

GEORGIA WESTERN TERRITORY.

was, that the former thirteen colonies were to be acknowledged as Independent States by Britain; and consequently the bounds of the colonies were to be the bounds of the States. It cannot be pretended that the land in question was within any other colony than that of Georgia or South-Carolina; and, as has been mentioned, South-Carolina has ceded all her right to Georgia by the convention of Beaufort, in 1787; and it is incredible that Britain should then consider the land as part of West-Florida; for then, without motive or reason, she gave to the United States the best part of a colony which had chosen to remain under her allegiance.

Spain has recognized the title of Georgia by the late treaty made between her and the United States; for if the land was, in 1783, a part of Florida, Spain had an equal right to it with the United States; Great-Britain having ceded it to both nations on the same day. But Spain has given up all claim to the United States without any equivalent. This was done on the explicit representation on the part of our government, first by Messrs. Carmichael and Short, and afterwards by Mr. Pinckney, under express instructions from the Supreme Executive of the United States, to claim the land as a part of Georgia; and these instructions were the result of an elaborate inquiry by Mr. Jefferson, then Secretary of State, as appears by his report to the Executive on the subject. Indeed, Spain never claimed the land as a part of West-Florida, but set up a frivolous claim by conquest. And it has been added, that as the cession of this country from Spain by the late treaty, was obtained by a representation from the United States, that it was a part of Georgia, Spain is not in honour bound by this article of the treaty, if the fact was not so, if the land did indeed belong to her own province of West-Florida.

The Government of the United States, it is said, has for a long course of years acquiesced in, and by many public acts acknowledged the title of Georgia, so as to bar all claim, even if the title of the United States were otherwise valid. As a principle to govern in this case it is stated, that in courts of equity it has been established, "that the true owner of land shall be bound by a sale of a stranger who has no title, if the owner suffer the sale to go on by an innocent purchaser, without giving notice of his title when he has it in his power; and that the case is much stronger against the owner when he has given a colour of title to the seller, and thus helped to deceive the purchaser." As facts falling within this principle it has been stated, 1. That the government of the United States instructed their commissioners for making the peace of 1783, to claim this land as belonging to Georgia, and this appears by the journals of Congress, in the fullest manner. 2. That attempts were made by the United States to obtain a cession of this land from Georgia, and a consideration offered for it, without any intimation that the United States had a claim. 3. That the convention of Beaufort, by which the conflicting claims of S. Carolina and Georgia were amicably settled, was conducted under the auspices of the United States; the question having been submitted to a court appointed by Congress to try it, according to a provision in the former confederation of the United States. 4. That in 1789 the government of the United States stated to Spain, as the ground of the claim of the American government, that this territory belonged to Georgia by virtue of her charter and the proclamation of 1763. 5. That in the negotiation which preceded the late treaty between the United States and Spain, Messrs. Carmichael and Short, American commissioners, by express instructions from the Supreme Executive of the United States, asserted the same thing as the ground of the claim of the American government; and that even after the existing sales of this territory, and after the same had been officially communicated by the government of Georgia to the President of the United States, and by him laid before Congress, Mr. Pinckney, our late envoy to the court of Spain, who negotiated the late treaty expressly declared, in his official communication, that the claim of the United States was founded on the fact, that this country was a part of Georgia, and this too pursuant to express instructions from the American Executive.

These have been urged as public acts of the American government, giving strong colour of title to Georgia. Others of acquiescence in her title by the United States have been added. Such as the silence of the general government when, in 1783, Georgia passed a legislative act, declaring her title to this country, and taking measures to settle it. Also, when in 1785 Georgia erected part of this territory into a county by the name of Bourbon, and appointed magistrates there, and provided for the further settlement of it; and also, when, in 1789, Georgia passed an act for the sale of the now controverted lands to certain companies, who after failed of complying with the terms of payment.

It has been said by the purchasers and their agents. That it would be indelicate, at least, for the government of the United States to hold such language as this: "It is true,