the former constitution of Georgia, to guard against what honesty could never have foreseen, their government too may legitimately transfer, for a trivial consideration, to its own members or to favored individuals for their private emolument, the best property of the nation, to any amount. Congress can now constitutionally pass a law to divide the contents of the treasury among the friends of the individual members, for imaginary or trivial services, after stipulating a participation; because it has the power to give compensation to those who may render real services to the nation. Nay, because the senators and representatives may by their own vote, take a compensation for their services from the treasury, they might, also, applying a loose construction to the term compensation, divide the contents of the treasury amongst themselves, to indemnify them for the long privation of domestic happiness they are here *compelled* to undergo; and they would be liable to nothing more, therefore, than the neglect and contempt of their constituents.

These positions admitted, I could not refuse to grant, that the legislature of Georgia of 1795, could have legitimately sold to companies composed of their own members and others, for a price less than the annual quit rent the same lands would have paid formerly to the crown of Great Britain, 40 millions of acres of the finest lands in the world belonging to that state. But in granting it I should deem it my duty immediately to move this House to take into consideration, with all speed, the necessity of increasing the list of prohibitory clauses in the federal constitution. I would recommend along with numberless others which would be as necessary, the following:—The senators and representatives shall not plunder the treasury under pretext of requiting themselves for their services: the members of the government shall not engross to themselves the national possessions. Certainly, if it is maintained that a subsequent legislature could have no power of punishment or of resumption, where the plain letter had not been disregarded, such prohibitions as these ought, without delay, to be adopted into the federal constitution. If otherwise, then is the Yazoo tenure ridiculous indeed, for by that doctrine alone could it be supported.

My respect for our opponents in this question still prevents my concluding here. I will endeavor to shew them that that tenure was contradictory, not only to the general laws of equity, but also to the then existing constitution of Georgia, and accordingly, absolutely null. I have always understood that in equity a bargain, (above all for land) though quite clear of any other symptom of fraud, could not be valid unless it included a valuable consideration: That the circumstance of the consideration being so ridiculously trivial, as what was agreed to be accepted by the legislature of Georgia, would be sufficient to cancel any bargain for land between individuals, even after it came into the hands of a subsequent purchaser, if he had made his purchase after open denial of the contract, and public reclamation by the original owner. This was not only a rule of equity in Georgia, but a principle recognised by a positive law of that state.—(*See Marburie's digest of the laws of Georgia, page 116.*)

The price agreed to be paid to Georgia, was one cent and one fourth of another cent for the acre. The lands sold were in great part among the most fertile of the earth, situated in one of its finest climates, and adapted to all its richest productions. They were sold too not to citizens of the state alone and men with agricultural views, but in a great measure to strangers, and altogether to speculators, who meant to demand some hundreds of cents from the sub-purchaser with cultivating intention. This immense difference would soon have disappeared, swallowed up in luxuries; perhaps the farmer would have been ejected from his farms, because his toil did not produce fast enough for impatient appetite. The people of Georgia, the true owners of these lands, immediately reclaimed them, as I have shewn, in the most public manner; and among other stronger reasons, upon the ground of the insignificance of the consideration stipulated for by their trustees; they instructed their next representatives to resume them. These representatives did so. Their act of doing so was solemnly ratified by a convention.

But many gentlemen here contend, notwithstanding that the law was irrepealable, and that the contract made by it, however irreciprocal, was valid and indefeasible. I shall make no other reply to them than to endeavor to expose still farther, the illegal foundation of that contract, taking my eyes for a moment from the fraudulent nature of it. I will endeavour to look seriously into the constitutional character of the pretended law, which established it. I will examine more nearly the ground upon which it was framed. I trust I shall be able to shew that it stood on a basis of perjured misconstruction, which the first honest breath blown against it completely overturned. It is not requisite to shew that the legislature of Georgia, which convened in December, 1794, had no powers but such as were directly, or through honest inference, granted to it by the convention of 1789. The members of that legislature themselves claimed no others. It is not necessary, either for us to search throughout that instrument for a special grant of power to support the law of January 7, 1795. The members themselves selected the head which they pretended to believe, contained that grant; let us examine it; "The general assembly shall have power to make all laws and ordinances which they shall deem necessary and proper for the good of the state, which shall not be repugnant to this constitution." Under such a narrow and flimsy cloak did they expect to hide this giant fraud. But this was the peculiar folly of those times. Under such another, did certain political assassins, not long after, attempt to strangle unseen the infant liberty of America.

