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From the National-Intelligencer.

ANK OF THE U. STATES.

Supreme Court of the United States.

Chief Justice delivered the opinion.

No tribunal can approach such a

On the Supreme Court of the United

in question made in the cause is

will not be denied, that a bold and

in the decision of which the great

representatives of the people, to

government, ought to receive a con

of the constitution, deliberately

ch an immense property has been a

ought not to be lightly disregarded

power now contested was exercised

Bank of the United States did not

understood, and was opposed with

the fair and open field of debate,

and in the executive cabinet, with

every thing which had a tendency

the agriculturalist in making a crop

seigniorial from destruction, deprived

ought to receive, general publicity

of the country, (it is said) are at

time, strongly fixed on the success

farmer; to aid them, in the smallest

in promoting that success, it is con

The committee forbore to make any other remarks on the violation of the usual and accustomed forms in the punishment and conviction of Arbutnot and Ambrister, except that even despots claiming to exercise absolute power cannot with propriety violate their own rules.

Having detailed a court martial for the purpose of trying the prisoners, the commanding general by his own authority set aside the sentence of the court and substituted for that sentence, his own arbitrary will. In trials involving the life of an individual, a strict adherence to form, is in ordinary cases considered the best security against oppression and injustice.

A departure from these forms calculated to inflict a wound on the national character and tarnish the laurels so justly acquired by the commanding general by his former victories. Such are the facts which they appear to the committee, & such are the views taken by them of the important subject referred to their consideration, and together with their report, they submit various depositions and documents, which, and to the correspondence and documents relating to the Senoie war communicated to the Senate by the President of the United States, at the last and present session, they refer.

*See Mr. King's letter to the Secretary of State, Vol. 10, p. 100, State Papers.

From the Lexington Reporter.

A COMMON CASE.

Pray thee tell me, Mr. Printer, What's an honest man to do?

All my neighbours, all the winter, Wish to hear the news from you.

But among us, (nearly twenty,) I alone your paper take, So that news-stay like a plenty, Sure to follow in my wake.

Tell me neighbour what the news is? Every one desires to know; Think I if a man retuses He perhaps might make a foe.

So I'm compell'd to loan it, Till it goes the usual road, Then when I, who really own it, Wish to read, it can't be found.

Tell me, Mr. Printer, tell me, I'm compell'd to ask of you, If you've any pity tell me, What's an honest man to do?

CYMON.

AGRICULTURAL.

For the Maryland Gazette.

MR. GREEN,

I have always been of opinion, that every thing which had a tendency to the agriculturalist in making a crop of grain, and seigniorial from destruction, deprived of the country, (it is said) are at this time, strongly fixed on the success of the farmer; to aid them, in the smallest degree, in promoting that success, it is considered as a duty, and a benevolent one to exhibit a portion of patriotic zeal in itself, and worthy the imitation of the wisest and best men amongst us. I do not say this because I have any thing new to make known which would be a happy event, but simply because I believe it to be strictly correct. Therefore, I enclose two brief pieces which I have to communicate, will give me no claim to merit. The first piece is copied verbatim, and the second, from a miscellaneous work published in England some years ago, and which has been very little known, and was republished, in this country.

NO FARMER.

A Receipt to Destroy the Turnip Fly.

A distinguished farmer who had, without success, a variety of means to destroy this troublesome insect, who had commenced its ravages among his turnips at last determined to try what effect making them would have; for this purpose he collected all sorts of useless weeds, and them with light dry brush and straw in heaps on the windward side of the field, and then set all the heaps on fire, that the smoke might be drifted over the whole field at the same time. By this experiment, it is stated, he saved a crop of "covered ten acres," the fly having abandoned it in the course of three or four days after the first smoking. Weeds used should not be too dry, but rather green, they will, by somewhat watering the fire, increase the quality of the smoke, and impregnate it more with their poisonous stench, and thereby make it more powerful in its operation on the fly. [Trash tobacco would, no doubt, be a great assistant to the weeds, &c.]

Receipt to prevent the Smut in Grain.

