

is in direct hostility with his theory. From the above view of the subject, I conceive myself justified in the conclusion, that Arator's hypothesis is erroneous; that the atmosphere cannot be considered the great matrix of manures in his sense; a meaning of the term; that it does not, in its material constitution, contain most of the principles of vegetation; and that it is not capable, from its texture, of holding extraneous matter sufficient for their whole or chief sustenance; that the earth contains and administers the adapted nutriment; and upon this important truth, the scientific agriculturist must found his hypothesis; and by it, the practical farmer must direct his experiments; otherwise, the phenomena of vegetation daily presented to his view, will be misconstrued; his premises radically false; his deductions will lead him into endless error, and his fancied lights the more fully obscure his vision.

I design, at a future period, to demonstrate that Arator's false theory has led him into practical errors which with the sanction of their respectable authority, may operate to retard both the science and the art of agriculture.

JOS. E. MUSE.
Col. Maynard, President of the Agricultural Society at Annapolis.

From the National Intelligencer.

CONGRESS.

HOUSE OF REPRESENTATIVES.

TUESDAY JAN. 12.
SEMINOLE WAR &c.

Mr. T. M. NELSON, from the committee on military affairs, delivered in the following report: "The committee on military affairs, to whom was referred that part of the President's message, of the 17th November, 1818, which relates to the proceedings of the court martial, in the trial of Arbutnot and Ambrister, and to the conduct of the war against the Seminole Indians, Report:—

That after a perusal of the various documents submitted to congress, on the subject of the Seminole war, they find much difficulty in separating the responsibility of the commanding officer to his government, from the obligations of the U. States to Spain. But, as the occupation and capture of Pensacola and St. Marks, are subjects of negotiation and correspondence, at this time between the two governments, and as the committee on foreign relations will, probably, consider this part of the President's message more immediately connected with their branch of the subject, your committee will confine themselves, in this report, to the trial and execution of Alexander Arbutnot and Robert C. Ambrister.

On the 26th April, 1818, a general order issued at head quarters, Fort St. Marks, by major general Jackson, signed by colonel Robert Butler, adjutant general, detailing a special court martial to meet at 12 o'clock, M. for the purpose of investigating charges exhibited against A. Arbutnot, R. C. Ambrister, and such others who are similarly situated as may be brought before it."

Your committee do not deem it necessary to attach to their report the proceedings of that court, as every member of the house has been furnished with several copies, to which reference can be made.

Your committee can find no law of the U. States, authorizing a trial, before a military court, for such offences as are alleged against Arbutnot and Ambrister. (except so much of the second charge, as charges Arbutnot with "acting as a spy," of which part of the charge the court found him "not guilty.") nor in the opinion of your committee does any usage authorize, or ex-igency appear from the documents accompanying the report of the trial, which can justify the assumption and exercise of power by the court martial, and the commanding general, on this occasion.—It is admitted, as a maxim of the law of nations, that, when the war is with a savage nation which observes no rules and never gives quarters, we may punish them in the person of any of their people, whom we may take, (belonging to the number of them, and endeavour by this rigorous proceeding to force them to respect the laws of humanity. Whenever severity is not absolutely necessary, mercy becomes a duty.—In vain has your committee sought among the documents on the

subject of the Seminole war, for a shadow of necessity for the death of the prisoners arraigned before the court. The war was at an end, to all intents and purposes—the enemy's strong holds had been destroyed—many of them killed or taken prisoners, and the remainder a feeble band, dispersed and scattered in every direction.—The Spanish fort at St. Mark's, which it was supposed, (and no doubt justly) had protected them, was also in our possession, and so entirely was the war considered to be terminated, that the Georgia militia, under general Glascock, had returned to their homes. Then where was the absolute necessity which alone could warrant a departure from the exercise of that clemency, of which the U. S. has heretofore so justly boasted?

