

PROTEST OF CREEK, CHEROKEE, AND CHOCTAW NATIONS.

P R O T E S T

OF

CREEK, CHEROKEE, AND CHOCTAW NATIONS

AGAINST

Propositions pending in Congress to frame territorial governments.

JANUARY 24, 1872.—Referred to the Committee on Indian Affairs, and ordered to be printed.

To the Congress of the United States :

Several bills are before your honorable bodies to frame territorial governments for the Indian Territory. They propose to destroy governments of our own, to admit white settlers, to revolutionize the Indian policy, and to defeat the humane purpose of saving and elevating that remnant of the Indian people.

This movement is not of us. We are constrained to tell you that it is instigated by our enemies. Some of the propositions are plain and unmasked ; others are insidious ; all look to our confusion and destruction. Some of our true friends support them because they do not know all the facts. No proposition pending meets with the approval of the people for whom it is professedly designed.

So far we have rested on the good faith of the guarantees of the United States Government. The first we refer you to occurs in the treaty of Washington of 1828. It reads :

Whereas it being the anxious desire of the Government of the United States to secure to the Cherokee Nation of Indians, as well those now living within the limits of the Territory of Arkansas as those of their friends and brothers in States east of the Mississippi, and who may wish to join their brothers of the West, a permanent home, and which shall, under the most solemn guarantees of the United States, be and remain theirs forever ; a home that shall never in all future time be embarrassed by having extended around it the lines or placed over it the jurisdiction of a Territory or State.

The second is from the treaty of New Echota, which provided for the removal from Georgia, and by which our valuable lands were obtained. It reads :

ART. 5. The United States hereby covenant and agree that the lands ceded to the Cherokee Nation in the foregoing article shall, in no future time without their consent, be included in the territorial limits of State or Territory. But they shall secure to the Cherokee Nation the right by their national councils to make and to carry into effect all such laws as they may deem necessary for the government and protection of the persons and property within their own country.

Also to sections 26 and 31, Cherokee treaty of 1866 :

SEC. 26. The United States guarantee to the people of the Cherokee Nation the quiet and peaceable possession of their country, and protection against domestic feuds and insurrections, and against hostilities of other tribes; they shall be protected against interruptions or intrusion from all unauthorized citizens of the United States who may attempt to settle on their lands or reside in their territory. In case of hostilities among the Indian tribes, the United States agree that the party or parties commencing the same shall, so far as practicable, make reparation for the damage done.

SEC. 31. All provisions of treaties, heretofore ratified and in force and not inconsistent with the provisions of this treaty, are hereby reaffirmed and declared to be in full force.

Also the treaty between the United States and Creeks and Seminole tribe of Indians, August 7, 1856 :

The United States do hereby solemnly agree and bind themselves that no State or Territory shall ever pass laws for the government of the Creek or Seminole tribes of Indians, and that no portion of either of the tracts of country defined in the first and second articles of this agreement shall ever be embraced or included within or annexed to any Territory or State, nor shall either or any part of either be erected into a Territory without the full and free consent of the legislative authority of the tribe owning the same.

The policy of setting the territory, known as the Indian Territory, apart for Indians, is thus ably set forth by the message of President Van Buren in 1838 :

That a mixed occupancy of the same territory by the white and red man is incompatible with the safety and happiness of either, is a position in respect to which there has long since ceased to be room for a difference of opinion. Reason and experience have alike demonstrated its impracticability. The bitter fruits of every attempt heretofore to overcome the barriers interposed by nature have only been destructive, both physical and moral, to the Indian, dangerous conflicts of authority between the Federal and State Governments, and detrimental to the individual prosperity of the citizen, as well as to the general improvement of the country. The remedial policy, the principles of which were settled more than thirty years ago under the administration of President Jefferson, consists in an extinction, for a fair consideration, of the title to all the lands still occupied by the Indians within the States and Territories of the United States; their removal to a country west of the Mississippi, much more extensive and better adapted to their condition than that on which they then resided; the guarantee to them, by the United States of their exclusive possession of that country forever, exempt from all intrusion by white men, with ample provisions for their security against external violence and internal dissensions, and the extension to them of suitable facilities for their advancement in civilization.

To those who are restively anxious for a change of policy, we would say that the same cogent reasons still exist. The experiment so far has been a success. Much still remains to be done to enable the masses of our people to meet and endure white competition. New and wild tribes are just being removed there from lands in the western States and Territories to meet similar demands. To expose them now to fresh persecutions would be as cruel as it would be faithless.

We hold our lands in the Indian Territory by purchase from you. We believe our title legally perfect. If there had been a flaw in it, yours was the fault, not ours. One of the strongest inducements held out to us to abandon our country east of the Mississippi was, that our new homes would be held by fee-simple title from the United States and could never be invaded or called in question. That you will pass any bill invading such rights would not only be cruelly unjust to us, but so flagrant a breach of national faith that we cannot believe it possible that you will be guilty of it.

The tribes in the Indian Territory differ widely in condition. An advanced form of government would not at present suit many of them, or be understood. All of them have authorities of their own suitable to their condition, varying from the government of the Cherokee Nation to the simple tribal government. The treaties of 1866 did not authorize a territorial government such as the bills we refer to contemplate.

ART. 12. The Cherokees agree that a general council, consisting of delegates elected by each nation or tribe lawfully residing within the Indian Territory, may be annually convened in said Territory, which council shall be organized in such manner and possess such powers as hereinafter prescribed.

Third. Said general council shall have power to legislate upon matters pertaining to the intercourse and relations of the Indian tribes and nations, and colonies of freedmen, resident in said territory; the arrest and extradition of criminals and offenders escaping from one tribe to another, or into any community of freedmen; the administration of justice between members of different tribes of said territory; and persons other than Indians and members of said tribes or nations; and the common defense and safety of the nations of said territory.

All laws enacted by such council shall take effect at such time as may therein be provided, unless suspended by direction of the President of the United States. No law shall be enacted inconsistent with the Constitution of the United States, or laws of Congress, or existing treaty stipulations with the United States. Nor shall said council legislate upon matters other than those above indicated: *Provided, however,* That the legislative power of such council may be enlarged by the consent of the national council of each nation assenting to its establishment, with the approval of the President of the United States.

It provided for an internal council of the tribes with certain powers, and with the purpose of aiding the wilder tribes into lessons of constitutional government and written law. Leave it alone as it is, and we will pledge you to use our influence to make it accomplish all that is possible as a school in government for our wilder brethren, and as fast as it can be done with success or safety. The territorial bills before you are very different. They propose governments of white men over us. They would put us at the mercy of railroad speculators and land speculators. They would destroy good governments it has cost the wisdom and virtue of half a century to create. They will scatter drinking-dens in all our country. The masses, and above all, the wild tribes just coming in, will be scattered and ruined and become homeless outcasts and vagabonds under their provisions.

The interests of the country at large do not require this. For ourselves, we are not destitute of the hope that statesmanship, and the honor that would maintain the good faith of the United States, is not banished from Congress. To that sentiment, in behalf of our people, we earnestly appeal.

W. P. ROSS,
C. N. VANN,
W. P. ADAIR,

Cherokee Delegation.

JNO. R. MOORE,
S. W. PERRYMAN,
P. PORTER,
D. N. McINTOSH,

Creek Delegates.

SAM'L CHICOTE,
Prince Chief Creeks.

PETER PITCHLYN,
Delegate for the Choctaws.