



"Our march is plain of fair, delightful Peace,
"Usurp'd by party rage, to live like Brothers."

Mr. JOHNSON'S SPEECH ON THE SEMINOLE WAR, Concluded.

I now come, said Mr. J. to the consideration of the right of the President to make war on the savages; and on that point I contend, that we have on the statute book a perpetual declaration of war against them. I hope gentlemen will take down the expression, and attend to my explanation—I say, we have a permanent and everlasting declaration of war—and why? The reason is very obvious. I shall not differ from gentlemen as to the policy and justice of observing the duties of humanity towards that unfortunate people. God forbid that a drop of Indian blood should be spilt except of the principles of civilized man. But the President would be wanting in his duty to his country and to his God, if he did not use the strong arm of power in putting down the savages by the force he is authorized to employ. If they cannot be put down by the precepts of our holy religion; and Congress had they not passed such a statute, would be wanting in duty to their country. Do the Indians ever declare war against their enemy? Do they embody themselves and engage in open conflict with their adversary, or do they come, like a thief in the night, and carry death to the unfortunate woman, to the aged and infirm men, and the children whom they meet in their incursions? Is it or is not that the universal practice? Let history answer the question. Should we, under these circumstances, have acted rightly, to take no precaution, but fold our arms in listless apathy, until roused by the Indian yell? Our predecessors too well knew their duty to do that. As early as 1787, and farther back if it were necessary to trace, provisions of the same nature as those now existing were enacted by the venerable Congress of the Confederation. By various statutes the same provisions had been continued to the present day. The statute gave to the President discretionary power to employ the forces of the United States, and to call forth the militia to repress Indian hostility; and gave it to him properly, on the principles of the constitution. By the constitution, the President is made commander in chief of the army; and it is made his duty to take care that the laws are executed, to suppress insurrections and rebel invasions; and by the same instrument it is made our duty to provide for calling forth the militia to be employed in these objects. That power has been exercised in the manner which will be shewn by the law of the U. States. [Mr. J. here requested the Clerk to read the statute to which he alluded* and it was read accordingly.] Now, Mr. J. said, he thought this was a declaration of war of at least equal dignity to the manner in which the savages make war against us, and to the light in which we view them. We treat them, it is true, and we ought to treat them, with humanity; we have given them privileges beyond all other nations—but we reserve the right to repel their invasions, and to put to death murderers and violators of our peace, whether Indians or white men.

Having attempted to prove that Gen'l Jackson was correct in his principle of public law, and that, both by law and the constitution, it was the right and bounden duty of the Executive to carry on war against the savage tribes when they took up arms against us, Mr. J. said, he would pass on to the power of Gen. Jackson, as Commanding General, to do what he did in relation to these two incendiaries.

And, first he referred to the resolutions of the revolutionary Congress, in the case of Captain Huddle, which he read as follows:

"Be it declared, and it is hereby declared, That the commander in chief, or the commander of a separate army, is, in virtue of the power vested in them, respectively, fully authorized and empowered, whenever the enemy shall commit an act of cruelty or violence contrary to the laws or usage of war, to demand adequate satisfaction for the same, and in case such satisfaction shall not be given on a reasonable or limited time, or shall be refused or evaded under any pretence whatever, to cause suitable retaliation to be made, and the U. States, Congress assembled, will support them in such measures."

Thus it appears to have been solemnly established, at that early date of our history, not only that the commanding General, but every commander of a separate army, was vested with the power of retaliation. Mr. J. next quoted from Lenoir's History of the Revolution (page 202) the correspondence, in the commencement of the war, between General Washington and the British Gen. Gage. He read the following passage of Gen'l Washington's letter to General Gage, at Cambridge: August 11, 1775.

"The following was the part of the act passed Feb. 28, 1795, which was read. See 1. That whenever the United States shall be invaded, or be in imminent danger of invasion, from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State or States most convenient to the place of danger or scene of action, as he may judge necessary to repel such

"The obligations arising from the right of humanity, are universally binding, except in the case of retaliation,

"My duty now makes it necessary to apprise you, that, for the future, I shall regulate my conduct towards those gentlemen of your army, who are, or may be in our possession, exactly by the rule you may observe towards those of ours, who may be in your custody.

