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CLAIMS OF CITIZENS OF FLORIDA.

FEBRUARY 26, 1829.

Read, and referred to the Committee of the Whole House to which is committed the bill [H. R. No. 385] for the relief of inhabitants of the Territory of Florida.

Mr. EVERETT, from the Committee on Foreign Affairs, to which was referred the subject of claims of citizens of Florida, for losses sustained by the operations of the American Army in 1812, 1813, and 1814, made the following

REPORT:

The Committee on Foreign Affairs, to which was referred the petition of J. M. Arredondo, of East Florida, have had the same under consideration, and beg leave to submit the following report:

The memorialist is one of a class of the citizens of East Florida, who suffered losses in consequence of the military operations of the American army in East Florida, in the years 1812 and 1813. Nothing is alleged, in the present case, to entitle it to the consideration of the House, in preference to the cases of other inhabitants of East and West Florida, who suffered in consequence of the events in those provinces in the years 1812, 1813, and 1814. Should the House make provision for the relief of the present memorialist, the committee are of opinion that it could only be on principles, which apply to a considerable number of other persons similarly situated. They have, therefore, felt it necessary to examine the question, as applicable to the entire class of cases.

It is known to the House that the United States regarded the greater part of West Florida as belonging to Louisiana, and as being rightfully a portion of the Louisiana purchase. Although the United States forbore for several years any active measure to enforce their right to this province, it was because they had a negotiation pending with Spain; which it was hoped and believed would result in the amicable cession of the territory. It was also the hope and expectation of the United States, that, in the result of the same negotiation, the province of East Florida would be ceded to the United States as an indemnification for the claims of our citizens, to a great amount, on the Government of Spain. The well understood state of the finances of the Spanish monarchy, exhausted by the extraordinary events of the times, forbade the Government of the United States to hope for any more direct indemnification; and it was generally felt by the Government and People of the United States, that the province of East Florida presented the only resource by which Spain could be expected to make, or the United States hope to receive, compensation for any portion of the claims of their citizens.

It was, accordingly, with great anxiety that the progress of affairs in Spain and the Spanish possessions, after the occupation of that country by the troops of France, and the subversion of the ruling dynasty, was watched by the United States. A state of revolution ensued in most of the Spanish colonies on the continent of America. In one of them an attempt was ac-

tually made, in others plans were projected, by some of the great European powers, to take possession of the Spanish colonial possessions. It was plain that any event, which should subject East and West Florida to any other European power than Spain, would encroach upon the rights of the United States in the former province, and destroy all hopes which they entertained of realizing in the latter an indemnity for the losses of her citizens. Besides these evils, others of a very alarming character would have resulted from such an event.

The Government of the United States accordingly adopted measures, at an early period, to prevent the occurrence of such an event. On the 15th of January, 1811, a resolution and a law were approved, copies of which are appended to this report; by which it was declared that the United States could not, without serious inquietude, see any part of the territory of Spain, bordering on the southern States, pass into the hands of any foreign power; that the President should be authorized to take possession of and occupy the whole or any part of the territory east and west of the river Perdido, within the limits of East and West Florida, in either of the two following contingencies, viz: that an arrangement has been or shall be made with the local authority of the said territory for delivering up the possession of the same or any part thereof to the United States; or in the event of an attempt to occupy the said territory, or any part thereof, by any foreign Government.

In pursuance of the authority vested in the President by the acts of 15th January and 3d March, 1811, General George Matthews, of Georgia, and Col. John M'Kee, were, on the 26th January, 1811, instructed by the President of the United States to carry the provisions of this act into execution. Their mission was a confidential one, and its object directed by their instructions to be, as much as possible, concealed from general observation. They were furnished with a credit on the Treasury to a certain amount, and authorized, at their discretion, to call upon the commanding officer of the troops of the United States on the southern station. In obedience to these instructions, Gen. Matthews repaired to the frontiers of Florida in 1811. On the 17th of March, 1812, (according to a statement contained in the memorial of the inhabitants of East Florida presented to Congress in 1826) a military invasion of that province took place. The town of Fernandina was captured on that day by a naval force of the United States, consisting of several gunboats, under the command of Captain Campbell, and a body of men from Georgia, under the command of Gen. Matthews. This body of men was joined by the regular troops of the United States, under the command of Col. Smith, and the joint forces marched through the province to St. Augustine, which they invested on the 25th. With these forces, and in these movements, were associated a body of individuals, inhabitants of East Florida, commonly known as the Patriots. Relying, as they are admitted to have done, on the countenance of the United States, they asserted their independence of the Spanish monarchy, and formed a provisional constitution of civil government.

In the result of these operations, the whole of the country between the St. Mary's and the St. John's, being occupied by the joint force above described, was surrendered to the United States. The town of St. Augustine alone was occupied by a Spanish garrison, and was not surrendered to the United States.

In these operations Gen. Matthews was considered by the Government

of the United States as having transcended his authority. It appears by a letter of April 4, 1812, by which Gen. Matthews was recalled, that the President of the United States had not contemplated the employment of an armed force, except in the event of an attempt to take forcible possession of the province by some foreign power other than Spain. On the 10th April, Governor Mitchell, of Georgia, was appointed agent, in the place of Gen. Matthews. He was directed to restore to the Spanish authorities Amelia Island, and such other parts of East Florida as had been taken from them. The United States troops were directed to be withdrawn from the province on the order of Governor Mitchell. Gov. Mitchell was specially instructed to stipulate with the Spanish Governor for an amnesty in favor of the inhabitants who had taken part in the revolution. On this subject, Mr. Monroe, then Secretary of State, in his letter of April 10, 1812, to Governor Mitchell, observes, "In the measures lately adopted by Gen. Matthews, to take possession of that territory, it is probable that much reliance has been placed by the people who acted in it on the countenance and support of the United States. It will be improper to expose these people to the resentment of the Spanish authorities."

In pursuance of the views here expressed, the troops of the United States were continued in the occupation of a portion of the territory of East Florida for more than a year, and until an amnesty had been proclaimed by the Spanish authorities, in favor of such of the inhabitants of the province as had risen against the Government of the King of Spain.

The entrance into Florida of the joint force of the regular troops and volunteers from the United States, in 1812, was attended, it is alleged, by losses naturally incident to a state of war. The property of the inhabitants is said to have been taken, in some instances, for the support and service of the troops. This is represented to have been occasionally done by parties acting under the direction of the commander of the joint force of the United States, and without compensation to the owners of the property thus taken. Other losses were also sustained by the inhabitants in consequence of the occupation of the province by the American forces, which will be understood by reference to the report of the judge of the Superior Court in East Florida, made under the provisions of the act of 3d March, 1823.

The claims accruing in 1814 had their origin in the operations of the American army in that year in the province of West Florida. It is known to the House that the hostile Indian tribes in the southern section of the country were furnished with supplies from the common enemy, through the channel of the Spanish possessions on the Gulf of Mexico. Pensacola was the chief centre of these operations, of which the pernicious influence was experienced, till the effectual reduction of the Creeks. After that had been effected, a part of the remnants of the hostile party found protection within the territories, and from the authorities of Spain. At the close of the summer of 1814, active demonstrations of a hostile nature were made by the British in the American waters of the Gulf of Mexico; which, though limited in themselves, were justly regarded as the precursors of a serious attack in some uncertain quarter. The attempt against Fort Bowyer was the first of the hostile demonstrations alluded to. That important point at the entrance of Mobile Bay was, on the 15th September, 1814, invested by a combined land and naval force, the former consisting of 110 marines and 200 Creek Indians, and a small number of artillerymen,

under the command of Captain Woodbine, of the British marines. On the failure of this attack, Col. Nicoll, of the British marines, and Capt. Woodbine, with a portion of their forces, retreated to Pensacola, where they were received by the Spanish Governor Manriquez. This circumstance gave new activity to the hostile operations, of which Pensacola had been the seat: and it became the duty of General Jackson, as the commander of the military district, which was already annoyed, and still more seriously threatened from this quarter, to expel the hostile force collected at Pensacola, and put an end to the encouragement there afforded to the hostile Indians. These objects were effected, by the rapid and successful march of the American General, in the month of November, 1814. Much praise is given in the despatches of Gen. Jackson to the correct conduct of the forces under his command: and the committee have every reason to believe that private property was protected, as far as it could possibly be done. It is a matter of course, however, that, in the march of a considerable military force, a part of which only was composed of regular troops, and of which a portion was made up of friendly savages, some encroachments or depredations on private property should have been committed.

It is well known that the events now related, together with those connected with the operations of the American army in Florida in 1818, formed the subject of complaints, on the part of the Spanish Government, against that of the United States. After years of negotiation, a treaty was concluded between the two powers, which was signed on the 22d February, 1819, by which satisfaction was procured for the long deferred claims of the United States against Spain, and an amicable adjustment of all differences effected. By the ninth article of this treaty, a mutual renunciation was made of certain enumerated claims of the two powers against each other. After the recital of the renunciations respectively made by the United States and Spain, a joint renunciation was made by both parties, followed by a stipulation on the part of the United States, in the following terms:

“And the high contracting parties respectively renounce all claim to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas.

“The United States will cause satisfaction to be made for the injuries, if any, which, by process of law, shall be established to have been suffered by the Spanish officers and individual Spanish inhabitants by the late operations of the American army in Florida.”

The treaty was executed in the English and the Spanish languages, each being considered original. The corresponding portion of the Spanish draft of the treaty differs slightly in its phraseology from the passage just cited from the English, as will be presently seen.

To carry into effect this provision of the treaty, an act was passed in 1823, designating the judges of the Superior Courts of St. Augustine and Pensacola, respectively, as Commissioners for ascertaining and awarding provisionally the amount due to claimants under the above stipulation. By the judge of the Superior Court of Pensacola, claims for losses sustained by the inhabitants in consequence of the operations of the American army in 1814 were received and adjudicated, as being among those for which provision was made by the treaty. By the judge of the court at St. Augustine, claims for losses sustained in consequence of the operations of the American army in 1812 and 1813 were received, and awards made, subject to the

decision of the Secretary of the Treasury, whether such losses were intended to be provided for by the treaty. These awards by the judge of West Florida, for losses sustained in 1814, were rejected at the Treasury Department, during the administration of Mr. Monroe, on the ground that they were not embraced by the treaty of 22d February, 1819. The awards for losses incurred in 1812 and 1813 have been in like manner rejected at the Treasury during the present administration, and on the same ground. The treaty was understood, both by the former and by the existing administration, to apply only to losses sustained in consequence of the operations of the American army in Florida in 1818, and subsequent to that period.

