

The decision in the case of *Canaleo*, a Cherokee Indian arrested for digging gold, was made by Judge Clayton at the last term of the Superior Court in Gwinnett county. It was, as we understand, adverse to the right of Georgia to prohibit the Indians from digging gold upon lands to which they have the right of occupancy. The question will be referred to the Legislature at its next session. It will be seen by the letter below, that the Governor is of a different opinion from the Judge, and has taken measures to have the law obeyed, in conformity to what he conceives to be its true spirit and intent.

EXECUTIVE DEPARTMENT,
Milledgeville, Sept. 20, 1831.

SIR: I have just learned that the Judge of the Western Circuit has decided that the law for the protection of the mines in the territory occupied by the Cherokees is void, and has discharged an Indian from confinement who had been arrested by the Guard for its violation. As the effect of this decision will be to create the opinion among the Indians, that they are now licensed to plunder the State of this valuable property, I have thought it proper to give you express instructions to defend it, that you may be justified in pursuing that course.

I have no doubt that the Legislature has the authority to take possession of the mines, and the constitutional right to pass laws to protect them from trespass. By the law which has been passed, the Governor is directed to take possession of the mines, and to cause all persons to be arrested who may attempt to violate that possession. The special object of your appointment, and the organization of the Guard under your command, was to enable the Governor to obey these requirements. You are not an officer connected with the Judiciary Department, but the agent whom the Legislature has authorized the Executive to employ, to perform a public service which was imposed by law, upon that department.

You will therefore arrest every person who may be found attempting to take away any gold from the mines. You will give general information in the Cherokee country of the determination of the Executive Department to enforce the laws so as to prevent, if possible, the necessity of making any arrests.

The peaceful acquisition of our Indian territory, and the preservation of the rights of the State may depend essentially upon your prudence and firmness in executing the duty which has been assigned you.

Very Respectfully, Yours, &c.
GEORGE R. GILMER.

Col. John W. A. Sanford.