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Memorial of the principal chief and delegates of the Cherokee Nation of Indians, protesting against the passage of the bill (S. 631) "to provide for carrying into effect the provisions of a treaty concluded between the United States and the Cherokee Nation of Indians July 19, 1866."

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MEMORIAL

OF THE

PRINCIPAL CHIEF AND DELEGATES OF THE CHEROKEE NATION OF INDIANS,

PROTESTING

Against the passage of the bill (S. 631) "to provide for carrying into effect the provisions of a treaty concluded between the United States and the Cherokee nation of Indians July 19, 1866."

MARCH 21, 1870.—Ordered to be printed.

Memorial of Cherokee delegation submitted to the honorable Senate Indian Committee, respecting the bill (S. 631) introduced into the United States Senate by Hon. James Harlan on the 7th instant, (March, 1870.)

To the honorable chairman and members Senate Indian Committee :

GENTLEMEN: This bill proves that the government of the United States became the absolute owner of the Cherokee lands west of the ninety-sixth degree of west longitude, and of the strip of Cherokee lands in Kansas, for the sum of two millions of dollars, to be placed on account, on the books of the Treasury Department, to the credit of the Cherokees, and that a part of that amount be paid, with a part also of the proceeds of the Cherokee neutral lands in Kansas, *pro rata* to the Cherokees east of the Mississippi River, known as the North Carolina Cherokees.

To this bill the undersigned, in behalf of the Cherokee nation, protest for the following reasons:

1. That it conflicts with article sixteen of the treaty of 1866, between the United States government and the Cherokees, in that the Cherokees being one of the parties in interest, have not been consulted as to the price of these lands west of the ninety-sixth degree. The argument that provision is made in the bill whereby the assent of the Cherokees may be given to the price of these lands does not meet the situation, since it only affords a means whereby the bill will be defeated, and a point of disagreement arrived at between the parties in interest as to the price of these lands.

2. That it (the bill) conflicts with article twenty-three of said treaty of 1866, in that it proposes to place the proceeds of said lands, by account, on the books of the Treasury Department; whereas the said funds should, according to the said twenty-third article, be invested, under the control of the Interior Department, in United States registered stocks at their current value; and to do otherwise with said funds would require a change in said treaty by another treaty, and not by legislation.

3. That it (the bill) conflicts with articles three, eight, and sixteen, of

the treaties of 1835-'6, between the United States government and the Cherokees; and also articles twenty-three and thirty-one, of the said treaty of 1866, in that it provides that the said North Carolina Cherokees shall have paid to them, as a right, a portion, *pro rata*, according to relative numbers, of the said two millions of dollars, as the proceeds of the said lands; whereas by the said articles three, eight, and thirteen, of said treaty of 1835-'6, as confirmed by the treaty of 1846, tenth article, and thirty-first article of the treaty of 1866, between the United States and the Cherokees, the said North Carolina Cherokees have never had, while east of the Mississippi River, any rights to lands in the Cherokee nation west of that river, or if they ever had, they have long since forfeited that right, which has been barred by limitation. Moreover, by the said twenty-third article of the Cherokee treaty of 1866, these funds all should, in the first place, be "invested in United States registered stocks at their current value," instead of being paid any part thereof to the said North Carolina Cherokees; and in the next place, the interest accruing on these stocks should be paid "semi-annually on the order of the Cherokee nation," and applied, fifty per cent. to the purposes of the Cherokee nation, thirty-five per cent. to school purposes, and fifteen per cent. to orphan purposes, instead of being paid any part thereof to the said North Carolina Cherokees east of the Mississippi River. In this connection we would respectfully submit that there is but one Cherokee nation, and that is west of said river, whose interests we represent. If the said North Carolina Cherokees are members of said nation, then all other Cherokees now in the States of Georgia, Alabama, Tennessee, Kentucky, South Carolina, Mississippi, Arkansas, Missouri, Texas, California, and Kansas, and Canada, are likewise members of the Cherokee nation, whether they are citizens of those States or not, and as such members of the Cherokee nation are as much entitled to the rights of the Cherokee nation as are the said North Carolina Cherokees. Moreover, this logic is entirely at variance with treaty stipulations, and the policy of the general government in ridding the several States and Territories of the United States of Indians, by their concentration to themselves for their preservation, will force the government, if persisted in, to divide the interests and national property of the Creek, Seminole, Chickasaw, and Choctaw, and other Indian nations, with such fragments and individuals formerly of these respective nations, but now residents of Florida, Alabama, Tennessee, Mississippi, and other States; and while such a theory, heretofore never thought of, would create great confusion in the administration of Indian affairs, it would result in the breaking up of these Indian nations, with no good result to the Indians.

4. That it (the bill) conflicts with the seventeenth and twenty-third articles of the said treaty of 1866, as also the treaty of April 27, 1868, between the United States and the Cherokee nation, in that it disposes of the Cherokee strip of land in Kansas directly to the United States at a price far below its value; whereas by the said seventeenth article said strip can only be disposed of by the Secretary of the Interior, as trustee of the Cherokees, at \$1 25 per acre; and also in that it provides that the proceeds of the said neutral lands in Kansas shall be paid partly *pro rata* to the said North Carolina Cherokees, whereas by the said seventeenth and twenty-third articles of the treaty of 1866, and by said treaty of April 27, 1868, the proceeds of said lands are fixed and ordered to be paid to the Cherokee nation, which, as before stated, is west of the Mississippi River. Articles twelve and thirteen of the Cherokee treaty of 1835 were made to secure and pay to the Cherokees of North Carolina all their interests in Cherokee matters, for they then claimed what

they do now, with the privilege of remaining in North Carolina; but in 1836 a supplement was made to this treaty of 1835, and the said articles twelve and thirteen of that treaty were expunged or stricken out, for the reason, as expressed in said treaty, that all the Cherokees should remove west in order to acquire any benefits common to the Cherokee nation or its citizens. We hold that all of these treaties in all of their parts are binding on all the Cherokees as well as on the general government; and we claim that, inasmuch as these treaties have been enforced upon the Cherokees, of the Cherokee nation, they should also be enforced upon the Cherokees of North Carolina as well as those in the other States and Territories of the Union. And in order that justice and equity be done to all Cherokees, wherever at present situated, and to the government of the United States, we respectfully ask that the bill under consideration be referred back to your honorable committee, and that our pending treaty, with such amendments as we have agreed to, all of which are before your honorable committee, may be speedily ratified, as by that course we cannot conceive how any party can possibly be wronged or injured.

Very respectfully submitted by—

LEWIS DOWNING,
Principal Chief Cherokee Nation.

W. P. ADAIR,

SAM'L SMITH,

C. N. VANN,

ARCHIE SCRAPER,

J. PORUM DAVIS,

Cherokee Delegation.