The very next section of the constitution says "the general assembly shall have power to alter the boundaries of counties and to lay off new ones out of them as well as out of the other vacant territory belonging to the state;" again, "and when any new county shall be laid off in the vacant territory of the state, such county shall have a number of representatives, &c." How could it be other than repugnant to the constitution, to render entirely nugatory this important provision of it? Does not the constitution plainly enough prescribe a division into counties before a sale by this provision for a representation in that case, and by totally neglecting to make any kind of provision for the case of sale before a division? Is it possible the framers of the constitution could have foreseen, imagined, or deemed possible, the case which actually happened, and at the same time have used the language they did? If the term county was understood to imply representation of course and the constitutional power to divide remained after the sale, why was so particular provision made for representation in those counties to be formed out of the waste and unappropriated lands? A power is expressly given to lay of counties within other counties, or in the vacant and unappropriated lands of the state, with a view that representation should co-extend with population. The territory, after the sale was neither; of course no power remained to divide it into counties; but that power being expressly given, none could have been given to defeat it; yet that was completely done by the law on which these claims rest. One preceding legislature had laid off the county of Bourbon on the Mississippi, no doubt supposing that to be the true meaning of the constitution, which we have given, and had actually proceeded to make grants or sales of land within it. Another had rejected an application to purchase the territory in conformity with the report of its committee consisting of one member from each county in the state, which report it is likely was founded upon the construction we maintain. One it is true had acted otherwise; but the eagerness with which the succeeding one seized an occasion which presented itself for retracing the steps of the former, is an additional proof that what we contended for was the sentiment of the state. But the legislature of 1795, actuated by the motives I have displayed; its prime movers, perhaps instigated by certain juggling politicians from the North, who preferred to attain the justly desired end of separating that territory from the state, and thereby diminishing the dangerous size of Georgia by intrigue rather than the plain means since adopted; the legislature of 1795, I say in contempt of the general sentiment of the state, in open violation of the constitution, made one sweeping sale of the whole territory for a contemptible price. Nay, with the words of their oath "I solemnly swear I will give my vote on all questions as in my judgment will best promote the good of the state;" with these words yet vibrating on their tongues, they rejected 4-5ths of a million offered at the same time on the same terms of payment, and to promote the good of the state according to their peculiar judgment of it, we must suppose took one half million. But perhaps they knew that those who offered the eight hundred thousand dollars were not as sure paymasters as themselves; or perhaps they thought the honorable body of notables of Georgia, which, although numbers of it expressed a noble disdain and indignation at the transaction, was yet fully represented in the companies; perhaps they thought that was the true thing meant by the term state in the constitution. Such an hypothesis was not unfashionable in those days, above all in what were supposed the most enlightened parts of the union.

I might have been abruptly stopped by an observation that we had no right to consider the constitutionality of the laws of Georgia, any more than the morality of her lawgivers; but a shield which has blunted so many darts, that the stoutest of our foes of the present day seem fonder of making feints, than hurling seriously at it, stands interposed between me and that attack. I have only to repeat that in considering the question before us, we must pronounce between the law of '95 and that of '96. That to execute the trust we have undertaking for Georgia, we must decide upon her discordant legislation. I will go on with considering further the constitutionality of the law of '95. Those particular arrangements which we have shewn were made by the Georgia constitution of '89 for the incorporation of the western territory into the state, surely ought to have extinguished, even in the womb of infancy, all embryo construction for alienating the territory from the jurisdiction of the state, & the law of 1785 did most completely alienate the jurisdictional right of Georgia along with the soil. The territory, after the grant, could not have been divided into counties. Its inhabitants, by an express provision of the grant could not be taxed by the ordinary legislature until represented, nor could they have been represented in it under the then existing constitution until divided into counties. The provisions of the constitution for the incorporation of the territory could not have applied after the grant, for they were expressly made for vacant and unappropriated lands. The jurisdiction of the territory was then lost to Georgia, and of course transferred, though informally, yet substantially and no doubt designedly, to the United States: Designedly, I make no doubt, for by this renunciation of state jurisdiction, thus artfully interwoven into the contract, the value of the lands was so plainly enhanced. Purchasers from abroad and from the other states would have come forward in greater numbers and with much greater alacrity, knowing privately that the territory would come immediately under federal jurisdiction, and be soon erected into new states. Who can believe that the associates and those who held under them, once settled in their territory, and this hidden grapnel, I have endeavoured to discover, once thrown out by them upon the federal government, the strength of Georgia ever could have broken it? But until the constitution of 1798, no power ever existed in Georgia, unless in the whole body of the people collectively, to make an alienation of the territory of that state. Authority for that since made to the United States, was given by the convention of '98, and such a power, it seems to me, can properly flow only from that prime source in any of the states.

