

"ART. 13. The hatchet shall be forever buried, and the peace given by the United States, and friendship re-established between the said States on the one part, and all the Cherokees on the other, shall be universal; and the contracting parties shall use their utmost endeavours to maintain the peace given as aforesaid, and friendship re-established."

These articles were signed by the four commissioners of the United States, and by thirty-seven head men and warriors of the Cherokees, in the presence of William Blount, afterwards Governor of Tennessee, and eight other witnesses. In the formulary, which precedes the signatures, the articles are called a "Definitive Treaty."

Among the documents of Congress, published during the last session, is a letter from the Honourable Hugh L. White, now senator in Congress, to Mr. John Ross, at present the chief magistrate of the Cherokee nation, in which the writer argues, at some length, that the treaty of Hopewell is not now in force, on account of its having been abrogated by a subsequent war, and its not being expressly recognised in any subsequent treaty.

Mr. White admits, that treaties are not, as a matter of course, abrogated by war; but he thinks that, in the case before us, such is the natural conclusion to be formed, after attending to subsequent treaties. I must be permitted to question, whether he would have come to this conclusion, if he had seen all the subsequent treaties, and duly considered them.

The following reasons, which have become apparent, in the course of this investigation, satisfy me that the treaty of Hopewell is still in force.

1. In all the subsequent treaties, there is no intimation, not even the most obscure, that this treaty, or any other, had been abrogated, annulled, or superseded.

2. In the second treaty of Philadelphia, 1794, the United States give money, "to evince their justice," to the Cherokees, "for relinquishments of land by the treaty of Hopewell, and the treaty of Holston." Here both treaties are mentioned in precisely the same manner; which would hardly have been the case, if one of them had been abrogated.

3. The first article of the third treaty of Tellico, 1805, is in these words: "All former treaties, which provide for the maintenance of peace and preventing of crimes, are, on this occasion, recognised and continued in force." The treaty of Hopewell was a *former treaty*, which was directed almost wholly to the maintenance of peace and the preventing of crimes.

4. In the second treaty, negotiated by General Jackson, 1817, it is stipulated, that "the treaties heretofore [made] between the Cherokee nation and the United States, are to continue in full force." The phrase "the treaties," means the same as *all treaties*.*

This is the first treaty made by the United States with either of the south-western tribes, or nations. The State of Georgia had, previously to the revolutionary war, entered into compacts with the Cherokees, of

* These reasons were not inserted in the number as originally published. They were discovered, as the examination of treaties proceeded. The reader will probably think them unanswerable.