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MEMORIAL

OF

JOHN ROSS AND OTHERS, DELEGATES OF THE CHEROKEE
INDIANS,

*For the passage of a law creating commissioners to examine the validity
of certain reservations in Tennessee and Alabama; to ascertain the
value, and pay the reservees, &c.*

FEBRUARY 13, 1835.

Referred to the Committee on Indian Affairs, and ordered to be printed.

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

The undersigned memorialists show that they are the representatives for the Cherokee nation, east of the Mississippi, at Washington City. They feel a lively interest for the people they represent, and at the same time a confidence and hope in the magnanimity of the Government and people of the United States. It has been the care of the United States to strengthen this confidence by profession and practice; and proffered friendship and protection has not been rejected by the Indian, and in but few instances has he had cause to complain of his guardian: we therefore confidently appeal to that guardian for a redress of the grievances hereinafter set forth. We invite a patient hearing and examination of our complaints, and that justice, friendship, and protection, so kindly offered in times past, be not now withdrawn. You are strong, and we are weak; yet there is a power above us all that has fixed and made known to man the principles of eternal justice. Those principles are not confined to individuals in a state of nature, but bind nations in their political capacity. Upon these our hope is fastened, and by them we ask our claims to be tested. We beg leave to say that, from the past, we have no reason to fear that the people of the United States will hesitate between justice and expediency, or that the Indian's just claim will be sacrificed to the avarice of the white man. We came to have fulfilled what has been so often promised, as early as the autumn of the year one thousand eight hundred and eight. A portion of the Cherokee nation expressed a wish to emigrate west of the Mississippi, and a portion to remain in that section of country we now represent, where they found themselves, and where now lie the bones of their fathers. The President of the United States then said, "The United States, my children, are the friends of both parties, and, as far as can be reasonably asked, they are willing to satisfy the wishes of both: those who remain may be assured of our patronage, our aid, and good"

neighborhood." Upon this promise and assurance the unsuspecting Cherokee relied with entire confidence; and in the year 1817, when a partial cession of their territory was desired, they were reminded of this kind talk, and the same was made part of the preamble of the treaty of that year. Many a Cherokee quit the land of his nativity at the request, and to gratify the people of the United States, expecting the promised guardian care over the Cherokee nation. We viewed the United States as our friends and protectors, and they had promised to hold us firmly by the hand. This we believed would ever be done, and when the tomahawk and scalping knife were drawn by the Creeks upon the white man, the Cherokees made common cause with the people of the United States; their blood was shed, and their bones whiten upon the battle ground, not for their nation, its interest, honor, or glory, but for that of their friends and protectors. By the treaty of the 8th of July, 1817, between the United States and Cherokee nation, a considerable portion of the territory of the latter was surrendered to the former; and upon that many natives were found unwilling to leave their homes, and justice required the Cherokee nation to provide for them. To this the United States readily agreed, and on this subject the agreement between the two contracting parties is found in the eighth article of the treaty, to wit: "And to each and every head of any Indian family residing on the east side of the Mississippi river, on the lands that are now, or may hereafter be surrendered to the United States, who may wish to become citizens of the United States, the United States do agree to give a reservation of six hundred and forty acres of land in square, to include their improvements, which are to be as near the centre thereof as practicable, in which they will have a life estate, with a reversion in fee simple to their children, reserving to the widow her dower; the register of whose names is to be filed in the office of the Cherokee agent, which shall be kept open until the census is taken, as stipulated in the third article of this treaty; provided that if any of the heads of families for whom reservations may be made should remove therefrom, then, in that case, the right to revert to the United States. And provided further, that the land which may be reserved under this article be deducted from the amount which has been ceded under the first and second articles of this treaty." Under the provisions of the above, many Indians, who resided upon lands not ceded by said treaty, registered their names for life-estate reservations in the office of the Cherokee agent. This step was taken with a view to a subsequent treaty, and further cession of territory; and for each name found upon the registry there was deducted from the lands given the Indians on the west of the Mississippi six hundred and forty acres, so that the United States received an equivalent, and more, for every acre taken by reservations; and when the Indian loses his reservation, the people of the United States get not only the consideration, but the thing bought, contrary to the laws of natural justice. It was not foreseen that so soon as the reservees dissolved their ancient connexion with the Cherokee nation, and became citizens of, and under the protection of the United States, that partial State legislation, their own ignorance, and the cupidity of the white man, was soon to leave them without a home, and to return to the Cherokee nation again bereft of their all; yet such has been the unfortunate fate of many. The spirit of the treaty of 1817 would have forced the Cherokee nation west of the Mississippi; moreover, many of its provisions were difficult of execution and unfriendly to the wishes of the greatest part of the Cherokee nation east of

