**Document 1**

**Letter from George Washington to the U.S. Senate:**

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| United States, August 11, 1790  Gentlemen of the Senate: Although the treaty with the Creeks may be regarded as the main foundation of the southwestern frontier of the United States, yet in order fully to effect so desirable an object the treaties which have been entered into with the other tribes in that quarter must be faithfully performed on our parts.  During the last year I laid before the Senate a particular statement of the case of the Cherokees. By a reference to that paper it will appear that the United States formed a treaty with the Cherokees thereby placed themselves under the protection of the United States, and had a boundary assigned them.  On August 11 the Senate resolved that the treaty at Hopewell with the Cherokees be carried into execution at the discretion of the President, and that the Senate guarantee the Cherokee boundary. On August 12 Congress adjourned, to convene again on the first Monday in December, 1790.  That the White people settled on the frontiers had openly violated the said boundary by intruding on the Indian lands.  That the United States in Congress assembled did on the first day of September 1788 issue their proclamation forbidding such unwarrantable intrusions and in joining all those who had settled upon the hunting grounds of the Cherokees to depart with their families and effects without the loss of time, as they would answer their disobedience to the injunctions and prohibitions expressed, at their peril.  But information has been received that notwithstanding the said treaty and proclamation upwards of five hundred families have settled on the Cherokee Lands exclusively of those settled between the fork of French Broad and Holstein Rivers mentioned in the said treaty.  As the obstructions to a proper conduct on this matter have been removed since it was mentioned to the Senate on the 22d of August 1789, by the accession of North Carolina to the present Union, and the cessions of the Land in question, I shall conceive myself bound to exert the powers entrusted to me by the Constitution in order to carry into faithful execution the treaty of Hopewell, unless it shall be thought proper to attempt to arrange a new boundary with the Cherokees embracing the settlements, and compensating the Cherokees for the cessions they shall make on the occasion. On this point therefore I state the following questions and request the advice of the Senate thereon.  1st. Is it the judgment of the Senate that overtures shall be made to the Cherokees to arrange a new boundary so as to embrace the settlement made by the white people since the treaty of Hopewell in November 1785?  2. If so, shall compensation to the amount of dollars annually of dollars in gross be made to the Cherokees for the land they shall relinquish, holding the occupiers of the land accountable to the United States for its value?  3dly. Shall the United States stipulate solemnly to guarantee the new boundary which may be arranged? |

**Context**: On November 28, 1785, the Confederation Congress negotiated a treaty with the Cherokee Nation (Hopewell) in which the Cherokees were allotted certain lands for hunting grounds. The treaty also stipulated that no non-Native settlers would be allowed on the land.

**Excerpts from *Worcester* v. *Georgia*, 1832**

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| The Indian nations had always been considered as distinct, independent political communities, retaining their original natural rights, as the undisputed possessors of the soil, from time immemorial, with the single exception of that imposed by irresistible power, which excluded them from intercourse with any other European potentate than the first discoverer of the coast of the particular region claimed: and this was a restriction which those European potentates imposed on themselves, as well as on the Indians. The very term "nation," so generally applied to them, means "a people distinct from others." The constitution, by declaring treaties already made, as well as those to be made, to be the supreme law of the land, has adopted and sanctioned the previous treaties with the Indian nations, and consequently admits their rank among those powers who are capable of making treaties. The words "treaty" and "nation" are words of our own language, selected in our diplomatic and legislative proceedings, by ourselves, having each a definite and well understood meaning. We have applied them to Indians, as we have applied them to the other nations of the earth. They are applied to all in the same sense. |

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| The Cherokee nation, then, is a distinct community occupying its own territory, with  boundaries accurately described, in which the laws of Georgia can have no force, and  which the citizens of Georgia have no right to enter, but with the assent of the Cherokees themselves, or in conformity with treaties, and with the acts of congress. The whole intercourse between the United States and this nation, is, by our constitution and laws, vested in the government of the United States. |

Article on [Indian Removal](https://ap.gilderlehrman.org/essay/indian-removal?period=4) from the Gilder Lehrman website.