Your committee find, in the general order of the 29th April, in which General Jackson orders the execution of Arbutnot and Ambrister, this remarkable reason, intended as a justification of the executions, principally of Ambrister, but applying to both Arbutnot and Ambrister: "it is an established principle of the law of nations, that any individual of a nation making war against the citizen of another nation, they being at peace, forfeits his allegiance, and becomes an outlaw and a pirate." It may be asked by what system of interpretation the offences charged could be considered as piracies, which imply, in common acceptation, offences upon the high seas, of which the court could not assume cognizance; and it is equally difficult to understand the propriety of the application of the term "outlaw," to the offenders—a term, which applies only to the relations of individuals with their own governments. It will not be pretended, that La Fayette, who volunteered his services in the cause of America, in the war which established our independence, forfeited his allegiance, became an outlaw and subjected himself to an ignominious death, had he fallen into the hands of the English. Or can it be believed that one voice, would be heard in justification of Spain, if she were to execute such of our countrymen as she may make prisoners, while fighting in the arms of the South American Patriots? And if these cases should not be considered of such a nature, as to warrant a resort to so severe a measure, while they occurred with a people in a state of revolution, and considered by the parent countries to be in a state of rebellion, much less could these men (Arbutnot and Ambrister,) be considered liable to it, who were acting with a power, acknowledged and treated as sovereign and independent by us.

Your committee beg leave to call your attention particularly to the case of R. C. Ambrister, who, after having been subjected to a trial before a court which had no cognizance or jurisdiction over the offences charged against him, was shot by order of the commanding general, contrary to the forms and usages of the army, and without regard to the finding of that court, which had been instituted as a guide for himself.

Your committee must here, in justice to their own feelings, express their extreme regret, that it has become their duty to disapprove the conduct of one who has, on a former occasion, so eminently contributed to the honor and defence of the nation, as has major general Jackson; but the more elevated the station; the more exalted the character of the individual, the more necessary is it, by a reasonable, yet temperate expression of public opinion, through the constitutional organ, to prevent the recurrence of incidents at variance with the principles of our government and laws.

Nor can your committee forbear including in their strictures, the court martial who sat on the trial of Arbutnot and Ambrister. A court martial is a tribunal invested with limited jurisdiction, having for its guidance the sum of rules of evidence which govern courts of law; and yet Arbutnot is refused by the court martial before whom he was on trial for his life, the benefit of the testimony of Ambrister, who had not been put upon his trial at that time, and whose evidence would have been received by any court of law as legal, if not credible. Many other exceptions might be made to the evidence recorded in these proceedings; particularly to the question put to the witness Hambley, viz "Do you believe the Seminoles would have commenced the business of murder and depreda-

tion on the white inhabitants, had it not been at the instigation of the prisoner (Arbutnot,) and a promise on his part, of British protection?" I do not believe they would, without they had been assured of British protection? A leading question is expressly forbidden to be used by a court martial, by Macomb on martial law, and of which the court must have been apprized, as it is a work common in the army, and usually referred to by every court martial when in session; and the question was calculated to elicit an expression of opinion and belief from the witness, rather than a statement of facts, upon which alone the court could act. Hearsay evidence, in a case of life and death, your committee will venture to assert, was never before received against the accused in any court of this country, and yet on the face of the record of the proceedings of the court martial, hearsay testimony is admitted, which had been received from an Indian, who, it present, would not have been allowed to give evidence himself.

After mature deliberation, your committee beg leave to submit the following resolution:

Resolved, That the house of representatives of the United States, disapproves the proceedings in the trial and execution of Alexander Arbutnot and Robert C. Ambrister.

COUNTER REPORT.

Mr. Johnson, of Kentucky, also of the military committee, submitted a paper drawn up in the shape of a report by that committee, which, by a majority of one vote, that committee had refused to accept; and the said paper was read as follows:

"The committee, to whom was referred so much of the president's message as relates to the Seminole war, and the proceedings in the trial of Alexander Arbutnot and Robert C. Ambrister—Report:

That Gen. Jackson, in a short, though sanguinary war with the Creek nation of Indians brought them to terms of peace; and in the summer of 1814, a treaty was concluded with them, wherein they ceded to the United States, a territory embracing several millions of acres of land, the effect of this cession was, the cutting off the Indian establishments between the settlements of the United States in Georgia and Alabama, and the Spanish territory. This object being obtained, future peace and safety to our citizens in that quarter, were confidently anticipated; but, contrary to these just expectations, it was discovered that a hostile disposition was still entertained by the Seminole tribe of that nation, aided by fugitive negroes, and instigated by foreign incendiaries.

