

SPEECH OF MR. CLAYTON,

OF GEORGIA,

In the House of Representatives, on the New York Memorial, praying the Interposition of Congress between the State of Georgia and the Cherokee Indians.

Mr. SPEAKER: The calm, mild, and enlightened course of the gentleman last up, admonishes me to equal moderation of temper, and, Sir, it is in my power to give the proof of it to this House. The House is greatly deceived as to the Indian affairs in Georgia; and it shall be my present business to supply them with better information on that subject. When I came into the House this morning, I knew not what was going on, and certainly little dreamed of such a memorial as the one on your table. But, hearing the name of *Georgia and the Indians*, and recollecting her late insult in relation to the *latter*, I was instantly alive to the rights of the *former*. I found, upon a close examination into the matter, that it was a memorial from New York, presented by a gentleman from Massachusetts, not one of the best friends of Georgia, and that it was not to take the usual course of other petitions, but was sought to be referred to a select committee, which, according to the custom of the House, is always favorable to the measure referred; and bearing strongly in mind the decision of the Supreme Court, I believe it was a systematic arrangement to force Georgia into terms; and believing this, I confess my feelings were fired to a very high degree of excitement; and, although I did not pretend to place any restraint upon the language which they seemed to prompt, yet no one can accuse me of malice aforethought. I will retract nothing, but will say I am a person of an ardent temperament, accustomed to think what I please on political subjects, and to speak what I think, never meaning to offer disrespect to any individual, unless I believe it has been first offered to me or to the State I represent. I further believe it was my duty to inform this House, candidly, what Georgia would do in reference to this matter, and to warn them of the consequences; and this I was the more inclined to do, under the firm conviction that they might be led into error, if the feelings of Georgia were not truly represented to them on this, the most jealous question that can possibly arise between the two governments. I know if Georgia were present, she would have used the language I did; and I could perceive no reason, in her absence, why her representative should not do so too. I meant no threats, as has been insinuated; I have too much respect for this House to use such language, and certainly too great a regard for my own character to employ such a feeble weapon. Threats mean nothing; and I have long believed nothing more is intended wherever they are used. It is not the mode of warfare of my State; and of this the General Government has had more than one proof. I solely intended to utter the voice of warning, of caution, of prudence, and to convey this meaning, that without *these*, the subject before the House might lead to the most disastrous consequences. Ours is not a homogenous government, but composed of independent sovereign States; these States are not colonies or dependencies, that can be forced into measures by the sword; no part of such a principle has ever entered into the compact which binds them together; and it is a fatal delusion of the General Government to predicate any measure upon such a monstrous idea. I claimed for myself that freedom of debate which is not even denied to a member of the British Parliament, much less to one in this House, the boast of every tongue, and said to be the freest assembly in the world! I meant to convey a similar lesson to that which a friend of the colonies, before the revolution, communicated to Parliament on the subject of our dispute with the mother country. He told them that we were wronged, that we were oppressed, that we were a brave and generous people, that the Government ought to pause before it further increased our discontents, that we had as much as we could bear, and that resistance would be the inevitable consequence. These were no threats; it was the language of truth. At that very time, a member rose and told the parliament they had nothing to fear the colonies dare not resist, and if they did, he could take a single regiment, "march through America, and crush the rebels to subjection!" This same gentleman no other than General Burgoyne, afterwards endeavored to fulfil his prediction, not with one, but with many regiments, and the success was every way worthy of the foolish attempt; for he was captured and made prisoner of war before he had penetrated fifty miles into the first colony! The honorable gentleman from Massachusetts, who has last spoken, knows that one of his own towns, the memorable city of Boston, is called the cradle of the revolution, and which to this day is its proudest boast. He will well recollect what a little cause set off the revolution. It was the trifling circumstance of a snow-balling between some of the inhabitants Boston and the British soldiery who had been sent there to overawe them! To a people highly excited by reason of the belief that they are oppressed and insulted, and where that sense of injury is wrought up to a pitch beyond which they can bear no more, the smallest circumstance kindles these accumulated but smothered resentments into a flame, the consequences of which no human forecast can avoid. We should learn wisdom from experience. There is a deep-toned voice of complaint already in the south, on account of *other grievances*. It is as much as our most sage and enlightened men can do to restrain the people; and it has been done only to await the deliberations of this Congress, under an anxious hope, that all their injuries will be redressed. They, too, have remonstrated from time to time; they have warned you of the consequences of persisting in a course which must inevitably lead to separation. Now follow up these sore exactions on a whole country by a reckless act of aggression upon one of the clusters of these States, thus insulted and accused and the veriest green horn of a politician must perceive that every thing but peace and harmony will result.