In 1826 a memorial of certain inhabitants of East Florida was presented to the House of Representatives, setting forth the substance of the facts stated in the former part of this report, and asking relief from Congress. This memorial was referred to the Committee on Foreign Affairs, as touching the construction of a treaty. To this committee was submitted an argument in favor of the claimants in East and West Florida, by Joseph M. White, the delegate of the Territory of Florida, and which will be found appended to their report, among the documents of the first session of the nineteenth Congress. The Committee on Foreign Affairs, at that session, reported unfavorably to the claimants, on the ground that their case was not provided for by the terms of the treaty. In coming to this conclusion, the committee was guided principally by two considerations: one, that, by the members of the executive government, under whose administration the treaty was negotiated, the cases of 1812 and 1814 were understood not to have been provided for by the treaty; the other, that, on a close examination of the terms of the treaty, in the Spanish and the English, both of which are originals, the losses of 1818 alone would be found to have been provided for.

The terms of the treaty, in the two languages, are as follows:

And the high contracting parties, respectively renounce all claim to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas.

The United States will cause satisfaction to be made for the injuries, if any, which, by process of law, shall be established to have been suffered by the Spanish officers and individual Spanish inhabitants by the late operations of the American Army in Florida.

Las altas partes contratantes, renuncian recíprocamente todos sus derechos á indemnizaciones por qualquiera de los ultimos acontecimientos y transacciones de sus respectivos comandantes y oficiales en las Floridas.

Y los Estados Unidos satisfarán los perjuicios, si los hubiese habido que los habitantes y oficiales Españoles justifiquen legalmente haber sufrido por las operaciones del Exército Americano en ellas.

It is urged by the Delegate from Florida, in an able argument submitted to the Committee on Foreign Affairs, in 1826, that no word corresponding to *late* is found in the Spanish draft of the treaty, by which the clause providing for indemnity would be restricted in its application to losses incurred in 1818. It was farther urged by him that instead of "Florida," which is found in the English draft, the Spanish draft has the words "en ellas," referring by necessity to "las Floridas;" and consequently including both East and West Florida, which would not have been done, had it been intended to provide exclusively for the losses

of 1818, which were almost wholly confined to West Florida. To these considerations, the report of the Committee on Foreign Affairs in 1826 contained the reply, that, although the word "operaciones" in the Spanish draft was not qualified by any term corresponding to "late," yet that the two clauses were connected by the particle "y" in the Spanish; and that the term "ultimos" in the first clause necessarily extended its limitation to "operaciones" in the second.

The committee forbear to pursue a verbal discussion of this kind, necessarily unsatisfactory in its nature. It may be observed, that the renunciation and stipulation for indemnity seem to be coextensive (having reference only to the terms of the treaty;) and that if the losses sustained by Spanish inhabitants in 1812 and 1814 are not provided for, then Spain has not renounced her claims on the United States for those losses. This would be to suppose that a considerable and not the least embarrassing part of the controversy between the Governments remained unsettled by the treaty of 1819, which nevertheless was, and in its preamble purports to be, a settlement and termination by treaty of all "their differences and pretensions."

The committee are of opinion, as far as regards the understanding of the treaty, that, while the American Executive considered the renunciation on both sides to extend to all grounds of controversy, they regarded the stipulation of indemnity as limited to the cases in 1818. On the part of the inhabitants of East and West Florida, it is evident that the stipulation of indemnity was understood to extend to the case of losses in 1812 and 1814. All the cases presented to the Judge of the Superior Court of East Florida, with the exception of five, are for losses sustained in 1812 and 1813.

The Committee on Foreign Affairs, at the present session of Congress, have bestowed mature consideration on the subject, and have come to the conclusion that the claims of the citizens of East and West Florida, for losses sustained in 1812 and 1813, and in 1814, are entitled to the favorable consideration of Congress. Such of the first description of losses as are of a *bona fide* character appear to the committee highly meritorious. An agent of the United States, clothed with large discretionary powers, with the control of funds from the public Treasury, and of a force of United States' troops, approached and entered Florida. It was natural that the inhabitants should repose great confidence in his promises of protection. Although his movements were disavowed by the Executive, their most important results were to a certain extent sanctioned by the occupation of the Province, on behalf of the United States, for a twelvemonth after General Matthews was superseded. The transaction was one, no doubt, of a peculiar nature, not likely to occur again in our history, and difficult to be adjusted, in all its consequences, on ordinary principles of legislation. The committee are disposed strongly to recommend a liberal course, and this they do with more confidence, as the amount involved, though highly important to individuals, in its importance to the United States bears no comparison with the beneficial consequences of the cession of Florida. The whole amount of claims awarded provisionally by the Judge of the Superior Court of East Florida was \$41,866. Claims to a much larger amount were presented, but rejected for various causes set forth in the record.

The case of the claimants of 1814 is somewhat different: but appeals, in the judgment of the committee, in a high degree to the equity of Con-

gress. A portion of the province of West Florida was claimed by the United States under the Louisiana treaty, but the right of possession was never enforced. The Government of Spain was, in 1814, at peace with that of the United States; but the provincial authorities of West Florida were unable, had they been disposed, to prevent the violation of their territory by the hostile arms of Great Britain, aimed against the United States. In this situation of things, the American commander, without express authority from his Government, but in the exercise of a wise discretion for the public good, found it necessary to invade a province whose political situation was so anomalous. The committee find it stated by the Delegate from Florida, whose means of information on this head are ample, "that it was proved by all the witnesses examined, that every effort was made by the commanding general and his officers to preserve the property of the inhabitants inviolate; and you will observe by the inspection of these claims that they resulted more from the consternation and flight of the inhabitants than the excesses of the militia." It is, however, in the necessity of things, that some losses should have been sustained by the inhabitants of a character entitled from some quarter to equitable compensation.

The committee cannot but think that the situation of provinces circumstanced like the Floridas is entitled to great tenderness, looking on them as distant appendages of a weak Government, unable to vindicate their neutrality; occupied against the law of nations by the enemy of the United States, and thus necessarily exposed to the hostile approach of an American force; acquired by the American Government as an indemnity for wrongs inflicted by the Spanish Government, from which the Floridas derived no benefit; and shortly after admitted into the political family of the Union. The importance of the acquisition of Florida to the United States is incalculable. It has rendered our southwestern frontier invulnerable. The position of the provinces, for the few years previous to their acquisition, was one in which the undoubted rights of the United States, and their defence and safety, were brought in collision with the tranquillity of these provinces. A final termination has been put to all these embarrassments; the inhabitants of Florida have become citizens of the United States; and the committee think it just and expedient, by the adoption of a liberal policy, to remove for ever any remaining ground of irritation and discontent. To effect this object, they have reported a bill making provision for the payment of such of the claims awarded by the Judges of East and West Florida as shall be deemed to be just by the Secretary of the Treasury, and affording an opportunity to those who have not done it to present their claims to the same Judges for examination.

To the Honorable the Senate and House of Representatives of the United States in Congress assembled :

The petition of Ferdinando M. Arredondo, on behalf of himself and others,
RESPECTFULLY SHOWETH :

That your petitioners, having property on the St. John's river, Amelia Island, and elsewhere in East Florida, prior to and in the years 1812 and 1814, sustained great losses and dilapidations of the same from the irregularities and depredations incident to, and the consequence of, the

invasion of that portion of Florida by the American troops. That, in consequence of having received no indemnity for the said losses, many of your petitioners have been reduced to great distress, and some of them to absolute ruin; and your petitioners having seen their fellow sufferers of 1818 relieved, in a great measure, by an act of Congress passed in 1824, conceive their claims on Government for relief to be no less meritorious and just: that this belief is sanctioned by the terms of the treaty of 1819, which are stated and amply explained (as understood by the petitioners) in document B; to which document the petitioners most respectfully invite attention, believing that it has never received the investigation which their misfortunes entitle them to claim. Your petitioner does not deem it necessary to exhibit evidence in his case, but offers the documents marked A and B, and prays that a general law may pass, such as passed in 1824, giving the judges power to examine and report the claims legitimately embraced by the treaty. And your petitioners will ever pray—

WM. B. WALLACE,

Attorney for F. M. Arredondo.

To the Honorable the Senate and House of Representatives of the United States in Congress assembled:

The memorial of the subscribers, Spanish subjects, resident in East Florida previous to the cession of that province to the United States, respectfully sheweth:

That, on the 17th of March, 1812, an invasion of the said province, and the capture of the town of Fernandina, within its limits, took place, by a naval force of the United States, consisting of several gunboats, under the command of Com. Campbell and a body of men from Georgia amongst whom were the Savannah Guards and Blues, under the direction of General Geo. Matthews, commissioner on the part of the United States. That said body of men were joined by regular troops of the United States, under the command of Col. Thomas Smith, and proceeded through the province to the city of St. Augustine, which they invested, and continued before from the 25th March to the middle of September; during which time, the American flag was constantly flying: That they were obliged to retreat from thence to St. John's river, where they remained until the United States' troops were finally withdrawn, in consequence of the Convention between Governor Kindelan and General Thomas Pinckney, in the May following.

Your memorialists beg leave further to represent, that, at the time of the aforesaid invasion, they were subjects of the Crown of Spain, a power then at peace with the United States, and in the enjoyment of prosperity and domestic comfort; that the officers and troops of the United States, with those associated with them, did, under the sanction of the American flag, burn the houses of your memorialists, destroy their cattle and other property, and that the Indians, let loose upon the country in consequence of the invasion, did complete the ruin of your memorialists, by carrying off their negroes, and destroying all that remained of their property; that, in consequence of these unprovoked hostilities and atrocities, they are involved in distress and poverty; their debts have accumulated, their creditors are coming down upon them, they are deprived of the means of

paying them, and the remnant of their property is seized and sacrificed to satisfy their demands: in one word, they have nothing before them but distress and ruin. That your memorialists did look forward with confidence to remuneration for the pecuniary losses they have sustained by the aforesaid invasion; those of their domestic comforts, and the prospects of their families, can never be repaired. Hitherto their expectations have been disappointed; they, therefore, pray your honorable body will take such measures as to your wisdom may seem fit, in order that the amount of said losses may be ascertained, and means taken for their speedy liquidation; and your memorialists will ever pray, &c.

F. J. Fatio,
 F. M. Arredondo, sen.
 F. M. Arredondo, jun.
 F. J. Fatio, for the heirs of
 Jos. M. Arredondo,
 Geo. F. Clarke,
 John Geiofer,
 F. P. Fatio,
 L. Fleming,
 George Fleming,
 Mateo Solano,
 William Harvy,
 Wm. Hollingsworth,

Pablo Sabate,
 B. de Castro y Ferrer,
 per John A. Cavedo,
 Juan Gianoply,
 Antonio Andreu,
 Prudence Plummer,
 James Hall,
 Sarah Faulk,
 Wm. Bardin,
 Henry Hartley,
 Moses Bowden,
 Farq. Bethune,
 Edward Wanton.