the Mississippi. These considerations produced the treaty of the 27th of February, 1819. In the preamble to that treaty may be seen the following: "Whereas a greater part of the Cherokee nation have expressed an earnest desire to remain on this side of the Mississippi, and being desirous, in order to commence those measures which they deem necessary to the civilization and preservation of their nation, that the treaty between the United States and them, signed the eighth of July, eighteen hundred and seventeen, might without further delay, or the expense of taking the census, as stipulated in the said treaty, be finally adjusted, have offered to cede to the United States a tract of country at least as extensive as that which they probably are entitled to under its provisions, the contracting parties have agreed to and concluded the following articles." The first article describes the country ceded to the United States; and the second article provides that "the United States agree to pay, according to the stipulations contained in the treaty of the eighth of July, eighteen hundred and seventeen, for all improvements on land lying within the country ceded by the Cherokees which add real value to the land, and do agree to allow a reservation of six hundred and forty acres to each head of any Indian family residing within the ceded territory, those enrolled for the Arkansas excepted, who choose to become citizens of the United States, in the manner stipulated in said treaty." In the seventh article the following promise was made: "The United States, in order to afford the Cherokees who reside on the lands ceded by this treaty time to cultivate their crop next summer, and for those who do not choose to take reservations to remove, bind themselves to prevent intrusion of their citizens on the ceded land before the first of January next." Under this treaty many reservations were taken of land within the ceded territory, but, unfortunately for the reservees, the seventh article of the treaty was disregarded, and many white people became resident upon the ceded territory before the first day of January, eighteen hundred and twenty, and not of that class disposed to regard or respect Indian rights. Many of the reservees were forced to leave the country before the laws of the States could afford them protection; and after, this removal was used as evidence of abandonment to defeat the reservee. We speak particularly of the reservations located within the territorial limits of Tennessee. In the greater number of cases the white people took possession of the reservations by fraud or force. The Legislature of Tennessee put an erroneous construction upon the treaty of 1819, and her legislation produced further difficulties in the way of reservees, she not recognizing any life estate reserves under the treaty of 1819. By an act passed in the fall of 1819, entitled "An act to dispose of the lands lying between the rivers Highwassee and Tennessee, and north of Little Tennessee river," it is provided, that "it shall further be the duty of said surveyor to lay down and distinctly mark on his original plat all the reserves specified and named in the treaty made between the honorable John C. Calhoun and a deputation of the Cherokee tribe of Indians, at the City of Washington, which shall be prohibited from entry, sale, or other appropriation, and shall be subject to taxation in the same manner that other lands in this State are now liable thereto by law; also to lay down on his general plat the reserves named and specified in the treaty concluded by Major General Andrew Jackson and others with said tribe of Indians, and which were actually taken before the first day of July, 1818, which shall not be sold until further provisions shall be hereafter made by law." The consequence of this was to expose to sale all the life estate

reservations taken under the treaty of 1819; and in the years 1820 and 1821, the Indians remaining were put out of possession by summary process, without even the form of a trial, and were compelled to resort to the courts of Tennessee; but many were unable to give security for the costs, and all were ignorant of the proper course to be pursued. Their reservations became objects of speculation, and the Indians, in very many cases, were swindled out of their claims, however many suits were brought by reservees; and the State of Tennessee assumed the defence of said suits, and appointed her agents and attorneys, to whom it was specially given in charge to defeat the Indian. And the Legislature of the State, from time to time, passed special laws with a view to these suits and the claims of Indian reservees, calculated to embarrass the plaintiffs, to delay trials, and exhaust the patience and funds of the Indians, and thereby force an abandonment. This was in part accomplished. The difficulties thus produced prevented the institution of many suits till the statute of limitations created a bar to the plaintiffs' recovery, and, finally, the Indians have been deprived of their lands and the bounty intended them by their nation and the United States; and the people of the United States have received the benefit, and are made rich, while the poor Indian is left penniless. Thus it is the white man has held him firmly by the hand, and extended to him his "patronage, aid, and good neighborhood."

In the year 1829 the Legislature of Tennessee passed an act for the relief of certain improvers of land in the Highwassee district; by which compensation was given to those persons who entered upon the territory ceded by the treaty of 1819 in express violation of the seventh article of that treaty.

Your memorialists will further show that the reservees in North Carolina and Georgia have been paid for their lands, while a majority of those in Tennessee have been deprived of theirs by protracted legislation and power.

The premises considered, your memorialists pray a law may be passed by your honorable body creating a board of commissioners to examine into the validity of the reservations taken in Tennessee and Alabama, and to report upon the same, with the value of the land; and that an appropriation be made to pay the reservee, or the person entitled under the treaty, such value, inasmuch as the people of the United States got the land.

The accompanying documents, containing the correspondence with the Executive Department, will show the decision of the President on the subject. And your memorialists will ever pray, &c.