"Take as much dunghill or rotten manure which distills from a dunghill, as will fill your quantity of grain sown, put the manure as much salt, with a pound of salt per bushel thereof two pounds of copperas will cause it to bear an egg; steep your twelve hours; after being carefully washed of the light corn, strain it out, and wash with slacked lime, or dry turf ash, so; but be careful to sow it near the day following; for if wet weather comes, and it be kept 4 or 5 days on the ground, the corn peels and will rot as the pickle decomposes it may be improved by adding more water and salt, &c. the seed intended to be sown is killed."

for the reduction of St. Augustine, was transmitted to the Secretary of War, and a countermarching order promptly despatched to general Gaines, which reached him before the military expedition set on foot by general Jackson had commenced; and thus was suddenly arrested a military scheme, (as unconstitutional as it was impolitic) which might, as stated by the Secretary of War, in his letter of the 8th day of September, 1818, have involved this nation in a war with all Europe.

In thus promptly prohibiting the unauthorised seizure, at the will of a commanding general, of the possession of a neighbouring nation with whom the U. States are at peace, the committee recognize that sacred regard to the rights of other nations, which ought never to be departed from by the executive of a free country, and that vigilant attention to the conduct of the officers of the army, which is necessary to secure a due subordination of the military to the civil power.

They consider that on this occasion, the executive of the U. States has (by promptly restoring St. Marks and Pensacola, wrested from Spain, in violation of instructions) pursued the course, that the constitution demanded, that all former precedents justified, and to which the public sentiment gave a decided approbation.

In reviewing the execution of Arbutnot and Ambrister, your committee cannot but consider it as an unnecessary act of severity, on the part of the commanding general, & a departure from that mild and humane system towards prisoners, which, in all our conflicts with savage or civilized nations, has heretofore been considered, not only honourable to the national character, but conformable to the dictates of sound policy. These prisoners were subjects of Great Britain, with whom the United States are at peace.

Having left their country, and united their fate with savages, with whom the United States were at war, they forfeited their claim to the protection of their own government, and subjected themselves to the same treatment, which might, according to the practice and principles of the American government, be extended towards those, with whom they were associated. No process of reasoning can degrade them below the savages with whom they were connected. As prisoners of war, they were entitled to claim from the American government, that protection which the most savage of our foes have uniformly experienced when disarmed and in our power.

Humanity shudders at the idea of a cold blooded execution of prisoners disarmed, and in the power of the conqueror. And although savages who respect no laws, may, according to the strict principles of the law of nations, have their own system of cruelty inflicted on them, by way of retaliation, it is believed, that such a system would degrade and debase the civilized nation, who could resort to it, and is not only repugnant to the mild principles of Christian religion, but a violation of those great principles of moral rectitude which distinguish the American character. Retaliation in the United States has always been confined to specified acts of cruelty. It is not believed that any attempt has ever been made to retaliate for charges so general as those exhibited against Arbutnot and Ambrister, viz. "Inciting the Indians to war." During the revolutionary war, only two cases occurred of persons seized for the purposes of retaliation, neither of whom was executed. The case of Asgill seized on account of the murder of Huddy; and governor Hamilton of Vincennes, for specific acts of cruelty also. Hamilton was confined for a short time with rigour, and afterwards released. During the late war, marked with some cases of cold blooded massacre on the part of our enemy, particularly the one at the river Raisin, no such measure as retaliation was resorted to.

The principle assumed by the commanding general, that Arbutnot and Ambrister, by uniting in war against the United States, while we were at peace with Great Britain, "became outlaws and pirates, and liable to suffer death," is not recognized in any national law. Nothing can be found in the history of civilized nations, which recognizes such a principle except a decree of the Executive Directory of France, during their short career of folly & madness, which declares that neutrals found on board enemies ships, should be considered and treated as pirates.

Indians have been fed and furnished from the garrison of St. Augustine. This being obtained, should you deem your force sufficient, you will proceed to take and garrison fort St. Augustine with American troops, and hold the garrison prisoners until you hear from the President of the United States, or transport them to Cuba as in your judgment, under existing circumstances, you may think best.

