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Inhabitants East Florida

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INHABITANTS EAST FLORIDA.

MARCH 26, 1834.

Mr. ARCHER, from the Committee on Foreign Affairs, to which was referred the petition of F. M. Arredondo, on behalf of himself and others, for the payment of the claims of persons whose property was destroyed by the military operations of the American army, in East Florida, in the years 1812 and 1814, made the following

REPORT:

The Committee on Foreign Affairs, to which was referred the petition of F. M. Arredondo, have had the same under consideration, and report :

The petitioner forms one of a class of persons who allege that they have sustained losses by the operation of troops in the service of the United States, in the two Floridas, in the years 1812, '13, and '14. The principle on which the claim to indemnity is founded, being the same in all the cases, the committee have comprehended them in one view, in the examination they have been required to bestow.

The shock sustained by Spain from the events ensuing the revolutions in France, extended necessarily to her colonies, which were left very inadequately provided for security, when the means were not found within themselves. This was true in a peculiar manner of the provinces on the southern frontier of the United States. The force maintained in them was notoriously insufficient for their protection, if assailed by external danger. There were various causes, rendering this condition of these provinces a source of just inquietude to the United States. They had an unadjusted controversy with Spain, as regarded the title to a portion of the territory which one of the provinces in question was alleged to comprehend. Their citizens had claims on Spain to a large amount, and to some amount of uncontested validity, for spoliations on commerce, and the suppression of the right of deposit at New Orleans. In the known condition of the Spanish Government, the satisfaction of these claims could only be expected from a cession of the Floridas, which had, in this view, been the subject of an ineffectual negotiation between the two Governments. These important interests of the United States and their citizens would be frustrated by the event of the transfer of the country to any other foreign Power than Spain. In the hands of any other Power, too, it was liable to be converted into a source of very peculiar annoyance to the United States. Too much unsettled to admit the operation of an effective regular authority, in the event of this transfer to a remiss, and yet more to a hostile Power, uncontrollable facility would be afforded to the contravention of the laws of trade, revenue, and

police of the United States; to the escape of the slave property of the neighboring portions of the Union; and to the depredations or hostilities of the Indian tribes within and contiguous to its borders. A just estimate of these considerations, in connexion with the *unassured* condition of the Spanish Government, determined that of the United States to the adoption of measures of precaution against the possible occurrence of an attempt, on the part of any foreign Power, to occupy the territory in question. In the month of January, 1811, an explanatory resolution passed Congress, together with an act "to enable the President, in 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." The execution of the authority thus confided was committed by the President to General Matthews, of Georgia, and Colonel McKee. The contingencies contemplated by the act, and the instructions to these commissioners, in which the authority was to be exerted, were the occurrence of an arrangement with the local authority for the surrender of the country, or of an attempt to occupy it on the part of a foreign Power. General Matthews, in prosecution, as he seems to have supposed, of the views of the Government, in the month of March, 1812, entered the province of East Florida, in command of a force composed of militia of Georgia, and regular troops of the United States, acting in concert with a body of the inhabitants of the province, known under the denomination of the patriots. This conduct of General Matthews was disavowed by the Government, and his authority superseded. But the American force was not entirely withdrawn till the month of May, 1813, having been retained, as it appears, in the province, with a view to the obtainment of terms of amnesty for the portion of the population associated in its operations, which formed the condition of its retirement. The injuries alleged to have been sustained by the population which continued well affected to the Spanish authority, from the operation of this mixed force, form the first branch of the claim addressed to Congress for reparation.

The second branch has reference to the operations of the American army which penetrated to Pensacola, in West Florida, in the fall of 1814, under the command of General Jackson. The Indians of the South, broken by the victories achieved over them by the American arms, had found a refuge in the provinces of Florida. The local authority failed to restrain them, or to repress the operations of a British force, which appeared first at the mouth of the Mobile, and afterwards established itself at Pensacola, for the purpose of co-operation with the Indians. The frustration of the annoyance and danger threatened from this source, required the entrance of the American army into West Florida. This, accordingly, took place. Every regard is admitted, on the part of the persons applying for relief, to have been paid, in the progress of its operations, to the rigorous maintenance of discipline, but it is alleged that injuries were still sustained, incident inevitably to the rapid incursion of a military force into a territory unprovided for the regular supply of its necessities. Indemnification for the losses thus incurred is claimed, as well as for those occurring in East Florida in the two preceding years. These claims in combination present the case under consideration.

In February, 1819, the Spanish and American Governments terminated their various differences by treaty. The ninth article of this instrument stipulates as follows:

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"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."

"The United States will cause reparation 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."

In the month of March, in the year 1823, an act passed Congress for carrying this article of the treaty into execution. This act provides "that the judges of the courts at St. Augustine and Pensacola should receive and adjust all claims, arising within their respective jurisdictions, of the inhabitants of Florida, or their representatives, agreeably to the provisions of the ninth article of the treaty between Spain and the United States."

"SEC. 2. That, in all cases in which said judges shall decide in favor of the claimants, the decisions, with the evidence on which they are founded, shall be, by the said judges, reported to the Secretary of the Treasury, who, on being satisfied that the same is just and equitable, within the provisions of the treaty, shall pay the amount thereof to the person or persons in whose favor the same is adjudged, out of any money not otherwise appropriated."

