirely by rain water, and not at all by springs; although, no doubt, some feeble head spring might be found to be the farthest off from the mouth of the river, and, possibly, farther south than the point agreed upon and designated by Ellicott and Minor as the geographical position of the true source of the river. But these are questions to be decided by higher powers and intelligences than ours, and I drop them altogether. I conclude, then, by

assuring you, in writing, what I have already done often enough in speech, that my predilection would certainly be for Georgia on all questions, as I now very bitterly regret my not having settled there in 1803. as I deliberately then intended, were I not completely restrained at all times, first by an enthusiastic republican honesty, and next by my feelings for the little State of Florida, which is now so very near its birth to a destiny very high indeed, if anticipations are allowable; founded upon the felicity of its climate, the fertility of its soil, and its most extraordinary hydrographical advantages for uniting, with facility and cheapness, the ocean and the gulf.

Let me not omit to assure you that my proposal to discontinue proceedings while we were still on the Appalachicola, proceeded from the extreme anxiety I had all along felt at never having received from the Department of War the report of Ellicott and Minor, the journal of the former, an authentic document, having been all along my sole guide; and for the satisfaction I felt in the relief from that anxiety afforded by the declaration of Governor Troup, that Georgia would not be bound by any decision that we might make upon the ground the act of Congress had compelled me to take: for I did then, and I do now, sincerely believe that I was running much risk in proceeding throughout without authority, which could give right to any conclusion in which I was concerned, and which I might fail ultimately to receive in time, as it had been promised me immediately by a letter from the Department of War, dated December 23d last, and had not then or now arrived. I trust you will not forget, what you have often acknowledged, and Mr. McBride has constantly confirmed, that the water was entirely too cold for him and his men to have carried chain and compass through the marsh of fifteen miles of uninterrupted length, at any time earlier in the spring than the first of March, when we commenced.

I cannot let this opportunity pass without testifying zealously to the high moral and intellectual worth, the scientific attainments, the hardihood, perseverance, and determined resolution, with the excellent disposition for republican command, of that gentleman. Any unlucky choice of character for this party which you may have made, I forget in the strong feelings of esteem and kindly regard which I shall ever entertain for yourself, as also of gratitude and admiration for your charming family, now enjoying in tranquillity all the delights of Sapelo, where you will soon have the felicity to join them.

I part in perfect good will to all, forgiving that rudeness in some of your men, which is founded perhaps in temperament, but is nevertheless truly painful in its effects to men of my age, who love quiet, and literature, and science, alone, in this world, after their own family.

Permit me, then, before I conclude, to express my very high esteem for Mr. Bell, whose deportment, conduct, manners, and opinions, have been entirely unexceptionable to this hour from that of our leaving Darien.

I will reply to the latter part of your letter to-morrow, when I have more time, and shall have given more consideration to it.

I am, my dear sir,

Most sincerely, your friend,

As well as your most obedient servant,

T. M. RANDOLPH, Sen.

T. SPALDING, *Commissioner, &c.*

A true copy from the original.

J. G. B., *Secretary, &c.*

NEAR THE WYTHLACOOCHIE,

April 27, 1827.

MY DEAR SIR: Accept my thanks for the kindly sentiments contained in your letter of yesterday, in reply to mine communicating Gov. Troup's instructions.

I certainly conceive that, from the nature of the country in which we have been acting, our labors could not have been carried on in the winter; and this I believe to have been the opinion also of Mr. McBride.

Will you permit me to say, in the closing of our labors, that the direct control of our men in camp was what, in the commencement of our undertaking, was as little in my expectation as in my inclination, and that our situation did not admit any careful selection of persons for the service.

The boisterous hilarity of some, I have too often felt to be little reconcilable to the tastes of either yourself or myself; but I hope and believe that soon all that was wrong will be forgotten, and only what may be pleasant to remember will be remembered by either of us.

For myself, my dear sir, anxious for your esteem, I shall be proud of your recollections.

With esteem and respect, &c.

T. SPALDING.

To Gov. RANDOLPH.

DEPARTMENT OF WAR, *May 22, 1827.*

SIR: I have had the honor to receive the copies of the correspondence between you and the Georgia commissioners, and regret the circumstances which have made it necessary to discontinue your operations in running the dividing line between Georgia and Florida. As your duties, therefore, have ceased for the present, you can return to your home as soon as it may suit your convenience to do so. Previous to which, however, I request your attention to the case of Major Baley, which was, some time since, referred to you for your examination and report.

I have, &c. &c.

JAMES BARBOUR.

To THOMAS M. RANDOLPH, Esq.

Message from the President of the United States, transmitting copies of communications from the Governor of Georgia, relating to the line dividing that State from the Territory of Florida.

WASHINGTON, *22d January, 1828.*

To the Senate and House of Representatives of the United States:

By the report of the Secretary of War, and the documents from that department, exhibited to Congress at the commencement of their present session, they were advised of the measures taken for carrying into execution the act of 4th May, 1826, to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the

State of Georgia, and of their unsuccessful result. I now transmit to Congress copies of communications received from the Governor of Georgia, relating to that subject.

JOHN QUINCY ADAMS.

EXECUTIVE DEPARTMENT,

Milledgeville, 20th November, 1827.

SIR: On the question which has arisen between the State of Georgia and the United States, during the recent effort to mark the boundary line between this State and the Territory of Florida, it will, it is presumed, be satisfactory to you to examine, before the meeting of Congress, the evidence on which the State relies to establish the fact that the source of the St. Mary's is the lake or spring from which issues the most southern branch of that river, and, therefore, the spot at which must terminate the straight line to be drawn from the junction of the Flint and Chattahoochie rivers, according to the second article of the treaty between the United States and Spain, of the 27th of October, 1795. The subject having been brought before the General Assembly by my predecessor, and not yet acted on by them, it would be improper for me to do more, in transmitting that evidence, than to request your attention to it; no doubt being entertained that its force and importance will be duly weighed.

I have the honor to be,

With perfect consideration,

Your obedient servant,

JOHN FORSYTH.

The PRESIDENT of the United States.

Copy of the report of John McBride, Esq. relative to the source of the St. Mary's river.

ELTONTON, August 7, 1827.

SIR: Agreeably to your instructions of the 20th of June last, requiring me, under the direction of Thomas Spalding, Esq., commissioner, to ascertain the true head or source of the St. Mary's river, I proceeded immediately to Darien, in order to join Mr. Spalding. For reasons which he has detailed to you, Mr. Spalding believed it unnecessary that he should accompany me in the tour, and superintend, personally, the discharge of the duties confided to us. After receiving from him every requisite aid in procuring supplies and transportation, and, at my request, his written instructions, I repaired, without delay, to the region which I was to examine, and arrived at Filman's on the 3d of July.

By reference to the chart which accompanies this report, it will be seen that the St. Mary's is formed by three principal branches—the north, the west, and the south. To ascertain the source of each of these branches, their length, and relative magnitude at their points of confluence with each other, was considered the object of my mission. And, having learned that the north and south branches unite about four miles below the mound

A, or commissioners' encampment, I proceeded to that point, and carefully measured the width, depth, and velocity of the current of each branch, both at the junction and about half a mile above it. From the mean result of these observations, it appears that the south branch discharges 1,369, and the north branch 993 cubic feet of water per minute. Hence, the south branch is to the north as 1,369 to 993, or very nearly as 40 to 29. A traverse was commenced near the junction, and continued up the south branch to the outlet of Lake Spalding, about thirty miles, and another traverse four miles in length, connecting Lake Spalding with Lake Randolph. These are beautiful lakes of transparent water; the former supposed to be nine miles in circumference, the latter twelve. As no soundings could be made, their depth is unknown. The sources of the south and west branch being thus ascertained, the volume of water contained in the north and west branches was then measured at their junction, and the following result obtained :

Cubic feet of water discharged by the north branch in one minute,	159
Do, do, west branch do.	238

The fact is then clearly established, that, of the three branches into which the St. Mary's is divided, the south is the greatest, and the north is the least, though it is represented by Messrs. Ellicott and Minor as the principal. The only criteria for determining the principal branch of a river must be its length, volume of water, and general direction; and these all coincide in the south branch of the St. Mary's. It is three miles longer than either of the other branches, and discharges one-third more water than both of them together. Its general direction agrees with that of the lower section of the river much better than either of the other branches. If a line be drawn from Point Petre to the confluence of the north and south branches, and indefinitely produced toward the southwest, it will pass through Lake Spalding, the source of the south branch.

It had been intended to make a running survey of the north branch also, but, from the very satisfactory nature of the information already obtained, together with some previous knowledge of the sources of the north branch, this intention was abandoned, believing that a further examination, while it would be attended with additional expense, could be productive of no real utility.

In collecting information respecting the topography of the country which it had become my duty to examine, I availed myself of the aid which could be afforded by the inhabitants. Though the population is extremely sparse, yet no country is better known than this. Resorting thither for the benefits of the chase, and for the pasturage of immense herds of cattle, their knowledge of the country is extensive and accurate: and experience has proven that information derived from them may be safely confided in. Messrs. Cone, Brown, Barbour, Jernigan, and Sparkman, of Camden county, and Filman, Ellis, Parrish, and Long, of Florida, have freely communicated any information that has been requested of them: and I have the satisfaction of being able to inform your Excellency, that, in support of my own opinion, chiefly founded upon actual admeasurement, these men have no doubt but that the north branch of the St. Mary's is less than either of the other two, and that it can have no just pretensions to being considered the principal. By Mr. Filman, who lives within half a mile of the Pine Log, I was informed that, at the time of making this examina-

tion, the whole of the water in the north branch was afforded by Alligator creek, and that at the Pine Log the channel was dry and dusty.

The United States and Spanish commissioners, who, in 1800, attempted to ascertain the source of the St. Mary's, in ascending the river with their canoes, passed the junction of the north and south branches, considering the former as the principal. That those commissioners should have made an erroneous determination, may be attributed to the deceptive appearance of the two branches at their confluence, and to the peculiarly unfavorable season in which their investigations were made. The channel of the north branch is wider than that of the south. Its depth is greater, and its water of a dark reddish color. At the point of disembogement, the south branch is a beautiful, limpid stream, whose narrow channel and transparent water render it, apparently, one-third less than the north, but its velocity is one hundred and sixteen feet per minute, while that of the north branch is only thirty-eight. The disparity of width in these branches is accounted for by the difference of the countries in which they have their sources. That in which the south branch rises is gently undulating, and the transparency and low temperature of the water prove its origin to be principally in springs. The vicinity of the sources of the north branch is frequently an extended plane, with but little elevation or depression, which, in rainy seasons, is completely inundated for many miles; and these vast sheets of water, being drained into the north branch, increase its volume to a torrent, which forms a channel much wider than the south branch. When the United States and Spanish commissioners were here, in February, 1800, Mr. Ellicott, in his journal, informs us that the swamps, at that season of the year, "were absolutely impenetrable," in consequence of the preceding winter's rains. We cannot, therefore, be surprised at their failure to make a correct determination.

The loss sustained by Georgia in running the boundary, according to the agreement of those commissioners, is a triangle, whose base is 157 miles, its perpendicular 50 miles, and area 2,355 square miles, or ,507,200 acres.

Respecting the general character of the country through which our southern boundary passes, it may be remarked, that, in proceeding westwardly, by the Pine Log, for sixty-five miles, the soil is extremely barren, and swamps, cypress ponds, bay galls, and saw palmetto, abundant. The Suwanee and Allapaha rivers are found in this section; but there is little land in their vicinity that can ever reward the agriculturist for his labors. On approaching the Wythlacoochie, the face of the country is much altered. Here it becomes more undulating, and lime pits and lakes of pellucid water are skirted by slips of fertile land. From this, the soil is remarkable only for its sterility for twenty-five miles, and until we approach the Ocilla, where are found tracts of excellent land, interspersed with lakes and deep morasses. The saw palmetto and cypress ponds here disappear, but the former barrenness of soil continues generally throughout the remaining part of the boundary, except in the vicinity of the Mickasuky and Yamonía lakes, the Ucklockanne river, and Attapulgas creek, where large bodies of rich loam will repay the purchaser for his adventure, and the laborer for his toil.

With considerations of respect, your Excellency's most obedient servant,

JOHN McBRIDE, *Surveyor.*

Gov. TROUP, *Milledgeville.*

Notes and estimates made in ascertaining the volume of the several branches of the St. Mary's river.

No. 1. North Branch, (Junction C.)

Width	-	-	-	-	-	39.6	ft.
Mean depth	-	-	-	-	-	.666	
Velocity of the surface per minute	-	-	-	-	-	44.22*	

To find the volume :

$$\sqrt{44.22-1}=5.649.$$

$5.649 \times 5.649 = 31.9$, the velocity of the bottom and sides.

$$44.22 + 31.9$$

$$\frac{\quad}{2} = 38.06, \text{ the mean velocity.}$$

And $39.6 \times .666 \times 38.6 = 1003.77$ cubic feet, the volume.

No. 2. South Branch, (Junction C.)

Width	-	-	-	-	-	26.4	ft.
Mean depth	-	-	-	-	-	.5	
Velocity of the surface per minute	-	-	-	-	-	126.72	

To find the volume :

$$\sqrt{126.72-1}=10.257.$$

$10.257 \times 10.257 = 105.2$, the velocity of the bottom and sides.

$$126.72 + 105.2$$

$$\frac{\quad}{2} = 115.96, \text{ the mean velocity.}$$

And $26.4 \times .5 \times 115.96 = 1530.67$ cubic feet, the volume.

No. 3. North Branch, (half a mile above No. 1.)

Width	-	-	-	-	-	40.26	ft.
Mean depth	-	-	-	-	-	.697	
Velocity of the surface per minute	-	-	-	-	-	40.92	

To find the mean velocity :

$$\sqrt{40.92-1}=5.4, \text{ very near.}$$

$5.4 \times 5.4 = 29.16$, the velocity of the bottom and sides.

$$40.92 + 29.16$$

$$\frac{\quad}{2} = 35.04, \text{ the mean velocity.}$$

And $40.26 \times .697 \times 35.04 = 983.26$ cubic feet, the volume.

No. 4. South Branch, (half a mile above No. 2.)

Width	-	-	-	-	-	18.56	ft.
Mean depth	-	-	-	-	-	1.14	
Velocity of the surface per minute	-	-	-	-	-	64.68	

* To obtain the mean velocity of a current from that of its surface, Mr. Fulton has obligingly furnished me with the following rule ; in which x represents the velocity of the surface, and z that of the bottom and sides.

$$\sqrt{x-1}=\sqrt{z} \quad \text{And} \quad \frac{x+z}{2} = \text{the mean velocity.}$$

To find the mean velocity :

$$\begin{aligned} & \sqrt{64.68-1}=7.042. \\ 7.042 \times 7.042 &=49.58, \text{ the velocity at the bottom and sides.} \\ 64.68+49.58 & \\ \hline & \qquad \qquad \qquad 2 \\ & \qquad \qquad \qquad =57.13, \text{ the mean velocity.} \end{aligned}$$

And $18.56 \times 1.14 \times 57.13 = 1208.67$ cubic feet, the volume.

No. 5. North Branch, (Junction of N. and W. Branches.)

Width	-	-	-	-	18.48	ft.
Mean depth	-	-	-	-	1.03	
Velocity of the surface per minute	-	-	-	-	11.22	

To find the mean velocity :

$$\begin{aligned} & \sqrt{11.22-1}=2.35, \text{ nearly.} \\ 2.35 \times 2.35 &=5.52, \text{ the velocity at the bottom.} \\ 11.22+5.52 & \\ \hline & \qquad \qquad \qquad 2 \\ & \qquad \qquad \qquad =8.37, \text{ the mean velocity.} \end{aligned}$$

And $18.48 \times 1.03 \times 8.37 = 159.3$ cubic feet, the volume.

No. 6. West Branch, (Junction of the N. and W. Branches.)

Width	-	-	-	-	11.22	ft.
Mean depth	-	-	-	-	.32	
Velocity of the surface per minute	-	-	-	-	74.58	

To find the mean velocity :

$$\begin{aligned} & \sqrt{74.58-1}=7.636. \\ 7.636 \times 7.636 &=58.3, \text{ velocity at the bottom and sides.} \\ 74.58+58.3 &=66.64, \text{ the mean velocity.} \end{aligned}$$

And $11.22 \times .32 \times 66.44 = 238.54$ cubic feet, the volume.

Result of No. 1, N. B.	-	-	-	1003.78
Result of No. 3, N. B.	-	-	-	983.26
Sum	-	-	-	<hr/> 1987.04 <hr/>
Mean	-	-	-	993.52
Result of No. 2, S. B.	-	-	-	1530.67
Result of No. 4, S. B.	-	-	-	1208.77
Sum	-	-	-	<hr/> 2739.44 <hr/>
Mean	-	-	-	1369.72

As 1369 : 993 : : 4 : 2.9 ;

Or, S. B. : N. B. : : 4 : 2.9 ; or, as 40 to 29.

Result of No. 5, N. B.	-	-	-	159.3
Result of No. 6, W. B.	-	-	-	238.54

As 238.54 : 159.3 : : 3 : 2 ;

Or, W. B. : N. B. : : 3 : 2.

Respectfully submitted.

JOHN McBRIDE, Surveyor.

An act to prevent the surveying or granting of certain lands either under head rights, or in any other way, and for other purposes.

Whereas the dividing line between the State of Georgia and Florida has not yet been run and marked, but, when run, must be from the head or source of St. Mary's river straight to the confluence of Flint and Chattahoochie rivers; and whereas it is believed that the said line must, and of right ought to, commence from the head or source of the south branch of St. Mary's river, in which event a large portion of territory will be included within the limits of Camden county, and subject to be surveyed and granted as vacant lands:

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Georgia in General Assembly met, and it is hereby enacted by the authority of the same,* That it shall not be lawful for any portion of the territory lying between a direct line from Ellicott's mound upon the north branch of St. Mary's river to the junction of the Flint and Chattahoochie rivers, and the dividing line which may hereafter be run and marked between the State of Georgia and Florida, to be surveyed and granted as vacant land, or in any other way, or for any other purpose, until provision therefor shall be made by law. And that all surveys which shall be so made shall be, and the same are hereby, declared null and void.

SEC. 2. *And be it further enacted by the authority aforesaid,* That, when the said line shall be run and marked, if any portion of the territory shall be included within the State of Georgia, which may be claimed and held under and by virtue of a grant or grants from the United States, upon purchases made previous to the passage of this act, then, and in that case, the said grant or grants shall be, and they are hereby, declared good and valid to all intents and purposes: *Provided,* The United States shall, and do, within two years from the time of running and marking said line, pay to the State of Georgia the amount for which the territory so held and granted may have been sold by the United States.

IRBY HUDSON,

Speaker of the House of Representatives.

THOMAS STOCKS,

President of the Senate.

Assented to, *December 24, 1827.*

JOHN FORSYTH, *Governor.*

The Governor of Georgia to the President of the United States.

EXECUTIVE DEPARTMENT, GEORGIA,

Milledgeville, December 29, 1827.

SIR: I have been requested by the General Assembly to open a correspondence with you, in order to facilitate the adjustment of the boundary line between this State and the Territory of Florida. It is well understood here, that, until the act of Congress, passed the 4th of May, 1826, authorizing the President to run and mark a line dividing Florida from Georgia, is altered or repealed, the Chief Magistrate of the Union has not power to comply with the just expectations of the State in relation to its

southern boundary. This communication is made, therefore, under the expectation that it will be laid before Congress, with such recommendations as the respective rights of the State and of the United States may, in your judgment, require. The subject is of deep interest to this State, not from the value of the land, the title to which is dependent upon the decision of it, but because the description of the boundary is a part of our constitution. To the Union it is of little moment, except as it affords a fair occasion to consult frankly the wishes of one of its members, and to establish a character for liberality to the individual State, of far greater importance than the acquisition of a few hundred thousand acres of arid territory.

It is one, too, on which even a concession to the State, if the right were doubtful, is recommended by the consideration that the land which would be given up will remain, although in a different form, a portion of the United States, and of the resources of the Union.

Addressing myself to the Government of the Union, to whom the Territory of Florida now belongs, no doubt is entertained that a demonstration of the right of the State will be followed by a prompt acknowledgment, and such legislative provisions as may be necessary to secure the full enjoyment of it. The southern limits of Georgia depend, 1st. Upon the charter to the lords proprietors of Carolina, of 1663; 2dly. Upon the proclamation of the King of Great Britain, of 1763, establishing the boundary between Georgia and the two Floridas, and the King's commission to Sir James Wright, of 1764; 3dly. Upon the treaties between the United States and Great Britain, of the 30th of November, 1782, and the 3d of September, 1783.

Confining myself to the southern boundary of the State, according to the territorial limits fixed in the compact with the United States, of 1802, it is a line beginning at the most southern branch of the St. Mary's river; thence, up the said river, to its source; thence, in a direct line, to the junction of the Flint and Chattahoochie rivers. Subsequent to the treaty of 1782, Spain, having obtained from Britain a cession of the Floridas without any description of limits, was disposed to make territorial pretensions inconsistent with our rights. The treaty of 1795, concluded at San Lorenzo by Mr. Pinckney and the Duke of Alcudia, put an end to these pretensions. The 2d article of the treaty, conformably to the instructions of Mr. Jefferson, then Secretary of State under General Washington's administration, describes the line between Florida and the United States (acting for Georgia) in the words used in the treaty of peace of 1782 between the United States and Great Britain. For the purpose of preventing disputes, and to produce an immediate good effect on the Indians on the borders of Georgia and Florida, Mr. Pinckney introduced, without instructions, into the treaty an article, the 3d, providing for the immediate demarcation of the boundary line described in the 2d article.

This article required the appointment of a commissioner and surveyor by each Government, who were to meet at Natchez within six months from the date of the ratification of the convention, and to run and mark the line according to the preceding article; they were to make plats and to keep journals of their proceedings, which were to be considered a part of the convention, and to have the same force as if inserted therein. A commissioner and surveyor were appointed by the United States to execute these stipulations. It is not necessary to detail all the circumstances

which occurred from the meeting of the American commissioner with the Spanish officer, who was said to be the commissioner of Spain, to the period when the work was finally interrupted and left unfinished; which, by some fatality, happened precisely at the point where the present southern boundary of Georgia begins on the Chattahoochie. It is sufficient for the present purpose to recall to your recollection these facts, resting upon the assertion of the commissioner of the United States, that every artifice was used by the Spanish Governor of Louisiana, who is stated to have been the commissioner of the King of Spain, to prevent the commencement of the demarcation; that every obstacle he could secretly interpose was presented to delay the execution of the work; that, by the dishonorable intrigues of the Spanish authorities with the Indians residing in the vicinity of the line to be marked, and their disregard of the provisions contained in the 3d article of the treaty, they at last succeeded in compelling the American commissioner to abandon the work, and leave it, as it has continued to this day, incomplete. The State now asks from Congress the fulfilment of the stipulations made for her in 1795, with Spain, the completion of the work, not completed because Spain was unfaithful to her engagements.

The current of events, favorable to the repose and to the prosperity of the Union, have placed it in the power of Congress to do immediate justice. It is not now necessary for you, sir, to prosecute a painful and tedious negotiation with a Government most unwilling to understand the just claims of others, and procrastinating, through policy, the acknowledgment of them when they can no longer be denied. The United States stand in the place of Spain, hold the title of that Government, and no other, to the Territory of Florida; and they have only to satisfy themselves what Spain could justly claim, in a controversy with this State, under the convention of San Lorenzo. That convention, requiring a direct line to be drawn between two unchanged geographical points, does not seem susceptible of controversy; and were the subject now for the first time agitated, none could be anticipated. But a difficulty is known to exist, and is to be found in a peculiar provision of the before mentioned act of Congress of the 4th of May, 1826.