"If severity and hardship mark the line of your conduct (painful as it may be to me) your prisoners will feel its effects—but if kindness and humanity are shewn to ours, I shall, with pleasure, consider those in our hands only as unfortunate, and they shall receive from me that treatment to which the unfortunate are ever entitled."

Here, said Mr. J. the revolution was commenced with the assertion of the principle, and terminated with its recognition. It was solemnly confirmed by the illustrious Revolutionary Congress, who were afraid that the act of mercy in regard to Capt. Assill might be presumed to disarm their commanding generals of the power of retaliation. On this subject, having shewn that the power had never before been questioned, but from the earliest date invariably asserted, it was scarcely necessary to say more.

Are you afraid, said Mr. J. of your military commanders? Let us cease to appoint and maintain them—let us fold our arms, and see who will fight our battles. But if we must continue to use our muskets, rifles & cannon to defend ourselves from violence, the power of directing their management must be trusted somewhere. If Gen. Jackson be unworthy of his station, it is in our power to displace him. Have we not almost omnipotent power? And if we were not men of honor and integrity, loving wisdom, virtue and our country, might we not abuse power and prostrate liberty? Take from the General the power of immediately heading our army in the field, and it must be reposed somewhere else. When at war, will you attempt in person to lead your armies to battle? Or, when armies are contending and blood is flowing, are our Generals to send to Congress to know whether they shall exercise the power of retaliation, or whether they shall give or refuse quarters? The power must be committed to the commanders of your armies, and if you are afraid to confide it to them, you can have no army—for it is not expected that we are to march to Mickasky or to Sawany, to fight the battles of our country. Other duties are assigned to us; and if we assume those which belong to other Departments, the separation of powers in our government is a mere nullity.

Gentlemen dwelt on the danger of acting on the principle of necessity. Mr. J. admitted it. But was necessity alone the tyrant's plea—or was it the plea of the good man as well as the tyrant? And is the good man to fold his arms and say, necessarily is the tyrant's plea, & I will therefore surrender this right and this power, which commenced with the foundation of the earth and is as old as time itself? Mr. J. said, he was the advocate of mercy, not of cruelty; but it was of a mercy compatible with justice, and not that mistaken clemency which is in itself cruelty. Justice ought not to be lost sight of in the pursuit of mercy. If it is, the foundations of our government may be overturned, and our weakness and imbecility will invite that fate which has overtaken the nations that have passed away. Is it, said he, of the Caesars, the Philips and the Cromwells alone we have reason to be afraid? Let us rather avoid the treatment of an ungrateful country to Belisarius—let us avoid the example of the banishment of Aristides—let us rather fear to take from our aged warrior the only recompense he asks or can receive for his service—the gratitude of his country.—Is there no danger of this? Has not the time arrived, in which we have reason to apprehend it? Joab, notwithstanding his fidelity to David, was slain at the horns of the altar; and Saul could not bear to hear the praises of the gallant Captain who had slain Goliath. I am equally afraid, with the Speaker, of the ambition of a Caesar, or a Napoleon, should such arise, but I am more afraid of that sickness of feeling towards convicted incendiaries which would shew itself in ingratitude towards him who has risked his all in the service of his country, and has done for it so much. What reward does this gallant Captain ask of his country? Does he desire wealth? No; he fought for glory, for liberty, for his country: he expected at least her gratitude—and now it was proposed, to hold him up, as an example to all mankind, of the danger of incurring responsibility in the service of the nation.

Mr. J. then proceeded to remark on the case of Major Andre, which was a strong example of military execution in the face of great difficulties. Major A. having come in with a flag &c. and the treason of Arnold only involving him in guilt. What was the fate of that gallant and distinguished young man? And who was the individual who brought him to the bar of justice, and rigorously executed on him the sentence of a court martial? What was the foundation of the proceedings of the Board of fourteen general officers, who condemned him to death? It

was upon the law of nations, and upon the magnanimous, open and honorable confession of the prisoner himself, that he was condemned. It was no reason why we should divest ourselves of this right, that it was not recognized by statute. What was admitted public law, what was indeed the common law of the world, could gain no strength by being embodied in the technical phrases of statute law. The principle is universal, that in fighting against savages, you may meet them with their own weapons, and put any individual of them to death. On the ground of reprisal the same right exists. On this point, Mr. J. quoted the following passages from Vattel, page 24, sec. 14.