Under the operation of this act, the claims which grew out of the operations of the American army in Florida, in the year 1818, were allowed and settled at the Treasury. Those, the origin of which has been referred to, resulting from the transactions of the years 1812, '13, and '14, have been rejected as not embraced by the treaty: the awards for 1814, during the administration of Mr. Monroe; the awards for 1812 and '13, during the last administration. An attempt has been made by the Delegate from Florida, before the committee at the present, as in a former year, to show that the construction assumed at the Treasury was erroneous, and that the cases under review are comprehended in the provision for relief stipulated by the treaty. The committee, without going into the discussion of this opinion, esteem it only necessary to express their dissent from it, concurring in that which has been adopted at the Treasury.

In this view they would have to pronounce unfavorably on both classes of the claims under examination. In relation to those derived from the transactions of 1812, '13, however, a further view suggests itself. The United States at that period were at peace with Spain. Neither of the contingencies which had been considered as warranting intrusion into the Floridas, and in the contemplation of one or the other of which the act of Congress authorizing the occupation had been passed, had actually occurred. The intrusion stands therefore on no ground to exempt the participants, either by action or instigation, from responsibility for injuries which may have ensued from it. True it is that the Government of the United States disavowed the proceeding of General Matthews, and displaced him from command. But it is also true that he was the commissioner of the Government, in command of its troops, acting in its name, and understood by the inhabitants of the province to be its agent. It is furthermore true, that although this officer was displaced, another was substituted to the same command, the forces of the United States retained for a considerable time in the province, and only withdrawn eventually, in virtue of terms of compact directed and sanctioned by the Government, *providing immuni-*

ty for the portion of the population which had acted in association with its force. The committee esteem the United States responsible for injuries sustained from the operations of this force, by the population which, taking no part in the public disturbances, preserved fidelity to the Spanish authorities.

They do not extend this opinion, however, to the cases growing out of the transactions of 1814, in West Florida, placed, as they conceive, in a very different predicament. The ground on which the cases of 1812-'13, just referred to, may claim indemnity, is the want of authority for the intrusion of the American forces into the province, in which the injuries from their operation were sustained. It was this characteristic of the invasion, putting the Government in the attitude of a wrong doer, which subjects it to responsibility. But this the committee do not regard to have been the character of the invasion of 1814. A discomfited enemy, of the most unquestioned principles of public law, may be pursued into the territory of a neutral Power, omitting to repel them from this refuge. The right, though not of more unquestionable validity, is of more essential character to enter a neutral territory for the chastisement of a hostile force, rendering it subservient to purposes of annoyance, either from the connivance or imbecility of its sovereign. The American army was sustained by both those principles, in its invasion of Florida in the fall of 1814; their application of the first of them was moreover reinforced by the express stipulation of the fifth article of the treaty between Spain and the United States, of 1795. That article provides that "the two high contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the lines and rivers which, by the preceding articles, form the boundaries of the two Floridas. And the better to obtain this effect, both parties oblige themselves expressly to restrain, by force, all hostilities on the part of the Indian nations living within their boundaries, &c. ; that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territory; nor will the United States permit these last mentioned Indians to commence hostilities against the subjects of his Catholic Majesty or his Indians, in any manner whatever."

The troops of the United States, in their entrance into, and operation in West Florida, in 1814, are not charged with any unusual departure from the observance of discipline. On the contrary, by the admission of the Delegate from Florida, they appear to have been duly observant of it: whatever accidental injuries may have resulted therefrom, the United States were not responsible for them to Spain, nor can be properly subjected to this responsibility, now that the Government of the United States has become substituted for that of Spain, as the presiding authority of the Floridas. This class of the claims to which their inquiry has been directed, it is not in the power of the committee, therefore, to recommend to a favorable consideration.

They report a bill extending the authority given by the act of March, of the year 1823, to the claims derived from the transactions of 1812-'13, in East Florida, guarded by such provisions as they have judged necessary, to prevent the relief they recommend from being improperly applied.

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 this 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 SHOWETH :

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 Gen. George 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 Powe,

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 bodies 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 January, 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 De 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 inhabitant 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. De 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 at New Orleans, produced an important change in the relations between the parties, which has never been accommodated. The United States saw in that measure imminent 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 Intendant, 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 ceded.

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 apprised 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.

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

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

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 quieting 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 ordinance 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 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 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 late 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 in which you have fallen is imputed. But in consideration of that part which you have taken, which differs so essentially from that contemplated and authorized by the Government, and contradicts so entirely the principles 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 service 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 General 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 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 General Matthews's 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 fo

bear to dwell on the details of this transaction, because it is painful to recite them. By the letter to General Matthews, which is enclosed open 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 em-

ploy 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 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 commitment 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 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 M

Foster's communication relating to General Matthews. When General 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 General 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 gunboats 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 frontiers; 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 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 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 gunboats 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, where offensive operations might be resorted to. Upon the principles of justice and of humanity, we call for the protection of the United States: without 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. McINTOSH

The Hon. JAMES MONROE.

