

According to the following statement of the Athenian, it would appear that Judge Clayton did not decide that the law of Georgia, which denies to the Cherokees the right to dig gold on their own lands, was unconstitutional, but only that he had doubts on that point.

As a considerable interest has been excited by the case of CANATOO, a Cherokee Indian confined in Walton Jail under the charge of digging gold in his own nation, which by the last Legislature was made a Penitentiary offence, we lay before our readers the following information derived from a source which may be relied on.

The Indian was taken by the State Guard and carried to Gwinnett, the county having jurisdiction of the case, and upon examination he was committed to Walton Jail, there being no Jail in Gwinnett. During the session of the Superior Court of Walton county, he was brought up by Habeas Corpus, and his discharge was moved for upon three grounds: 1st. That the warrant and commitment were defective. 2d. That the act of the last Legislature itself, did not contemplate punishing the Indians for digging Gold on their own lands, but was intended for intruders and other persons; and 3d. That if it did, it was unconstitutional, on the ground

that it violated numerous treaties made with them expressly guaranteeing the undisturbed possession and occupancy of all their lands not ceded to the whites. After much argument, the Court said it was a very important question, and required the utmost deliberation: respect for the Legislature demanded it. As however, it did not believe the person could be discharged upon the two first grounds, it would in candor say, his best prospect was on the last, and as the Court would take time to consider so grave a question, it would re-

lease him from his confinement upon his own recognizance, to appear and answer to the charge at Gwinnett Superior Court, when and where its opinion would be delivered, if in the mean time its mind could be fully satisfied on the point. The Court stated that it would endeavor to have its opinion ready by Jackson Court which is just past; but such has been the nature of its other pressing engagements, as well as the great magnitude of the question, that it has not been done, and will not be done, until every source of information both legal and political, is consulted, which can possibly shed light upon a subject involving seriously, the liberty of an unfortunate people, as well as the character of the State.

character of the trade.

Since the question of the Indians, digging gold has been agitated, many persons have expressed an opinion that if they are allowed to do it, they can employ any person they please to do the same thing. Such an opinion is very erroneous, for we have it from Judge Clayton himself, that even if he were to decide that the Indians had the right, the law would be binding against every other person, and the doctrine that "what a man does by another, he does by himself," will not apply to criminal cases. It is only applicable to civil contracts and every man stands upon his own responsibility in committing acts that are made criminal by law.

We should regard any remarks upon this subject, at this time as premature, and have therefore confined ourselves to the opinions entertained by the Court. When the question shall have been definitely determined—a question in which the public cannot but feel a more than ordinary interest, we shall avail ourselves of the earliest opportunity of laying the result before our readers. --- *Athenæan.*