

from, or commit a robbery, or murder, or other capital crime on any citizen, or inhabitants of the United States, the Cherokee nation shall be bound *to deliver him or them up*, to be punished according to the laws of the United States."

Thus it appears, that if a party of Cherokees should commit murder in the white settlements, upon citizens of the United States, the murderers could not be pursued a foot within the Cherokee boundary. Nay more, if one of our own people should commit murder, or any other capital crime, and should take refuge in the Cherokee nation, he could not be pursued, however flagrant the case might be, and however well known the criminal. The Cherokees must arrest him in their own way, and by their own authority; and they were bound by this treaty to do, what by the laws of nations they would not have been bound to do, that is, to deliver up criminals for punishment. Neither the United States, nor any particular State, had any jurisdiction over the Cherokee country. But the next article, which my argument makes it necessary to quote at large, is, if possible, still more decisive of the matter.

"Art. 11. If any citizen or inhabitant of the United States, or of either of the territorial districts of the United States, shall go into any town, settlement, or territory belonging to the Cherokees, and shall there commit any crime upon, or trespass against the person or property of any peaceable and friendly Indian or Indians, which, if committed within the jurisdiction of any State, or within the jurisdiction of either of the said districts, against a citizen or any white inhabitant thereof, would be punishable by the laws of such State or district, such offender or offenders shall be subject to the same punishment, and shall be proceeded against in the same manner as if the offence had been committed *within the jurisdiction of the State or district to which he or they may belong*, against a citizen or white inhabitant thereof."

If there is any meaning in language, it is here irresistibly implied, that the Cherokee country, or "territory" is not "within the jurisdiction of any State, or within the jurisdiction of either of the territorial Districts of the United States." Within what jurisdiction is it, then? Doubtless within Cherokee jurisdiction; for this territory is described as "*belonging to the Cherokees*,"—one of the most forcible idiomatic expressions of our language to designate absolute property. What then becomes of the assumption of jurisdiction over the Cherokees by the State of Georgia? This question will be easily decided by the man who can tell which is the strongest, a treaty of the United States, or an act of the Legislature of a State. The treaty says that the Cherokee territory is inviolable; and that even white renegadoes cannot be pursued thither. A recent law of Georgia declares the greater part of the Cherokee country to be under the jurisdiction of that State; and that the laws of Georgia shall take full effect upon the Cherokees within less than a year from the present time. The Constitution of the United States (Art. VI.) has these words: "All treaties made under the authority of the United States, shall be *the supreme law of the land*; and the judges in every State shall be bound thereby, any thing in the laws or Constitution of any State *to the contrary notwithstanding*." The question of jurisdiction is, therefore, easily settled.

But the full acknowledgment of the national rights of the Cherokees, and of the sacredness of their territory, is not all that the treaty contains. The fourteenth article was framed expressly for the purpose of