

Article Title: Florida Question. Article advocating cession of West Florida to the United States due to its long-standing claim to the area.

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FLORIDA QUESTION.

It is believed that the time of the cession is to be taken.

1. Because all questions of title, whatever they were, and all possessions, and conflicting claims, were settled by the treaty of 1763. That treaty adjusted the rights of the parties. By a solemn accord under their hands, it marked the lines of their territories and empire.

2. It is a retrocession. Spain received nothing of France east of the Mississippi ; clearly then there was nothing there for her to retrocede or give back.

If France once had possessed territory on the east of the Mississippi, but had not ceded it to Spain by this treaty, she could not claim it of Spain, though Spain had acquired it afterwards by conquest or treaty, from another power, to whom France had ceded it. These words in the treaty, " that it had when France possessed it," can have no operation east of the Mississippi. To give it such an operation, is to oppugn the preceding member of the sentence, viz. " with the same extent that it then had in the hands of Spain" ; for the colony of Louisiana, then in the hands of Spain, did not extend east of the Mississippi.

If these words, " that it had when France possessed it," are not a double description, and have any application or operation to give the cession an extension beyond what otherwise it would have, they can apply and operate only in relation to the northern or western limits.

The period to be taken for ascertaining the extent of the possession of France, is the time of her cession to Spain. In no other way can the express words used be satisfied, and reconciled with each other, and in no other way can the spirit of the transaction be preserved, and in no other way can the solemn act of the treaty of Paris of 1703, which forms one of the most important areas in the history of our country, and the chart of our possessions be kept inviolate.

3. In conformity with the above construction, and as evincive of the understanding both of France, and of Spain on this point, we refer to the order of the King of Spain to his Captain-General of Louisiana, for the delivering up that province to the authorities of the French government, in pursuance of the treaty of St. Ildenfonso. It is dated October 21st, 1802, and so far as is necessary for our purpose, a translation of it is in these words:

" Order of the King of Spain to the Marquis Someruelos, Captian-General of Louisiana, to deliver up that province to the Commissioner of the French government.

" Don Carlos, by the grace of God, King of Castile, of Leon, of Arragon, c. c. having judged it convenient to cede back (retrocede) to the Republic of France the colony or province of Louisiana ; I command you, that as soon as these presents shall be delivered to you by Gen. Victor, or such other officers as the French government shall duly authorize to take charge of this dispatch, that you put him in possession of Louisiana, and its dependencies, as well as of the city and island of New-Orleans, with the same extent that it now actually has, and that it had under the dominion of France, when she delivered it to my royal crown, and such as it ought to be in pursuance of treaties subsequently made between my estates, and those of other powers."

The time to be taken for ascertaining the extent of Louisiana as possessed by France, is here definitely fixed to be the period of the cession or delivery of the colony of Louisiana by France to Spain. For it to be delivered with the same extent, " that it had under the dominion of France when

she delivered it to my royal crown." This order was accepted by France, and under it Louisiana was actually delivered to her. The territory east of the Mississippi was not delivered ; the people were not transferred from the jurisdiction of Spain, nor their allegiance changed from the crown of Spain to the Republic of France. The powers of Spain were not removed from the country ; they went on after the delivery of Louisiana to the French, in all their functions on the east of the Mississippi, as before under their colonial government of West-Florida. And very lately, if not to the present moment, the authorities of Spain were in possession of the country, of its important keys and fortresses, though menaced by proceedings of various, mysterious, and multiform character and aspect.

The last member of the clause of the St. Ildenfonso treaty under consideration, to which some importance has been given, would, to a common reader at least, be less obscure, if it had been correctly translated. In the treaty, first drawn up in French, which is to govern, it is in these words" Et telle qu'elle dit tre d'aprs les traits passs subsequemment entre L'Espagne et d'autres Etats." In the treaty as published with the laws, it is thus translated" And such as it should be after the treaties subsequently entered into between Spain and other States." The following is believed to be a more correct translation" Such as it ought to be according to the treaties made subsequently between Spain and other States." Formal clauses of the like import and tenour are usually inserted in public instruments, such as treaties and conventions. They are also common in private deeds of conveyance, whether of absolute grant, or of mere release. Such clauses save the trouble and hazard of minute and particular reference, recital, and description. Often also are they introduced merely out of abundant caution. They may operate according to their import, object, and use, either to restrict, enlarge, or qualify a grant or release. They are not, however, to be so interpreted, as to change the intent and import of express terms. Else by a formal general clause, the precise and definite terms of a grant would be set aside. By the express terms of this treaty, the colony of Louisiana is retroceded with the same extent it then had in the hands of Spain, and which it had when France possessed it. We have examined what was its extent at the periods referred to, and find that it did not extend east of the Mississippi, either when ceded by France to Spain, or when retroceded by Spain to France. It is not supposable that such an extension was intended to be given it by these expression " Such as it ought to be according to the treaties subsequently made between Spain and other States." The treaties here in view, if indeed any were actually taken into view, could be only such as were made subsequent to the cession by France to Spain. And the eastern limit, even at the moment of the retrocession, is fixed by definite and precise terms, by the Mississippi. But the territory retroceded, that is the colony or province of Louisiana, is to be such as it ought to be according to the treaties, c. The treaties which alone under this clause can apply or have operation, must be such treaties as relate to the colony or province of Louisiana. A treaty which relates to West-Florida and East-Florida, or to them respectively, either when British provinces, or since when Spanish provinces under these names, are not comprehend.