I confidently believe that Georgia will not submit to the decision of the Supreme Court, much less an interference by this House, into her private and sole concerns, and believing this as one of her Representatives, I ought to have boldness enough to declare it. I, therefore, take this responsibility, and if I have misrepresented the people of Georgia, as has been roundly intimated, they can turn me out. The dread of displeasing constituents, when in the discharge of duty and the exercise of my best judgment, enters into no part of my rule of action. I deliberately repeat, my constituents will resist, and I will now give the reasons for believing it, and they will account not only for the great sensitiveness of Georgia on this subject, but fully justify, I trust, the feeling manifested by me, when I spoke before. In the year, I think it was 1811, two men were traveling through the Cherokee nation from Georgia to Tennessee, for the great thoroughfare from the South to the West, passes through that country. They had guns, and passing by the house of a white man, who resided in the nation, were assailed by a dog who flew out upon them perhaps with considerable violence. One of them immediately turned and shot him. His owner came to the door of his cabin, and asked why they had thus treated him. A reply was made, connected with an oath, that if he did not mind his business, they would treat him as they did the dog. This, of course, led to a quarrel, and the man was accordingly shot dead in his own door, & in the bosom of his family. Of course, such an outrageous murder created great indignation, and these men were apprehended, and brought before the authority of Georgia. Being a case of deep interest, and happening under somewhat novel circumstances, its investigation was had before one of the ablest judges of Georgia. I pledge myself to the House for the truth of every thing I shall state in relation to this matter, for every thing I shall state comes under my own knowledge. In consequence of a provision in the Constitution of Georgia, that all criminal cases shall be tried in the county where the offence is committed, these men could not be tried for the crime thus horribly perpetrated, because the laws of Georgia had not been extended over the nation, and it was not organized in a manner to give the courts jurisdiction of the offence. But the examining court hoping there might be some law of the United States, which would authorize the circuit court to take cognizance of the case

committed the individuals to stand their trial at the approaching term of that court, in the city of Savannah. But when the court arrived, it was found, upon examination, that no law of the General Government vested any jurisdiction of such cases in the Federal Court, and it was further believed, none could be by any subsequent law; for, upon scrutinizing the Federal Constitution, it will readily appear, that Congress can pass no laws for the punishment of crimes, committed within the limits of States, but such as relate to piracy, forgery of the coin, and public securities, and, in fine, such as are directly connected with the acknowledged powers of the Government, expressed in the Constitution. These murderers were consequently discharged, and thus went unpunished, one of the most flagrant outrages that can be committed against society. The public attention was, of course, awakened to an inquiry into the proper remedy for future and similar transgressions, and the ensuing Legislature passed a law, attaching the Cherokee nation to an organized county of the State, and extended its criminal laws over the same so far as white men were concerned. Under that law, and one subsequently passed, dividing the nation into smaller parts, and connecting them, for great convenience, with the counties adjoining the territory, has the criminal laws of Georgia been administered for the last fifteen years; and to my certain knowledge, white men have undergone all the different punishments attached to different crimes, from fine and imprisonment up to the severest penalties. At this very moment, there are two white men, citizens of Georgia, suffering the punishment of penitentiary confinement for stealing horses from the Indians. Yes, Sir, I will take upon myself to say, that this very people whose treatment seems to excite so much sympathy abroad, and has produced such canting hypocritical complaint among a certain sort of whining intermeddlers, have been treated with as much justice and humanity as in any other part of the United States, and a great deal more, than in that quarter from whence come the most noisy muttering. No one has been a greater friend to Indian rights than myself, and no one has suffered more on account of it, for I have been sacrificed in consequence of it. I always maintained that most obvious of all distinctions, and which the Supreme Court ought to have seen, the difference between the rights of *property* and the rights of *government*. A treaty right to land is no better than a fee simple title to land, and an Indian, under the first, has no more right to self government, than a citizen under the last, all being within the same jurisdictional limits, and under the sovereign power of the State.

This question is not understood, or it would not excite any concern whatever, and even that which now exists will cease after a certain great election is over. The jurisdiction of this territory is all important to the State of Georgia. She can never give it up without, at the same time, passing under the yoke of a horde of savages. Can or does any one expect this? Mr. Speaker, not more than two years ago, a citizen of Georgia, living in the settled parts of the State, went into the nation, for there is a constant intercourse between them and the whites, and there hired a horse from an Indian to go to a certain place at which, when arrived, he found it was necessary to go a few miles further; for this act he was taken up, charged with horse-stealing, tried in the woods, according, as it was said, to the Indian laws. In vain the man plead his innocence—in vain he asked for a postponement of the trial until he could have his friends and witnesses around him. Deaf to his expostulations, he was speedily convicted, without knowing one word that was said, and sentenced to be punished immediately with fifty lashes, to be laid on by five executioners. In a few moments he was bound, stripped, and suspended between the heavens and the earth, and, in the most cruel manner, was the scourge applied. Towards the close of the torture, he reclined his head upon his shoulder, and, in the most touching accents, begged to have the last ten lashes remitted, but in vain; they were most inhumanly inflicted. He fainted under the operation, and was taken from the tree as lifeless as the very cords that bound his wrists, and which had forced the blood from his finger ends. This, Sir, is the condition to which the good people of Georgia are to be subjected by declaring this nation an independent government. And is it possible she has no mode of protecting herself against enormities like these? Does the good people of these United States ask of Georgia to bear this? Have they no more feeling for a sister State?—Do they regard the condition of savages with more sympathy than that of their own brethren? Do they believe that the Indians are better qualified to govern Georgia, than Georgia is to govern the Indians? Impossible! And nothing but a want of proper information, and the great facility with which an unthinking community can be played upon, by designing men, could have produced such an extended delusion.