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| By the 1820s, new ideas about human differences as immutable had begun to emerge on both sides of the Atlantic. In Europe, for example, the Congress of Vienna in 1815 had tried to redraw the national boundaries of post-Napoleonic Europe to reflect the supposed innate differences among people. The assumption that distinct cultures reflected racial differences began to take hold in the United States, and policy makers increasingly believed that American Indians could not be assimilated. Once an Indian, they believed, always an Indian. Furthermore, their differences meant that Indians and whites could not live together. Sometimes called “Romantic Nationalism,” these views contributed to the decision to force Native peoples from the East, as well as to subsequent atrocities on both sides of the Atlantic for more than a century.  Historian, Theda Perdue |

***Worcester* v. *Georgia*, 1832**

It has been said at the bar, that the acts of the legislature of Georgia seize on the whole

Cherokee country, parcel it out among the neighbouring counties of the state, extend her code over the whole country, abolish its institutions and its laws, and annihilate its

political existence.

If this be the general effect of the system, let us inquire into the effect of the particular

statute and section on which the indictment is founded.

It enacts that "all white persons, residing within the limits of the Cherokee nation on the 1st day of March next, or at any time thereafter, without a license or permit from his excellency the governor, or from such agent as his excellency the governor shall

authorise to grant such permit or license, and who shall not have taken the oath

hereinafter required, shall be guilty of a high misdemeanour, and, upon conviction

thereof, shall be punished by confinement to the penitentiary, at hard labour, for a term not less than four years."

The eleventh section authorises the governor, should he deem it necessary for the

protection of the mines, or the enforcement of the laws in force within the Cherokee

nation, to raise and organize a guard," &c.

The thirteenth section enacts, "that the said guard or any member of them, shall be, and they are hereby authorised and empowered to arrest any person legally charged with or detected in a violation of the laws of this state, and to convey, as soon as practicable, the person so arrested, before a justice of the peace, judge of the superior, or justice of inferior court of this state, to be dealt with according to law."

The extra-territorial power of every legislature being limited in its action, to its own

citizens or subjects, the very passage of this act is an assertion of jurisdiction over the

Cherokee nation, and of the rights and powers consequent on jurisdiction.

The first step, then, in the inquiry, which the constitution and laws impose on this court, is an examination of the rightfulness of this claim.

America, separated from Europe by a wide ocean, was inhabited by a distinct people,

divided into separate nations, independent of each other and of the rest of the world,

having institutions of their own, and governing themselves by their own laws. It

is difficult to comprehend the proposition, that the inhabitants of either quarter of the

globe could have rightful original claims of dominion over the inhabitants of the other, or over the lands they occupied; or that the discovery of either by the other should give the discoverer rights in the country discovered, which annulled the pre-existing rights of its ancient possessors.

After lying concealed for a series of ages, the enterprise of Europe, guided by nautical

science, conducted some of her adventurous sons into this western world. They found it

in possession of a people who had made small progress in agriculture or manufactures,

and whose general employment was war, hunting, and fishing.

Did these adventurers, by sailing along the coast, and occasionally landing on it, acquire for the several governments to whom they belonged, or by whom they were

commissioned, a rightful property in the soil, from the Atlantic to the Pacific; or rightful dominion over the numerous people who occupied it? Or has nature, or the great Creator of all things, conferred these rights over hunters and fishermen, on agriculturists and manufacturers?

But power, war, conquest, give rights, which, after possession, are conceded by the

world; and which can never be controverted by those on whom they descend. We

proceed, then, to the actual state of things, having glanced at their origin; because holding it in our recollection might shed some light on existing pretensions.

The great maritime powers of Europe discovered and visited different parts of this

continent at nearly the same time. The object was too immense for any one of them to

grasp the whole; and the claimants were too powerful to submit to the exclusive or

unreasonable pretensions of any single potentate. To avoid bloody conflicts, which might terminate disastrously to all, it was necessary for the nations of Europe to establish some principle which all would acknowledge, and which should decide their respective rights as between themselves. This principle, suggested by the actual state of things, was, "that discovery gave title to the government by whose subjects or by whose authority it was made, against all other European governments, which title might be consummated by possession."