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

WASHINGTON, January 2, 1822.

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 been necessary, from a decision by the Secretary of the Treasury, "that an 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 document. 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 McKee, 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 entrusted 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 selfsame 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 found 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 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.” The measures lately adopted by General Matthews, (says Mr. Monroe 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 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; and 2d, that the disavowal does not extend so far as to prevent us from maintaining 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 as 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 advance, 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 our 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

nt; that aids, abets, or in any shape is a partner in the perpetration of
 "—Gro. B. 2, C. 17, 5, 6. Vattel ranks all as associates "who are
 ally united in a warlike association with our enemy, who make a com-
 on cause with him."—B. 3, 6. It is idle to quote passages of law on a
 int as plain as this is. If a nation would disavow the acts of her officer,
 e must punish the offender—she must cause him to make satisfaction, if
 e is able, and if not, she must do it for him. "Sovereign princes are an-
 verable for their neglect, if they use not all the means within their power
 r suppressing piracy and robbery."—Gro. 2, 17, 20. It even frequently
 appens that the injury is done by minor persons, without their *Sovereign*
ving any share in it; and, on these occasions, it is natural to presume
 he will not *refuse us a just satisfaction*. When some *petty officers*, not
 ng since, violated the territory of Savoy, in order to carry off from
 ence a noted *smuggling chief*, the King of Sardinia caused his complaint
 be laid before the King of France, and Louis XVI. thought it no degrada-
 tion to his greatness to send an ambassador extraordinary to give satis-
 fication for this violence. Vattel, B. 2, C. 18, 8, 338: 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.
 he injury is the act of our troops, under our own officer. We retain the
 ossession of the country occupied. We protect those who aided us, sub-
 jects, patriots, and all; and the law is every where recognised in the
 ooks, that, if we protect the wrong doers, we are responsible for the
 rongs done.

Whilst our troops were thus stationed in a foreign territory, whose in-
 habitants were using every effort of which they were capable to repel an in-
 sion that our relations with the mother country rendered more unjust and
 pressive, it was to be expected that much violence should be used on both
 des, that much oppression of persons and destruction of private property
 ould result. In this individual instance it is believed that the waste of
 ivate property was wanton and extensive. The letter of Colonel Smith,
 which I have already referred in my communication to the Secretary of
 e Treasury, of the 23th of November, 1826, uses the strongest language
 show the ruin following in the train of our armies: "The inhabitants
 ave all abandoned their houses, and as much of their moveables as they
 ould not carry with them." And further, "the province will soon be-
 ome a desert." And the investigations had before the courts of that Ter-
 itory, in pursuance of an act of Congress, approved 3d March, 1823,
 rove to us that the inhabitants of East Florida were driven from their
 omes by the American soldiery; that their houses, farms, and orange
 roves were wasted by fire and sword; that their stock was destroyed,
 and their slaves, to a large amount, were enticed or forced away, and
 any driven to seek protection amongst the Indian tribes, from whom
 ey never have been reclaimed. Such are the facts in the case of the in-
 habitants of East Florida. These sufferers from American rapacity are
 ow no longer foreign subjects. They have now no separate Government
 which to appeal for a redress of grievances. They had fondly hoped
 at, when their impotent master had transferred them over to a free and
 rowing republic, a full adjustment of their claims, a full security
 r payment and satisfaction, was guarantied by the treaty of cession:
 and they might still more fondly have hoped that, if any doubt could arise
 the construction of a clause so remedial and so just, our Govern-

ment would allow some little weight to the equity of the claim ; that 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 the door of hope, and a committee of Congress have sanctioned the construction. Thus, sir, are these people injured and deceived ; ruined 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 spoliations of the American army. From these facts I shall attempt to prove that these people are entitled to remuneration : either, 1st, as Spanish subjects ; 2dly, 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 nevertheless be made by Congress for that purpose.

1st. There is no proposition so clear as that principle, recognised in 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 3d § 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, an imbecile to enforce this demand, the United States are released from their 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 spoliation 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 so 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 in which they seem, 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

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 vow our intention in the then contemplated division of Spanish spoil, to let 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 ambiguous 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 wrongs 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 those 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 fourfold 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 the 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 “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 anything, 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 of one 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 territories 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 guarantied, 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 *operation* 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 acceptation: 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* acceptation" of the word "*late*," as fixed by the "*arbitrary* 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 Suwannee? 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. 2, 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 the 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 '14, 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 transactions, &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. 2, C. 17, Sec. 306.

Now, sir, I think I have shown 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 show 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 Luis De Onis, the ambassador from Spain. By reference to this, the last section but one in the article will be found the same as that subsequently transcribed in treaty: "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." This, it must be remembered, is the project of a treaty furnished by Mr. Adams. Mr. O then proceeds thus: "To the above claim, Mr. De Onis adds, that the United States will satisfy all the just claims which the inhabitants of 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 be 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 draught of the object of the parties, stripped, as it is, of all diplomatic form, and left naked and unguised to the commonest apprehension, is this, that the word "*late*," 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 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, 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 they have 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 real 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 "all 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 the 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 a treaty of cession: against France, for spoliations on our commerce,

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 tribunal. Here, sir, are cases embracing spoliations of every character. Against Spain, for suspending the right of deposit 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 deposit 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.

