

GOVERNOR GILMER TO MR. WIRT.

EXECUTIVE DEPARTMENT, GEO. }
Milledgeville, 19th June, 1830. }

SIR—Your communication addressed to the Governor of Georgia has been received, informing him of your employment by the Cherokee Indians to defend them against the operation of the laws of the State, and proposing a reference of what you have thought proper to call the dispute between the Cherokee nation and the State of Georgia, to the supreme Court of the United States. The Governor of Georgia knows of no reason why he should be notified that professional duty required of you to take fees of all who ask your advice. Georgia claims no jurisdiction over the Lawyers of Maryland. Your justification will have become appropriate when that State interferes with your professional business. Why it should be the *misfortune* of a citizen of Maryland (as you say it is yours) to differ with the constituted authorities of Georgia, is not very clearly understood. You are neither responsible for the legislation of the State, nor subject to its control. There is no doubt but that many of the Lawyers distinguished like yourself (as you say) profess to believe that the state has usurped authority and violated the faith of treaties in passing laws for the protection of the rights, and punishing the crimes of the Indian people who reside within its limits. It is known that the extent of the jurisdiction of Georgia, and the policy of removing the Cherokees and other Indians to the West of the Mississippi, have become party questions. It is not therefore surprising that those who engage in the struggle for power, should find usurpation and faithlessness in the measures of the Government accordingly as the love of office, or the hope of its acquisition, may enlighten their understandings. What you say of the fallibility of the constituted authorities of Georgia is a truism of universal application, and can have no meaning but by your intention to render the application particular.

You say that the Supreme Court of the United States is a high, impartial, and enlightened tribunal. Why such commendation?

The promise you make to use your professional influence to prevent your clients the Indians from committing violence upon the people of Georgia is very kind, coming as it does from a private citizen of another State, and will without doubt create an obligation upon the people whose safety is intended, commensurate with the favor to be received.

There are no fears felt in Georgia of Indian violence, although it is highly probable that your efforts will be productive of some mischief.—It is believed that the Cherokees in Georgia had determined to unite with that portion of their tribe who had removed to the west of the Mississippi if the policy of the President were sustained by Congress. To prevent this result, as soon as it became highly probable that the Indian bill would pass, the Cherokees were persuaded that the right of self-government could be secured to them by the power of the Supreme Court, in defiance of the legislation of the General and State Governments. It was not known however until the receipt of your letter, that the spirit of resistance to the laws of the state and views of the United States which have been of late evident among the Indians had in any manner been occasioned by your advice. Although insurrection among the Indian people of Georgia may be the consequence of your proceedings and those who act in unison with you, the constituted authorities of the State disclaim all right to interfere with you in any manner so long as you keep yourself beyond the jurisdiction of the State.

You have thought proper to give the Governor of Georgia an account of the civilization of the Cherokees, describing those whom you have known, to be polished gentlemen, and those whom you do not know, to have ceased to be savages. What you say of the intelligence of the members of the Cherokee tribe who were in Washington City last winter is partly true, and equally descriptive of many others. They are not Indians however, but the children of white men, whose corrupt habits or vile passions led them into connection with the Cherokee tribe. It is not surprising that the white men and the children of white men have availed themselves of the easy means of acquiring wealth which the Cherokee territory has presented for thirty or forty years; nor that intelligence and spirited activity should increase with their increased wealth; nor when wealth intelligence and industry were confined to the whites and the children of white men, that the power over the tribe should become centered in the same hands. But that these causes were calculated to produce similar effects upon the Indians, the real aborigines, is disproved by every example among the thousands which the experience of the two last centuries has furnished in every part of this continent. The Cherokees have lost all that was valuable in their Indian character, have become spiritless, dependent and depraved; as the whites and their children have become wealthy, intelligent and powerful. So long as the Cherokees retained their primitive habits, no disposition was shown by the States under the protection of whose government they resided, to make them subject to their laws. Such policy would have been

cruel, because it would have interfered with their habits of life, the enjoyments peculiar to Indian people, and the kind of government which accorded with those habits and enjoyments. It was the power of the whites and their children among the Cherokees that destroyed the ancient laws, customs, and authority, of the tribe, and subjected the natives to the rule of that most oppressive of Governments, an Oligarchy. There is nothing surprising in this result. From the character of the people and the causes operating upon them it could not have been otherwise. It was this state of things that rendered it obligatory upon the State of Georgia, to vindicate her rights of sovereignty, by abolishing all Cherokee Government within her limits. Whether intelligent or ignorant, the state of Georgia has passed no laws violative of the liberty, personal security, or private property of any Indian. It has been the object of humanity and wisdom, to separate the two classes among them, giving the rights of citizenship to those who are capable of performing its duties and properly estimating its privileges, and increasing the enjoyment, and the probability of future improvement to the ignorant and idle, by removing them to a situation where the inducements to action will be more in accordance with the character of the Cherokee people.

Your suggestion that it would be convenient and satisfactory, if yourself, the Indians, and the Governor, would make up a law case to be submitted to the Supreme Court for the determination of the question whether the Legislature of Georgia has competent authority to pass laws for the government of the Indians residing within its limits, however courteous the manner, and conciliatory the phraseology, cannot but be considered exceedingly disrespectful to the Government of the State. No one knows better than yourself that the Governor would grossly violate his duty and exceed his authority by complying with such a suggestion, and that both the letter and spirit of the powers conferred by the Constitution upon the Supreme Court forbid its adjudging such a case.—Your suggestion is but an evidence of the state of that contest in which the advocates of power, are exerting themselves to increase the authority of the Departments of the General Government, whilst the friends of liberty and the rights of the people are in opposition endeavoring to sustain the sovereignty of the States. It is hoped that the efforts of the General Government to execute its contract with Georgia, to secure the continuance and advance the happiness of the Indian tribes, and to give quiet to the country, may be so effectually successful, as to prevent the necessity of any further intercourse upon this subject.

Yours, &c GEORGE R. GILMER.
WILLIAM WIRT, Esq.