

CHEROKEE INDIANS.

FEBRUARY 17, 1890.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SKINNER, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 6225.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 6225) to re-imburse certain Cherokee Indians for transporting themselves from North Carolina to the Indian Territory, and subsisting themselves there for one year after their arrival, having considered the same, report:

The New Echota treaty, December 29, 1835, between the United States and the Cherokee Indians, and an act of Congress approved July 29, 1848, provided for the removal of the Cherokee Indians residing east of the Mississippi, to the Indian Territory, and their subsistence there for one year, and permitted such individual Indians as desired to remove and subsist themselves to do so, at the rate of \$53.33 per capita, to be paid to them from a fund set apart for that purpose.

This fund, by acts of Congress, March 3, 1875, and August 16, 1876, was diverted from this use and applied to the education, civilization, and improvement of the Cherokees remaining east.

Before the ratification of these last-mentioned acts of Congress a large number of these Indians had removed and subsisted themselves, in accordance with the terms of the said New Echota treaty, but have never received the sums of \$53.33 to which they were individually entitled.

Their claims and proofs are on file in the office of the Commissioner of Indian Affairs, and the appropriation provided in this bill has been recommended by two Commissioners of Indian Affairs, H. Price and J. D. C. Atkins. (See Ex. Doc. 208, Forty-eighth Congress, second session, and Ex. Doc. 84, Forty-ninth Congress, first session, hereto appended.)

The committee is of the opinion that the United States is bound by its treaty obligations to pay these claims, and inasmuch as the fund which was set apart for that purpose has been applied to other uses by Congress since these claimants removed and subsisted themselves, and without their consent, that the said claims should be paid out of any money in the Treasury not otherwise appropriated.

But the committee is of the opinion that those Indians who still remain east and have not availed themselves of the permission to remove themselves to Indian Territory, and taken the benefit of the new use to which the removal and subsistence fund was diverted by Congress should not now be allowed to remove and subsist themselves at the expense of the United States.

Wherefore the committee recommend that the bill be amended by striking out all after the word "removal" in line 46 down to and including the word "Territory" in line 50, and that the bill so amended pass.

[House Ex. Doc. No. 208, Forty-eighth Congress, second session.]

TREASURY DEPARTMENT,
February 10, 1885.

SIR: I have the honor to transmit herewith, for the consideration of Congress, an estimate of appropriation received from the Secretary of the Interior for the removal and subsistence expenses of certain Eastern Cherokee Indians, \$20,000.

Very respectfully,

CHARLES E. COON,
Acting Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
Washington, February 7, 1885.

SIR: Under the direction contained in the second section of the act of July 7, 1884, I have the honor to transmit herewith, for presentation to Congress, a draft of an amendment prepared in the office of Indian Affairs appropriating the sum of \$20,000 for the settlement of the claims for expenses of certain Eastern Cherokee Indians who have removed to the Indian Territory, and for defraying the expenses of certain others of said Indians who desire to remove to the Indian Territory, etc., which the Commissioner of Indian Affairs requests may be incorporated in the deficiency or sundry civil bill hereafter to be acted upon by Congress.

A copy of the letter of the Commissioner of Indian Affairs, with inclosures noted therein, presenting the said draft of amendment with recommendations for its favorable consideration, is also herewith inclosed.

Very respectfully,

H. M. TELLER,
Secretary.

The SECRETARY OF THE TREASURY.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 6, 1885.

SIR: I have the honor to submit herewith a copy of a communication, dated Washington, D. C., January 2, 1885, from J. M. Bryan, agent and attorney for Cherokees, requesting that the attention of the appropriation committees of the House and Senate be invited to the claims of certain Cherokees, in order to secure for them the removal and subsistence money they are entitled to receive under the provisions of the treaties of 1835, 1836, 1846, and an act of Congress approved July 29, 1848 (9 Stats., p. 264).

By the eighth article of the New Echota treaty of December 29, 1835, with the Cherokees (7 Stats., p. 482), the United States agreed to remove these Indians west, the price for removal being fixed at \$20, and one year's subsistence at \$33.33 for each of such persons, who might prefer to remove themselves.

By the third article of the supplementary treaty of March 1, 1836 (7 Stats., p. 488), the sum of \$600,000 was allowed to the Cherokees, in lieu of all claims of every nature and description against the United States, including the expenses of their removal.

By the eleventh article of the treaty of August 6, 1846 (9 Stats., p. 873), the question whether the amount expended for the one year's subsistence should be paid out of Government or Cherokee funds, was submitted to the Senate for decision, as also the question if the Cherokees were to pay, whether the subsistence should be charged at a greater rate than \$33.33 per head.

