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MEMORIAL

OF THE LEGISLATURE OF GEORGIA,

TO THE UNITED STATES IN CONGRESS ASSEMBLED.

The legislature of the state of Georgia, approach the legislature of the union, with that respect and veneration which the representative body of the nation ought ever to command. They approach it to lay the complaints of Georgia before it, and to solicit a redress of grievances which her citizens feel.

The state does not with a relinquishment of constitutional power by the legislature of the union; but she hopes that that high body, in return, does not wish an operation of its laws, where constitutionality may be questioned, to the injury of the rights of Georgia. May the latter be permitted to draw the attention of Congress, to certain laws of the United States, which the conceives a violation of those rights, both under the articles of confederation and perpetual union, and the Constitution of the United States?

Presuming, that if the people at large have a right peacefully to assemble, and to petition the government for a redress of grievances, that the body of the people of a whole state, legally and constitutionally collected by their representatives, will be acknowledged to possess that right; and of course their address, for a redress of grievances, be attended to.

The legislature of Georgia, respectfully represents, That the act of Congress, passed on the 9th day of April, 1798, entitled "An act for an amicable settlement of limits with the state of Georgia, and authorizing the establishment of a government in the Mississippi Territory," so far as it respects the establishment of that territorial government, and also an act supplementary thereto, passed on the 10th day of May, 1800, appear to them improper and unconstitutional, on the following grounds.

It is declared by the second article of Confederation and perpetual union, entered into and finally ratified by the United States, on the 1d day of March, 1781, "Each state retains its sovereignty, freedom and independence; and every power, jurisdiction and right, which is not by the confederation expressly delegated to the United States in Congress assembled;" and it is provided in the ninth article, that "no state shall be deprived of territory for the benefit of the United States." And in and by the first clause of the fifth article of the constitution of the United States, it is declared, "all debts contracted, and engagements entered into before the adoption of this constitution, shall be as valid against the United States, under this constitution as under the confederation:" and by the third section of the fourth article thereof, "new states may be admitted by Congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state: nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures concerned, as well as of the Congress." And again, "Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States: and nothing in this constitution shall be so construed as to prejudice any claims of the United States or of any particular state." And by the fourth section of the same article, "the United States shall guarantee to every state in this union a republican form of government." And lastly it is declared by the 11th article of the amendments to the said constitution, "the powers not delegated to the United States by this constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

From these constitutional grounds, the legislature of Georgia submitively affirm, that all the territory within the limits of each of the said states was, and now is fully guaranteed and confirmed to them respectively, where cessions have not been made, of territory to the United States, and that the establishment of a government, or state by the United States, within those limits, without the consent of such states, is a violation of those respective articles of the confederation and of the constitution.

The legislature of Georgia is aware, that it is necessary before the assumes this assertion, as to the Mississippi government, that she should prove it to be established within her limits—And with all respect she offers the following facts and reasons for the wisdom of Congress in support of it.

In and by the definitive treaty of peace, signed at Paris, on the 3d day of September, 1783, the boundaries of the United States were established, and the said United States fully recognized and acknowledged by the first article thereof, as follows: —"His Britannic Majesty acknowledges the said United States, viz. New Hampshire, Massachusetts Bay, Rhode-Island, Connecticut, New-York, New Jerkey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia, to be free, sovereign and independent states, that he treats with them as such, and for himself, his heirs and successors, relinquishes all claims to the government, proprietary and territorial rights of the same." And by the second article thereof, it is declared—"And that all disputes that might arise in future on the subject of the boundaries of the said United States have been prevented, it is hereby agreed, that the following are and shall be their boundaries, and that boundaries thereby declared which limit the westwardly and southwardly boundaries are thus defined—"Along the middle of the Mississippi until it shall intersect the northernmost part of the 31d degree of north latitude, south by a line drawn due east from the termination of the last-left mentioned, in the length of the 31 degrees north of the Equator to the middle of the river Appalachicola or Chatahouche; thence along the middle of the river Appalachicola or Catahouche; thence along the middle thereof to its junction with Flint river; thence straight to the head of St. Mary's river; and thence along the middle of St. Mary's river to the Atlantic ocean."

The king of Great Britain prior to this treaty, did annex to his then province (now state) of Georgia, by this proclamation dated the 7th day of October, 1763, all the lands laying between the said rivers St. Mary's and the Alatamaha, and established the boundary between Georgia and Florida, to begin on the Mississippi in 31 degrees north latitude, and to run a due east to the Appalachicola; and which was finally and fully confirmed by the aforementioned treaty.

In all due deference, the legislature of the state of Georgia contends—That prior to the confederation the United States had no existence; but that the respective states did exist, and possess the actual exercise of sovereignty, jurisdiction, territorial authority, and that having no existence the United States could possess no territorial rights—that on the final ratification, the United States became a nation capable of receiving cessions of territory without the consent of the respective states, and making regulations for the government of such territory.

The Mississippi territory was long before the confederation claimed by and acknowledged to be, the right of Georgia; and in the year 1779 and 1780, surveys were actually made thereon by authority of a temporary council at Augulla, appointed by the people, the legislature by the vicissitude of the war being scattered, and the executive power having expired. Georgia carried into that confederation with claims of jurisdiction and right to that territory and the instrument confirmed them, and without a relinquishment can be proven, still preserves them.

