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**Message from the President of the United States, in relation to the survey of the Creek lands in Georgia, with accompanying documents.**

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**MESSAGE**

FROM THE

**PRESIDENT OF THE UNITED STATES,**

IN RELATION TO THE SURVEY OF THE

**CREEK LANDS IN GEORGIA,**

WITH

ACCOMPANYING DOCUMENTS.

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FEBRUARY 5, 1827.

Read, and ordered to lie on the table.

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WASHINGTON :

PRINTED BY GALES & SEATON,

1827.



WASHINGTON, February 5th, 1827.

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

I submit to the consideration of Congress, a letter from the Agent of the United States with the Creek Indians, who invoke the protection of the Government of the United States, in defence of the rights and territory secured to that nation by the treaty, concluded at Washington, and ratified on the part of the United States, on the twenty-second of April last.

The complaint set forth in this letter, that surveyors from Georgia have been employed in surveying lands within the Indian Territory, as secured by that treaty, is authenticated by information inofficially received from other quarters, and there is reason to believe that one or more of the surveyors have been arrested in their progress by the Indians. Their forbearance, and reliance upon the good faith of the United States, will, it is hoped, avert scenes of violence and blood, which there is otherwise too much cause to apprehend will result from these proceedings.

By the fifth section of the act of Congress, of the 30th of March, 1802, to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, it is provided, that, if any citizen of, or other person, resident in the United States, shall make a settlement on any lands belonging, or secured, or granted, by treaty, with the United States to any Indian tribe, or shall survey, or attempt to survey, such lands, or designate any of the boundaries, by marking trees or otherwise, such offender shall forfeit a sum, not exceeding one thousand dollars, and suffer imprisonment, not exceeding twelve months.

By the sixteenth and seventeenth sections of the same statute, two distinct processes are prescribed, by either or both, of which the above enactment may be carried into execution. By the first it is declared to be lawful for the military force of the United States to apprehend every person found in the Indian Country, over and beyond the boundary line between the United States and the Indian tribes, in violation of any of the provisions or regulations of the act, and immediately to convey them, in the nearest convenient and safe route, to the civil authority of the United States, in some of the three next adjoining States or districts, to be proceeded against in due course of law.

By the second, it is directed, that, if any person, charged with the violation of any of the provisions or regulations of the act, shall be found within any of the United States, or either of their territorial districts, such offender may be there apprehended, and brought to trial in the same manner as if such crime or offence had been committed within such State or district, and that it shall be the duty of the military force of the United States, when called upon by the civil magis-



trate, or any proper officer, or other person, duly authorized for that purpose, and having a lawful warrant, to aid and assist such magistrate, officer, or other person, so authorized in arresting such offender, and committing him to safe custody, for trial, according to law.

The first of these processes is adapted to the arrest of the trespasser upon Indian territories, on the spot, and in the act of committing the offence. But as it applies the action of the Government of the United States to places where the civil process of the law has no authorized course, it is committed entirely to the functions of the military force to arrest the person of the offender, and, after bringing him within the reach of the jurisdiction of the courts, there to deliver him into custody for trial. The second makes the violator of the law amenable only after his offence has been consummated, and when he has returned within the civil jurisdiction of the Union. This process, in the first instance, is merely of a civil character, but may, in like manner, be enforced by calling in, if necessary, the aid of the military force.

Entertaining no doubt that, in the present case, the resort to either of these modes of process, or to both, was within the discretion of the Executive authority, and penetrated with the duty of maintaining the rights of the Indians, as secured both by the treaty and the law, I concluded, after full deliberation, to have recourse, on this occasion, in the first instance, only to the civil process. Instructions have accordingly been given by the Secretary of War to the Attorney and Marshal of the United States, in the District of Georgia, to commence prosecutions against the surveyors complained of as having violated the law, while order have, at the same time, been forwarded to the Agent of the United States, at once to assure the Indians, that their rights, founded upon the treaty and the law, are recognized by this Government, and will be faithfully protected, and earnestly to exhort them, by the forbearance of every act of hostility, on their part, to preserve unimpaired that right to protection, secured to them by the sacred pledge of the good faith of this Nation. Copies of these instructions and orders are herewith transmitted to Congress.

