

3-15-1830

Memorials of the Cherokee Indians, signed by their representatives, and by 3,085 individuals of the Nation.

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indian and Aboriginal Law Commons](#)

Recommended Citation

H.R. Rep. No. 311, 21st Cong., 1st Sess. (1830)

This House Report 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.

MEMORIALS

OF

THE CHEROKEE INDIANS,

Signed by their representatives, and by 3,085 individuals of the Nation.

FEBRUARY 15, 1830.

Presented, and laid on the table.

MARCH 15, 1830.

Committed to the Committee of the Whole House on the State of the Union to which is committed the bill No. 287, to provide for the removal of the Indian tribes in any of the States and Territories West of the river Mississippi, and for their permanent location.

Copy of a note addressed to the Speaker of the House of Representatives by the Cherokee Delegation, submitting memorials in behalf of their Nation.

BROWN'S HOTEL, WASHINGTON CITY,
15th February, 1830.

HON. SPEAKER of the House of Representatives:

SIR: The accompanying memorials you will please lay before the House over which you preside; the one from the late General Council of our nation, and signed by all the members of that body, and principal chief, in behalf of the Cherokee nation, relative to the present unpleasant state of affairs in consequence of certain causes therein stated; the others, twelve in number, are from the native citizens of the nation themselves, and adopted throughout the country, and to which are appended upwards of three thousand names. They have been forwarded to us by mail, to be laid before Congress. Their object, as will appear, is to prove to that honorable body, that the many reports of late circulated by officers of the Government, that a greater portion of the Cherokees are favorably disposed to a removal Westward, and are only restrained by the threats and tyranny of their chiefs, are erroneous, and entirely unfounded. They wish to speak of their wishes and determination in that respect themselves, and to be heard by the representatives of the United States; they wish them to be convinced, that, to know their feelings and interests, is to know that they ardently desire to remain in peace and quietude upon their ancient territory, and to enjoy the comforts and advantages of civilization; that the great mass of our citizens are opposed to removal, (as has been plainly demonstrated by the offers and inducements lately held out to them) and that it is not the fear of chiefs that

has forced upon them this determination to remain; but that it has been produced by causes no less than convincing evidence, that their only and best hopes of preservation and advancement in moral and civil improvement is to remain where their Great Father alone placed them. There they wish to pursue agriculture, and to educate their sons and daughters in the sciences and knowledge of things which pertain to their future happiness. With these remarks, we submit the memorials for the consideration of Congress, humbly hoping that the grievances of our nation will be heard, and duly considered.

With sentiments of regard and esteem,

We have the honor to be,

Very respectfully,

Your ob't serv't,

GEORGE LOWREY,

As't Prin. Chief Cher. Nation.

LEWIS ROSS,

WILLIAM HICKS,

RICHARD TAYLOR,

JOSEPH VANN,

WILLIAM S. COODEY,

} Cherokee De-
legation.

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

We, the representatives of the people of the Cherokee nation, in general council convened, compelled by a sense of duty we owe to ourselves and nation, and confiding in the justice of your honorable bodies, address and make known to you the grievances which disturb the quiet repose and harmony of our citizens, and the dangers by which we are surrounded. Extraordinary as this course may appear to you, the circumstances that have imposed upon us this duty we deem sufficient to justify the measure; and our safety as individuals, and as a nation, require that we should be heard by the immediate representatives of the people of the United States, whose humanity and magnanimity, by permission and will of Heaven, may yet preserve us from ruin and extinction.

The authorities of Georgia have recently and unexpectedly assumed a doctrine, horrid in its aspect, and fatal in its consequences to us, and utterly at variance with the laws of nations, of the United States, and the subsisting treaties between us, and the known history of said State, of this nation, and of the United States. She claims the exercise of sovereignty over this nation, and has threatened and decreed the extension of her jurisdictional limits over our people. The Executive of the United States, through the Secretary of War, in a letter to our delegation of the 18th April last, has recognised this right to be abiding in, and possessed by, the State of Georgia; by the Declaration of Independence, and the treaty of peace concluded between the United States and Great Britain in 1783; and which it is urged vested in her all the rights of sovereignty pertaining to Great Britain, and which, in time previously, she claimed and exercised, within the limits of what constituted the "thirteen United States." It is a subject of vast importance to know whether the power of self-government abided in the Cherokee nation at the discovery of America, three hundred and thirty-

