

subject, they cannot be binding upon the Indians, unless acknowledged by them to be binding, or unless founded in the immutable principles of justice.

Let us suppose that the kings of Great Britain had issued an annual proclamation, from the time of the discovery of America to the peace of 1783, claiming all the lands in North America between 30 and 50 north latitude, and declaring that all the nations, tribes, and communities, then residing on said lands, were subject to the laws of Great Britain, and that the title to all these lands was vested in, and of right belonged to, the crown of that realm; and let us further suppose, that the Government of the United States had issued an annual proclamation, from the date of the declaration of independence to the present day, applying the same doctrine to our advantage, and declaring, that all the Indian nations within the limits prescribed by the peace of 1783, were subject to the laws of the United States, and that the lands of which they were in possession, belonged of right to the United States, so long as the Indians did not acknowledge the binding nature of these claims, the mere *claims* would have amounted to nothing. It was the practice of the king of England, during several centuries, to declare himself, (as often as he issued a proclamation on any subject whatever,) king of Great Britain, France and Ireland. Was he therefore king of France? What if he were now to declare himself king of Great Britain and China? It would be a cheap way, indeed, of acquiring a title, if merely setting up a claim would answer the purpose.

By what right do the people of the United States hold the lands which they occupy? The people of Ohio, for instance, or of Connecticut? By the right of occupancy only, commenced by purchase from the aboriginal possessors. It would be folly to plead the charters of kings, or the mere drawing of lines of latitude and longitude. The powers of Europe have indeed acknowledged our right to our country. But what if they had not? Our right is not at all affected by their claims, or acknowledgements. The same doctrine is applicable to the condition of the Cherokees. They have a perfect right to their country,—the right of peaceable, continued, immemorial occupancy;—and although their country may be *claimed* by others, it may lawfully be *held* by the possessors against all the world.*

The Cherokees need not fear, however, that their rights are in danger, as a consequence of any principles sanctioned by the national legislature of the United States. The co-ordinate branches of our government have not yet declared, that Indians are tenants at will. On the other hand, the whole history of our negotiations with them, from the peace of 1783 to the last treaty to which they are a party, and of all our legislation concerning them, shows, that they are regarded as a separate community from ours, having a national existence, and possessing a territory, which they are to hold in full possession, till they voluntarily surrender it.

* Some shallow writers on this subject have said, that "the Cherokees have only the title of occupancy; just as though the title of occupancy were not the best title in the world, and the only original foundation of every other title. Every reader of Blackstone knows this to be the fact. As to the past, the Cherokees have *immemorial occupancy*; as to the future, they have a perfect right to *occupy their country indefinitely*. What can they desire more?"