In abstaining at this stage of the proceedings from the application of any military force, I have been governed by considerations which will, I trust, meet the concurrence of the Legislature. Among them, one of permanent importance has been, that these surveys have been attempted, and partly effected, under color of legal authority from the State of Georgia. That the Surveyors are, therefore, not to be viewed in the light of individual and solitary transgressors, but as the agents of a sovereign State, acting in obedience to authority which they believed to be binding upon them. Intimations had been given, that, should they meet with interruption, they would, at all hazards, be sustained by the military force of the State: in which event, if the military force of the Union should have been employed to enforce its violated law, a conflict *must* have ensued, which would itself have inflicted a wound upon the Union, and have presented the aspect of one

of these confederated States at war with the rest. Anxious above all to avert this state of things, yet at the same time impressed with the deepest conviction of my own duty, to take care that the laws shall be executed, and the faith of the nation preserved, I have used of the means entrusted to the Executive for that purpose, only those which, without resorting to military force, may vindicate the sanctity of the law by the ordinary agency of the judicial tribunals.

It ought not, however, to be disguised that the act of the Legislature of Georgia, under the construction given to it by the Governor of that State, and the surveys made or attempted by his authority, beyond the boundary secured by the treaty of Washington, of April last, to the Creek Indians, are in direct violation of the Supreme law of this land, set forth in a treaty which has received all the sanctions provided by the Constitution, which we have been sworn to support and maintain. Happily distributed as the sovereign powers of the people of this Union have been between their General and State Governments, their history has already too often presented collisions between these divided authorities with regard to the extent of their respective powers. No instance, however, has hitherto occurred in which this collision has been urged into a conflict of actual force. No other case is known to have happened in which the application of military force by the Government of the Union has been prescribed for the enforcement of a law, the violation of which has, within any single State, been prescribed by a legislative act of the State. In the present instance, it is my duty to say, that if the legislative and executive authorities of the State of Georgia should persevere in acts of encroachment upon the Territories secured by a solemn treaty to the Indians, and the laws of the Union remain unaltered, a superadded obligation, even higher than that of human authority, will compel the Executive of the United States to enforce the laws, and fulfil the duties of the nation by all the force committed for that purpose to his charge. That the arm of military force will be resorted to only in the event of the failure of all other expedients provided by the laws, a pledge has been given by the forbearance to employ it at this time. It is submitted to the wisdom of Congress to determine whether any further act of legislation may be necessary or expedient to meet the emergency which these transactions may produce.

JOHN QUINCY ADAMS.

## CREEK AGENCY,

15th January, 1827.

SIR: A few days since, the Little Prince complained to me that the Georgia Surveyors were surveying lands West of the line of the late treaty: and, at his request, I wrote to them in his name, requiring them to desist from surveying any lands not ceded by the Treaty of Washington; but the Surveyors, not regarding the command as emanating from competent authority, persisted in their surveys to the line run by the Georgia Commissioners as the line between Georgia and Alabama.

Yesterday a number of chiefs, with the Prince at their head, requested me to write again to the Surveyors, in their names, requiring of them to stop surveying the lands West of the line of the Treaty of Washington, which I did, in the most friendly terms. A deputation of Chiefs has accompanied the bearer of the letter, with the avowed intention of stopping the Surveyors.

The Chiefs have requested me to apprise you that the authorities of Georgia had extended their surveys West of the line of the Treaty of Washington, thereby violating the express stipulations of that instrument, which they held to be sacred; and to implore the Government to interpose its authority, to protect them in their rights under that treaty.

If Georgia is permitted to violate that Treaty with impunity, why may not Alabama? And they ask, where are they to look for protection but to the Government of the United States?

I have the honor to be,

Your obedient servant,

JOHN CROWELL,

*Ag't for Indian Affairs.*

The Hon. JAMES BARBOUR,

*Secretary of War, Washington City.*

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DEPARTMENT OF WAR,

January 29th, 1827.

To Col. JNO. CROWELL,

*Agent for the Creek Indians.*

SIR: I have received your letter of the 15th inst. conveying the information, that the Georgia surveyors in surveying the dividing line between Georgia and Alabama, were surveying lands West of the line of the late treaty, and of the measures which have been taken

by the Little Prince, and others, to prevent them; also, the message of the Chiefs imploring the Government to interpose its authority, to protect them in their rights, under the treaty of Washington.

The President directs me to convey to the Little Prince, and the head men and warriors of the Creek Nation, his assurances that he feels the binding obligation of the treaty of Washington no less forcibly than they; and that it is his intention to execute faithfully every clause and condition thereof. To this assurance he directs me to add, further, that he will take immediate steps to secure to them, all the rights, as these are guarantied in said treaty. But the President expects it of the Creek Nation, that it will not frustrate his purposes by taking any steps of a hostile character themselves; and he enjoins it on you, so to counsel them in regard to this matter, as to induce them to rely upon the protection of the United States, and leave the subject in controversy wholly to the Government. They have very properly made known their grievances, as becomes good people, and further it will be expected of them they will not go, but wait for such measures as the Government may desire to secure to them, their rights as these are guarantied in the treaty of Washington.