ST. AUGUSTINE, January 14, 1826.

Resolution in relation to the occupation of Florida.

Taking into view the peculiar situation of Spain and of her American provinces; and considering the influence which the destiny of the territory adjoining the southern border of the United States may have upon their security, tranquillity, and commerce: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States, under the peculiar circumstances of the existing crisis, cannot, without serious inquietude, see any part of the said territory pass into the hands of any foreign power; and that a due regard to their own safety compels them to provide, under certain contingencies, for the temporary occupation of the said territory: they, at the same time, declare that the said territory shall, in their hands, remain subject to future negotiation.—[Approved, 15th Jan., 1811.]

An act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido and south of the State of Georgia and the Mississippi Territory, and for other purposes.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he is hereby, authorized to take possession of, and occupy, all or any part of the territory lying east of the river Perdido and south of the State of Georgia and the Mississippi Territory, in case an arrangement has been, or shall be, made with the local authority of the

said territory. for delivering up the possession of the same, or any part thereof, to the United States ; or in the event of an attempt to occupy the said territory, or any part thereof, by any foreign Government ; and he may, for the purpose of taking possession and occupying the territory aforesaid, and in order to maintain therein the authority of the United States, employ any part of the army and navy of the United States which he may deem necessary.

SEC. 2. *Be it further enacted*, That one hundred thousand dollars be appropriated for defraying such expenses as the President may deem necessary for obtaining possession as aforesaid, and the security of the said territory, to be applied under the direction of the President, out of any moneys in the Treasury not otherwise appropriated.

SEC. 3. *Be it further enacted*, That, in case possession of the territory aforesaid shall be obtained by the United States as aforesaid, until other provision be made by Congress, the President be, and he is hereby, authorized to establish within the territory aforesaid, a temporary government, and the military, civil, and judicial powers thereof shall be vested in such person and persons, and be exercised in such manner, as he may direct, for the protection and maintenance of the inhabitants of the said territory in the full enjoyment of their liberty, property, and religion.—[Approved, January 15, 1811.]

An act concerning an act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes, and the declaration accompanying the same.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this act and the act passed during the present session of Congress, entitled “ An act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes,” and the declaration accompanying the same, be not printed or published until the end of the next session of Congress, unless directed by the President of the United States, any law or usage to the contrary notwithstanding.—[Approved, March 3, 1811.]

Mr. Foster to Mr. Monroe.

PHILADELPHIA, September 5, 1811.

SIR : The Chevalier D'Onis, who has been appointed Minister from His Catholic Majesty to the United States, has written to inform me that he understands, by letters from the Governor of East Florida, under date of the 14th ultimo, that Governor Matthews, of the State of Georgia, was at that time at Newtown, St. Mary, on the frontiers of Florida, for the purpose of treating with the inhabitants of that province for its being delivered up to the United States' Government ; that he was, with this view, using every method of seduction to effect his purpose ; offering to each white in-

habitant who would side with him fifty acres of land and the guaranty of his religion and property ; stipulating, also, that the American Government would pay the debts of the Spanish Government, whether due in pensions or otherwise ; and that he would cause the officers and soldiers of the garrisons to be conveyed to such place as should be indicated provided they did not rather choose to enter into the service of the United States.

M. D'Onis has done me the honor to communicate to me a note which he purposes transmitting to you, sir, in consequence of this detailed and most extraordinary intelligence ; and considering the intimate alliance subsisting between Spain and Great Britain, as well as the circumstances under which he is placed in this country, he has urgently requested that I would accompany his representation with a letter on my part in support of it.

After the solemn asseverations which you gave me in the month of July, that no intentions hostile to the Spanish interests in Florida existed on the part of your Government, I am wholly unable to suppose that General Matthews can have had orders from the President for the conduct which he is stated to be pursuing ; but the measures he is said to be taking, in corresponding with traitors, and in endeavoring, by bribery and every art of seduction, to infuse a spirit of rebellion into the subjects of the King of Spain in those quarters, are such as to create the liveliest inquietude, and to call for the most early interference on the part of the Government of the United States.

The Government of the United States are well aware of the deep interest which His Royal Highness, the Prince Regent, takes in the security of Florida ; for any attempt to occupy the eastern part of which by the United States, not even the slightest pretext could be alleged, such as were brought forward in the endeavor to justify the aggression on West Florida.

I conceive it therefore to be my duty, sir, in consideration of the alliance subsisting between Spain and Great Britain, and the interests of His Majesty's subjects in the West India islands, so deeply involved in the security of East Florida, as well as in pursuance of the orders of my Government, in case of any attempt against that country, to lose no time in calling upon you for an explanation of the alarming steps which Governor Matthews is stated to be taking for subverting the Spanish authority in that country, requesting to be informed by you upon what authority he can be acting, and what measures have been taken to put a stop to his proceeding.

I have the honor to be, &c.

AUG. J. FOSTER.

The Hon. JAMES MONROE, &c. &c.

Mr. Monroe to Mr. Foster.

November 2, 1811.

SIR : I have had the honor to receive your letter of September 5th, and to submit it to the view of the President.

The principles which have governed the United States in their measures relative to West Florida have already been explained to you. With equal frankness I shall now communicate the part they have acted with respect to East Florida.

In the letter which I had the honor to address to you on the 8th of July, I stated the injuries which the United States had received from Spain since their Revolutionary war, and particularly by spoliations on their commerce in the last war to a great amount, and of the suppression of their right of deposite at New Orleans just before the commencement of the present war, for neither of which had reparation been made. A claim to indemnity for those injuries is altogether unconnected with the question relating to West Florida, which was acquired by cession from France in 1803.

The Government of Spain has never denied the right of the United States to a just indemnity for spoliations on their commerce. In 1802, it explicitly admitted this right by entering into a convention, the subject of which was to adjust the amount of the claim, with a view to indemnity. The subsequent injury, by the suppression of the deposite of New Orleans, produced an important change in the relations between the parties, which has never been accommodated. The United States saw in that measure eminent cause of war; and, that war did not immediately follow it, cannot be considered in any other light than as a proof of their moderation and pacific policy. The Executive could not believe that the Government of Spain would refuse to the United States the justice due for these accumulated injuries, when the subject should be brought solemnly before it, by a special mission. It is known that an envoy extraordinary was sent to Madrid in 1805, on this subject, and that the mission did not accomplish the object intended by it.

It is proper to observe that in the negotiation with Spain, in 1805, the injuries complained of by the United States, of the first class, were again substantially admitted, to a certain extent, as was that, also, occasioned by the suppression of the deposite at New Orleans, although the Spanish Government, by disclaiming the act, and imputing it to the Intendent, sought to avoid the responsibility due from it; that to make indemnity to the United States for injuries of every kind, a cession of the whole territory claimed by Spain eastward of the Mississippi was made the subject of negotiation, and that the amount of the sum demanded for it was the sole cause that a treaty was not then formed, and the territory added.

The United States have considered the Government of Spain indebted to them a greater sum for the injuries above stated, than the province of East Florida can, by any fair standard between the parties, be estimated at. They have looked to this province for their indemnity, and with the greater reason, because the Government of Spain itself has countenanced it. That they have suffered their just claims to remain so long unsatisfied, is a new and strong proof of their moderation, as it is of their respect for the disordered condition of that power. There is, however, a period beyond which those claims ought not to be neglected. It would be highly improper for the United States, in their respect for Spain, to forget what they owe to their own character, and to the rights of their injured citizens.

Under these circumstances, it would be equally unjust and dishonorable in the United States to suffer East Florida to pass into the possession of any other power. Unjust, because they would thereby lose the only indemnity within their reach, for injuries which ought long since to have been redressed. Dishonorable, because, in permitting another power to wrest from them that indemnity, their inactivity and acquiescence could only be imputed to unworthy motives. Situated as East Florida is, cut off

from the other possessions of Spain, and surrounded in a great measure by the territory of the United States, and having also an important bearing on their commerce, no other power could think of taking possession of it, with other than hostile views to them; nor could any other power take possession of it, without endangering their prosperity and best interests.

The United States have not been ignorant or inattentive to what has been agitated in Europe at different periods since the commencement of the present war, in regard to the Spanish provinces in this hemisphere; nor have they been unmindful of the consequences into which the disorder of Spain might lead in regard to the province in question, without due care to prevent it. They have been persuaded that remissness on their part might invite the danger, if it had not already done it, which it is so much their interest and desire to prevent. Deeply impressed with these considerations, and anxious, while they acquitted themselves to the just claims of their constituents, to preserve friendship with other powers, the subject was brought before the Congress at its last session, when an act was passed, authorizing the Executive to accept possession of East Florida from the local authorities, or to take it against the attempt of a foreign power to occupy it, holding it, in either case, subject to future and friendly negotiation. This act, therefore, evinces the just and amicable views by which the United States have been governed towards Spain, in the measure authorized by it. Our ministers at London and Paris were immediately apprized of the act, and instructed to communicate the purport of it to both Governments, and to explain at the same time, in the most friendly manner, the motives which led to it. The President could not doubt that such an explanation would give all the satisfaction that was intended by it. By a late letter from the American Chargé des Affaires at London, I observe that this explanation was made to your Government in the month of ——— last. That it was not sooner made, was owing to the departure of the Minister Plenipotentiary of the United States before the instruction was received.

I am persuaded, sir, that you will see, in this view of the subject, very strong proof of the just and amicable disposition of the United States towards Spain, of which I treated in the conference to which you have alluded. The same disposition still exists; but it must be understood that it cannot be indulged longer than may comport with the safety, as well as with the rights and honor of the nation.

I have the honor to be, &c.

JAS. MONROE.

AUGUSTUS J. FOSTER, Esq. &c.

Message from the President of the United States to the House of Representatives.

July 1, 1812.*

In compliance with the resolution of the House of Representatives of the twenty-sixth of June, I transmit the information contained in the documents herewith enclosed.

JAMES MADISON.

* [This message was confidential; and the injunction of secrecy not removed till July 6.]

From the Secretary of State to General George Matthews and Colonel John McKee.

DEPARTMENT OF STATE, *January 26, 1811.*

The President of the United States having appointed you jointly and severally commissioners for carrying into effect certain provisions of an act of Congress (a copy of which is enclosed) relative to the portion of the Floridas situated to the east of the river Perdido, you will repair to that quarter with all possible expedition, concealing from general observation the trust committed to you, with that discretion which the delicacy and importance of the undertaking require.

