

Missionary Herald, XXVII (November 1831), pp. 363-65.

"Trial of Rev. Samuel A. Worcester, and Doct. Elizur Butler, and Their Imprisonment in the Penitentiary of the State of Georgia."

The correspondence relating to the arrest of Messrs. Worcester and Butler, to their treatment while in the hands of the Georgia guard, their being brought before a magistrate and put under bonds to appear before the court, has been spread before the public, at pp. 281—4, 299—302, and 332-4. The following particulars respecting their trial and the sentence passed upon them, are from a letter of Mr. Worcester, dated at Lawrenceville, the place where the court was held, September 16th.

Our trial took place yesterday. There are eleven of us in all.* One besides myself, Rev. Mr. Trott, of the Methodist church, is a preacher of the gospel; and six, I believe, including us, are professors of religion. The jury soon brought in a verdict of guilty against us all. The judge has not yet pronounced sentence. We are waiting

—Just after I had written the last word we were called upon to go to the court-house, and have received the sentence of four years hard labor in the penitentiary. Many and grievous crimes had been laid to my charge by some of the counsel for the state, which I may safely say they could not prove. The solicitor general, however, paid a regard to our feelings, which entitles him to our esteem. The charges against us were repelled by our counsel; and when we were called upon to speak, if we had any thing to say why sentence should not be pronounced agreeably to the verdict, I ventured, I know not whether wisely or not, to reply nearly in these words:—"May it please your honor, if I am guilty of all or any of those crimes which have been laid to my charge, in the arguments before this court, but which are not preferred in the bill of indictment, then I have nothing to say why sentence should not be pronounced against me; but if I am not guilty of all or any of them, which I solemnly aver before this court and my God that I am not,—then I have to say what I have already said, that this court ought not to proceed to pronounce sentence against me, because the act charged in the bill of indictment was not committed within the rightful jurisdiction of this court."

The judge in pronouncing sentence, reiterated the accusations against us, and against missionaries in particular, and urged upon us those laws of God in regard to obedience to laws and to rulers, which indeed we have violated, (through ignorance.) if the state of Georgia has rightful authority over the Cherokee nation; but not if the laws of the state of Georgia, which condemn us, are unconstitutional, and therefore null and void. He would not, I presume, have been so severe upon us if he had not found it necessary, in order to sustain the laws against the current of public sentiment, to endeavor to restrain the sympathy, which was extensively excited in our behalf.

General Harden, whom we mentioned as having volunteered in our behalf last spring again appeared for us, and declined receiving any fee from those of us who were condemned. **

Monday morning, Sept. 19. Our expectation was to set out for Milledgeville on Saturday, but the sheriff was detained, waiting for necessary writings. Finding then that the design was to set out on the

Sabbath, we wrote a petition to the sheriff, that we might be permitted to remain till the Sabbath was past. Much to our gratification, our request was granted.

The following is the sheriff's reply.

Rev. S. A. Worcester, and other applicants.

Yours of this morning is received; and in reply I have to state that your request is readily complied with. In taking this step you must be sensible that I incur considerable responsibility; for the expense of the guard, (to prevent the necessity of confining you in jail,) is considerable: but, believing that it is not the wish of the public authorities of the state, and knowing that it is not my desire, to offer the least disrespect to religion through harsh treatment of any of its professors, on account of conscientious scruples, much less to aggravate the sufferings of a condition already sufficiently painful, I take much pleasure, with a hope that it will be approved by my fellow-citizens, in affording you this evidence how much your feelings and misfortunes can be respected by a public officer.

Yours very respectfully,
Thomas Worthy, Sheriff.

From other sources it is learned that, on their arrival at the penitentiary, the governor offered to pardon them on condition that they would not again violate the laws of Georgia; that is, on condition that they would take the oath to sustain that state in her measures against the Cherokees, or abandon their missionary labors, and remove from the Cherokee country. All the prisoners, except Mr. Worcester and Dr. Butler, promised to comply with this condition, and were released. These two, refusing to give such a promise, were shut up in prison, to be treated as felons, associated with felons, and labor with felons, for four years. Their crime, as charged in the bill of indictment, and for which they were tried and sentenced, was simply that of being found where they had been expressly authorized by the government of the United States to be, and quietly performing those labors for the instruction of the Cherokees, which they were, by the same government, authorised to perform, and their progress in which they had annually reported to the War Department, and received from the department, from time to time, testimonials of approbation, and, till within the last year, pecuniary patronage.

