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MESSAGE

Of ROBERT WILLIAMS, governor of the Mississippi Territory, to the legislative assembly at the commencement of their session, December 2, 1805.

(CONCLUDED.)

If we wish to inspire our youth with a love of country and an attachment to our political principles and forms of government, we also an acquaintance with our manners and customs, in-fuse our habits into the tender and pliant tissues, they should be educated amongst us, and the emoluments of learning fixed amongst us, forward in the tender bosoms of the human mind, that early or first impressions are not easily eradicated, and are very rare to be retrieved, through life. Further it is not to be supposed that travelling and an acquaintance with the world ought not to compose a part of other liberal and useful education, for we very frequently see men of letters, but not of knowledge. These bring into practice what students attention has matured in theory, and affords an opportunity of appreciating the advantages and of correcting the errors of our own principles, by a comparison with those of others.

A nation whose revenue is in proportion to its information and acquaintance with the world, and whose ability is in the limitation of its expenditure, the protection of morals, and the life of its individuals, whatever may be the form of government. And, gentlemen, give me leave to say that we have every encouragement and support from the general government on this subject, which most assuredly experience can form, and in no instance has it earn and yield for future generations, only and permanent happiness been more apparent, than on the subject of education. The liberal donations which it has made are sufficient to lay the foundation of and afford the future support to a most flourishing seminaries of learning, and have provided, to a very great extent, that apathy in some which has tended to impede our college institution. Yet for as whether it may be proper to anticipate the proceeds of those funds so to be applied, I leave the matter to the wisdom of the legislature to determine.

On the subject, gentlemen of legislation, great will it be, if I may be to remark, that in a government founded on republican principles, when reason and philosophy constitute the polar objects, laws should breathe the spirit of moderation, justice and virtue, they should concountenance illiteracy, vice, and immorality, and encourage the learning and morals; the influence of which is society proportionably superceders the frequency of many laws. Not should laws be made so much with a view to punishment, as by shifting the consolation of crimes. Punishment which should be the more for example, than otherwise, to which and that should be solid in their operation and return to the community. Punishment bears a due portion to the magnitude of the offence, and to the patient of a jury done to the public and safety of society, it also is the opinion of a witness in the offender. When this is not the case the use execution of them is frequently resorted to the force and effect of example lost in the hardness of heart of witness, and in the cruelty of punishment. Sanguinary laws are not congenial with the principles of a free government, nor are they adapted to genius of the American people; for while their laws should be dreaded for the country, and the protection of its citizens, they ought not to convey what that safety and protection require.

Any attempt to the deprivation of the inhabitants of many parts of our continent, and the want of pecuniary resources we have prevented, by a dogma of more mild criminal laws, and compel our citizens to be more prudent in force such as their judgment do not approve, yet I hope we shall pitch the sanguinary laws to be the hottest out of our criminal codes, and that we shall not long be in need of necessity of inflicting and justifying punishment of a sanguinary nature, or even recall, on the very false ground, that the guilty know previously the penalties of the law.

News gentlemen, to the making such laws and regulations as may serve to the formation of civil and political society, ought to be the merit of the legislature, and to guard against their attacks and disorders to which it is subject, and which act, either by the civil authorities. The most eligible mode of doing this, most always vary with the genius the principles and character of the government, and also the portion of liberty its members enjoy. It is government founded on and administered by the will of the people to which their affections and not their fears bind them, and where equal rights are afforded, a militia composed of the citizens themselves constitute the most safe and cheap mode of defence. This being one of the prominent features in our constitution and the policy of which seems to be so well understood and so generally accorded to, that I deem it unnecessary to advance any thing in further illustration.

But, gentlemen, I should not feel so failed as to the discharge of my duty on this subject, were I not to call your attention to our peculiar situation, which demands a most serious attention, in organizing the militia, so that they may be in the readiness and constant state of readiness. Our insulated position occasioned as well by a foreign power, and the disorders of the neighbouring territories inhabited only by numerous savage tribes, deprives us of the pleasing immediate assistance could be afforded us by our brethren from other quarters in case of emergency. Again, such is the character of a very considerable portion of our population and of the neighboring territory, as ought to be a very powerful motive to our attention, and of which motives of policy should a further and more explicit explanation. Permit me therefore, to recommend to your early attention a revision of our militia and militia laws, the latter of which is found to be incomprehensible, as also very expensive to the territory if carried into operation, and to be adopted to the purpose intended.

