

Thursday, Sept. 20.

The case was taken up this morning by counsel, and argued at length before the court and jury, (and a large number of spectators, who had been drawn to the court-room by the unusual interest excited by the peculiar circumstances of trial,) with the eloquence and ability which usually distinguish the learned gentlemen retained by the parties to the suit.

At a late hour in the evening, the jury retired under the following instructions from the court.

Charge of his Honor Judge Catron.

1. The jury will consider the assault, battery and false imprisonment as one transaction, commencing with the time when the plaintiff was seized by Capt. Shepherd, and ending on Saturday night, when he was set at large, after being whipped and branded. All who aided or abetted in the imprisonment, or inflicting the punishment are guilty, and the defendants having plead guilty, must be deemed equally guilty; and it is the duty of the jury to assess the damages to the amount the most culpable ought to pay.

2. The jury will find not guilty such of the defendants as took no part against Moody, though forming a part of the crowd, who imprisoned and scourged him.

3. If the plaintiff sustained any damage by the sacrifice of his property, because of having been driven from the country, the jury will assess damages for the loss, in addition to, and independent of any personal sufferings inflicted upon him.

4. In assessing damages for the personal injury, the state, degree, quality, trade or profession of the party injured, as well as the parties who injured, may be considered. These circumstances you must ascertain from proof adduced on this trial, without being influenced in any degree by facts insinuated to exist in argument, but which were not proved.

5. The jury have the right, and it is their duty to take into consideration, the motives of the defendants, or either of them; and if they believe the plaintiff was imprisoned and branded through malice towards him and in a spirit of personal revenge, then they will give high and vindictive damages. But should the jury believe that each of the defendants acted from motives, exempt from private and personal malice, and not to gratify individual revenge, then they will not give vindictive damages because of malice on the part of the defendants.

6. The jury are also authorized, if they see proper, to increase the damages, by way of punishment of the defendants, for taking revenge into their own hands; & for trampling under foot & setting at defiance all law and order; an example which if continued, and followed up, throughout the State, would destroy our mild government, of equal protection and even handed justice to all, and substitute in its stead the strong-banded together, whose measure of justice would be decreed by popular fury; a state of anarchy the most dangerous and terrible. How this feature of the case should influence your verdict, gentlemen, you will well consider. Your high standing, extensive experience, and the deep interest you have in maintaining the institutions of the country, are guaranties that you will maturely weigh this consideration, without further notice of it from the court.

7. It has been stated to you, in argument, that the court had on yesterday determined that provocation on the part of the plaintiff could be given in evidence. Provocation going in mitigation of a battery is confined to some insult that accompanies the battery. There was none such on the part of the plaintiff; and you must lay aside doubt as to any conduct of his, as furnishing the slightest excuse for the abuse inflicted upon him. There is not the remotest evidence that he said, or did, any thing, from first being unlawfully imprisoned, to the time of his release, which could give offence; and all previous acts are excluded from your consideration.

8. Much has been said against the plaintiff, as to why he did not prove his good character. Such evidence is unavailing in this description of action; the plaintiff's counsel would have ill advised him, had they ordered such proof to be produced, as it would have been notoriously incompetent. This cause is to be tried upon what was proved, and not upon surmises that the plaintiff is infamous, — to do so, would render the trial by jury more than useless. You will judge of the state and degree of the parties, plaintiff and defendants, from the evidence heard on the trial of this cause, and from that evidence only. It is certainly true that one man ought to recover more damages for imprisonment and battery than another, grounded upon state, degree, age, &c.; but it is equally

true that the jury only judge of the condition, &c.

9. The principal matter for your consideration, gentlemen, is the extent of the imprisonment and battery, and the degree of insult that accompanied and gave them character; and taking these, in connexion with the standing &c. of the parties, plaintiff and defendants a result will be come to, reasonable & satisfactory to the jury. It is your exclusive province, gentlemen, to say what the damages shall be, upon a calm, unprejudiced examination of the cause. But the court would respectfully suggest, that as there is no standard to measure the damages by, and it is difficult for men to agree on the same amount, that therefore, it is due to yourselves and the parties involved in this exhausting litigation, that you should give up minor scruples, and meet each other on fair grounds of concession, and make a verdict; although each of you may not be satisfied that it is the most accurate amount. A stubborn adherence to individual opinions, would result, almost of course, in division and disagreement; leave the cause where the jury found it, and the parties to another trial, when their chances for a verdict would be no better: and consequently great loss must be incurred for no sufficient reason.