Should you find Governor Folk, or the local authority existing there, inclined to surrender in an amicable manner the possession of the remaining portion or portions of West Florida now held by him in the name of the Spanish monarchy, you are to accept, in behalf of the United States, the abdication of his, or of the other existing authority, and the jurisdiction of the country over which it extends. And should a stipulation be insisted on for the redelivery of the country at a future period, you may engage for such redelivery to the lawful sovereign.

The debts clearly due from the Spanish Government to the people of the Territory surrendered may, if insisted on, be assumed within reasonable limits, and under specified descriptions, to be settled hereafter as a claim against Spain in an adjustment of our affairs with her. You may also guaranty, in the name of the United States, the confirmation of all such titles to land as are clearly sanctioned by Spanish laws; and Spanish civil functionaries, where no special reasons may require changes, are to be permitted to remain in office with the assurance of a continuation of the prevailing laws, with such alterations only as may be necessarily required in the new situation of the country.

If it should be required, and be found necessary, you may agree to advance as above a reasonable sum for the transportation of the Spanish troops.

These directions are adapted to one of the contingencies specified in the act of Congress, namely, the amicable surrender of the possession of the territory by the local ruling authority. But should the arrangement contemplated by the statute not be made, and should there be room to entertain a suspicion of an existing design in any foreign power to occupy the country in question, you are to keep yourselves on the alert, and on the first undoubted manifestation of the approach of a force for that purpose, you will exercise with promptness and vigor the powers with which you are invested by the President to preoccupy by force the territory, to the entire exclusion of any armament that may be advancing to take the possession of it. In this event, you will exercise a sound discretion in applying the powers given with respect to debts, titles to land, civil officers, and the continuation of the Spanish laws; taking care to commit the Government on no point further than may be necessary. And should any Spanish military force remain within the country after the occupancy by the troops of the United States, you may, in such case, aid in their removal from the same.

The universal toleration which the laws of the United States assure to every religious persuasion will not escape you as an argument for quiet-

ing the minds of uninformed individuals, who may entertain fears on that head.

The conduct you are to pursue in regard to East Florida must be regulated by the dictates of your own judgments, on a close view and accurate knowledge of the precise state of things there, and of the real disposition of the Spanish Government, always recurring to the present instruction as the paramount rule of your proceedings. Should you discover an inclination in the Governor of East Florida, or in the existing local authority, amicably to surrender that province into the possession of the United States, you are to accept it on the same terms that are prescribed by these instructions in relation to West Florida. And in case of the actual appearance of any attempt to take possession by a foreign power, you will pursue the same effective measures for the occupation of the territory, and for the exclusion of the foreign force, as you are directed to pursue with respect to the country east of the Perdido, forming, at this time, the extent of Governor Folk's jurisdiction.

If you should, under these instructions, obtain possession of Mobile, you will lose no time in informing Governor Claiborne thereof; with a request that he will, without delay, take the necessary steps for the occupation of the same.

All ordnance and military stores that may be found in the territory must be held as the property of the Spanish Government; to be accounted for hereafter to the proper authority; and you will not fail to transmit an inventory thereof to this Department.

If, in the execution of any part of these instructions, you should need the aid of a military force, the same will be afforded you upon your application to the commanding officer of the troops of the United States on that station, or to the commanding officer of the nearest post, in virtue of orders which have been issued from the War Department. And in case you should moreover need naval assistance, you will receive the same upon your application to the naval commander, in pursuance of orders from the Navy Department.

From the Treasury Department will be issued the necessary instructions in relation to imposts and duties, and to the slave ships whose arrival is apprehended.

The President, relying upon your discretion, authorizes you to draw upon the collectors of Orleans and Savannah for such sums as may be necessary to defray unavoidable expenses that may be incurred in the execution of these instructions, not exceeding in your drafts on New Orleans eight thousand dollars, and in your drafts on Savannah two thousand dollars, without further authority, of which expenses you will hereafter exhibit a detailed account, duly supported by satisfactory vouchers.

P. S. If Governor Folk should unexpectedly require, and pertinaciously insist, that the stipulation for the redelivery of the territory should also include that portion of the country which is situated west of the river Perdido, you are, in yielding to such demand, only to use general words that may by implication comprehend that portion of country; but at the same time you are expressly to provide that such stipulation shall not in any way impair or affect the right or title of the United States to the same.

The Secretary of State to General Matthews.

DEPARTMENT OF STATE, April 4, 1812.

SIR : I have had the honor to receive your letter of the 14th March, and have now to communicate to you the sentiments of the President on the very interesting subject to which it relates.

I am sorry to have to state that the measures which you appear to have adopted for obtaining possession of Amelia Island and other parts of East Florida, are not authorized by the law of the United States, or the instructions founded on it, under which you have acted.

You were authorized by the law, a copy of which was communicated to you, and by your instructions, which are strictly conformable to it, to take possession of East Florida, only in case one of the following contingencies should happen : either that the Governor, or other existing local authority should be disposed to place it amicably in the hands of the United States, or that an attempt should be made to take possession of it by a foreign power. Should the first contingency happen, it would follow that the arrangement, being amicable, would require no force on the part of the United States to carry it into effect. It was only in case of an attempt to take it by a foreign power that force could be necessary, in which event only were you authorized to avail yourself of it.

In neither of these contingencies was it the policy of the law, or purpose of the Executive, to wrest the province forcibly from Spain, but only to occupy it with a view to prevent its falling into the hands of any foreign power, and to hold that pledge under the existing peculiarity of the circumstances of the Spanish monarchy, for a just result in an amicable negotiation with Spain.

Had the United States been disposed to proceed otherwise, that intention would have been manifested by a change of the law, and suitable measures to carry it into effect. And as it was in their power to take possession whenever they might think that circumstances authorized and required it, it would be the more to be regretted if possession should be effected by any means irregular in themselves, and subjecting the Government of the United States to unmerited censure.

The views of the Executive respecting East Florida are further illustrated by your instructions as to West Florida. Although the United States have thought that they had a good title to the latter province, they did not take possession until after the Spanish authority had been subverted by a revolutionary proceeding, and the contingency of the country being thrown into foreign hands had forced itself into view. Nor did they then, nor have they since dispossessed the Spanish troops of the post which they occupied. If they did not think proper to take possession by force of a province to which they thought they were justly entitled, it could not be presumed that they should intend to act differently in respect to one to which they had not such a claim.

I may add, that, although due sensibility has been always felt for the injuries which were received from the Spanish Government in the last war, the present situation of Spain has been a motive for a moderate and pacific policy towards her.

In communicating to you these sentiments of the Executive on the measures you have lately adopted for taking possession of East Florida, I add with pleasure that the utmost confidence is reposed in your integrity and

zeal to promote the welfare of your country. To that zeal the error into which you have fallen is imputed. But in consideration of the part which you have taken, which differs so essentially from that contemplated and authorized by the Government, and contradicts so entirely the principles on which it has uniformly and sincerely acted, you will be sensible of the necessity of discontinuing the service in which you have been employed.

You will, therefore, consider your powers as revoked on the receipt of this letter. The new duties to be performed will be transferred to the Governor of Georgia, to whom instructions will be given on all the circumstances to which it may be proper, at the present juncture, to call his attention.

I have the honor to be, &c.

JAMES MONROE.

Gen. MATTHEWS, &c.

The Secretary of State to His Excellency D. B. Mitchell, the Governor of Georgia.

DEPARTMENT OF STATE, April 10, 1812.

SIR: The President is desirous of availing the public of your services, in a concern of much delicacy and of high importance to the United States. Circumstances with which you are in some degree acquainted, but which will be fully explained by the enclosed papers, have made it necessary to revoke the powers heretofore committed to Gen. Matthews, and to commit them to you. The President is persuaded that you will not hesitate to undertake a trust so important to the nation, and peculiarly to the State of Georgia. He is the more confident in this belief, from the consideration that these new duties may be discharged without interfering, as he presumes, with those of the station which you now hold.

By the act of the 15th of January, 1811, you will observe that it was not contemplated to take possession of East Florida, or of any part thereof, unless it should be surrendered to the United States amicably by the Governor, or other local authority of the province, or against an attempt to take possession of it by a foreign power: and you will also see that Gen. Matthews' instructions, of which a copy is likewise enclosed, correspond fully with the law.

By the documents in possession of the Government, it appears that neither of these contingencies have happened; that, instead of an amicable surrender by the Governor, or other local authority, the troops of the United States have been used to dispossess the Spanish authority by force. I forbear to dwell on the details of this transaction, because it is painful to recite them. By the letter to General Matthews, which is enclosed opened for your perusal, you will fully comprehend the views of the Government respecting the late transaction; and by the law, the former instructions to the General, and the late letter now forwarded, you will be made acquainted with the course of conduct which it is expected of you to pursue in future, in discharging the duties heretofore enjoined on him.

It is the desire of the President that you should turn your attention and

direct your efforts, in the first instance, to the restoration of that state of things in the province which existed before the late transactions. The Executive considers it proper to restore back to the Spanish authorities Amelia Island, and such other parts, if any, of East Florida as may have thus been taken from them. With this view it will be necessary for you to communicate directly with the Governor or principal officer of Spain in that Province, and to act in harmony with him in the attainment of it. It is presumed that the arrangement will be easily and amicably made between you. I enclose you an order from the Secretary of War to the commander of the troops of the United States to evacuate the country, when requested so to do by you, and to pay the same respect in future to your order in fulfilling the duties enjoined by the law, that he had been instructed to do to that of General Matthews.

In restoring to the Spanish authorities Amelia Island, and such other parts of East Florida as may have been taken possession of in the name of the United States, there is another object to which your particular attention will be due. In the measures lately adopted by General Matthews to take possession of that territory, it is probable that much reliance has been placed by the people who acted in it on the countenance and support of the United States. It will be improper to expose these people to the resentment of the Spanish authorities. It is not to be presumed that those authorities, in regaining possession of the territory, in this amicable mode from the United States, will be disposed to indulge any such feeling toward them. You will however come to a full understanding with the Spanish Governor on this subject, and not fail to obtain from him the most explicit and satisfactory assurance respecting it. Of this assurance you will duly apprise the parties interested, and of the confidence which you repose in it. It is hoped that on this delicate and very interesting point, the Spanish Governor will avail himself of the opportunity it presents to evince the friendly disposition of his Government towards the United States.

There is one other remaining circumstance only to which I wish to call your attention, and that relates to General Matthews himself. His gallant and meritorious services in our Revolution, and patriotic conduct since, have always been held in high estimation by the Government. His errors in this instance are imputed altogether to his zeal to promote the welfare of his country; but they are of a nature to impose on the Government the necessity of the measures now taken, in giving effect to which you will doubtless feel a disposition to consult, as far as may be, his personal sensibility.

I have the honor to be, &c.

JAMES MONROE.