The fourth section of the act of July 29, 1848 (9 Stats., 264), directed the Secretary of War to ascertain the number of Indians remaining at the ratification of the New Echota treaty (May 23, 1836), and the Secretary of the Treasury to set apart a sum equal to \$53.33 for each individual reported by the Secretary of War, upon which interest was to be paid at 6 per cent. per annum, on such per capita.

The fifth section provided for the payment of the \$53.33 for the removal and subsistence of such individual members, as might thereafter desire to remove, upon their removal west, which amount was to be charged to the general Cherokee fund, and re-imbursed therefrom.

This fund, under the act of March 3, 1875 (18 Stats. 447), was applied for the education, improvement, and civilization of these Indians, after certain specific acts and payments had been effected, and, under the act of August 15, 1876 (19 Stats., 197),

the balance of this fund, after certain payments therefrom, was placed to their credit upon the books of the Treasury Department, to bear interest at 5 per cent. per annum; and the Secretary of the Interior is authorized to use annually, for agricultural implements and for educational purposes among said Indians, so much of the principal of said fund as with the interest annually accruing thereon shall amount to \$6,000.

In view of the fact that Congress has determined the uses to which this fund must be applied, and the Indians are without means for their removal, I am of the opinion that Congress should furnish the necessary means to enable the Department to effect their removal as stipulated in the eighth article of their treaty of 1835.

I therefore respectfully recommend that Congress be requested to appropriate out of any moneys in the Treasury of the United States not otherwise appropriated the sum of \$20,000, or so much thereof as may be necessary to pay the cost of the removal and subsistence of those members of the tribe who have removed, as well as those who may hereafter desire to remove, at the rate of \$53.33 per head.

I inclose herewith a draft of an amendment to be incorporated in the deficiency or sundry civil bill hereafter to be acted upon by Congress.

Very respectfully,

H. PRICE,
Commissioner.

The SECRETARY OF THE INTERIOR.

WASHINGTON, D. C., *January 2, 1885.*

SIR: Please find inclosed a list of claims of North Carolina Cherokees, who have removed from North Carolina to the Indian Territory, for the cost of their removal and subsistence under the eighth article of the treaty of December 29, 1835.

The majority of these claims were filed in your office November 20, 1877, and the balance in March and April, 1878. The evidence in these cases is on file and they are ready for payment. I respectfully request that you call the attention of the Appropriation Committees of the Senate and House to these claims and recommend their early payment. The cost of removal and subsistence of a part of those who removed from North Carolina to the Indian Territory was paid out of the civilization fund, which fund was subsequently reimbursed by Congress, as I am informed, and justice and right calls for the payment of these claims which have been pending for many years. Many of the claimants are poor and needy, and I sincerely trust that you will again call the attention of Congress to their claims.

J. M. BRYAN,
Agent and Attorney of Claimants.

Hon. HIRAM PRICE,
Commissioner of Indian Affairs.

ESTIMATE.

For this amount, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Interior, for the removal and subsistence expenses of those members of the Eastern Band of Cherokees who have removed, as well as for those who may hereafter desire to remove to the Cherokee country, Indian Territory, at the rate of \$53.33 per head: *Provided*, That the sum of \$2,930.50, expended for the removal of one hundred and sixty-one members of said band in 1881, be deducted per capita from the \$53.33 for each individual, being the amount specified in the eighth article of the treaty of December 29, 1835, \$20,000.

[Senate Ex. Doc. No. 84. Forty-ninth Congress, first session.]

To the Senate and House of Representatives:

I transmit herewith a communication of 25th ultimo from the Secretary of the Interior, submitting, with accompanying papers, a draught of a bill, recommended by the Commissioner of Indian Affairs, for the payment of money claimed under alleged existing treaty stipulations and laws by such Eastern Cherokee Indians as have removed or shall hereafter remove themselves to the Indian Territory.

The matter is presented for the consideration of Congress.

GROVER CLEVELAND.

EXECUTIVE MANSION, *March 2, 1886.*

DEPARTMENT OF THE INTERIOR,
Washington, February 25, 1886.

The PRESIDENT:

I have the honor to submit herewith a draught of proposed legislation, prepared in the Office of Indian Affairs, entitled "A bill for the removal of the Eastern Cherokee Indians to the Indian Territory," for which purpose the sum of \$20,000 is estimated to be appropriated thereunder.

This bill provides for the payment, not only of the expenses of removal of such of the said Indians as may desire to remove west, at the rate of \$53.33 each, but also for the payment of certain of the Eastern Cherokees who heretofore have so removed at their own expense, and who are entitled to reimbursement at the rate above stated for such expenses.

A copy of report of 20th instant from the Commissioner of Indian Affairs, transmitting the draught of bill to this Department, which recites the various provisions of the treaties and laws bearing upon the subject, together with a copy of the letter of the Cherokee attorney mentioned therein, is also herewith.

The Commissioner recommends the appropriation. I respectfully request that the matter may be presented to Congress for such action as that body may find to be right and proper.