It having been represented to the government, that murders had been committed on our defenceless citizens, Gen. Gaines was ordered, in the summer of 1817, with a considerable force to take a station in that section for their protection. Gen. Gaines was directed to keep within the territorial limits of the U. S. and abstain from every attempt to cross the Florida line; but to demand of the Indians the perpetrators of the crimes thus committed, in order that punishment might be inflicted upon the guilty, without involving the innocent and without a general rupture with these deluded savages.

The fact of such murders having been ascertained, attended with aggravating circumstances of rapine and cruelty, Gen. Gaines, in conformity with his orders, made the demand. The savages, through the deceptive representations of foreign incendiaries, were led to believe that the strength of the United S. was not sufficient to subdue them; or, if their own forces were incompetent to sustain the conflict, they would receive assistance from the British. These promises, made by these unauthorized agents, were predicated upon a pretence, that the U. S. had bound themselves, by the treaty of Ghent, to restore the lands which the Indians had ceded, previously to that treaty, at Fort Jackson; and that the British government would enforce its observance. Under this influence, they not only refused to deliver the murderers, but repeated their massacres whenever opportunity offered; and, to evade the arm of justice, took refuge across the line, in Florida. In this state of affairs, in November, 1817, lieutenant Scott, of the U. States army, under Gen. Gaines, with 47 persons, men, women and children, in a boat on the Apalachicola river, about a mile below the junction of the Flint and the Chatahochee, was surprised by an ambuscade of Indians, fired upon, and the whole detachment

killed and taken by the Indians, except six men, who escaped by flight (one of whom was wounded.) Those who were taken alive on this occasion, were wantonly murdered by the ferocious savages, who took the children, and dashed out their brains against the side of the boat, and butchered all the helpless females except one, who was afterwards retaken. Gen. Gaines was not yet authorized to cross into Florida, to force the compliance, with his demand for the delivery of the murderers, while the Indians were collecting in large numbers upon the line, which they seemed to think a perfect safeguard, and from which they continued their predatory incursions, as opportunity permitted. A letter from the secretary of war, of the 9th Dec. 1817, authorized Gen. Gaines, in case the state of things should continue, and it should become impossible, by any other means, to prevent their depredations to exercise a sound discretion as to crossing the Florida line, to break up their establishment; and, on the 16th of the same month, the secretary of war, by letter, directed Gen. Gaines, fully authorized him to cross the line, and attack the Indians within the Spanish territory, should they still refuse to make reparation for depredations already committed—unless they should shelter themselves under a Spanish fort, in which case he was directed to destroy the fort.

Intelligence being received by the war department of the massacre of Lt. Scott and his companions, Gen. Jackson was directed, by letter of the 26th December, 1817, to repair to Fort Scott, and take command of the forces in that quarter, with authority, in case he should deem it necessary, to call upon the executives of the adjacent states for such additional force as he should deem requisite; in which he was referred to the previous orders given to Gen. Gaines, and directed to concentrate his forces, and adopt the measures necessary to terminate a conflict, which had been avoided from considerations of humanity, but which had now become indispensable, from the settled hostility of the savage enemy. In January following, the secretary of war, in a letter to Gen. Gaines, says, "the honour of the United States requires, that the war with the Seminoles should be terminated speedily, and with exemplary punishment for hostilities so unprovoked." Under these orders, and in this critical state of affairs, Gen. Jackson, with that zeal and promptness which have ever marked his career, repaired to the post assigned, and assumed the command. The necessity of crossing the line into Florida, was no longer a subject of doubt. A large force of Indians and negroes was making that territory their refuge, and the Spanish authority was either too weak or too indifferent to restrain them; and to comply with orders given him from the department of war, he penetrated immediately into the Seminole towns, driving the enemy before him, and reduced them to ashes. In the council-house of the king of the Mickasukians, more than 50 fresh scalps, and in that of the public square a red pole was erected, crowned with scalps, known by the hair to have belonged to the companions of Lt. Scott.

