

*Attorney General's Office, Au-
gusta, March 31, 1791.*

S I R,

IN answer to your communication of yesterday on the subject of a suit attempted to be instituted in the Federal Court by the executors of Robert F. Quibart against the state of Georgia, we beg leave to remark, that it never could be the intentions of those persons delegated from the different states in the Union to form the Federal Compact, to subject the government of each or either of the state to be impleaded in the District, Circuit or Supreme-Federal Courts, without an express consent.

The advocates for the measure rely, we suppose, principally on a clause in the Federal Judiciary law, which is in the words following: "The Supreme Court shall have exclusive jurisdiction, &c. &c. except between a state and citizens of other states, or aliens, in which case it shall have original but not exclusive jurisdiction." These words, however pointed they may appear, can never convey the idea that a free, sovereign and independent state shall be subject to be impleaded in such courts. The clause cannot be carried farther in its construction, than to suppose the state or states in such cases always plaintiffs or petitioners.

The General Assembly of this state, at their late session, passed a law for the express purpose of giving individuals the power of instituting suits or actions for such claims as they might have against the state, and the mode which the citizen is to pursue is therein particularly pointed out. If therefore, that mode is not pursued, the individual is without remedy.

If the state is bound to answer in a Federal Court to the complaint of a citizen, permit us to ask what mode, or is any, established by the Federal Judiciary for him to pursue? Doth that law say, in such cases, on whom the process shall be served? Doth it point out the manner of collecting, or from whence, the damages to be awarded by a jury in favor of the individual? Both these interrogatories must be answered in the negative; if so, the proceedings must be nugatory.

In short, Sir, we shall most assuredly think it our duty to combat every attempt that may be made to infringe on the sovereignty and dignity of the state; and to effectuate this nothing, with due deference to your Excellency, ought to appear on the records of the Executive department which can possibly be construed into a recognition of the jurisdiction of the Federal Courts in such cases.

We have the honor to be with respect,

Your Excellency's most obedient servants,

THO. P. CARNES, *Attorney General.*

JOHN Y. NOEL, *Solicitor General.*

Attest, W. URQUHART, S. E. D.