Judge Brown having charged with the charge of Judge Catron, charged them further as follows:

Charge by Judge Brown.—The jury will first find which of the defendants are guilty of the trespass;—and in ascertaining this, they will not confine their attention to the mere inflictions of the personal injury, and imprisonment. But they will find, whether any of the defendants took any part, or were in any degree engaged in the proceeding by which the plaintiff was illegally imprisoned and illegally punished. Having ascertained this, and the facts of false imprisonment and the bodily infliction, of the whipping and branding—they will judge of the degree of pain and injury inflicted upon the body and feelings of the actual pecuniary losses incurred by him in consequence of the illegal acts of the defendants. This they will do in order to the proper assessment of the damages which they may think proper to award to the plaintiff. They will also take into consideration all matters which have been legally submitted to them on part of the defendants, in mitigation of damages. But they will be careful to exclude from their minds every thing which has not actually been submitted to them by the court in the course of the trial, such as the supposed guilt or innocence of the plaintiff, on any charge of crime—the plaintiff's bad character the justice and propriety of the imprisonment and punishment suffered by him—the good or bad character of the defendants,—all which circumstances have been attempted to be introduced to show want of malice &c. But the latter of the points may require a few more remarks as being itself of more than ordinary importance in its bearing upon this case, more especially as it regards the inquiry as to damages. But it is urged, that this plaintiff had a regular and indulgent trial, and received a just and proper punishment, although the proceeding was wholly illegal and unauthorized, but was the result of necessity, growing out of the circumstances of the country. This view of the subject is urged in mitigation of damages, on the ground of its destroying all inference of malice on the part of defendants. On the other hand, it is urged that the alleged regularity, impartiality, and deliberateness of the illegal acts, should enhance the damages, and that it is competent for the jury to award damages, as a punishment for such deliberate violation of law, and the rights of a citizen—that the evil example and violation of right and law is increased and aggravated, in proportion to the deliberation and assumption of the acts to a proper legal proceeding.

As to the necessity of the proceeding, from the situation or circumstances of the country, nothing has been given in evidence, nor otherwise appears, that can in any degree justify such a conclusion. If the plaintiff had been guilty of negro stealing, it was in a highly civilized country, where the laws were in full force, and civil government prevailed in the amplest manner,—where those laws had provided proper punishment, civil officers, and every facility for their enforcement—if he were guilty as alleged, he should have been proceeded against, under the authority and in accordance with those laws, which were all sufficient for trying and convicting (if guilty,) and punishing the plaintiff.—It is not true in fact, that such necessity existed, of course the jury will not take it into consideration. This being the case, it has great bearing upon the other point, that the trial was fair, and the

punishment was just. That violation of the laws and rights of individuals in a public point of view, is infinitely the most dangerous which approximate and simulate to the established laws and rules of justice, of the country. And in this case, the example is rendered of the most evil kind, when it is considered that nothing is shown why the ordinary legal proceeding could not have been had against Moody. The Jury should also well recollect that every blessing and every advantage, life, liberty, safety, right of property, all depend exclusively upon civil government, and the administration and preservation of the laws of the country. The more invidious the blow given to them, the more dangerous. The law can easily vindicate itself from gross and palpable violation, growing out of the momentary excess of passion, either of one or a mass of individuals. In such cases the example, though bad, is not of such dangerous import, as where the violation of laws has calmly assumed the specious garb of justice, and impartial deliberation.

Wednesday, Sept. 27.

The jury came into court this morning, and rendered a verdict for plaintiff, \$2000 damages, and cost of suit against Egbert Shepherd, Howell C. Taylor, William B. Grove, Robert Maclin and James Whitlow.