"There is, however, one case in which we may refuse to spare the life of an enemy who has surrendered: It is when the enemy has been guilty of some enormous breach of the laws of nations, and particularly when he has violated the laws of war."

"When we are at war with a savage nation, who observe no rules, and never give quarters, we may punish them in the persons of any of their people whom we take, (these belonging to the number of the guilty) and, by this rigorous proceeding, endeavor to force them to respect the laws of humanity."

"If the hostile general has, without any just reason, caused some prisoners to be hanged, we hang an equal number of his people." Id. sec. 142.

"In time of war, a prisoner of war may sometimes be put to death, in order to punish a nation that violated the laws of war." Martens, page 268, sec. 3.

"It is lawful for a general to put prisoners to death; 1st. when sparing their lives would be inconsistent with his own safety; 2d. in cases where he has the right to exercise the talio, or to make reprisals; 3d. when the crime committed by those who fall into his hands justifies the taking of their lives." Id. page 265, sec. 4.

Notwithstanding the difference of opinion which was here entertained, Mr. J. said, it was fortunate for General Jackson, the evening of whose life would be cheered by the recollection of the plaudits of a grateful people, and a consciousness of his own services, that he did not violate, in this case, the rights of captives, nor inflict punishment on innocent men, but on the most guilty of the guilty. Whenever severity is not absolutely necessary, clemency may become a duty. But here clemency had no claim to interpose. There could be no harshness or severity in putting to death two incendiaries, when the rest of their confederates and deluded followers were suffered to roam at large. Instead of bestowing our commiseration on the guilty, who suffered death for their crimes, said Mr. J. we should open our bosoms to the bleeding wounds of our own country, and thank Heaven they have been staunchly by the vigorous arm of an energetic commander.

As to the necessity of putting these men to death, Mr. J. said he thought, when we said there was not a shew of necessity for it, we ought to hear what General Jackson himself had to say on that subject: It would be seen, that he had connected the capture of these two men with his ability to return home; and it was this circumstance which he considered as putting a period to the war, they being the promoters of it. &c. Mr. J. then read the following passages from General Jackson's letters:

"These individuals, (Arbutnot and Ambrister) were tried under my orders, by a special court of select officers; legally convicted as excitors of this savage and negro war; legally condemned; and most justly punished for their iniquities. The proceedings of the court martial in the case, with the volume of testimony, justifying their condemnation, present scenes of wickedness, corruption, and barbarity, at which the heart sickens."

"I hope the execution of these two unprincipled villains will prove an awful example to the world, and convince the government of Great Britain, as well as her subjects, that certain if slow, retribution awaits those unchristian wretches, who, by false promises, delude and incite an Indian tribe to all the horrid deeds of savage war."

"So long as the Indians, the territory of Spain, are exposed to the delusions of false prophets, and poison of foreign intrigue; so long as they can receive ammunition, munitions of war, &c. from pretended traders and Spanish commanders, it will be impossible to restrain their outrages."

Mr. J. asked, whether it was founded on matter of fact, or on what was not fact? If it was true, he should like to hear gentlemen answer it. Nine tenths of the Indians were left in their own country, and, if proper precaution was not taken, the same scenes as had already been exhibited would be acted over again. Gen. Jackson at one time thought the war was at an end, & that he might go home. But he found he was mistaken, and that it was necessary to scour the country west of the Apalachicola; and, after he got into it, he was obliged to take Pensacola before he could conclude the war.