It is, gentlemen, conducive to the prosperity of the country and quiet of the people that there should be a few laws made, for, perhaps, laws indicate a depravity of society, for they are not made for the virtuous, but for the vicious, and to protect and enforce the rights of the former against the attacks of the latter, whatever may be the much importance that laws should be multiplied, yet it is necessary that they should prevailed among the people, and that they should be in the readiness of a complete digest of the laws now in force in our territory authorised by the legislature, and that it be made as short and as plain as possible. The structure of our constitution is such, that in adopting its laws have been so carefully guarded against the rights of the people, most indispensible to the proper understanding of them, and to know which rights are guaranteed to us, are pointed those introduced and adopted under the first grade of government, and which were given then contested, on constitutional grounds.

Among the local objects proper for the attention of a government, few are so important, as those the establishment and keeping in repair public roads or highways, which, in proportion to the advanced state of society, and the degree of industry in a country, than its improvements in this way; yet it is too frequent, that they are placed among the least attended to, and the most neglected, arising perhaps from the continuance of a short time, and future interests and a disposition to enjoy an immediate and individual compensation for the labor which are bestow on these objects—Hence, in this, as many other respects, it is the necessary prescribing what is proper to be done, and compelling the people to contribute their aid. In countries which have attended to the improvements of their highways and to their whole, the inquisitions from the people have been, as yet, to gentlemen of ease, chieftains, yet have they on experience, the benefits resulting from such approved and become admirers of the system. It is not however expected with us that improvements of roads ought to be forced beyond what the state of population and public capitalists of the people can perform, yet we are in no instance, the labor of subscribers is correctly ascertained.

December 30, 1805.

District of Columbia,
George-Town, Jan. 1, 1806.

Sir,

I have the honor to transmit to you the following resolutions, which passed the Senate of this state, on the 30th ult.

Yours, &c.

THOS. EWELL.

(IN SENATE OF THE UNITED STATES.)

MEMORIAL

Of the House of Representatives of the Territory of Louisiana, praying an alteration may be made in the law of last session, respecting the title to lands, and for a grant of a tract of land for the use of the College of Orleans.

December 30, 1805.

Read and referred to Mr. Anderson, Mr. Tracy, Mr. Goldsborough, Mr. Brackenridge, and Mr. Adams.

THE HOUSE OF REPRESENTATIVES OF THE TERRITORY OF LOUISIANA.

THURSDAY, THE 14TH NOV. 1805.

To the Honorable the Senate, and to the Honorable the House of Representatives of the United States, in Congress assembled, and to the Honorable the House of Representatives of the Territory of Orleans.

ROBERT WILLIAMS REPRESENTS—

THAT your memorialists have carefully considered the act passed at the last session of Congress, entitled "An act for ascertaining and confirming the titles and claims to land within the territory of Orleans, and the district of Louisiana;" and whilst they applaud the motive, which has thus early called your attention to that subject, they remain impressed with a conviction that many of the provisions of that act require amendment. Attributing these defects in the law to the want of that local information, which their peculiar situation from the seat of government, has rendered it impossible you should obtain, your memorialists feel bound to trust, that upon extending the inquiries to which they have so much cause, the execution of that act, in its present imperfect form, your honorable body will apply the remedy, which it needs.

The former governments of France and Spain, under whose dominion this country has successively passed, did not provide the concept lands as a source from which revenue was to be derived, but as a means of increasing the population of the country, encouraging its agriculture, and gaining the affection of its inhabitants. Hence they were not ready to grant lands to those who were only have to pay a pecuniary consideration, and although the concessions generally contained conditions, that the lands should be settled within three years, that the roads and levies should be made, and that the grantee should not alienate unless the conditions were performed; yet it was well understood that these conditions, like those inserted by the British government, in many of her colonial patentees, were not designed for the purpose of compelling a rigorous performance of them, but were, with a view to impress the grantees with a sense of obligation, and generally to induce them to which his titles emanated, and to bind him to their sovereign, upon whom they depended for adjustment of their claims. In no case were instances required to be made, of a strict and literal performance of the conditions, except in cases where the grantee, from his own conduct, or decided disposition to abandon them, or to leave the province; and even then the cases were never expected and intended to be re-granted, until the sovereign, or his viceroy, was made acquainted with the necessary inquiries, reported that the grantee had been guilty of a wilful neglect or negligence to perform the conditions, to be re-instated to his possessions. From this view of the subject, your honorable body will readily conclude that it would be a hardship to speculate in lands, which is multiplied by the multiplication of the number of hold by all the ancient inhabitants, and for that negligence in obtaining complete titles, which would in reality prove the inexcusable and unconscionable. Where government, possessed of the country of Orleans, were extremely to bestow them on those who had been, in the progress of such property would never be considered as worth the expence of engrossing it, and of obtaining a confirmation, if offered to strangers, it is not surprising that the old inhabitants neglected to procure, even with imperfect titles, on the ground of paying much their ancestors or themselves had acquired.

