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### Cherokee Indians. Memorial of a delegation of the Cherokee Nation of Indians.

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CHEROKEE INDIANS.

MEMORIAL

OF A

DELEGATION OF THE CHEROKEE NATION OF INDIANS.

MAY 10, 1830.

Read, and laid upon the table.

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

The undersigned memorialists, under the authority of the Cherokee Nation,  
RESPECTFULLY SHOWETH:

That, in consequence of a pretended claim set up by the State of Georgia to a large portion of the lands belonging to their nation, under the pretext of having been purchased from the Creeks, the Executive of the United States has proceeded to change and alter the established boundary line of said nation, and to allot the said State a considerable portion thereof; against which we do hereby solemnly protest before your honorable bodies, in behalf of the aforesaid Cherokee nation. A line of separation between the two nations was agreed upon, marked out, and permanently established, to the satisfaction of both parties, in 1802; and they do not consider that it is within the range of Executive duties to remove the "landmarks" of any tribe or nation, contrary to its consent, and the established principles heretofore pursued by this Government. It is believed to be unjust, because the line declared by the Executive is one never contended for by the aforesaid State, the Cherokees or Creeks, at any period of time whatever; nor ever thought of by the two latter; and, also, as the claim first set up to these lands was under the treaty of "Indian Springs," after its abrogation, and since veered to that negotiated by Thomas L. McKenney; and, moreover, as they have ever been in the peaceable occupancy of the Cherokees, the Creeks disclaiming any right, title, claim, or interest, in or to them, and were never included in any treaty or articles of cession subsisting between them and the General Government, nor ever so understood to be by either of the contracting parties.

In tracing and establishing this line of separation, neither deemed it essential, or that the sanction of the Government was necessary to its confirmation before it could be valid and binding. It concerned only them; and as neither ceded or transferred any portion of land or title to the other, or altered in any manner boundaries fixed by treaty, nor infringed in any way upon

the statutes of the United States or subsisting treaties, they did not conceive how or in what respect it became necessary for the Government to become a third party to the arrangement. At the two extremities, the points to which the claims to territory extended, were defined and recognized by the Government in treaties, viz: at the "High Shoals of the Apalachy," now in Georgia, and at the "lower end of the Ten Islands," in Coosa river, Alabama, from which two points, or rather the former, having been drawn to the Châttahooehie river; by subsequent cessions it became expedient that a direct line, from one point to the other, should be marked out by persons duly appointed and authorized. It passed entirely through the Indian territory; and *they*, of all others, knew best the extent of their just claims. This being the case, it was a matter to be settled by themselves. The Government was made fully sensible of all that had occurred; and, for ten years, not a whisper of exception or disapprobation heard. On the contrary, *this line* was regarded by the Government, and all its Commissioners, in negotiating and forming subsequent treaties, by the constituted authorities of Georgia, in their legislation, and by the Surveyors who executed the orders of both the General and State Government; and, it is believed, but for the prevailing anxiety to acquire Indian lands, and the removal of those unfortunate people beyond the limits of the States and desirable country, ages might have passed away, and this act remained valid to all intents and purposes.

We respectfully solicit your attention to this important subject; and rely, with the utmost assurance, that ample justice will be done to all parties.

We beg leave, also, to represent before you the grievances of our people, upon another subject of vital importance to their interests and peace, within the acknowledged limits of their own territory and jurisdiction.

