

all its rights secure, not only against others, but against the protector also? If some rights are yielded as the price of protection, is it not that other rights may be preserved with the greater care and certainty?

It is said that the United States were to have the sole and exclusive right of *regulating trade* with the Cherokees. True: but this was expressly declared to be for the benefit of the Indians, and to save them from injustice and oppression. These laudable objects were gained to a considerable extent; and, if the laws of the United States on this subject had been always carried into full execution, the condition of the Indians would have been rapidly improved, as a consequence of this very stipulation.

It is said that the lands of the Indians are called their "*hunting grounds*;" and that they could not, therefore, have a permanent interest in lands thus described. But how does this appear? The treaty has no limitation of time, nor is there the slightest intimation that it was to become weaker by the lapse of years. As the Indians gained their principal support by hunting, it was natural to designate their country by the phrase "*hunting grounds*;" and this is as good a designation, in regard to the validity of a title, as any other phrase that could be chosen. It contains the idea of property, and has superadded the idea of constant use.

But to put the matter beyond all question at once, let me refer to two treaties made at the same place, by three out of four of the same American Commissioners, within six weeks of the date of the Cherokee treaty. In both these documents, "*lands*" are allotted to the Choctaws and Chickasaws "*to live and hunt on*." These lands were secured to the Indians, therefore, so long as any of the race survived upon earth.

Having been occupied some time, in considering the indications of superiority, let us look a little at the proofs of equality. I leave to a future occasion some remarks upon the words *treaty, peace, contracting parties, &c.* which carry with them sundry most important significations.

The two first articles are strictly reciprocal. Each party is to restore prisoners of war. The articles would be proper, in a treaty between France and England.

The 6th and 7th articles provide that crimes committed against individuals of one party, by individuals of the other, shall be punished in the same manner.

The 8th article has the remarkable provision, that no retaliatory measures shall be adopted by either party, unless *this treaty shall be violated*; and even then, before such measures can be adopted, justice must have been demanded by the complaining party and refused by the other, and "*a declaration of hostilities*" must have been made. Thus it is admitted, as well as in the two first articles, that the Cherokees have the same right to declare war, as other powers of the earth have. To declare war and make peace are enumerated, in our own declaration of independence, as among the highest attributes of national sovereignty. The other attributes there enumerated are to form alliances and to establish commerce. It is a curious fact, that every one of these attributes was exercised by the Cherokees, in the negotiation of the treaty of Hopewell.