"Let it be remembered, that the proceedings carried on by me, or this order, is not on the ground that we are at war with Spain, it is on the ground of self preservation, borrowed on the broad basis of the law of nature and of nations, and justified by giving peace and security to our frontiers, hence the necessity of procuring evidence of the fact of the agents or officers of Spain, having excited the Indians to continue the war against us, and that they have furnished them with the means of carrying on the war; this evidence being obtained, you will permit (if your force is sufficient) permit nothing to prevent you from reducing fort St. Augustine, except a positive order from the Department of War.

Orders some time since have been given to the officer of the ordinance, commanding at Charleston, to have in readiness a complete battery of guns pointed out; I have no doubt you will find them in readiness.

"I enclose you the report of capt. Henry, of the naval force of that station; you will open a correspondence with commandant A. J. Dallas, to insure his co-operation, provided it should be required."

In this projected expedition, it was not thought necessary or expedient to consult the executive branch of the government; the order sent to general Gaines was peremptory, on the discovery being made that the Indians had been supplied with ammunition and provisions, and excited to war; the blow was to be struck, and nothing but an express order from the secretary of war was to prevent it. Long before this period, the commanding general had, by his letters to the secretary of war, declared the Seminole war at an end, and after which no a single new act of hostility had been committed. Yet in this state of peace, a military officer directed to ascertain certain facts, & on such facts being substantiated, to make war on the neutral colony of a nation, in peace amity with the U. States; thus disregarding not only the legislative and executive authorities of the U. States, but setting at naught the usages of all civilized nations, by making war without a previous and public declaration. Were this nation subject to the will of a military despot, and were there no constitutional barriers to the inordinate exercise of military ambition, more than this could scarcely have been expected. It is with pain the committee are constrained to make these observations, but where the vital principles of the constitution have been violated as they conceive, it would be criminal in them under the instructions they have received from the Senate, and the duty they owe the nation, to be silent. Silence on their part would have been considered an acquiescence in these measures, and they fear this precedent and example may be pleaded and followed on future occasions.

If these things be admitted in the south, will they not be considered as authorised in the north? Are there not fortresses there to be won, and provinces to be conquered, and are there not Indians in that quarter likewise, and may not the officer in command find means to prove that those Indians have been, or hereafter may be furnished by the British with arms and munitions of war, and if so, may he not follow the example set in the south? And add something to his stock of military fame by reducing the British fortresses of Canada, and unfurling the star spangled banner of this nation, on the walls of Quebec.

We hope better things of the distinguished officer, at the head of our armies, and we had hoped better things of the Hero of New Orleans, but we have been disappointed, and if the conduct of the officers in the south, be sanctioned and approved by the nation, we are free to declare that the reduction of Quebec, (where Montgomery fell, unable to conquer) would present a much stronger claim to public approbation.

It is necessary here to remark, that a copy of the order issued by general Jackson to general Gaines,

article of that treaty, still the executive of the United States, who is bound to see the laws "faithfully executed," must, in good faith towards Spain, have observed on our part that treaty; and the obligation of preserving the peace of the nation would have remained until the treaty should have been revoked or annulled by Congress. Furnishing the Indians with arms, ammunition and supplies, were so many violations of treaty stipulations, & might have been considered good cause of war by Congress; but of this general Jackson was not the judge. His duty was pointed out; it was to subdue and punish the Seminole Indians, with whom we were at war; for this purpose he was ordered to pursue them into the territorial limits of Spain, and over a part of which territory, these Indians had at least, a qualified right of possession and property. Under these orders no act of aggression on the Spanish authorities could have been designed, nor can any such acts be justified. Spain, before she could become, or be made a party to this war, must have merged her neutral character in that of the enemy, and clearly identified herself with the Seminole Indians, and by acts of open & undisguised hostility to gen. Jackson, have opposed him by physical, not moral force.

But the weakness of the Spanish authorities is urged in justification of this outrage upon our constitution; and is the weakness of an independent power, to disparage their neutral rights or to furnish pretences for a powerful neighbour to weaken them further by hostile aggressions? And is it thus we are to be furnished by an American officer with a justification for the dismemberment of Poland, the capture of the Danish fleet by Great Britain, and the subjugation of Europe by Bonaparte? and shall the U. States be called upon to imitate the example, or silently acquiesce and there by subscribe to doctrines, and approve measures, that are in direct opposition to the repeated and invariable declarations of the government, given to this nation and the world, through the official medium of Presidential messages, and the correspondence of all her public ministers, and sanctioned by all her public laws, on the subject of neutral rights? Will it not be said that we have changed our national policy? Shall we not be addressed in the following language, by the nations of Europe?

