

Peters, we find on p. 749 the following form of expression in which the word occurs: "That when a territory is acquired by treaty, cession, or even conquest, the rights of the inhabitants to property are *respected*."

And in *Mitchell vs. U. S.*, as cited, the Court said: "Indian possession or occupation was considered with reference to their habits and modes of life; their hunting grounds were as much in their actual possession as the cleared fields of the whites, and their rights to its exclusive enjoyment in their own way and for their own purposes were as much *respected*."

Again in *Johnson vs. McIntosh*, Chief Justice Marshall in delivering the opinion of the Court said, p. 578: "All the grants made by the Plymouth Company, so far as we can learn, have been *respected*;" and further on in the same judgment he uses the expressions, 'the title of the proprietors to the soil was *respected*,' 'that title was *respected*.' Other instances might be accumulated of a similar use of this word, and if the expression "shall be respected" be of any legal import or virtue whatever, it can mean no less than is stated in the proposition, that the Company should be protected by the United States from the aggressive acts of its own officers and citizens under color of its own authority or laws, or in other words, from any violation or usurpation of its rights in consequence of the change of sovereignty. If the Government, as a mere abstraction, could stand by while these rights were gradually usurped and destroyed, at one time by functionaries assuming to act for the public service, and at another by American citizens—claiming under the Land and Donation laws—and while redress in the courts was rendered practically impossible by the hostility of public opinion, then the expression had no meaning at all. But this no man will contend; on the contrary, we must suppose that the expression was carefully considered, and that it was intended to import, and does import, a substantial and most important obligation.

I am satisfied that after a careful consideration of this proposition, and of the observations in support of it, it will be found to render fairly the true import of the expression, "shall be respected," and of the undertaking and obligations of the United States resulting from the article.