In regard to the origin of this war,

was it, indeed, as had been said, a contest for a hunting ground & a few cattle? It was for about ten or fifteen millions of acres of land. It was not a common Indian war, in which we could have dispensed with rigorous proceedings. One of two alternatives we were obliged to take; either to admit that we had made a treaty with the savages which was a disgrace to the country, and cede back to the Creek nation of Indians from ten to fifteen millions of bare to occupy and cultivate; or to hold on to it, and put down the Indian war by force. This was not a common petty larceny war, in which a few individuals were murdered; but it was a solemn declaration of war on the part of the Indians, and Mr. Arbutnot was the author of it. Mr. J. here quoted Arbutnot's letter to Gen. Mitchell, Indian agent, in which he says: "Sir, King Hatchy, the head chief of the Lower Creek nation, has called on me to request I would represent to you the cruel and oppressive conduct of the American people living on the borders of the Indian nation, &c. But, far from any stop being put to their inroads and encroachments, they are pouring in by hundreds at a time. Thus the Indians have been compelled to take up arms to defend their homes from a set of lawless invaders, &c. In taking this liberty of addressing you, sir, in behalf of the unfortunate Indians, believe me, I have no wish but to see an end put to a war, which, if persisted in, I foresee must eventually be their ruin; and, as they were not the aggressors, if, in the height of their rage, they committed any excesses, that you will overlook them, as the just ebullitions of an indignant spirit against an invading foe."

Sir, when this letter was written, Lieut. Scott and his detachment had been destroyed, the women butchered and the children's brains dashed out against the side of the boat. These were what he calls the just ebullitions of an indignant spirit! Who would pronounce innocent the man who made this declaration on the part of the enemy? Did Arbutnot supply the Indians with intelligence? Was he at Fort St. Marks, identified with the Spanish commander? Did not the commandant of St. Marks make contracts with the Indians to go and steal cattle from the Georgians? Let documents answer these questions. Did the twelve chiefs say, in their letter to the Governor of the Bahamas, that they had consulted the commandant at St. Marks and did not the commandant himself, approving that letter, sanction the call upon the British for aid to fight against the government of the United States? Under the circumstances of the case, were we prepared to cede fifteen millions of acres of country conquered from a foe who had, without provocation, assailed our frontier and deluged our country with blood, at a moment when we were engaged with a powerful foreign enemy? Surely not, Mr. J. said he defied any gentleman to prove a single instance, except by the asseverations of the Indians themselves, in which our people had plundered or murdered any of the Indians without our having endeavored to detect and punish them. He defied them to prove any act of aggression on them, except those alleged to have been committed in our territory, which we conquered, and which was ceded to the United States; and over which, therefore, the Indians had no jurisdiction. If by the treaty of Ghent, we had been compelled to cede the land to them, there would have been some sort of apology for their murdering our citizens, as transgressors, &c. But, as it was, no such plea could be set up, and gentlemen knew it—and the Indians knew it too!

With respect to the taking of Pensacola, the last point in order, Mr. J. said, he had been gratified to find that, whilst Gen. Jackson was said to have violated his duty (though previous or subsequent orders sanctioned all he had done) there was a free admission, on all hands, that we owed nothing to Spain, notwithstanding this very violent aggression and hostility committed on her territory. Why this, Mr. J. said, was giving up the question; that being the ground on which he acted, and on which justification was pled by the administration and by himself. Was there no possible case, Mr. J. asked, in which a general ought to act for himself? If he had returned home without having visited Pensacola, after what had passed, he would have made a cowardly retreat; which is not his habit—for victory never failed to follow his arms.—What had been the conduct of the Governor of Pensacola? He had refused a passage up the Escambia of the vessels carrying provisions for the support of our troops on the territory of Spain, where they were found, because Spain either had not the power or had not the will to maintain for her territory the character of neutrality—and where they were, further, under the positive orders to go.—Was this all, said Mr. J. that the Governor of Pensacola did? No; he threatens to drive our forces at the point of the bayonet, from—where? Where the pursuit of the Seminole Indians, and the orders of the Executive had carried them. Of the orders to go there, we were apprized at the last session, and no excep-