This principle, acknowledged by all Europeans, because it was the interest of all to

acknowledge it, gave to the nation making the discovery, as its inevitable consequence,

the sole right of acquiring the soil and of making settlements on it. It was an exclusive

principle which shut out the right of competition among those who had agreed to it; not

one which could annul the previous rights of those who had not agreed to it. It regulated the right given by discovery among the European discoverers; but could not affect the rights of those already in possession, either as aboriginal occupants, or as occupants by virtue of a discovery made before the memory of man. It gave the exclusive right to purchase, but did not found that right on a denial of the right of the possessor to sell.

The relation between the Europeans and the natives was determined in each case by the particular government which asserted and could maintain this pre-emptive privilege in the particular place. The United States succeeded to all the claims of Great Britain, both territorial and political; but no attempt, so far as is known, has been made to enlarge them. So far as they existed merely in theory, or were in their nature only exclusive of the claims of other European nations, they still retain their original character, and remain dormant. So far as they have been practically exerted, they exist in fact, are understood by both parties, are asserted by the one, and admitted by the other.

Soon after Great Britain determined on planting colonies in America, the king granted

charters to companies of his subjects who associated for the purpose of carrying the

views of the crown into effect, and of enriching themselves. The first of these charters

was made before possession was taken of any part of the country. They purport,

generally, to convey the soil, from the Atlantic to the South Sea. This soil was occupied

by numerous and warlike nations, equally willing and able to defend their possessions.

The extravagant and absurd idea, that the feeble settlements made on the sea coast, or the companies under whom they were made, acquired legitimate power by them to govern the people, or occupy the lands from sea to sea, did not enter the mind of any man. They were well understood to convey the title which, according to the common law of European sovereigns respecting America, they might rightfully convey, and no more. This was the exclusive right of purchasing such lands as the natives were willing to sell. The crown could not be understood to grant what the crown did not affect to claim; nor was it so understood.

The power of making war is conferred by these charters on the colonies, but defensive

war alone seems to have been contemplated. In the first charter to the first and second

colonies, they are empowered, "for their several defences, to encounter, expulse, repel,

and resist, all persons who shall, without license," attempt to inhabit "within the said

precincts and limits of the said several colonies, or that shall enterprise or attempt at any time hereafter the least detriment or annoyance of the said several colonies or

plantations."

The charter to Connecticut concludes a general power to make defensive war with these

terms: "and upon just causes to invade and destroy the natives or other enemies of the

said colony."

The same power, in the same words, is conferred on the government of Rhode Island.

This power to repel invasion, and, upon just cause, to invade and destroy the natives,

authorizes offensive as well as defensive war, but only "on just cause." The very terms

imply the existence of a country to be invaded, and of an enemy who has given just cause of war.

The charter to William Penn contains the following recital: "and because, in so remote a country, near so many barbarous nations, the incursions, as well of the savages

themselves, as of other enemies, pirates, and robbers, may probably be feared, therefore we have given," &c. The instrument then confers the power of war.

These barbarous nations, whose incursions were feared, and to repel whose incursions the power to make war was given, were surely not considered as the subjects of Penn, or occupying his lands during his pleasure.

The same clause is introduced into the charter to Lord Baltimore.

The charter to Georgia professes to be granted for the charitable purpose of

enabling poor subjects to gain a comfortable subsistence by cultivating lands in the

American provinces, "at present waste and desolate." It recites: "and whereas our

provinces in North America have been frequently ravaged by Indian enemies, more

especially that of South Carolina, which, in the late war by the neighbouring savages, was laid waste by fire and sword, and great numbers of the English inhabitants miserably massacred; and our loving subjects, who now inhabit there, by reason of the smallness of their numbers, will, in case of any new war, be exposed to the like calamities, inasmuch as their whole southern frontier continueth unsettled and lieth open to the said savages."

