

☞ We are requested to publish the following extract from the New York Observer, and the accompanying remarks :

**Judge Clayton** — Judge Clayton quotes the Bible in support of the doctrine of passive obedience, in support of the duty of christians to submit to human government in all cases whatsoever! We can find no other meaning in that part of his remarks in which he replies to the plea of the missionaries. The state of Georgia had passed a law requiring all white men residing in the Cherokee territory to take the oath of allegiance. The missionaries refused to take this oath on the ground of conscientious scruples. They believed that Georgia had no right of jurisdiction in the Cherokee territory; and that an oath of allegiance would be an oath to support her in her usurpation. How does Judge Clayton reply to this plea? He contends that the missionaries, notwithstanding their conscientious conviction that the power claimed by Georgia is an usurpation, (for if he does not mean this, he means nothing to the purpose) are still bound on christian principles to take the oath. He says that Holy Writ requires us "to submit ourselves to every ordinance of man for the Lord's sake; that it enjoins upon the citizen "to keep the king's [State's] commandment;" that it directs "to render under Cæsar the things that are Cæsar's," that it declares "whosoever resisteth the power, resisteth the ordinance of God," and finally he comes out with his doctrine fully and explicitly in the following sentence :

To my mind, and I would feign believe to every dispassionate man, there is no good reason for running upon the severe penalty of the law, and foolishly defying its consequences. It cannot be excused upon any principle of sound religion or a rational and discreet desire to serve the cause of piety, for surely that religion which requires us to "render tribute to whom tribute is due, custom to whom custom, fear to whom fear, honor to whom honor," never could demand such resistance to laws of the land, as would incur in the delinquent a forfeiture of all the enjoyments of liberty, and impose in their stead all the hardships of an ignominious slavery.

We are surprised that any man in this country calling himself a christian, and especially any man holding the station of a judge, should manifest such ignorance of the genius of christianity and of the whole tenor of the Bible, as Judge Clayton discovers in his application of the texts quoted above. We presume that there are few Sunday scholars in Georgia, certainly there are few children of ten years of age in this part of the country, who cannot show Judge Clayton that he has totally mistaken the meaning of these passages; and that the Bible abounds with examples of holy men, who not only made "such resistance to laws of the land" as incurred "the forfeiture of all the enjoyments of freedom, and imposed all the hardships of an ignominious slavery," but who resisted even in the face of death in its most horrid form. Why were Shadrach, Meshech and Abednego thrown into the burning fiery furnace? Because they refused to obey a law of Nebuchadnezzar their king. Why was Daniel thrown

into the den of lions? Because he chose to pay more respect to the dictates of his own conscience than to the decree of king Darius. Why were Peter and the other Apostles beaten and imprisoned at Jerusalem? Because they refused to obey the law requiring them not to speak or teach in the name of Jesus. Why did Paul endure bonds and imprisonment and every suffering which the malice of Jew or Gentile could inflict? Because he would obey God rather than man—because he cared more for the souls and the rights of the people than for the laws of kings. But we need not multiply cases. Every man who has read his Bible knows that it has nothing but commendation for men who, like Worcester and Butler, for conscience sake, throw themselves between the tyrant and his victim.

True religion has always been the unyielding friend of liberty and justice, and if Judge Clayton was ignorant of the examples which we have quoted from holy writ, he ought at least to have been sufficiently acquainted with modern history to know, that all which is most valued in British and American freedom, was won from tyrants by men who imbibed their principles of action from the holy volume. Even the infidel Hume admits that England is indebted for her liberty, in a great degree, to the sufferings of Puritans in the dungeon and at the stake; and every American school-boy knows that the liberty of this western world originated in the refusal of a christian people to obey the mandates of usurped power. We are acquainted with no sect of christians who do not admit the right of men to resist tyranny and usurpation, when it can be done peaceably; and if the people of Georgia are disposed to incorporate into their religion the slavish doctrine of Judge Clayton, we rejoice to know that in the missionaries now in their penitentiary, they have met with men who better understand their duty to God and their country.

