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Letter from the Secretary of the Interior, transmitting a draught of a bill to amend an act entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1849, and for other purposes."

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CHEROKEES EAST OF THE MISSISSIPPI.

L E T T E R.

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING

A draught of a bill to amend an act entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1849, and for other purposes."

FEBRUARY 16, 1874.—Referred to the Committee on Appropriations and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., February 14, 1874.

SIR: I have the honor to present herewith, for the consideration of Congress, a draught of a bill to amend sections 4 and 5 of an act entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1849, and for other purposes," approved July 29, 1848, in relation to certain Eastern Cherokee Indians. (See Statutes at Large, vol. 9, pp. 264, 265.)

The necessity for the legislation contemplated by the bill herewith submitted is explained in the accompanying reports of the Commissioner of Indian Affairs, dated the 10th and 13th instants, respectively, and the attention of Congress is respectfully invited to the subject.

Very respectfully, your obedient servant,

B. R. COWEN,
Acting Secretary.

THE SPEAKER *House of Representatives.*

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., Feb. 10, 1874.

SIR: In accordance with the provisions contained in the 4th and 5th sections of the act of July 29, 1848, (Stat., vol. 9, pp. 264, 265,) a census or roll of the Eastern Cherokees who remained in the State of North

Carolina at the time of the ratification of the treaty of New Echota, May 23, 1836, (Stat., vol. 7, p. 478,) and who were entitled to have set apart for them the per capita fund of \$53.33 referred to in said act, and to receive interest thereon, was taken by I. C. Mullay, in the year 1849, and the number thus entitled ascertained to be 1,517 in all, including many white people claiming affinity with the Cherokees.

Subsequently, in order to determine who were the legal heirs and representatives of those enrolled in 1849, but since deceased, the Secretary was directed by act of Congress approved July 27, 1868, (Stat., vol. 15, p. 228,) to cause another census of said Indians to be taken, to serve as guidance in future payments.

This census was taken by S. H. Swetland, in 1869, and he was instructed to make payment of interest then due to the Eastern Cherokees, guided by said roll, but on the same principle on which previous payments had been effected, that is, to those individuals only embraced in the roll of I. C. Mullay, or their legal heirs and representatives, as ascertained by the census taken by himself.

The difficulty of tracing Indian genealogy through its various complications in order to determine who are legal representatives of deceased Indians, without any rules by which hereditary descent among these people may be clearly established, and where, as in the present case, a single share of \$3.20 would frequently have to be divided into small fractional parts, was fully demonstrated in the payment made by Mr. Swetland, and has led to litigation and serious embarrassment to the Department.

With a view to avoid similar complications in the future, I have caused to be prepared, and herewith inclose, a draught for a bill amendatory of the act of July 29, 1848, above referred to, and respectfully recommend the same for the favorable consideration of the Department and of Congress.

Very respectfully, your obedient servant,

E. P. SMITH,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

A bill to amend an act entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and forty-nine, and for other purposes," approved July twenty-ninth, eighteen hundred and forty-eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections four and five of the act entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and forty-nine, and for other purposes," approved July twenty-ninth, eighteen hundred and forty-eight, be amended as follows:

SEC. 1. That the Secretary of the Interior shall cause a new census to be taken of the Cherokee Indians now residing east of the Mississippi River, which shall include the number and names of such individuals and families of said Indians who wish to remain and become citizens of the States in which they live; also the number and names of such individuals and families who desire to remove and join the Cherokee tribe west of said river; whereupon the Secretary of the Interior shall report the same to the Secretary of the Treasury, who shall set apart, out of any moneys in the Treasury not otherwise appropriated, a sum equal to fifty-three dollars and thirty-three cents for each individual ascertained as aforesaid, and that the Secretary of the Interior cause to be paid to every such individual, or his or her legal representatives, interest at the rate of six per cent. per annum on said per capita from the date of the passage of this act.

SEC. 2. That whenever hereafter any individual or individuals of the Cherokee Indians specified in section 1 of this amendment shall desire to remove and join the tribe west of the Mississippi, the Secretary of the Interior shall be authorized to withdraw from the fund set apart as aforesaid the sum of fifty-three dollars and thirty-three cents, and the interest due and unpaid thereon, and apply the same, or such part thereof as may be necessary, to the removal and subsistence of such individual or individuals, and pay the remainder, if any, or the whole, if the said Indians or any of them shall prefer to remove themselves, to such individuals or heads of families upon their removal west of the Mississippi.

SEC. 3. That the Secretary of the Interior cause to be ascertained the number and names of such individuals and families of the Eastern Cherokee Indians who have, since July 1, 1867, at their own expense, removed and joined the tribe west of the Mississippi River, and have not been re-imbursed therefor by the United States, as provided by section 5 of the act aforesaid, approved July twenty-ninth, A. D. eighteen hundred and forty-eight, and shall report the amount necessary to re-imburse such persons to the Secretary of the Treasury, who shall set apart, out of any moneys in the Treasury not otherwise appropriated, an amount sufficient to enable the Secretary of the Interior to pay or cause to be paid to the individuals or heads of families who removed at their own expense a sum which shall be equal to fifty-three dollars and thirty-three cents for each person who removed as aforesaid: *Provided*, That the amount herein required to be funded for the benefit of the said Cherokees east and west of the Mississippi River, and the amount required to be paid them, shall be charged to the general Cherokee fund, under the treaty of New Echota, and shall be re-imbursed therefrom.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., Feb. 13, 1874.

SIR: I have the honor to acknowledge the receipt of your letter of this date, returning the draught of a bill submitted with my report of the 10th instant, amendatory of the act of July 29, 1848, with reference to the Cherokees of North Carolina.

As suggested in your said letter, I have caused to be added to said bill a proviso that the amount of moneys furnished under the bill shall be charged to the "general fund" of the Cherokees under the treaty of New Echota, and shall be re-imbursed therefrom.

I have also caused to be changed the date mentioned in section 3 of the bill, from July 12, 1869, to July 1, 1867.

Very respectfully, your obedient servant,

E. P. SMITH,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

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