These motives for planting the new colony are incompatible with the lofty ideas of

granting the soil, and all its inhabitants from sea to sea. They demonstrate the truth, that these grants asserted a title against Europeans only, and were considered as blank paper so far as the rights of the natives were concerned. The power of war is given only for defence, not for conquest.

The charters contain passages showing one of their objects to be the civilization of the

Indians, and their conversion to Christianity — objects to be accomplished by

conciliatory conduct and good example; not by extermination.

The actual state of things, and the practice of European nations, on so much of the

American continent as lies between the Mississippi and the Atlantic, explain their claims, and the charters they granted. Their pretensions unavoidably interfered with each other; though the discovery of one was admitted by all to exclude the claim of any other, the extent of that discovery was the subject of unceasing contest. Bloody conflicts arose between them, which gave importance and security to the neighbouring nations. Fierce and warlike in their character, they might be formidable enemies, or effective friends. Instead of rousing their resentments, by asserting claims to their lands, or to dominion over their persons, their alliance was sought by flattering professions, and purchased by rich presents. The English, the French, and the Spaniards, were equally competitors for their friendship and their aid. Not well acquainted with the exact meaning of words, nor supposing it to be material whether they were called the subjects, or the children of their father in Europe; lavish in professions of duty and affection, in return for the rich presents they received; so long as their actual independence was untouched, and their right to self government acknowledged, they were willing to profess dependence on the power which furnished supplies of which they were in absolute need, and restrained dangerous intruders from entering their country: and this was probably the sense in which the term was understood by them.

Certain it is, that our history furnishes no example, from the first settlement of our

country, of any attempt on the part of the crown to interfere with the internal affairs of the Indians, farther than to keep out the agents of foreign powers, who, as traders or

otherwise, might seduce them into foreign alliances. The king purchased their lands when they were willing to sell, at a price they were willing to take; but never coerced a

surrender of them. He also purchased their alliance and dependence by subsidies; but

never intruded into the interior of their affairs, or interfered with their self government, so far as respected themselves only.

The general views of Great Britain, with regard to the Indians, were detailed by Mr

Stuart, superintendent of Indian affairs, in a speech delivered at Mobile, in presence of

several persons of distinction, soon after the peace of 1763. Towards the conclusion he

says, "lastly, I inform you that it is the king's order to all his governors and subjects, to

treat Indians with justice and humanity, and to forbear all encroachments on the

territories allotted to them; accordingly, all individuals are prohibited from purchasing

any of your lands; but, as you know that, as your white brethren cannot feed you when

you visit them unless you give them ground to plant, it is expected that you will cede

lands to the king for that purpose. But, whenever you shall be pleased to surrender any of your territories to his majesty, it must be done, for the future, at a public meeting of your nation, when the governors of the provinces, or the superintendent shall be present, and obtain the consent of all your people. The boundaries of your hunting grounds will be accurately fixed, and no settlement permitted to be made upon them. As you may be assured that all treaties with your people will be faithfully kept, so it is expected that you, also, will be careful strictly to observe them."

The proclamation issued by the king of Great Britain, in 1763, soon after the ratification

of the articles of peace, forbids the governors of any of the colonies to grant warrants of

survey, or pass patents upon any lands whatever, which, not having been ceded to, or

purchased by, us (the king), as aforesaid, are reserved to the said Indians, or any of them.

The proclamation proceeds: "and we do further declare it to be our royal will and

pleasure, for the present, as aforesaid, to reserve, under our sovereignty, protection, and dominion, for the use of the said Indians, all the lands and territories lying to the

westward of the sources of the rivers which fall into the sea, from the west and northwest as aforesaid: and we do hereby strictly forbid, on pain of our displeasure, all our loving subjects from making any purchases or settlements whatever, or taking possession of any of the lands above reserved, without our special leave and license for that purpose first obtained.