Sir, with the present feeling and temper of the Indians against Georgia; if they think they are to be protected by the general government, and permitted to exercise the rights of government, not a Georgian is safe. Our citizens, when either forced or enticed into the nation, which can be easily done from the nature of the line that separates us, as well as from the travelling which is obliged to be done through that nation to the western States, will be liable to every outrage which a revengeful people may choose to commit. They will be lashed, cropped and shot, the usual punishment of these people. It will become a den of thieves and murderers, and the people will be plundered, and robbed, and massacred, without the possibility of prevention, unless fired with an ungovernable sense of injury, they fall upon them and destroy the whole nation. And this will certainly be done if the right to govern that country is wrested from the State. Can any one believe that Georgia is prepared to surrender up her citizens to the wanton fury of a relentless set of savages? I have given you an instance of their cruelty. What will be the feelings of our people, if they should be compelled to witness similar acts of barbarity? Remember the case of Verres, and think you not that the citizens of Georgia are as dear to her as was a Roman citizen to his boasted country? Sir, the people of Georgia cannot submit to be scourged by savages. Union can not be desired under such terms, and depend upon it they will give it up a thousand times over rather than to relinquish the protection of their own laws. I do not wish to deceive this House, and, consequently have spoken freely. Candor is always best.

Gentlemen have said they will not believe that Georgia will disobey the decree of the Supreme Court. Let me assume them they are hugging a delusion. Have they been indifferent to the passing events connected with this question? Without referring them to what occurred on a former occasion, when this same attempt was made to deprive Georgia of her jurisdiction over this territory, I would barely remind them of what has recently happened in the very case under debate. Has Georgia attended the summons of the court?—What is to be inferred from that? Besides, Sir, let me inform gentlemen, that when this very summons was served upon the Governor, he communicated the fact to the Legislature, connected with a firm declaration that, by every consideration of duty, and by all the means placed in his power, he would repel the invasion of the State's sovereign rights. The Legislature responded, in a language equally firm, that they would support him at every hazard, and the people from one end of the State to the other, and with an undivided voice, have proclaimed to the Legislature they are ready to seal that pledge with their lives. On this question there is no division of opinion in Georgia, and gentlemen are exhorted to dismiss from their estimate all calculation of success founded upon the usual distractions of party spirit.

Mr. SPEAKER, there is one consideration connected with this subject, that makes it almost intolerable, but which I am free to say, adds such energy to the justice of our cause, that it will of itself sustain us in any course of defiance we may choose to pursue. What other State has been thus treated? And what other State has not had Indians within their limits? Where is there any other independent tribe of Indians in America? And how many States are there now in this very Union, situated precisely like Georgia, where such a pretension has never yet dared to raise its front?—My God! is it possible, that the people of this country are so lost to principle and reason as to

believe that Georgia ought to fold her arms in submission? When ever that day shall come, in which the attempt will be made to force her to such a result, it will bring along with it the saddest consequences to this Union that can possibly befall it.

The right to petition, I deny no man; I wish to abridge no one of this privilege. Gentleman say, because this memorial is respectful, we are bound to listen to it, and duly consider its prayer. Is no attention paid to the subject-matter of a petition? Will this House entertain jurisdiction of every matter petitioners may choose respectfully to submit with regard to what they ask? Suppose these pious memorialists, in the abundance of their great benevolence, had chosen *respectfully* to ask this Congress to strike Georgia from the roll of States, for imprisoning these missionaries, would this House have considered such petition? Now, although the memorial on your table does not present a subject, to the same extent, as absurd as the one I have suggested; yet if it submits a matter, with which this House has nothing to do, it should equally merit its decided rejection. Is Congress to become a council of inquisition to examine into the conduct of the States? Are they to be arraigned and brought before this body whenever a few restless and officious men may choose to petition Congress to that effect? The supervision of their laws was attempted at the formation of the Federal Constitution, to be conferred on the General Government, but was promptly rejected; it will be exceedingly strange, among the constant and frequent acquisitions of power by this government, if this right shall be taken merely by the force of *respectful* petitions!

In conclusion, Sir, I would again admonish gentlemen to take care what they do. The South is upon the very verge of explosion, one false step now, and the integrity of the Union is gone for ever.