seven years ago; and whether it was in any manner affected or destroyed by the charters of European potentates. It is evident from facts deducible from known history, that the Indians were found here by the white man, in the enjoyment of plenty and peace, and all the rights of soil and domain, inherited from their ancestors from time immemorial, well furnished with kings, chiefs, and warriors, the bulwarks of liberty, and the pride of their race. Great Britain established with them relationships of friendship and alliance, and at no time did she treat them as subjects, and as tenants at will, to her power. In war she fought them as a separate people, and they resisted her as a nation. In peace, she spoke the language of friendship, and they replied in the voice of independence, and frequently assisted her as allies, at their choice to fight her enemies in their own way and discipline, subject to the control of their own chiefs, and unaccountable to European officers and military law. Such was the connexion of this nation to Great Britain, to wit, that of friendship, and not allegiance, to the period of the declaration of Independence by the United States, and during the Revolutionary contest, down to the treaty of peace between the United States and Great Britain, forty-six years ago, when she abandoned all hopes of conquest, and at the same time abandoned her Cherokee allies to the difficulties in which they had been involved, either to continue the war, or procure peace on the best terms they could, and close the scenes of carnage and blood, that had so long been witnessed and experienced by both parties. Peace was at last concluded at Hopewell, in '85, under the administration of Washington, by "the Commissioners, Plenipotentiaries of the United States in Congress assembled;" and the Cherokees were received "into the favor and protection of the United States of America." It remains to be proved, under a view of all these circumstances, and the knowledge we have of history, how our right to self-government was affected and destroyed by the Declaration of Independence, which never noticed the subject of Cherokee sovereignty; and the treaty of peace, in '83, between Great Britain and the United States, to which the Cherokees were not a party; but maintained hostilities on their part to the treaty of Hopewell, afterwards concluded. If, as it is stated by the Hon. Secretary of War, that the Cherokees were mere tenants at will, and only permitted to enjoy possession of the soil to pursue game; and if the States of North Carolina and Georgia were sovereigns in truth and in right over us; why did President Washington send "Commissioners Plenipotentiaries" to treat with the subjects of those States? Why did they permit the chiefs and warriors to enter into treaty, when, if they were subjects, they had grossly rebelled and revolted from their allegiance? And why did not those sovereigns make their lives pay the forfeit of their guilt, agreeably to the laws of said States? The answer must be plain—they were not subjects, but a distinct nation, and in that light viewed by Washington, and by all the people of the Union, at that period. In the first and second articles of the Hopewell treaty, and the third article of the Holston treaty, the United States and the Cherokee nation were bound to a mutual exchange of prisoners taken during the war; which incontrovertibly proves the possession of sovereignty by both contracting parties. It ought to be remembered too, in the conclusions of the treaties to which we have referred, and most of the treaties subsisting between the United States and this nation, that the phraseology, composition, &c. was always written by the Commissioners, on the part of the United States, for obvious reasons: as the Cherokees were

unacquainted with letters. Again, in the Holston treaty, eleventh article, the following remarkable evidence is contained that our nation is not under the jurisdiction of any State: "If any citizen or inhabitant of the United States, or of either of the territorial districts of the United States, shall go into any town, settlement, or territory, belonging to the Cherokees, and shall there commit any crime upon, or trespass against, the person or property of any peaceable and friendly Indian or Indians, which, *if committed within the jurisdiction of any State, or within the jurisdiction of either of the said districts*, against a citizen or any white inhabitant thereof, would be punishable by the laws of such State or district, such offender or offenders shall be proceeded against in the same manner as if the offence had been committed *within the jurisdiction of the State or district* to which he or they may belong, against a citizen or white inhabitant thereof." The power of a State may put our national existence under its feet, and coerce us into her jurisdiction; but it would be contrary to legal right, and the plighted faith of the United States' Government. It is said by Georgia and the Honorable Secretary of War, that one sovereignty cannot exist within another, and, therefore, we must yield to the stronger power; but is not this doctrine favorable to our Government, which does not interfere with that of any other? Our sovereignty and right of enforcing legal enactments, extend no further than our territorial limits, and that of Georgia is, and has always terminated at, her limits. The constitution of the United States (article 6) contains these words: "All treaties made under the authority of the United States shall be the supreme law of the land, and the judges in every State shall be bound thereby, any thing in the laws or constitution of any State to the contrary notwithstanding." The sacredness of treaties, made under the authority of the United States, is paramount and supreme, stronger than the laws and constitution of any State. The jurisdiction, then, of our nation over its soil is settled by the laws, treaties, and constitution of the United States, and has been exercised from time out of memory.