"And we do further strictly enjoin and require all persons whatever, who have, either

wilfully or inadvertently, seated themselves upon any lands within the countries above

described, or upon any other lands which, not having been ceded to, or purchased by us, are still reserved to the said Indians, as aforesaid, forthwith to remove themselves from such settlements."

A proclamation, issued by Governor Gage, in 1772, contains the following passage:

"whereas many persons, contrary to the positive orders of the king, upon this subject,

have undertaken to make settlements beyond the boundaries fixed by the treaties made

with the Indian nations, which boundaries ought to serve as a barrier between the whites and the said nations; particularly on the Ouabache." The proclamation orders such persons to quit those countries without delay.

Such was the policy of Great Britain towards the Indian nations inhabiting the territory

from which she excluded all other Europeans; such her claims, and such her practical

exposition of the charters she had granted: she considered them as nations capable of

maintaining the relations of peace and war; of governing themselves, under her

protection; and she 549\*549 made treaties with them, the obligation of which she

acknowledged.

This was the settled state of things when the war of our revolution commenced. The

influence of our enemy was established; her resources enabled her to keep up that

influence; and the colonists had much cause for the apprehension that the Indian nations would, as the allies of Great Britain, add their arms to hers. This, as was to be expected, became an object of great solicitude to congress. Far from advancing a claim to their lands, or asserting any right of dominion over them, congress resolved "that the securing and preserving the friendship of the Indian nations appears to be a subject of the utmost moment to these colonies."

The early journals of congress exhibit the most anxious desire to conciliate the Indian

nations. Three Indian departments were established; and commissioners appointed in

each, "to treat with the Indians in their respective departments, in the name and on the

behalf of the United Colonies, in order to preserve peace and friendship with the said

Indians, and to prevent their taking any part in the present commotions."

The most strenuous exertions were made to procure those supplies on which Indian

friendships were supposed to depend; and every thing which might excite hostility was

avoided.

The first treaty was made with the Delawares, in September 1778.

The language of equality in which it is drawn, evinces the temper with which the

negotiation was undertaken, and the opinion which then prevailed in the United States.

"1. That all offences or acts of hostilities, by one or either of the contracting parties

against the other, be mutually forgiven, and buried in the depth of oblivion, never more to be had in remembrance.

"2. That a perpetual peace and friendship shall, from henceforth, take place and subsist

between the contracting parties aforesaid, through all succeeding generations: and if

either of the parties are engaged in a just and necessary war, with any other nation or

nations, that then each shall assist the other, in due proportion to their abilities, till their enemies are brought to reasonable terms of accommodation," &c.

3. The third article stipulates, among other things, a free passage for the American troops through the Delaware nation and engages that they shall be furnished with provisions and other necessaries at their value.

"4. For the better security of the peace and friendship now entered into by the contracting parties against all infractions of the same by the citizens of either party, to the prejudice of the other, neither party shall proceed to the infliction of punishments on the citizens of the other, otherwise than by securing the offender or offenders, by imprisonment, or any other competent means, till a fair and impartial trial can be had by judges or juries of both parties, as near as can be to the laws, customs and usages of the contracting parties, and natural justice," &c.

5. The fifth article regulates the trade between the contracting parties, in a manner

entirely equal.

6. The sixth article is entitled to peculiar attention, as it contains a disclaimer of designs

which were, at that time, ascribed to the United States, by their enemies, and from the

imputation of which congress was then peculiarly anxious to free the government. It is in

these words: "Whereas the enemies of the United States have endeavoured, by every

artifice in their power, to possess the Indians in general with an opinion that it is the

design of the states aforesaid to extirpate the Indians, and take possession of their

country: to obviate such false suggestion the United States do engage to guaranty to the

aforesaid nation of Delawares, and their heirs, all their territorial rights, in the fullest and most ample manner, as it hath been bounded by former treaties, as long as the said

Delaware nation shall abide by, and hold fast the chain of friendship now entered into."

The parties further agree, that other tribes, friendly to the interest of the United States,

may be invited to form a state, whereof the Delaware nation shall be the heads, and have a representation in congress.