Exposition of the ninth article of the Florida Treaty.

The treaty of the 22d of February, 1819, between his Catholic Majesty and the United States purported to be, and was in fact intended, as declared in the preamble, "to consolidate, on a firm basis, friendship and good correspondence, and to terminate all their differences and pretensions by a treaty."

One, and not the least of the "differences" between the two Powers, was the invasion, on the part of the Government of the United States under a secret act of Congress, of the province of East Florida in the year 1812, and its military occupation for eighteen months, when Spain had been so desolated by Napoleon's army that she was incapable of resistance, and

incompetent to declare or carry on a war. She denounced the act as "lawless aggression," an "unauthorized act of violence and war, contrary to the laws of nations, and in violation of subsisting treaties." The "pretension" of Spain, as manifested in all the remonstrances of her Government and in all the correspondence of her ministers, was, that adequate indemnities should be made for this, and the invasion of West Florida in the year 1814.

The differences between the two Governments commenced in the execution of the treaty of San Lorenzo el Real of 1795, and continued to be the subject of mutual complaint and recrimination up to the period of the actual conclusion of the treaty. By the terms of that convention, which was intended to settle all the matters in dispute, from the suspension of the river of deposite at New Orleans, the individual Spanish inhabitants were transferred to the United States, and with the transfer of their country and allegiance, Spain was released from all obligation to protect and defend them.

These people had been loyal and faithful subjects of his Catholic Majesty in all the vicissitudes, insurrections, and revolutions through which the provinces had passed; and there was every motive of humanity and justice to influence a benevolent monarch to make the most favorable stipulations for devoted and impoverished subjects. There was also every consideration of policy, of moral and political obligation, imposed upon a young and flourishing republic to foster, protect, and conciliate those who, without any act of their own, were placed in this novel relation to the United States.

It is believed that history does not furnish an example of such total disregard of the rights, interests, and wishes of a people, as that which has been displayed in all the public acts of the authorities of the United States towards them.

Such has been the total disregard of the stipulations of the treaty favorable to them; and they have been so disappointed and outraged, that there is scarcely one who does not desire a restoration of the country to the Spanish dominion.

Their land titles, secured by the stipulations of the treaty, have, after twelve years' delay, been confirmed to them; and they are obliged by a tedious legal process at their own cost, to pursue their claims through all the courts of the United States, opposed by counsel learned in the law, employed by the Government to oppose, vacate, and defeat their titles.

The most extraordinary translations have been made of the only article of the treaty favorable to the Spanish inhabitants, several of which have been detected, exposed, and rejected, by the Supreme Court of the United States. The errors are all made to favor the United States, and are palpable as to create the strongest presumption that they were not the result of accident. "Concesiones" in the 8th article is translated "grant," a technical phrase signifying full titles, or "titulos de propiedad," the word "quederan" is translated "shall be," instead of "shall remain ratified," &c. "Shall be" imports contract, and leaves the titles to be confirmed, making them executory and dependent on the will of Congress; whereas, in fact, the word, properly translated, imports instant confirmation by force of the treaty itself.

The difference between a confirmation by the supreme law, executed and not executory, is sufficiently striking and important: see the opinion

the Supreme Court in the case of Arredondo and Perchemon, 6 and 7 Peters's Reports. The English version goes on to stipulate for the confirmation to the persons "in possession of the lands," when the word "*ellas*," feminine, refers to "concessionaries," meaning the persons in possession of the *concessions*, and not the *lands*; which latter most unjust interpretation would have excluded every one's title who was not actually in possession of the land. This construction was zealously, forcibly, and eloquently contended for in the Supreme Court. That high tribunal, which has always protected the humblest foreigner against the oppressions of the Government, pronounced this pretence unfounded, and gave to the claimants the true interpretation in their own language, in which it was satisfactory to their King and his ministers, as well as to themselves.

The same thing has been attempted in the 9th article of the treaty. The clause which was intended to stipulate for the payment of the unoffending inhabitants of East and West Florida, whose property was destroyed by the military forces of the United States, without a declaration of war, is made to read in English, that the United States will cause satisfaction to be made for the "injuries occasioned by the *late* operations" of the American army in the Floridas. The word *late* is then made, by a still further refinement of Governmental construction, to mean the *latest* or *last*, and is confined, not to "the Floridas," but to *West Florida*; an invasion which actually occurred *after* the terms of the treaty were agreed upon, and the only invasion of the Floridas which the Government of the United States attempted to justify.

There is no word in the Spanish language employed in the 9th article of the treaty, which signifies *late*. There was no motive for such a provision. There was no justice, propriety, or policy, in it. There was no reason why Spain should not demand an indemnity for losses in the year 1812, or an unauthorized and wanton aggression upon a weak and defenceless province; and there could have been no considerations of policy or justice for refusing the one and admitting the other.

That construction which leads to an absurdity must be avoided. The 9th article of the treaty means something. Those who deny its application to the claims of 1812 and 1814, say it only embraced those of 1818. The principle is then admitted, that Spain did demand, and the United States did acquiesce in the justice of the demand, so far as to admit that they would pay for losses occasioned by an invasion which our Government justified.