To inflict merited punishment upon these barbarians, and to prevent a repetition of these massacres, by bringing the war to a speedy and successful termination, he pursued his march to St. Marks, when he found in corroboration of previous information, that the Indians and negroes had demanded the surrender of that post to them; and that the Spanish garrison, according to the commandant's own concession, was too weak to support it. Here he ascertained that the enemy had been supplied with the means of carrying on the war from the commandant of the post; that foreign incendiaries, instigating the savages, had free communication with the fort for carrying on their intrigues; councils of war were permitted by the commandant to be held by the chiefs and warriors within his own quarters; the Spanish store houses were appropriated to the use of the hostile party and actually filled with goods belonging to them; munitions of war were furnished them, and property known to have been plundered from our citizens, purchased from them by the commandant, while he professed friendship to the United States. General Jackson, therefore, had no hesitati-

on to demand of the commandant of St. Mark's, the surrender of that post, (that it might be garrisoned with an American force) and when the Spanish officer hesitated to deliver it, he entered the fort by force, though without bloodshed, the enemy having fled, and the garrison being too weak to make opposition. Convinced of the necessity of rapid movements, in order to the ultimate success of the expedition, he immediately marched his forces to Suwaney, seized upon the stores of the enemy, and burnt their villages.

Having thus far effected his object, Gen. Jackson considered the war at an end. St. Marks being garrisoned by an American force, the Indian towns at Mickasuky and Suwaney destroyed; the principal chiefs and leaders of the savages, one of whom had commanded the party that murdered Lieut. Scott and his companions, and the two principal foreign instigators, Arbutnot and Ambrister, being taken and executed, Gen. Jackson ordered the Georgia militia to be discharged, and was preparing himself to return to Tennessee. But he soon learned, that the Indians and negroes were collecting in companies west of the Apalachicola, which would render it necessary for him to send a detachment to scour the country in that quarter. While preparing for this object, he learned, that the Indians were admitted by the governor of Pensacola, and enjoyed free access to that town; that they were collecting in large numbers, 500 being in Pensacola on the 15th of April, many of whom were known to be hostile, and had just escaped from the pursuit of our troops; that the enemy were furnished with ammunition and supplies, and received intelligence of the movements of our forces, from that place; that a number of them sallied out and murdered 18 of our citizens, settlers upon the Alabama, and were immediately received by the governor, and by him transported across the bay, that they might evade the pursuit.

These facts being ascertained by Gen. Jackson from unquestionable authority, he immediately took up his line of march towards Pensacola, at the head of a detachment of about 1200 men, for the purpose of counteracting the views of the enemy, and to execute his orders from the War Department, by terminating the war speedily, and with exemplary punishment for hostilities so unprovoked. On the 10th May he crossed the Apalachicola at the Ocheese village, with the view of scouring the country west of that river; and on the 23d of the same month, he received a communication from the governor of West Florida, protesting against his entrance into that province, and demanding that he retire from it, and declaring that he would repel force by force, provided he should not obey. This communication, together with the evident indications of hostility to the governor, who had been well advised of the object of Gen. Jackson's operations, determined the measures which he pursued. Accordingly, he marched directly to Pensacola, and with but the show of opposition took possession of that place the following day, the governor or having fled to Fort Carlos de Barrantes; which post, after a feeble resistance, was also surrendered to Gen. Jackson on the 28th; by which the Indians and fugitive negroes were effectually deprived of all possible means of continuing their depredations, or screening themselves from the arm of justice. This glorious termination of the Seminole war, was a reluctantly entered into, but urged by dire necessity, to protect from the tomahawk and scalping knife of the most ruthless savages our peaceful frontier settlers, who, from decrepitate to helpless infancy, for more than two years had been exposed to their cruelties—a war in which our citizens and soldiers, with their usual fortitude and valour under their persevering and determined commander, endured long and difficult marches—submitted to painful privations, subdued a brave and merciless enemy without suffering one defeat, or betraying a solitary mark of dismay to tarnish the lustre of their country's glory. A variety of circumstances convinced Gen. Jackson that the savages had commenced this war, and persisted in their barbarities, under the influence of some foreign incendiaries, more criminal than the uncivilized natives. Alexander Arbutnot, who avowed himself a British subject and resided among the savages as an Indian trader, was taken at St. Marks, to which place he

