

were, to the same, and then, with full knowledge on the part of the Cherokees, conveyed, by the most solemn form known to our civilized people, the title to the same to the Cheyennes and Arapahoes *for a valuable consideration*; and the title thus conveyed has never been relinquished nor divested.

In order to arrive at a correct conclusion as to the first of these propositions, we deem it essential to refer to the history of the title from the time said lands were severed from the public domain, and especially the title to that portion situated in what is known as the Cherokee Outlet.

By article two of the treaty between the United States and the Cherokee Nation, proclaimed May 28, 1828, (7 Stat. 311,) the United States agreed to possess the Cherokees with seven millions of acres of land (their present home). And in the same article it is provided as follows:

"In addition to the seven millions of acres thus provided for and bounded, the United States further guarantee to the Cherokee Nation a perpetual outlet west, and a free and unmolested use of all the country lying west of the western boundary of the above-described limits, and as far west as the sovereignty of the United States and their right of soil extend." (7 Stat. 312.)

The treaties with said nation of date February 14, 1833, and December 29, 1835, (7 Stat. 415-478,) with a slight modification of the boundaries, reaffirmed this grant. But as will be observed, it was, in so far as the outlet is concerned, simply a grant of a right of way to the hunting grounds, with no right whatever to the soil. Of this fact