"The time was when the United States were also weak, she had no navy, she had no army. In those days she was a strong advocate for neutral rights, anxious that free ships should make free goods; that the neutral flag of the republic should protect all sailing under it, ever protesting against and complaining of the violation of her neutral rights by the belligerents of Europe. But these times have passed away, the nation has tried her strength in battle, and found herself quite equal to the struggle; she has had time to strengthen her army and increase her navy; her former weakness forgotten, her former precepts abandoned, and feeling power and forgetting right, she walks over a prostrate constitution, to conquer, and subdue a miserable and feeble, tho' neutral colony, whose very weakness, (pleaded in excuse for the aggression) should have rather constituted an appeal to a generous people for protection."

In this unfavourable light the committee have too much reason to fear, will the civilized world view this transaction, and if sanctioned by the nation, they regret to say there will be too much reason given, thus to consider it.

But there are still other reasons disclosed and facts developed, that discover the motives of the commanding officer, more fully than those above stated. More than two months after this campaign had ended, and the Seminole war was terminated, another expedition is planned, and the land and naval forces of the United States, ordered to execute it, which is to reduce the fortress of St. Augustine, the capital of East Florida. The reasons offered for this measure are stated in his order to general Gaines, dated Nashville, 7th August, 1818, and are as follows:

"I have noted with attention, major Twigg's letter, marked No. 5. I contemplated that the agents of Spain, or the officers at fort St. Augustine, would excite the Indians to hostility and furnish them with the means of war. It will be necessary to obtain evidence substantiating this fact, and that the hostil-

Mr. Lincoln's Report relative to the Seminole War.

(Concluded.)

Your committee would be unwilling to attribute improper motives, where those of a different character could be possibly inferred, more especially, when it is to affect a character, whose military fame is the pride and boast of the nation; but even such a character becomes more eminently dangerous, when he exalts himself above the majesty of the laws; declares the public will, and becomes the arbiter between the United States and foreign nations. That these high and transcendent powers have been usurped and exercised in the present case, it appears to the committee, incontrovertibly evident from the facts adduced.

"The Constitution declares, Art. I, sec. 8, "Congress shall have power to declare war, grant letters of marque and reprisal, and to make rules concerning captures on land and water;" surely it was never designed by this provision, that a military officer should first make war and leave it to Congress afterwards to declare it; this would involve an absurdity, that it is unnecessary to expose. It is sufficient to say, that the executive authority of the U. States, and much less a subordinate officer, has no power to change the pacific relations of the nation. The President of the United States is bound constitutionally, to preserve the peace of the country, until Congress declares it in a state of war; he can only, while thus in a state of peace, use the military forces of the nation in three specified cases, that is, "to execute the laws of the union; to suppress insurrection, and repel invasion;" (see Constitution, article I, sec. 8, also the act for calling forth the militia, passed 28th February, 1795.) It will not be pretended, that Spain had invaded the United States, or that Congress had declared war against that nation, and of course the relations of peace did exist between the two countries, at the time gen. Jackson took possession of the Spanish possessions in the Floridas; these facts being admitted, and they cannot be denied, the only question to decide is, whether the military conduct of gen. Jackson, was not war against Spain, and on this subject, there can be no room to doubt. The capital of a Spanish province is taken by the sword, a fortress is invested and bombarded, lives are lost, and temples surrendered on captulation, the terms of which are declared, "more favourable than a conquered enemy merited;" military officers and men, as well as those in the civil departments of government, are transported to the West Indies, and the new government established, or the conquered country. If all these acts of hostility combined, do not constitute war, the committee confess themselves utterly at a loss for its definition; or if the act be deemed, the consequence of such denial, will be a proof, that no war was made by the Seminole Indians on the United States, and of course, that the invasion of Florida, was an unauthorised act of aggression on the part of the United States. But the committee will pursue this subject a little farther, and examine the reasons offered by the officer commanding, for taking possession of, and occupying the Spanish fortresses, more especially Pensacola and the Barracas. Those reasons are to be found in his numerous reports to the War Department, and his letter to the Spanish officers, who commanded in the different fortresses, and are these: That Spain had not observed her treaty stipulations with the United States, as it relates to the Florida Indians, & whose peaceable conduct she was bound to guarantee to the United States. That she had furnished those Indians at war with the United States, with arms, ammunition and supplies, necessary to carry on the war. Here the committee would observe, that they are neither the advocates, nor the apologists of Spain; there can be no doubt, but she had by the violation of her engagements, given the United States sufficient cause of war; but they deny the constitutionality, by saying that general Jackson had no power to declare nor make the war, that neither he, nor even the President of the United States, had any discretion or power to judge, what was, or was not, cause of war, thus, the constitution had wisely lodged in Congress, the supreme law of the land, and that Spain violated on her part, every

