

STATEMENT of the CLAIMS upon the GEORGIA WESTERN TERRITORY.

A SUMMARY STATEMENT of the claims of the State of Georgia, and of the United States, to the GEORGIA WESTERN TERRITORY; and of the Arguments adduced by the Purchasers of a part of this Territory, to invalidate these claims; particularly to such parts as are covered by their purchases; collected and stated with impartiality from various authentic printed and manuscript documents.

[The following is referred to at the close of the article Georgia Western Territory; which see.]

THE State of Georgia say, that "the unappropriated territory," usually considered as within the limits of the State of Georgia, or the tract of country now distinguished by the name of the *Georgia Western Territory*, is their property, and that they have "not only the right of pre-emption, but also of exercising all territorial rights."

1. Because, by the 2d and 9th articles of the confederation of 1781, the territory within the limits of each of the United States is confirmed and guaranteed to each of them respectively.
2. Because, the boundaries of Georgia, as established by the treaty of Paris, of 1783, and by the convention at Beaufort of 1787, include this territory; and the 6th article of the Federal Constitution, by the spirit and meaning of it, confirms these limits.
- And, 3dly, Because the United States, by accepting a cession from N. Carolina, of her Western Territory, did in fact acknowledge and recognize the right of Georgia to her Western Territory.* To this claim of Georgia the purchasers accede; upon this ground the sales were made to the respective companies in 1795, and on this ground the purchasers rested the validity of their claim:

But the State of Georgia now reclaims that part of her Western Territory sold according to the act of her legislature, of Jan. 7, 1795, alleging that the act authorizing the sale, is contrary to the fourth article of the Constitution of the United States; repugnant to the 16th and 17th sections of the first article of the constitution of Georgia, and was moreover obtained by means of "fraud, atrocious speculation, corruption, and collusion." Hence, by an act passed Feb. 13, 1796, the above act of Jan. 7, 1795, was "declared null and void, and the grants, rights, and claims, deduced from it, annulled, and rendered void and of no effect."†

In answer to the above stated claim of Georgia, it is contended by the purchasers, that the repealing law of Georgia is merely void, and leaves the title of the purchasers where it found it. If corruption, they say, did exist in the legislature which made the sale, (which is however strenuously denied) it is very questionable whether it can ever be alleged, as a contract cannot be repealed, like other acts of legislation; and as the supreme power of a State, as such, cannot be accountable to any other constituted authority; for that implies a superior tribunal. By this, however, is not meant that the wrong done cannot be individually prosecuted for corruption, though the State may be bound by the sales. If the allegation were, say they, that the legislature were deceived by the purchasers, the grant, like that of an individual, unfairly obtained, would be void on proof of the fraud: but for a legislature to allege its own criminality and corruption, to avoid its own grant, is truly novel; and, in point of principle, there is no difference between the same and a preceding legislature. But if corruption of this kind can make void the grant, at least it ought to be proved; and that too in a court competent to weigh the evidence, and decide on the fact: in other words, it is a judiciary question, triable only in a judiciary court, and being a question of fact, must be tried by a jury. The legislature, therefore, having no authority in this case, this examination and decision can be considered no otherwise than as mere usurpation, and void. And perhaps in justice to the purchasers, it ought to be added, that the depo-

sitions

* Such are the grounds of claim alleged by Georgia to her Western Territory, in her Act of Jan. 7th, 1795. Other and stronger grounds seem to have been taken by the purchasers and their agents, which will be seen in the sequel of the statement.

† Act of Feb. 13, 1796.