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Jos. Elliot, Peggy Stephens, & challenge. to accompany the bill H. R. no. 363.

20th CONGRESS. 2d *Session.* [Rep. No. 42.] Ho. OF REPS.

JOS. ELLIOTT, PEGGY STEPHENS, & CHALLENGE.

TO ACCOMPANY THE BILL H. R. No. 363.

JANUARY 12, 1829.

Mr. SHEPPERD, from the Committee on the Public Lands, to which the subject had been referred, made the following

REPORT:

The Committee on the Public Lands, to which was referred the petitions of Joseph Elliott, Peggy Stephens, the wife of Sutton Stephens, formerly Peggy Elliott, and Connooluskee or Challenge, report:

That, by the eighth article of the treaty concluded between the Government of the United States and the Cherokee nation of Indians, on the 8th day of July, 1817, a donation, for life, of six hundred and forty acres of land, is made to such of the heads of Indian families residing on the east side of the Mississippi, as might be desirous of becoming citizens of the United States, with an express reservation of the fee-simple in said lands to their children. The petitioners are donees for life under the abovementioned provision of the said treaty, and ask that the fee simple in said reservations may be transferred to, and vested in, themselves; and, as an inducement to the granting of this request, they are shown to be individuals of industrious habits, and ordinarily discreet and prudent in the management of their interests. But, as the committee do not think the present application resolves itself into a mere question of expediency, they deem it unnecessary to enter into a grave consideration of the reasons offered by the petitioners: for a bare statement of the principle involved in the inquiry will at once show that either legislation is unnecessary, or that it would be a violent attempt to interfere with private vested rights, by seeking to take from one individual to give to another: for, if it be said that the grant to the father or mother for life, with a reservation in fee to the children, is a mere term of limitation, then the inheritance of said lands would be already in the parent, and, consequently, would dispense with the necessity of legislation. But the committee by no means assent to such a construction; but think that, from the evident design of the treaty, as well as from the particular phraseology employed, the fee simple reserved to the children is an estate which they take as purchasers, or a description of persons intended to be ascertained and particularly provided for; that, therefore, they do not claim by descent, although a life estate be given to the parents; nor is their interest in any other way connected with, or dependent upon, the previous life estate, except in relation to the condition of occupancy and improvement, which extends to and qualifies the entire grant, both for life and in fee. Nor are these reservations in fee simple

any longer contingent, even if any of them were so at the date of the treaty: for, upon inquiry, the committee are well assured that all the petitioners have children, in whom the reservations have vested; and that their parents, the petitioners, have no color of right in asking Congress to attempt the absurdity of giving to them what has already, by a solemn act of the Government, been given to their offspring. But, from the representations made of the characters and dispositions of the petitioners, the committee, in obedience to many precedents to be found in the Laws of the United States, are induced to relieve the petitioners, by providing against the forfeiture of their life estates by removal from the same; and, for that purpose, they report a bill, therein carefully guarding against any inference of an intention to interfere with the respective rights of the parents and their children.

GALES & SEATON,
Printers to House of Reps.