The treaty purports to be a settlement of all the matters in dispute between the two Governments; and yet here are two invasions of the provinces of Spain not provided for, though the principle has been established upon well acknowledged rules of international law and practice, that the demand was proper, and that the indemnity could not be refused. These impoverished people, however, were transferred with this violated territory to the United States. His Catholic Majesty ceased to be their sovereign; and when they appeal to him for redress for an admitted wrong, an uncontroverted injury, he would refer them to their own Government for the faithful execution of a treaty which he as an act of justice forced upon their new Government in the last act which severed their allegiance and his protection.

Here is then an admitted wrong without a remedy. Here are a number of individuals, whose property was destroyed by the troops of the United

States, transferred to the United States with a promise of indemnity whose claims are rejected upon an interpolated word in the English version of the treaty, which is not to be found in the Spanish, and which word in English, if permitted to be understood in its ordinary grammatical construction, does not exclude them.

The words "quederan confirmades," "shall remain confirmed," when applied to the Spanish titles of the Spanish proprietors, are translated "shall be," the same words in the same treaty: when applied to the large grants of land to be excluded, "quederan anuladas" is rightly translated "shall remain annulled." When titles are to be annulled, the proper translation is made, but *aliter* when they are to be confirmed in the treaty itself.

There is, however, no such word in the Spanish as will confine the provision to late operations. The true translation is, that the United States will cause satisfaction to be made for the injuries suffered by the individual Spanish inhabitants, in consequence of the invasion, by the American troops, of the Floridas—not *East* or *West* Florida, but "*las Floridas the Floridas*." Stripped of all diplomatic ambiguity, this is the plain and obvious meaning of the contracting parties. The Supreme Court has decided that the Spanish inhabitants are entitled to the Spanish stipulations in their favor, under the laws and usages of nations.

If any other rule were adopted, it would follow that various provisions might be inserted in a treaty with a foreign Government in their own language, and other provisions in the English, which were not understood and thus, by a fraud which would disgrace an individual, a Government might claim an exemption from the most sacred obligation to help impoverished individuals.

When Commodore Porter invaded a Spanish province, and captured Foxardo, the Government of the United States instructed our minister in Spain to offer indemnity for the injury occasioned by that invasion. These claims have been so long delayed, that the very delay is now pleaded as an excuse for not providing for them.

I will endeavor to explain how, and why they were delayed.

Before the negotiation of the treaty, the Spanish minister, Don Onís, wrote to the Governor of East Florida, to cause a list of the claimants to be made out, and evidence collected and perpetuated, as it was his intention never to agree to a treaty unless these claims were provided for.

The treaty was ultimately concluded in 1819. The provinces were delivered in 1821. The various provisions of the treaty, and their execution attracted the attention of Congress in 1822, '23, and '24, and provisions were made by law for carrying them into effect. At the first session which Florida was entitled to a Delegate, an act was passed "to carry into effect the 9th article of the treaty." The act was as follows:

"An act to carry into effect the 9th article of the treaty concluded between the United States and Spain the 22d of February, 1819.

"**SEC. 1.** *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the judges of the superior courts established at St. Augustine and Pensacola, in the Territory of Florida, respectively, shall be, and they are hereby, authorized and directed to receive and adjust all claims, arising within the respective jurisdictions, of the inhabitants of said Territory, or their representatives*

agreeably to the 9th article of the treaty with Spain, by which the said territory was ceded to the United States.

"SEC. 2. And be it further enacted, That in all cases in which said judges shall decide in favor of the claimants, the decisions, with the evidence on which they are founded, shall be by the said judges reported to the Secretary of the Treasury, who, on being satisfied that the same is just and equitable, within the provisions of the said treaty, shall pay the amount thereof to the person or persons in whose favor the same is adjudged, out of any money in the Treasury not otherwise appropriated."—Approved March 3, 1823.]—Laws U. S. vol. 7, p. 166.

This act covers the whole article, and provides that the judges of the superior courts established at St. Augustine and Pensacola should receive these claims, adjust and report them. If Congress had for one moment have supposed that this article of the treaty was to be confined by Executive construction to the invasion of West Florida, by the *late* operations of 1818, why require the judge of St. Augustine to receive the claims, who was four hundred miles off? The truth is, that no man at that time dreamed of setting up so groundless a pretension. The bill passed without a dissenting vote, and it was the deliberate intention of Congress to provide for the payment of the claims of 1812-'18, in East, and for 1814, in West Florida.

Gen. Hernandez, a Spanish gentleman of St. Augustine, was the Delegate who proposed the subject as connected with the East Florida invasion, and this bill became a law, by the sanction of the Executive, who suspended its operation in East Florida. The law was acted upon by the judges in the spirit in which it was passed, and the reports made to the Secretary of the Treasury, who undertook to nullify both the treaty and the law, by declaring that the treaty was confined to the invasion of Gen. Jackson, against whom he entertained at that time the strongest personal hostility. From the year 1824 to 1826, when I came into Congress, nothing was done.