P. S. Should you find it impracticable to execute the duties designated above in person, the President requests that you will be so good as to employ some very respectable character to represent you in it, to whom you are authorized to allow a similar compensation. It is hoped, however, that you may be able to attend to it in person, for reasons which I need not enter into. The expenses to which you may be exposed will be promptly paid to your draft on this Department.

The Secretary of State to D. B. Mitchell, Esq. Governor of Georgia.

DEPARTMENT OF STATE, *May 27, 1812.*

SIR: I have had the honor to receive your letter of the 2d instant, from St. Mary's, where you had arrived in discharge of the trust reposed in you by the President, in relation to East Florida.

My letter by Mr. Isaacs has, I presume, substantially answered the most important of the queries submitted in your letter, but I will give to each a more distinct answer.

By the law, of which a copy was forwarded to you, it is made the duty of the President to prevent the occupation of East Florida by any foreign power. It follows that you are authorized to consider the entrance, or attempt to enter, especially under existing circumstances, of British troops of any description, as the case contemplated by the law, and to use the proper means to defeat it.

An instruction will be immediately forwarded to the commander of the naval force of the United States, in the neighborhood of East Florida, to give you any assistance, in case of emergency, which you may think necessary, and require.

It is not expected, if you find it proper to withdraw the troops, that you should interfere to compel the patriots to surrender the country, or any part of it, to the Spanish authorities. The United States are responsible for their own conduct only, not for that of the inhabitants of East Florida. Indeed, in consequence of the compromitment of the United States to the inhabitants, you have been already instructed not to withdraw the troops, unless you find that it may be done consistently with their safety, and to report to the Government the result of your conferences with the Spanish authorities, with your opinion of their views, holding in the mean time the ground occupied.

In the present state of our affairs with Great Britain, the course above pointed out is the more justifiable and proper.

I have the honor, &c.

JAMES MONROE.

EAST FLORIDA, *July 30, 1812.*

SIR: Being elected to the office of Director by the freemen of East Florida, who engaged in the Revolution, it becomes my duty to address you, and, through you, the President of the United States, upon the subject of our situation. After suffering for a long time under the oppression of a Government, corrupt in itself, and free from the control of the parent country, we saw the correspondence between yourself and Mr. Foster, respecting East Florida. Your letter refrained from noticing that part of Mr. Foster's communication relating to General Matthews. When Gen. Matthews came forward with instructions of a date prior to that of the correspondence, we immediately concluded that the United States would receive our country as a component part of their territory, as soon as

we should declare our determination to shake off the shackles with which we were overloaded.

Under this impression, the whole planting interest declared themselves free, took possession of all the country, and held it until they surrendered it by cession of their commissioners to the United States.

None opposed our measures but persons in St. Augustine, under immediate military influence, (and frequently they come out and join us,) and some English merchants or agents at Amelia, who became subjects in East Florida, for the purpose of taking advantage of the situation of that island, and by evading or infringing the laws of the United States, to become rich by a trade in Africans, or by smuggling.

Firmly confiding in the assurances and declarations of Gen. Matthews, and in the full belief that we and our country would be taken under the protection of the United States, a temporary form of Government was adopted, merely to prevent confusion, and to enable us to make a cession to the United States. This form answered our intention until lately, when it was thought advisable to establish a more detailed one, lest the first should not be considered as sufficient to authorize a cession.

Yet, sir, not a man among us but considers this as a thing of a moment; for without the aid of the United States, we must fall, and become a ruined and dispersed people. It was in consequence of the assurances of commissioner Matthews, that our conduct would be sanctioned by his Government, that we were induced to take up arms against our tyrants, and to constitute a local authority or Government, under which to cede to the United States all the country around St. Augustine.

A copy of the deed of cession, made between General Matthews for the United States, and the commissioners appointed by our constituted authorities, was, we are told, sent on to the President. With surprise and concern, we heard shortly after that the President refused to ratify any of the acts of his commissioner; but having every reliance and confidence in the justice and humanity of the United States, we never despaired of being eventually protected. We could not believe that men, whose error had been an unbounded confidence in the authorized agent of the United States, and whose crime was an ardent love for your Government, would be left to the revenge of an arbitrary, jealous, and vindictive power. Indeed we were told through official and semi-official channels "that not a hair of our head should be touched." Latterly we have learned with inexpressible anguish, that the troops and gun-boats of the United States, which constitute our only security, are to be removed, our slaves are excited to rebel, and we have an army of negroes raked up in this country, and brought from Cuba, to contend with. Let us ask, if we are abandoned, what will be the situation of the Southern States, with this body of men in the neighborhood? St. Augustine, the whole Province, will be the refuge of fugitive slaves; and from thence emissaries can, and no doubt will, be detached, to bring about a revolt of the black population in the United States.

A nation that can stir up the savages round your western frontiers to murder will hesitate but little to introduce the horrors of St. Domingo into your Southern country.

In addition to this, the Creek Indians have been provoked to hostility against us, and have already committed murder and robbery on our fron-

tiers; this we believe to have been caused by the war between the United States and Great Britain; for before that event, the savages professed friendship for us, or at least a neutrality, though instigated to war by the corrupt Government in St. Augustine.

Deplorable as is our situation, it is made worse from the impossibility of carrying into the United States what slaves may remain faithful, without violating your laws, and thereby making them liable to seizure. Some of us have been accustomed to the sweets of affluence, and most of us to the enjoyments of plenty. We, in common with other citizens, would willingly have sacrificed all we have, had it been in defence of the United States; but to be beggared and branded as traitors is wretchedness indeed, to men who thought they were acting as some of their forefathers had in 1776. We have heard of the dispositions and efforts of the President, the House of Representatives, and a respectable minority in the Senate, to benefit our situation.

Allow me, sir, in behalf of the people of East Florida, to entreat the President and his cabinet council to take into consideration our unhappy, unexpected, and unmerited situation; and that it will be determined that a sufficient number of troops and gun-boats be ordered to remain for our protection, until a cession of the country shall be accepted by the United States, or a reinforcement thrown by the British into St. Augustine, when offensive operations might be resorted to. Upon the principles of justice and of humanity, we call for the protection of the United States: with it we become free and happy; without it, we must become wanderers upon the face of the earth, or tenants of loathsome dungeons, the sport of cruel and inexorable tyrants.

Our state of anxiety will be an apology for begging you to send me an answer as speedily as possible.

I am, sir, &c.

JOHN H. MINTOSH.

The Hon. JAMES MONROE.

Copy of a letter from the Delegate of Florida to the Hon. P. P. Barbour, Chairman of the Judiciary Committee, on the subject of claims under the ninth article of the treaty.

WASHINGTON, January 2, 1827.

SIR: By a resolution of the House of Representatives of the 29th ult. the Judiciary Committee were instructed to inquire "whether any further provision by law was necessary to carry into effect the 9th article of the treaty between Spain and the United States." This inquiry has become necessary, from a decision by the Secretary of the Treasury, "that the act of the 3d of March, 1823, did not authorize a report upon claims prior to 1818," which the committee will perceive by the enclosed documents. As I do not believe that decision was justified by the treaty, I beg to submit a brief argument for the consideration of the committee.

On the 15th of January, 1811, an act was passed by the two Houses of Congress, and was ratified by the President, in which it is declared "that the United States, under the peculiar circumstances of the existing crisis,

cannot, without serious inquietude, see the Floridas pass into the hands of a foreign power ;” and “ that, under existing circumstances, they will take temporary possession of that Territory, and hold it, subject to future negotiations.” On the same day another act was approved, giving to the President the authority to occupy, at his discretion, the country east of the river Perdido, with an armed force, on the happening of either of two contingencies : 1st, If it shall be rendered up by the local authorities. 2d. If any attempt to occupy it shall be made by a foreign Power. This last act makes a large appropriation for effecting its provisions, and invests the President with a legislative authority over the country, to be acquired in pursuance thereof. On the 26th of January, 1811, instructions were issued to General Matthews, of Georgia, and to Colonel M·Kee, of which the laws above cited were assumed as a basis. Vid. 9 vol. Wait’s S. P. p. 41. It will be seen by the letter of Mr. Monroe, the Secretary of State, that the powers conferred on these Commissioners are almost discretionary. It is melancholy to the lover of honest dealing to discover in this first document the commencement of all the American aggressions against the provinces of the Floridas ; to see the Secretary of State dictating to his agent the quibbles to which he should have recourse, and recommending the first of those baseless promises so to be worded as to deceive the Spanish authorities who should rely upon them, without being binding upon him who made them. If the Governors will peaceably “ surrender the Territory they were intrusted to protect, we will pay the debts of the Spanish King to his Spanish subjects. If you are driven to force, “ you will exercise a sound discretion, in applying the power given with respect to debts, *titles to lands*, &c. taking care to commit the Government on no point further than may be necessary.”

I will not comment on the consistency of promising *then* to pay the debts of Spain, and refusing now to pay our own to the self-same creditors. I will say nothing of that morality which seizes on a moment of weakness to invade the province of an ally ; which offers a reward to vice, and renders justice as a bribe to treason. I cite this passage to prove “ that the operations” of the American Government in the Floridas had a beginning awfully ominous to just and honest claimants. “ Turn traitor to your king, *our ally*, is the language of this letter, and we will pay every cent your master owes you : be honest, and drive us to force, and we will refuse to complete the titles to your lands.” “ Commit the Government on no point further than may be necessary.” But, sir, here is the important postscript to this preliminary document : “ If Governor Folk should obstinately require, and pertinaciously insist,” (before he turned traitor and surrendered his province,) “ that the stipulation for the redelivery of the province should also include that portion of the country which is situated west of the river Perdido, you are, in yielding to such demand, only to use general words, *that may, by implication*, comprehend that portion of the Territory.” This doctrine of implication was most beautifully and practically commented upon by the Sultan Mahomet, who, as we are told by Grotius, “ upon the taking of Eubœa, cut a person asunder in the middle of his waist, to whom he had made a promise that he would not hurt a hair of his head.” I have cited these passages, as well to show the whole uniform tendency of the measures taken and pursued by the United States in her operations in the Floridas, as to prove that Matthews was justified by his instructions in the course he adopted—instructions, as I have said