This treaty, in its language, and in its provisions, is formed, as near as may be, on the

model of treaties between the crowned heads of Europe.

The sixth article shows how congress then treated the injurious calumny of cherishing

designs unfriendly to the political and civil rights of the Indians.

During the war of the revolution, the Cherokees took part with the British. After

its termination, the United States, though desirous of peace, did not feel its necessity so

strongly as while the war continued. Their political situation being changed, they might

very well think it advisable to assume a higher tone, and to impress on the Cherokees the

same respect for congress which was before felt for the king of Great Britain. This may

account for the language of the treaty of Hopewell. There is the more reason for supposing that the Cherokee chiefs were not very critical judges of the language, from the fact that every one makes his mark; no chief was capable of signing his name. It is

probable the treaty was interpreted to them.

The treaty is introduced with the declaration, that "the commissioners plenipotentiary of the United States give peace to all the Cherokees, and receive them into the favour and protection of the United States of America, on the following conditions."

When the United States gave peace, did they not also receive it? Were not both parties

desirous of it? If we consult the history of the day, does it not inform us that the United

States were at least as anxious to obtain it as the Cherokees? We may ask, further: did the Cherokees come to the seat of the American government to solicit peace; or, did the

American commissioners go to them to obtain it? The treaty was made at Hopewell, not

at New York. The word "give," then, has no real importance attached to it.

The first and second articles stipulate for the mutual restoration of prisoners, and are of course equal.

The third article acknowledges the Cherokees to be under the protection of the United

States of America, and of no other power.

This stipulation is found in Indian treaties, generally. It was introduced into their treaties with Great Britain; and may probably be found in those with other European powers. Its origin may be traced to the nature of their connexion with those powers; and its true meaning is discerned in their relative situation.

The general law of European sovereigns, respecting their claims in America, limited the

intercourse of Indians, in a great degree, to the particular potentate whose ultimate right of domain was acknowledged by the others. This was the general state of things in time of peace. It was sometimes changed in war. The consequence was, that their supplies were derived chiefly from that nation, and their trade confined to it. Goods,

indispensable to their comfort, in the shape of presents, were received from the same

hand. What was of still more importance, the strong hand of government was interposed to restrain the disorderly and licentious from intrusions into their country, from encroachments on their lands, and from those acts of violence which were often attended by reciprocal murder. The Indians perceived in this protection only what was beneficial to themselves — an engagement to punish aggressions on them. It involved, practically, no claim to their lands, no dominion over their persons. It merely bound the nation to the British crown, as a dependent ally, claiming the protection of a powerful friend and neighbour, and receiving the advantages of that protection, without involving a surrender of their national character. . . .

To the general pledge of protection have been added several specific pledges, deemed

valuable by the Indians. Some of these restrain the citizens of the United States from

encroachments on the Cherokee country, and provide for the punishment of intruders.

From the commencement of our government, congress has passed acts to regulate trade and intercourse with the Indians; which treat them as nations, respect their rights, and manifest a firm purpose to afford that protection which treaties stipulate. All these acts, and especially that of 1802, which is still in force, manifestly consider the

several Indian nations as distinct political communities, having territorial boundaries,

within which their authority is exclusive, and having a right to all the lands within those boundaries, which is not only acknowledged, but guarantied by the United States.

In 1819, congress passed an act for promoting those humane designs of civilizing the

neighbouring Indians, which had long been cherished by the executive. It enacts, "that,

for the purpose of providing against the further decline and final extinction of the Indian tribes adjoining to the frontier settlements of the United States, and for introducing among them the habits and arts of civilization, the president of the United States shall be, and he is hereby authorized, in every case where he shall judge improvement in the habits and condition of such Indians practicable, and that the means of instruction can be introduced with their own consent, to employ capable persons, of good moral character, to instruct them in the mode of agriculture suited to their situation; and for teaching their children in reading, writing and arithmetic; and for performing such other duties as may be enjoined, according to such instructions and rules as the president may give and prescribe for the regulation of their conduct in the discharge of their duties."