Georgia has objected to the adoption, on our part, of a constitutional form of government, and which has in no wise violated the intercourse and connexion which bind us to the United States, its constitution, and the treaties thereupon founded, and in existence between us. As a distinct nation, notwithstanding any unpleasant feelings it might have created to a neighboring State, we had a right to improve our Government, suitable to the moral, civil, and intellectual advancement of our people; and had we anticipated any notice of it, it was the voice of encouragement by an approving world. We would, also, while on this subject, refer your attention to the memorial and protest submitted before your honorable bodies, during the last session of Congress, by our delegation then at Washington.

Permit us, also, to make known to you the aggrieved and unpleasant situation under which we are placed by the claim which Georgia has set up to a large portion of our territory, under the treaty of the Indian Springs, concluded with the late General M'Intosh and his party; and which was declared void, and of no effect, by a subsequent treaty between the Creek Nation and the United States, at Washington City. The President of the United States, through the Secretary of War, assured our delegation, that, so far as he understood the Cherokees had rights, protection should be afforded; and, respecting the intrusions on our lands, he had been advised, "and instructions had been forwarded to the agent of the Cherokees, directing him to cause their removal; and earnestly hoped, that, on this matter,

all cause for future complaint would cease, and the order prove effectual." In consequence of the agent's neglecting to comply with the instructions, and a suspension of the order made by the Secretary afterwards, our border citizens are at this time placed under the most unfortunate circumstances, by the intrusions of citizens of the United States, and which are almost daily increasing, in consequence of the suspension of the once contemplated "effectual order." Many of our people are experiencing all the evils of personal insult, and, in some instances, expulsion from their homes, and loss of property, from the unrestrained intruders let loose upon us, and the encouragement they are allowed to enjoy, under the last order to the agent for this nation, which amounts to a suspension of the force of treaties, and the wholesome operation of the intercourse laws of the United States. The reason alleged by the War Department for this suspension is, that it had been requested so to do, until the claim the State of Georgia has made to a portion of the Cherokee country be determined; and the intruders are to remain unmolested within the border limits of this nation. We beg leave to protest against this unprecedented procedure. If the State of Georgia has a claim to any portion of our lands, and is entitled by law and justice to them, let her seek through a legal channel to establish it; and we do hope that the United States will not suffer her to take possession of them forcibly, and investigate her claim afterwards.

Arguments to effect the emigration of our people, and to escape the troubles and disquietudes incident to a residence contiguous to the whites, have been urged upon us, and the arm of protection has been withheld, that we may experience still deeper and ampler proofs of the correctness of the doctrine; but we still adhere to what is right and agreeable to ourselves; and our attachment to the soil of our ancestors is too strong to be shaken. We have been invited to a retrospective view of the past history of Indians, who have melted away before the light of civilization, and the mountains of difficulties that have opposed our race in their advancement in civilized life. We have done so; and, while we deplore the fate of thousands of our complexion and kind, we rejoice that our nation stands and grows a lasting monument of God's mercy, and a durable contradiction to the misconceived opinion that the aborigines are incapable of civilization. The opposing mountains, that cast fearful shadows in the road of Cherokee improvement, have dispersed into vernal clouds; and our people stand adorned with the flowers of achievement flourishing around them, and are encouraged to secure the attainment of all that is useful in science and Christian knowledge.

Under the fostering care of the United States we have thus prospered; and shall we expect approbation, or shall we sink under the displeasure and rebukes of our enemies?

We now look with earnest expectation to your honorable bodies for redress, and that our national existence may not be extinguished before a prompt and effectual interposition is afforded in our behalf. The faith of your Government is solemnly pledged for our protection against all illegal oppressions, so long as we remain firm to our treaties; and that we have, for a long series of years, proved to be true and loyal friends, the known history of past events abundantly proves. Your Chief Magistrate himself has borne testimony of our devotedness in supporting the cause of the United States, during their late conflict with a foreign foe. It is with reluctant and painful feelings that circumstances have at length compelled us to seek from you the promised protection, for the preservation of our rights and

privileges. This resort to us is a last one, and nothing short of the threatening evils and dangers that beset us could have forced it upon the nation; but it is a right we surely have, and in which we cannot be mistaken—that of appealing for justice and humanity to the United States, under whose kind and fostering care we have been led to the present degree of civilization, and the enjoyment of its consequent blessings. Having said thus much, with patience we shall await the final issue of your wise deliberations.