The motive for introducing that provision is perfectly understood, and duly respected; it was intended to prevent what it has produced, delay and discussion. The provision is, that the line to be so run (dividing Florida from Georgia) and marked, shall be run straight from the junction of said rivers Chattahoochie and Flint to the point designated as the head of St. Mary's river, by the commissioners appointed under the third article of the treaty of friendship, navigation, &c. &c. between the United States and Spain, made at San Lorenzo, &c. &c. This provision was founded on the belief that the point designated as the head of St. Mary's was the source of that river. This belief, entertained here as well as at Washington, recent and accurate examination has shown to be unfounded. The evidence relied on by the State, on this point, is already in your hands; the chart of the St. Mary's, prepared by Mr. McBride, and his report of the examination made by him for the source or head of that river. The supposition on which the proviso in the act of Congress was founded being shown to be erroneous, no disposition can exist to persist in retaining it, to the injury of the State, unless the right of Congress to insert it is clearly shown, and it is required by their obligations to the other States.

If Spain were now the party interested, it is scarcely possible that, in utter disregard of the obligations of truth and justice, she should insist that the line should be run and marked to the point *designated as the head* of the St. Mary's, by the commissioner appointed under the third article of the convention of 1795 : on the hypothesis that Spain was still the owner of the Floridas, and so forgetful of honor as to make such a demand, by what argument could it be sustained ? It would be asserted that the acts of the commissioners appointed under the third article had become part of the convention, and were as obligatory as if inserted in it. This assertion is true *only* of those acts of the commissioners which they were authorized by the third article to perform. They were authorized to *run* and *mark* a line : has it been done ? It has not : more than 150 miles of the line is yet to be run and marked. To meet this state of facts, it might be asserted that, it being found impracticable to run and mark the line at that time, the commissioners agreed upon the two terminating points, and described, in their plats and journals, the direction of the line to be *hereafter* run and marked ; and that the head of St. Mary's was thus agreed to be within a certain distance of a mound raised. Were the commissioners appointed for this purpose ? Certainly not : they were appointed to run and mark a line, not to establish the points between which the line should, at some distant time, be run and marked. By what authority did the commissioners exercise this power ? It is not given by the third article of the treaty : no agreement made by them is binding upon either of the Powers who appointed them, unless subsequently ratified by both. Such an agreement as the one made was not within the spirit of the article, but is directly contrary to it, since it substitutes an artificial object as the point of termination for the natural one fixed on in the convention, and confessedly changes the line. The extent of the agreement is stated by the American commissioner, Ellicott, in these words : " It was, therefore, agreed that the termination of a line, supposed to be drawn N. 45 E. 640 perches from the mound B, should *be taken* as a point to or near which a line should be drawn from the mouth of Flint river, which line, when drawn, should be final, and considered as the permanent boundary between the United States and his Catholic Majesty, provided it passed not less than one mile north of mound B ; but if, on experiment, it should be found to pass within less than one mile north of the said mound, it should be corrected to carry it to that distance." No remarks on the peculiar character of the line described are deemed necessary ; the passage is quoted to show that Ellicott transcended his authority, and did what was not binding on his Government, unless subsequently ratified by it. It is presumed he had no instructions to make such an agreement ; if he had, this State denies that the convention of 1795 authorized them to be given.

Was this agreement ratified by the two Powers prior to the cession of Florida by Spain to the United States ? It is taken for granted that it was not. If not, the question remains as it did under the convention of 1795. The stipulations of the third article are yet to be performed, and the point to which the line from the junction of the Flint and Chattahoochie is to be run, is to be determined by referring to the second article of the convention, not by an appeal to the agreement of Ellicott. It is a geographical point, unvarying and unvaried ; not the creation of man's labor. It is a spot described by the two Governments ; not that substi-

tuted by their subordinate, unauthorized agents. The agreement of Ellicott was not obligatory, even upon himself. Prior to the running and marking the line, had any error, geographical or astronomical, been made by accident, it was in the power, and it was the duty, of the commissioner to correct it as soon as it was discovered. Can it be pretended that, if Ellicott had discovered, immediately after the supposed source of the St. Mary's was agreed upon, that the spring or lake, from whence issued the southern branch, was the true source of the river, he was bound to abide by the judgment he had formed on imperfect information, and to run and mark the line contrary to the provisions of the convention, to the injury of his country? If the line had been completed by Ellicott, under the mistaken impression entertained by him of the true source of the river, and the mistake had been clearly ascertained, it would have given the General Government great satisfaction to have been able to rectify, by a negotiation with Spain, the error committed. Called upon by Georgia, would the General Government have hesitated to represent to Spain that a just Government would best consult its honor and its interest by rectifying, with frankness, an error committed by its inferior officers? Can it be doubted that the United States would have seized, with avidity, the first occasion to oblige Spain to surrender to Georgia territory held in consequence of such an error? If such would probably have been the course of the General Government, had the error been consummated by the running and marking of the line, I leave you to consider what would have been their conduct, had Spain, remaining owner of the territory, obstinately persisted in claiming to have it run and marked according to Ellicott's agreement, after the mistake committed by him had been discovered and exposed. The United States, tracing the failure to complete the work to its source, might have overwhelmed Spain by justly deserved reproaches for disgracefully attempting to take advantage of its own infidelity to sacred engagements, by indignant recitals of the intrigues and artifices used, the treachery displayed, from the meeting of the commissioners at Natchez until Ellicott was driven from the Chattahoochie. I shall be pardoned for supposing the Government of Spain would have exposed itself to rebuke by advancing such claims. The possibility has been admitted, to bring fairly into view the peculiar position of the United States in relation to this question. The trustees of Georgia, who arranged the convention of San Lorenzo, are the holders, by purchase, of the title of Spain under that convention. In this their present position, their former relation being necessarily remembered, no pretension can be consistently made by the United States, which would have been disputed if made by Spain, while the Floridas belonged to that Power. No claim of Georgia, which the United States would then have seriously pressed upon Spain, can be honorably resisted by the United States holding the property as a cession from that Power. Above all, it would be the extremity of disgrace, if the Federal Government should seek to take advantage of an error committed by its authority, while acting as the guardian of the rights of this State, when Providence has placed it in its power to correct the error by a simple exertion of its own will.

The accompanying copy of an Executive message to the General Assembly of this State, and of an act passed by that body, are forwarded, that they may be presented, with the documents heretofore transmitted, to the

consideration of Congress, whenever you shall deem it proper to bring the subject of the boundary line between Florida and Georgia before them.

I am, sir, very respectfully, your obedient servant,

JOHN FORSYTH.

JOHN Q. ADAMS, *President of the United States.*

Message from the President of the United States, transmitting, in compliance with a resolution of the Senate of the 11th instant, a report from the Secretary of State, with copies of instructions, &c. to Andrew Ellicott, commissioner for running the line between the United States and Spain.

WASHINGTON, February 14, 1828.

To the Senate of the United States :

In compliance with a resolution of the Senate of the 11th instant, requesting copies of the instructions to Andrew Ellicott, commissioner for running the line between the United States and Spain, and of any journal or report of the commissioners, I communicate herewith a report from the Secretary of State, with the documents requested, so far as they are found in the files of that department.

JOHN QUINCY ADAMS.

DEPARTMENT OF STATE,

Washington, February 13, 1828.

The Secretary of State, to whom has been referred, by the President, the resolution of the 11th instant, requesting him "to communicate to the Senate copies of the instructions of the Government of the United States to Andrew Ellicott, Esq., commissioner on the part of this Government, for running the line between the United States and Spain, under the treaty of San Lorenzo el Real, and of any journal or report made by the said Andrew Ellicott and the commissioner of Spain, of the execution of the said commission, or such parts thereof as may be communicated without injury to the public service," has the honor to report, herewith, the instructions requested, contained in a letter from Timothy Pickering, Secretary of State, under date the 14th day of September, 1796, addressed to Andrew Ellicott, commissioner, and Thomas Freeman, surveyor, to run and mark the line between the United States and Spain, in conformity with the treaty of San Lorenzo el Real.

A search had been several times heretofore made, without success, for the report of which a copy is requested. When it was known that the Senate would call for the report, a careful and thorough research was made for it, but it has been alike unsuccessful. The joint or separate report of the commissioners, if it were ever made, is not now to be found on the files of the Department of State. It appears from a printed journal of Mr. Ellicott, published in 1803, giving an account of the proceedings of the commissioners in running the line, (page 278.) that the astronomical part of the boundary being completed, it only remained to make out the report,

with the maps or charts of the line. As a proper place for performing that business, the commissioners agree to repair to the south end of Cumberland island, where they could be more retired, and would be less interrupted by company. From a letter addressed by Mr. Ellicott to the Secretary of State, dated at Cumberland island, on the 22d March, 1800, (of which a copy is also herewith transmitted,) it appears that they accordingly did retire to that island, for the purpose of completing that report; that they were actually engaged in the preparation of it; and that Mr. Ellicott expected it would be completed the week after the next succeeding the date of his letter. Whether, in point of fact, it was finished, and transmitted to the Department of State, cannot now be here ascertained.

A letter has been recently addressed from this department to the minister of the United States in Spain, directing him to procure a copy of the report, if it be among the archives of the Spanish Government.

All which is respectfully submitted.

H. CLAY.

Colonel Pickering, Secretary of State, to Mr. Ellicott.

DEPARTMENT OF STATE,

Philadelphia, September 14, 1796.

ANDREW ELLICOTT, *Commissioner.* } *Instructions.*
 THOMAS FREEMAN, *Surveyor.* }

To Andrew Ellicott, commissioner, and Thomas Freeman, surveyor, on the part of the United States, for running and marking the southern boundary line which divides their territory from the Spanish colonies of East and West Florida:

You will receive herewith a copy of the treaty of friendship, limits, and navigation, concluded between the United States of America and his Catholic Majesty, as finally ratified on both sides, and proclaimed by the President of the United States; together with the second and third articles of the treaty, transcribed from the original in the Spanish language.

In contemplating the mode of carrying into execution these two articles which respect the southern boundary, it has been considered that the country through which the line is to be run, belongs, for the most part, to the native Indians, and is, of course, a wilderness. Hence many difficulties may attend an attempt to run and mark one continued boundary line from the Mississippi to the St. Mary's. Nevertheless, if the Indians will allow it to be done, and the nature of the country admits of it, you are to run and mark such a continued boundary line. If the Indians are averse to the measure, and oppose your proceeding, you must stop as soon as you find a further advance would hazard your safety, or a breach of our friendship with any tribe. But the Creeks have expressly stipulated a free passage of the commissioners, and their followers, to run and mark the boundary line through their territory; and the Choctaws probably may, on the application of the commissioners, also give the like permission as it respects their country. However, if either the opposition of the Indians,

or the impracticability of the country itself, through which you must pass, should render the running a continued line impossible, or extremely tedious and difficult, then the next best thing must be attempted, that is, accurately to fix the latitude of the boundary line at the eastern bank of the Mississippi, and to run and mark the line thence as far eastward as the Indian title has been, by any regular and lawful means, extinguished, either under the British or Spanish Governments. If the Indians and the nature of the country permit you to proceed farther, you will go on as far as it shall be practicable. And if, from any cause, you are obliged to leave any part of the line unsurveyed and unmarked, you will at least ascertain where it strikes the great rivers, from the Mississippi to the Appalachicola.

From the junction of the Flint river with the Appalachicola, the boundary line, ceasing to be a parallel of latitude, must, if possible, be run and marked through its whole course, to the head of the river St. Mary's.

So far as the boundary line is a parallel of latitude, you will ascertain the same with all practicable accuracy, and erect permanent monuments of stone, where attainable, and, at other places, of earth. And in the latter case, it may be eligible to plant in the ground large posts of cedar, or other durable wood, two or three at each monument, in the range of the line, and to bury them up with several feet of earth, so that by being concealed they may not be removed, and, by an exclusion of the air, they may not be liable to rot. The mounts of earth may be oblong in the range of the boundary line. Where cedar or other very durable wood is found, a large post may be erected in the centre of each mount, standing above ground, with the words *United States* cut on one side, and *Florida*, or *Spanish Florida*, on the other.

From the Appalachicola to the head of St. Mary's, you will, at convenient distances, erect the like monuments of stone or earth.

In every continued line through a wood you will designate the same by marked trees, as usual.

The longitudes of all the places where monuments shall be erected are to be ascertained with all possible exactness.

The third article of the treaty requires that the commissioners make plats and keep journals of their proceedings, which are to be considered as part of the treaty, and have the same force as if they were inserted therein: the plats and journals, therefore, should be made with accuracy and precision, and the latitudes, longitudes, courses, and distances, expressed in words at length as well as figures.

It being necessary that a careful person should accompany you, to take charge of the stores and provisions, and issue the same, and to receive and disburse the money for wages and supplies, Charles Anderson, of Philadelphia, for his known integrity and capacity, is designated to perform those services under your direction.

You will embrace every convenient opportunity to inform the Department of State of your progress in this business, which it is expected you will conduct with diligence and economy. These views will be promoted by your maintaining harmony and good understanding with the commissioner and agents on the part of Spain.

By the certificate annexed to the copy of the second and third articles of the treaty, you will see that the ratifications of the treaty were exchanged on the 25th of April last; and consequently that you ought to be at the Nat-

chez before the 25th of October next ensuing, agreeably to the stipulation in the third article.

TIMOTHY PICKERING,
Secretary of State.

CUMBERLAND ISLAND,

March 22, 1800.

SIR: Your letter of the 30th of January last came to hand on the 13th of this month, and is the first I have received from you since I left New Orleans.

I retired to this place immediately after descending the St. Mary's, for the purpose of completing our report, which will probably be finished the week after next, with all the plans, charts, &c. The report will be very lengthy, and contain a great number of astronomical observations and intricate calculations, in no part of which have I any assistance, except in copying. I am extremely anxious to have the report signed; for my want of faith is so great in all the officers of his Catholic Majesty, that I suppose nothing done till it is finished.

The Spanish party propose returning by Philadelphia and Pittsburg. What their views are, I know not. Mr. Power has been so long in the habit of intrigue and duplicity, that he is only at home when in the midst of confusion. His former residence in Philadelphia procuring him an extensive acquaintance with the partisans of France; and though he has been appointed surveyor on behalf of his Catholic Majesty, he never attended to the business but one week: his employment has been very different, but fortunately without much effect. The boundary has actually been executed by the United States, and would have been done at a much less expense, had no other Power been concerned in it. From a suspicion which I think was well founded, I was at all times able to complete the work without the aid of the other party; and had it not been for the numbers and firmness of my people, at the mouth of Flint river, my journal, (and there is no other,) with all my documents, and public and private correspondence, with the whole apparatus, would certainly have fallen into the hands of the Indians. The other party had previously divested themselves of every article of value which would impede their flight, and remained without force or apparatus, except an old surveying compass, which for some time had a wooden sight. Infinite address has been practised with my young men, and the commanding officer of my escort, to make them troublesome; but a remembrance of the decided measures I had taken on a former occasion has kept them within bounds.

This expedition has taught me a useful lesson. I was always pleased with our Government: I now think it perfect. I can now see the difference between a Government whose basis is the people, and one supported by intrigues, duplicity, and parade. In the former, man feels his dignity; he is open, candid, and honest; but in the latter, he becomes a jealous assassin. When I look back and see the difficulties with which we were surrounded, and the dangers by which we were menaced, I feel conscious that our success has been owing to good fortune. The report which was handed in by Mr. Gillespie and the Spanish deputy surveyor, that "the St. Mary's did not head in the Okefenokee swamp," is incorrect. I was

one who traced it up to the junction, and slept two nights on the margin of the swamp. The trip was a disagreeable one, and I yet feel the effects of it.

The United States extend further south than we had any idea of. The most southern bend of the St. Mary's is in latitude $30^{\circ} 21' N.$ nearly, and the source of the river is about $30^{\circ} 34' N.$

In all probability I shall be in Philadelphia about the last of next month.

I am, sir, with esteem, your sincere friend,

ANDREW ELLICOTT.

The Hon. the SECRETARY OF STATE,
of the United States.

Resolutions and documents relating to the boundary line between the State of Georgia and the Territory of Florida.

EXECUTIVE OFFICE, TALLAHASSEE,

January 7, 1828.

SIR: In compliance with a resolution of the Legislative Council, I herewith transmit to you the report of "the select committee to which was referred so much of the message of the acting Governor as relates to the contested question of boundary between the State of Georgia and the Territory of Florida," and ask, in the language of that resolution, your "immediate attention to the same."

I am, sir, very respectfully,

Your obedient servant,

WM. M. McCARTY,

Acting Governor of Florida.

Hon. Jos. M. WHITE, *Washington City.*

The select committee to which was referred so much of the message of the acting Governor as relates to the contested question of boundary between the State of Georgia and the Territory of Florida, beg leave to report:

That the great importance and delicacy of the question has induced them to give to it the highest consideration, and to bring into bearing all the points which, in their estimation, were essential to a true statement of the causes of difference existing between the two Governments. Looking with anxious eyes to the prosperity of the territory, and to the future stand she seemed destined to take as a member of this great political family, they have witnessed, with pain, an attempt to deprive her of a most valuable portion of her population and her soil; and, in so doing, at once to prostrate the fairest hopes of her most ardent admirers, and continue her in her present territorial condition. Forming the extreme southern link in the chain of the American States, and possessing all the advantages which must necessarily flow from her commercial position, superadded to the richness and fertility of her soil, the genial influence of her climate, and the hardy and adventurous character of her citizens, they looked with aching hearts, even to the remotest probability of an event so imminently calculated to undo all former efforts in her cause, and place her in a situa-

tion to remove all inducements to future exertions. Rapidly assuming a station which has scarcely been the fortunate lot of any one of the territories of the Union, while yet in her infancy, she bid fair to ripen into maturity, adorned with every feature calculated to render her an ornament to the Union, and one of the most valuable members of the body politic. Though these reflections weighed upon the minds of your committee, and had their operating influence, yet the true state of the question has not been abandoned from such considerations. On the contrary, they were the more impelled to exertion, in order to show the invalidity of the claim advanced by the State of Georgia. In this they believe they shall succeed; and, that the matter may be fully understood, they present, in a form as distinct and lucid as their circumstances admit, every thing having a direct relation thereto.

The first intimation of the claim of the State of Georgia to a portion of the lands heretofore acknowledged as the soil of the United States, and sold as such to private individuals, is found in the message of his Excellency, George M. Troup, late Governor of that State, to the Legislature, just before his retirement from office. This, to us, most extraordinary claim, is, according to the language of his Excellency, founded upon "the charter of Georgia, the treaty of peace of 1783, the confederation of 1778, the present constitution, the treaty with Spain of 1795, and the constitution of the State of Georgia." While the members of your committee would not allow themselves to treat with disrespect arguments emanating from so respectable a source, yet, so far as the authorities cited are intended to bear upon the question now under consideration, they must be permitted to express an opinion that a solitary glance at them will be sufficient to show that they afford not a shadow of evidence to support the claim—a claim urged by Georgia, at this late period, to more than two thousand square miles of the lands sold as those of the United States.

Though your committee cannot recognise, as authority, any instrument which was created specially for the benefit of one party, without the concurrence and sanction of others interested in the soil, and having rights equally to be regarded in the establishment of the true boundary line, still, in order to investigate the whole matter in dispute, they will proceed to notice the points presented by his Excellency the Governor of Georgia.

The charter of Georgia, referred to by his Excellency, is of date 1732, and was [granted] by a proclamation from George II of England. By that instrument, the southern boundary of Georgia only extended so far as "the southern stream of a certain other great water, or river, called the Altamaha." This authority, in itself, is therefore entirely irrelevant, and has no bearing upon the point. But, by a proclamation of George III of England, of date 1762, there was annexed to Georgia "all the lands lying between the rivers Altamaha and St. Mary's." Accepting this last proclamation, or charter, as authority, your committee might inquire if, by it, Georgia can claim any line farther south than the St. Mary's river. If the proclamation had even stated the head of that river, it could not, for a moment, be contended that she could have extended her southern line from the head to one of its lateral branches, which might, in its devious course, and in conjunction with other streams, have gone much farther south than the actual head of the St. Mary's river, when, in truth, that river is made the most southern boundary of Georgia.

The treaty of peace of 1783 is also considered by Governor Troup as

giving to Georgia the right of her present claim. This definitive treaty between the United States and Great Britain, in describing the boundaries of the American territories, describes the most southern as a line from the junction of the Flint and Chattahoochie rivers, straight "to the head of the St. Mary's river." The question here turns upon what is the head of St. Mary's river; and, in the solution, we can only be governed by common usage. The St. Mary's river has heretofore been represented as beginning at or near a certain point designated by an artificial land mark, called Ellicott's mound. Recently, however, another branch or stream has been found emptying into it from a much more southern direction, and the late Governor of Georgia now claims that branch as its head, having discovered that it enlarges the territory of that State beyond what has heretofore been considered as her actual limits. To show that this claim ought not to be regarded at this late day, notwithstanding the apparent plausibility with which it is urged, let us for a moment suppose a case, which, though not known to exist, yet may, and possibly does exist. In low and flat lands, such as are known to surround the head of the St. Mary's river, ponds and lakes are frequently found connected with each other by streams which are large or small, as the ponds which give rise to them are swollen or depressed by rains or droughts. Suppose this southern branch to be formed by a combination of these streams, as it most probably is, and to be extended by a chain of lakes and ponds across the peninsula to the Gulf of Mexico, would the State of Georgia contend that the line should be run from thence? and, if she did, would that claim be recognised? Surely not: for the obvious reason, that a branch so formed could not be considered as the source of the St. Mary's river. When we speak of the head of a river, we technically mean its source, and not one of its branches, no matter how long. The branch of a river is, properly speaking, a descendant of the main river, not the source: it is the offspring that inherits from the source. If the construction contended for by Governor Troup be correct, we should no longer look upon the Missouri as a branch of the Mississippi, but should henceforth consider it as the Mississippi itself.

"The confederation of 1778," cited in the message of the Governor of Georgia, makes not the slightest allusion to the limits of that State, nor does "the present constitution," by which is meant the constitution of the United States, allude to it. The reasons which induced his Excellency to refer to these two instruments are not discovered by your committee, unless he intended to deduce therefrom an argument that the rights of Georgia were secured to her at the time she became a member of the common family: if this be the argument, your committee are by no means disposed to deny its correctness; but, while they readily concede that the rights of Georgia should be protected, they must contend that the rights of others should be regarded as equally sacred.

After an examination into all the authorities referred to by his Excellency of Georgia, your committee have been able to find nothing in any of them which comes directly to the point in question, except in the second and third articles of "the treaty with Spain of 1795." This was "a treaty of friendship, limits, and navigation," between the United States and the Spanish Government: and the boundary line between Florida, then a part of the territory of Spain, and the State of Georgia, one of the United States, is therein described as a line drawn from the junction of

the Flint and Chattahoochie "straight to the head of the St. Mary's river," employing the same language that was used in the treaty of peace of 1783.

To prevent any future misunderstanding as to the true head of the St. Mary's, and to ascertain it, and definitively settle the line of demarcation, it is provided in the third article of that treaty that, "in order to carry the preceding article into effect, one commissioner and one surveyor shall be appointed by each of the contracting parties, who shall meet at Natchez, on the left side of the river Mississippi, before the expiration of six months from the ratification of this convention; and they shall proceed to run and mark this boundary, according to the stipulations of the said article. They shall make plats and keep journals of their proceedings, which shall be considered as part of this convention, and shall have the same force as if they were inserted therein." The commissioners were appointed, in pursuance of this treaty, to run the line; and the one on the part of the United States published his journal at large, in the year 1803. This journal, therefore, has the same effect as if it were part of the convention, and "inserted therein;" and, by it, the head or source of the St. Mary's river is ascertained to be near the point called Ellicott's mound. Here, then, was a compact, solemnly made and entered into, and as solemnly ratified by the Senate of the United States, in which body Georgia was represented and of which her Senators composed a part. Will it, then, be believed that Georgia can, in law, (viewing her as one of the parties to this compact,) successfully assert a claim to the lands further south than the point agreed upon by the commissioners appointed under this treaty? Suppose that the Crown of Spain had continued in possession of Florida, would the Government of the United States have permitted that possession to be disturbed by such a claim as is here presented, in violation of the faith she plighted in making this compact, and of the sacred obligations which it imposes? To this your committee believe that there can be but one answer; and if the line between Florida and Georgia could not have been changed, had Florida continued a Spanish province, the same reason must operate to prevent the change under her present circumstances. Previous to the treaty of 1795, a question of boundary would have been a legitimate subject of investigation; but, after a solemn determination of it by treaty, it is, and must be, at rest. A treaty is the paramount law, and can never be violated, without a departure from those principles which Governments should ever cherish and observe in their intercourse with each other.