This act avowedly contemplates the preservation of the Indian nations as an object sought by the United States, and proposes to effect this object by civilizing and converting them from hunters into agriculturists. Though the Cherokees had already made considerable progress in this improvement, it cannot be doubted that the general words of the act comprehend them. Their advance in the "habits and arts of civilization," rather encouraged perseverance in the laudable exertions still farther to meliorate their condition. This act furnishes strong additional evidence of a settled purpose to fix the Indians in their country by giving them security at home.

The treaties and laws of the United States contemplate the Indian territory as completely separated from that of the states; and provide that all intercourse with them shall be carried on exclusively by the government of the union. . . .

The Indian nations had always been considered as distinct, independent political

communities, retaining their original natural rights, as the undisputed possessors of the soil, from time immemorial, with the single exception of that imposed by irresistible power, which excluded them from intercourse with any other European potentate than the first discoverer of the coast of the particular region claimed: and this was a restriction which those European potentates imposed on themselves, as well as on the Indians. The very term "nation," so generally applied to them, means "a people distinct from others." The constitution, by declaring treaties already made, as well as those to be made, to be the supreme law of the land, has adopted and sanctioned the previous treaties with the Indian nations, and consequently admits their rank among those powers who are capable of making treaties. The words "treaty" and "nation" are words of our own language, selected in our diplomatic and legislative proceedings, by ourselves, having each a definite and well understood meaning. We have applied them to Indians, as we have applied them to the other nations of the earth. They are applied to all in the same sense.

Georgia, herself, has furnished conclusive evidence that her former opinions on this

subject concurred with those entertained by her sister states, and by the government of

the United States. Various acts of her legislature have been cited in the argument,

including the contract of cession made in the year 1802, all tending to prove her

acquiescence in the universal conviction that the Indian nations possessed a full right to the lands they occupied, until that right should be extinguished by the United States, with their consent: that their territory was separated from that of any state within whose chartered limits they might reside, by a boundary line, established by treaties: that, within their boundary, they possessed rights with which no state could interfere: and that the whole power of regulating the intercourse with them, was vested in the United States. A review of these acts, on the part of Georgia, would occupy too much time, and is the less necessary, because they have been accurately detailed in the argument at the bar. Her new series of laws, manifesting her abandonment of these opinions, appears to have commenced in December 1828.

In opposition to this original right, possessed by the undisputed occupants of every

country; to this recognition of that right, which is evidenced by our history, in every

change through which we have passed; is placed the charters granted by the monarch of a distant and distinct region, parcelling out a territory in possession of others whom he could not remove and did not attempt to remove, and the cession made of his claims by the treaty of peace.

The actual state of things at the time, and all history since, explain these charters; and the king of Great Britain, at the treaty of peace, could cede only what belonged to his crown. These newly asserted titles can derive no aid from the articles so often repeated in Indian treaties; extending to them, first, the protection of Great Britain, and afterwards that of the United States. These articles are associated with others, recognizing their title to self government. The very fact of repeated treaties with them recognizes it; and the settled doctrine of the law of nations is, that a weaker power does not surrender its independence — its right to self government, by associating with a stronger, and taking its protection. A weak state, in order to provide for its safety, may place itself under the protection of one more powerful, without stripping itself of the right of government, and ceasing to be a state. Examples of this kind are not wanting in Europe, "Tributary and feudatory states," says Vattel, "do not thereby cease to be sovereign and independent states, so long as self government and sovereign and independent authority are left in the administration of the state." At the present day, more than one state may be considered as holding its right of self government under the guarantee and protection of one or more allies.

The Cherokee nation, then, is a distinct community occupying its own territory, with

boundaries accurately described, in which the laws of Georgia can have no force, and

which the citizens of Georgia have no right to enter, but with the assent of the Cherokees themselves, or in conformity with treaties, and with the acts of congress. The whole intercourse between the United States and this nation, is, by our constitution and laws, vested in the government of the United States.