F. B. Fogg and Thompson, for plaintiff, Fletcher, Meigs and Anderson, for defendants.

Note by the Reporter.—We are induced to believe, from the general good character of Mr. Shepherd, (which we have from highly respectable citizens of Haywood,) that his conduct before the Justice's Court is grossly misrepresented by the witness, Caldwell.

TWENTY-FIVE FACTS.

The subjoined array of facts, succinctly stated, is from the New Jersey *Fredonian*, one of the most respectable Journals in that or any other State of the Union. It presents a brief but pregnant history of our Government for the last eight years. Grave and weighty as are the whole of these charges, there is not one of them, we believe, which is not susceptible of the clearest proof; and what is more, the list might be extended to double the length, with other facts, equally true. Posterity will read with wonder that a party justly chargeable with such abuses of power, and so signal a failure in all the promises by which it deluded the multitude and obtained possession of the Government, should have been able to preserve its ascendancy for eight years, with a people so well informed as the major part of our own certainly are. History, however, will solve the enigma, when it unfolds the influence which patronage is capable of exerting in corrupting the People, and controlling the freedom of elections. For the honor of free Government, it will have also to record, we trust, that imposture and misrule soon had their day, and were then discarded forever.—*Nat. Int.*

FACTS.

It is a fact, that when the present party came into power, the country was at peace, prosperous, and happy.

It is a fact, that we are now at war, and in a state of deplorable misery and ruin.

It is a fact, that the party promised to make the nation better than they found it.

It is a fact, that it is comparably worse off.

It is a fact, that they promised reform in abuses which they said had crept into the administration of affairs.

It is a fact, that these abuses have increased ten fold.

It is a fact, that they promised economy in the national expenditure.—This was a cardinal point with them.

It is a fact, that these expenditures have increased threefold.

It is a fact, that an expenditure of thirteen millions a year under the Administration of Mr. Adams, was deemed so extravagant as to be the cause of his dismissal from office.

It is a fact, that these expenditures are now between thirty and forty millions a year, and more called for.

It is a fact, that, under the former Administration, the sending of numerous diplomatic agents abroad was considered ground for serious complaint and a source of great corruption.

It is a fact, that this description of agents are more numerous now, and much more expensive than they have ever been.

It is a fact, that the occasional employment, by the Administration, of persons who had been members of Congress was denounced as a gross abuse of patronage, and made "corruption the order of the day."

It is a fact, that more members of Congress have thus been employed by the party in power, two or three to one, than ever received office under former Administrations.

It is a fact, that the present party found plenty of money in the country, and of the very best description.

It is a fact, that money is now ruinously scarce, and hardly worth having when obtained.

It is a fact, that silver and gold were as common as paper when this party took the reins of Government.

It is a fact, that it is only to be had by the office holders, and the favorites of the Administration.

It is a fact, that silver and gold were then the property of the People.

It is a fact, that they are now in the almost exclusive enjoyment and control of the Government.

It is a fact, that from the very day that the present party came into power they commenced experimenting upon the capital, industry and currency of the nation.

It is a fact, that this capital is now greatly diminished, the industry paralyzed, and the currency in unutterable confusion.

It is a fact, that the present party have had control in almost all the States as well as the United States.

It is a fact, that wherever they have exercised power, it has been to the public detriment.

It is a fact, that with a surplus revenue in the Treasury, one year ago, of more than forty millions, the Treasury is declared to be bankrupt!

PREDICTED DESOLATION OF BABYLON.

Isaiah xiii. 21, "But wild beasts of the deserts lie there."