There is another point of view in which this question may be presented, and which, in the estimation of your committee, must put it at rest.

Thirty-three years ago the State of Georgia looked quietly on, when, according to the estimation of Governor Troup, two thousand square miles of her territory, by a solemn act, were given to a foreign Power, and she was silent; at the same time, her Senators in Congress, instead of interposing her claim, consented to the transfer, and ratified the act. Her Representatives, ever on the alert, and ready to sound the alarm at the slightest approach towards an invasion of her soil and her limits, on this occasion not only neglected to assert her rights, but confirmed the contract, so far as Georgia could do it, by voting for the necessary appropriations to carry this treaty into effect. Upon a more recent occasion, under similar circumstances, Georgia has pursued the same course: by the treaty of

1819, the Government of Spain sold to the Government of the United States the Territory of Florida, embracing the land now the subject of controversy, and Georgia still remained silent; her Senators joined in the ratification of the treaty, and still interposed no claim; her Representatives voted away the money of the United States to carry this treaty into effect, and still asserted none of the violated rights of Georgia; and yet we are told this claim has its foundation in her charter!

The only remaining document referred to by his Excellency is "the constitution of Georgia." Could this instrument, in the estimation of your committee, be regarded as evidence in the settlement of this controversy, it would produce no change in its character, because it employs the identical expressions used in the treaty of peace of 1783, and the treaty with Spain of 1795, to wit, "the head of the St. Mary's river." Your committee would however remark that his Excellency John Forsyth, the present Governor of Georgia, in a communication made by him to the Legislature of that State since the message of Governor Troup, refers, as authority, to an act of the Provincial Assembly of Georgia, of date 1765, to show that the lands embraced in the King's proclamation of 1763 were laid out into parishes, and that the most southern parish was declared to be bounded on the Florida side by the most southern branch of the St. Mary's river, and by a line running due west from the head of that river. Did this testimony, so recently discovered by his present Excellency of Georgia, afford any cause for alarm, your committee believe that they could avoid its effects by protesting against its employment; for there is no position more easily sustained, in the estimation of your committee, than the one which objects to a party's making testimony, to be used in a controversy against his adversary; but as your committee believe that no injury can result from the use of this document, they will proceed to an examination of its merits. The most southern branch of the St. Mary's river is declared to be the boundary of the southern parish of Georgia; and, by adverting to the maps upon which that river is marked, it will be seen that it divides itself into two branches, not far above its mouth, and by which it discharges itself into the Cumberland sound. The southern branch here is unquestionably the one alluded to in the act of the Provincial Assembly, and to which, it is highly probable, the claims of Georgia will never be contested; the remaining part of that act, which mentions a line running due west from the head of that river, clearly establishes the incorrectness of the position contended for by their Excellencies, and is, in this controversy, a most valuable document for Florida. All the authorities to which a reference has been made concur in naming "the junction of the Flint and Chattahoochie" as the point at which this line must commence, and "the head of the St. Mary's river" as the one at which it must stop. It follows, therefore, that if this boundary can be ascertained by a line running due west from "the head of St. Mary's," it would be equally ascertained by a line running due east from the "junction of the Flint and Chattahoochie;" and, by an examination of the map, it will be seen that a line running due east from the junction of those rivers would pass to the north of Ellicott's mound.

Receiving this act of the Provincial Assembly of Georgia as evidence of the true boundary of that State, your committee cannot perceive by what right she now claims the southern branch of the St. Mary's as the point from which this line should be run. The southern branch is known to be

many miles south of Ellicott's mound ; and the true line, according to the evidence adduced by Governor Forsyth, is to the north of that mound. If a line were run due west from the head of the southern branch of the St. Mary's, instead of intersecting the Appalachicola at the junction of the Flint and Chattahoochie, as it is required to do, it would be found to cross that river at least forty miles lower down. This argument, deduced, as it is, from testimony furnished by Governor Forsyth, is, in the opinion of your committee, conclusive upon the subject.

Your committee have thus examined all the documents upon which the late and present Governors of Georgia seem to rely as authority ; and they flatter themselves that, while they have derogated nothing from that State, they have given to them such construction and explanations as they are properly entitled to bear. More, much more could be adduced, to show the fallacy of this claim. If taken in an equitable point of view, it would exhibit, in stronger colors, the right of the United States to hold and exercise jurisdiction over the soil in dispute. A treaty was formed expressly settling this boundary : the State of Georgia acquiesced in it ; and, for thirty-three years, she never pretended to dispute it. But so soon as a country, then almost unknown, uninhabited but by the savage, became an object of interest, and teemed with civilization and wealth, a spurious claim is advanced, and earnestly contended for. No matter what may have been the rights of Georgia anterior to the treaty of 1795, they cannot now be asserted to any lands within the Territory of Florida : they are barred by her acquiescence and forbearance. Your committee cannot believe that an instance can be found in the history of nations, where a treaty has been made and ratified, and, after so great a lapse of time, one of the parties has been permitted to rescind it, upon the ground that injustice has been done. To show, further, the entire acquiescence of the State of Georgia to the treaty of 1795, your committee would call the attention of the Council to an act of Congress, approved the 4th May, 1826, to authorize the President to run and mark a line dividing the Territory of Florida from the State of Georgia. It will be recollected that, in consequence of the hostility of the Indian tribes, the commissioners under the treaty with Spain only settled the point designating the head of St. Mary's river, and from which the line should be run ; and it was to consummate the work that this act was passed. It is provided therein that " the line to be run and marked shall be run straight from the junction of said Flint and Chattahoochie rivers to the point designated as the head of the St. Mary's river by the commissioners appointed under the third article of the treaty of friendship, limits, and navigation, between the United States of America and the King of Spain, made at St. Lorenzo el Real, on the seven-and-twentieth day of October, 1795." Here it is seen that the delegation from Georgia, representing the right and interest of that State in both Houses of Congress, so late as the year 1826, sanctioned an act which recognises, as the true designation of the head of " St. Mary's river," the point agreed on by the commissioners.

Your committee, having concluded the duty with which they were charged, cannot close their report without an expression of their most anxious wishes that this question should be speedily and honorably adjusted ; and that some measures should be adopted for the furtherance of that desirable object. The emigration which has been rapidly flowing into this Territory, and much of which has settled upon the lands now claimed by the State of Georgia, induced a belief that we should soon be received as a

member of the confederacy, and it was looked upon as the consummation of our political happiness ; but the agitation of this question may have the effect of retarding its progress : and if these lands are wrested from our jurisdiction, our political prospects are blasted forever. Florida will then present to disfranchised Europe the singular spectacle of a part of the American republic inhumanly partitioned among her neighbors ; and, instead of being permitted to form a separate and distinct State sovereignty, to disseminate republican principles, and encourage its votaries in every portion of the globe, she was prostrated at the shrine of an ambitious neighbor.

Under these views the committee recommend the adoption of the following resolutions :

Resolved, That our Delegate in Congress be respectfully requested to urge an immediate adjustment of the differences, and to procure, if possible, an order that the boundary line shall be run and marked out in such a direction as shall be in accordance with law, and shall promote the ends of justice.

Resolved, further, That his Excellency the Governor be requested to address a copy of the above report and resolution to the Delegate, and ask his immediate attention to the same.

Unanimously adopted, January 1, 1828.

JN. L. DOGGETT,
President of the Legislative Council.

A. BELLAMY, *Clerk.*

Copy of a letter from the Delegate from Florida to the chairman of the Judiciary Committee of the Senate.

SIR : The question submitted for the consideration of Congress, in relation to the boundary line between Georgia and Florida, is one that might have been anticipated from the documents communicated from the War Department at the commencement of the session. I did hope that, before the adjournment of the Legislature of Georgia, a different view would have been taken, and direction given to this matter. It has, however, been pressed by a resolution of that body, and several Executive communications from the Governor of that State, which have at length coerced its presentation, by the President of the United States, to both Houses of Congress, accompanied by the ex parte view taken of it by them.

Being thus presented, it becomes a controversy of some magnitude, both in reference to the amount of property, and the principles involved in its decision. The United States are nominally one party, and the State of Georgia the other. It cannot escape observation, however, that the Territory of Florida, the best interests and future hopes of which depend upon the issue, feels an immediate and vital concern in its decision. I contend that Georgia and the United States are not the only parties really and substantially interested in the question of sovereignty.

The treaty with Spain, of 22d February, 1819, contains a provision which was intended for the benefit of the ceded provinces ; it is that which provides for their incorporation into the Union, as soon as possible, consistent with the principles of the federal constitution. I admit it is diffi-

cult to give a construction to this article, entirely satisfactory; but I think the expression "incorporation into the Union" is evidently intended not to apply to the individual inhabitants, by giving them only the privileges of American citizens, but to the territory they inhabit. Annexation to one of the States would be a transfer to a different sovereignty—an incorporation into that State, and not into the Union: such a construction would be a forced one. The more natural idea is, that the sovereignty renounced by Spain was ultimately to be placed in the hands of the people, in the same manner with the territories of the United States, but to remain under the guardianship of the General Government, until the principles of the constitution would recognise their admission as a State, with all the rights of sovereignty now claimed by Georgia. The admission of Louisiana and Missouri are practical commentaries on this position. Florida is now a Territory, possessing some of the attributes of sovereignty, and is ultimately, at no distant day, to take her place in the confederacy. If that period should arrive before the settlement of this question, she will then be the party directly interested in opposition to the pretensions of Georgia: she will stand in the place of Spain, and will have a right to call on the United States to guaranty her limits. When Louisiana was divided into two territories, it formed the ground of serious remonstrance, supported by strong reasons: it was said that Louisiana was one entire sovereignty, entitled to become a member of the Union, as Louisiana: and again, that if subdivision was allowable at the pleasure of Congress, their admission might be indefinitely postponed. This reasoning was disregarded, on the strong ground of necessity, and because the creation of two distinct sovereignties, instead of one, was an extension of the advantages stipulated by the treaty. But at this time no one entertained the absurd idea of annexing parts of Louisiana to the adjoining States, although it might have been very convenient to have done so. The preservation of their municipal laws was a most important consideration with the people of that province, and this would not have been accomplished if they had been annexed to one of the adjoining States. I consider the stipulation of the treaty a most important one, as intended to place the acquired provinces on a footing with the States which declared their independence, and possessing as much right to contend for their boundaries, by reference to treaties, proclamations, and laws, emanating from parties competent to negotiate or legislate, as Georgia, or any other State in the Union. These provinces were not acquired with a view of obtaining subjects for any of the States: and as to the United States, the genius of our Government forbids it, unless the Ten Miles Square be an exception. If I am mistaken in this view of the subject, I shall at least be excused referring to the position I occupy in relation to the people of Florida, and as a citizen of the United States, for exposing what I consider the groundless pretensions of Georgia to the land in question.

This controversy involves two questions: the one of national law, the other of fact. It is assumed by the Executive of Georgia, that the line agreed upon and fixed by the commissioners of the United States and Spain, in pursuance of the treaty of limits entered into at San Lorenzo el Real on the 27th October, 1795, is not the true boundary intended by the charter of Georgia and the treaty of 1783; but that the head and source of the St. Mary's river, stipulated in these documents, is further south; which will give to Georgia fifteen hundred thousand acres of land claimed by the United States as a portion of the Spanish territory acquired by the

treaty of 22d February, 1819; about eight hundred square miles of which have been sold and patented by the United States, and the money paid into the public treasury, with the unsuspecting confidence of the right of soil at the time it was surveyed and sold. Whether this be true or not, which it cannot be expected will be conceded without further investigation, since not only the commission appointed in pursuance of the treaty before mentioned, but a commission constituted by the State of Georgia herself, have pronounced that, in their opinion, it is not so, there is a previous question to be determined, to wit: Does not the treaty of 1795, the proceedings under it, the consent of Georgia, as a component part of the Union, exercising an unquestionable constitutional power in the negotiation and ratification of a treaty of limits, the acquiescence of the State for twenty-seven years, by their delegation here, and their Executive there, exclude them from setting up this claim at this time? Or, does the charter of the colony, the constitution of the State, so far exempt them from the operation of this treaty, and their assent to it so formally given, and publicly expressed, as to authorize them to set aside the treaty, and proceedings under it, and now institute an inquiry as to what is the true source of St. Mary's river? I think Georgia cannot constitutionally or justly assert such a claim, and I trust it will be resisted with a becoming regard for the interests of the United States and the Territory I have the honor to represent.

The first charter granted to Georgia was in the fifth year of George II, Anno Domini 1732, which embraced all that part of Carolina lying between the Savannah river on the north, and the Altamaha on the south. In the year 1763, the King, by his royal proclamation, made four new provinces in the country acquired in America by the definitive treaty of peace concluded at Paris on the 10th February of that year. These provinces were Quebec, Grenada, East and West Florida. In designating the boundaries of East Florida, in that proclamation the following expression is used: "*From that part of the Appalachicola where the Chattahoochie and Flint rivers meet, to the source of the St. Mary's river, and by the course of the said river, to the Atlantic Ocean.*" In this proclamation, there is also a grant in these words: "*We have, also, with the advice of our Privy Council aforesaid, annexed to our province of Georgia all the lands lying between the rivers Altamaha and St. Mary's.*" It will be perceived, from an examination of the foregoing article in the King's proclamation, that the land annexed by it to the province of Georgia, south of the river Altamaha, did not extend beyond the source of that river, and that of the St. Mary's. I have not been able to discover any grant, proclamation, or public act by which the State of Georgia could set up any thing like a legitimate claim west and south of a line drawn from the head of the river Altamaha to that of the St. Mary's. It appears to me that the Government of the United States can, with much more propriety, annex all the land not included within such a line, and consequently not within the chartered limits of that State, to Florida, than to institute an investigation, at this time, to find a southern creek running into St. Mary's, for the boundary of that State. The commission given to Sir James Wright, on the 20th January, 1764, if it conferred a jurisdiction beyond the proclamation, could not be considered a grant of soil: the one is a law fixing upon certain geographical limits as the boundaries of provinces; the other, an authority to exercise jurisdiction specified in the grant of power. The commission of Sir James Wright calls for the southern stream of St.

Mary's; as this is repugnant to the grant of soil of both the provinces of Georgia and East Florida, it must be holden, like all commissions containing authority more extensive than the law on which they are founded, *void pro tanto*. This variance can reasonably be accounted for by a reference to the fact that, in the first charter to Georgia, the most southern stream of the Altamaha was fixed upon as the southern limit of the colony, and the commission to the Governor and Captain General pursued the charter. The second commission, after the annexation by the proclamation before quoted, appears to be a copy of the first, and in like manner calls for the most southern branch of the St. Mary's, which does not accord with the proclamation. The Governor of Georgia, in a communication to the Legislature of that State, of 28th November last, speaks of the land annexed to Georgia by the King's proclamation and the commission of Sir James Wright. It will be perceived that the latter includes more than the former, and that they cannot be connected together as embracing the same territorial extent; and if it be correct that a commission conferring powers more extensive than the law on which it is founded be void, the argument of course cannot be maintained, and the conclusion to which the Governor conducts us, "that a portion of the land within the limits of Georgia on the Florida frontier has been surveyed and sold by the United States," is fallacious. A very obvious distinction might here be taken between a proclamation, which is notice to all the world, and has the force of law, and a commission, which gives jurisdiction, and is of a nature to be regulated by convenience, and may be limited to one, or extended to half a dozen provinces. If, however, any doubt should remain, from this discrepancy, it is put to rest by the treaty between Great Britain and the United States, of 3d September, 1783: this treaty, which fixes the limits of the United States, at the conclusion of the revolutionary war, directs that our southern boundary shall pursue a line in latitude 31° north of the equator, "to the middle of the river Appalachicola or Chattahoochie; thence, along the middle thereof, to its junction with the Flint river, and thence straight to the head of St. Mary's river." So far, therefore, as any argument has been urged, founded on the charter of Georgia, I feel persuaded that it will be considered as having no force in opposition to the treaty; it was certainly competent for the confederacy, in concluding a peace at the termination of the war of independence, to regulate the boundaries of any of the former colonies. Contemporaneously with the definitive treaty of peace between the United States and Great Britain, was the cession of East and West Florida by Great Britain to Spain: and the question arose between his Catholic Majesty and our Government, what was the head and source of the St. Mary's river, as defined in the charter of Georgia and East Florida, and the treaty of 1783? The binding force of the treaty of 1783 is admitted by Governors Troup and Forsyth, and it is referred to by them; and the treaty of 1795, between Spain and the United States, follows it almost literally in the description of the boundaries between the two countries; but these boundaries, excepting where determined by natural objects, required ascertainment by actual survey and demarcation; it was necessary to ascertain the thirty-first degree of latitude by astronomical observation, and afterwards to trace the line by actual survey; to accomplish this, was inserted the 3d article of the treaty of 1795. Can it be denied that it was competent to the United States to enter into stipulations with Spain, to carry into effect the treaty of 1783? And does the treaty of 1795 profess to do any thing more? There is no

cession of territory ; the sole and exclusive object of the treaty of limits was to carry the former treaty into effect ; what then has the constitution of Georgia to do with the question ? By relation, the act ascertaining the limits, according to the principles adopted in the treaty of 1783, became a part of that treaty. In order to preclude further dispute, and terminate discussion, it was stipulated that the plats and journals of the commissioners should form a part of the treaty of limits : the line thus practically ascertained is to be considered as if expressed in that treaty. Without pursuing this course, the treaty of 1783, as regards the limits between Spain and the United States, would have been a dead letter, or at least useless for any practical purpose ; both treaties speak of the junction of the Flint and Chattahoochie as one point, and the head of the St. Mary's as the other, at which the line was to begin and terminate ; the first required no other ascertainment than that of the treaty of 1783 ; the second required the exercise of judgment and research : there could be no difference of opinion as to the first, but it was not the case as to the last. Like all other rivers, the St. Mary's has many heads, and different opinions might exist as to that most deserving of the name. It was, therefore, necessary to settle the matter by convention and agreement ; and, if this were done fairly, and without fraud, it should be, and is, as binding on the parties as if it were inserted in the treaty of 1783. No unfairness is alleged ; the interest of the United States prompted their commissioner to obtain the most advantageous adjustment ; and he did not yield in intelligence to that of Spain. The United States had, at this time, no adverse interest to that of Georgia ; on the contrary, it was their interest to obtain for that State as much as they could. If the interest of Georgia had been compromised by the fraud of the commissioner of the United States, I do not say there would be no ground for a claim of indemnity for the injury sustained. But suppose Spain had continued in possession of Florida, and this question had arisen between her and Georgia, the parties would be placed in a singular attitude. Spain would have had just reason to complain, unless guarantied by the United States, in what had solemnly been settled and assured to her. The matter, after having been determined by the proper parties, the only parties competent to determine it, was acquiesced in for twenty-seven years, during which time an examination has been made by a commission constituted by the State of Georgia, and a report made, that this was the head of the river. Upon what principle can this matter be opened, or rather considered as never having been settled ? I think it ought to be considered *res adjudicata*, and the maxim "*interet Reipublice ut finis litium*" applied, a maxim more important in the disputes of nations than to the controversy of individuals. Suppose Spain had attempted to extend her jurisdiction beyond Ellicott's mound, should we have not appealed to the ascertainment and decision in pursuance of the treaty of 1795 ? And would not Georgia have justly complained of the bad faith of Spain, and called down upon her the curse of Scripture, for attempting to remove her neighbor's landmarks ?

Justice does not vary with the change of parties. If such pretension would have been unjust on the part of Spain, it would be equally so on the part of the United States, or of Georgia. The necessity of adhering to treaties, when entered into, has been fully and ably urged by Governor Troup on another occasion. If the question would be considered as settled between Spain and the United States, I can see no reason why the subsequent acquisition of Florida should give rise to it again ; and if there

be any force in the argument that Georgia and the United States are the only parties, as the Delegate of Florida, I solemnly protest against any alteration of the boundaries, without the consent of my constituents.

If there is any grant of authority in the constitution, unquestionable in its nature, and I had almost said unlimited in its extent, it is the treaty-making power given to the General Government. The safety of the States was amply provided for, by requiring the ratification of the Senate, their immediate representatives. It cannot be expected that such a body would ever advise or consent to any convention that would injure themselves or their States. An encroachment, in one instance, would only be a precedent for its repetition in another; and the first blow would strike a nerve which would agitate the body politic in all its parts. The United States did not profess to cede any portion of Georgia, but to have its limits ascertained. The State of Georgia is prohibited by the constitution from forming any compact, convention, or alliance, or entering into any negotiation with a foreign Power, on the subject of boundary, or any other subject whatever. She can negotiate only through the Government of the United States; and any act constitutionally performed by that Government, in which her interests are affected, she is bound by, as much as if executed by herself. This is the only organ through which her complaints can be heard, and her rights protected, in controversies with other nations. The assent of the State was given to the treaty of 1795, which was entered into by her duly constituted agent, the Government of the United States, on a subject-matter within their legitimate jurisdiction; and, by that, Georgia is constitutionally and morally bound—*nam ille qui facit per alium facit per se*. It would be in vain that powers were given and treaties made, if one individual State had the right of resisting the solemn conventions of the General Government, their own representatives a component part, without any respect to their having been executed according to all the forms of the constitution, or to limitations as to time.

The assent of Georgia was not only given to the treaty of 1795, but upon a recent occasion, in the enactment of a law, in the execution of which this difficulty occurred, it was still more clearly and unequivocally expressed. That law was introduced by a part of the Georgia delegation, at the instance of the Executive of that State. This act, as introduced by them, and in the form in which it passed, did not provide for ascertaining the limits between the State and Territory, but authorized the President of the United States, in conjunction with the constituted authorities of Georgia, “to cause the line to be run and distinctly marked,” and “the line so to be run and marked shall be straight from the junction of the Chattahoochee and Flint, to the point designated as the head of St. Mary’s river, by the commissioners appointed under the third article of the treaty of 1795.”

It never occurred to that highly respectable delegation that it was competent for the United States to do any thing more than to execute the unfinished work of running and marking the line between the two points agreed upon by the two Governments of Spain and the United States; and it appears never to have occurred to the Executive of Georgia, until the work was nearly completed. The bill, as it was introduced by them, was objected to by me, on the ground that it should only provide for running to the head of St. Mary’s. It did not occur to me that the journals and proceedings of the commissioners were to be a part of the treaty itself.

Of this, however, I was soon informed by Governor Forsyth, who referred to that article of the treaty, and convinced not only myself, but the committee, that the question having been settled by the two nations, it could not now be disturbed. My opposition to the bill, as it came from the Senate, was induced by having learnt that there was a northern branch of the St. Mary's, of greater extent than the one selected by Ellicott and the Spanish commissioner, which, if ascertained to be the head of the river, would give to Florida as much land above the line as is now claimed by Georgia below it. I was convinced, however, by the arguments of Governor Forsyth, (and few men have greater powers to convince than that gentleman, on all questions requiring learning and talent.) that, however just our claim, it was one that could not be asserted, in consequence of its having been definitively settled by this treaty, which I now plead in bar of further proceeding. The discovery of a southern branch of the St. Mary's has altered the case, but does not alter, in my judgment, the principle on which it should be decided. When this bill came up for consideration, no objection was made to it by the delegation from Georgia, in either House. If they supposed that the question was yet open for discussion, why was the bill permitted to pass confining the operation to the two points agreed upon? I do not know that any limitation has been prescribed to nations or sovereignties, but it does appear to me that Georgia, after all these proceedings, ought not to claim an exemption from their operation, or to avail herself of the common law maxim, "*nulum tempus occurrit Regi.*" As I contend that no further legislation is necessary on this subject, I will only refer to a few facts to show the intrinsic difficulties of any further proceedings.