I brought up this subject first before the Executive Government, but Mr. Rush excused himself from the labor and responsibility, by pleading the common law of the departments, that where a decision was made, right or wrong, the appeal was to Congress, and not to the successor, because, as to him, it was *res adjudicata*.

I appealed to Congress, and after two years of labor, intercession, and application, I induced the committee to look into the subject. They were unanimously of opinion that the treaty and the law had been misconstrued. A bill was reported, and not reached. Two years passed away. A new committee was organized. It was three months before I could get them to read the report; and, finally, they were divided, and one of them, who was a devoted friend of Gen. Jackson, was willing to concede that he did not mean *latest* or *last*, and that this treaty did provide for the losses occasioned by the invasion of East Florida, but did not refer to those occasioned by Gen. Jackson's army. I was willing to take any bill I could get, and one was reported for East Florida alone. I thought an admission of those of 1812 and 1818 would induce some future Congress or committee, not precisely organized as that was, to provide for those of 1814. The bill was called up, not quite a quorum present; and whilst I was speaking, a member ran through the House, and told them that Mr. Adams said the claims had been paid.

The bill failed by three votes in the Committee of the Whole. It came up afterwards, and it was explained that Mr. Adams thought these were the claims of persons in West Florida, now a part of Louisiana, occasioned by the insurrection and invasion of the Seminoles, which had been paid for. The bill was recommitted by an almost unanimous vote. It appears from this that the Spanish inhabitants of Louisiana, formerly a part of West Florida, have been paid for similar injuries; that those of Pensacola have been paid for that of 1818, and that satisfaction was tendered to Spain for those of Foxardo. Those unfortunate people, who were injured without color of justification, are the only portion not to be compensated.

This subject is again referred to the Committee of Foreign Affairs, and one of the members has signified a wish that some evidence of the demands of the Spanish Government shall be produced. I think I can prove conclusively that the Spanish minister in Spain and in the United States insisted upon this stipulation being inserted as a *sine qua non* to the execution of the treaty itself.

The various remonstrances and correspondence of the Governors of East Florida against the military occupation of the province will be found in the ninth volume of Wait's State Papers. In the same volume will be found the letter of the American commander, stating that the inhabitants had fled before the invading forces, and that the "province would soon become a desert." The committee will also find in the State Department a letter of Gen. Pinckney, who was charged with the command of all the military movements, denouncing the conduct of the Government of the United States, and declaring that they must select some other agent as commander, if they intended to persist in such a course against the peace and inhabitants of a foreign Power, against the laws of nations, and in violation of existing treaties.

This letter, with some movements of the European Powers, and the release of the King of Spain, induced the United States to seek a redress of the grievances complained of, against his Catholic Majesty, in a negotiation for a cession of the Floridas, and not by the ruin of the inhabitants who were in nowise the cause of any one of these complaints.

The negotiations commenced in 1816, within a very late period after the withdrawal of the American troops from East Florida, and on the 17th August, 1817, Don Jose Pizarro, the King's Minister of Foreign Affairs in Spain, proposed the project of a convention to settle all the differences between the two Governments. The first article of the proposed arrangement was as follows:

"His Catholic Majesty and the United States, carrying into effect the convention which is pending since the year 1802, oblige themselves to the reciprocal indemnification of all the losses, injuries, and prejudices produced to the Government or subjects of either country, in consequence of excesses committed by individuals of either nation against the law of nations, or the existing treaty, comprehending, in this reciprocal obligation, not only the epoch to which the said convention of 1802 refers, but also indemnities for posterior excesses of the same kind, committed by individuals of either nation, from such epoch until the day in which the present convention shall be settled and signed."—Wait's State Papers, vol. 12, p. 127.

It will be seen that this subject was not only one to be provided for, but that it was considered of such primary importance as to be inserted in the

first article of the convention, and this occurred more than a year before that invasion which was supposed to be referred to in the treaty. There is no portion of the correspondence in Spain or at Washington that ever controverted this position. It was always looked to as one of the indispensable articles. It has no such word as *late* in it; and if it had, the losses of 1812 and '14 were the latest and last, but it covers the whole ground from 1802 to the conclusion of the treaty.

This was what was proposed in Spain. Let us now see what was said here on the same subject.

It was thought best to transfer the negotiation to Washington, and the Secretary of State, in answer to this proposal in Spain, made his propositions to Don Onís, suggesting his views of the basis of a treaty.

The Spanish minister, in a letter of the 24th January, 1818, vol. 12 Wait's State Papers, p. 60, thus replies :

"I now proceed to state the most obvious and essential difficulties which render your three proposals for the settlement of indemnities inadmissible. I observe that, in speaking of them, you only mention the indemnity for spoliation suffered by American citizens, and omit that which is equally due to Spaniards for spoliation committed on them by the citizens and authorities of this republic, in violation of the law of nations and the existing treaty. I also observe that you not only omit this indispensable basis of reciprocity and common justice, but propose the immediate cession of both the Floridas, by which two Spanish provinces are to be retained by the United States, as an indemnity or payment of what may appear to be due by Spain to American citizens, according to the arbitration of the joint commission.

