

MESSAGE.

EXECUTIVE DEPARTMENT, GEORGIA, }
 Milledgeville, Nov. 6, 1827. }

FELLOW-CITIZENS:—In making known to you the events of the passing year, it is equally my duty to communicate those which give pain as those which afford pleasure, so that without concealment or suppression all may be embodied in the history of the times—our successors will take counsel from them, and the experience of the past will be equally profitable, whether it furnishes examples of good to be imitated, or of evil to be avoided.

Before the close of the last Session of the Legislature, hope was indulged that the controversy between the Government of this State and that of the United States was happily terminating; and so indeed to all appearances it was—The surveys of recently acquired territory, so long resisted, had proceeded with little or no interruption—the last of them were about to be completed—the Indian irritation had exhausted itself in a few demonstrations of hostility and when calmness and tranquility had succeeded to excitement and clamor, and nothing remained to satisfy the Indian for his imaginary wrongs but a trifling consideration in money, the Executive Government at Washington seized the occasion as a fit one to denounce the Executive of Georgia as the violator of the faith of Treaties, and the lawless invader of Indian rights—to forbid the prosecution of the surveys, and to threaten the employment of military force to coerce obedience to its commands—a menace which, without being unprecedented on the part of that Government, was yet so ill-timed and unexpected, that but one reception and one treatment could be given to it—The Documents herewith transmitted will disclose the manner of that reception and treatment.—The Message of the President to Congress, communicating this measure, left no doubt as to its motive and its objects. The councils and people of Georgia were to be subdued at all events into a recognition of the validity of the Instrument called the New Treaty—by civil process, if civil process would answer—by military force if it would not—indeed by all means civil or military as enjoined by a superadded obligation (to use the language of the President,) even higher than that of human authority.—It could not be seen why under a government of laws the civil remedy might not suffice, being, if not so prompt, at least ample and appropriate—or why if resorted to at all it should not be exclusively depended on?

to an order... said county, sitting for... same time, will be hired, the... for one year. PEGGY... November 9—45 60ds

EXECUTOR... whenever first Tuesday... no longer... between our own constitution of government and that of the most arbitrary and despotic. It was impossible to doubt therefore, from the unconstitutional character of the menace, from its unseasonableness and from the appalling consequences which must inevitably follow its execution, that the temper which dictated it was hostile to Georgia, and bent on her humiliation or destruction. The councils of Georgia could never recede without the most degrading humiliation from the positions taken in support of the Treaty of the Indian Springs—it was the professed object of the menace to produce that recession; and it was obviously better for Georgia to run the hazard of being stricken from the roll of States, than by a passive submission to surrender, with important interests and essential rights, what was infinitely more important and more essential, character.—But other rights and interests than those of Georgia were concerned. The doctrine assumed in justifi-

of all the States.—It asserts the broad power for the Executive of the General Government in any controversy between a State and the United States, to decide the right and wrong of that controversy promptly, absolutely, and finally, without appeal, and to enforce such decision by the sword—a power most awful, tremendous, and unnatural, and not given by the Constitution even to the Congress. In such a contest, Georgia could make no sacrifices too dear, because she contended in a just and righteous cause, not for herself alone, but for all the States, whose honor, dignity, and independence, were alike at stake.—Happily for the country, the enforcement of this measure has not been as yet attempted—whether on reconsideration it has been yielded to more deliberate suggestions and more prudent counsels, or decided as wholly indefensible, and therefore impracticable, or reserved for some other and future occasion, is not known to me, and can only be conjectured.—It is reasonable, at least charitable to conclude, that what in this respect ought to be done, has been done, and that wisdom and moderation can find no amends for the calamities of a civil war, in the transfer from Georgia to the Indians of a comparatively worthless fraction of territory, which, but for the principle involved, this government would not deign to make a subject of angry contention with that of the U. States.

The country of the Creeks falling within the chartered limits of Georgia being acquired, it remains for you to consider of the measures most expedient for the acquisition of that of the Cherokees within the same limits.—On this subject my opinions have been freely and frankly, and repeatedly communicated—there is no reason to change them—you hold the territory by the same tenure as you hold that on which yourselves and your ancestors have long fixed your hearths and firesides—the original charter of the State.—This tenure remains unchanged by the Articles of Confederation, or by the present Constitution; and without the consent of the people, is unchangeable but by the act of God.—The right of occupancy following the right of soil and jurisdiction, you claim the same right of occupancy now as ever unlimited and unrestrained by the confederation or the present constitution; and therefore, are free as in times past, to enter upon that occupancy, consulting your rights, your convenience, and the dictates of humanity only—your rights are undoubted—your convenience is resolved by the various circumstances in which you may at any time find your population and territory, and the wants of your people, as resulting from the relative condition of both; and the obligations of humanity, always paramount to the claims of interest, are to be sought in the consideration of what is due from a civilized to a savage community, and of the sum of human happiness, present and future, which is involved in the estimate.—Whatever may be the controlling motives resulting from other considerations, those of humanity oppose no obstacle to the immediate occupation of the country. The Cherokees are only asked to surrender now, and voluntarily, the country which by the force of moral circumstances they must very soon surrender, even against their will, not without consideration or equivalent, but in exchange for another, and in all respects a better country, with a title in fee in the place of a precarious occupancy—with generous soil and salubrious climate, presenting a choice to agriculture or the chase—insulated from the whites and protected by the power of the United States.—All who oppose themselves to this movement are enemies of the Cherokees, ignorant of their true interests, or indifferent to their present and future welfare.

It is proper to inform you that the memorial of the last Legislature on this subject, addressed to the President, was forwarded in due time, with an accompanying letter, to which no satisfactory answer has been given.