With sentiments of the highest regard and esteem,

We have the honor to be, very respectfully,

Your obedient servants.

LEWIS ROSS,

President of Committee.

ECHOTA, CHEROKEE NATION, Nov. 5, 1829.

Joseph Vann,	Choo Nungkee,	his x mark.
David Vann,	Archy Campbell,	his x mark.
James Daniel,	Laugh at Musk,	his x mark.
W. M. Boling,	Bark,	his x mark.
Thomas Foreman,	Chulio,	his x mark.
Edward Gunttee,	Soft Shell Turtle,	his x mark.
Daniel Griffin,	Walking Stick,	his x mark.
Samuel Ward,	Moses Parris,	
Samuel Downing,	John R. Daniel,	
James Hamilton,	Woman Killer,	his x mark.
M. Baldrige,	James Bigby,	his x mark.
George Saunders,	Deer in the Water,	his x mark.
John Timson,	Situaka,	his x mark.
Alexander M'Daniel,	Tecah-le-loo-ca,	his x mark.
R. Taylor,	Robin,	his x mark.
William S. Coodey,	Choo-wa-loo-ca,	his x mark.
<i>Clerk National Committee,</i>	Cricket,	his x mark.
Going Snake,	Nah-hoo-lar,	his x mark.
<i>Speaker of Council,</i>	White Path,	his x mark.
Charles Reece,	Ne-cawee,	his x mark.
Sleeping Rabbit,	Ter-yes-kee,	his x mark.

JOHN RIDGE,

Clerk of Council.

JOHN ROSS,

Principal Chief.

GEORGE LOWREY,

Assistant Prin. Chief.

GEO. M. WATERS,

WILLIAM HICKS,

MAJOR RIDGE, his x mark.

Executive Counsellors.

Approved:

MEMORIAL OF THE CHEROKEES.

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

The undersigned memorialists humbly make known to your honorable bodies, that they are free citizens of the Cherokee nation. Circumstances of late occurrence have troubled our hearts, and induced us at this time to appeal to you, knowing that you are generous and just. As weak and poor children are accustomed to look to their guardians and patrons for protection, so we would come and make our grievances known. Will you listen to us? Will you have pity upon us? You are great and renowned—the nation which you represent is like a mighty man who stands in his strength. But we are small—our name is not renowned. You are wealthy, and have need of nothing; but we are poor in life, and have not the arm and power of the rich.

By the will of our Father in Heaven, the Governor of the whole world, the red man of America has become small, and the white man great and renowned. When the ancestors of the people of these United States first came to the shores of America, they found the red man strong—though he was ignorant and savage, yet he received them kindly, and gave them dry land to rest their weary feet. They met in peace, and shook hands in token of friendship. Whatever the white man wanted and asked of the Indian, the latter willingly gave. At that time the Indian was the lord, and the white man the suppliant. But now the scene has changed. The strength of the red man has become weakness. As his neighbors increased in numbers, his power became less and less, and now, of the many and powerful tribes who once covered these United States, only a few are to be seen—a few whom a sweeping pestilence has left. The Northern tribes, who were once so numerous and powerful, are now nearly extinct. Thus it has happened to the red man of America. Shall we, who are remnants, share the same fate?

Brothers—we address you according to usage adopted by our forefathers, and the great and good men who have successfully directed the Councils of the nation you represent. We now make known to you our grievances. We are troubled by some of your own people. Our neighbor, the State of Georgia, is pressing hard upon us, and urging us to relinquish our possessions for her benefit. We are told, if we do not leave the country which we dearly love, and betake ourselves to the Western wilds, the laws of the State will be extended over us, and the time, 1st of June, 1830, is appointed for the execution of the edict. When we first heard of this, we were grieved, and appealed to our father the President, and begged that protection might be extended over us. But we were doubly grieved when we understood from a letter of the Secretary of War to our Delegation, dated March of the present year, that our father the President had refused us protection, and that he had decided in favor of the extension of the laws of the State over us. This decision induces us to appeal to the immediate Representatives of the American people. We love, we dearly love our country, and it is due to your honorable bodies, as well as to us, to make known why we think the country is ours, and why we wish to remain in peace where we are.

