

THE STAR, and North-Carolina State Gazette, Published weekly, by LAWRENCE & LEMAY.

TERMS—Subscription, three dollars per annum in advance, and no paper discontinued, unless the Editor is notified, unless all arrears are paid. Advertisements, on execution, inserted three times for one dollar, and five cents for each continuation. All letters to the editors must be addressed to the Editors.

JUDGE CLAYTON'S Remarks in the case of the Missionaries in pronouncing the sentence of the Court.

The State vs. the Missionaries—In default in Gwinnett Superior Court—Verdict Guilty. As I sincerely believe this prosecution has been sought and endured, I will not say in an unchristian temper, but certainly in a great spirit of opposition to the laws, for political effect, I deem it my duty to make a few remarks on this occasion, not by way of vindication of the public authorities, for they need none, but to prevent a misdirection of public opinion, and with a hope that it may undeceive many an ignorant and innocent individual, who has been induced into a similar transgression, by the high example of this undutiful disobedience. I mean no reproaches, the penalty of the law is punishment enough for the offence, and my respect for its authority always inclines me the rather to reduce than increase its sufferings. I shall speak a free and decided language, unmixed, however, with the temper of unkindness. Foreseeing, as I think I do one of the main objects of this singular perversion, I will endeavor, as far as is in my power, to counteract it by a full and plain history of the case. I will not pretend to discuss the right of jurisdiction; that after it is settled; but that every body may see the true nature of this whole transaction, I proceed to give the following particulars: In the year 1825, the late venerable President, Monroe, communicated to Congress, the design which had been the subject of deep reflection by that benevolent sage, of ameliorating the condition of the Indians, on the East of the Mississippi, by, as he emphatically expressed, "atonement alike due from our justice and humanity, for the long train of cruelties inflicted on that race, by the covary and settlement of America." I wish my limits would justify my presenting the whole of that valuable document, but I can only give a few of its lines. He commences thus: "Being deeply impressed with the opinion that the removal of the Indian tribes, from the lands which they now occupy within the limits of the States and Territories, to the country lying westward and northward thereof, is of very high importance to our Union, and may be accomplished in a manner to the interest and happiness of these tribes, the action of the government has been long and with great solicitude to the object. For the removal of the tribes within Georgia, the motives have been peculiarly strong, arising from the contest with that State." After stating his considerations in favor of this measure, such as the future peace and contentment of the Indians, their removal from all the causes which disturb their repose, their peace, oppose their progress, and finally prevent their civilization, he adds, "Experience clearly demonstrated, that in their present state it is impossible to incorporate them in such masses in any form whatever, into our system. It has all demonstrated with equal certainty, without a timely anticipation of a provision against the dangers to which they are exposed under causes which it will be difficult if not impossible to control, their degradation and extermination will be inevitable." "To the United States, said, the proposed arrangement of many important advantages in addition to those already enumerated. By the establishment of such a government for these tribes, with their consent, we come in reality, their benefactors. The relation of conflicting interests which has heretofore existed between us, and our frontier settlement, will be, there will be no more wars between them and the United States. It may be fairly presumed, that though the agency of such a government, the condition of all the tribes in that vast region to the Pacific, will be essentially improved, their lives preserved, and our commerce extended." Here then is the beginning of a foundation of that wise and humane policy laid by the General Government, which it is the duty of every citizen to receive it, for the final redemption of a debt of justice, due to this unfortunate