A treaty was concluded by the Government with the Arkansas Cherokees, in 1828; through which allurements were offered to the *Cherokees East* of the Mississippi, to induce their removal West of that river; and in which it was further stipulated, that the United States will make to an emigrant "a just compensation for the *property* he may abandon, to be assessed by persons to be appointed by the President of the United States;" under which article appraisers have been appointed to value the *improvements* claimed by those enrolling for emigration, and payment promised at the Arkansas Agency. Many of the improvements thus valued, after being left by emigrants, were taken possession of by white families, citizens of the United States, and others by natives. By the orders recently issued from the Department of War to the United States' Agent, to cause the removal of intruders, all such white families as have entered and settled in the nation, as before stated, are *exempted* from removal, and the Agent is privileged to issue them permits to remain; and it is contended, that, by the valuation of, and payment for these improvements, the United States have acquired an interest and title in the *soil*; and which, by the compact of 1802, entred to the benefit of Georgia; and as it had been reported to the Government that many of those white families had entered and settled under the sanction of the State authority, it was not in the power of the Executive Government to interfere in the acts of a sovereign State, by ordering and causing their removal out of the nation. The Cherokees deeply regret the circumstances by which they have been so long left to the exposure and ravages of intruders, and a class of population not their own, thus permitted to be scattered

through the country, scarce restrained by either moral or civil law. They are but the dregs of civilized society, and fugitives, for the most part, from the justice of their own laws, whose studied purpose and design it is to trample under foot the rights of the Indians, often appropriating to themselves the benefit of their property. The outrages *already* committed speak a language all must understand, if the intolerable perpetrations of such persons be permitted, by permanent location, under the authority of the Government. We do not solicit and urge the necessity of their removal upon the plea of humanity alone, but as an act of justice due our nation, founded on the numerous and solemn pledges of the Government, and its own statutes.

The Cherokees disavow, and, in their behalf, we respectfully protest the right of any tribe or nation of Indians, whether Arkansas Cherokees or not, when entering into treaties, to insert articles that will, in any way, affect the rights and privileges recognised and guaranteed to our nation. The valuation of improvements made under that treaty, does not bind our nation—we were not a party to the instrument. If it contemplated the acquirement of soil from us, by paying to *individuals* the appraised value of their labor upon the soil, and the word “property” was intended to mean *lands*, so far as it regards the *lands* of our nation, it can be of no effect. It was not an act of ours, nor by consent did the nation acquiesce in its validity to affect our rights of soil. The lands are, moreover, held in common, and *not in severalty*; and it is an established principle and law, that no *individual* can, contrary to the will and consent of the legal authorities, cede to the United States any portion thereof, or transfer any title to the same. The United States have also declared that they are “unwilling that any cessions of lands should be made to them, *unless* with the *fair understanding* and *full assent* of the *tribe* making such cession, and for a just and adequate consideration,” &c. But, in this case, a title is contended to have been acquired without any understanding or assent of our nation, but by treating with a tribe far distant, and with whom all political connexion has long since been absolved—ever since it was a *tribe*.

It will also be seen, by reference to the first article of the treaty of 1819, with the Cherokees, that, after providing a home for those who desired to withdraw themselves, it is stipulated, the *lands then ceded* “are in full satisfaction of all claims which the United States have on them on account of the cession to a part of their nation who have, or may *hereafter* emigrate to Arkansas.” Consequently, it is unjust to claim now *more lands*, on account of those who have since migrated, and under a treaty not binding on our nation. The United States having also solemnly guaranteed to the “Cherokee nation” all its lands, and not to the citizens severally, it is unreasonable to suppose that they can or will attempt, in accordance with the letter and principles of this guarantee, to induce a few persons to remove, and then claim, in proportion, what might be supposed was *their* interest when united to the whole population, which, taken collectively, compose the “Cherokee nation.”

Under the solemn pledges to prevent intrusions upon these lands, thus guaranteed, we cannot but believe, and do consider all such white families as have entered and located themselves in the nation, whether under the sanction of State authority or not, to be intruders; and, as such, subject to the penalties prescribed by the intercourse laws of the United States.

We, therefore, earnestly pray that your honorable bodies will consider the subject the present session of Congress; and if, upon investigation, it be found that the request of your memorialists be just, we humbly hope their removal will not be delayed. And, as in duty bound, will ever pray, &c.

GEORGE LOWREY,  
LEWIS ROSS,  
WILLIAM HICKS,  
R. TAYLOR,  
JOSEPH VANN,  
WM. S. COODEY,

} Cherokee  
Delegation.

Washington City, 3d May, 1830.