The commissioner of the United States, a gentleman of practical science and great erudition, who is alike distinguished for his activity, personal industry, and intellectual refinement, declares that the source of the St. Mary's is not only indeterminate, but indeterminate by any geographical or physical process whatever. I take the liberty to annex two extracts from the letters of that gentleman to me, which place the subject in such a clear light, and are expressed in so much better language than I can employ, that no remark of mine is necessary on the points to which they relate.

Upon most occasions, there is little difficulty in finding the head of a river. The longest branch from its disembogement, or the one which discharges the most water, is not always the head of the river. Names are arbitrary. The Escamba river, which discharges itself into the head of Pensacola bay, has two branches arising within one hundred miles of its mouth; whilst that of the Conecuh, which also runs into it, is almost twice as long, discharges the most water, and yet is certainly not the head of the Escambia, which has been known by that name more than half a century. This southern branch of St. Mary's, which has lately been discovered, and sought to be made the boundary of Georgia, has been known, from time immemorial, by a different name, and was no more thought of as the river known by the name of St. Mary's, than the Conecuh is now of the Escambia. It may discharge ten times the quantity of water, and yet not be the head of St. Mary's, as known at the time the charter was granted to Georgia, or when the treaties of 1783 and 1795 were made. The northern and what is now called the middle branch, near which the mound of Ellicott is erected, were then considered the only branches of what is properly called the St. Mary's; and the general idea

which prevailed at the time was, that Ellicott, the American commissioner, had obtained the advantage of the Spanish, in fixing the mound near what was, before this new discovery and new name, the southern branch of the St. Mary's. If the commission of Sir James Wright, referred to by Governor Forsyth, was not copied by mistake, from the first calling for the southern branch of Altamaha, this middle one was evidently intended. The provincial authorities, in the regulation of their parish, so considered it; the Board of Trade and Plantations, in England, so thought; and the commissioners of Georgia, appointed under the authority of the State, so reported. It is known that, at the time the examination was made by the surveyor of Georgia, it was a season of unparalleled drought, and, at another time, he might have made the same investigation, when all the waters of that vast reservoir composing, and in the vicinity of the Okefenokee swamp, discharging themselves through this middle channel, would have furnished more water in a month than the South creek did in a year. In a country remarkable for its calcareous combinations, new springs may break out, and branches be formed, which did not exist half a century ago.

I have heard it suggested that Ellicott's report was not to be found in the Department of State: it will be observed that the treaty speaks of "*the journal*," of which we have a copy in the Library of Congress, and this objection cannot be urged by Georgia, because it was stated to Col. Randolph, the commissioner of the United States, at Milledgeville, by the Executive, that the journal was considered authentic there, and would be acted upon as such. This journal was composed after the report was made; and, as a matter of history, would be considered conclusive, even if it were not made a part of the treaty. After this lapse of time, it would hardly be expected that, in relation to a fact of such notoriety, it would be required to support it with such technical evidence as a certified copy from Spain, because, by accident or negligence, it has been lost. We might as well demand from Georgia a certified copy of her charter from England at this day. If any evidence of its authenticity were demanded, or corroboration of the general history of the country, it will be found in the ostensibility of the mounds, and the objects and marks described.

In conclusion, I solemnly believe that the United States have a much stronger claim to all the land above what has been called the Florida boundary west of a line from the sources of the Altamaha and St. Mary's to the limit of the first charter, before the annexation by the King's proclamation, than Georgia has to the land now in contest, south of Ellicott's line; and, if that were added to Florida, we should be a State next year—"a consummation most devoutly to be wished."

I have the honor to be,

With high considerations,

Your most obedient servant,

JOS. M. WHITE.

Extracts of letters from Thomas M. Randolph, Esq., United States commissioner, to Jos. M. White, Delegate from Florida.

December 23, 1827.

"DEAR SIR: I not only concur fully in opinion with you upon the question of the Georgia claim, but I really think, with gravity, that Georgia

might have as reasonably set up a claim, when Louisiana was acquired, to the exterior of her territory as far as the Anglo-American Andes, because it reached the Mississippi before. 'All the lands lying between the rivers Altamaha and St. Mary's,' to take fifty miles wide over St. Mary's, is as unreasonable, in my opinion, as the former would have been. The head of St. Mary's was known as soon as there was a settlement at its mouth : for the Indians of Old Mico and the Mickasuky towns went there to trade very soon after, and were soon followed by great numbers of those residing on the waters running into the Gulf ; all of whom turned out where Suwanee runs out of it, and crossed St. Mary's about three miles below Ellicott's mound, at what is called the Pine Log crossing place to this day, because a very tall tree would reach across that place. They were always said to have come by the head of St. Mary's ; and that trail is acknowledged to be very ancient. The reconnoitring party sent by Ellicott and Minor, although they passed the mouth of what is called, to this day, the south prong, by the people residing near, went directly up the St. Mary's river to look for its head. They had no thought of any other St. Mary's. The Privy Council in England had no more thought of any other than they had : for it runs parallel, mainly, with the Altamaha, while the south prong is at right angles to that river, and would have been an indefinite boundary. The Provincial Assembly of Georgia could not have contemplated any other in March, 1765 ; for they bound their parish by a due west line from the head of the most southern branch they knew of. Now, from what has been hitherto considered the head, a line, according to Ellicott's calculation, from the north towards the west of $89^{\circ} 17' 22''$, would strike the junction of Flint and Chattahoochie ; of course N. 90° W., or due west, would strike lower down the Appalachiecola, being more to the left hand in going : how much lower still must a parallel line, or another due west course, starting fifty miles further south, come in contact with that river ? The Provincial Assembly could not have made such a mistake ; I am persuaded they did not make it. Spanish creek, at the mouth of which was the Indian trading establishment, called Trader's hill, was the north branch to them, and the St. Mary's itself the south branch. It would be as reasonable to insist on the head of the Missouri now, in constructing a document of old date calling for the source of the Mississippi, as to shift the name of St. Mary's where it never was before. To those at all acquainted with the theory of rivers, it is well known how illusory the test applied by Mr. McBride is, where they have expansions even sufficient to cause the stagnation, for a time, of most part of their waters, much more where their origin is a great reservoir. But in the supposition that Mr. McBride has determined the section of the channel accurately, and has made a correction for the superior velocity of the middle of the stream on the surface, the basin of the St. Mary's, of one hundred times greater area, perhaps being flat and shallow, while the other is deep, might have afforded less water at that time, and yet, at another, might yield as much in one week as the south prong in half a year ; and even if the latter did furnish most, which I am very sure is impossible for the whole year, it would be as unreasonable to call the centre of its lake the head of the St. Mary's, as for the Scots at Glasgow to look for the head of Clyde in the middle of Loch Lomond : the outlet of which pours into Clyde perpetually, more, by many times, than all its waters : for Loch Lomond has a manifold greater space to supply its waters than the Clyde, and the ratio is both inverse and infinitely greater in the American case."

December 26, 1827.

“DEAR SIR: In the hasty letter I had the honor to address you lately, I stated what I believe you will readily establish upon investigation as an historical fact, that the stream called the St. Mary’s by Ellicott, had been known by that name, at its head, for a great length of time before, in consequence of the Indian trading path to St. Mary’s, and afterwards to Cole-rain and Trader’s hill, having always crossed it there.

“The commissioners of the United States and Spain, in February, 1800, had never heard the name applied to any other: for Ellicott does not speak of such a question having arisen between him and Minor. The outlet of the main lake, unobserved by them, has not even been indicated in their map: so far were they from the idea that the name of St. Mary’s was susceptible of being shifted over to one of these lateral branches.

“I will take the liberty now to communicate another fact, of a different nature, coming under the chorographic head of the subject. Within four miles of the lake which gives rise to the south prong, another lake has been found, of somewhat larger surface, but affording less water, out of which flows what is called the west prong. Ellicott appears to have heard of this, but, quitting the river at his observation mound, to run his traverse line to the beacon mound, he has not laid it down further than to locate its mouth. Immediately to the east of the south prong there is another branch of the river, very much of the same description with the Alligator swamp, which joins the St. Mary’s about two miles below the beacon mound: but the former was reported to me, by hunters, to be half a mile wide, whilst the latter, which I explored fully myself, is not much over 100 hundred yards at any place where it is two feet deep. These two cannot be called streams, having never yet had current enough to scoop out a channel for themselves. The Alligator was not deeper than three feet just above its mouth, when St. Mary’s was nine feet deep, measured with a pole by myself, immediately above the junction. There is barely a perceptible flow in it, and, moreover, there was nowhere any clear space of water to be found belonging to it, after several days’ reconnoitring, crossing and recrossing, on horseback, whenever the soundness of its bottom would allow of riding: for the depth of water was no hindrance any where. This must, in 1765, have been considered as one of the outlets of Okefenokee into St. Mary’s; for it is, in a manner, blended with the little Okefenokee which feeds the St. Mary’s at its head, about six miles from the mouth, where it comes from the southward, and turns to the east. Again, that branch of Suwanee called Santafec was reported by the hunters of the country to head very close to the lake out of which runs the south prong. We have, then, a chorographic fact, that the space on the surface of the earth which furnishes rain water to supply that lake, out of which the south prong flows, is very narrow indeed, absolutely limited on one side to two miles, and very little more on any other; while the true St. Mary’s has a region of many hundred square miles, from Satilla to Suwanee, tributary to its head only: and its inundations are great, as Ellicott testifies, although by no means in proportion to such a space. A botanical fact explains that anomaly. All the marshes which supply the true St. Mary’s, produce, in great quantity, those “herbal ramosæ palustres” of the sphagnum genus, which form peat bogs in Scotland and Ireland. The growth is sixfold more luxuriant here than there in height; yet they do not show any thing like the same accumula-

tion of debris as in the case of the peat moss. Those plants furnish a substance insoluble in water, as is well known. The plain of the St. Mary's has been gradually elevated by that vegetable production; its swamps are now more extensive than they once were; and the loss of water it sustains by evaporation is manifold greater than formerly, in consequence of the manifest encroachment of the sphagnose marshes upon the dry palmetto flats. Whoever reconnoitres on horseback, diligently, will acknowledge this to be the fact, not theory. But it is entirely different in the lakes of that country. The "herbæ submersæ vado affixæ," and the "herbæ aquatiles liberæ" aquis innatantes, are readily soluble in water: for they are little more than a watery, paretchymatous substance, notwithstanding all the wonders of vegetation offered to the view by valemnia and stratiotes, rising to the surface, as in Lake Jackson, in places where a ship of the line could float. It is quite probable that the head of St. Mary's is further south, from that cause, now, than it was in 1765, when the Provincial Assembly thought a due west line from it would strike the mouth of Flint. It seems almost certain that the river receives less water in its channel near the beacon mound, than it once did. The question, where is the eastern extremity of the line, was probably much easier to settle then, than it is likely to be now. But the provision made in the treaty between Spain and the United States, of October, 1795, was known to Georgia. Ellicott was appointed before that year expired, and his report was not made until May, or June, 1800. The General Government having exclusively the foreign relations, of course made the arrangement with Spain, and Georgia was satisfied with the arbiter during four years' continuance of his functions, and with the award for twenty-seven years; nineteen years without any investigation on their part, and nine years after one made through the agency of three of their first citizens, to whose minds the idea of shifting the name of St. Mary's, from a stream that had always borne it, to another, did not occur.

"The authorities of Georgia, so far, and so long too, had ratified the conclusion made with Spain, and Florida, being completely the successor of Spain, it seems to me that the surveying the lands now, as proposed, would be, in that view, no less arbitrary and violent than an invasion of the Spanish territory, with the design to take possession, would have been formerly.

"The Government of the United States cannot surrender the territory of a State; but, when the claim of a State to such territory has been disputed, and the dispute settled with the approbation of the State, must that Government be reduced to the necessity of saying to the foreign sovereignty, you must send an armed force yourself to fulfil the award: we have no power to do it: it is a case in which the supreme law of the land cannot be put in execution by our authority?"

Message from the President of the United States, transmitting documents relative to the boundary line between Georgia and Florida.

WASHINGTON, March 3, 1828.

To the House of Representatives of the United States:

I transmit to the House of Representatives a report from the Secretary of State, with documents containing the instructions of the Government

of the United States to Thomas Pinckney, under which was negotiated the treaty of San Lorenzo el Real, and relating to the boundary line between the United States and the dominions, at that time, of Spain, as requested by a resolution of the House of the 18th ultimo.

JOHN QUINCY ADAMS.

DEPARTMENT OF STATE,

Washington, February 29, 1823.

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 18th instant, requesting the President to communicate to the House copies of the instructions of the Government of the United States, given to Thomas Pinckney, its minister in Spain, in pursuance of which the treaty of San Lorenzo el Real was entered into by said minister with the Government of Spain, so far as said instructions relate to the designation of the dividing line between the territories of Spain and the United States, has the honor to submit to the President the accompanying extracts: the first from a letter of instructions from Mr. Edmund Randolph, then Secretary of State, under date the 28th November, 1794, to Mr. Thomas Pinckney, appointed minister plenipotentiary to Spain; and the other, from a report referred to therein, which comprehends the particular instructions required by the resolution of the House.

All which is respectfully submitted.

H. CLAY.

Extract from instructions of Edmund Randolph, Secretary of State, to Thomas Pinckney, minister plenipotentiary of the United States at Madrid, dated November 28, 1794.

“Your powers inform you, in general terms, of the subjects with which you are charged. The development of the principles upon which they are to be contended for will be found in the documents of which Mr. Short is possessed. But, for the sake of enabling you to avail yourself of every opportunity, before you reach Madrid, I send a statement of our pretensions as they were laid before Congress, comprehending Mr. Jay’s discussions with Mr. Gardoqui, and the instructions and arguments transmitted to Messrs. Carmichael and Short. In these, the President sees no reason for a change.”

Extract from instructions of Mr. Jefferson, Secretary of State, to Messrs. Carmichael and Short, ministers plenipotentiary to Madrid, dated March 18, 1792.

“The President having thought proper to appoint you joint commissioners plenipotentiary on the part of the United States, to treat with the Court of Madrid on the subjects of the navigation of the Mississippi, arrangements on our limits and commerce, you will, herewith, receive your commission; as, also, observations on these several subjects reported to

the President, and approved by him, which will, therefore, serve as instructions for you. These expressing minutely the sense of our Government, and what they wish to have done, it is unnecessary for me to do more here than desire you to pursue these objects unremittingly, and endeavor to bring them to an issue in the course of the ensuing summer."

Extract from a report of Mr. Jefferson, Secretary of State, to the President of the United States, dated 18th March, 1792.

The appointment of Mr. Carmichael and Mr. Short as commissioners to negotiate with the Court of Spain a treaty or convention relative to the navigation of the Mississippi, and which, perhaps, may be extended to other interests, rendering it necessary that the subjects to be treated of should be developed, and the conditions of arrangements explained, the Secretary of State reports to the President of the United States the following observations on the subjects of negotiation between the United States of America and the Court of Spain, to be communicated, by way of instructions, to the commissioners of the United States appointed, as before mentioned, to manage that negotiation. These subjects are—

1. Boundary.
2. The navigation of the Mississippi.
3. Commerce.

1. As to boundary, that between Georgia and Florida is the only one which will need any explanation. Spain sets up a claim to possessions within the State of Georgia, founded on her having rescued them by force from the British during the late war. The following view of that subject seems to admit of no reply.

The several States now composing the United States of America were, from their first establishment, separate and distinct societies, dependent on no other society of men whatever; they continued at the head of their respective Governments the Executive Magistrate who presided over the one they had left, and thereby secured, in effect, a constant amity with the nation. In this stage of their Government, their several boundaries were fixed; and particularly the southern boundary of Georgia, the only one now in question, was established at the 31st degree of latitude from the Appalachicola, westwardly; and the western boundary, originally the Pacific Ocean, was, by the treaty of Paris, reduced to the middle of the Mississippi. The part which our Chief Magistrate took, in a war waged against us by the nation among whom he resided, obliged us to discontinue him, and to name one within every State. In the course of this war, we were joined by France as an ally, and by Spain and Holland as associates, having a common enemy: each sought that common enemy wherever they could find him. France, on our invitation, landed a large army within our territories, continued it with us two years, and aided us in recovering sundry places from the possession of the enemy: but she did not pretend to keep possession of the places rescued. Spain entered into the remote western part of our territory, dislodged the common enemy from several posts they held therein, to the annoyance of Spain, and perhaps thought it necessary to remain in some of them, as the only means of preventing their return. We, in like manner, dislodged them from several posts in the same western territory, to wit: Vincennes, Cahokia, Caskaskia &c.,

rescued the inhabitants, and retained constantly afterwards both them and the territory under our possession and government. At the conclusion of the war, Great Britain, on the 30th of November, 1782, by treaty, acknowledged our independence and our boundary, to wit, the Mississippi to the west, and the completion of the 31st degree, &c. to the south. In her treaty with Spain, concluded seven weeks afterwards, to wit, January 20th, 1783, she ceded to her the two Floridas (which had been defined in the proclamation of 1763) and Minorca; and, by the 8th article of the treaty, Spain agreed to *restore, without compensation*, all the territories conquered by her, and not included in the treaty, either under the head of cessions or restitutions, that is to say, all except Minorca and the Floridas. According to this stipulation, Spain was expressly bound to have delivered up the possessions she had taken within the limits of Georgia to Great Britain, if they were conquests on Great Britain, who was to deliver them over to the United States; or rather she should have delivered them to the United States themselves, as standing, *quoad hoc*, in the place of Great Britain; and she was bound, by natural right, to deliver them to the same United States, on a much stronger ground, as the real and only proprietors of those places which she had taken possession of, in a moment of danger, without having had any cause of war with the United States, to whom they belonged, and without having declared any; but, on the contrary, conducting herself, in other respects, as a friend and associate. Vattel, 1, 3, 122.

It is an established principle that conquest gives only an inchoate right which does not become perfect till confirmed by the treaty of peace, and by a renunciation or abandonment by the former proprietor. Had Great Britain been that former proprietor, she was so far from confirming to Spain the right to the territory of Georgia invaded by Spain, that she expressly relinquished to the United States any right that might remain in her, and afterwards completed that relinquishment, by procuring and consolidating with it the agreement of Spain herself to restore such territory, without compensation. It is still more palpable that a war existing between two nations, as Spain and Great Britain, could give to neither the right to seize and appropriate the territory of a third, which is even neutral, much less which is an associate in the war, as the United States were with Spain. See, on this subject, Grotius, 1, 3, c. 6, § 26; Puffend., 1, 8, c. 6, § 17, 23; Vattel, 1, 3, § 197, 198.

On the conclusion of the general peace, the United States lost no time in requiring from Spain an evacuation of their territory: that it has been hitherto delayed, by means which we need not explain to that court, but which have been equally contrary to our right and to our consent.

Should Spain pretend, as has been intimated, that there was a secret article of treaty between the United States and Great Britain, agreeing, if, at the close of the war, the latter should retain the Floridas, that then the southern boundary of Georgia should be the completion of the 32d degree of north latitude, the commissioners may safely deny all knowledge of the fact, and refuse conference on any such postulatum; or should they find it necessary to enter into argument on the subject, they will, of course, do it hypothetically, and, in that way, may justly say, on the part of the United States, "Suppose that the United States, exhausted by a bloody and expensive war with Great Britain, might have been willing to have purchased peace by relinquishing, under a particular contingency, a small

part of their territory, it does not follow that the same United States, recruited and better organized, must relinquish the same territory to Spain, without striking a blow. The United States, too, have irrevocably put it out of their power to do it by a new constitution, which guaranties every State against the invasion of its territory. A disastrous war, indeed, might, by necessity, supersede this stipulation, (as necessity is above all law,) and oblige them to abandon a part of a State; but nothing short of this can justify or obtain such an abandonment."

The southern limits of Georgia depend chiefly on—

1st. The charter of Carolina to the lords proprietors, in 1663, extending southwardly to the river Matheo, now called St. John's, supposed in the charter to be in latitude 31°, and so west, in a direct line, as far as the South Sea.

2d. On the proclamation of the British King, in 1763, establishing the boundary between Georgia and the two Floridas, to begin on the Mississippi, in 31° of latitude north of the equator, and running eastwardly to the Appalachicola; thence, along the said river, to the mouth of the Flint; thence, in a direct line, to the source of the St. Mary's river, and down the same, to the ocean. This proclamation will be found in *Postlethwayte voce*. "British America."

3d. On the treaties between the United States and Great Britain, of November 30, 1782, and September 3, 1783, repeating and confirming these ancient boundaries.

There was an intermediate transaction, to wit, a convention concluded at the Pardo in 1739, whereby it was agreed that ministers plenipotentiary should be immediately appointed by Spain and Great Britain for settling the limits of Florida and Carolina. The convention is to be found in the collections of treaties; but the proceedings of the plenipotentiaries are unknown here. *Qu.* If it was on that occasion that the southern boundary of Carolina was transferred from the latitude of Matheo, or St. John's river, further north to the St. Mary's? or was it the proclamation of 1763 which first removed this boundary? [If the commissioners can procure, in Spain, a copy of whatever was agreed on in consequence of the convention of the Pardo, it is a desirable State paper here.]

To this demonstration of our rights, may be added the explicit declaration of the Court of Spain that she would accede to them. This took place in conversations and correspondence thereon between Mr. Jay, minister plenipotentiary for the United States at the Court of Madrid, the Marquis de Lafayette, and the Count de Florida Blanca. Monsieur de Lafayette, in his letter of February 19, 1783, to the Count de Florida Blanca, states the result of their conversations on limits, in these words: "With respect to limits, his Catholic Majesty has adopted those that are determined by the preliminaries of the 30th of November between the United States and the Court of London." The Count de Florida Blanca, in his answer of February 22d, to M. de Lafayette, says, "Although it is his Majesty's intention to abide, for the present, by the limits established by the treaty of the 30th of November, 1782, between the English and the Americans, the King intends to inform himself particularly whether it can be, in any way, inconvenient or prejudicial to settle that affair amicably with the United States." And M. de Lafayette, in his letter of the same day to Mr. Jay, wherein he had inserted the preceding, says, "On receiving the answer of the Count Florida Blanca, (to wit, his answer be-

fore mentioned, to M. de Lafayette.) I desired an explanation respecting the addition that relates to the limits. I was answered that it was a fixed principle to abide by the limits established by the treaty between the English and the Americans; that his remark related only to mere unimportant details which he wished to receive from the Spanish commandants, which would be amicably regulated, and would by no means oppose the general principle. I asked him, before the ambassador of France, (M. de Montmorin,) whether he would give me his word of honor for it. He assured me he would, and that *I might engage it to the United States.*"

Report of the Committee on the Judiciary of the House of Representatives, to which was referred the message of the President of the 22d January, 1828, transmitting copies of communications from the Governor of Georgia, relating to the line dividing that State from the Territory of Florida—March 21, 1828.

The correspondence between the President and the Governor of Georgia, thus referred to the committee, presents the question, What is the correct boundary between that State and the Territory of Florida? To enable the House to decide this question, the committee beg leave to present to their consideration a condensed view of the evidence in relation to it.

The charter of Carolina to the lords proprietors, in 1663, extended southwardly to the river Matheo, now called St. John's, supposed in the charter to be in latitude 31°, and so west, in a direct line, as far as the South Sea.