I have the honor to be, very respectfully, your obedient servant,

L. Q. C. LAMAR,
Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 20, 1886.

SIR: I have the honor to submit herewith a copy of a communication, dated Washington, D. C., January 20, 1886, from J. M. Bryan, attorney, inviting attention to certain claims of North Carolina Cherokees for removal and subsistence money they are entitled to receive under the provisions of the treaties of 1835, 1836, 1846, and an act of Congress approved July 29, 1848. (9 Stats., p. 464.)

By the eighth article of the New Echota treaty of December 29, 1835, with the Cherokees (7 Stats., p. 482), the United States agreed to remove these Indians west, the price for removal being fixed at \$20 and one year's subsistence at \$33.33 for each of such persons who might prefer to remove themselves.

By the third article of the supplementary treaty of March 1, 1836 (7 Stats., p. 488), the sum of \$600,000 was allowed to the Cherokees in lieu of all claims of every nature and description against the United States, including the expenses of their removal.

By the eleventh article of the treaty of August 6, 1846 (9 Stats., p. 873), the question whether the amount expended for the one year's subsistence should be paid out of Government or Cherokee funds was submitted to the Senate for decision, as also the question if the Cherokees were to pay, whether the subsistence should be charged at a greater rate than \$33.33 per head.

The fourth section of the act of July 29, 1848 (9 Stats., 264), directed the Secretary of War to ascertain the number of Indians remaining at the ratification of the New Echota treaty, May 23, 1836, and the Secretary of the Treasury to set apart a sum equal to \$53.33 for each individual reported by the Secretary of War, upon which interest was to be paid at 6 per cent. per annum on such per capita.

The fifth section provided for the payment of the \$53.33 for the removal and subsistence of such individual members as might thereafter desire to remove, upon their removal west, which amount was to be charged to the general Cherokee fund and re-imbursed therefrom.

This fund, under the act of March 3, 1875 (18 Stats., 447), was applied for the education, improvement, and civilization of these Indians, after certain specific acts and payments had been effected, and under the act of August 15, 1876 (19 Stats., 197), the balance of this fund, after certain payments therefrom, was placed to their credit upon the books of the Treasury Department, to bear interest at 5 per cent. per annum, and the Secretary of the Interior is authorized to use annually, for agricultural implements and for educational purposes among said Indians, so much of the principal of said fund as, with the interest annually accumulating thereon, shall amount to \$6,000.

In view of the fact that Congress has determined the uses to which this fund must be applied, and the Indians are without means for their removal, I am of the opinion that Congress should furnish the necessary means to enable the department to effect their removal, as stipulated in the eighth article of their treaty of 1835.

I therefore respectfully recommend that Congress be requested to appropriate, out of any moneys in the Treasury of the United States not otherwise appropriated, the

sum of \$20,000, or so much thereof as may be necessary to pay the cost of the removal and subsistence of those members of the tribe who have removed, as well as those who may now or hereafter desire to remove, at the rate of \$53.33 per head.

I inclose herewith a draught of a bill covering the amount required to carry out the objects specified.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

The SECRETARY OF THE INTERIOR.

A BILL for the removal of the Eastern Cherokee Indians to the Indian Territory.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That for the amount necessary to pay for the removal and subsistence of those members of the Eastern band of Cherokees who have removed themselves, as well as those who may now or hereafter desire to remove to the Cherokee Nation, in the Indian Territory, at the rate of fifty-three dollars and thirty-three cents per head, being the amount specified in the eighth article of the Cherokee treaty of December twenty-ninth, eighteen hundred and thirty-five, and the act of Congress approved July twenty-ninth, eighteen hundred and forty-eight, there is hereby appropriated the sum of twenty thousand dollars, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Interior.

WASHINGTON, D. C., *January 20, 1886.*

SIR: I respectfully beg leave to call your attention to a claim of North Carolina Cherokees, who removed from North Carolina to the Cherokee Nation, Indian Territory, about ten years ago.

The list of these claimants that I am representing is on file in the Indian Department, and every claim fully proven, as to number of persons and date of removal.

The claim is for their removal, and subsistence for one year.

Under Cherokee treaty of 1846, provision is made that all money due the Cherokees the United States Government agrees to pay 5 per cent. interest from the 12th of June, 1838.

Therefore, we think it reasonable and just that these claimants should receive interest on the several sums due them from the date of their removal west, as it was their own funds placed in the hands of the United States Government for this special purpose, and to draw interest at the rate of 6 per cent. per. annum.

It has been near nine years since these claims have been presented to the Government for payment.

I also submit a report from the Interior Department, dated February 10, 1885, for your information, on these claims, and I respectfully ask that you will have their money appropriated and paid.

Very respectfully,

J. M. BRYAN,
For Claimants.

Hon. J. D. C. ATKINS,
Commissioner Indian Affairs.