To prove that the state of Georgia did not relinquish her right prior to the definitive treaty in September, 1783, in February preceding that event the state affirmed her rights in the 13th section of an act, entitled, "An act for opening the land office, and for other purposes therein mentioned" in the words following; "That the limits, boundaries, jurisdiction and authority of the state of Georgia, do, and shall, and of right ought to extend from the mouth of the river Savannah, along the most north side thereof, and up the most northern stream or fork of the said river to its head or source; from thence in a due west course to the river Mississippi, and down the said stream of Mississippi to the latitude of thirty-one degrees north; from thence in a due east course to the river Appalachicola or Chatahouche, and from the fork of the said river Appalachicola where Chatahouche and Flint river meet, in a direct line to the head of the source of southermost stream of the river St. Mary; and along the course of the said river St. Mary's to the Atlantic ocean, and from thence to the mouth of the inlet of the river Savannah." This act of Georgia, prior to her right by the definitive treaty is evident, from that instrument, where Georgia is particularly recognised as the southern of the United States, according to northern boundary tactily, if not expressly declared to be, by the Mississippi, in the most northern part of the 31st degree of north latitude, and to be bounded on south by a line drawn due east from the determination of the line last mentioned, in the latitude of 31 degrees north to the middle of the river Appalachicola, along the middle thereof to its junction with Flint river, thence straight to the head of St. Mary's river, and from thence to the Atlantic ocean; acknowledging and recognising the boundaries and limits of the proclamation of the 7th of October 1763. The British Majesty in his treaty with Spain of 1783, leaves the boundaries altogether open, in these words: "His Britannic Majesty likewise cedes and guarantees to full right to his Catholic Majesty, East-Florida as well as West-Florida."—On a petition of the inhabitants of this district, for a fresh assertion of right and exercise of jurisdiction by Georgia took place, and a great portion of the Mississippi territory was established into a county by the name of Bourbon; and so far was Congress from denying her right, or controlling that act, that at different times and particularly on the 20th day of October 1787, that honorable body called on the states of North Carolina and Georgia, for cessions of Western territory. On that call, the act creating Bourbon county, was repealed; and by an act authorizing a cession, passed the 11 of February 1788, including the same territory,—which cession was rejected by Congress on July the 13th following. The state of Georgia contends, that the resolution rejecting the cession, and the reasons it contains for it simply and indubitably establish her claim. Those reasons clearly and fully expressed, are not founded on doubts of the rights of Georgia, but, as the committee observe, "because it appears highly probable, that on running the boundary line between that and the adjoining state or states, a claim to a large tract of land extending to the Mississippi and lying between the tract proposed to be ceded, and that lately ceded by South-Carolina will be retained by the state of Georgia, and therefore the land which the state now offers to cede must be too far removed from any of the lands hitherto ceded to the union to be of any immediate advantage to it." Herein of the word respecting any objection to the southern boundary or right of Georgia to the full dispute of north latitude; but all the firefs is placed on the difficulty against the right of Georgia to the northern boundary. South-Carolina a little before this period, had made a claim to a great part of the territory in question and had laid that claim before Congress for decision, under the confederation; but this claim was quieted by the convention of Beaufort, concluded the 28th day of April 1787, between the two states, where South-Carolina relinquishes to Georgia, all claim, without a limit prescribed, by its first article, which expresses, "the moll northern branch or stream of the river Savannah from the sea or mouth of such stream to the fork or confluence of the rivers now called Tugalo and Keowee, and from thence the moll northern branch or stream of the said river Tugalo, till it intersects the northern boundary line of South-Carolina, if the said branch or stream of Tugalo extend so far north: reserving all the islands in the said rivers of Savannah and Tugalo to Georgia; but if the head spring or source of any stream or branch of the said river Tugalo does not extend to the north boundary line of South-Carolina, then west line to the Mississippi to be drawn from the head spring or source of the said branch or stream of Tugalo river, which extends to the highest northern latitude shall forever hereafter form the separation, limit and boundary between the states of South-Carolina and Georgia."

Thus far the state of Georgia hopes she has cleared up to Congress and the world, her undoubted rights to all the territory within her limits. The single removal of another obstacle is all that is necessary for her, to justify her expressions of unconstitutionality in the establishment of the Mississippi territorial government, without her consent within her limits.

It may be said that by the treaty between the United States and Spain, the territory in question is ceded to the former as a nation. This, however, the legislature of Georgia observe, will on a reference to the files of the Secretary of State of the United States fall to the ground; for it will be there found that the commissioners of the United States in a representation made to the court of Spain on the subject of boundary in 1793, and the instructions for settling the point in dispute with Spain, together with the whole negociation in consequence thereof, which ended in the treaty of San Lorenzo Real in 1795, it was negociated for as the right and property of Georgia and not of the United States.

Upon the subject of doubt remaining on the mind of Congress, where their public acts and her public servants have so repeatedly conceded the right, and on that right established the southern boundary of the United States? The Legislature have too high, too respectful an opinion of the magnanimity and justice of Congress to suppose it, and therefore forbear further observation on the limits of Georgia and of the inclusion of the Mississippi territorial government therein. On this ground of limits, the Legislature of Georgia he (said they are of opinion that they are) correct, the point of unconstitutionality of the acts establishing a government in the Mississippi territory without the consent of Georgia, as well as their being a violation of her rights, must be conceded. For is it not erecting a government on territory the property of Georgia without her consent? supposed to the 2d section of the 5th article of the confederation before cited—"Provided also that no state shall be deprived of territory for the benefit of the United States" as well as an infringement of the 2d article thereof "each state retains its sovereignty, freedom and independence, and every power, jurisdiction and right which is not by this confederation expressly delegated to the United States in Congress assembled" most fully confirmed by the first several articles of sections and articles of the Constitution of the United States.

Conrad & M'Munn

HAVE opened houses of entertainment in the range of buildings formerly occupied by Mr. Lowe, about two hundred paces from the Capitol, in New Jersey avenue, leading directly thence to the Eastern Branch. They are fitted up and convenient, one of which is designed for dage passengers and travellers, the other for the accommodation of boarders. There is stabling sufficient for 60 horses——They hope to merit public patronage.

City of Washington, Nov. 24, 1800.