It appears by an extract from the charter of Georgia, in 1732, that the boundaries were "all those lands, countries and territories, situate, lying, and being in that part of South Carolina, in America, which lies from the northern stream of a river commonly called the Savannah, all along the seacoast to the southward, unto the most southern stream of a certain other great water or river called the Altamaha, and westward from the heads of the said rivers respectively, in a direct line, to the South Seas." Before the date of this charter to Georgia, by a second charter to Carolina, in 1667, its limits had been extended south and westward as far as the degree of twenty-nine, inclusive, of northern latitude. The Government of Carolina having been, in its origin, a proprietary one, was, in 1729, surrendered by seven out of eight of the proprietors, and afterwards by the eighth, and then became a regal one; and the province was divided into the two Governments of North and South Carolina. The order of Council making this division, and fixing the boundaries, is not accessible to the committee, nor is it deemed material.

The trustees of Georgia, in 1752, surrendered the whole territory to the King, and the Government was afterwards entirely regal.

The King, by a proclamation of the 7th October, 1763, annexed to the province of Georgia all the lands lying between the rivers Altamaha and St. Mary's, and by his commission to Governor Wright, of the 20th January, 1764, declares the boundaries to be on the north by the most northern stream of a river there commonly called Savannah, as far as the head of said river, and from thence westward as far as our territories extend; on the east by the seacoast, from said river Savannah to the most southern stream of a certain other river called St. Mary, including all islands

within twenty leagues of the coast lying between the rivers Savannah and St. Mary, as far as the head thereof; and from thence westward as far as our territories extend, by the north boundary line of our provinces of East and West Florida.

By the treaty of peace, in 1783, between the United States and Great Britain, the southern boundary of the United States is thus described: "South by a line to be drawn due east from the determination of the line last mentioned, in the latitude of thirty-one degrees north of the equator, to the middle of the river Appalachicola or Chattahoochie; thence, along the middle thereof, to its junction with the Flint river; thence, straight to the head of St. Mary's river; and thence, down along the middle of St. Mary's river, to the Atlantic Ocean."

By the proclamation of 1763, before referred to, the King had declared that part of the northern boundary of East Florida which is now the subject of inquiry, to be as follows, viz. 'To the northward by a line drawn from that part of said river (Appalachicola) where the Chattahoochie and Flint rivers meet, to the source of St. Mary's, and by the course of the said river to the Atlantic Ocean. Spain having obtained from Great Britain a cession of the Floridas, without, as is believed, any description of limits, but with a knowledge of the provisional treaty of November, 1782, and under what were the boundaries of those provinces in the hands of Great Britain, some difficulty arose between the United States and Spain in relation to this boundary, which led to the treaty of 27th of October, 1795, commonly called the treaty of San Lorenzo el Real; by the second article in which it was agreed that the boundary line between the United States and the Floridas shall be designated by a line beginning on the river Mississippi at the northernmost part of the thirty-first degree of latitude north of the equator, which from thence shall be drawn due east to the middle of the river Appalachicola or Chattahoochie; thence, along the middle thereof, to its junction with the Flint; thence straight to the head of St. Mary's river; and thence, down the middle thereof, to the Atlantic Ocean.

It was provided by the third article of that treaty that a commissioner and surveyor, to be appointed by each of the contracting parties, should run and mark the boundary according to the stipulations of the second article above recited. It was further stipulated that they should make plats, and keep journals of their proceedings, which should be considered as part of the convention, and have the same force as if they were inserted therein. In conformity with this stipulation, Andrew Ellicott was appointed commissioner, and Thomas Freeman surveyor, on the part of the United States, for the purpose of running the line mentioned in the second article. This appointment was made in May, 1796. It appears, from a letter of the commissioner, dated 22d March, 1800, to the then Secretary of State, that a report of what had been done would soon be completed; but that report, if made, is not now, as far as the committee are informed, to be found. It appears, from the same letter, that our commissioner experienced great difficulty and embarrassment, in the execution of the duty assigned to him, from the Indians; and, he intimates, at the instigation of others. The journal of Ellicott was published in 1803. It appears that the commissioners did not run and mark the line from the junction of Chattahoochie and Flint rivers to the head of St. Mary's; but they designated a point which should be taken as the one to or near which a line should be drawn

from Flint river, which, when drawn, was to be final, provided it passed not less than one mile north of a certain mound erected by them : but if, on experiment, it should be found to pass within less than a mile north of said mound, it should be corrected to carry it to that distance. This mound is near the Okefenokce swamp. It appears from a report of John McBride, a surveyor appointed by Georgia in the year 1827, that there is a stream called by him the south branch of the St. Mary's, much further south than the one considered the head branch of that river by the American and Spanish commissioners ; and he says that both its length, its volume of water, and general direction, coincide in favor of the south branch. It appears, by a document referred to as part of this report, marked A, that, under a resolution of the Senate of Georgia, in 1818, the Governor of that State appointed commissioners to examine and report whether Ellicott's mound was the true head of the St. Mary's ; and from the letter of the Governor, in 1819, to the Secretary of War, it appears that the commissioners had reported that, after a careful examination, they found the head of St. Mary's to agree with the report made by Mr. Ellicott. Two of the commissioners, in a paper referred to as part of this report, marked B, think it probable that they may have been misled by their guide—assigning as the reasons of that impression, 1st, that they recollect to have seen what appeared to them, through thick brushwood, to be a lively little stream, emptying in through the opposite or right bank of the southern or middle fork of the St. Mary's ; which, being pointed out to the pilot, he replied that the branch they were pursuing was the right one ; and, 2d, by the representation given by the survey of McBride. After this review of the evidence, it will be seen by the House that the question is, What is the head or source of the St. Mary's ? For the other end of the line, to wit, the junction of the Chattahoochie and Flint rivers, being uncontested, so soon as the head of the St. Mary's is ascertained, all difficulty ceases as to the boundary. The committee are of opinion, upon the whole view of the case, that the point designated by the American and Spanish commissioners ought to be considered as the head of St. Mary's. They consider the solution of the question to depend on this : which stream is to be considered the true St. Mary's river, according to reputation, and the understanding and acquiescence of the parties concerned. As far back as 1800, the commissioners of the two Governments considered, upon examination, what is now called the north branch as the St. Mary's ; and the Georgia commissioners, in 1819, concur with Mr. Ellicott as to the head of that river : although another river unites with this, which vents more water, and is longer, yet, if it were not called or known by the name of St. Mary's, these circumstances would not alter the case. The committee infer that it was not so called or known, from these circumstances : 1st, that the commissioners of two Governments were appointed to settle and decide a contested question of boundary : to do this, the head of the St. Mary's being one of the termini, it became their duty to seek for information from every source accessible to them, as to which stream was the St. Mary's, and what was its head. Having fixed upon a particular stream as being the true river, and designated a point as its source, and this being matter of notoriety, Georgia acquiesced without objection, as far as the committee are informed, till 1818 ; and then the report of their own commissioners coincided with Ellicott's designation, and that, too, though they had as their pilot, as the committee believe, the very person on whose suggestion they had been ap-

pointed. In this report Georgia acquiesced, as far as the committee is informed, until recently. As far as the nature of this unsettled country will admit of reputation as to the names of its streams, these facts may be considered as probably the best evidence which was the St. Mary's river, and the head of that river, as intended in the several State papers above recited. There is an example mentioned in one of the printed documents which will illustrate the idea of the committee. It is now believed to be a geographical fact that the Missouri is a longer stream than the Mississippi, and, we believe, vents more water; and yet, as it never has been called by the name of Mississippi, if we were now called upon to decide what was the head of the Mississippi, we should take, not the source of the Missouri, though it unites with the other stream, but the source of what is and has been called the Mississippi. It is not intended to say that the case in question is as palpable, but, after settling the principle that, in ascertaining the head of a stream of a given name, we must inquire where two streams unite—not which is the longest, or vents the most water, but which has been called and known by the given name—we are then to decide, upon the best evidence in our power, as to that fact: and we think the evidence is in favor of the stream designated by Ellicott.

Resolved, therefore, as the opinion of the committee, that, in running the boundary line between Georgia and Florida, the point designated by the commissioners under the third article of the treaty of 1795 between the United States and Spain, ought to be the termination of the line from the junction of the Chattahoochie and Flint rivers.

(A.)

IN SENATE, 12th December, 1818.

Resolved, That his Excellency the Governor be requested to appoint two fit and proper persons to proceed, without delay, to ascertain the true head of the St. Mary's river; and, if it shall appear that the mound thrown up by Mr. Ellicott and the Spanish deputation is not at the place set forth in the treaty with Spain, that they make a special report of the facts to the Governor, who shall thereupon communicate the same to the President of the United States, accompanied with a request that the lines may be run agreeably to the true intent and meaning of the aforesaid treaty.

And it is further resolved, That the Governor order out a suitable detachment of militia to protect the said commissioners in the performance of their duty.

Approved: 19th December, 1819.

EXECUTIVE DEPARTMENT, GEORGIA,

Milledgeville, 17th February, 1819.

SIR: I take the liberty to call your attention to the subject of the contemplated line between this State and the province of East Florida, which you no doubt recollect is expected to be run this spring by the General Government.

Preparations are making to commence surveying that section of country in a short time; it is, therefore, very desirable that the line should be defined as early as possible.

The Legislature of this State, at their late session, having received satisfactory information that the mound thrown up by Mr. Ellicott and the Spanish deputation, on the Okefenokee swamp, is not the true head of St. Mary's river, as contemplated in the treaty with Spain, directed me to appoint commissioners to ascertain the fact, and to communicate the result to the President of the United States, with a request that the line might be laid out agreeably to their report. Majors General Floyd and Thompson, and Brigadier General Blackshear, have been appointed to, and are now engaged in, the performance of that duty. Their report shall be transmitted to you as soon as I receive it.

I have every reason to believe that the head of that river will be found at least twenty miles south of the point agreed on by Mr. Ellicott and the Spanish commissioner. Should this conjecture prove to be a fact, the State of Georgia will be entitled to the land within that boundary, according to the treaty with Spain. In any event, it is of great importance that one of those lines should be completed as soon as circumstances will justify the measure.

Enclosed, I hand you a resolution of the Legislature on the subject.

With high respect, I am, sir,

Your obedient servant,

WM. RABUN.

The Hon. JOHN C. CALHOUN,
Secretary of War, Washington City.

EXECUTIVE DEPARTMENT, GEORGIA,

Milledgeville, 3d March, 1819.

SIR: On the 17th ultimo, I had the honor to address you on the subject of the contemplated line between this State and the province of East Florida. I stated that the Legislature of this State had directed me to appoint commissioners to ascertain the true head or source of the St. Mary's river, and I promised to forward their report to you as soon as the same was received. The commissioners have returned, and reported that, after a careful examination, they found the head of that river to agree with the report made by Mr. Ellicott, and prove, beyond the possibility of doubt, that the information received by the Legislature of this State relative to that subject was incorrect. I flatter myself that directions will be forwarded to Mr. Lumpkin immediately to close that line, according to the treaty with Spain. And, if the General Government can afford us assistance in guarding the surveyors who will be engaged in laying out the country, it will be acknowledged as a great accommodation.

I am, with high respect,

Your obedient servant,

WM. RABUN.

Hon. J. C. CALHOUN,
Secretary of War.

(B.)

In the year 1817, Captain William Conc, then a member of the Legislature of Georgia, represented, on his own knowledge of the St. Mary's

river, that Mr. Ellicott had mistaken its true head or source ; and that an accurate survey would establish the fact that the head or source of the middle fork or branch, (perhaps then called the South Branch,) which was twenty miles south of Mr. Ellicott's mound, would be found to be the true source of the St. Mary's river, and therefore the true point of demarcation between the State of Georgia and the then Spanish province of East Florida. The Governor of Georgia was authorized by the Legislature to appoint commissioners to ascertain the truth of the facts alleged by Captain Cone. The undersigned, with Brigadier General David Blackshear, were appointed, and specially instructed, by the Governor of Georgia. They employed Captain Cone as a pilot, and, with a competent surveyor, caused to be measured (beginning at or near the point designated by Ellicott as the head of the St. Mary's river) the distance from that point, by the meanders of the northwest branch, to its junction with the stream or branch represented by Cone to be the true source of the St. Mary's, and up the left bank of the latter branch, until the commissioners reached an extensive swamp, into which the pilot, with two of the commissioners, (the undersigned,) penetrated about half a mile, and saw no water or water channel. Captain Cone was then directed by the commissioners to pass entirely across the swamp, (to the pine barren beyond the swamp,) who, on his return, reported that there was no stream of water or water channel in the swamp ; and that we had reached the head of the branch to which he had referred in the information given by him to the Legislature. On a comparison of the length of the two streams, it was found that the latter, from its junction with the other to the swamp above referred to, was much the shortest ; and the commissioners consequently reported in favor of the former as the head or source of the St. Mary's river.

It is, however, more than probable, that the commissioners may have been misled by the inadvertency of Captain Cone, who professed to be intimately acquainted with the geography of that part of the country, and on whom they were instructed to rely, who may have been diverted from the principal stream by mistaking a branch of it. And we, the undersigned, are inclined to this belief, first, because we recollect to have seen, a short distance below the swamp to which we have referred, what appeared to us, through thick brushwood, to be a lively little stream, emptying in through the opposite or right bank of the southern or middle fork of the St. Mary's, which was pointed out to the pilot ; who replied, that the branch we were then pursuing was the right one ; and because of the representation given by the survey of McBride.

February 29, 1828.

JOHN FLOYD.
WILEY THOMPSON.

Resolutions of the Legislature of Florida in relation to the Georgia boundary.

Resolved, That it is the opinion of the present Legislative Council of Florida, that the sixth article of the treaty between Spain and the United States, of the 22d of February, 1819, secures to the inhabitants then occupying, and those who may occupy, the ceded territory, as Spain held them under the treaty of 1795, an admission into the Union, as soon as it may be consistent with the principles of the federal constitution : and that any

diminution of its limits, or alteration of its lines, will be a manifest violation of the supreme law, an act of oppression to the inhabitants of the ceded territory, and of injustice to the United States.

Resolved, further, That the Legislative Council, representing the people of the ceded territory, respectfully, in the name of the said people, protest against the passage of any law that will change the boundary between this Territory and Georgia; and that our Delegate in Congress be requested to continue his exertions in resisting the pretensions now set up by Georgia to fifteen hundred thousand acres of the land ceded by Spain to the United States.

Resolved, further, That commissioners ought to be appointed, in behalf of the Territory, to ascertain the true sources of the St. Mary's, so that our rights may be defended on facts, as well as the treaty; and to make a report at an early period of the approaching session of Congress.

Be it therefore resolved, That the Governor appoint three fit and discreet persons as commissioners, to carry the foregoing resolutions into effect; and that any two of them, provided the other cannot attend, are hereby empowered to act.

Resolved, further, That our Delegate be requested to obtain an order for ascertaining the true boundary between Florida and Alabama, or the passage of a law for that object.

Resolved, further, That the said Delegate be requested to use his exertions to remove the Florida Indians from this Territory."

Adopted this 23d November, 1828.

THOS. MONROE,
Clerk Legislative Council, Florida.

Report to, and resolution of, the Legislature of the State of Georgia, in relation to running and fixing the boundary line between the said State and the Territory of Florida.

EXECUTIVE DEPARTMENT, GEORGIA,

December 26, 1828.

GENTLEMEN: I transmit the enclosed report and resolutions, agreeably to the wishes of the General Assembly.

I am, gentlemen, your obedient servant.

JOHN FORSYTH.

The Hon. the REPRESENTATIVES from Georgia,
in the Congress of the United States, Washington City.

The Joint Committee on the state of the Republic, to which was referred that part of the Governor's communication which relates to the dividing line between Georgia and the Territory of Florida, have had the same under consideration, together with the accompanying documents, and, after an attentive examination of the subject, report:

That the Executive, conformably to the resolution of the last session, caused the report then made to be laid before Congress, and, in further compliance with the request of the Legislature, opened a correspondence

with the President of the United States, in which the claims of Georgia to her legitimate and constitutional boundary were zealously and ably asserted. The report made to the Senate of the United States, by the judicial committee, recommended the postponement of the subject until the ensuing session. That to the House of Representatives was drawn to a more definite conclusion, by resolving, "as the opinion of the committee, that, in running the boundary line between Georgia and Florida, the point designated by the commissioners under the third article of the treaty of 1795, between the United States and Spain, ought to be the termination of the line from the junction of the Chattahoochie and Flint rivers." This report was not acted upon; the subject, consequently, is yet to be discussed and decided. Your committee, reposing full confidence in the General Government, and deeply sensible of the inviolability of Georgia's claim, cannot but express their disappointment that the committee should, upon the evidence before it, have hesitated to recommend the repeal of the act of Congress of 1826, or such a modification of it as would have enabled the President to empower commissioners, in conjunction with this Government, to run and mark the line agreeably to the rights of the parties; and still more are they surprised that reasons should have been sought after, and arguments employed, on which no just inference against our claim can be sustained. The whole argument used by the committee charged with this matter has for its foundation, and arises out of, the mistake of Mr. Ellicott and the Spanish commissioner, in designating the north branch as the true source of the St. Mary's. This mistake is the keystone of the whole arch: it is from this that they say the north prong was called St. Mary's, and ought to be so considered: it is this that led them into the error of declaring that the commissioners of the two Governments were appointed to settle and decide a contested question of boundary; and because this mistake was not detected before the line was about to be run, the acquiescence of Georgia is presumed, and urged as an argument against her claim.

It is a fact admitted by all parties, and which forms the very essence of this controversy, that the line between the Chattahoochie and Flint rivers, and the head of St. Mary's river, was neither traced nor marked by the commissioners appointed under the third article of the treaty with Spain. From that article they derived their powers, and, by a reference to it, it will appear that they were not plenipotentiaries, but merely ministerial agents, acting under orders to run and mark the line according to the stipulations of the 2d article of the treaty, which is in the following words: "The southern boundary of the United States, which divides their territory from the Spanish colonies of East and West Florida, shall be designated by a line beginning on the river Mississippi, at the northernmost part of the 31st degree of latitude north of the equator, which from thence shall be drawn due east to the middle of the river Appalachicola, or Chattahoochie; thence, along the middle thereof, to its junction with the Flint; thence straight to the head of St. Mary's river; and thence, down the middle thereof, to the Atlantic Ocean." From the Mississippi to the Chattahoochie, they executed their commission according to the stipulations of the treaty. The remaining part of the duty assigned them they neglected to perform: and whatever agreement they may have made by virtue of the powers invested in the third article, cannot be reasonably insisted upon as authority for varying the true line, as the article, in its most enlarged con-

struction, does not extend so far as to justify the running of the line in any other direction, or from and to any other points than those designated in the 2d article. The point of departure, and terminating point, are both fixed by the 2d article; and it is provided in the 3d, specially, that the commissioners should run and mark from and to those points. The points referred to are from the junction of the Chattahoochie and Flint rivers to the head of the St. Mary's river, and not to mound A, or mound B, or to any other indefinite place, to be fixed upon at the commissioners' discretion. As the proceedings of those commissioners present the only difficulty, your committee beg leave to cite the whole article under which they acted, to wit: "In order to carry the preceding article into effect, one commissioner and one surveyor shall be appointed by each of the contracting parties, who shall meet at the Natchez, on the left side of the river Mississippi, before the expiration of six months from the ratification of this convention: and they shall proceed to run and mark this boundary according to the stipulations of said article; they shall make plats, and keep journals of their proceedings, which shall be considered as part of this convention, and shall have the same force as if they were inserted therein." It is charitable to presume that the Judiciary Committee did not examine minutely the provisions of this article, or they would not have exposed their judgment to impeachment by asserting that "the commissioners of the two Governments were appointed to settle and decide a contested question of boundary."

There is no discretion conferred in this article. If their plats and journals were to have the same force as the convention, they were nevertheless obliged to be in accordance with its stipulation. If, therefore, Mr. Elliott agreed, as is insisted upon, that one mile north of mound B should be as far south as the line, when run, should approach, it is very palpable that he exceeded his authority, even though he may have made a plat of mound B, and journalized the agreement. He was not sent there to make an agreement defining a point to which the line should be run at some future time, but to run and mark the line between points already described. If permitted to vary the stipulation of the treaty, he could, with as much propriety and equal justice, have fixed upon a point fifty miles further in the interior of Georgia. The question is, did the Spanish and American commissioners run and mark the line from the junction of Chattahoochie and Flint rivers to the head of the St. Mary's river, as they were directed to do? No: they ran no line at all between those points! What did they do? They agreed that the line should be run at some future time, and by some other persons, to a certain other point, different from that fixed by the treaty!!! The committee who have claimed its extraordinary power for the commissioners, place themselves in an inextricable dilemma, as they not only consider themselves authorized to overturn the treaty they were appointed to carry into effect, but likewise assume *for them the right* to bargain away the soil and sovereignty of a sovereign State, who could not, under her obligations to the Union, interfere in settling the boundaries of the United States, though on that line of it she was more immediately concerned than all her sister States together. So far from those commissioners being justified in the exercise of the power which they arrogated, your committee, next to the loss of the liberties of their own State, would regret to see the time when the Government of the United States should become so forgetful of the limitations of her prerogatives, as to assume the power

of ratifying a treaty with any foreign nation, by which the least portion of the soil of a State should be taken from her without her consent.

The United States is bound by the constitution to protect us from invasion. Upon the supposition, then, that the line had been run and marked agreeably to the report of the Spanish commissioners, and had been sanctioned by the Government, by a ratification of the treaty, it would have imposed upon her the disagreeable alternative of breaking the treaty with Spain, or abandoning her obligations to the confederacy. If Florida were yet a Spanish province, Georgia would have a right to require the United States to perform her sacred engagements, by driving from our soil the Spaniard who invaded it. "*To provide for the common defence,*" is one of the principal objects of our political association; and could the United States humiliate themselves upon our application to have our soil and our sovereignty restored to us, by pleading that they had ceded it to Spain, and therefore could not interfere, such a disregard of her obligations would be productive of the worst of consequences, as it would destroy all confidence in the protection of the constitution. It is not expected, now that the Federal Government is the proprietor of Florida, that it can be unmindful of the declaration in the constitution, that "no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or *parts* of States, without the consent of the Legislatures of the States concerned." Has the Legislature of Georgia ever given her assent, in any manner, that that portion of the State should be detached and set apart to assist in the formation of another State? The foregoing allusion to the obligations of the General Government to the States, we have thought it advisable to make, because it does not appear, from the report made to the House of Representatives, that the committee themselves consider Ellicott's mound to be the head of St. Mary's; but they say it "ought to be so considered, because Ellicott and the Spanish commissioner agreed that it should be so, and that the Georgia commissioners, in 1819, concurred in the designation: from which circumstances it had the reputation of being the head of St. Mary's; and because of that reputation, it should be considered the true head or source of the St. Mary's." This, though not precisely their language, is the amount of their argument. Your committee, conceiving that they have most conclusively proven the American and Spanish commissioners to have acted extra officially in making mounds and agreements not provided for by the treaty, any reputation of names inferred from those acts is too vague to require serious examination.

In regard to the acquiescence of Georgia, the facts cited in the report to Congress prove that the authorities of the State were deceived. If Georgia had considered the act of the United States and Spain as decisive and final, she would not have deputed commissioners to have made an examination. The very deputation shows that she conceived, as must be admitted, that she had a right to be heard in settling her own boundary. She did not, though, send those commissioners to make a final settlement of her boundary. She could only confer such power when the United States were ready to join her in the commission. They were sent merely upon an exploring tour, for the satisfaction of the State, on a disputed point. The United States were under no obligation to abide by the opinion formed. How, then, can the United States, upon any principle of reciprocity, contend that Georgia should be forestalled by an opinion as

o an isolated fact, to which they held themselves free to agree or disagree? The acquiescence of Georgia, in the extent to which it has been given, only proves that she was then, as she is now, and ever will be, while she respects the rights of others as she does her own, willing to be governed in the running of that line by the true points. She desired, then, no more than she believed to be her right; and from the evidence then in her possession, she supposed the point fixed upon by Ellicott was the true point. She contends now for no more than later developments incontestably prove to be her own.

