

share proportionally in the conquests from a common enemy, effected by common and united effort. These claims, in their origin, rested not upon deeds of cessions from the States, but upon rights over-riding their exclusive claims, and inherent in all the contending States. As between the confederate States and the States ceding territory, these cessions "did convey the soil as well as the jurisdiction," so as to bar those States from a future claim to exclusive dominion.

But we deny that the acceptance of these cessions, by the confederated States, implied an acknowledgement of the justice of such claim of exclusive right of dominion and property in the ceded territory.

Virginia, New York, etc., could only cede their own claims. Maryland, as a party accepting the cessions, was, we are willing to admit, so far bound by them, as the observance of the conditions attached, required. The claim of Maryland resting upon participated conquest and treaty, has never been surrendered; and we deny to the Congress of the United States any control over that claim, either by virtue of the cessions or the power under the constitution, of "disposing of the territory," except in its capacity as trustee, (as subsequently explained,) restricted in its exercise even of that authority, by the invariable declaration of the States, that the fund arising from this property should be disposed of for the common benefit and use of the States in just proportions. But admitting that the whole title to public lands now rests upon cessions from the States, we still deny the accuracy of His Excellency's conclusions. At the period of the cessions, each State contributed its quota of expense in maintaining and defraying the costs of the war. They were united by articles of confederation; by league between, not a constitution over them; each State using all the powers and rights not necessarily parted with, to give efficiency to their common agent, the Congress. At this period no idea of a general government or federal constitution was mooted; and the States looked to the ending of the war as restoring to them many of the rights and authorities temporarily parted with from the exigencies of the period. The lands at this time ceded, were unquestionably intended as a fund, primarily, for defraying the common expenses of the war. New York, *non obstante* the intimation of His Excellency, that no deed looked to an exclusive application of the fund, expressly states, in her legislative session, that a portion of the contested territory "ought to be appropriated as a