

3-2-1865

Consolidation of the Indian Tribes. Protest of the Cherokee Nation against Senate bill 459, entitled "A bill to provide for the consolidation of the Indian tribes, and to establish civil government in the Indian territory."

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. 56, 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](mailto:darinfox@ou.edu).

CONSOLIDATION OF THE INDIAN TRIBES.

PROTEST  
OF THE  
CHEROKEE NATION

AGAINST

*Senate bill 459, entitled "A bill to provide for the consolidation of the Indian tribes, and to establish civil government in the Indian territory."*

MARCH 2, 1865.—Referred to the Committee on Indian Affairs and ordered to be printed.

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

The undersigned, principal chief and delegates of the Cherokee nation of Indians, beg leave most respectfully to present this our humble protest against the passage of the bill entitled "A bill to provide for the consolidation of the Indian tribes, and to establish civil government in the Indian territory."

Permit us to ask your kind attention, while we attempt to show why this bill should not be adopted.

But a few years ago—fresh in the recollection of even our young men—the Cherokee Nation owned and occupied a country healthful, fruitful, and beautiful, eight or nine hundred miles from their present possessions, toward the rising sun.

The memories of Chattanooga, Lookout Mountain, Missionary Ridge, Rossville, Etowah, Spring Place, Red Clay, Creek Path, and other places, made sacred by the graves of our fathers, no less than by the blood of your patriots, will in history be associated with the Cherokee people no less than with yours.

The State of Georgia wanted that country, and determined to have it, regardless of right; and she was permitted to triumph, and the Cherokees removed to their lands in the west ceded to them under previous treaties, and secured by guarantees, resting upon solemn treaty provisions, such as inspired them with the fullest confidence that they would never again be molested. This confidence was based upon obligations declared to be the supreme law of the land.

Permit us to quote some of the provisions pertinent to the subject under consideration, and on which we ground our argument.

Explanatory of the causes leading to the treaty of 1835, and the removal of the Cherokee Nation from their eastern homes to the west, and the cession to them of their present country by the United States, the following declaration was inserted as part of the preamble of said treaty of 1835, in justification thereof, viz:

"Whereas the Cherokees are anxious to make some arrangements with the government of the United States whereby the difficulties they have experienced, by a residence within the settled parts of the United States, under the jurisdic-

tion and laws of the State governments, may be terminated and adjusted; and with the view of reuniting their people in one body, and securing a permanent home for themselves and their posterity without the territorial limits of the State sovereignties, and where they can establish and enjoy a government of their choice, and perpetuate such a state of society as may be most consonant to their views, habits and condition, and as may tend to their individual comfort and their advancement in civilization:

“Therefore, the following articles of a treaty are agreed upon.”

Here follows the boundary of the country conveyed to the Cherokee Nation by the United States, and embraced in the bill pending before your honorable bodies.

Article 3d, treaty of 1835, stipulates that “The United States also agree that the lands above ceded, by the treaty of February 14, 1833, including the outlet, and those ceded by this treaty, shall all be included in one patent, executed to the Cherokee Nation of Indians by the President of the United States, according to the act of May 28, 1830.”

Article 5th. “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 within 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.”

Article 1st of the treaty of 1846 reiterates the foregoing provisions.

In article 6th, treaty of 1835, the United States “agree to protect the Cherokee Nation from domestic strife and foreign enemies, and against intestine wars between 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 shall be removed from the same by order of the President of the United States.”

Article 10th, treaty of 1835, provides for the safe-keeping and investment of Cherokee moneys by the President of the United States, which moneys shall constitute a permanent fund, and the “net income of the same” be paid over by the United States “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.” These funds are expended under the direction of the national council, by exact appropriation acts, for the purposes designated in the treaties.

By the 3d article, treaty of Hopewell, 1785, the Cherokees acknowledge themselves to “be under the protection of the United States of America, and of no other sovereign whosoever.” This obligation, which is a mutual one, is reiterated in treaties of a much later date. We mention it to show the obligation arising therefrom—that of good faith, alike binding on the part of the protected and protector. And permit us here to remark that the Cherokees, having placed themselves under the protection of the strong arm of the United States, feel justified in expecting and trusting that all their rights and interests will be secure, and their grievances redressed.

As a consequence growing out of the treaties from which the foregoing extracts are taken, under an arrangement with General Scott, who had been authorized for that purpose by special instructions from the government, the Cherokee Nation, in 1838, emigrated from their eastern homes to the west. This was done under the direction and management of their own officers, appointed by their general council, and accountable for the faithful performance of their several duties to the Cherokee Nation alone. And the removal was effected in a manner entirely satisfactory.