before, mostly discretionary, and seldom specific, unless to dictate a promise that may deceive, without being obligatory on the maker. With such instructions before him, it is not to be wondered at that the acts of Matthews were such as could not be openly justified by our Government. Suffice it to say, that, on the reception of a letter from that officer, dated 14th March, he was immediately notified from the Department of State, in a despatch of the 4th of April, "that the measures he had adopted were not authorized by the law of the United States, or the instructions founded on it, under which he had acted;" and the powers of which he is divested are bestowed on Governor Mitchell, of Georgia. The Governor is directed to surrender Fernandina, &c. on terms; viz: that the inhabitants should be protected from the vengeance of the Spanish authorities, and not to withdraw his troops until that security is guaranteed. "You are to report to the Government the result of your conferences with the Spanish authorities, with your opinion of their views, *holding, in the mean time, the ground occupied.*" And, so fully was Mitchell persuaded of the intention of the Government on this point, that he writes expressly to the Secretary of State, "that he knew it had never entered into the contemplation of the Executive to have the troops withdrawn from Florida." "In the measures lately adopted by General Matthews (says Mr. Monroe to Governor Mitchell, 10th April, 1812,) to take possession, it is probable that much reliance has been placed by the people who acted in it on the countenance and support of the United States. It will be improper to expose these people to the resentment of the Spanish authorities," &c.; "you will, however, come to a full understanding with the Spanish Governor on this subject, and not fail to obtain from him the *most explicit and satisfactory assurances* respecting it." From this, it appears, 1st, that, though we disavow the acts of Matthews, we are determined to retain possession of that portion of Spanish territory which he had seized on; and 2d, that the disavowal does not extend so far as to prevent us from obtaining the most full and perfect indemnity for those who had assisted him, though it does extend to exempt us from all and every obligation to make satisfaction to those who had suffered by his acts. In other words, the acts of Matthews, though unauthorized, are obligatory on us to protect those who were deceived by him, but not to indemnify those who were injured by him. An unauthorized adventurer, holding an American commission, at the head of American troops, marches into a neutral country, and lays it waste; his acts are disavowed by the Government, but the Government are bound to protect those who joined him, relying on their support against the vengeance of their offended laws. But he who resists their advances, acting as they were against the laws of Spain and the force of treaties—he who resists, and is ruined, can demand no satisfaction. "The United States are only responsible for their own acts—and this is an act of Matthews. True, if you have been a wrong doer with him, we will see that no power can harm you—thus far are we bound—but, if you have been injured by him who bears our commission, and commands our troops, or by his associates, *whom we protect*, we cannot remunerate you—we are not bound by the acts of Matthews." This is the language of two Administrations. By the laws of nations, he is deemed a principal offender "who is guilty of certain acts of negligence to prevent them, as well as by actual commission: that urges to the commission of it; that gives all possible consent; that aids, abets, or in any shape is a partner in the perpetration

of it."—Gro. B. 2. C. 17. 5, 6. Vattel ranks all as associates, "who are really united in a warlike association with our enemy, who makes a common cause with him."—B. 3. 6. It is idle to quote passages of law on a point as plain as this is: If a nation would disavow the acts of her officer, she must punish the offender—she must cause him to make satisfaction, if he is able, and, if not, she must do it for him. "Sovereign princes are answerable for their neglect, if they use not all the means within their power for suppressing piracy and robbery."—Gro. 2. 17. 20. It even frequently happens that the injury is done by minor persons, without their *sovereign having any share in it*; and, on these occasions, it is natural to presume that he will not *refuse us a just satisfaction*. When some *petty officers*, not long since, violated the Territory of Savoy, in order to carry off from thence a noted *smuggling chief*, the King of Sardinia caused his complaint to be laid before the King of France, and Louis XVI. thought it no degradation to his greatness, to send an ambassador extraordinary to give satisfaction for this violence. Vattel, B. 2. C. 18. 8. 358: see further on this subject, Vattel B. 2. C. 6. Sec. 76. 77, and 78; same author, B. 4. 7. 84, and Gro. B. 2. C. 18. 5. 4. It is idle, then, to disavow responsibility. The injury is the act of our troops, under our own officer. We retain the possession of the country occupied. We protect those who aided us, subjects, patriots, and all: and the law is every where recognized in the books, that, if we protect the wrong doers, we are responsible for the wrongs done.

Whilst our troops were thus stationed in a foreign territory, whose inhabitants, using every effort of which they were capable, to repel an invasion that our relations with the mother country rendered more unjust and oppressive, it was to be expected that much violence should be used on both sides—that much oppression of persons and destruction of private property should result. In this individual instance, it is believed that the waste of private property was wanton and extensive. The letter of Col. Smith, to which I have already referred, in my communication to the Secretary of the Treasury of the 28th of November, 1826, uses the strongest language to show the ruin following in the train of our armies: "the inhabitants have all abandoned their houses, and as much of their moveables as they could carry with them." And further, "the province will soon become a desert." And the investigations had before the courts of that territory, in pursuance of an act of Congress, approved 3d March, 1823, prove to us that the inhabitants of East Florida were driven from their homes by the American soldiery; that their houses, farms, and orange groves were wasted by fire and sword; that their stock was destroyed, and their slaves, to a large amount, were enticed or forced away, and many driven to seek protection amongst the Indian tribes, from whom they have never been reclaimed. Such are the facts in the case of the inhabitants of East Florida. These sufferers from American rapacity are now no longer foreign subjects. They have now no separate Government to which to appeal for a redress of grievances. They had fondly hoped, that, when their impotent master had transferred them over to a free and growing Republic, that a full adjustment of their claims, a full security for payment and satisfaction, was guaranteed by the treaty of cession: And they might still more fondly have hoped, that, if any doubt could arise in the construction of a clause so remedial and so just, that our Government would allow some little weight to the equity of the claim; that we would not construe an ambiguous promise to pay, "a promise by implication,"

into a total release from an obligation so cogent and so binding before the promise was made—but, alas! they are deceived. Two succeeding administrations have construed the treaty so as to close against them the door of hope, and a committee of Congress have sanctioned the construction. Thus, sir, are these people injured and deceived; ruined by our arms when Spanish subjects—transferred to us their debtors—they have none to intercede for them. The transfer from which they had hoped so much has beggared and betrayed them—beggared, because it has left them as it found them—betrayed, because, in the language of poetry, “it has held the word of promise to the ear, and broke it to the hope.” It has made us their creditors by our wrong, and then closed against them the avenues of redress, by purchasing themselves and their territory from a master who would have vindicated their claims to justice:

These, sir, are the facts upon which the inhabitants of East Florida rest their claims to indemnity for the spoiliations of the American Army. From these facts I shall attempt to prove that these people are entitled to remuneration: either, 1st, as Spanish subjects; 2d, as American citizens, though no treaty had ever been made to secure them; 3dly, that the treaty was meant to embrace their case, and does, if properly interpreted, fully secure their indemnity; and, 4thly, that, if there is nothing in the law of nations, nor in the treaty, to secure them, some provision should now be made by Congress for that purpose.

1st. There is no proposition so clear as that principle, recognized by all law, common, civil, and national, that every damage done to an individual gives him a right to a remedy and redress. “All penalties incurred by particular offences are considered debts.” Blackstone, in the 3 B. 9 cap. of his commentaries, after proving the application of this rule to individuals, adds further, “the case is the same between nations, in this respect, as between individuals. One Power is bound to repair the injuries which its own subjects have done to those of another. This indemnity or satisfaction is a debt which justice requires that Power to discharge.” It is no defence to say, that, as the Spanish Government is, or was, too imbecile to enforce this demand, the United States are released from all obligation to pay it. It would be a monstrous assertion, on the part of a rising Republic, whose avowed policy is justice to all, and oppression to none, that she claimed the right, by the law of power, to send her armies into a neutral province, there to pillage, burn, and plunder, without responsibility, because, forsooth, she has the physical force to effect it. All civilized nations, at the present day, by the modern construction of international law, are compelled to make full and ample remuneration for spoiliations done by their armies on the private property of a people with whom they are engaged in actual war. It would be useless in me to cite to you cases of that sort, some few of which I have adverted to in my letter to the Secretary of the Treasury, already mentioned. They are of too frequent occurrence to require specification; and if a doubt had ever existed on the subject, it is effectually removed by the decision of the late Emperor of Russia on this very point. I will not waste your time by a reference to the books on the law of nations, and quote you passages with which they teem, to prove the position here advanced. It is too clear to admit a doubt in the 19th century, that nations at war must pay for all damages done to private property, and Grotius, in his second book, labors to prove that the damages should be vindictive. And now, sir, shall we be told, by way of

justification, that we were not at war with Spain? That we are released from all responsibility, because the invasion was made when we were at peace? when the King of Spain was in a French prison, and his kingdom one universal French encampment? Shall we justify our acts because we magnanimously availed ourselves of a moment of imbecility, when none could oppose us, to seize on the possessions of an ally? Shall we justify by the example of the partition of Poland, and avow our intention in the then contemplated division of Spanish spoil, to get the Floridas as our portion? Surely we will not aver that an act of invasion against the inhabitants of a foreign country is justifiable in peace, but not in war; that the property of your allies, if they are weak, may be destroyed, otherwise of your enemies, if they are strong. But, sir, this is too plain to discuss it longer. Don de Onis always pressed on us the adjustment of these claims "for the wars in East Florida," and Mr. Adams never for a moment denied their validity; and I am bold to affirm, that, if the Floridas had remained under the dominion of the King of Spain, they would long since have been settled, or, if not settled, at least not disputed. It is not because the claimants were Spanish subjects that the justice of their demand is denied; they were never denied to de Onis. It is because they are no longer Spanish subjects, but American citizens, that justice is withheld from them. It is because they present that amphibious relation, in which, by our acts, they are made to stand, of claimants as Spaniards, against another Government of which they have become citizens. They are complaining to their present friends and masters, for acts done to them as aliens, by those to whom they complain. They are petitioning their present Government for redress of wrongs done to the past. Let us, then, see, if, by changing their political character, they have so far lost their identity as individuals, that what was once due them is due them no longer. Viewed in their new character of American citizens, appealing to the American Government for the redress of wrongs done by American soldiery, it would seem to be enough to point to your tables, groaning with petitions of a similar kind from every quarter of the Union. If a horse has been impressed or a bullock eaten by our troops, in the last war, Congress has been petitioned to pay for it, and has never refused. If damage is done to the citizen by the soldier, and that damage was even indispensable to the defence of our common country, the Government is bound to pay for it. It would seem to be enough for these people, that they had been wronged, and by us, to entitle them to indemnity. That they had now no sovereign to whose political interposition they might appeal for redress. That they had been first ruined by American arms, then bought by American money, before compensation was made them. If the King of Spain did not guaranty their full indemnity in the terms of the transfer he has made of them, the obligation to do so has accrued to the purchaser. Suppose the King of Spain had sold the Floridas, with all their demands against the United States, to Great Britain or to Napoleon; would we have disputed with them our obligation to make reparation for our spoliations in 1812 and '14? And what is the worth of justice when it is granted only to the strong, and denied to the helpless? It is an obligation imposed on that Power which has done the injury, to redress the damages that have been sustained by individuals for individual benefit, and the right of redress results and remains indefeasible in the sufferers, to whomsoever they may be transferred. If Spain has abandoned their interests, it is the duty of

the transferee to maintain them. Spain has no motive in securing the rights of subjects no longer belonging to her crown, and guarding the American citizen from poverty and ruin resulting from American aggression. But it is our duty to show to the world that the change from a Spanish subject to an American citizen is not a curse too heavy to be borne. It is our duty to prove to the remnant of the Spaniards in Florida that the principle of republics is justice. That we will not withhold from our citizens that justice which was never refused to them when demanded by their King, nor make them beggars when we made them free. That we will not free ourselves from a debt by buying those to whom it is due, nor plead the omissions of an imbecile monarch to release us from the most solemn of all obligations—that of redressing those whom we had injured, and whom, by our own act, we had rendered unable to redress themselves. These people have on us a four-fold claim: we have done them wrong. We have deprived them of their natural protector by the treaty of cession. We have become their avengers, by every tie of justice and equity to protect the weak, when we have made them so, and to right the injured when we have done them wrong.