Your committee feel authorized by the facts to deny that Georgia has ever acquiesced so far as to agree that the line should be run to Ellicott's mound. There has been no definite act of the State, by which the matter has been settled, or considered settled, by either party. It is true her commissioners believed that the mound was at the source of the river, upon whose information the Governor's opinion was then predicated; all of which was mainly owing to the confidence reposed in the previous examinations of Mr. Ellicott. They were not, however, associated with commissioners of the United States to settle the boundary: they were acting merely *ex parte*, in the search of information, whose report, if correct, would not have bound the United States, and, if erroneous, cannot bind Georgia: neither this nor any other act includes either party, because the parties never have acted in conjunction; consequently, the true head of the St. Mary's has always been debatable, and, from the limited information as to the topography of the country, it was obliged to remain so, until commissioners were duly appointed by the parties to run and mark the line. The argument of the committee, that the north prong was called the St. Mary's, and therefore "intended in the several State papers above recited," to which they attach the greatest importance, is based upon the same mistake of their own agent; for, from the evidence adduced by them, it appears that Ellicott was the first who gave it the name of St. Mary's, in exclusion of the other branches; and by an assumption of their own, they deprive the southern branch of a participation in the rights of a name. This argument cannot avail, even upon the principle which they were forced to admit in their illustration, until a name for the south prong, different from St. Mary's, shall have been established, and that, too, known to the King of Great Britain when the boundary of Georgia was described; as it is clear, by the commission to Governor Wright, that it was intended by the Royal Government to extend the eastern boundary of Georgia to the most *southern stream* of St. Mary's, and thence to the head thereof. The river took its name at the disembranchment; of course, all streams coming in on the south were southern streams of that river. To the head of the most southern stream, is the point at which the eastern line determines; for it is in a subsequent clause that the southern boundary is described to be "thence westward as far as our territories extend, by the north boundary line of our provinces of East and West Florida."

By this commission, all previous boundaries of Georgia were revoked and determined. To this, then, we are to look for our geographical limits; and fortunately for us, in this exigency, it describes that stream of the St. Mary's to be the head, or source, for which we are now contending, with an accuracy that can no longer be misunderstood. It is probable that the course of the river was not accurately known; from which it is infer-

red that it was the intention of the royal commission that Georgia should extend as far south as the *most southern stream*, and to the head thereof, or that part of the description would not have been incorporated in the eastern boundary. It is reasonable to believe that this identical stream was meant, and not the stream at the disembogement, which was between Amelia island and the main, which is one of the mouths of the St. Mary's.

It could not have applied to that, as both the provinces of Georgia and Florida were, at that time, under the same regal government, and Amelia was not then, nor has it at any time since been considered as belonging to Georgia. If, then, it did not mean the southern stream at the mouth of the river, it must have meant the southern stream higher up the river. It is from this charter that our Legislature conceived themselves authorized, in 1788, to declare our boundary to be "from the fork of the Appalachicola, where the Chattahoochie and Flint rivers meet, in a direct line to the head or source of the *southernmost stream* of the St. Mary's river, and along the course of said river to the Atlantic Ocean"—which furnishes additional evidence that the south prong was known at that day to be the head of the river. If the southern stream were not ascertained to lead to the source of the river, there would be more plausibility in the entertainment of different opinions upon the subject; as, in that event, the boundary acknowledged by Great Britain in the treaty of 1782, and provided for us by the treaty with Spain in 1795, would vary from that described by the regal commission of 1764, and our act of 1788. But when all these documents agree that the *head* of the St. Mary's is one of the points by which the boundary was to be regulated, and the rights conveyed in the charter of Florida are not violated, does it not require a tenacity of opinion, approaching obstinacy in error, to insist upon a deviation? It is not expected that Congress will be led by sophistry to the support of an erroneous claim. These questions, then, result: if the line were to be run to the point agreed upon by the commissioners under the 3d article of the treaty with Spain, would it run according to the boundary described for us in our old charter? according to the boundary which is secured to us in the definitive treaty of peace with Great Britain? which is provided for us in the treaty of 1795 with the Spanish Government? which our act of 1788 recognises? and, more than all, which our constitution consecrates?

Your committee cannot believe that, when the subject is fully investigated by Congress, the Federal Government will be so unmindful of justice and her obligations to one of the confederacy, even upon the hypothesis that she could succeed, as to claim an advantage which is derived solely from the negligence and error of her own agent. They, therefore, beg leave to recommend the following resolutions:

Resolved, That it is desirable to the State of Georgia to have the boundary line between her and Florida run and marked as speedily as will meet the convenience of the United States.

Resolved, As the act of Congress of 14th May, 1826, providing for the running and marking that line, requires it to be run and marked to the point designated as the head of St. Mary's, *by the commissioners* appointed under the third article of the treaty of friendship, limits, and navigation, between the United States and Spain, of 27th October, 1795, and as that line is not, in the opinion of Georgia, the true boundary, that Congress be earnestly requested, at the present session, to repeal the aforesaid act, and to pass another, authorizing the line to be run and marked according to the provisions of the 2d article of said treaty.

Resolved. That, should Congress refuse to make any provision for running the aforesaid line, in conjunction with the authorities of Georgia, the Governor be authorized and requested to appoint commissioners, to be accompanied with a competent surveyor and artist, to run and mark the line according to the stipulations contained in the 2d article of the treaty between the United States and Spain, of the 27th of October, 1795.

Resolved. That the Governor be requested to forward a copy to our Senators and Representatives in Congress, to be by them laid before the Senate and House of Representatives of the Congress of the United States.

SECRETARY OF STATE'S OFFICE, GEORGIA,

Milledgeville, December 26, 1828.

The above and foregoing is from the original deposited in this office. Approved by the Governor the 20th instant.

E. HAMILTON, *Secretary.*

FEBRUARY 13, 1830.

The Committee on the Judiciary, to which was referred certain resolutions adopted by the Legislature of Georgia, approved the 19th December last, relative to the boundary between that State and the Territory of Florida, report :

That they have bestowed upon the subject that attentive consideration which its great importance demanded, and which is always due to any question involving the territorial limits of a sovereign State of this Union.

Before they proceed to state the result of their deliberations, it is proper that they should present a brief historical sketch of the facts out of which the controversy between Georgia and Florida has arisen.

By the second article of the provisional treaty of peace between the United States and Great Britain, concluded at Paris on the thirtieth day of November, one thousand seven hundred and eighty-two, it was agreed that the southern boundary of the United States, commencing in the middle of the river Mississippi, "at the northernmost part of the thirty-first degree of north latitude," should run from thence due east "to the middle of the river Appalachieola or Chattahoochie; thence, along the middle thereof, to its junction with the Flint river; thence straight to the head of St. Mary's river; and thence, down along the middle of St. Mary's river, to the Atlantic Ocean."

On the twentieth day of January, one thousand seven hundred and eighty-three, Great Britain ceded East and West Florida to Spain; and by the second article of the treaty of San Lorenzo el Real, concluded on the twentieth day of October, one thousand seven hundred and ninety-five, between the United States and Spain, it was agreed that, "to prevent all disputes on the subject of the boundaries which separate the territories of the two high contracting parties, it is hereby declared and agreed as follows, to wit: 'The southern boundary of the United States, which divides their territory from the Spanish colonies of East and West Florida, shall be designated by a line beginning on the river Mississippi, at the northernmost part of the thirty-first degree of latitude north of the equator, which from thence shall be drawn due east to the middle of the river Appalachi-

cola or Chattahoochie; thence, along the middle thereof, to its junction with the Flint; *thence straight to the head of St. Mary's river*; and thence, down the middle thereof, to the Atlantic Ocean." And it was further agreed, by the third article of the same treaty, that, "in order to carry the preceding article into effect, one commissioner and one surveyor shall be appointed by each of the contracting parties, who shall meet at the Natchez, on the left side of the river Mississippi, before the expiration of six months from the ratification of this convention, and they shall proceed to run and mark this boundary, according to the stipulations of the said article. They shall make plats and keep journals of their proceedings, which shall be considered as part of this convention, and shall have the same force as if they were inserted therein."

Andrew Ellicott was appointed the commissioner under this treaty, on the part of the United States, and Don — Minor, a captain in the army of his Catholic Majesty, was appointed the commissioner on the part of Spain.

Mr. Ellicott and Captain Minor proceeded to run and mark that part of the line which ran from the Mississippi to the Chattahoochie. In September, 1799, when they were preparing to extend the line from the confluence of the Chattahoochie and Flint rivers to the head of the St. Mary's, the hostile disposition and attempts of the Indians compelled them to relinquish their design. As the western point of this line was the junction of two rivers, it could not be mistaken; and the commissioners knew that, by ascertaining the head of the St. Mary's, and fixing a permanent mark upon the spot, they would thus establish the eastern point; and that, between these two points, the line could be run and marked at any future day. They accordingly proceeded to the mouth of the St. Mary's, and ascended that river, to the place whence it issues, from the Okfeenokee swamp; and, on the 26th of February, 1800, they erected a mound of earth on the west side of its main outlet, as near to the edge of the swamp as they could advance, on account of the water. It was impossible for the commissioners to follow this stream further, for the purpose of ascertaining precisely its head, as the swamp from which it proceeds is, at all times, almost impenetrable; and particularly at the season of the year when they were there. For this reason, the commissioners agreed that the termination of a line, supposed to be drawn north 45° east 640 perches from the mound which they had erected, should be taken as a point to or near which a line should be drawn from the mouth of Flint river; which line, when drawn, should be final, and considered as the permanent boundary between the United States and his Catholic Majesty, provided it passed not less than one mile north of the mound; but if, upon experiment, it should be found to pass within less than one mile north of the said mound, it should then be corrected to carry it to that distance.

With this arrangement Mr. Ellicott believed he had every reason to be perfectly satisfied.

The commissioners, after erecting the mound, descended the St. Mary's, and encamped on the south end of Cumberland island, where they remained from the 6th of March until the 10th of April, 1800, occupied in preparing the report of their proceedings, to be submitted to their respective Governments. On the latter day, their reports were completed, and they left the island.

The committee entertain no doubt, from the testimony before them, but

that this report was immediately transmitted to the office of the Secretary of State, although it cannot at this time be found. Whether it has been mislaid or destroyed by fire, is uncertain. Fortunately, however, Mr. Ellicott published his Journal in 1803, which contains all the information that could have been embraced in the report.

It may here be proper to state that our minister at the Court of Spain, in obedience to his instructions, addressed an official note to the Secretary of State for Foreign Affairs at Madrid, in the spring of 1828, requesting a copy of the report of Messrs. Ellicott and Minor, to which no answer has ever yet been received at the Department of State.

From February, 1800, until the year 1817, there is no evidence that Georgia entertained any doubt of the correctness of the commissioners in the execution of their trust. In that year, Captain William Cone, then a member of the Legislature of Georgia, represented, from his own knowledge, that Mr. Ellicott had mistaken the true head of the St. Mary's; and, in consequence of this information, the Senate of that State, on the 19th December, 1818, adopted a resolution requesting the Governor thereof "to appoint two fit and proper persons to proceed, without delay, to ascertain the true head of the St. Mary's river; and, if it shall appear that the mound thrown up by Mr. Ellicott and the Spanish deputation is not at the place set forth in the treaty with Spain, that they make a special report of the facts to the Governor, who shall thereupon communicate the same to the President of the United States, accompanied with a request that the lines may be run agreeably to the true intent and meaning of the aforesaid treaty." Under this resolution, his Excellency, William Rabun, then the Governor of Georgia, appointed Majors General Floyd and Thompson, and Brigadier General Blackshear, commissioners; who, after a careful examination, with Captain Cone for their guide, reported that they found the head of the St. Mary's to agree with the report made by Mr. Ellicott. Governor Rabun, in communicating this information to the Secretary of War, in March, 1819, uses the strong expression, that the report of these commissioners proved, "beyond the possibility of doubt, that the information received by the Legislature of this State was incorrect;" and, in the same letter, he urges upon the Secretary of War the propriety of running and closing the line immediately according to the treaty with Spain.

By the treaty concluded at Washington, on the 22d of February, 1819, between the United States and Spain, East and West Florida were ceded to the United States. The ratifications of this treaty were exchanged at Washington, on the 22d February, 1821, and thenceforth East and West Florida became a territory of the United States.

The United States afterwards proceeded to sell and patent a large portion of the land included within the present claim of Georgia; without ever suspecting that their right was doubtful, or that it would be contested.

On the 4th May, 1826, the Congress of the United States, at the request of the delegation from Georgia, passed an act to authorize the President of the United States to run and mark the line between Georgia and Florida. The first section of this act contains a proviso, "that the line so to be run and marked shall be run straight from the junction of said rivers Chattahoochie and Flint, to the point designated as the head of St Mary's river, by the commissioners appointed under the third article of the treaty of friendship, limits, and navigation, between the United States of

America and King of Spain, made at San Lorenzo el Real, on the seven and twentieth day of October, one thousand seven hundred and ninety-five." In pursuance of this act, Thomas M. Randolph was appointed the commissioner on the part of the United States, and Thomas Spalding, the commissioner on the part of Georgia.

In March, 1827, these commissioners, together with John McBride, a surveyor appointed on the part of Georgia, entered upon the performance of their duties, and, after having nearly completed the running and marking of the line, their operations were suspended, on the 26th April, by instructions from the Governor of Georgia to Mr. Spalding, directing him to suspend the completion of the line, until it should be ascertained whether the head of the St. Mary's had been correctly determined.

After this suspension of operations, Mr. McBride received instructions from Governor Troup, dated on the 20th June, 1827, directing him "to ascertain the true head or source of the St. Mary's river," which he immediately proceeded to obey.

There are three principal branches of that river, the north, the west, and the south : and it is evident from Mr. McBride's report to the Governor of Georgia, he conceived, that, to determine the head of the St. Mary's, designated in the treaty, he had nothing to do but ascertain which of these branches was the longest, and discharged the most water. Indeed, he expressly declares, that, "to ascertain the source of each of these branches, their length, and relative magnitude at their points of confluence with each other, was considered the object of my mission."

Assuming this to be the true meaning of his instructions, he reported that he had found the south branch was longer than the north; and that, at their confluence, whilst the south branch discharged 1,869 cubic feet of water in a minute, the north branch discharged only 993 cubic feet. From these premises alone, he concludes that the head of the south branch is "the head of the St. Mary's" referred to in the treaty with Spain.

There is a passage in the report of Mr. McBride to the Governor of Georgia, which the committee will transcribe into their report. In accounting for the mistake which he supposes to have been committed by Messrs. Ellicott and Minor, he uses the following language :

"The United States and Spanish commissioners, who, in 1800, attempted to ascertain the source of the St. Mary's, in ascending the river with their canoes, passed the junction of the north and south branches, considering the former as the principal. That those commissioners should have made an erroneous determination, may be attributed to the deceptive appearance of the two branches at their confluence, and to the peculiarly unfavorable season in which their investigations were made. The channel of the north branch is wider than that of the south; its depth is greater, and its water of a dark reddish color. At the point of disembougement the south branch is a beautiful limpid stream, whose narrow channel and transparent water render it apparently one-third less than the north; but its velocity is one hundred and sixteen feet per minute, while that of the north branch is only thirty-eight. The disparity of width in these branches is accounted for by the difference of the countries in which they have their sources: that in which the south branch rises is gently undulating, and the transparency and low temperature of the water prove its origin to be principally in springs. The vicinity of the sources of the north branch is frequently an extended plain, with but little elevation or depression, which, in rainy sea-

sons, is completely inundated for many miles; and these vast sheets of water being drained into the north branch, increase its volume to a torrent, which forms a channel much wider than the south branch. When the United States and Spanish commissioners were here, in February, 1800, Mr. Ellicott in his journal informs us that the swamps, at that season of the year, were "absolutely impenetrable," in consequence of the preceding winter's rains. We cannot, therefore, be surprised at their failure to make a correct determination."

Should the claim of Georgia be sustained, it will take from Florida a triangular tract of land, whose base is 157 miles, its perpendicular 30 miles, and area 2,355 square miles, or 1,507,200 acres.

The committee having thus made a statement of the facts in the case, will now proceed briefly to present their views upon the subject. Georgia, for the purpose of establishing her claim, ought clearly to prove, first, that the commissioners under the treaty of 1795 with Spain mistook "the head of the St. Mary's," and ought, in seeking it, to have ascended to the source of the south branch of that river instead of the north; and, second, supposing the existence of such a mistake, that she has a right, under the circumstances of this case, and after the lapse of more than a quarter of a century, to assert her claim.

And, first, the committee are not satisfied that the commissioners under the treaty with Spain have committed any mistake. On the contrary, they think that Mr. McBride proceeded upon mistaken principles. In their opinion, "the head of the St. Mary's," designated in the treaty, was to be ascertained by the reputation of the country about the time of its date by the common understanding of those acquainted with the stream, rather than by a geometrical admeasurement of the length of its different branches, and the volume of water emitted by each. Which is the principal branch of a river in a new country must, in the nature of things, be decided from its appearance, and not from any actual measurement. Mr. McBride himself admits that the north branch, even when he was there in the midst of summer, appeared to be one-third larger than the south: its channel is much wider, and considerably deeper. In order to make the discovery which Mr. McBride did, it was necessary to ascertain the relative velocity of the two streams by actual measurement. This expedient would never be resorted to either by the first settlers or the first visitors of a new country for the purpose of ascertaining the principal branch of a river: their eyes would determine that question, and the name would follow the appearance.

But, in considering this subject, it ought also to be recollected that Mr. McBride made his admeasurement in the very midst of summer, at the dryest season of the year. What would have been the result if the same experiment had been made at other seasons, we may conjecture from his report. He tells us, "that the disparity of width in these branches is accounted for by the difference of the countries in which they have their sources. That in which the south branch rises is gently undulating, and the transparency and low temperature of the water prove its origin to be principally in springs. The vicinity of the sources of the north branch is frequently an extended plain, with but little elevation or depression, which, in rainy seasons, is completely inundated for many miles; and these vast sheets of water being drained into the north branch, increase its

volume to a torrent, which forms a channel much wider than the south branch."

There is one circumstance worthy of observation in the report of Mr. McBride. Although he sought information from every source within his power, yet it does not appear any person ever informed him either that the south branch had at any time been known by the name of the St. Mary's, or that the north branch had not been known by that name.

Governor Randolph, the commissioner of the United States, under the act of 1826, informs us that "the head of St. Mary's was known as soon as there was a settlement at its mouth;" that the Indian traders crossed the north branch about three miles below Ellicott's mound, at what was, and still is, called the Pine Log crossing place; and they were always said to have come by the head of St. Mary's. On the other hand, he declares that the south branch has always been known by the name of "the south prong."

The testimony before the committee presents other reasons for believing that the commissioners under the treaty committed no mistake; but, for the sake of brevity, they will not bring them into the view of the House in this report.

The committee will now proceed to consider whether, under the circumstances of this case, even admitting the existence of a mistake on the part of the American and Spanish commissioners, Georgia is not bound by their act.

There is nothing which ought to be held more sacred by nations than the boundaries of each other. An unsettled boundary always produces jealousy and discord, and often war. Vattel, when speaking on the subject of usucaption and prescription among nations, declares, "that their quarrels are of much greater consequence; their disputes are usually terminated only by bloody wars; and, consequently, the peace and happiness of mankind much more powerfully require that possession on the part of sovereigns should not be easily disturbed; and that, if it has for a considerable length of time continued uncontested, it should be deemed just and indisputable. Were we allowed to recur to antiquity on every occasion, there are few sovereigns who could enjoy their rights in security, and there would be no peace to be hoped for on earth." The learned author is here speaking of mere possession on the one side, and tacit acquiescence on the other. This case is much stronger against the State of Georgia. It is the case of a boundary ascertained by virtue of a treaty thirty years ago, and not merely acquiesced in on the part Georgia, but sanctioned by the most solemn acts of recognition during a quarter of a century.

Georgia, as a member of the Federal Union, became a party to the treaty concluded at San Lorenzo el Real in 1795. One of the chief objects of this treaty was to provide for running and marking the line of separation between the Spanish colonies of East and West Florida and the United States. It was the intention of both Governments, by this treaty, according to their own language, "to prevent all disputes on the subject of the boundaries which separate the territories of the two high contracting parties." In order to give the proceedings of the commissioners appointed under this treaty a more solemn sanction, it declared that the journals of their proceedings should be considered as a part of the convention itself, and should have the same force as if they were inserted therein. These commissioners proceeded in the most public manner to perform their duties.

They determined the point which should be considered the head of the St. Mary's, and erected a permanent memorial, by means of which it could easily be ascertained in time to come.

The committee do not assert that, if a clear mistake had been committed by these commissioners, the United States and Spain would have been absolutely concluded: but they consider it very clear that in such a case the party injured ought to complain within a reasonable time. In this case, Georgia, by her silence, acquiesced in the decision of the commissioners, until the year 1818, when she instituted an inquiry on the subject, which resulted in a solemn recognition of the accuracy of the commissioners in ascertaining the true head of the St. Mary's. After the United States acquired East and West Florida, in 1821, they sold and patented to individual purchasers a large proportion of the territory which Georgia now claims as her own, without a whisper of disapprobation on the part of that State. Nay, more: in 1826, on the request of her delegation, Congress passed a law, which recognised the point established by the commissioners as the true head of the St. Mary's; and it was not until after the line had been nearly run and marked, in pursuance of this act, that she protested against its completion, upon the ground that the commissioners had mistaken the head of the St. Mary's. In the opinion of the committee this protest came too late; Georgia had no right at that late day to enforce a claim, which, if successful, would deprive Florida of a most valuable portion of her territory, postpone her hopes of being admitted into the Union for many years, and forever destroy her prospect of becoming a powerful State. Had Florida continued to be a Spanish province, we could not, in 1827, after the death of Mr. Ellicott, and after the head of the St. Mary's had been fixed for seven and twenty years, have asked Spain, with the least hope of success, to agree that the head of another stream should be substituted for that which had been established, and thus take from her a tract of land containing 1,500,000 acres. What we could not have demanded from Spain, we ought not to require from Florida.

Upon the whole, the committee recommend the adoption of the following resolutions:

Resolved, That the line between Georgia and Florida ought to run from the junction of the rivers Chattahoochie and Flint to the point designated as the head of the St. Mary's river by the commissioners appointed under the treaty between the United States and Spain, concluded at San Lorenzo el Real on the 20th day of October, 1795.

Resolved, That an appropriation ought to be made, for the purpose of enabling the President of the United States to complete the running and marking of the said line between Georgia and Florida, under the provisions of the act of the 4th May, 1826.

DEPARTMENT OF STATE,

Washington, 4th February, 1830.

SIR: I was mistaken in the information which I gave you, verbally, a few days ago, that the Spanish Government had promised Mr. Everett to furnish him with a copy of the journal of the commissioners, Ellicott and Minor, for running the southern and southwestern boundary lines between

the United States and the Spanish dominions, upon the application which he had addressed to that Government, by the orders of this department. I find now that Mr. Everett, by a despatch, dated 1st May, 1828, acknowledged the receipt of his instructions upon this subject, and states that he lost no time in addressing an official note to the Secretary of State for Foreign Affairs, at Madrid, requesting a copy of the journal referred to ; but that up to the period of his departure from that capital, no answer was received by him to that note.

I am, with great respect,

Sir, your obedient servant,

DANIEL BRENT.

JAMES BUCHANAN, Esq.

House of Representatives.

FLORIDA BOUNDARY.

Message from the President of the United States, transmitting the information required by a resolution of the House of Representatives of the 27th ultimo, respecting the report of the commissioners for running the line between the United States and Florida, under the treaty of 1795.