JNO. ROSS,
R. TAYLOR,
DANL. McCOY,
WILLIAM ROGERS,
SAML. GUNTER, his x mark.

A communication to the President of the United States from the Cherokee delegation.

WASHINGTON CITY, March 17, 1834.

The undersigned, representatives of the Cherokee nation, beg leave to present to your consideration certain claims, which they sincerely believe are founded upon law, and supported by justice and right.

By the treaty signed 8th July, 1817, between the United States and the Cherokee nation, of which you were one of the commissioners, it was

stipulated that the head of each Indian family should have the right to take a life-estate reservation of six hundred and forty acres of land within the territory then, or which might thereafter be ceded to the United States.

Agreeably to said stipulation, a number of persons registered their names for reservations. A treaty was subsequently concluded in February, 1819, as a final adjustment of that of 1817, in which the same benefits were extended to the heads of Cherokee families, of which many also availed themselves. In the year 1819, or early part of 1820, the Legislature of Tennessee passed a law authorizing the surveying and sale of the lands acquired in that State by the treaties aforesaid, and which was soon put in execution; and a large portion of the reservations were disregarded and sold by the agents of the State, without regard to the claims and remonstrances of the reservees.

At the sales of the land, a remonstrance was made publicly to the cryer of the sales, under the direction of Col. Meigs, then United States agent for the Cherokees, who nevertheless proceeded to sell the lands, leaving to the reservees no alternative but to bring suits in the courts of the State of Tennessee. Various means were resorted to by the white people to dispossess and defeat the reservees of their just claims, and the sacred rights secured to them by those treaties. The ignorance of the reservees of the laws, together with the inefficient aid received through the agents of the General Government, finally deprived them of the last hope of ever recovering their lands for the inheritance of their children; and now they are all excluded, by the limitation act, from prosecuting their claims further before the courts of Tennessee. Thus you see that the reservees are left without any redress, excepting through the justice and good faith of the General Government, and to which they now appeal. It must be borne in mind, that those reservations were granted by the contracting parties to the individual families independent of any claim or right conceded for the benefit of the Cherokees of Arkansas; and that the Cherokee nation have never received any compensation in money, or equivalent in lands, from the United States for the same. And to those reservees who succeeded in securing their lands in North Carolina and Georgia, a compensation was given in consideration of their claims. To the same end, the undersigned would respectfully solicit that your excellency will give such direction to this memorial as will bring the subject before the Congress of the United States, where they sincerely hope that such measures will be adopted for the relief of such reservee claimants who have been deprived of their lands, as the justice of their claim shall seem to require. It may be remarked with propriety that no adjudication of their rights, or the legality of their claims by an officer of the United States, was referred to, but was referred solely to the surveyor of the State, and who did not even call in the agent of the United States, who was charged in part with the faithful execution of the treaties, as well on the part of the United States as on the part of the Cherokees.

Respectfully submitted, by your obedient humble servants,
 JOHN ROSS,
 DANIEL McCOY,
 R. TAYLOR,
 HAIR CONRAD,
 JOHN TIMSON.

To his Excellency **ANDREW JACKSON**,
President of the United States.

*The Hon. Secretary of War's letter to the Cherokee Delegation.*WAR DEPARTMENT, *March 19, 1834.*

GENTLEMEN: Your letter of the 17th instant, addressed to the President, has been referred to this department.

I am instructed by the President to inform you that, from the nature of the case, and the time which has elapsed, he does not consider your claim one which is properly within the control of the Executive. Whatever relief you may be entitled to must be sought from Congress, which is alone competent to make the necessary appropriation, and to apply such a remedy as may be proper.

Very respectfully,

Your obedient servant,

LEWIS CASS.

Messrs. JOHN ROSS,
DANIEL MCCOY,
R. TAYLOR,
HAIR CONRAD,
JOHN TIMSON.

IN SENATE OF THE UNITED STATES

January 15, 1894

Mr. Lusk made the following

REPORT:

The Committee on Amendments to the Constitution, to which was referred the petition of the representatives of Leonard Cooper, deceased, report July report.

That the petitioners claim that Leonard Cooper was a regular member of the Virginia State or confidential establishment in the revolutionary war, and served till the end of the war, and they ask for an allowance of three months of two years' full pay in lieu of half pay for life.

The committee in the petition are clearly proved, that a regular member of the Virginia State, the third section, that Leonard Cooper, deceased, was placed on the invalid pension roll for the State of Virginia, and the committee report all the State May, 1861, when he died. They also state that the principles on which he was placed on the pension roll were the same as those of the State of Virginia, and the committee report that the principles on which he was placed on the pension roll were the same as those of the State of Virginia, and the committee report that the principles on which he was placed on the pension roll were the same as those of the State of Virginia.

Resolved, That the petitioners are not entitled to the relief prayed for.