3. I come now, sir, to the third division of my argument—to the 9th article of our treaty with Spain. In my letter to the Secretary of the Treasury, which was laid before the Committee on Foreign Affairs, I attempted to show what I then, and still do deem a manifest discrepancy between the Spanish and the English copy of that article, in the total omission, in the former, of the word “late,” which has been considered so important to the construction of this part of the treaty. It is true, as we are told by the committee, that both the Spanish and English copies of the treaty are originals: and it is also true, that, if there be a difference in the two, in this place, the Spanish copy furnishes the only proper point of reference for construction; here is contained an express promise of satisfaction to Spain, for wrongs done her; and we are bound by that phraseology by which Spain was satisfied. She did not understand the English. The promise was exacted in Spanish: In Spanish it was understood: in Spanish it was satisfactory. If we have altered the English copy, so as to convey a different meaning from that understood, we have, by satisfying the claims of Spain, by quieting their complaints in one language, and evading them in another, been guilty of a gross fraud, which would disgrace an individual, and will be another instance of a “promise by implication,” so usual in our intercourse with Spain. Suppose a Spaniard and an Englishman enter into a contract for the exchange of property; suppose there be two articles of agreement, one in each language; suppose the Spanish copy is fair and equitable, and mature in its terms, and contains the only grant made to the Spaniard, as an equivalent for his concessions; and suppose the English copy was so worded as to get all and pay nothing: I ask, would it not be considered an unprincipled attempt to deceive, by making a promise satisfactory to a man in a language he understands, and construing the meaning of the contract from another language, which he does not understand, so as to get his property without a price? “The obligation of promises depends on the *expectation* which we knowingly excite. Consequently, any action or conduct towards another which we are sensible excites *expectations* in that other, is as much a promise, and creates as strict an obligation, as the most express assurances.” Paley’s Moral Phil. vol. 1. 126. Grotius and Vattel are conclusive to the same point.

Shall we then be told that, because they are both originals, the moral obligation to perform a promise, as it was understood by the promisee, to satisfy his just expectations, and to gather those expectations from the words in which they were conveyed to him, are no longer binding on us? If, then, the word "late" is omitted in the Spanish copy, and that it is a bare inspection of the paper itself sufficiently manifests, I do humbly conceive that the question should be at an end. But I come to the construction of the 9th article of the treaty, by which the people of East Florida have been barred of what they deem their rights. I had hoped, at the date of my letter to Mr. Rush, that this construction was confined to a man, once of strong and powerful intellect, but at that time supposed to be impaired by the heaviest dispensation of Providence, by a long and lingering disease, as fatal to the mind as to the body. I endeavored, in a letter of some length, to show that the word on which the whole construction was based was not in the Spanish copy of the treaty: and that, even if it were not an interpolation, and if it were of doubtful interpretation, it should be taken more strongly against the grantor. I urged that this was one of the very few grants in favor of Spain; and, for this reason, if there were none other, should be liberally interpreted. That it was a grant prescribing a remedy for a wrong already done; and that, as such, it was entitled to an equitable and enlarged construction, in favor of the injured party. I urged, further, that, as there were no "operations" of our army in the province of East Florida in the year 1818, to limit the application of the phrase to that particular year would be to constitute a remedy when the injury had been done, and to shut out all redress for actual and positive damage. I urged that this could not be the meaning of the high contracting parties, because, if they meant any thing, the clause was nugatory, and if they meant nothing, it was nonsense: because, in a word, they gave a remedy where there was no wrong, and left a wrong without a remedy. And, sir, how am I answered? simply that two administrations had decided that the word "late" meant—what? "The latest or last!" That it does not mean a thing recent and of short intervention of time; but that it means what I had thought could only be expressed by the superlative degree of the adjective, the very last act of a continued series. Thus, sir, by authoritative construction, the positive degree, in an article of a treaty, is merged in the superlative, and that the word "late," so plain to be understood when applied to a plural noun, no longer expresses, as it was wont to do, the whole of a consecutive series of acts, done within a recent period, but means exclusively that which plain men would express by the superlative, the *latest or last act* done of that series. When we tell them, under their own interpretation, that the very last acts of the American armies in East Florida were done in the years 1812 and '14, we are again told that the operations spoken of are those of 1818, and no others. Now, sir, to come to the conclusion of this and the preceding administration, it is not only necessary to make the word *late* synonymous with *last*, but you must emphatically declare, that the word "operations" means nothing, if applied to any year other than 1818. It does seem to me strange, sir, that we should have so strong a sympathy with the sufferers of that year, to the exclusion of all others from justice, when the "operations" of that year were confined to West Florida, and were directed against the savage Indian, who was harbored there to annoy us. We had pursued our foe, yet reeking with the blood of helpless women and children, into the terri-

ories of Spain, in West Florida, and found the savage there. In punishing these wretches, some injury was necessarily done. And is it not strange that we, the United States of America, should torture the English language, and violate every principle of English grammar and moral justice, to make an exception in favor of those against whom we had strong cause for the injuries we had done them, and to the exclusion and ruin of others, against whom we had none? General Jackson would never have crossed the line in pursuit of the Seminoles, had he not well known that they were encouraged to commit the outrages of which they had been guilty. Yet, for some slight damage done by our armies to the people of West Florida, in 1818, ample redress is guaranteed, and satisfaction has been made; whilst the harmless and unoffending citizen of East Florida, against whom no complaint was ever alleged, in the moment of profound peace is driven by the invading armies of the United States from his home, and on his return finds himself a beggar—his houses burnt, his crops and groves, the labor of a life, destroyed, his stock and his slaves stolen away or driven into the woods; and when he asks redress at the hands of the wrong doer, he is told “that he is too late:” that he is barred by a constructive act of limitations, and that the wrongs of which he complains are not *late* enough to be remedied. When he answers that they are not only *late*, but the very last, in East Florida, of which he is a citizen, he is again told that the word *operations* is limited to 1818, and means nothing if applied to any other year. But, sir, let us grant the construction contended for in its fullest extent: that the word “*late*” is in the Spanish copy as well as in the English: let us grant the grammar of the Government and the committee to be good, that their definition of the word is correct; in a word, let us admit that the word “*late*,” when applied to *operations*, does mean the very *latest* or *last thing* done; and then let us go to the sages of national law, to construe the meaning of the text. “Where we have no other conjecture to guide us, says Grotius, B. 2; C. 16, words are *not* to be construed in their original or *grammatical* sense, but in their common acceptance: for it is the arbitrary rules of custom which direct the laws and rules of speech.” Now, if the grammar of the restrictionist be correct—if, in the definition of the word, they are strictly right—I appeal to every man of common sense, if the “*common* acceptance” of the word “*late*,” as fixed by the “*arbitrary* rules of custom,” be not, as I have defined it, something recent and of short date, something done not long since?

“In all human affairs, where absolute certainty is not at hand to point out the way, we must take probability for our guide.” “In most cases it is extremely probable that the parties have expressed themselves according to *established usage*; and such probability ever affords a strong presumption, which cannot be overruled but by a still stronger presumption.” Vat. 2. 17. 271. I need not here stop to inquire if it is the established usage of language to confound the positive with the superlative. Let us for a moment test the construction of a treaty by these presumptions and probabilities: Now is it probable, is it to be “*presumed*,” that Spain would pertinaciously adhere to the interests of those of her subjects, against whom we had a good cause of aggression, and abandon to their fate the larger portion of claimants, who had never offended? Did she consider her honor bound by geographical limits; and did she feel solicitous to wipe from her escutcheon only that part of the stain which had attached on the west of the Suwanee? Again, is it probable that the

United States would make this distinction, under the existing circumstances of the case? Are these the probabilities and presumptions required by the law of nations? It is extremely probable that the parties have expressed themselves conformably to established usage. Is it established usage for a nation, in making a treaty with another, to secure indemnity to one-half of her citizens or subjects, and leave the other half, more innocent and more suffering, to irremediable ruin? Is it established usage for a nation to stipulate redress to one-half of the subjects of another, for wrongs done *by herself*, after the great national council had solemnly resolved, that, against that portion, so redressed, we had just cause of war, and refuse it to the other half, whom she had more grievously injured, and against whom, so far from having a cause of aggression, she became ashamed of the acts of her officer, and disavowed and dismissed him? Enough, sir: I am ashamed to be guilty of what I fear is almost tautology; but this is a subject so important to the very subsistence of a large portion of my constituents, that I deem it my duty to present it to the committee in every possible aspect that it will bear, even at the hazard of repetition. Sir, so novel and ruinous to a number of citizens is the present construction of the treaty, the present definitions of the word "late," that I thought it best to attempt to show, that, in every possible bearing of the subject, the construction was wrong, the definition erroneous, and the consequences monstrous. If, in presenting this subject in so many points of view, I have been compelled to use twice the same ideas, or the same expression, I plead my apology in the nature of the question and the novelty of the controversy.

We are further told, sir, that, "in the construction of a doubtful treaty, we are to have recourse to conjectures, which are to be found in the subject-matter, and in the consequences, and the circumstances and connexions." The subject-matter is redress of wrongs done to the private property of Spanish subjects in Florida by the American army. The object of Spain was to vindicate her sullied honor, and to secure indemnity to her injured subjects; and what are the consequences of this construction of the treaty? Spain was not interested in securing a full satisfaction to the people of Florida; they were her subjects no longer, and it was to the mother country a matter of pecuniary indifference whether they remained citizens of the United States, the beggars we had made them, or not. But the honor of Spain was pledged to see them redressed; and is this effected by the course we pursue? Are these the consequences naturally desired by both parties? And when the honor of Spain, if these are the consequences of this treaty, is still sullied, what becomes of our own? To redress by treaty those wrongs which Congress solemnly resolved that General Jackson was right in doing, and to leave unredressed those that Aury or McGregor would blush at. Again, sir, we learn from Blackstone, Intro. to Com. c. ii. p. 16, that "the most universal and effectual mode of discovering the true meaning of a law, when the words are dubious, is, by considering the reason or spirit of it, or the cause which moved the legislator to enact it."