"You cannot fail to admit, sir, that this proposal, independent of its injustice, is offensive to the dignity and honor of his Catholic Majesty. It is unjust, because it demands an indemnity or anticipated payment of claims yet to be proved and liquidated, while, at the same time, it provides for no correspondent indemnity or payment of what may be due by the United States to Spanish subjects."

Again, at page 62 :

"As none of the proposals offered by you provide any indemnity for the losses and injuries caused to Spaniards, nor even make any mention of them; and as, by the two last proposals, if admitted, the losses and injuries sustained by American citizens would be indemnified and compensated according to the wishes of your Government, and Spain would consequently be exonerated from all responsibility on this head, it is clear that the business would then be settled and cancelled, and there would be no necessity for recurring to arbitration."

Again, at page 63 :

"* * * * "In relation to the question of reciprocal indemnities, it only comprehends those respecting American citizens, omitting those due to the Crown, and subjects of his Catholic Majesty. This plan of adjustment would amount to the following one: 'Give me all I wish to ask, and give up all you may justly claim, or show is yours.' I am, however, perfectly persuaded that this neither is nor can be your intention, or that of your Government, and that, in making these proposals for an adjustment, your only object was to afford me an opportunity to make such as you might consider just and admissible."

In another letter of February 10, 1818, at page 67, the following is the language of the Spanish minister :

"The question of indemnities can be attended with no difficulty. The Spanish Government has always been willing to give due satisfaction to the losses and injuries sustained by citizens of this republic, and committed by Spaniards, contrary to the law of nations and the existing treaty; but it cannot relinquish its claim to comprehend, in like manner, in the adjustment of those losses and injuries, such as have been committed by the citizens and authorities of this republic, or the Crown and subjects of Spain, in violation of the same right and treaty. Your Government, sensible of the justice of this demand, cannot fail to accede to it; thus, ratifying the convention agreed on in 1802, as I have already proposed to you, the question of indemnities will be easily settled and determined."

The Secretary of State, Mr. Adams, replied to these demands in a letter of the 12th of March, 1818, at page 95 of the same book, as follows:

"You express the willingness of your Government to resume the unratified convention of 1802, and to extend its stipulations to the cases of complaint of a similar character to those provided for in it, which have since that time accrued. It is undoubtedly the intention of this Government that its engagements should be reciprocal; and if this was not expressly declared in my note of the 16th of January, it was merely because the President was not aware that any such claims of Spanish subjects, for indemnities from the American Government, were in existence. I am authorized to assure you that there will be no difficulty in including any such as may exist in the convention, and in making the United States answerable for all indemnities which may be justly due by them."

This distinct annunciation was made before General Jackson's invasion of West Florida in 1818. Nothing can be plainer or stronger, than that Spain did demand indemnity, and that the United States did agree to it; and, after the receipt of this letter, Don Onís did write to East and West Florida to have evidence taken of the claims for the invasion of 1810 and 1814.

The question was considered as settled, that the adjustment was to extend to all the matters of difference, and that this was considered a very serious one on the part of Spain, and was admitted by the Secretary of State.

The terms of a convention were thus agreed upon in this preliminary correspondence, and were reduced into form by a project and counter project of a treaty. The Secretary of State, in his project of the treaty, inserted these words: "And the high contracting parties renounce all claim to indemnities for any of the recent events and transactions of the respective commanders and officers in the Floridas."

This was proposed as a part of the 9th article of the treaty, and is an admission that there was a claim, and a just one, for indemnity, which must either be provided for, or released.

A paper was then submitted in the nature of a protocol of conference, to be found in the first volume of Ex. Papers of 1819-'20, Doc. 2, p. 48.

The relinquishment proposed by Mr. Adams is quoted by Mr. De Onís with this addition:

"To the above claim, Mr. De Onís 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." Against this requisition, in parallel columns left for remarks, Mr. Adams wrote "agreed."

Here, then, is the unequivocal and unsophisticated meaning and agreement of the parties which the treaty, in its condensed form, was intended to embody. There was not, subsequent to this, any further negotiation. There is no word *late* in this agreement, nor is there any reference to West Florida, but to the "just claims of the inhabitants of the Floridas."

Mr. De Onis had been in this country long enough to learn that there was a provision in the Federal Constitution, that prohibited the destruction of private property without compensation. He knew that there was no one subject in the United States which the citizens of the republic generally viewed with more solicitude, than the sanctity of private property, and its preservation against the seizure and consumption by armed military forces. When he had incorporated into his agreement that principle, as was "customary with citizens of the United States," he supposed that he had placed these unfortunate sufferers precisely on the footing of the American citizens whose property had been destroyed by the army of the United States, in violation of that provision of the constitution. and that this treaty would impose the same sacred obligation upon this Government to pay them, as it would feel itself bound to pay for the beef or flour that a storming army might seize upon in time of war, the property of American citizens.