and withdrawn as danger approached, and was living as an inmate in the family of the commandant. It appearing that he had been a seal, he was advocate for the pretended rights of the savages, and in this respect the successor of the notorious Colonel Nichols, of the British colonial marine, in the late war with Great Britain; that he had repeatedly written in their behalf to the Spanish governor of St. Augustine, the British minister in the United States, and Colonel Nichols, endeavouring to procure aid from both those governments against the United States; that he had repeatedly advised the Indians not to comply with the treaty of Fort Jackson, assuring them that the lands ceded to the United States by them in 1814 were to be restored by virtue of the treaty of peace with Great Britain; Gen. Jackson ordered him to be tried by a court martial, consisting of 13 respectable officers with major Gen. Gaines president. The court was directed to decide upon the fact of his guilt or innocence; and if guilty, what punishment should be inflicted. Upon satisfactory testimony, he was convicted of inciting and firing up the hostile Creeks to invade the United States and arming his citizens; and of aiding, abetting and comforting the enemy, supplying them with the means of war, and by the court sentenced to be hung. Robert C. Ambrister, late a lieutenant of the British marine corps, and with the hostile Indians and fugitive negroes the successor of Woodbine, of notorious memory, was taken near the mouth of Suwaney river. It being well known that he had been a leader and commander of the hostile Indians and fugitive slaves, Gen. Jackson also directed him to be tried by the same court martial. Upon satisfactory evidence he was convicted of having aided and comforted the enemy, supplying them with the means of war by giving them intelligence of the movements and operations of the army of the United States, and by sending the Indians and negroes to meet and fight against them; and upon his own confession, as well as the clearest evidence of having led and commanded a lower Creek in carrying on the war against the United States, was by the court sentenced to be shot. One of the members requesting a reconsideration of the sentence, it was agreed to; and on a revision, the court sentenced him to receive 50 stripes on his bare back, and be confined, with a ball and chain to hard labour for 12 calendar months. Gen. Jackson approved the sentence in the case of Arbutnot, and in the case of Ambrister, he disapproved the reconsideration, and confirmed the first sentence. They were both executed accordingly. In relation to these transactions, questions of the first magnitude present themselves, which the committee have deemed it their duty to investigate.

Was general Jackson justifiable in marching his army across the line, into the territory of Spain, in making possession by force of arms, of the Spanish posts, St. Marks and Pensacola? Has he the right to purchase Alexander Arbutnot and Robert C. Ambrister? From the facts submitted, it is perfectly evident that the Spanish authorities in Florida did not regard that neutral character which was necessary to render its territory sacred; but, by their own acts, either of hostility or imbecility, they made that territory the seat of war independent of the solemn obligations of treaty, whereby Spain engaged to keep the Indians within her territory at peace with the U. States, no principle is more firmly established by the laws of nations than this, that a nation at war has the right to pursue the hostile army to the territory of a neutral nation; and to make that territory the seat of war, when either the weakness or partiality of the neutral nation shall suffer the belligerent army, retreating into its territory, to rally, collect strength, and provide supplies, to enable them to renew the conflict, and especially when munitions of war shall be applied, either by the citizens or authorities of the neutral nation.

But in the consideration of this subject, it should never be forgotten, that Spain was bound, by the solemn stipulations of treaty with the United States, herself to have fought these battles; or, if too weak to have done so, at least to have made common cause with the United States against these lawless tribes of savages. The United States have never recognized the Indians,

within the limits of the United States, and it has ever been the policy of the United States to maintain a strict neutrality in relation to the wars of other nations. The United States have never recognized the Indians, and it has ever been the policy of the United States to maintain a strict neutrality in relation to the wars of other nations. The United States have never recognized the Indians, and it has ever been the policy of the United States to maintain a strict neutrality in relation to the wars of other nations.