people. Is it not just? Is it not humane? Ought it to be frustrated? I put these questions to all considerate and reflecting minds. But this is not all; this policy has the sanction of other great names. Mr. Calhoun in the same year as Secretary of War, made a report to Congress on the same subject, and stated among other facts, that the whole nation of Indians to be removed in the United States, did not exceed 92,000, (about the population of Rhode Island,) and that the sum of \$95,000 would effect the object, and concluded by a declaration that if fixed principles were adopted to effect the object, such as had been suggested by the President and himself, the "basis of a system might be laid, which in a few years would entirely effect the object in view, to the mutual benefit of the Government and the Indians, and which in its operations would effectually arrest the calamitous course of events, to which they must be subject without a radical change in the present system." The next statesman we find recommending this highly benevolent object, is President Adams, and in accordance with his views, the committee on Indian affairs, to whom that part of his message was referred, called upon Mr. Barbour, then Secretary of War, for such report and specific plan as was best calculated to accomplish the purpose. He drafted a law for the committee, and submitted it with very able and judicious remarks, warmly supporting the plan, and enforcing it by a variety of considerations replete with justice and wisdom. Among which he urged, that "next to the advantages to be gained by ourselves, the future residence of these people will be forever undisturbed, that there at least they will find a home, and a resting place; and being exclusively under the control of the United States, and consequently free from the rival claims of any of the States, the former may plight its most solemn faith that it shall be theirs forever, and this guarantee is therefore given." He concluded then his able report, with the following impressive language: "I will add, that the end proposed, is the happiness of the Indians—the instrument of its accomplishment—their progressive, and finally their complete civilization. The obstacles to success, are their ignorance, their prejudices, their repugnance to labour, their wandering propensities, and the uncertainty of the future. I would endeavor to overcome these by schools, by a distribution of land in individual right, by a permanent establishment, which should require the performance of social duties, by assigning them a country of which they are never to be bereaved, and cherishing them with parental kindness. In looking to the possible results of this plan, I am cheered with the hope, that much good may be effected with comparatively little injury. Our difficulties in their present form will be diminished or entirely removed. The desire to acquire inlands will cease, and no longer produce collisions. The Indians will at last know their lot with certainty." I pause to enquire if these are not suggestions worthy of all consideration? But again, in this same administration, twice or thrice was this subject pressed upon the attention of Congress, and besides the able views of Thomas L. McKenny, a gent of Indian affairs, which urged with peculiar earnestness the adoption of the system, who has forgotten the memorable, because unrivaled, report of Gen. Porter, Mr. Adams' last Secretary of War?—This luminous document secured to put the question at rest, satisfied the doubtful, confirmed the wavering, and lent fresh energy to the decided. Since that period, we have had nothing to contend with but the miserable selfishness of political aspirants and the sinister influences they have put in operation, not so much to defeat the plan, as to promote the reachings of ambition. They care not for the Indians; they want the agency of the strong sympathy which their helpless condition inspires, to destroy the fair fame of one among the best patriots of this or any other age, and who unfortunately stands in the way of their restless designs. Hence the unfortunate scene we behold today—men whose avocations should have led them away from political strife, have lent themselves as willing instruments to the projects of heartless demagogues, and under the misguided zeal of suffering ignominy for "conscience sake," and thereby arouse and increase that same public sympathy, they have wooed and won the fond object of their wishes. Wonderful infatuation! It was greatly to have been hoped, under the sensible and reflecting character of our institutions, the days of fanaticism in this sober country had long since been numbered.

Though the policy of colonising the Indians originated with President Monroe, was ably supported by his Secretary, Mr. Calhoun, was approved by his successor, Mr. Adams, and as vigorously defended by his Secretaries, Messrs. Barbour and Porter, yet when President Jackson signified his approbation of this generous work, and really attempted nothing more than the execution of what he conceived had been already begun and put in progress by his predecessors, then behold, it was an act of barbarity, an outrage upon the faith of treaties, and a violation of all law, human and divine! And persons

lost to the obligations they owe to the laws of their country have been found so fatally deluded, as to believe they had the right to oppose all exertions employed by the Government to effect this highly useful and favorite purpose. When all the circumstances attending this transaction are duly and fairly considered, it presents a subject, to say the least of it, of the most astonishing weakness. Let it be remembered, that the views of the Government had met the decided recommendation of three Presidents and three Secretaries of War, had so far acquired the confidence of the people of the Union, as to have produced in its favor a public act of Congress. That in obedience to this, a better home had been offered to the Indians, as well as full compensation for that which they should leave, supported in their journey, either, besides being supplied with many articles not only of comfort, but of property highly useful to them in their subsequent situation; furnished also with one year's provisions, after their arriving at their new homes, and then forever thereafter to receive the protection of the General Government. This is not all; they had assurance from the Government, upon which they could rely, of a permanent settlement, such as no future collisions could disturb, far removed from all the causes which could possibly thwart its civilizing operations; and what is still better for them, out of the reach of all those vicious influences that had heretofore so signally counteracted the effect of missionary labors. Apart from these striking advantages to them, we have seen in the views of the great statesmen already mentioned, that much was expected to the interest of the Government in its relations of peace, commerce, union, and above all, in the discharge of a long deferred compact with the State of Georgia, which has been so procrastinated, as to produce a spirit of discontent, such as not only to impair the confidence of the State in the fidelity of the General Government, but greatly to disquiet the repose of the Indians themselves. Are not these considerations enough to have induced a dutiful and orderly citizen, if not disposed to aid in such a benevolent object, at least to have restrained his opposition?—But it seems they were not; a spirit of resistance and disobedience has been infused into the Indians by the white men of the nation; they have had political discussions preached to them, in which Georgia and its authorities have been most unsparingly reviled and abused. The missionaries themselves have had a public meeting, and resolved, that they viewed a removal of the Indians over the Mississippi "as an event to be most earnestly deprecated." The resentments of the Indians have been excited to the highest pitch by public and private harangues against the laws of the State, and against the President and Government of the United States. Officers of every grade and character, belonging to both Governments, have been insulted and calumniated in their meetings, in their Councils, and by their press, and when an attempt has been made by Georgia to remove this influence from among them, it has been met by the most decided and prompt opposition. The State has been defied, and a territory over which she has the exclusive jurisdiction, has been openly declared by these white men, to belong to the Indians, and that they have the right to set up a Government, not only independent of Georgia, but of the United States. Nay, through this malicious influence, a Constitution and Government has been formed, and lest we might not be sufficiently notified of its existence by the usual method of manifests, they have dragged our citizens before their tribunals and inflicted disgraceful and cruel punishments, unknown to our own laws. Such have been the refractory and high handed measures of the nation, that Georgia has been at last compelled, as a measure of self defence, to take the rule of a country to which, by the annals as well as public documents of the Government, she has the most undoubted right, but which might have remained with the aborigines, if they could have contented themselves with their ancient usages and customs, and not have been seduced from their allegiance, by the agency I have before described. It is for the contempt and disobedience of one of her necessary laws to put down this influence, that the individuals at the bar have been tried and convicted. At the last term, some of these individuals were brought before me upon habeas corpus, and their discharge was sought upon the ground that the law of Georgia was unconstitutional. After the most deliberate investigation, preceded by long and able argument, that law was pronounced to be constitutional and in full force; consequently, such as could not bring themselves within its saving provisions, were bound over to take their trial at this court. There were, however, two who were considered agents to the General Government, and on that account and in virtue of an exception found in the law in favor of such, were discharged. The obstinacy of their conduct, for really I can give it no other name, and the determination manifested still to exert their influence under the all-pervading force of religion, to stimulate the Indians to a continued course of opposition against the wishes