#### REMARKS.

No man has had a more embarrassing task to perform than myself, on the subject of our Indian relations. The whole weight of the question in its judicial character, has exclusively fallen upon me, and such has been the peculiar versatility of the public mind, I have been unable to manage the case to its entire satisfaction. When my decisions pleased my own State, they gave great offence abroad, and there was no abuse under which my character and feelings were not doomed to pass. When of an opposite effect, then, any where but in my own land, they were the subject of all praise. My decision in the cases of Stancell and Tassels, my addresses to the Grand Jury of Clark, and the Missionaries all going to sustain the authority of Georgia over the Cherokee Nation, and which have actually settled that question beyond all further difficulty, were received with great approbation at home, and while they have been forgotten there, they seem to be recollected elsewhere with a view to assail, and if possible, complete the ruin of a fair reputation it was fondly believed had been honestly acquired, in a long course of public service. These remarks have been drawn from me by the severe strictures upon my conduct in relation to the Missionaries found in the above" extract from the "New York Observer," a religious paper, or rather, I should say, one professing to be such. To make them the more conspicuous, they are headed, "JUDGE CLAYTON," and commence by stating that "Judge Clayton quotes the Bible in support of the doctrine of passive obedience, in support of the duty of christians to submit to human governments in all cases whatever! We can find no other meaning in that part of his remarks in which he replies to the plea of the Missionaries." Can it be possible that this is a sincere declaration? Can it be possible that this assertion has been brought up to the standard of gospel truth, and there measured according to the candor, kindness and charity of its meek and peaceful temper? Is this the "genius of christianity," and the true spirit of the Bible as understood, and practised in the refined and enlightened city of New York? If so, may we of the South be delivered from such christianity. But in charity to the good people of that place, I conceive it to belong alone to the source from which it springs, and can never provoke the envy of any bosom at peace with either God or man. I must say the Editors have said what they do not believe. They do not believe that I quoted the Bible in support of the doctrine of passive obedience. They do not believe that I quoted it "in support of the duty of Christians to submit to human governments in all cases whatever." They do not believe they can find no other meaning in my "remarks." They know my references are truly quoted, they know they are to be found in the Bible; they know they must have some meaning, or they would not be in that sacred volume. What meaning then is to be attached to those scriptures? Of what use are they? What lesson do they convey? They surely are designed for some object. Nothing in the holy Bible is useless. Perhaps I shall be told they are intended to instruct christians as well as all others to be obedient to the lawful authority of government in all CIVIL MATTERS. This is precisely the object for which they were quoted. The Editors say, "the State of Georgia had passed a law requiring all white men residing in the Cherokee territory to take the oath of allegiance. The Missionaries refused to take this oath on the ground of "conscientious scruples."— Now here is an incorrect, and consequently an unfair statement, all reasoning founded upon it, is of course erroneous. The State of Georgia required no such thing. It wished to remove all disaffected white men from the nation, on the ground that they were stimulating the Indians to a very disobedient course of conduct towards the lawful authority of the State. That they must do one of two things, either leave the nation or give the usual pledge of fidelity to the government in doing what

thousands have to do, viz: swear to support the Constitution of the State. If they could not do this, what scruples of conscience could they have in leaving a territory that did not belong to them? The law was directory to all white men, not the Missionaries alone, not to citizens of other States only, but to our own citizens, indeed every white man found on the territory. Precisely such a law as the United States had frequently passed to prevent white men from going among the Indians. My quotations are next presented, and after arraig- ing in no modest terms my ignorance of the Bible they state "the Bible abounds with ex- amples of holy men, who not only made such resistance to the laws of the land as incurred the forfeiture of freedom, but who resisted even in the face of death in its most horrid forms." They ask "why were Shadrach, Me- shech and Abednego thrown into the burning fiery furnace?" And then answer the question themselves. "Because they refused to obey a law of Nebuchadnezzar their King." And is this a specimen of northern theology? Surely it must be that which belongs to "Sunday scholars," boys of ten years old? Pray let me ask what was that law? Did it relate to CIVIL MATTERS? Was it a law wholly addressed to their civil duties, in common with the rest of the people, unconnected with their religion or the rights of conscience? They know it was not. And so with their other examples of Daniel in the den of lions, and the perso- cutions of Peter, Paul and the other Apostles, they full well know that their resistance was to laws that attempted to controul their reli- gion. But will they say that the case of the Missionaries is parallel to the cases put by them? Will they be so disingenuous as to say there is no distinction between laws regu- lating human conduct, in a temporal point of view, and laws regulating conscience? Was there any thing in the Georgia law that inva- ded the religion of any one? Is there one syl- lable in that law on the subject of religious worship, or that directs how persons shall de- mean themselves in the exercise of the inesti- mable right of conscience? Nothing! And I boldly say it, not a text can be found authoris- ing the resistance of a municipal regulation, (unless the whole people choose to alter or abolish their government) where that regula- tion consults alone the *civil policy* of the land. Our blessed Saviour himself died for the sake of conscience, but even he directed Peter to respect an unjust law passed by the proper au- thorities, and pay a tribute improperly exacted, "lest we should offend them."\* Who does not perceive the justness of the distinction between laws regulating the actions of men in a state of civil society for the benefit of their temporal concerns, and those laws which seek to con- trol the thoughts and conduct of men as be- tween themselves and their God? Human laws have nothing to do with the latter, but the moment you allow a man to obey or disobey the former, according to *his scruples* of con- science, that moment you make every man a judge of the law, as it comports with his reli- gious belief. I should like to see the ingenu- ity that could frame a law which would not af- fect the tender conscience of some one or oth- er, bent upon the commission of the crime it was designed to prevent. Think you there is a man in the Penitentiary who would not raise the same plea, if it were available in the case of the Missionaries, and follow them out from that prison with as good and equal a right to his discharge, upon every principle of even handed justice? There is not a murderer who could not train his conscience to cry out shame upon the law that could take the life of a man for the mere indulgence of his natural passions. No one more sincerely regrets the delusion of the Missionaries, and its fatal consequences to their peace than I do, or would more cheer- fully have avoided the painful part I had to bear in their case, if such could have been done consistent with duty. But when it is re- membered that theirs was a fate of their own seeking, and mine was a task from which I dare not shrink, it does seem to me a much less charity than that required by holy writ, would have spared my feelings. This at least is my religion, and though it may not be as- learned, yet I trust it is as benevolent, as even that of the NEW-YORK OBSERVER.

A. S. CLAYTON.