After the return of the Chevalier De Onis to Spain, he published a memoir of the negotiations, in which, speaking of his correspondence, he says : "In that also may be seen my remonstrances and protests against the occupancy of Amelia island, and the invasion of East Florida, and against the capture of the fortresses of St. Mark's, the Barancas, and Pensacola, by the American troops—outrages which, it will scarcely be believed by posterity, were committed during a time of peace, and at the very moment when negotiations were pending for an amicable adjustment of all the differences between the two nations. The steadiness with which the American Government has endeavored to make it appear an act of justice to assail these provinces and fortresses, and to take possession of them by main force, representing at the same time the conduct of the General who committed these outrages as legal, will scarcely find a parallel in history." Vide Memoir, page 21.

In another part of his work, he says : "To these public acts of aggression and violence, were afterwards added General Jackson's march through West Florida with the troops under his command, and his entrance into Pensacola; and the march of another body of American troops into East Florida to assist a party of revolvers, (meaning the revolution of 1812,) who were endeavoring to excite disorder in that province. I protested in the name of the King against all and each of these excesses. During the second period of my embassy, which falls within the epoch of general peace in Europe, and which takes its date from the end of December, 1815. I renewed, officially, all the complaints, remonstrances, and protests which had addressed to the American Government."

Here, then, is an explicit declaration that before the year 1815, the Spanish minister had protested against the invasion of East Florida in 1812, and against General Jackson's invasion of it in 1814.

Protests were made "in the name of the King against all these excesses," and these remonstrances were revived after 1815. The minister says, "I renewed, officially, all the complaints," and these complaints were responded to and adjusted in the general settlement of all the matters in

dispute between the two Powers. Suppose Spain were now to open a correspondence with this Government in regard to this transaction, would the treaty be pleaded as a statute of limitations? The answer would be, the treaty concluded every thing on both sides. We have shown that they were subjects of complaint, discussion, and negotiation. They have been accommodated. The question is, how, or in what manner? They have neither been paid nor released. The United States have acknowledged and acted upon the principle that Spain could demand, and that they could not refuse to pay for losses occasioned by the invasion of the American troops. Spain has demanded indemnification for similar outrages and injuries, and the United States have acknowledged and paid them. The Government has set up not only a claim against Spain for a direct aggression, but has asserted, and maintained, a claim for the failure and omission of the Spanish authorities to protect American property within the jurisdiction of his Catholic Majesty. Congress have passed laws at nearly every session for thirty years, to pay for depredations committed by Indians upon our frontiers, upon the well established principle that they are bound to defend and protect their own citizens against foreign depredation. These Spanish subjects have been put upon the footing of citizens of the United States, injured by their own Government, and entitled to the constitutional protection guarantied to every one. Let us suppose for a moment that there is an intelligent man in either House of Congress, who can read this correspondence, quoted from authentic documents, and doubt that the treaty was intended to provide for these claims. I would appeal to his sense of justice, to that feeling of moral and political obligation that ought to rest upon every legislator, and ask, whether he thinks it just and proper for the Government of the United States to acquire a province, so large a portion of the inhabitants of which had been deeply injured by the invasion of their military forces, and, by the act which severed their allegiance, deprive them of that indemnity to which they were entitled by the principles of international law. Is there any man who can be so indifferent to human suffering as to maintain a proposition so outrageous and revolting? To transfer a people, without their consent, to another Government, depriving them of their natural and political protector, and to incorporate them into this Government, impoverished and ruined by our arms, to drag them to a miserable existence of unavailing supplication, and to die imploring judgment of Heaven upon those who have reduced them to poverty by their arms, and added insult to oppression, by a perversion of the treaty?

I have used strong language on this subject, because I believe that great and irreparable injury has been done to these people; because I have heard the tales of their distress and suffering told in the simple and eloquent language of truth, which, if they could be heard at the bar of Congress, would save me this most painful exposition. If they never can get justice at the hands of this Government, they shall at least know that their wrongs were made known in the fearless language which confidence inspires.

Believing, however, that the perusal of these papers must convince every one who will take the trouble to read them, I will venture to say a word of the *quo modo*. The act of 1823 is sufficient, if properly construed. It has been arrested by the Secretary of the Treasury. I only want a legislative declaration that the treaty provides for the losses of 1812, '13, and '14, in the Floridas, by a joint resolution or a new law.

I am willing to take a law to refer the question to the Supreme Court.

is possible that a resolution of the House of Representatives itself would induce the Secretary to re-examine this erroneous decision. The whole amount of claims will not exceed \$100,000, I am assured by those who understand the subject. I wish them strictly scrutinized by your own eyes, and every improper claim rejected. It is the principle for which I contend, and the payment of honest sufferers.

When it is considered that this was one of the few stipulations in favor of Spain in a treaty which secured to the United States twelve hundred miles of seacoast, and two provinces containing thirty-two millions of acres of land, of which only three millions have been granted, leaving twenty-nine millions for the payment of five millions of dollars, I humbly think a just and magnanimous Government, upon a less doubtful question, would not hesitate to provide for the payment of these just claims against Spain by persons who are now American citizens.

The Floridas, though evidently a great acquisition, will hardly be a compensation for the reproach which impartial history will record of the bad faith of the nation to helpless, impoverished inhabitants, ruined by their arms, and purchased to get rid of the debt by a species of special pleading which I trust will never receive the sanction of the American Congress.

Respectfully submitted by

JOS. M. WHITE.