

To the Editor of the Cherokee Phoenix.

Dear Sir,—In looking over the Charleston

Observer this day received, I observed the following Extract from the *Athenian* of the 3d inst. "We have been informed from good authority that some time in the month of September last, the Cherokee Indians, thirteen in number, arrested a citizen of Habersham County, by the name of Jesse Stansal, under the pretence of a violation of their laws. He was detained in custody nearly two days, and then was ordered to be bound, suspended by the wrists to a tree, and there to receive Fifty lashes upon his bare back, which was inflicted by four Indians with hickories almost equal to clubs, in a most barbarous manner, under the operation of which the individual was near expiring. We understand that for this conduct Judge Clayton has issued a warrant against these Indians, to have them bound over to answer for the offence at the next Supreme Court in Hall county, the same having been committed in that part of the Cherokee nation attached to that County for the purpose of criminal jurisdiction." In regard to the above extract, permit me Sir, through the medium of your paper, to state the following particulars. The reader will naturally receive from it the impression, that a party of Indians, "thirteen in number," arrested a citizen of Georgia with no other authority than a mere "pretence" that he had violated their laws, and detained him nearly two days, and then *without a fair trial*, bound and suspended him by the wrists to a tree, and to complete the barbarous transaction, laid upon his bare back Fifty lashes with enormous hickories, which nearly terminated his earthly existence. And as it is not acknowledged by the *Athenian* that a crime was proved against him, he would seem to the reader to be, of course, an innocent sufferer. Whether designed or not, we affirm that this account of the transaction to which it alludes is a gross misrepresentation of facts. In the first place, the said Jesse Stansal was arrested by a proper Officer, and brought before an authorised magistrate and a bench of jurors appointed for the purpose. Moreover, evidence was exhibited to the Court that the prisoner had hired a horse to ride about two miles, and that after riding that distance he had taken the liberty without permission from the owner to ride the horse 16 or 18 miles, and that he had declared his intention to ride the horse out of this nation and thus make him his own property. In view of the above evidence the jury declared the said Jesse Stansal to be Guilty of *Horse stealing*, which according to the laws of this nation subjected him to a punishment not exceeding One hundred lashes on the bare back. Out of pity to the unhappy horse thief the Judge gave a sentence of only *Fifty lashes*. Had he been an Indian, he would have probably received one hundred. The facts here mentioned occurred, at a very large meeting of the citizens of the Cherokee nation, where were assembled several of the Chiefs of the nation with hundreds of the people. And if thirteen Indians were concerned in the arresting and punishing Stansal, they were the Judge, Sheriff, and six jurors, together with the five men appointed to inflict the sentence of the Judge. And as to Stansal's being "suspended by his wrists to a tree," if being *suspended* is meant that he was raised above a standing position, the assertion is *false*. He was indeed *tyed* to a tree by the wrists, which is done in all cases where similar punishment is inflicted by legal authority in this nation. With these facts before them, the public can judge as to the nature, and magnitude of the offence alledged in the *Athenian* against "Thirteen Cherokee Indians." Had not the said Stansal been arrested, and punished by the authorities of this nation, he would, in all probability, have escaped detection altogether. Judging from the past, we have little reason to believe that any other authority would have interfered. The consequence would have been, that the offender would have been encouraged to proceed in his career of guilt. If the proceedings against Stansal be considered an *offence*, it was no other than that of regularly executing the laws of our country, in punishing a crime, which, if the laws of Georgia were executed against it, would have subjected the unhappy Stansal to treatment no less severe.

One of the jurors in the trial of said Stansal.

The above letter carries with it its own comment so far as the two independent governments of Georgia and the Cherokee nation are concerned, and with them we leave the question. But so far as relates to ourself, and in reference to the facts as stated by them and us, we say there is no material difference. By them it is admitted that a free white citizen of Georgia, was tried, according to their laws, condemned and tied "to a tree by the wrists" (and we repeat was *suspended*, so that his toes just touched the ground) and in that situation received upon his bare back, with hickories (and we again repeat that those hickories were *unusually large* for instruments of punishment) **FIFTY LASHES**, by *five*, as they say, instead of *four* executioners. It is true we say "under *pretence* of a violation of their laws." This is the only issue between us, and of this the public must judge from the alledged offence, and its punishment, as well as the right of the Indians to pass laws within the acknowledged jurisdiction of Georgia, to punish the resident citizens of this State. Now this is a question we do not wish to agitate, as mentioned when we gave our statement, because the case will be before the Courts of Georgia, and it is indelicate to discuss legal points, in the public papers, that are pending before judicial tribunals. Whenever these two points are determined, by the proper authority, first, that *riding a hired horse a few miles farther than the contract*, and, "*declaring an intention to ride the horse out of the nation*," is **HORSE STEALING**, without carrying that intention into effect, and even if he did, that it is a *legal inference* that he thereby intended to "make him his own property,"—and second, that the Indians have a right to pass laws subjecting the citizens of Georgia to their penal code, we shall certainly be ready to acknowledge our error in saying that Stansal was punished under a mere "pretence." But we must nevertheless be permitted to say we were led into the mistake from a *h. l. s.*, an honest if not a correct one, that Georgia was supreme, within her territorial jurisdiction, except whatever power she may have granted to the Ge-

neral Government; that, in as much as she has an existing law punishing offences committed in the nation by citizens against the Indians, or against citizens by the Indians, no other authority, within her aforesaid limits, could legislate upon the subject. If they can, then it follows that a citizen of Georgia is subject to two governments within his own state, subject to be punished twice for the same offence, first by the Indians, and then by his own laws, or *vice versa*.—Nay more, that notwithstanding the state has abolished cruel and inhuman punishments, and substituted, in lieu thereof, the Penitentiary system, yet, besides this, they shall be subject to whatever bloody laws the Indians may enact; and that is not all, according to Stansal's case, whatever a jury may declare, after hearing the facts in the case, without preparation on the part of the accused, and upon the shortest imaginable warning. The case of Stansal is the case of every free man, and if the good people of Georgia, especially our frontier citizens, who are very numerous and respectable, can live under such a state of things, why, we suppose, we can, but we certainly shall keep out of the nation:

We have one remark more. The above letter states that if the Indians had not taken cognizance of the case the offender would "in all probability have escaped detection." And this is asserted upon the belief "that no other authority would have interfered." Now this assertion shews what little reliance is to be placed upon the foregoing statements, for it must be known to that writer, that no longer ago than the last September Court, of Hall county, a white man by the name of Parks, was sent to the Penitentiary for stealing a horse, from an Indian in the nation, and two more were left in jail, having continued their case, for the same offence! And this case of Parks shews the absolute necessity of having this important question settled, for if the Indians have a right to an independent government within our government, then Parks has an hundred lashes to receive, from the Indians, whenever he comes out of the Penitentiary.