To the House of Representatives of the United States :

In pursuance of a resolution of the House of Representatives of the 27th ultimo, calling for information respecting the report of the commissioners for running and marking the line between the United States and Florida, under the treaty of 1795, I herewith communicate a report from the Secretary of State, containing the desired information.

ANDREW JACKSON.

WASHINGTON, *March 15, 1830.*

DEPARTMENT OF STATE,

Washington, March 15, 1830.

To the PRESIDENT :

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 27th February last, requesting the President to inform that House “ whether any answer has been received from our minister in Spain on the subject of the application made to that Government to obtain a copy of the report of the commissioners for running and marking the line between Florida and the United States, under the provisions of the treaty of 1795 ; and to communicate any information recently received at the Department of State on that subject ;” has the honor to state that it does not appear, from the files of this office, that the application made in May, 1828, by the minister of the United States at Madrid, in pursuance of instructions from this department, for the document referred to, has been answered by the Spanish Government.

The only information recently received at this office on the subject embraced by the above resolution, is contained in a letter from Albert Galla-

tin, dated the 18th February, 1830, and in a document accompanying the same, purporting to be a series of "observations to accompany the map of part of the Mississippi river, the southern boundary of the United States, and the coast of Florida," copies of which are, herewith, respectfully submitted.

M. VAN BUREN.

NEW YORK, *February 18, 1830.*

SIR : Mr. White, Delegate from Florida, informed me, whilst at Washington, that it appeared, from a correspondence of Mr. Madison with the late Andrew Ellicott, commissioner of the United States for ascertaining the boundary between the said States and the then Spanish provinces of East and West Florida, that the official map and report of the proceedings of the commissioners had been lent by the State to the Treasury Department.

This must have taken place whilst I was Secretary of the Treasury ; and, as the map could have been wanted there for no other purpose than as affording the proper basis of the surveys of the public lands in that quarter, an inquiry was instituted at the General Land Office ; the result of which, as I am informed, was, that Mr. King, the old and principal draughtsman of the office, had a perfect recollection of the map being deposited there ; that Mr. Freeman, principal surveyor of the lands south of Tennessee, had taken a copy of the whole or part of it ; that it was not returned to the Department of State ; and that, whilst Mr. Tiffin was Commissioner of the Land Office, it was, by his direction, lent to a committee of Congress, which had applied for it, and had not been returned. But there was no recollection of the "report of the proceedings of the commissioners," if distinct from the map : and, when I left Washington, no such document had been found in the Land Office.

Mr. Ellicott had given me, at the time when published, a printed copy of his "astronomical and thermometrical observations on the boundary line," with some corrections in his handwriting. They were published at Philadelphia, for T. Dobson, 1801, are also inserted in the 5th volume of the Transactions of the American Philosophical Society, and are, I presume, well known to you and to Mr. White. But I had some recollection of another manuscript by Mr. Ellicott, on the same subject, being in my possession, and made lately a search, hoping it might prove the lost report. I have found, and have the honor to enclose, the said manuscript, which proves to be, as stated by himself, "Mr. Ellicott's observations to accompany the map," &c. I had (from the endorsement "for Mr. Gallatin," and having forgotten how it came into my possession) believed that it was my private property, and had been given to me, with his printed work, by Mr. Ellicott ; which will account for its having remained so long in my library. But the designation "to accompany the map," leaves no doubt on my mind that it was originally transmitted with the map to the Department of State, by Mr. Ellicott, and sent, also, afterwards, with the map, when this was lent to the Treasury. The words "for Mr. Gallatin" were probably written, on sending it back to me, by some person (perhaps Mr. Randolph) to whom I had lent it.

If I understand the question, on which a doubt has lately arisen, be-

tween the State of Georgia and the United States, this manuscript contains but little that can elucidate it. Yet what is stated (page 20) concerning the true St. Mary's, "which is formed by the water draining out of the Okefenokee swamp," corroborates Mr. Ellicott's statements in his printed "astronomical and thermometrical observations," above alluded to.

It appears from these, that the commissioners surveyed the boundary line along the 31st parallel of latitude, from the Mississippi to the Chat-tahochie river, and down this river to the mouth of Flint river, which last point they ascertained to be in $30^{\circ} 42' 42''$ north latitude, and 5 hours $39' 33''$ in time west longitude from Greenwich; that they did not survey the line from the mouth of Flint river to the source of the St. Mary's; that they proceeded to the mouth of the last mentioned river, ascended it as high as it was navigable for canoes, where they established an observatory, (A,) the latitude of which they ascertained to be in $30^{\circ} 21' 39''$, and set there a hewn post surrounded by a large mound of earth; that they ran thence a traverse to a point (4,403.2 perches north, and 886.4 perches west from the point A) where another post was set up, surrounded by another mound of earth, (B,) thrown up on the margin of the Okefe-nokee swamp, and as near to it as any permanent mark could be placed, on account of the water; that the river St. Mary's is formed by the water draining out of the said swamp; and that, as no specific point could be fixed in the swamp as the source of the river, "*it was therefore agreed that the termination of the line, supposed to be drawn north 45° east 640 perches from the mound B, should be taken as a point to or near which a line should be drawn from the mouth of Flint river; which line, when drawn, should be final, and considered as the permanent boundary between the United States and his Catholic Majesty, &c.*"

I have inserted the preceding paragraph, to save you the trouble of referring to the several parts there quoted of the printed observations. There can thence be no doubt as to the fact that a certain spot was agreed to, in pursuance of the treaty, by the joint commissioners, as the source of the St. Mary's. But it is probable that the authentic evidence of that fact is lost; that the map was burnt in the Capitol in September, [August,] 1814; and that this map, certified by the commissioners, was in fact the only official report of their joint proceedings made to the Department of State. Under those circumstances, the manuscript observations of Mr. Ellicott may be of some use not only as corroborating the fact that the river which issues from the Okefenokee swamp was agreed on by the commissioners as being the true St. Mary, but also as a document transmitted by Mr. Ellicott to the Department of State, with the map, and referring to it. It also mentions a branch coming from the west, between the encampment A and the point B, which branch, therefore, is not the true St. Mary's of the commissioners; and it designates the situation of the Okefenokee swamp, by stating that the river St. Juan's, which falls into the Gulf of Mexico, has also its source in that swamp.

On reflection, I also enclose my copy of the printed observations, which is of no use to me, and which is not, perhaps, in the collection of books of the department. But it must be observed that the plates referred to in the text are, all but one, wanting in that copy. It is probable that they were inserted in the 5th volume of the Transactions of the American Philosophical Society; and one of them, (plate 8,) mentioned page 139, and

purporting to show the traverse from the point A to point B, would greatly assist in finding, on the ground, the true position of those points, and therefore of the source of the St. Mary's, as agreed on by the commissioners,

I write to Mr. White, letting him know that I have transmitted Mr. Ellicott's manuscript observations to you, and referring him to this letter for further information.

I have the honor to be,

Very respectfully, sir,

Your most obedient servant,

ALBERT GALLATIN.

The Hon. M. VAN BUREN, *Secretary of State.*

The following observations, to accompany the map of part of the Mississippi river, the southern boundary of the United States, and the coast of West Florida, being hastily thrown together from my *notes*, are only intended to convey a general idea of the country to which they refer.

ANDREW ELLICOTT.

OF THE MISSISSIPPI.

To say any thing new respecting this river, whose magnitude and importance have, many years ago, employed the pens of some of the historians, philosophers, and geographers of most nations in Europe, as well as in our own country, is not to be expected from me. In following such characters, I shall proceed with diffidence, and confine myself to that part of this celebrated river which I had an opportunity of examining myself, and which lies between the mouth of the Ohio, and the southern boundary of the United States.

The confluence of the Ohio and Mississippi rivers is in $37^{\circ} 0' 23''$ north latitude, and about $5h. 55' 23''$ west from the royal observatory at Greenwich. I am well aware that this longitude is considerably less than has generally been assigned to this important geographical point, and have not adopted the alteration without some hesitation, and should still have been more cautious if I could have found any other authority in favor of the former position, than charts unaccompanied by any observations. The observations from which I have deduced both the latitude and longitude, were made under unfavorable circumstances; the weather was intensely cold, and we had not sufficient covering for ourselves and instruments; but, upon repeatedly examining them, I am not sensible of their being liable to any material objection.

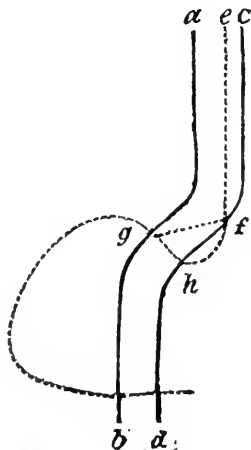
Those who are descending the Ohio and Mississippi, and have been pleased with the prospect of large rivers rushing together among hills and mountains, will anticipate the pleasure of viewing the conflux of those gigantic waters. But their expectations will not be realized; the prospect is neither grand nor romantic: here are no hills to variegate the scene; nor mountains from whose summits the meandering of the rivers may be traced; nor chasms through which they have forced their way. The prospect is no more than the meeting of waters of the same width, along the sounds on our low southern coast. These great rivers, after draining a vast extent of mountainous and hilly country, join their waters in the swamp, through which the Mississippi passes into the Gulf of Mexico.

This swamp extends from the high lands in the United States to the high lands in Louisiana, and, through various parts of it, the river has, at different periods, had its course. From the best information I could obtain, the swamp is from 36 to 45 miles wide from the boundary many miles up, and much the greater part of it lies on the west side of the present bed of the river. From the mouth of the Ohio to the southern boundary of the United States, the Mississippi touches but two or three places on the west side that are not annually inundated, and even those are for a time insulated, but, on the east side, it washes the high land in eleven places.

The swamp appears to be composed of the mud and sand carried by Mad river into the Missouri, and by the Missouri into the Mississippi, to which may be added the washing of the country drained by the Mississippi and Ohio rivers, with their numerous branches, which furnish a fresh stratum every inundation. This stratum is deposited upon a stratum of leaves and other dead vegetables, which had fallen the preceding autumn. These strata may be readily examined in many parts of the swamp, and the banks of the river. The depths of the deposited strata differ considerably, and principally depend upon the duration of the different inundations. In 1797, the inundation was complete by the last of February, and the river was not entirely within its banks till about the beginning of September; but, in 1798, the inundation was not complete till after the middle of May, and the river was generally within its banks by the first of August. The mean perpendicular height to which the river rises above the low water mark at the town of Natchez, is 55 feet.

In descending the river, you meet with but little variety: a few of the beads and islands will give you a sample of the whole. If the water is low, you have high muddy banks, quicksands, and sand bars, and, if full, you might almost as well be at sea: for, days together, you will float without meeting with any land to set your feet on, and, at the same time, environed by an uninhabitable wilderness.

This river, like all others passing through flat countries, and not checked or confined by hills or mountains, is very crooked, as may be seen by the chart. This arises from a very natural cause, and may be explained in the following manner: suppose, in the figure, lines *a b* and *c d* to be the banks or margins of a portion of a river, and the water moving in the direction *e f*, but meeting with an



obstruction at *f*, it will be reflected in the direction *f g*, and at *g*, as well as at *f*, the bank will be worn away; about *h* an eddy will be formed, where sand, earth, and rubbish will be deposited, and continually increase the convex part, while the concave parts will be worn away, and in time a loop will be formed something like the dotted curve line in the figure, which will increase in magnitude till the river, aided by an inundation, breaks through a shorter way, and the convex part will become an island. If the loop has been very large, and the water ceases to have much current along it, the two ends in a short time will be filled up by the great quantity of mud and sand which are constantly mixed with the water of the Mississippi, and a lake will be formed. These lakes are to be met with in various parts of the swamp, and bear evident marks of having been, at some former period, portions of the main bed of the river.

In consequence of the great body of water in the Mississippi, and the light and loose nature of the soil, the concave banks of the river are falling in, more or less, during every general fall or rise of the water; and I believe but few people have ever descended it in either of those states, who have not heard or seen large portions of the banks give way, which are instantly carried off by the current, and the earth, sand, and some of the rubbish, again deposited at the convex points below.

From what has been said, one general caution must necessarily present itself to those concerned in navigating the Mississippi, which is, to avoid the CONCAVE BANKS. Many fatal accidents have happened on this river, either through ignorance of the danger, or inattention in coming to at improper places on the shore to cook, procure fuel, or for other purposes. We have a late instance of a Mr. McFarling, and part of his crew, being lost by the falling of a bank. When the banks are inundated they are less dangerous, being in some measure supported by the water, and not so liable to give way; but the concave shores are still to be avoided, because the water near the bank, and elevated above it, not being confined to the course of the river by the lower current, rushes straight forward among the cane and timber, and if Kentucky boats (as they are called) fall within the draught of this upper current, it will be extremely difficult to relieve them, or prevent their being lost in the woods. Many losses have been sustained from this cause.

A boat may at all times come to with safety at a sand bar, the upper or lower end of an island where young bushes are growing, or just at the beginning of an eddy, below any of the points that are covered with young cotton wood (a species of poplar) or willows (*salix nigra*.) From the mouth of the Ohio down to the Walnut hills, it is not safe to descend the river in the night, unless the boat be uncommonly strong, on account of the sawyers and planters. The former are trees slightly confined to the bottom by some of their roots or limbs, and the loose or floating ends continue a vibratory motion, generally up and down. Some of them rise five or six feet above the water every vibration. The latter are more dangerous, being firmly fixed or planted in the bottom; they are all easily avoided in daylight. With these precautions, the Mississippi may be navigated with as much, if not more safety, than any other river upon this continent.

I shall now proceed to give some account of the construction of the map of the river. A continued and correct survey of the Mississippi will scarcely ever be obtained, on account of the swamps, lagoons, thickets,

and cane brakes on its banks, and below the banks the impediments will be equally great. In some places impassable quicksands will be met with, in others the water will be found washing the high and almost perpendicular banks, and no place left for a foothold. Some other mode different from the common method of surveying must therefore be resorted to. The following was used in constructing the map to which this refers: The mouth of the Ohio was taken as a given point, both as to latitude and longitude. An excellent surveying compass, corrected for the variation of the needle, was used in taking the courses, which were entered in time, instead of space. Every day when the sun shone, at noon, his meridional altitude was taken from the artificial or reflected horizon, with an excellent sextant, made by Ramsden, and graduated by the vernier to twenty seconds; and was generally found, by a great number of observations, to determine the latitude true within less than a minute. The latitudes determined by those observations are entered on the river at the places where the observations were made. All the courses between each two of those points were protracted in time, instead of space, that is, by calling the time space. Each set of courses were then expanded, or contracted, so as to agree with the points of latitude to which they belonged: and from the number of latitudes taken, I expect that no part of the river will be found very erroneous in that respect: so much cannot be said in favor of the longitude, except at the mouth of the Ohio, and the town of Natchez, which are considered as given points: the latitude and longitude of the latter being determined with as much precision as that of any other point within the United States.

From the banks of the river constantly giving way, no map, or chart of it, can be expected to be tolerably correct for more than a century, if so much.

OF THE PEARL OR HALF WAY RIVER.

The Pearl or Half Way river is navigable for small craft many miles north of the boundary. It is remarkably crooked, and full of logs and lodged trees, which are at present very injurious to its navigation. Its banks, for some distance above the boundary, and almost the whole of them below, are annually inundated. The banks, with a considerable extent of country, become very low, below the Indian house, (marked on the map,) over the whole of which the water passes when the river is high, and here it begins to divide into a number of branches: some of them maintain an open channel till they unite again with the main branch, and others are lost in the swamp. Those branches appear so nearly of the same size, that a person not acquainted with the river will be as likely to take a wrong as a right one. This happened to several of our parties, and to myself, although I had two persons with me, who had been up and down twice before: we were a part of two days and one night before we got back to the place where we made the mistake. The officer of my escort, with several of his men, were still more unfortunate; they took another branch, and were a greater length of time before they discovered their error, and on half allowance of provision.

In consequence of the water extending over such a considerable space, it never acquires a sufficient head to force away the lodged timber which in two places extends across the river. The upper raft is of considerable magnitude, covered with grass and other herbage, with some bushes.

Through those rafts we had to make channels, by removing and cutting away the logs, till we had a sufficient depth of water to float our loaded canoes and perogues. It was an arduous undertaking, and executed at the most unfavorable season in the year.

Nearly the whole of the provision made use of at our station up the river by both parties, including the military escorts, and for extending the line east to the Mobile, was taken from New Orleans through the west end of Lake Pontchartrain, thence up the river to the boundary.

The tide ebbs and flows a few miles above latitude $30^{\circ} 21' 30''$, where there was formerly a trading house, and to where any vessel that can cross the bar into the lake may ascend with ease. The banks of the river above the old trading-house, as far as the tide is perceptible, are too low and marshy for a settlement. The river has several communications with the Gulf of Mexico and Lake Pontchartrain, but they are all too shoal for vessels drawing more than seven or eight feet water, and therefore only fit for the coasting trade.

The coasting vessels which visit New Orleans pass by the mouth of the river into Lake Pontchartrain, thence up the bayon St. John's to the canal executed by the Baron de Carondelet, which terminates at the walls of the city, immediately behind the hospital. This canal requires cleaning every year, and is done by slaves, and criminals condemned to hard labor, but might be done more effectually by conveying a stream of water into it from the Mississippi at the time of the annual inundation, which might be effected with but little trouble and expense.

Lake Pontchartrain is a beautiful sheet of water, but unfortunately surrounded by marshes, and the landing in many places is attended with difficulty on account of the mud. There are some places towards the east end where the beach is beautiful, being formed by large bodies of cockle shells, from which all the lime used at New Orleans and about the lake is made.

OF THE PASCAGOULA.

The Pascagoula is a large river, and navigable for small craft a considerable distance above the boundary, and, from the report of some of my people who descended it, it is very deep, and falls with some other smaller waters into a bay opposite the Horn island. The bay and mouth of the river, on account of shoals and oyster banks, appear only adapted to the coasting trade.

OF THE MOBILE.

The Mobile is a fine large river, and navigable some distance above the boundary for any vessel that can cross the bar into the bay. One square rigged vessel has been as high as Fort St. Stephen's, in latitude $31^{\circ} 33' 34''$.

When the river is low, the tide ebbs and flows several miles above the line, and is sometimes observed as high as Fort St. Stephen's; but when the river is full, there is but little, if any, tide above the town of Mobile. It was in the latter state when I ascended it, and notwithstanding the current being constantly against us, and but little fair wind, we reached the place of our encampment north of the boundary in four days; my vessel was about 40 tons burden.

About six miles north of the boundary the Tombeckbee and Alabama

rivers unite, and, after accompanying each other more than three miles, separate; the western branch from thence down to the bay is called Mobile. The Alabama retains its name till it joins some of its own waters, which had been separated from it for several miles, and then takes the name of Tensasaw, which it retains till it falls into the head of the bay.

The easiest way from the Gulf of Mexico by water into the United States, is up those rivers, the navigation of each being equally good.

The upland on those rivers is of an inferior quality, from their mouths up to the latitude of Fort St. Stephen's, and produces little besides pitch pine, and wire grass, but is said to become better as you ascend the rivers.

The lands on those rivers have, notwithstanding, had a good character for fertility; but this has arisen from not discriminating between the upland, which is unfit for cultivation, and the banks of the rivers, which are fertile in the extreme, and to which agriculture is almost wholly confined for a number of miles above the boundary. But those lands are subject to a great inconvenience from the inundations of the rivers.

Planting is not attempted in the spring till the waters have subsided, and it sometimes happens that inundations follow the first fall of the waters in the spring, and wholly destroy the previous labors of the planters. This was the case in May, 1799, after the corn was two feet high; but this inconvenience is by no means so great as it would be in a more northerly latitude: there still remains summer sufficient to bring a crop of corn to full maturity.

The large swamp through which the rivers meander, is intersected in almost all directions by smaller watercourses, which keep up a constant connexion between the main branches; such of them as were used by our people in passing and re-passing from one side to the other.

At the mouth of the Mobile river stands the town of that name. The situation is handsome, and some of the houses tolerably good, and, for a place of its size, the trade is considerable. The place is said to be unhealthy during the months of July, August, September, and October.

The fort stands a short distance below the town; it is a well built, regular work, and was taken from the British by Don Galvez, during our revolutionary war. Since that time it has been repaired and put in a good state of defence by the officers of his Catholic Majesty.

From the traverse of the river, the latitude of the town appears to be about $30^{\circ} 36' 30''$ N. and the longitude $5h. 52' 17''$ west from the royal observatory at Greenwich.

The bay is extensive, and supposed to be about 9 leagues in length; but too shoal for large shipping. The latitude of the bar at the entrance into the bay from the Gulf of Mexico, I found, by a mean of two good observations, to be about $30^{\circ} 12' 30''$ N. and as the course of the bay is nearly north and south, the longitude must be nearly the same as that of the town.

OF THE CONECUH.

The Conecuh has generally, though erroneously, been called the Scambia and Escambia, which is a name of a much smaller stream that falls into it from the west, and unites a short distance above where the transit of Mercury was observed in the year 1799.

The banks of the Conecuh, during a large portion of the spring, are inundated for many miles above the line down to Pensacola bay, with very

few exceptions. The upland is poor as far up the river as we saw it, but it was said to be tolerably good about the head branches.

The river is navigable for small craft a considerable distance above the boundary. All our tents, stores, instruments, &c. were taken up to our camp by water. The tide ebbs and flows but a few miles up the river.

The Conecuh falls into the head of Pensacola bay, which is a beautiful body of water, well stored with a variety of fine fish, crabs, and oysters, and is justly considered one of the best harbors on the whole coast: vessels drawing not more than twenty-one feet water may cross the bar at all times with safety.

The town of Pensacola stands on the west side of the bay; the situation is delightful, and the place remarkably healthy; but the water is shoal in front of the town.

Pensacola was the capital of West Florida while that province was in the possession of his Britannic Majesty: at that time it made a very respectable appearance; but, since the conquest of that colony by the Spaniards under Don Galvez, it has been on the decline.

The old fortifications stood on some sand hills back of the town, and too distant to yield it any substantial protection; notwithstanding this circumstance, the Spaniards never once attempted to molest the inhabitants, or to injure the town during the siege of the forts, which lasted two months. The garrison made a gallant defence, and the surrender was hastened by one of the magazines accidentally blowing up. During the whole siege, as well as after the surrender, Don Galvez conducted himself both as a man of courage and humanity. Mr. Bowles, (commonly called General Bowles,) Mr. Philip Key, of the State of Maryland, and several other Americans of distinction, were at that time officers under General Campbell, who commanded the troops of his Britannic Majesty.

The trade of Pensacola is at this time principally carried on by the House of Panton, Leslie, Forbes, and Company. The latitude of the town is $30^{\circ} 25' 43''$ N. and the longitude, by our measurement from the Mississippi, and traverse of the Conecuh river, is about $87^{\circ} 14' 15''$ west from Greenwich. But, from the observations of Sir John Lindsay and Doctor Lorimer, $87^{\circ} 40'$, it may lie between the two, but I suspect much nearer the former. The latitude of the bar, at the entrance into the bay, is about $30^{\circ} 18'$ N. and the longitude, from our measurement and traverse, $87^{\circ} 17'$ west from Greenwich. The harbor, as well as all the others east of the Mississippi, is rendered much less valuable on account of the worms. They are so numerous in this bay, that a vessel's bottom has been known to be ruined in two months; and it is absolutely necessary for all vessels not copper-bottomed, lying in the harbor, to be hove down, cleaned, and payed, every five or six weeks.

The entrance into the bay is defended by a small fort on the west end of St. Rose's island, and a battery on the main land nearly opposite to it.

OF THE CHATTAHOOCHEE, OR APPALACHICOLA.