As we progress, sir, the authorities in favor of a liberal construction of this treaty are multiplied upon us. "If the promiser has neglected to examine the matter, or has been careless in expressing his meaning, he will be bound to repair the damage which another has sustained on that account."—Gro. We are the promiser. Spain expected and stipulated

for full satisfaction to her injured subjects. It is amply provided for in the Spanish copy of the treaty. Those subjects have relied on our promise, and have sustained a heavy damage by that reliance: for we may freely conclude, that, as this is the single stipulation in favor of Spain, without this, in its fullest comprehension, she would never have ceded the Floridas. This rule is again and again pressed on us by the books. We are further told by Grotius, 2, 16, 7, that "no inconsiderable light may be thrown on the meaning of an expression from the circumstances of its being used by the *same* persons, to express the *same* intentions, on other similar occasions, and from its relation to what goes before, and what follows, the place where it stands." "We must consider the whole discourse together, in order perfectly to conceive the sense of it, and give to each expression not so much the *signification* which it may individually admit of, as that *which it ought to have*, from the context and spirit of the discourse." Vat. 2, 17, 285. Now, sir, it will be seen by reference to the treaty itself, and to the negotiations which preceded it, that the object which both parties had in view was a full and final settlement of all demands and differences, mutually claimed and existing (up to that day) between them. Spain had injured our commerce herself, and to a greater extent had suffered it to be injured in her very ports by French privateers. Our vessels, thus seized, were subsequently condemned as prizes by the Spanish court of admiralty. All this was previous to 1802. In addition to this, we claimed satisfaction for the suspension of our right of deposit at New Orleans in that year. In a word, every item in the account of the United States against Spain was previous in its date to 1803. To this account, Spain produces her offset, and the items of that offset are specified in the final renunciation she makes, at the conclusion of the settlement of what she had claimed.

Finally, the renunciation extends "to all the claims of his Catholic Majesty upon the Government of the United States; in which the interposition of his Catholic Majesty's Government has been solicited *before the date of this treaty*, and since the date of 1802, or which may have been made," &c. Here Spain renounces that for which she had claimed satisfaction, to wit: all acts done by the United States to her subjects subsequent to 1802, and previous to the date of the treaty, as well for the operations of our armies in 1812 and 1814, as for the year 1818. And for what consideration is this renunciation made? For the satisfaction promised by the United States in the clause which follows. The debt from Spain to the United States was due in 1802. The last item in the account was of that date, and in a settlement in full in 1819 we are told that offsets of 1812 and '14 are too old to be allowed. "And the high contracting parties respectively renounce all claim to indemnities for any of the *recent* events or transactions of their respective commanders and officers in the Floridas." Here it is evident that the word "recent" in this sentence was used as synonymous with the word "late" in the next; and it is on this synonyme of these two adjectives that the Committee of Foreign Affairs have based their opinion. Let us apply this rule of construction as well to the Spaniards as to ourselves. Suppose Spain were now to demand satisfaction at our hands for the invasion of her territory in 1812 and '11, by Matthews and Mitchell, by Backhouse and Bankhead. Suppose she were to say to us, that it is true she had "renounced all claim to indemnity for any of the *recent* events or transac-

tions, &c. in the Floridas," but that renunciation is coextensive with the satisfaction we make to her subjects: and as that satisfaction is confined to the 'operations' of 1818, in West Florida, so is the renunciation. Suppose she reply to us further, in our own language, that recent and late are the same, that 'late' means the last 'operations:' when we say to her, that the operations of Backhouse and Bankhead, in 1814, were the very last in East Florida, she is ready to refute the doctrine by a quotation of our own words, "they apply only to 1818;" we have renounced for that year alone; we have renounced to the same extent that you have paid us, and we now claim the balance. Can any thing be more just and equitable, and at the same time more ridiculous, than this would be? And yet this interpretation, so ridiculous in the mouth of Spain, the United States have adopted as the rule by which they will be governed.

"The United States will cause satisfaction to be made for the injuries, if any, which, by due course of law, shall be established to have been suffered by the Spanish officers and individual Spanish inhabitants, by the late operations of the American army in Florida."

Thus stands the interpretation of these two sections of the 9th article of the treaty with Spain. Spain renounces all claim to indemnity for injuries done to her citizens, for "*recent transactions*." We promise to make satisfaction for all injuries done by "*late operations*;" the renunciation is construed to embrace every act done previous to the year 1819; the satisfaction is construed to extend to acts of the preceding year alone. "*Recent*" means whatever is done before that time, without any limitation whatsoever; "*late*" means nothing more than what was done one year before it; and this is the unbounded odds of the words recent in one sentence, and the word late in the other. This is the odds in the meaning of two synonymous words, when one is meant as a security to us, and the other as an obligation upon us. It is true, what we are told by the books, "that favorable promises are those which contain an *equality* of terms, or which bear some relation to the *common good*; the magnitude and extent of which increases the favor of the promise."—Grotius. Remedial statutes, says Christian, notes to Blac. Intro. p. 87, "must be construed according to the spirit; for, in giving relief against fraud, or in *furtherance and extension of natural right and justice*, the Judge may safely go even *beyond* that which existed in the minds of those who framed it." "In a case of doubt, we should in preference pursue that line of conduct by which we are least exposed to deviate from the principles of equity." Vat. b. ii. c. 17, s. 306. Now, sir, I think I have shewn that the construction for which I contend is "in furtherance and extension of natural right and justice," and I do solemnly believe that I could shew that it was "giving relief against fraud"—but I forbear.

I come now to the last great rule of interpretation, the intention of the parties to the deed. If this cannot be inferred from the object they had in view, nor from the principles of universal justice, nor "from the same or a synonymous word used in another place," as required by Grotius, let us see if we cannot dive into the secrets of the negotiation, and find there some friendly clue to guide us through the labyrinth.

It has been my good fortune to discover, sir, in the archives of the Department of State, a copy of the original protocol of conference, between Mr. Adams, the Secretary of State, and Don Louis de Onis, the Ambassador from Spain. By reference to this, the last section but one in the

9th article will be found the same as that subsequently transcribed in the treaty: "And the high contracting parties respectively renounce all claims to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas." This, it must be remembered, is the project of a treaty furnished by Mr. Adams. Mr. Onis then proceeds thus: "To the above claim, Mr. De Onis adds, that the United States will satisfy all the just claims which the inhabitants and Spanish officers of the Floridas may have upon them, in consequence of the damages they may have sustained by the operations and proceedings of the American army, as is customary with the citizens of the United States under similar circumstances." To this requisition of Don de Onis, Mr. Adams replies by the emphatic word "agreed."

This, then, contains the meaning and intention of the parties. This is the plain and unsophisticated purpose which each meant to express when this sentence was reduced into form, as it now stands in the last section of the 9th article of the treaty. Let us then examine it, and see if it can, by any possibility—by any latitude of construction, support the meaning that has been given to it:

The first thing that strikes us, in this rough draft of the object of the parties, stripped, as it is, of all diplomatic form, and left naked and undisguised to the commonest apprehension, is this, that the word "late," so fatal to the just claims of honest sufferers, is not to be found.

The next is, that, so far from its warranting the doctrine of exclusion or of classification, the word *all* is emphatically used: "The United States will satisfy *all* the just claims," &c. To which Mr. Adams has "agreed." Now, sir, can a purpose be plainer, or a promise be stronger? Here there cannot, even "by implication," be left "a hook to hang a doubt on." Here is a positive promise by Mr. Adams, to satisfy "all the just claims of the inhabitants of the Floridas." Surely those of the East are as just as those of the West. I well know that, by the fashionable logic of the day, the word *all* would be limited to West Florida, but for the plural that embraces both "the Floridas."

"As is customary with the citizens of the United States in similar cases." That it is customary for the United States to do justice when she has done wrong, I trust that no man in this nation will be hardy enough to deny: that it is customary in cases like this, is evinced by the ready satisfaction they caused to be made to the citizens of West Florida, and by their constant protection of the followers of Matthews in East Florida; by sending an agent to Frenchtown, during our late war with Great Britain, to adjust all claims, and pay for the losses occasioned there to private individuals by the operations of our armies; and by the alacrity displayed to inflict punishment on Commodore Porter, for his recent attack on Foxardo. I know not if satisfaction has been made to Spain, and to "individual Spanish officers and inhabitants," for that affair; but I am well assured that, when demanded, it will not be denied.

But, above all, it is "customary with citizens of the United States" to make loud and reiterated demands for all injuries done by a foreign Power to themselves. Witness those against Spain, now settled by the treaty of cession: against France, for spoliations on our commerce, as yet unadjusted, but the justice of which we are told, has never been controverted: and, lastly, the claims on Great Britain, for the destruction of property during the late war, just decided in our favor by an imperial tribu-

nal. Here, sir, are cases embracing spoliations of every character. Against Spain, for suspending the right of deposite at New Orleans, though, as in the case of Matthews, it was disavowed by the Government; for suffering French privateers to capture our shipping in her ports, and condemning the prizes in her courts of admiralty, when her independence was annihilated, and her power prostrate at the foot of France. Against France, for spoliations committed by privateers, whose acts were disavowed by the then Government, and yet must be redressed by this. Against Great Britain, for acts done *flagrante bello*, in the operations of an invading army. And is it possible there can be a case not embraced in the examples cited? Were the acts of which we complain in East Florida committed in time of peace, and disavowed by the Government? So was the suspension of the deposite at New Orleans. Were they unavoidable by our Government? So was the capture of a vessel by French cruisers unavoidable by Spain. Yet they are all paid for. I will say nothing of our demands on the Government of France, as they are still pending for adjustment; but surely they are strong, very strong, in favor of the liberal construction for which I contend.

I had intended, in the division of this subject, to say something on the fourth head, to wit: that, if every other view of the subject, under which these people presented themselves to the consideration of the committee, should fail them, that even then they would be entitled to indemnity for the injuries they had sustained, as considered now, *de novo*. But, sir, I fear that I have already wearied the attention of the committee, by the unexpected length to which this letter has extended. I shall, for this reason, rely on the ground already taken, and leave the claims of my much injured constituents to the committee and to the House, confiding, as I do, with hope and confidence, on the justice of my country, to do right to those to whom they have done *not only wrong, but ruin*.

I have the honor to be your obedient servant.

JOS. M. WHITE.

HON. P. P. BARBOUR,

*Chairman of the Judiciary Committee
of the House of Representatives.*