

ence between *give peace*, and *make peace*, or *agree to a peace*. The Cherokees doubtless understood, that the United States were desirous that there should be *an end of fighting*; but it is incredible that they should have thought there was lurking, under the phrase of *giving peace*, any such mysterious implication of superiority on the part of the whites, as should ultimately exonerate the superior from all obligation to keep faith with his inferior. Least of all could they have supposed, that there was a latent power in this phrase, which should destroy the validity of all future compacts between the same parties, in not one of which the insidious phrase is to be found.

The phrase *to give peace* was a favourite one with the Romans, and was doubtless copied from them. I think Bonaparte used it also on some occasions. But neither the Romans, nor Bonaparte, so far as I know, ever soberly contended that a treaty was to be interpreted, otherwise than according to the obvious and proper meaning of the words, merely because one of the parties assumed rather a haughty air, in some few instances of the phraseology.

As to the word *allot*, it is said to have been commonly used in the southern States as synonymous with *fix*, or *establish*. To say that a boundary was *allotted* to the Cherokees, was no more than to say that a boundary was *established* or *agreed upon*; for the boundary is not said to have been *allotted by the United States*. It may have been, indeed it must have been, as the whole scope of the treaty shows, *allotted by the consent of both parties*.\*

#### No. IV.

Apparent inferiority of the United States to the Chickasaws—The Cherokees under the protection of the United States—Hunting grounds a good designation of land—Proofs of equality of rights in the parties—Treaty of Holston, or second compact with the Cherokees, 1791—Title and preamble—The manner in which this treaty was negotiated and ratified.

IF our statesmen are about to interpret treaties, on the principle of favoring the party which assumed a superiority, they must take care lest there should be some very unexpected consequences.

In a treaty formed between the United States and the Chickasaws, in the year 1801, and ratified by President Jefferson and the Senate, the first article commences thus: "The Mingo, principal men, and warriors of the Chickasaw nation of Indians *give leave and permission* to the President of the United States of America to lay out, open, and make a convenient wagon road *through their land*." After stating that the road "shall be a highway for the citizens of the United States and the Chickasaws," and that the Chickasaws "shall appoint two discreet men as

\* The correctness of this criticism on the word *allot* is abundantly proved, by a passage of an act of Congress, which was discovered after this number was written. The passage makes the meaning of *lands allotted to the Indians* to be synonymous with *lands secured to the Indians*.