of the General Government, as well as contempt for the authorities of Georgia, induced the Governor to request the President to have them removed from their agency, so as to oblige them to comply with the Georgia law or leave the nation. Upon every principle of reason and propriety, there is nothing unjust or oppressive in this act. Its officers of government set themselves up in opposition to the public acts; if they seek either by open or insidious means to counteract the policy of the government to thwart its measures, use their office and influence to bring the higher authorities into contempt by every thing that is sacred, they ought to be removed, and that as quick as possible. This was done, and the Governor, still willing to afford an opportunity to obey the law or leave the nation, notified the parties they should still have time to make their election. What was their answer? "My own view of duty (says one) is that I ought to remain, and quietly pursue my labours for the spiritual welfare of the Cherokee people, until I am forcibly removed. If I am correct in the apprehension, that the State of Georgia has no rightful jurisdiction over the territory where I reside, then it follows that I am under no moral obligation to remove in compliance with her enactments." Another individual replies, "I could not take the oath required of white men who live in her chartered limits, because I should then acknowledge the jurisdiction of Georgia over this country, which would be adverse to my opinion, and would essentially affect my usefulness as a Missionary laborer among the Cherokees. My principles of action are founded on the word of God, and if in adhering to the law and the testimony, and endeavoring to follow the example of holy writ, my conduct is construed into an unjustifiable interference with political affairs, I cannot help it." Though this is a grave subject, one is almost induced to smile, and in the language of some of the counsel for the accused, ask, whether this be not the doctrine of Nullification—can it be possible that we have come to this, that every man has a right to throw himself upon his original sovereignty, and obey just such laws as he pleases? I might safely conclude that he has; but he must take care of the consequences, "if the law" be against him—and he has not physical strength to resist it to its overthrow, he may depend upon it he has taken a fatal & inconsiderate step. But I would suppose, giving my humble views of the "law and the testimony"—that the Governor had placed a proper construction upon both when in addressing these individuals, he "put them in mind to be subject to principalities and powers, to obey magistrates, to be ready to every good work"—Tit. iii. 1.—For he had reason to know, and his charity required him to act upon his knowledge, that people are "sometimes foolish, disobedient, deceived, serving divers lusts and pleasures, living in malice and envy, hateful and hating one another"—ib. 3. What a pity it is this view could not have actuated the minds of all concerned? What a pity, the peaceful course of the Prince of Peace could not have been recollected in his mild reply to his disciple on the subject of that well known oppression of the Jews by Cesar Augustus, Mat. xvii. 27. Luke ii. 1, and xx. 23.

I am willing to make all due allowance for the diversity of human opinion, in matters of Government, as well as in religion—but I ask every candid man, what would be the consequence if every individual were allowed to judge for himself, whether he would obey the laws or not, especially after they had been pronounced by the only competent tribunal to be constitutional. If these individuals have the right to do it, all the rest in the community have; and what, I repeat, would be the consequence? Anarchy and confusion; and then what becomes of the examples of "Holy Writ" wherein we are required to "submit ourselves to every ordinance of man for the Lord's sake, whether it be the King as supreme, or unto Governors as unto them that are sent by him for the punishment of evil doers, and for the praise of them that do well." And why? "For, that with well doing, ye may put to silence the ignorance of foolish men—as free and not being your liberty—a cloak of maliciousness, but as the servants of God."—Pet. ii. 13, 14, 16.

I hope that no just government, acting within the pale of its authority, will ever require any of its citizens to proceed upon any principles of action not founded upon the word of God; for it may safely trust that "word," especially when it enjoins upon the citizen, "to keep the King's [States] commandment, and that in regard to the oath of God, be not hasty to go out of his sight, stand not at an evil thing, for he doeth whatsoever pleaseth him. Where the word of a King is, there is power, and who may say unto him what doest thou?"—Eccl. viii. 2, 3, 4.

One of these individuals replied to the Governor, that "if I suffer in consequence of continuing to preach the Gospel, and diffuse the word of God amongst this people, I trust I shall be sustained by a conscience, void of offence." Now in this speech there is all manner of unkindness, and meanness that directs "to render unto Caesar the things that are Caesar's and