tion was taken to them. What was the basis of the permission to our commander to enter the Spanish territory? Had he not demanded the murderers? Was an ideal line of the 31st degree of latitude to arrest our progress in pursuit of them? Gen. Jackson was in the performance of his duty when the challenge was given to him by the Commandant of Pensacola, and the enemy in free and constant ingress and egress to and from the fort, as the documents establish. Some had called Hamblly a miscreant; but, Mr. J. said, the testimony contained in the papers before the House was favorable to him. It appeared that he had been for two years endeavoring to bring the Indians into friendship with the U. S. as they themselves said; but they preferred to "stick close to their old friends, the British." The Indians had undoubtedly free intercourse with Pensacola: How often, said Mr. J. has it been proclaimed on this floor, that Spain has forfeited her neutral character and prostrated her sovereignty! The principle of self-defence, as a rule of conduct for nations, came from the tomb, it sprung from the ashes of those who had written on public law centuries ago. The savages being constantly nursed and supplied at Pensacola, during their hostility with us, it would, after the threat of the Commandant, have been a disgrace for Gen. Jackson to have waited for orders from his government. He did not wait; it was true, as my colleague says, he came, he conquered. I thank my God he did, and that the Executive has not censured him for so doing. The nation will not, and I hope this committee will not, condemn him for it. If we go to war, we must exercise the rights of belligerents, and the powers of sovereignty. If we are never to go to war, but suffer inroads to be made on our borders; if we are to invite the Goths and Vandals to come and take our country by the weakness and imbecility with which our government is administered, then, sir, and then only, let us pronounce censure on Gen. Jackson and on the Executive.

What Mr. J. asked, would be the consequence of an admission, by this house, in the truth of the imputations which have been cast on Gen. Jackson? There will be an obligation incurred on Spain, to indemnify her for injury sustained; on our refusal to do which, she would be authorized, if able, to take compensation from us. The post is surrendered, it is true, by the executive, but it is with the condition of a force being put there, adequate to maintain the authority of Spain. If General Jackson be pronounced an aggressor, said Mr. J. you must agree to punish him, and indemnify Spain. And what punishment will you inflict, to gratify the feelings of Old Spain? Are you prepared, when you find the Spanish authorities identified with your savage enemy, your general is ordered by these authorities to march from where the Minister of his government had placed him, under such circumstances, bring an arrangement, and sorrow for his punishment, was to have been yesterday by five o'clock, in the afternoon, all these things, sir, when you sanctified the places knew he would finish with the exception of Suppose he had disband, Mollien & Simms, Marks, and a handful of men, from a fear that put him to flight—what would you have heard, in a voice of triumph, denouncing from all sides of the world, such denunciation would be sent from every part of the nation. (two Ultras) son must have sunk and, if a pledge were by he has achieved; he has a yes, that they end to an unprovoked war. Modifications of put an end to it? Yes, as far as a recruiting man being could. But at this moment monarch-

received information from a friend at Marks, that, the moment the Indians understood that Florida was to return to the possession of Spain, they ceased to come in, and were rallying their forces again, King Haïty at their head.

I am not willing, said Mr. J. to give up the land ceded to us by the treaty of Fort Jackson, because it secures the settlement of our frontier. And if you offer me the alternative of war, I will take it in preference. Let us, sir, as little war-like, as any individual on earth; I feel as if I never again wished to hear the drum or trumpet's sound; I wish that the halcyon days of peace could last, until the consummation of all things—but, when the bayonet is at our breast, and we are called on to arrest the ravages of a savage foe, I will take up the hatchet, and wield it against them. I will meet the foe, and let no false feeling of mercy in my bosom, or the obligations of duty to my country. This is the situation of General Jackson, and what punishment will you inflict on him? Do you think you will ever again need of the arm of such a man again?—a man, sir, little understood, violent perhaps, in his opinions, and equally ardent in his friendships—but who, as an officer, is created with all the energies of a Caesar, or a Napoleon, making allowance for the difference of his materials—who meets with equal courage and conduct the Indians, or the invincibles of Wellington. Though he is thought a desperate character, said Mr. J. look at the deliberation with which he has acted, and see whether he has not, in the discharge of his military duties, maintained his cha-

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