The crime alleged against them by the commander of the guard, the counsel for the state, the judge, and others who have animadverted on their conduct, was that of opposing the policy of Georgia in relation to the Cherokees, influencing the latter to refuse to abandon their country, to oppose the extension of state laws over them, and to appeal to the general government for redress. But these allegations were not *proved*, and it is fully believed that they could not be proved by honest witnesses before any impartial tribunal. The missionaries solemnly deny them. But these allegations, even if true, have nothing to do with their guilt or innocence. The crimes alleged were not embraced in the bill of indictment. The law does not touch them. The law and the indictment simply embrace the point of *residence*. All besides is gratuitous, brought forward to cast odium on the prisoners. Let it be understood then, every where, that these two men, with moral and religious character wholly unimpeached, have been sentenced to hard labor in the penitentiary during four years, *simply for being found residing in the Cherokee nation*, without having taken a prescribed oath of allegiance to the state of Georgia.

It is alleged that they have resisted the laws of Georgia so as religious men ought not to do. But is a religious man, more than any other, bound to submit quietly to every law which may be enacted, without inquiring whether it invades or not his rights as guaranteed to him by constitutions and treaties. Whether the state of Georgia has rightful jurisdiction over the Cherokee country or not, is the very question at issue. It is the one which the missionaries wish to have decided by the only proper tribunal, the Supreme court of the United States. On this point the laws of the United States regulating trade and intercourse with the Indians, and the numerous treaties entered into with the Cherokees, declared by the constitution to be the supreme law of the land, are sufficiently explicit, and the missionaries were competent to read them, and form an opinion respecting their meaning, and their own rights under them. They did form such an opinion, and acted upon it. If the Supreme Court shall decide that it is erroneous, they will quietly submit. It should be remembered that the decision of this court last spring did not touch the point at issue between the state of Georgia and the Cherokees. The court only decided that the question then presented, in the form then gives to it, did not come within its jurisdiction.

As the case has hitherto been, the missionaries cannot be considered as resisting the "powers that be," in the sense of the New Testament, unless it is admitted that the apostolic injunction requires Christians to submit to any and every government which may assert authority over them. If the legislature of Pennsylvania should enact laws requiring every minister of the gospel in the state of Delaware to remove from that slate, or to take an oath of allegiance to Pennsylvania, and obtain a license to remain from her governor, and should make the penalty for disobedience four years incarceration in her penitentiary, would the ministers of Delaware be bound by the precepts of the New Testament to obey this law and remove? Surely not. They would disregard it; and if molested, they would appeal to the courts of the United States for protection. They would deny that the state of Pennsylvania was the power to which the people of Delaware were bound to be in subjection, just in the same manner that the while men residing in the Cherokee nation have denied that the state of Georgia is the power to which they are bound to be in subjection.

Measures have been taken to obtain a writ of error, and suitable counsel have been employed, and all proper measures will be adopted to bring the case of the missionaries before the Supreme Court of the United States as early as possible. In the mean time unceasing prayer should be made at the monthly concert, on the Sabbath, in the family, and in the closet, that the Head of the Church would guard, sustain, and comfort these brethren in their exposed and distressing situation, and would cause this afflictive dispensation to promote their spiritual good, the advancement of his cause, and the glory of his name. The defenceless and desponding Cherokees should never be forgotten in this time of their adversity.

* Rev. Samuel A. Worcester, Rev. J. J. Trott, Doct. Eliznr Butler, Messrs. J. F. Wheeler, T. Gann, J. A. Thompson, B. F. Thompson, S. Mayes, A. Copeland, and B. Delozier, and Mr. Eaton.— Ed.

** The other counsel for the prisoners were Messrs. Chester, Harris, and Underwood. Their cause was ably argued.—Ed.