It may also be noted, that the term such, here used, does not apply merely to extent, as the term, which, before used, did viz. " which extent," c. The expression is changed, and the word such is introduced. The colony or province of Louisiana is retroceded such as it should be, c. It is a qualification, embracing all the circumstances, and the whole condition which had in any way been given to the colony by the treaties that Spain had made, if any there were which related to it, and if none the words are inoperative.

By our treaty with Spain, made on the 27th October, 1795, and declared to be a treaty of friendship, limits, and navigation, it is provided that the navigation of Mississippi in its whole breadth from its source to the Ocean, shall be free to the citizens of the United States, and that they be permitted, for the space of three years, to deposit their merchandizes and effects in the port of New-Orleans : and his Majesty, the King of Spain, promises either to continue that permission, if he finds during that time that it is not prejudicial to the interests of Spain, or if he should not agree to continue it there, he was to assign on another part of the banks of the Mississippi, an equivalent establishment. Other provisions were also made in the treaty, relative to the conduct of the contracting parties towards, and their intercourse with, the Indians. By these provisions, important rights privileges were secured to the citizens of the U. States, and important duties and responsibilities assumed by Spain. They

specially relate to the province of Louisiana, and to the exercise of sovereignty there, in whosoever hands it might be placed. It was a qualification of it both in respect to navigation on the Mississippi, and to the right of deposit. And when Spain, by the St. Ildenfonso treaty, was parting with the territory and sovereignty of Louisiana to France, it well became her, as is customary with nations in such cases, expressly to declare and continue the obligation of treaties ; when in one of her treaties entered into subsequently to the cession of Louisiana by France to her : so important and essential a modification or qualification in the sovereign and territorial rights of the country, had been made. The non-intercourse bill, as will be seen in our paper, has become the law of the land. It passed the Senate without amendment. This country is certainly in a very extraordinary situation. Without revenue, without commerce, without officers, and without soldiers, without the least possible preparation for war, Congress have taken every step in their power short of an absolute declaration of hostilities, to lead the country immediately into a war. Indeed, with Spain, as far as she may be considered a nation, the President, in the face of the constitution, has gimsself commenced hostilities. With France, we now stand on mighty good termsthe intercourse with her is open, and we have the privilege of going there to be robbed. From Great-Britain we are shut out, essentially ; and the business has been purposely so conducted, as to irritate her to let loose her armed ships upon our commerce with France, and probably a great proportion of our vessels will be carried in for adjudication. Thus we court the power that plunders us, we keep open intercourse with the nation from whom we have long received nothing but insult, injustice, and fraud ; and we have quarrelled with the only naion on earth, who has any trade or ships to molest us. Let this system have fair play. Somebody will have to answer to the country for the poverty and distress which itr will inevitably bring upon us. The remedy is bitter, but it will be effectual, if the commercial States manage even with tolerable discretion.

Congress adjourned on Sunday night, the 3d of March inst. at eleven o'clock. The nation will have abundant reason long to remember this memorable session. Measures calculated only to disgrace, harrass, and distress the country, have alone occupied their attention, and passed their sanction. We have not heard that a foundation has been laid for more than one duel, this sessionwhich is between Mr. Randolph and Mr. Eppes. This had proceeded, by the last accounts, so far as to the giving, and accepting, a challenge. However, we are prepared to hear, as Mr. Randolph arrived on the 5th of March at Philadelphia, without any bullet-hole through him, that rather than to lose so great and valuable a man as Mr. Eppes, the duel was prevented by the timely interference of friends, or the officers of justice.