

GEORGIA WESTERN TERRITORY.

sions taken by the committee of the legislature, (though taken *ex parte*, and under a strong bias of party) do not contain much clear evidence of fraud.

It is also said by the purchasers that even if there had been fraud, and that fraud might be alleged to destroy the title of the original purchasers who were privy to it; yet that innocent persons having purchased, utterly unacquainted with the facts, and living in remote parts of the United States, their title could never be controverted;—that it was enough for them to know that a legislative act, granting the lands, had passed; and that they were ignorant of any fraudulent practices.

With regard to the allegation in the repealing act of Georgia, that the sales were against the constitution of the United States, and that of Georgia, it does not appear to have been treated as having any solid foundation; it has been called a naked assertion without any reasoning to support it. It has been said that every State in the Union, having unappropriated lands, has disposed of them through the medium of legislative acts, and their validity has never been questioned; though there is no peculiar difference in this respect between the constitution of Georgia and those of the other States. In short, it seems to be generally agreed among the informed part of the community, that, whether Georgia had cause of complaint on account of unfairness in the sales, or not, the repealing law must be considered as a "contravention of the first principles of natural justice and social policy,"* and void.

II. The claim of the United States deserves more particular attention. Various grounds have been taken to support this. It has been intimated, rather than asserted, in a Report of the Committee of the Senate of the United States;† that by the proclamation of the British King, of Oct. 7, 1763, all lands lying west of the heads of the rivers which fall into the Atlantic Ocean, were taken from the colonies, and so remained until American Independence, and then became the property of the aggregate body politic of the United States, as they were not within the limits of any particular States.

This, it is said by the purchasers, is bold ground, and is opposed not only to all the measures and opinions in Britain and America, while we were colonies, but also to the whole course of arrangements since our independence. It proves too much to prove any thing. The argument destroys itself; for if this be true, all the lands ceded to the United States by Carolina, Virginia, and every other State ceding western lands, belonged to the United States without cession. Some of the best counties of Virginia now belong to them; the Connecticut Reserved Land, is theirs; the whole States of Kentucky and Tennessee are theirs: The consequences, say they, are too wild to suffer the principle to be admitted. Nor do the words of the proclamation warrant the construction. The Governors of the colonies are thereby only forbidden, "*for the present, and until the King's further pleasure should be known, to grant warrants of survey, or pass patents for those lands.*"—And the reason is given in the Proclamation, viz. That the several tribes of Indians living under the king's protection, "should not be molested or disturbed in the possession of their hunting grounds." Instead of a permanent alteration of the boundaries of the colonies, a temporary prohibition to the Governors to grant those western lands, is alone to be found in the Proclamation; and the object, viz. peace with, and justice towards, the Indians, required no more. And another fact seems to put this matter past all doubt; the boundaries of the colonies, as expressed in the commissions of the several Governors, were uniformly the same after the proclamation as before.

Others, in support of the claim of the United States, have said, that the original charter of Georgia did not include the lands lying south of a line projected due west from the head of the most southern stream of the Alatamaha river;—that this stream is the Ockmulgee river, and that its most southern head is probably about lat. 33° 30' N. It is further said that no act of the British government ever enlarged the colony beyond its original chartered limits, except the Proclamation of 7th Oct. 1763; and that this annexes the lands between the Alatamaha and St. Mary, no further west than their heads;—therefore it is concluded that the whole western country claimed by Georgia, except so much thereof as lies north of a due west line from the head of the Ockmulgee, never was within the colony of Georgia.

To this it is answered, by the advocates for the title of Georgia, that the charter of Carolina, granted in 1662, extended that colony as far south as the 31st degree of N. lat. and as far west as the Western Ocean.—That after the division of Carolina into two colonies, S. Carolina had the same southern and western limits.—That the surrender of the charter by the proprietors of Carolina, only restored the property to the crown, but

did

* See "The case of the Georgia sales on the Mississippi, considered" by Mr. Harper. And Mr. Hamilton's opinion on this case, printed at the close of this pamphlet.

† See this printed report.

‡ See the proclamation.