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Memorial of Cherokee Chiefs and Delegates

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IN THE SENATE OF THE UNITED STATES.

MARCH 20, 1890.—Presented, referred to the Committee on Territories, and ordered to be printed.

MEMORIAL OF THE CHIEF AND DELEGATES OF THE CHEROKEE NATION, REMONSTRATING AGAINST THE AMENDMENTS OF THE HOUSE OF REPRESENTATIVES TO BILL (S. 895) PROPOSING TO ORGANIZE A TERRITORIAL GOVERNMENT FOR OKLAHOMA WHICH INCLUDES WITHIN THE BOUNDARIES OF SAID TERRITORY A PORTION OF THE CHEROKEE STRIP.

To the Congress of the United States :

The undersigned, representatives of the Cherokee Nation, do respectfully represent that under and by virtue of several treaties entered into with the United States, and in consideration of lands ceded by the Cherokee Nation to the United States, both east and west of the Mississippi River, there was ceded to the said Cherokee Nation all the lands embraced in the letters patent executed by the President of the United States in pursuance of said treaties of the date of the 31st day of December, 1838, including what is known as the Cherokee Outlet, under a solemn pledge of the United States that the Cherokee Nation should "occupy and enjoy the same, and have a free and unmolested use, to be and remain theirs forever;" and they should not be "embarrassed by having extended around the said lands so conveyed the lines, or placed over it the jurisdiction of a Territory or State; nor be pressed upon by the extension in any way of the limits of any existing Territory or State."

That by the treaty of 1866, the Cherokee Nation agreed that the United States might settle any civilized Indians, friendly with the Cherokees and adjacent tribes, within the Cherokee country on *unoccupied* lands east of the 96th degree, on such terms and conditions as are provided for in the fifteenth article of said treaty, and the Cherokee Nation also agreed that the United States might settle friendly Indians in any part of the Cherokee country west of the ninety-sixth parallel, on the terms and conditions stipulated in the sixteenth article of said treaty, but until thus sold and occupied the Cherokee Nation was to retain the right of possession and jurisdiction over all of said country west of the 96th degree. These provisions of the treaty of 1866 have always been faithfully respected and observed by the Cherokee Nation.

Under the provisions of the fifteenth article there have been settled on unoccupied lands east of the ninety-sixth parallel, the Delaware and Shawnee tribes, which tribes have become duly incorporated into and now form a part of the said Cherokee Nation on equal terms in every respect with the native citizens.

Under the provisions of the sixteenth article of said treaty there

have been settled five tribes, as follows: The Osages, the Pawnees, the Otoes, the Poncas, the Nez Perces, and the Kaws, and to the said several tribes the said Cherokee Nation has, in pursuance of said treaty, executed conveyances in fee simple for their respective lands and has received the consideration for said lands, as agreed to under the term of said treaty, but all of the remaining lands of the so-called outlet are in the rightful possession and under the jurisdiction of the Cherokee Nation.

An agreement was entered into by the United States to sell a part of said outlet to the Cheyennes and Arapahoes, which was never consummated, and neither of said tribes ever went into the occupancy of any portion of said lands, nor has the Cherokee Nation ever received any consideration therefor or any consideration for any portion of said lands except those that have heretofore been conveyed to the five friendly tribes that are settled upon the same and are now in the occupancy thereof.

That the Cherokee Nation have at all times refused to consent that any of their said lands, including the said outlet, should be embarrassed by or have extended around them the jurisdiction of any State or Territory, and they now solemnly protest in behalf of the Cherokee Nation against the passage of those amendments made by the House of Representatives to Senate bill 895. To the Senate bill proper we offer no objections, on the contrary, we regard it as a measure entirely free from ambiguity, and one that the United States, as far as the Cherokee Nation is concerned, have full right to adopt, but the House amendments, to which we make objection, propose to organize a territorial government with boundaries that nominally include all that part of the territory of the Cherokee Nation not occupied by them east of the ninety-sixth parallel of west longitude, and all that part of the Cherokee territory and lands known and designated as the Cherokee Outlet, and against these amendments we protest as violative of our territorial rights under the treaty contracts of the United States above referred to, and as causing irreparable injury to the Cherokee Nation by inviting aggression upon their said lands.