The act to which we have called the attention of Congress, requires that in order to the confirmation of incomplete titles, claims prior to the 1st day of October, 1803, shall be necessary,

1. That the person by whom claim the warrant issued, should at the time it emanated, have attained the age of twenty years, or have been the head of a family.

2. That the lands should have been actually inhabited and cultivated on the 1st day of October, 1803, by the grantee, or by some one for his use.

The instances where, after performing the conditions of a concession, and over the settlers has proceeded to obtain a patent, or a confirmation of the Lolle; into security by causes already briefly enumerated, be depended confirmed, and the inhabitants have been, in his surveys; and in numerous instances, their possessions have been lost, that lands have been transferred by regranting titles, or have been sold, or conveyed through numerous heirs or devisees, without any other written evidence than a simple transfer, signed by a plant and certificate of survey. Hence it is, that the ancient inhabitants of towns, hold under warrants granted under a simple transfer, and, at this moment, subsist upon the protection of lands, formerly granted to those who were their ancestors, and to their families. Indeed Infancy, celibacy or age, Trade, Ignorance, and Poverty, are of as objections to the emanation of patents under the Federal Government, and verewomen, and your memorialists humbly presume, can never furnish a just reason for refusing a confirmation of complete claims under the equitable government of the United States.

Your memorialists, therefore, confident that, from your honorable body, aware of the injustice of obeying the measures, by which their lands have been taken from them, will make the title of the citizens of this territory, dependant conditions, which have been in the time of acquiring their property, not inserted in their concessions, and not accompanied by the law of usage, of the government, from which their claims are derived.

An inspection of the concessions, or warrants of surveys, issued by the Spanish authorities here, will prove that manifest injustice will be done to numerous claimants, should proof be required that the lands were actually inhabited and cultivated on the 1st day of October, 1803, by him in whose favor the warrant issued, or by some person for his use. In the form of these collections or warrants of survey, little variety is discoverable. They stat • that the roads and levies, made by law, are necessary, are to be made within a year, that the land is to be settled before the expiration of three years, and is not to be alienated, until the conditions are performed. Upon the most strict construction of this instrument, it is clear that the brother of it is allowed, that grantee rests his land, and that this personal right is alienable without an act of manifest injustice. In the form of the orders of survey are not dated more than three years before the 1st day of October, 1803, this provision of the law would operate to deprive many of the honest claimant. Your memorialists have to be indulged in requesting that the Spanish government never removed their grants on account of the non-performance of the conditions, unless the party claiming had refused some order, issued by the Intendant, to be emigrate from the province. It may be proper to observe, that in many instances, where lands had been long settled, and every condition religiously performed, the proprietor had either settled on some other tract, which he had acquired by purchase, or, at the to the county of government, and had procured the strongest acquisition to remain on the 1st day of October, 1803, and uncultivated, either by himself, or by other persons for his use. It would be superfluous to observe on the injustice of compelling the proprietor, in such circumstances, for want of residence and cultivation; and yet such is the actual state of numerous claims within the territory of Orleans. Your memorialists, therefore, pray, that the law of the act, so rigorous several residence on the ancient inhabitants, may be dispensed with, and the commissioners in confirmation of claims, be guided by the tenor of the title papers, rather than by the strict rules of the government from which the claims derived.

Your memorialists have also discovered, that the commissioners, in their instructions made for receiving and confirming incomplete titles under Spanish warrants, have fixed the 1st day of October, 1803, and prior to the period at which this country was surrendered to the French republic. It is to be regretted that