The land on which we stand we have received as an inheritance from our fathers, who possessed it from time immemorial, as a gift from our common Father in Heaven. We have already said, that, when the white man came to the shores of America, our ancestors were found in peaceable

possession of this very land. They bequeathed it to us as their children, and we have sacredly kept it, as containing the remains of our beloved men. This right of inheritance we have *never ceded*, nor ever *forfeited*. Permit us to ask, what better right can the people have to a country, than the right of *inheritance* and *immemorial peaceable possession*? We know it is said of late by the State of Georgia, and by the Executive of the United States, that we have forfeited this right—but we think this is said gratuitously. At what time have we made the forfeit? What great crime have we committed, whereby we must forever be divested of our country and rights? Was it when we were hostile to the United States, and took part with the King of Great Britain, during the struggle for Independence? If so, why was not this forfeiture declared in the first treaty of peace between the United States and our beloved men? Why was not such an article as the following inserted in the treaty: “The United States give peace to the Cherokees, but, for the part they took in the late war, declare them to be but tenants at will, to be removed, when the convenience of the States within whose chartered limits they live, shall require it.” That was the proper time to assume such a possession. But it was not thought of, nor would our forefathers have agreed to any treaty, whose tendency was to deprive them of their rights and their country. All that they have conceded and relinquished are inserted in the treaties, open to the investigation of all people. We would repeat, then, the right of inheritance and peaceable possession which we claim, we have never ceded nor forfeited.

In addition to that first of all rights, the right of inheritance and peaceable possession, we have the faith and pledge of the United States, repeated over and over again, in treaties made at various times. By these treaties, our rights as a separate people are distinctly acknowledged, and guaranties given that they shall be secured and protected. So we have always understood the treaties. The conduct of the Government towards us from its organization until very lately, the talks given to our beloved men by the Presidents of the United States, and the speeches of the Agents and Commissioners, all concur to show that we are not mistaken in our interpretation. Some of our beloved men who signed the treaties are still living, and their testimony tends to the same conclusion. We have always supposed that this understanding of the treaties was in concordance with the views of the Government, nor have we ever imagined that any body would interpret them otherwise. In what light shall we view the conduct of the United States and Georgia, in their intercourse with us, in urging us to enter into treaties, and *cede* lands? If we were but tenants at will, why was it necessary that our consent must first be obtained, before these Governments could take lawful possession of our lands? The answer is obvious. These Governments perfectly understood our rights—our right to the country, and our right to self Government. Our understanding of the treaties is further supported by the intercourse law of the United States, which prohibits all encroachments upon our territory. The undersigned memorialists humbly represent, that *if* their interpretation of the treaties has been different from that of the Government, then they have ever been deceived as to how the Government regarded them, and what she has asked and promised. Moreover, they have uniformly misunderstood their own acts.

In view of the strong ground upon which their rights are founded, your memorialists solemnly protest against being considered as tenants at will, or as mere occupants of the soil, without possessing the sovereignty. We

have already stated to your honorable bodies, that our forefathers were found in possession of this soil in full sovereignty, by the first European settlers; and as we have never ceded nor forfeited the occupancy of the soil, and the sovereignty over it, we do solemnly protest against being forced to leave it, either by direct or indirect measures. To the land, of which we are now in possession, we are attached. It is our fathers' gift; it contains their ashes; it is the land of our nativity, and the land of our intellectual birth. We cannot consent to abandon it for another *far inferior*, and which holds out to us no inducements. We do moreover protest against the arbitrary measures of our neighbor, the State of Georgia, in her attempt to extend her laws over us, in surveying our lands without our consent, and in direct opposition to the treaties and the intercourse law of the United States, and interfering with our municipal regulations in such a manner as to derange the regular operation of our own laws. To deliver and protect them from all these and every encroachment upon their rights, the undersigned memorialists do most earnestly pray your honorable bodies. Their existence and future happiness are at stake. Divest them of their liberty and country, and you sink them in degradation; and put a check, if not a final stop, to their present progress in the arts of civilized life, and in the knowledge of the Christian religion. Your memorialists humbly conceive, that such an act would be in the highest degree oppressive. From the people of these United States, who, perhaps, of all men under heaven, are the most religious and free, it cannot be expected. Your memorialists, therefore, cannot anticipate such a result. You represent a virtuous, intelligent, and Christian nation. To you they willingly submit their cause for your righteous decision.

CHEROKEE NATION, *December 18, 1829.*