That while the said amendments profess to except out of the boundaries therein constituted, the lands claimed by the Cherokee Nation nominally embraced within the limits of the territory as defined until such time as the Cherokee Nation shall assent thereto, yet the effect of this measure is to discredit the claim and title of the Cherokee Nation to the said lands, and to invite aggression upon the same from parties seeking to secure lands in the Western Territories.

The Cherokee Nation has never proposed to sell or dispose of its said territory in any other manner or for any other purpose than that of settling upon it friendly civilized tribes; and it is now evident that the United States have no longer any desire to acquire these lands for that purpose.

The opening of the Oklahoma Territory, south of the possession of the said Cherokee Nation, to the occupancy and settlement of white people, and the attempt to draw lines of a territorial government around the lands of the Cherokees not in immediate occupancy, have disclosed a purpose of the United States to secure, if possible, all of such lands that are not in the immediate occupancy of Indians, for the benefit of white claimants, and the House amendments referred to, if carried into acts of legislation, will be looked upon by the Cherokee Nation as designed to enforce a sale of their property to the United States at such price and upon such terms as the United States may demand.

For some years past the Cherokee Nation has utilized its lands known as the outlet by leasing them for grazing purposes, and a very important industry was developed that was furnishing a very considerable revenue to the Cherokee Nation, which has been utilized in increasing their facilities for education.

That improvements have been made upon said lands by the construction of fences and buildings of the value, at least, of \$250,000, which belong to the Cherokee Nation; but since the President's proclamation setting aside said leases and ordering the men who were engaged in grazing cattle on said lands under the same to quit said territory with their cattle, on or before the 1st of October next; and since the passage by the House of Representatives of the amendments referred to, large numbers of white people who have been gathered upon the confines of said territory, assuming that these several acts had in fact opened the territory to settlement, have entered into the same without right and destroyed much of said property.

In this connection we may note the fact that the commission appointed under the provisions of section 14 of the Indian appropriation act of March 2, 1889, visited our country with the ostensible purpose of negotiating with the Cherokee Nation for the purchase of all its land west of the ninety-sixth degree of longitude, and the result of such visit, together with the correspondence that took place between the representatives of the Cherokee Nation and said commissioners, has already been laid before Congress by the delegates of the Cherokee Nation, and to which we desire the special attention of Congress in this connection.

The Cherokee Nation has no desire to part with any part of their territory and have at no time made any offer or suggestion for the disposal of it for general occupancy and settlement, and if the exigencies of the United States are such with respect to its own people as to demand any portion of said territory for settlement and cultivation it would only be justice and fair dealing that such purchase should be made without coercion or compulsion of any kind and that a fair price be paid therefor, and that the United States should at the same time and in connection therewith take such action with reference to the remaining possessions of the said Cherokee Nation as would give them quiet, peaceable, and enjoyable possession thereof.

That by the treaty stipulations under which this territory was ceded to and set apart for the exclusive use and benefit of the Cherokee Nation the United States obligated itself to protect the nation against interruption and intrusion from citizens of the United States who might attempt to settle in the country without its consent, and that all such persons should be removed from the same by order of the President of the United States. Yet, notwithstanding that solemn obligation, thousands of persons, citizens of the United States, have intruded themselves into and settled upon lands within what is known as the Cherokee home against the will of the Cherokee Nation, and continue to reside therein, making improvements upon such lands and enjoying the use and benefit of thereof, notwithstanding the nation has repeatedly, through proper authority, called the attention of the President of the United States to the same and requested that they be removed in compliance with the plighted faith of the United States.

In addition to the above omissions of the United States to comply with its treaty obligations with the Cherokee Nation, there are many other matters growing out of past transactions that ought to be adjusted and settled between the United States and the Cherokee Nation, and if it be the purpose of the United States to negotiate further with

regard to the purchase of the lands in question, we respectfully suggest and submit that the authority to thus negotiate should be made sufficiently broad to cover all questions of controversy, and the adjustment of all rights at present existing between the United States and the said nation.

Relying upon the good faith and honor of the United States, as we have always done, and in the belief that it is only necessary for the Congress of the United States to fully understand the facts in order that justice may be done to our people, we respectfully submit this our memorial.

J. B. MAYES,
Principal Chief Cherokee Nation.
JOHN L. ADAIR,
D. W. BUSHYHEAD,
Cherokee Delegates.

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