That there is a necessary and inherent power even in our national government to alienate & acquire territory at will, I am not ready to admit. It cannot be necessary where a recurrence to the primary authority is so frequently, so easily and so safely made as with us. To say it is an inherent power in all governments, from the nature of government, even though not absolutely necessary, would be looking abroad again for analogies, and so far relinquishing our own peculiar and excellent theory. Having purified so well the turbid waters we drew from the political fountains of Europe, better to cut off all communication with their impure sources, than again to admit from them any little rill which might once more discolour our now almost transparent stream. I can never admit a right in any government which is founded upon the sovereignty of the people, whose sole legitimate end is their good, to grant monopolies of the unappropriated soil. No possible restrictions can in my opinion, prevent such monopolies from operating powerfully against that good and against the essential principles of such governments. Besides, many individuals among the people have, according to my idea, just claims upon the nation for free grants of such lands. Poor men who have lost their limbs or their health in defence of their country, even though they may have received a pittance of daily pay; poor persons upon whom nature has bestowed an uncommonly numerous offspring, poor and virtuous citizens who have married early in life, and having the prospect of families to maintain sooner than the savings of labor could accumulate sufficiently to ensure that maintenance against accidents to the parent, which might suspend the power of labor. All these, I contend, have the right, and it is at least as well founded as that of the famishing for sustenance, from society.

There are certain conditions, it is true, not improper to notice here, though not altogether pertinent, upon which alone this right should be acknowledged on the part of government. These are, an actual settlement of the lands immediately, an abandonment of the right of alienation during the first lives, an equal division among successors. This right is necessarily admitted by the calls for new establishments of those who are able to purchase, which arise continually from the increase of numbers, and of agricultural capital. By answering such at a just price, the national strength which consists in the number of proprietors, is equally increased as by gifts, and at the same time the national resources are enlarged in the most desirable way, the voluntary contributions of the able. The liberality of a nation it is true, like that of the rich individual, should always keep in view the ratio of necessary expence, to the amount of the certain and natural resources. It should be more ready, yet at the same time not less prudent and discerning. But by monopolies of the soil, this right of certain citizens which I have mentioned, is destroyed, liberality itself, is extinguished; the national resources are sacrificed for the pernicious aggrandisement of those already too high, to the still greater debasement of those already too low. Innumerable are the evils arising out of them, which appear at once to the examiner's eye, and demonstrate that the power to grant them cannot constitutionally exist in any of our governments unless especially delegated.

If this view I have endeavoured to lay open to the grant from Georgia, which is the basis of these claims, be fairly taken, no one I think, can seriously apprehend the legal ejectment from their possessions, of those who may make purchases or receive donations from the United States in the territory pretended to be claimed by the Yazoo adventurers. I cannot believe myself that they will ever venture into the courts of justice of the union with their fictitious title paper in their hands; in every line of which the word fraud will appear at once in large and indelible characters. If they should, contrary to my expectation, be daring enough, I cannot think so injuriously of any judge of the union, as to apprehend, that maintaining the power, which sold, to be legitimate, shutting his eyes upon the unexampled perfidy of the sellers, denying the early publicity of the fraudulent nature of the transaction, rejecting the authority of the subsequent legislature to resume the property upon evidence of these, and also the paramount authority of the convention to annul the law, which was acknowledged by the adventurers themselves in withdrawing their money; last of all, declaring the consideration paid by the original purchasers to be sufficiently valuable; he will pronounce the law of Georgia, of 7th January '95, to be binding and to preclude equity from the state. No! every judge on the bench of the union will, I firmly believe, at once declare this law null, all contracts made under it void, and all considerations given upon them reclaimable. If I thought otherwise I would readily acquiesce in any, however strong, remediable measures. I would vote for a law forbidding the admission of such evidence into our courts. If nothing else would do, I would even give my voice in this House for imposing a heavy penalty on the man who should dare to assert such a detestable claim to the indisputable property of the nation, and thereby disparage the property. Our opponents say, the danger of being dragged into courts of justice at any distant day, however uncertain the apprehension of that anxiety, which the most distant prospect of being dispossessed in our old age of buildings, orchards, gardens, established by our own hands, must naturally create in men, will keep all purchasers aloof, will effectually prevent all sales, and keep our most important and most exposed frontier forever weak and defenceless. I answer, let those lands then remain unsold: the nation will sustain no damage in its interest thereby, for it has more at market elsewhere than the demand is likely to take for a great length of time. It is even my opinion that interest will be materially forwarded by the suspension of sales there at this time. It is not now I say a weak and defenceless frontier which it is so necessary to strengthen immediately with new settlers, that the attainment of that end could justify our giving a bounty to fraud. The most vulnerable point of the union is now removed many hundred miles farther from the centre, and every settlement made elsewhere at present contributes to diminish our means of covering that point with the impenetrable armour of a republican militia.

