

THE INDIAN QUESTION.—NO. III.

"On argument alone my faith is built;
Reason pursued is faith, and unpursued
Where proof invites, 'tis reason then no more."

The able and admirable opinion of Judge Clayton in the case of the "*State vs. Canatoo*," is so full, so perfect, and conclusive, in regard to *Indian rights*, that all else that can be said upon the subject is almost surplusage. That opinion may cost his office, but it will establish for him a character of much more value than the office itself. It will stand as a lasting monument of judicial rectitude and ability, which will outweigh every consideration derivable from the present desire to pander for the public, and gain popularity, at the expense of judgment and integrity. The Governor may direct the *guard* to disobey and disregard that decision, (and if I were his enemy I would ask him to do nothing more improper) and yet it will be regarded, even if not obeyed, as evidence of substantial *truth* and *justice*, so long as those virtues shall continue to operate upon or influence mankind.

In the discussion of this interesting question which involves the *rights* of an aboriginal nation, and the *duties* of a great and civilized state, in the application of moral principles to those duties and rights, this "*poor Ghost*" does not ask or expect the public to rely on his opinions alone. His object is only to collate the opinions of the great men who have written upon the subject, whose characters, and scientific and literary attainments, have commanded and merited the attention and respect of the christian world, and to furnish the public with those authorities which defy contradiction or refutation, upon which the judgment of the writer has been formed and determined.

That the Indians are entitled to rights of some kind or other, cannot now be considered as a question open for discussion. It would be wasting time and thought, to argue with those who deny such a self-evident proposition. It is "*res judicata*," in regard to which this is the principle laid down by an author of undoubted merit—"that what has been regularly decided by a competent tribunal, with regard to the same subject, and the same cause of dispute, and between the same parties, or those succeeding to their rights, and in respect to the same character, shall be conclusively regarded as true." 2 *Pothier*: p. 201.

The nature and extent then of *Indian rights*, social, civil and political, will be deduced and collected from the following sources and authorities.

1. From historical notices and records.
2. From Judicial decisions, and investigations.
3. From the doctrines of approved jurists and publicists; and,
4. From the admissions and acknowledgments contained in treaties and negotiations with the Indians and with other powers.

When many men, at different times and places, unanimously affirm the same thing for truth, it ought to be ascribed to some universal cause. The science of morality is formed of such materials. When therefore the people of Georgia find that every where, and in all times, except in Georgia, the testimony of *Philosophers, Statesmen, Historians, Orators, Civilians* and *Divines*, have been universally constantly opposed to their present notions in regard to the propriety and justice of their conduct towards the *Cherokee Indians*, ought they not to hesitate, to pause, and to doubt upon the question? especially when they so well know the powerful motives and inducements which are almost compelling them to think and to do wrong; when they are so fully aware of the disturbing influences which the hope and expectation of becoming the owners of valuable *gold mines* in the lottery which is to be made of the Indian lands, will have upon the best organized minds, and the purest hearts?

Individuals are bound to be honest; their obligations to do right, are not changed or diminished when they act in a collective or national capacity. Chancellor Kent says, "we ought not to separate the science of *public law* from that of ethics, nor to encourage the dangerous suggestion, that governments are not as strictly bound by the obligations of truth, justice and humanity, in relation to other powers, as they are in the management of their own local concerns. States, or bodies politic are to be considered as moral persons, having a public will, capable and free to do right and wrong, inasmuch as they are collections of individuals, each of whom carries with him into the service of the community, the same binding law of morality and religion, which ought to control his conduct in private life; and we have the authority of the lawyers of antiquity, and some of the first masters in the modern school of public law, for placing the moral obligation of nations, and of individuals on similar grounds, and for considering individual and national morality as parts of one, and the same science."

THE GHOST OF POWHATAN.