"In my second visit to Birs Nimrod, while passing rapidly over the last tracks of the ruin-spread ground, at some little distance from the outer banks of its quadrangular boundary, my party suddenly halted, having described several dark objects moving along the summit of the hill, which they construed into dismounted Arabs on the look out, while their armed brethren must be lying concealed under the Southern brow of the mound. Thinking this very probable, I took out my glass to examine, and soon distinguished that the causes of our alarm were two or three majestic lions taking the air upon the heights of the pyramid. Perhaps I never had beheld so sublime a picture to the mind as well as the eye. These were a species of enemy which my party was accustomed to dread without any panic fear; and while we continued to advance, though slowly, the hallooing of the people made the noble beasts gradually change their position, till in the course of twenty minutes they totally disappeared. We then rode close up to the ruins, and I have had once more the gratification of ascending the awful sides of the tower of Babel. In my progress I stopped several times to look at the broad prints of the feet of the lions, left plainly in the clayed soil; and by the track I saw that if we had chosen to rouse such game, we need not go far to find their lair.—But while thus actually contemplating these savage tenants, wandering amidst the towers of Babylon, and bedding themselves within the deep cavities of her once magnificent temple, I could not help reflecting how faithfully the various promises had been fulfilled which refer in the Scriptures to the utter fall of Babylon, and abandonment of the place, verifying in fact the very words of Isaiah, wild beasts of the desert shall lie here.—Sir Robert Ker Porter.

The Wandering Piper.—This eccentric individual who spent several years in the United States, visiting every hole and corner in it for the purpose of performing on his Pipes, and with a liberality, never before equalled, disposing of the proceeds of his exhibition for charitable purposes, has returned to England and published a Card. In this he states that the object of his wanderings was to decide a heavy wager which grew out of a controversy between a party of American and British gentlemen, over their wine after dinner, as to the relative hospitality and liberality of Eng-

land, Ireland and America. To test the question, he determined, in the guise of a Piper, to visit personally the countries in question. He is new about re-visiting portions of England and Ireland, and when his task is done, his name and rank are to be disclosed. He states in his Card, that, in America, he collected \$27,600—every cent of which he expended or bestowed on charitable Institutions.—*Register.*

Southern Citizen.



ASHBOROUGH, N. C.

Saturday, Nov. 18, 1837.

The Reformation going on.—Van Burenism seems to be going down vastly in New York, as well as every where else. The late Elections in that State have given the Loco Foco party a death blow. Our intelligence, though not official, and perhaps not fully to be depended on, is sufficiently corroborated by a Correspondent of the National Intelligencer, to warrant a confident belief that the party is falling into bad odor at home.

The whig majority in the City of New York is stated at 2887. Several counties in the State are not yet heard from. But so far as results are known, the change against the Administration is unparalleled—far beyond what we expected. Even the county of Albany, the immediate residence of the President, has given One Thousand majority against his measures.

YOUNG MEN,—WHY BUT YOU MARRY?

As to the old votary of celibacy that hangs on the skirts of society, resting in confirmed habits of Bachelorism, we have nothing to say to him. If he has proved invulnerable to the charms and attractions of female delicacy, much less can we expect to reach him by argument. Little hope remains but for the old Bachelor to die in his sins.

But there is a generation of young men, now in the maturity of youthful vigor, whom we ask, feelingly asking, why but you marry? The jocular answer is always ready—you "can't get any body," when if another were to whisper it about that you "couldn't get any body," you would feel it as an unpardonable insult. The truth however of this jest will ultimately overtake you, before you are fully prepared for its sad reality.

Generally speaking, a man ought to marry from 21 to 27 years of age. If he ventures to pass 30, we call him on the wrong side of the fence. It is no excuse that you wish to rove at large, and see the world, that you may be the more useful to society. Let society take care of itself. Charity begins at home; and your first great duty is to secure your own substantial happiness.

Young men, the advice commonly given you is wrong. You are told, that if one young woman slights your pretensions, "try another." Not so; by this means, you will soon get out of credit with the girls. Our advice is, hang on and persevere. We happen just now to recollect an anecdote that may serve here as a practical illustration. An ardent lover had long, and, as it seemed at times, unsuccessfully, attempted to court the sole object of his affections. At last in a hasty fit of impatience, he seized the Bible from a shelf, and raising it in a swearing posture, exclaimed, "So sure as there is truth contained in this Book, I never intend to accede to your proposals of marriage!" Our hero instantly seized the same Book, and with no less earnestness replied, "So sure as there is truth contained in this