I am, very respectfully,  
Your obedient servant,  
JAMES BARBOUR.

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DEPARTMENT OF WAR,

January 29, 1827.

SIR: Complaints have been made to the President by the Creeks, through the United States' Agent, against the intrusions of the Surveyors of Georgia on their lands, guarantied to them by the treaty concluded with them at Washington, on the 24th January, 1826. With these complaints they have united an appeal to the President, calling for his interposition to protect them in their rights, by causing this treaty to be inviolably maintained. The pretensions under which these surveys are attempted, are in direct violation of the treaty, and, if persevered in, must lead to a disturbance of the public tranquillity. The treaty of Washington, like all other treaties which have received the constitutional sanction, is among the supreme laws of the land. Charged by the Constitution with the execution of the laws, the President will feel himself compelled to employ, if necessary, all the means under his control, to maintain the faith of the nation, by carrying the treaty into effect.

I have the honor to be,  
Your obedient servant,  
JAMES BARBOUR.

His Excellency G. M. TROUP,  
Governor of Georgia—Milledgeville, Geo.



DEPARTMENT OF WAR,

January 29, 1827.

SIR: By directions of the President of the United States, I enclose you the copy of a letter addressed to R. W. Habersham, Esq. Attorney for the District of Georgia. I am instructed to charge you to lose no time, on the receipt of the process, which will be delivered you by the Attorney, in promptly executing it, and taking the steps directed by law in such cases.

Should the Attorney be absent, you will yourself apply for the proper process.

I am, Sir, respectfully,

Your obedient servant,

JAMES BARBOUR.

JOHN H. MOREL, Esq.

Marshal, Savannah, Georgia.

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DEPARTMENT OF WAR,

January 30th, 1827.

SIR: Official information has been given the President, that certain persons, under the pretence of surveying, have entered the lands of the Creek Indians, directly in violation of the late treaty concluded with them at Washington, in January last, and directly in violation of the law of Congress, regulating intercourse with the Indian tribes.

The Chiefs and warriors of this tribe have appealed to the President for protection, by whom I am now instructed to direct you, without a moment's delay, to proceed to obtain the proper process with which to arrest them, which process you will cause to be delivered to the marshal of the District, that they may be made amenable to law. The orders of the President, as well as the importance of the object, relieve me from the necessity of suggesting any additional motive for the prompt and energetic discharge of your duty.

I have the honor to be,

Your obedient servant,

JAMES BARBOUR.

R. W. HABERSHAM, Esq.

District Attorney, U. S.

Savannah.

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DEPARTMENT OF WAR,

January 30, 1827.

SIR: Official information has been communicated to the President, that surveyors, acting under, it is presumed, the authority of

the Government of Georgia, have entered the lands of the Creek Indians, directly in violation of an existing Treaty, and having been warned against proceeding, by the Agent of the United States, have nevertheless persevered in their unjustifiable course. Information, though unofficial, has also been received that the Indians have interposed and prevented them from completing their surveys. The Chiefs and Warriors of the Creek Tribe have also appealed to the President to protect them in their rights. In this posture of affairs, it has been determined to despatch a Special Agent, for the purpose of bearing despatches to the Governor of Georgia, and to the District Attorney and Marshal of the United States for that State, and also to the Agent of the Creek Indians, to endeavor, if possible, to prevent a resort to violent measures, either by the authorities of Georgia or the Indians.

Confiding alike in your zeal, capacity, and discretion, I have determined to select you for this service.

On the receipt of your instructions, you will proceed, with the least possible delay, to Milledgville, and deliver the letter addressed to Governor Troup, with your own hands, as also to the Attorney and Marshal. Should Governor Troup give you an answer, either verbal or written, you will communicate it by mail; as also the receipt from the District Attorney and Marshal, of the instructions with which you will be charged for them. Having accomplished this part of the duty assigned you, you will proceed to the Creek Agency, and deliver the letter addressed to Colonel Crowell. Any information which you obtain in reference to the object of your mission, you will promptly communicate by mail; particularly any acts of violence which may have occurred, or which may be threatened. Carefully abstain from any remarks which may disclose your object, and be still more careful not to indulge in any commentary on the affair, which may subject you to personal difficulty.

I have the honor to be your obedient servant,

JAMES BARBOUR.

Lieut. J. R. VINTON, *U. S. Army.*