

2-21-1865

Cherokee Indians. Memorial of the Principal Chief and others of the Cherokee Nation, asking for the payment of interest, &c

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>

 Part of the [Indian and Aboriginal Law Commons](#)

Recommended Citation

H.R. Misc. Doc. No. 52, 38th Cong., 2nd Sess. (1865)

This House Miscellaneous Document is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact darinfox@ou.edu.

CHEROKEE INDIANS.

MEMORIAL

OF THE

PRINCIPAL CHIEF AND OTHERS

OF THE

Cherokee Nation, asking for the payment of interest, &c.

FEBRUARY 21, 1865.—Referred to the Committee on Indian Affairs and ordered to be printed.

*To the honorable the Senate and House of Representatives of the United States
in Congress assembled:*

The undersigned, principal chief and delegates of the Cherokee Nation, duly authorized and empowered to represent the interests and welfare of the Cherokee Nation before the government of the United States, beg leave most respectfully to ask the attention of your honorable bodies to the condition of the Cherokee people, as brought about by the present war.

It is known that the Cherokee Nation, by their treaties, have placed themselves under "the protection of the United States of America, and of no other sovereign whosoever." For a long series of years they have prospered under that protection, and have made encouraging advances in those forms of "civilization" which have so distinguished and elevated the people of the United States.

Before the present war, agriculture, stock-raising, and other branches of industry, were successfully and profitably pursued by them; the comforts of life had accumulated, and, in many cases, (comparative) wealth had rewarded the labor and skill of their citizens. And evidence of moral, mental, and religious progress was furnished by the presence of their school-houses, printing presses, and churches, all of which were in a more or less prosperous condition; but the ravages of war have changed the scene, and spread destitution, bereavement, and desolation, like the shadow of death, over all the land. Not a family has escaped.

On the abandonment of the frontier posts by the Union forces, the rebels rushed in and seized the country, while the loyal Cherokees, deprived of the protection of the United States, were utterly powerless to resist them, except by remonstrance; but when the Union army arrived in the summer of 1862, and our young men rushed to that standard by hundreds, the rebels, panic-stricken and in haste, fled towards the south.

At that time a small force could have held the country; but in the moment of success a most unfortunate retreat was ordered, by which all the advantages that had been gained were thrown away, and the whole brigade, including the Cherokee and Creek recruits, (upwards of 3,000 men,) were dragged away to Fort Scott, in the State of Kansas, leaving the Cherokee country to be reoccupied by the rebels. And that was quickly done; and the most brutal outrages were committed by them on the families of the loyal Cherokees. Many of these families, thus exposed, consisting of women, children, and old men, were compelled to abandon their homes and property and follow after their husbands, sons, and brothers, in the retreating army.

After a bitter exile of many months several hundreds of these refugees were brought back about April, 1863, and nearly all the rest in 1864, but too late in the season to raise much of a crop. The sufferings of these people, both while in exile and after their return, have been frightful in privation, sickness, and death. The survivors of them, however, as well as the general population of the nation, are now in the country, and most humbly and earnestly ask of the government such protection as will enable them to reoccupy their homes, put their laws and institutions into operation, and under the guidance of a kind Providence resume afresh their several industrial avocations. And in this view we approach your honorable bodies with the most profound deference, and ask that those stipulations of our several treaties which are applicable to our present circumstances may be patiently reviewed and enforced.

In order to facilitate such a review we beg leave to refer to a few articles in our treaties in which such stipulations are found.

By the third article of the treaty of Hopewell, November 28, 1785, the Cherokees are acknowledged "to be under the protection of the United States of America, and of no other sovereign whosoever."

Article 12th of the same treaty provides "that the Indians may have full confidence in the justice of the United States respecting their interests; they shall have the right to send a deputy of their choice, whenever they think fit, to Congress."

In the second article of the treaty of Holston, July 2, 1791, after the adoption of the Constitution of the United States, "the Cherokees again acknowledge themselves 'to be under the protection of the United States of America, and of no other sovereign whosoever;' and they also stipulate that the said Cherokee Nation will not hold any treaty with any foreign power, individual State, or with individuals of any State." In reference to the country now occupied by the Cherokee Nation, the fifth article of the treaty of 1835 provides that—

"The United States hereby covenant and agree that the lands ceded to the Cherokee Nation in the foregoing article shall in no future time, without their consent, be included in the territorial limits or jurisdiction of any State or Territory. But they shall secure to the Cherokee Nation the right, by their national councils, to make and carry into effect all such laws as they may deem necessary for the government and protection of the persons and property, within their own country, belonging to their people, or such persons as have connected themselves with them."

By article sixth of the same treaty of 1835, "the United States agree to protect the Cherokee Nation from domestic strife and foreign enemies, and against intestine wars among the several tribes. They shall also be protected against interruption and intrusion from citizens of the United States who may attempt to settle in the country without their consent; and all such persons shall be removed from the same by order of the President of the United States."

Article first, treaty 1846, provides "that the lands now occupied by the Cherokee Nation shall be secured to the whole Cherokee people for their common use and benefit; and a patent shall be issued for the same, including the eight

hundred thousand acres purchased, together with the outlet west, promised by the United States, in conformity with the provisions relating thereto, contained in the third article of the treaty of 1835, and in the third section of the act of Congress approved May 28, 1830, which authorizes the President of the United States, in making exchanges of lands with the Indian tribes, to assure the tribe or nation with which the exchange is made, that the United States will forever secure and guarantee to them and their heirs or successors the country so exchanged with them; and if they prefer it, that the United States will cause a patent or grant to be made and executed to them for the same: *Provided always*, that such lands shall revert to the United States if the Indians become extinct, or abandon the same."

In reference to the safe-keeping of the funds of the Cherokee Nation, and the payment of the annual interest accruing thereon, the treaty of 1835, article 10, provides: "That the President of the United States shall invest in some safe and most productive public stocks of the country, for the benefit of the whole Cherokee Nation who have removed or shall remove to the lands assigned by this treaty to the Cherokee Nation west of the Mississippi, the following sums as a permanent fund for the purposes hereinafter specified, and pay over the net income of the same annually to such person or persons as shall be authorized or appointed by the Cherokee Nation to receive the same, and their receipt shall be a full discharge for the amount paid to them."

The several particulars herein briefly noticed are set forth more forcibly, and in more touching detail, in a petition from the Cherokee national council to his excellency the President of the United States, under date of January 20, 1864, a copy of which was laid before Congress, with a memorial from the Cherokee delegation, under date of June 14, 1864. Of the matters recited in those documents we ask a patient examination.

And in order that the Cherokee Nation may be enabled to control its own means, under its laws and institutions, for the promotion of the interests and welfare of their people, in pursuing their wonted avocations, by providing for reopening their public schools, and also for meeting the just liabilities of their government, we respectfully ask that the interest due on the investments of the Cherokee national funds may be appropriated and paid over to the authorities of the nation, in conformity with the provisions of the article above quoted.

We have the honor to be, very respectfully, your obedient servants,

JOHN ROSS, *Principal Chief.*

EVAN JONES,

D. H. ROSS,

Cherokee Delegates.

WILLARDS' HOTEL,

Washington, D. C., February 18, 1865.