On their arrival west an act of union was entered into between them and the previous emigrants, and a new government was established; a constitution adopted; the country laid off into eight districts; and the requisite officers—executive, judicial, and legislative—provided for, which, in the executive department, were a principal chief, assistant chief, and executive council; in the legislative department, two houses, the committee answering to the senate, the council answering to the lower house, and both together constituting the national council. In the judiciary department there are judges of the supreme court, elected by the legislature for four years, and judges of the circuit and district courts, elected, in like manner, for two years. The national treasurer, elected by the national council for four years, executes a bond, with sufficient securities, for the faithful performance of the duties of his office. In the department of education they established, first, their common schools, and, in a few years, one male and one female high school, with competent teachers.

For twenty-two years a kind Providence smiled upon their humble efforts, and greatly blessed and prospered them in all the departments of life. They had long become able to provide for the requirements of the advanced social condition to which they had attained. Their young men and women had made such proficiency in education as to fit them to conduct with credit the public day schools of the country, and some of them were qualified to occupy the more honorable and responsible positions of instructors in the high schools. These schools were all thronged with youths of both sexes, eager for instruction. And when we announce that one hundred of our young ladies pursuing the higher branches were in attendance at our female seminary when it suspended, some idea may be formed of the degree of civilization to which our people had attained.

Competence and comparative wealth had rewarded the enterprise of the people, placing all classes above want, and enabling many to adorn and beautify their residences with many of the conveniences and even the elegances of the present day. All classes owned more or less stock, and many counted their horses and sheep by hundreds, and some numbered their herds of cattle by thousands. In population they were rapidly increasing.

On the breaking out of the war, in all those unmistakable evidences of national prosperity, industry, intelligence, schools, churches, and consequent general happiness, the Cherokee Nation had nothing to fear from a comparison with some of the States of the American Union. Their experiment at government has been a signal success. And with the exception of that one dark spot, slavery, which was introduced into their political system by intercourse with their surrounding white neighbors, a more liberal, equal, and just government does not exist. And be it recorded to the honor of the Cherokees, that they were the first to wipe off that dark spot; and in February, 1863, by their national council, forever abolished slavery within the limits of the Cherokee Nation.

The Cherokees have always been faithful to their treaty obligations. In peace and in war they have been true to the honor and interests of the United States, as their friend and protector. In the war of 1812-13, they acted a brave and conspicuous part, under General Jackson. And in the present war they have been prompt to answer to the first call, and, with the loyal Creeks, have performed efficient and arduous service in recovering from rebel rule Missouri, Arkansas, and the Indian territory, and in defending the same.

To illustrate the loyalty of the Cherokee legislature, we take the liberty to transcribe an act of the national council, expelling from office every disloyal person, and declaring their offices vacant:

"AN ACT for the removal of disloyal men from office.

"Be it enacted by the national council, That all officers of the Cherokee Nation, in the legislative, judicial, and executive departments, and all other officers whatsoever, who are disloyal to the government of the United States and to that of the Cherokee Nation, be, and the same are hereby, removed from office, and their respective offices are hereby declared vacant.

"LEWIS DOWNING,

"President pro tem., National Committee.

"J. B. JONES, Clerk National Committee.

"COWSKIN PRAIRIE, Cherokee Nation, February 20, 1863.

"Concurred in council, February 20, 1863.

"SPRING FROG, Speaker Council.

"W. M. SCRAPER, Clerk Council.

"Approved February 20, 1863.

"THOS. PEGG,

"Acting Principal Chief."

In conclusion, we appear before your honorable bodies, on behalf of our own nation, and of our neighbors and friends, the loyal Creeks, Seminoles, and others, and beg leave most respectfully to repeat our earnest protest against the passage of the bill, as a violation of the most important provisions of our treaties, and a measure fraught with trouble and wrong, and ruin to our people and our institutions. And we beg leave respectfully again to ask your honorable bodies that efficient protection may be afforded to our people. And also that the interest due on our invested funds may be paid to the treasurer of the Cherokee Nation, who is authorized to receive the same, as provided for by treaty, and that it be not passed by agents into the hands of contractors.

JOHN ROSS, Principal Chief,

EVAN JONES,

DANIEL H. ROSS,

Cherokee Delegates.

WILLARDS' HOTEL,

Washington, D. C. March 2, 1865.