This is a fine large river, and navigable for boats and galleys that use oars a considerable distance north of the boundary. A sloop in the service of his Catholic Majesty's commissioner, and a small schooner in our employ, ascended up to the mouth of Flint river, which falls into the Chattahoochee about twenty-one miles below the parallel of 31° ; but this was

attended with some difficulty. The United States schooner Sally ascended about thirty miles, but for want of oars proceeded no higher. From the mouth of the river up, for the distance of at least forty miles, the banks are very low, and, with the exception of a few places, inundated whenever the water is moderately high. But, as you ascend, the banks become more elevated, and some of them, which may be called bottom land, are seldom overflowed. These are remarkably rich, and extremely fertile; and are almost the only lands under cultivation by the Indians who reside on the river.

A few miles below the mouth of Flint river, lime stone begins to make its appearance, and extends far up into the country; it is open and porous, and of a dirty blueish color. On the east side of the mouth of Flint river, and for a considerable distance up it, large quantities of iron ore may be seen.

The upland on the Chattahoochie and Flint rivers, from the boundary southward, is of an inferior quality, though much better than on some of the waters already mentioned.

The Chattahoochie empties itself into St. George's sound by three mouths. The most eastern one is at present only navigable for canoes and small boats, on account of the lodged timber and rafts. Our vessels ascended the most westerly one, which is at this time the main channel: but the navigation of this is troublesome for those not acquainted with it; not on account of logs and such impediments, but from its connexion with lakes and swamps by branches apparently larger than itself. We took two of them coming in from the westward: the first led us into a lake about three leagues in length, and a half in width; the other, a few miles from the main branch, was divided in such a manner into smaller ones that we soon discovered our mistake. The latitude of the mouth of the western branch is about $29^{\circ} 42' N.$ and the longitude, by a lunar observation, $5h. 39' 23''$ west from the royal observatory at Greenwich.

St. George's sound is principally formed by three islands; between the most westerly one and the main land the channel is narrow and shoal, and only fit for canoes; between this island and St. George's, which gives the name to the sound, is a bar on which some bushes are growing. The coasting vessels pass between those islands. St. George's island is supposed to be about six leagues in length, but in no place more than one wide. The distance from St. George's island across the sound is from one to two and a half leagues. The next island is not laid down in any of our charts; it is about two leagues in length, and two miles east of St. George's island. The main channel into the sound is near the west end of this island. From this island to the next (which at low water sometimes joins the main land) it is too shoal for any other than coasting vessels.

The latitude of the east end of St. George's island is $29^{\circ} 44' 38'' N.$ and the longitude (by taking the result of the lunar observation before mentioned, as a correct point) $5h. 38' 35''$ west from Greenwich. The sound is so full of oyster banks and shoals, that it is difficult to navigate it without a pilot.

The coast on the north side of the sound is intersected and cut to pieces by such a variety of watercourses, several of which have evidently, at some former period, been mouths of the river, that it is extremely difficult to find the true branches; we were constantly employed five or six days in discovering them.

OF THE ST. MARY'S RIVER.

The river St. Mary's is a part of the southern boundary of the United States. It is navigable for topsail vessels at all times, up to Trader's hill, and from thence up, for small boats and canoes, almost to the Okefenokee swamp when the water is moderately high, were it not for logs, driftwood, and rafts, which in many places extend across the stream. A large branch comes in from the west above our encampment, which is noted on the map: it is but little inferior to the one considered as the true St. Mary's, which is formed by the water draining out of the Okefenokee swamp. The swamp is very large, though much less than has been generally supposed, and furnished subjects for a number of fabulous stories. The swamp is watered by a vast number of small streams and drains, which generally rise within its vicinity. The river St. Juan's,* which falls into the Gulf of Mexico, as well as the St. Mary's, has its source in this swamp.

A large portion of the banks on both sides of the St. Mary's is annually inundated. The upland is generally of an inferior quality, producing little besides wire grass and pitch pine.

A NOTE RESPECTING WEST FLORIDA.

The upland in West Florida, as it is now bounded, is generally of a very inferior quality, except on the Mississippi, and is of but little value for either planting or farming. The river bottoms are all fertile, but too inconsiderable as to quantity, or too low and marshy, to give much value to the province.

It may be observed that no restrictions in this country have been found so effective as to prevent settlements being made where the land has been good; a conclusion may therefore be fairly drawn, that this province, which has been aided by France, Great Britain, and Spain, each in her turn, and yet remains unsettled, must be materially defective in point of soil.

It is true that the towns of Mobile and Pensacola have been flourishing places; but this was owing to causes not immediately dependent upon the soil. The latter was the seat of Government while the province was held by Great Britain, and from the excellence of the harbor, it was much frequented by the shipping of that nation, and both places well situated for carrying on the Indian trade, which was at that time very great; but that trade having greatly declined, and but little other for want of inhabitants, and the necessary articles for exportation, those towns have declined also. Mobile is beginning to recover, but this is owing to the settlements forming north of the boundary, on the Tombeckbee and Alabama rivers. Notwithstanding the favorable situation of those towns, they can never be of much consequence, but from the settlement of the country north of the boundary, which has greatly the advantage in point of soil and climate.

Although West Florida is of but little importance when considered alone, and unconnected with the country north of it, it is of immense consequence when viewed as possessing all the avenues of commerce to, and from, a large productive country—a country extending north from the 31st degree of north latitude, to the sources of the Pearl, Pascagoula, Mobile, Alabama, Conecuh, Chattahoochee, and Flint rivers, and at least 300

* Another of the same name falls into the Atlantic between the St. Mary's and Augustine.

miles from east to west. The coast of this province furnishes live oak and cedar, in considerable abundance, fit for shipbuilding, which is not to be met with in any quantity north of the boundary.

From the safety of the coast of this province, added to the great number of harbors proper for coasting vessels, (that of Pensacola, into which a fleet may sail and ride with safety, and that of St. Joseph's, into which vessels, not drawing more than 17 feet water, may sail at all times,) it must be considered important in a commercial point of view; and if connected with the country north of it, be capable of describing maritime regulations to the Gulf of Mexico.

In a political point of view, West Florida may be viewed as an object of the greatest importance to the United States; because that nation which holds the avenues to commerce, may give a tone to the political measures of another, unfriendly both to liberty and happiness.

OF EAST FLORIDA.

East Florida is but little better than a wilderness; the soil is not superior to that of West Florida; and none of its navigable waters rising in the United States, it does not appear equally interesting; it is, nevertheless, of considerable importance, having two remarkably fine harbors on the west side, opening to the Gulf of Mexico, viz. Hillsborough bay and Charlotte harbor. The first is very capacious, and will admit with safety any vessel drawing not more than 23 or 24 feet water: the latter is a good harbor, but will not admit vessels drawing more than 15 or 16 feet water.

The first Englishman who explored Hillsborough bay, was a Captain Braddock, who commanded a privateer from Virginia, and cruised on the west coast of East Florida, in the years 1744 and 1745.

East Florida must derive its principal importance from its proximity to the West India islands, and the great number of harbors and fit stations for cruisers which it furnishes among the small islands, and in the reef on the edge of the Gulf stream, which is the outlet of the Gulf of Mexico.

We have not one chart of the coast of East Florida, which can be depended upon for accuracy. A survey of the east side of it was submitted, by the British Government, to Mr. John de Brahm, and the west side to Mr. George Gauld; but the labors of those gentlemen have never been made public.

OF POSITIONS FOR MILITARY WORKS NEAR THE BOUNDARY.

There are several places on the Mississippi, between the mouth of the Ohio and the southern boundary of the United States, that would answer very well for military establishments; but the best appear to be at the Chickasaw bluffs, Walnut hills, and Loftus heights. The two latter appear to have the best command of the river. At one of the three bluffs, above the Chickasaw bluffs, (but I cannot recollect which,) a fort might be advantageously erected. Fort Prudhomme was built upon the middle one.

It will be difficult to erect works on any part of the Mississippi, below the mouth of the Ohio, that will prevent the descent of troops. The rapidity of the water, and the width of the river, will enable a boat, with some exertion, to pass any of the forts with but little if any damage; and there

is no place where a cross fire could be brought to bear with much advantage. But the ascent of boats is so slow, that a few pieces of artillery, well directed and served, would stop the progress of any vessel used on the river.

On the Pearl, or Half-way river, a very short distance above the boundary, is a commanding eminence, where a fort might be erected that would easily prevent the ascent of such boats and pirogues as would be proper for that navigation.

My knowledge of the Pascagoula is too limited to justify an opinion; but, from its distance both from the Pearl and Mobile rivers, and direct communication with the Gulf of Mexico, added to its magnitude, I should suppose it worthy of as much, if not more attention, than the Pearl river.

The Mobile, Tombeckbee, and Alabama rivers are at this time of much more importance to the United States than all the other waters between the Mississippi river and the Atlantic Ocean; being the only rivers which are navigable for square rigged vessels from the Gulf of Mexico into that part of the United States lying on the north boundary of West Florida. But, exclusive of this consideration, there is another, which arises from the lands on those rivers being already partially settled, and, at this time, the most valuable part of the Union.

The position of Fort Stoddard, on Ward's bluff, is a very proper one; but the works are neither sufficiently extensive nor strong to oppose an enemy possessed of artillery; and, so long as his Catholic Majesty holds West Florida, so long will it be necessary for the United States to be formidable in this quarter.

Any works on the Conecuh will, for some time to come, be unnecessary; there being no inhabitants to protect, nor a sufficient body of Indians residing on it to make that trade worth attending to. About one mile and a half above the boundary, on the east side of the river, there is a place where a trader formerly resided, that would answer tolerably well for a small military establishment.

At the confluence of the Chattahoochie and Flint rivers, the lands are swampy, and annually inundated, and therefore unfit for military works; but there are several bluffs on the east side of the Chattahoochie, which begin about one mile and three-quarters above the mouth of Flint river, where works might be advantageously erected.

On the St. Mary's river we have two military establishments, one at Colerain, and the other at the mouth of the river on Point Petre. Neither of them ever have, or will be of any advantage, either in protecting our trade or adding security to our citizens; they possess neither advantage of situation, merit in design, nor strength in the execution. The situation selected by the very judicious General Oglethorpe, on the south end of Cumberland island, where he erected Fort William, appears to be the most eligible, and better calculated for a permanent work, to give security to the harbor and sound than any other position about St. Mary's.

OF THE INDIGENOUS PLANTS, SHRUBBY AND HERBACEOUS.

Being a very indifferent botanist, I shall be extremely limited on this subject, and only note such productions as particularly attracted my attention for their use, quantity, beauty, or singularity.

At the mouth of the Ohio, and down the Mississippi swamp, the pre-

vailing timber is cotton wood, (*populus deltoida* of Marshall,) black willow, (*salix nigra*,) black ash, (*fraxinus nigra*,) sugar maple, (*acer saccharum*),—but this is not in great abundance, and becomes more scarce as you descend the river : and I do not recollect ever seeing but one tree south of the southern boundary—water maple, (*acer negundo*,) peccan, (*juglans illinoensis*),—this is met with as high as the Wabash, where it is scarce, but becomes more abundant from thence down to the Gulf of Mexico—papaw, (*annona triloba*),—I have eaten of the fruit in great perfection as early as the 17th July, in the Mississippi Territory ; button wood or sycamore, (*platanus occidentalis*,) hickory, (*juglans hickory*.) The cypress (*cupressus disticha*) begins to make its appearance about the Arkansas, and becomes very abundant a little further south, and appears to be inexhaustible before you reach the 31st degree of north latitude. It occupies many parts of the swamp, almost to the exclusion of any other timber. The cypress is a very useful wood, and used generally in that country for covering, flooring, and finishing the buildings. It grows in swamps, marshes, and ponds, but not on high land. The stem or body of the tree generally rises from the apex of a large conical base, above which the workmen have frequently to erect scaffolds before they fall the tree. From the roots of the tree about this conical base, a number of conical excrescences are sent up, which are called cypress knees : some of them are eight or ten feet high, and, being hollow, are used for bee hives and other purposes. The long moss (*tillandsia asneoides*) makes its appearance on the Mississippi nearly in the same latitude with the cypress, and almost covers a number of trees before you reach the Walnut hills. Sweet bay, (*laurus barbania*.) magnolia grandiflora : this most splendid and beautiful tree I do not recollect seeing above the Walnut hills, but have no doubt of its growing much further north. It is common through all the rich lands of Natchez, and east to the Atlantic. The foregoing trees appear to be confined either to very wet or very rich land, and will be met with in all such places along the boundary and through West Florida, with the exception of the peccan, sugar maple, and one or two others. The katalpa (*bignonia katalpa*) is not uncommon, but appeared the most abundant on the banks of the Concuah. The *nyssa aquatica* is common on the Chattahoochie, below the boundary. Exclusive of those plants, which are generally confined to low or very rich grounds, the following will be met with in various parts of the country : Sassafras, (*laurus sassafras*,) which grows to a large size about the Natchez, sweet gum, (lequid amber,) common swamp gum, (*nyssa integrifolia*.) holly (*ilex opaca*) in great abundance in some parts of the Mississippi Territory, and frequently becomes a large tree ; persimmon (*diospyros Virginiana*) very common, locust, (*robinia pseud-acacia*.) honey locust, (*gleditsia tiracontus*.) black walnut, (*juglans nigra*.) hickory (*juglans hickory*) of three species, common to the middle States : elm, (*ulmus Americana*.) dogwood, (*cornus Florida*.) red bud, (*cercis Canadensis*.) mulberry, (*morus rubra*.) wild plum, (*prunus Chickasaw*.) tulip tree, (*liriodendron tulipifera*.) white oak, (*quercus alba*.) black oak, (*quercus nigra*.) swamp oak, (*quercus aquatica*.) chesnut oak, (*quercus prinus*.) with several other species or varieties : live oak, (*quercus sempervirens*.) this useful timber is much confined to the coast and a short distance from it ; I do not recollect seeing it in any quantity in West Florida as far north as the boundary. Red cedar, (*jumiperu Virginiaana*.) this is likewise much confined to the coast, and is, in some

places, in great abundance ; pine (*pinus*) of several species, the quantity inexhaustible, buckeye, (*desculus pavia*,) wild cherry, (*prunus Virginiana*,) great palmetto, or cabbage tree, (*corypha*, or palmetto of Walter,) cassina yapon, (*ilex vomitoria*,) myraca inadora of Bartram : from the berry of this shrub the green wax used in candle making is collected ; these two last are confined to the coast. Beech, (*fagus ferruginea*,) chesnut, (*fagus Americana*,) chincopin, (*fagus pumila*,) spice wood, (*laurus benzoin*,) Bermudian mulberry, (*callicarpa Americana*,) cane (*arundo gigantea* of Walter) extends through all parts of the Mississippi swamp, and occupies equally the high as well as low land, from the Walnut hills, down the river, to Point Coupee, and, easterly, from fifteen miles to more than twenty. The whole of that high, rich, hilly, and broken tract of country, except where the farms are opened, may be considered as one solid cane-brake, and is almost impenetrable, but will probably be destroyed in a few years by the cattle, hogs, and fires. Its general height is from twenty to thirty-six feet, but I have met with it on the tops of several hills forty-two feet high. The small cane or reed (*arundo tecta* of Walter) begins to make its appearance on the boundary about twenty miles east of the Mississippi river, and, with the *arundo gigantea* or large cane, will be found on all the creeks and river bottoms through to the Atlantic. The China root (*smilax China*) and passion flower (*passiflora incarnata*) are abundant in the rich grounds. The sensitive briar (*mimosa instia*) is common to the poor sandy land. Several species of that beautiful and singular plant, the *caracinia*, is frequently met with in the margins of swamps and low grounds ; and three or four handsome species of *nymphœa* are to be found in the ponds and still waters about the rivers. Along the watercourses, and in the swamps, where the land is good, several species of well tasted grapes are found in great plenty. Many of the trees in the swamps and low grounds are loaded with a variety of vines, the most conspicuous of which are the creeper or trumpet-flower (*bignonia radicans*) and common poison vine (*rhus radicans*.)

Resolutions of the Legislature of Georgia on the subject of the Florida boundary.

IN SENATE.

The Committee on the state of the Republic, to which was referred that part of the Governor's message which relates to the boundary line between the State of Georgia and the Territory of Florida, with the accompanying documents, have had the same under consideration, and report :

That the deep interest which the State of Georgia has in the question of the final and satisfactory settlement of her boundaries, is such as to impose on her constituted authorities the duty of prosecuting the subject to some final termination : and at this time your committee believe that the constituted authorities of this State would be liable to the charge of a dereliction of duty to her citizens, were they to permit the boundary which separates Georgia from the Territory of Florida, from the junction of the Flint and Chattahoochie rivers, thence to the head of the St. Mary's river,

to remain, as it now does, unascertained, and not run and marked. Your committee, in again presenting a condensed view of the subject referred to their consideration, will purposely be very brief, as the merits of the question have been so often presented to the Federal Government, and particularly in the report and resolutions agreed to by the General Assembly of this State on the 16th day of December, 1828, which your committee beg may be referred to as presenting most of the evidences on which Georgia claims a final settlement of the boundary line between this State and the Territory of Florida.

By referring to the charter of Georgia which was granted in the year 1732 to certain persons, and its surrender to the King of Great Britain in the year 1752 by the trustees; and the proclamation of 1763, establishing the Government of East and West Florida, and extending the southern boundary of Georgia, and the commission of Governor Wright, (at which time both Georgia and Florida were British colonies or provinces,) dated the 20th day of January, 1764; the only legitimate inference from each of the recited evidences is, that the southern line of Georgia was to run from the most southern stream of a river, St. Mary's, and westward from thence, and, consequently, leaving the whole of the head waters of that river within the boundary of Georgia; and every other public document which relates to the said boundary, either as a boundary line of the United States or the State of Georgia, is in palpable accordance with this conclusion, until the year 1800.

In the year 1795, the Government of the United States and Spain concluded a treaty, by the second article of which it was agreed that a line should begin from a point at the junction of the Flint and Chattahoochie rivers, and to run from thence to the head of the St. Mary's river. Under the provisions of the said treaty, commissioners were to be appointed to run and plainly mark said line, and commissioners were accordingly appointed; and, in the year 1800, Mr. Ellicott, the commissioner on the part of the United States, and the commissioner on the part of Spain, met, and attempted to run and mark the said line from the junction of the Flint and Chattahoochie rivers to the head of the St. Mary's; but, from causes which it is now unnecessary to state in detail, the line was not run; but the commissioners fixed on a spot near a branch of the river St. Mary's, and erected a mound, and agreed that the mound so erected by them near the Okefenokee swamp should be taken as the true head of the St. Mary's river; and that a line should be run from the junction of the Flint and Chattahoochie rivers to said mound, and that it should be taken as the true line; provided, if said line did not pass within one mile north of said mound, it should be correct to carry it to that distance.

Your committee, after having recited some of the evidences on which Georgia claims that the boundary line between this State and the Territory of Florida has not been either finally or satisfactorily settled, take leave to state, that, until the year 1819, very little was known of the section of country about the head of the St. Mary's river; the Okefenokee swamp, in which it has its head, anterior to that time, was almost an impenetrable wilderness, and was very little known to civilized man; and that the explorations made by the authority of the Legislature of this State, in the year 1818, were not intended to do more than to collect information of a part of the lands and boundary line of Georgia; but, since that time, the Indian right of occupancy has been extinguished to all of the lands in this

State, from the junction of the Flint and Chattahoochie rivers to the head of the St. Mary's river; and that section of this State is now generally settled, and the country generally known: it is, therefore, now believed that it will not be difficult or uncertain to ascertain the true head of the St. Mary's river. Your committee believe the Legislature will not discharge a duty it owes to the good citizens of this State, without once more asking and requesting the Federal Government to co-operate in this desirable object, and have the said line plainly run and marked. Your committee have too much confidence in the authorities of the General Government to indicate an opinion that the rights of Georgia are not attended to, from improper considerations.

The reports made to Congress by the Judiciary Committee, to which the subject has been referred; one on the 21st day of March, 1828, and another on the 30th day of January, 1830, have been carefully examined by your committee; but as the said reports do not contain any new evidence of the claim on which the United States claim that the mound erected by Mr. Ellicott, to be truly and carefully placed at or near the head of the St. Mary's river, they have considered it improper at this time to make any examination of the conclusions arrived at by the arguments relied on in said reports.

In conclusion, your committee are satisfied that it is their duty to state, that if the question of settlement of boundary between Georgia and the Territory of Florida is not fully and finally settled under the provisions of the resolutions which are attached to this report, no further attempts should be made by this State, in the way now sought, to effect the desirable object; but that the question ought to be carried for decision before the proper judicial tribunal; and to effect the object embraced in this report, your committee recommend the adoption of the following resolutions:

Resolved, That it is the opinion of this Legislature that the dividing line between Georgia and Florida ought to be run from the junction of the Flint and Chattahoochie rivers to the head of the most southern branch or head of St. Mary's river; and that the said line ought to be marked without further delay.

Resolved, That Congress be earnestly requested, as an act of justice, during its present session, to repeal, alter, or amend the act of the 14th of May, 1826, which provided for the running out and marking the line dividing Georgia from the Territory of Florida; and to make additional and suitable provisions for the appointment of commissioners on the part of the United States, to join commissioners on the part of Georgia, to run out and plainly mark the dividing line between the State and the Territory of Florida, agreeably to the second article of the treaty of the 27th of October, 1795, between the United States and Spain.

Resolved, That should commissioners be appointed on the part of the United States, during the next session of Congress, to meet commissioners on the part of this State, to run out and mark the dividing line between Georgia and the Territory of Florida, that, as soon as his Excellency the Governor shall or may be informed of the same, he be, and he is hereby, empowered and requested to appoint, without delay, a competent commissioner, artist, or surveyor, on the part of this State, to meet the commissioner on the part of the United States; and that he open a correspondence with said commissioner on the part of the United States, requesting a meeting of the commissioners on the part of this State and the United

States, at the earliest day convenient, for the purpose of discharging the duties assigned them with the least possible delay.

Resolved, That if the commissioners on the part of the United States and Georgia shall meet agreeably to the provisions of the preceding resolution, and shall fail to effect the object of their appointment, that it is desirable that they report, and recommend terms and conditions on which the said disputed and unsettled line ought to be fully and finally settled. If, therefore, the Federal Government shall give authority to the commissioner appointed by said Government to make such recommendations to the said Government, that his Excellency the Governor be, and he is hereby, requested to give to the commissioner on the part of Georgia, instructions to join in such recommendation, if they should agree that the same is just and proper.

Resolved, That should Congress, at its ensuing session, refuse or neglect to make provision for running out and plainly marking the said line, by the appointment of a commissioner to meet the commissioner who may be appointed on the part of Georgia, that his Excellency the Governor be, and he is hereby, authorized and requested, as soon after the adjournment of the next session of Congress as may be consistent, to appoint two commissioners and an artist and surveyor, to meet as early after their appointment as may be convenient, and run out and plainly mark the said line dividing Georgia from the Territory of Florida, from the junction of the Flint and Chattahoochie rivers to the head of the St. Mary's river, agreeably to the second article of the treaty between the United States and Spain, of the 27th day of October, 1795; and that his Excellency the Governor do, in such case, inform the President of the United States of the time at which the commissioners on the part of Georgia will proceed to run out and plainly mark said line.

Resolved, That his Excellency the Governor be requested to forward a copy of this report and resolutions to our Senators and Representatives in Congress, to be by them laid before Congress early in the ensuing session, with a request that they may use, in the most earnest manner, every means in their power to get the Government of the United States to meet Georgia by commissioners, with full power and authority finally to settle this long standing and unpleasant controversy.

Read and agreed to, November 19, 1830.

THOMAS STOCKS, *President.*

Attest: JOHN A. CUTHBERT, *Secretary.*

In the House of Representatives—Read and concurred in.

ASBURY HULL, *Speaker.*

Attest: WM. C. DAWSON, *Clerk.*

Approved, 16th December, 1830.

GEORGE R. GILMER, *Governor.*

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