Connected with other subjects of disagreement with the Government of the U. States, is that of the dividing line between Florida and this State, directed to be run and marked by several resolutions of the Legislature. The concurrence of the general government being necessary to the perfection of this measure, it was repeatedly invited, and eventually obtained. A highly respectable gentleman, and late Governor of Virginia, Thomas M. Randolph, having been appointed the Commissioner on the part of the United States, and Thomas Spalding the Commissioner on the part of Georgia, they proceeded in a spirit of harmony and concert to the execution of their trust, and I am happy to inform you that, without bringing their labours to a termination most desirable, they they closed them with no interruption of that spirit. On the contrary, with an improvement of its corresponding to the intelligence, patriotism and liberal sentiments which distinguished them. The Charter of Georgia, the Treaty of Peace of 1783, the Confederation of 1778, the present Constitution, the Treaty of Spain of 1795, the Constitution of Georgia, all recognise or guarantee the head or source of the St. Marys River as the true point of the southern boundary of the State. The Commissioner of the U. States and the Commissioner of Spain appointed under the Treaty of '95 to run and mark the line in terms of the Articles of that Treaty, instead of discovering the head or source of the St. Mary's, as they were instructed to do, and for which they searched, established a point different from, and disconnected with the head of that river: viz. a point in the Oklawaha Swamp one mile or two miles north of the mound of Elliott. It had been as-

certained by researches authorised to be made by the commissioners appointed under the authority of this State in the year 1818, that the U. States and Spanish Commissioners, in agreeing to that point, were wide of the true point—that the head of the stream pursued by Ellicott was not to be found as he supposed, in the Okesfanoka Swamp two miles north of the mound of Ellicott, and it has been since ascertained that the head of that branch of the river is to be found to the southward of both the swamp and mound. It was justifiable to take the mound as the true point. because so in substance, our own commissioners, believing that Ellicott in pursuing the north, did pursue the main branch of the St. Marys, had reported; and so the Governor of this State, in the year 1819, relying on the correctness of that report, had informed the Legislature. Our commissioner was accordingly instructed to agree with the United States commissioner in running the line from the mound of Ellicott to the junction of the Flint and Chattahoochie rivers. It happened that the U. States commissioner was not authorised to concur. On the contrary, an act of Congress which, departing from the ordinary course, gave his instructions, in the same section in which it authorised his appointment, virtually forbade it. Those instructions directed the commissioner to run from the point established by Ellicott, two miles north of the mound, and were of course directly opposed to the Treaty of 1795, which prescribed the head or source of the St. Marys as the true point. The President of the United States would have been quite justifiable, disregarding the act of Congress in this respect, in directing his commissioner to run from the point designated by the Treaty, instead of the point designated by the act, the Treaty being the supreme law. The commissioner was not so directed. It was not, however, deemed expedient, on this account, to arrest the commissioner of Georgia at the outset. If the point established by Ellicott, had by the commissioners of the United States and Georgia, been found to coincide with the head or source of the St. Marys, the commissioner of Georgia would have been instructed to proceed. It was ascertained that they did not coincide, and his progress was accordingly arrested. You will observe that the first question presenting itself for settlement between the two governments is, whether the point arbitrarily agreed on by Ellicott and the Spanish Commissioner as the head of the St. Marys, now ascertained not to be the head even of the stream pursued by Ellicott, shall be considered as the true head under the treaty of 1795. The other, and only remaining question will be, which is the true source or head of the St. Marys. To enable you to act understandingly on these questions, as well as to afford some satisfaction to the Government of the U. States, which must undoubtedly revise its proceeding, I had instructed a competent agent, the same who acted as the surveyor and artist under the commissioners, and who approved himself worthy of their highest confidence, to proceed to an examination of the several branches of the St. Marys, for the purpose of ascertaining, by actual admeasurement, the true head or source of that river. The correspondence and documents on this subject, together with his report, are submitted. It will be seen that of the three branches forming the St. Marys; viz. the Northern, Western and Southern branch, the Southern is not only the longest by two or three miles, and having a direction corresponding most naturally with the general course and disembogement of the river, but discharges eight times more water than either of the other branches, and one third more than both of them united, including various other tributary streams;—that of the three, the north branch, viz. that pursued by Ellicott, is the most inconsiderable, discharging, in proportion even to the western branch, as two to three, and in proportion to the southern branch as five to forty-three; and indeed that it is even more inconsiderable than another stream, (the Alligator,) south of it and running between it and the western branch. If these facts are confirmed to the satisfaction of the Government of the U. States, the conclusion will be irresistible, even by itself, that we must follow, not the error or mistake of Mr. Ellicott, but the language of the Treaty; not the point arbitrarily determined as the head of the St. Marys, but the true head; and that the true head or source of the St. Marys is to be found, not at the extremity of the northern, but at the extremity of the southern branch; and that from this point the line must be run according to the letter of the charter of Georgia, of the Treaty of '83. of the Treaty of '95, and of the Constitution of Georgia. This detail so inconsistent with the generalizing character of a Message, will find an apology in the extreme reluctance which I feel to open a new controversy with the government of the United States—the great delicacy of the question, (being one of boundary)—the extent of territory, (more than two thousand square miles) which may be involved in it, and the obvious propriety, therefore, in stating the question for the first all time, to state it fairly and fully.

It gives me great pleasure to inform you that recent acts of the General Government, and of its different departments, bespeak a return to good feeling, and give an earnest of future good understanding which it has been the sincere desire, as it is the duty of this government to cultivate. Our military claims so constantly and sedulously, but and unavailingly urged before that government for 20 or 30 years, have been recognized, and, under circumstances warranting the belief that some grains of prejudice had mingled with the former repeated considerations of them, and that nothing was want-