Shall we permit those motives of policy to govern us in this happy time of assured peace, unexampled prosperity and rare tranquility and unanimity, which we should always reject with disdain if it were not that, if not the stratagems and deceits, at least the forbearances towards fraud, vice and crime often necessary in actual war, are thought in some degree justifiable, also in certain other periods of national danger, embarrassment or difficulty.—For myself I never could have lent my voice in this House to support that policy even when such reasons had their strongest force. Much less can I acquiesce now. I cannot consent that this government should draw a veil over its eyes to admit the approaches of fraud. I cannot give my consent that it should tamely suffer itself to be bullied out of such a serious portion of the national wealth, as 2,500,000 dollars, which a former act of these houses has led our commissioners to offer in order to quiet these unfounded claims. I have yet the strongest hopes we shall dismiss them unsatisfied by rejecting this bill. Surely we will not by passing it ennoble with legislative favor the mysteries of speculation; we will not hold out to the tribe of speculators an expectation that this government will in future gratuitously underwrite on all their land adventures, if they will be moderate in their insurance. Our bounty to the innocent sufferers will do no trifling mischief by removing from credulity its only restraint, timidity and doubt, which otherwise must have been greatly fortified by this distressing example. I hope however we shall extend that bounty to them. But upon the adventurers themselves, or on those who knowingly embarked with them in this desperate and infamous scheme, the nation's forgiveness and its silence is the only boon I will ever give my voice to bestow. We shall, I ardently hope, grant them no other here. If they reflect I think they will accept that and retire: let them do so, and in retiring let them silently return thanks to the great Creator of all things for his bounty to man in granting him through this life a free will uninterrupted, unrestrained by heavenly interference. But for this bounty, the wrath of Heaven would have arrested them in the commencement of their scheme. They have made that use they thought best of Heaven's favor: they have coolly projected, and pursued their own chosen plan for advancement in life; let them not look to this government for aid to bear them up under the disappointment of its failure. But a few days since their hopes were high; they expected immediately to attain by our supineness the end of their forcibly moderated desires. Thank Heaven, by the bold use of its most noble gift, which was then made by one gentleman particularly in this House: they were suddenly stopped in their progress, and that hope, unless they are thoroughly blinded by their own ardor, completely extinguished.—They escaped the thunder of Heaven, but they have not the certain earthy punishment. Since that day they have stood in the eyes of an indignant nation, riven, blasted, stripped of all the lovely foliage of reputation by the lightning of eloquence.

WASHINGTON CITY,

FRIDAY, SEPTEMBER 21.

A tolerable idea may be formed of the nature and extent of the insurrection, as it is termed, in West Florida, from the following facts. Mr. Kemper, the leader of the association, was for some time in the service of Mr. Smith, of Tennessee, to whom he became indebted to a considerable amount. Being prosecuted, he fled to Florida, where at the head of *thirty men*, he raised the standard of revolt. These are the circumstances attending an occurrence which it is attempted to magnify into vast importance!

The Minister of Spain has left Philadelphia for this city.

On the 4th instant, the election for Governor, and members of the federal house of representatives took place in Vermont. The few returns received do not enable us to decide any of the results.

Thomas Vowell is chosen president of the Bank of Potomac.

In a late number of the National Intelligencer we took occasion to notice in terms of strong commendation the liberal provision made by the state of Connecticut for the support of schools. We held forth her conduct on this important point, so far as it involved the endowment of schools, as worthy of the imitation of every state in the union; and we availed ourselves of it as a cogent argument in favor of the superiority of republican institutions, remarking that "*Connecticut, in the* STRUCTURE *of her government, was the most republican state in the union.*"

This language, we find has been misunderstood by some, and misapplied by others: among the last description of persons it has been made use of by a writer in the Courant as amounting to an *indiscriminate commendation of the manner in which the government of Connecticut has been administered*, and a consequent censure of the opponents of such administration. Nothing, however, is more remote from the true meaning of the paragraph, or from the belief of its writer. The ascription of republicanism is exclusively to the *structure of the government*, and not to the *administration* of it. The one may be perfect, and the other vicious—