and secure the blessings of peace and to their posterity of the nation in their hands implied in calling a convention, submitting that instrument. But the people were at peace, kept or rejected it, and their required no the affirmation negatively by the act of Congress, when thus a double obligation, and bound to reign.

It has been said, that the ready surrogated all the state sovereignties, and to give. But surely the they may resume and might be granted to government do might be settled in this country, might the legitimacy of the present be doubted, had it been states. The powers delegated sovereignties were to be selves, not by a distinct or sovereignly created by them nation of a league such as the state sovereignties were to be. But when in or perfect Union," it was declared this alliance into a ment, possessing great and acting directly on the city of referring it to the giving its powers directly felt and acknowledged by The government of the ever may be the influence case, is, emphatically and ment of the people. In stance it emanates from are granted by them, and directly on them, and for

This government is acknowledged by an enumerated principle that it can exercise granted to it, would seem have required to be enforced arguments which its while it was depending, he found it necessary to urge is now universally admitted respecting the extent, usually granted, is perpetually continue to arise system shall exist.

In discussing these conflicting powers of the governments must be brought the supremacy of them when they are in opposition.

There is one objection of universal assent of mankind, that it would be the wish of the Union, though in supreme within its sphere would seem to result nature. It is the government ers are debated by all; and acts for all. Though willing to contr. His opening will to allow others to nation, on those subject act, must necessarily be parts. But this question reason; the people have, decided it, by saying, "the laws of the United States be made in pursuance the supreme law of the land, and the officers of the executive departments of the state, of fidelity to it.

The government of then, though limited in preme; and its laws, when ance of the constitution, law of the land, only the tion or laws of any state with-standing."

Among the enumerated find that of establishing a corporation. But the instrument which, I confederation, excludes ed power; and requires granted shall be expressed scribed. Even the 10th was framed for the purpose excessive jealousies which omits the words "consent only that the power of United States, nor prof are reserved to the states thus leaving the question ticular power which may jeet of contest, has been one government, or prof to depend on a fair con- instrument. The me of this amendment had of the general government, it said, are delegated by the states, one is truly sovereign, and must be in subordination to the states, who possess supreme dominion

It would be difficult to sustain this proposition unless the convention which framed the constitution was indeed elected by the states. But the instrument when from their hands, was a mere pro without obligation or pretensions; it reported to the then existing Congress of the United States, with a request might be submitted to a convention states, chosen in each state by the thereof, under the recommendation of the framers of the constitution, for their assent and ratification.

This mode of proceeding was a and by the convention, by Congress and by the state legislatures, the instrument was submitted to the people. They hon it in the only manner in which act safely, effectively, and wisely a subject, by assembling in convention, it is true, they assembled in their states—and where else should they assembled? No political dreamer was id enough to think of breaking down the whole separate states, and of com- ing the American people into one mass. Of consequence, when they act in their states. But the measure adopt do not, on that account, be the measures of the people themselves, or become the measures of the state governments.

In these conventions the constitution its whole authority. The power proceeds directly from the people; is not delegated and established" in the name of the people, and is declared to be ordained to form a more perfect union, es- Justice, ensure domestic tranquility,

and may with great reason