

MESSAGE.

EXECUTIVE DEPARTMENT, GEO. }
November 3d, 1829. }

FELLOW CITIZENS.—Soon after the adjournment of the last General Assembly, the necessary measures were adopted to carry into effect the Resolution of the 20th December, 1828, relative to the land in possession of the Cherokees, believed to have been comprehended in the contracts made with the Creeks by the General Government. A Commissioner, (Col. Wales, of Habersham,) was appointed to collect information in relation to the boundary line between the Creeks and Cherokees. His report with the evidence collected by him, having sufficiently established in the opinion of the Executive, that the proper line between the tribes in November, 1827, began at Suwanna Old Town and ran thence to the Hightower river, thence to the mouth of Will's creek on the Coosa, and thence by the old creek path to the Alabama line, Col. Wales was authorized to employ a competent Surveyor and assistants to run and mark the line. Copies of the instructions to the Commissioner—of his report of the evidence collected by him, and of the Map of the line marked under his direction, are herewith communicated.

The Territory in question is estimated to contain 1824 square miles, or 1,167,360 acres—the soil is represented to be fertile.

As soon as the line was run by the Surveyor under the directions of our Commissioner (the evidence collected having been previously transmitted) a map of it was sent to the President of the United States, with a request that he would have the Indians residing upon the Territory immediately removed. The answer of the President to this application, delayed by the accidental miscarriage of the map first prepared for his use, has been recently made through the Department of War, in two communications, herewith presented to you. In the first, we are told, "the President considers it improper for him to offer any opinion on the question of title," but earnestly desires that Georgia will forbear any course that may appear compulsory. In the second, we are informed that the President prefers to refer the matter, for the present, to a different tribunal. To collect evidence on the facts, upon which the claim of the State to the occupation of the lands is founded, the principles upon which that claim rests, being substantially admitted by the Secretary of War, a gentleman of high character has been selected, General Coffee, of Alabama, who will proceed immediately to the execution of his trust. The complaints of the Cherokees of intrusions upon their lands, have produced an order from the War department, for the removal, after the 15th of October, of those white persons who have settled between the ancient and modern line separating the Creeks and Cherokees. This order is a decision against us until further enquiry. To what tribunal allusion is made, is not explained. We cannot object to any investigation of the facts deemed necessary to justify the removal of the Indians; but the character of the State would be compromised by any attempt to enter into an investigation, as the adversaries of the Cherokees, before any commissioner, however recommended by his important services and spotless integrity. What is most to be regretted, is the determination of the Federal Government to enforce the law regulating trade and intercourse with the Indians. If the evidence collected by our Commissioner, proves that the land between the two lines, is comprehended in the last Creek contract, the law of Congress does not apply to it: the Cherokees are not the rightful occupants. If they are rightful occupants, the law of Congress, the question of its constitutionality being waived, cannot operate after June 1830. If not already within the exception of the 19th section of the act, in June next, the Cherokees in Georgia will become so, as they will be within the ordinary jurisdiction of the State.—Hope is entertained that circumstances may allow the Secretary of War to countermand the order before the time arrives for its execution, and that no occurrence will produce any excitement or collision between the General and State Governments. The application to the President of the U. States to interfere, was inconsistent with our alleged right to determine all such questions without the intervention of the authority either of the Executive or Legislature of the Union; but having been made, in deference to past usage, and from a sincere desire to act in concert with the administration of the General Government, a regard for consistency, not less than a due respect for the authority to which we have appealed, unite to compel us to wait tranquilly for the decision we have invoked. The only subject for consideration seems to be, whether in anticipation of that decision, be it favorable or adverse to the State, some preparation is not proper for the survey and disposition of the land during the current year. By this course, if the Indians are removed, the country will be earlier made useful to the State, and no other better mode presents itself for temperately asserting the claim of the State, should unfortunately the Chief Magistrate of the U. States ultimately differ with us in the question of right. In your deliberations on this subject, you will not fail to bear in remembrance the grateful fact that the present Federal Administration is duly sensible of the long tried forbearance of the State, and of our unfeigned anxiety to have our claims adjusted, and rights enforced, without further angry discussion, and with the least possible inconvenience to the only Tribe of Indians which can now be affected by them.

I have the satisfaction to communicate another correspondence with the Department of War, on the subject of the Indians—the Creeks and Cherokees. The opinions upon which the act extending the State laws over the Indians within our Territory is founded, accord with those of the present Administration of the Federal Government. In the exercise of our

sovereign power, limited as it is, only by the constitution of the United States, there is little danger of our again meeting with formidable obstacles from the imposing authority of the Executive of the Union. While indulging sanguine expectations, that the compact of 1802 will be either fulfilled, or put in train for fulfilment before June 1830, prudence requires that Legislative provision should be made on the possibility that those expectations may be disappointed. The Indians who may continue within our jurisdiction after June 1830, will be subjected to such laws as the Legislature may hereafter prescribe.—Great care is necessary to mature provisions for the protection of their persons and property, if they are to remain in the anomalous condition in which they are placed by the act of 1828. Tribunals for the trial of Indians accused of crimes are to be designated, and the forms and rules of proceedings established—the courts which are to have jurisdiction for the redress of injuries inflicted by them or upon them, where the inflictor or sufferer is an Indian or a white man, are to be ascertained or created by law, and the mode of proceeding prescribed.—How guardians are to be selected for them—the authority and privileges of those guardians when selected, require mature reflection and careful legislation. The character of the State for generosity and magnanimity, dictates enactments as liberal as the moral and intellectual condition of this dependent people will permit. Whatever in the exercise of a prudent forecast may be determined upon, one provision is required by a due regard to our position, as a member of the Government of the U. States: a small tax should be imposed upon all the Indians within our Territory, that in the next general census they may be enumerated and form a part of our Federal Representative population.