

CHEROKEE INDIANS.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A communication addressed by the Secretary of War to the Cherokee Delegation.

MAY 22, 1838.

Referred to the Committee on Indian Affairs.

To the House of Representatives of the United States:

The accompanying copy of a communication addressed by the Secretary of War to the Cherokee delegation is submitted to Congress, in order that such measures may be adopted as are required to carry into effect the benevolent intentions of the Government towards the Cherokee nation, and which, it is hoped, will induce them to remove peaceably and contentedly to their new homes in the West.

M. VAN BUREN.

WASHINGTON, *May 21, 1838.*

WAR DEPARTMENT, *May 21, 1838.*

SIR: I have the honor to submit to you the accompanying communication addressed to the Cherokee delegation now in this city, in order that, if it meet with your approbation, it may be laid before Congress.

Very respectfully, your most obedient servant,

J. R. POINSETT,

Secretary of War.

To the PRESIDENT of the United States.

To Messrs. John Ross, Edward Gunter, R. Taylor, James Brown, Samuel Gunter, Situwakee, Elijah Hicks, and White Path—Cherokee delegation :

The undersigned has attentively considered the project of a treaty submitted by you; and although equally desirous with yourselves to satisfy that portion of the nation that still remain east of the Mississippi, and to offer them every inducement to remove peaceably and contentedly to their new homes in the West, and not unwilling to grant most of the terms proposed by you; still, where the rights and just expectations of sovereign States are involved, it is deemed inexpedient, without their consent, to give to any stipulations which affect them, the form of a solemn treaty.

In the first article you desire to stipulate and agree that "the said Cherokee nation, party hereto, engages and stipulates to remove from all the lands now occupied by them eastward of the Mississippi, and hereby renounces and relinquishes to the United States all claim of every description to such lands; such removal to be commenced at the earliest convenient period, and to be fully completed within two years from this date; to be effected by the Cherokees themselves and by their agents; and the entire expenses of such removal to be defrayed out of the money to be paid by the United States as hereinafter provided." As has been before observed, the Government of the United States could not agree to this article without the consent of the States whose rights are involved, and whose interests may be affected by this stipulation; but the Executive pledges itself to use its best efforts to induce them to abstain from pressing their claims in a manner that would produce loss or inconvenience to the Cherokee people, and would be inconsistent with their being removed with every reasonable comfort. From the well-known humanity and generous character of the States of Georgia, Tennessee, Alabama, and North Carolina, there can be no doubt of their granting every indulgence which the interests of humanity require; and if two years are necessary for the comfortable removal of the nation, the undersigned will venture to assure the delegation that their request will be granted.

If it be desired by the Cherokee nation that their own agents should have the charge of their emigration, their wishes will be complied with, and instructions be given to the commanding general in the Cherokee country to enter into arrangements with them to that effect. With regard to the expense of this operation, which you ask may be defrayed by the United States, in the opinion of the undersigned the request ought to be granted; and an application for such further sum as may be required for this purpose shall be made to Congress.

In the next article of your project, you propose that "the United States on their part stipulate and agree, in consideration of the premises, to perfect the title of the Cherokee nation to the lands and territory westward of the Mississippi, described, mentioned, and defined in and by the treaty of 1833 between the United States and the Cherokees west of the Mississippi, and the privilege of outlet thereto annexed, and to issue a patent therefor to the Cherokee nation in perpetuity; and further to pay to the said chiefs and representatives of the Cherokee nation eastward of the Mississippi the sum of _____ dollars, in manner and at the time hereinafter provided."

It was always the declared intention of the Government to perfect the title to this land to the Cherokee nation, and to issue a patent therefor, so soon as that portion of them now east of the Mississippi had emigrated west, granting the nation the privilege of outlet and all other privileges secured to them by former arrangements. Nor will it object to grant them in perpetuity, if Congress should think proper to do so on their recommendation, under certain restrictions to which the delegation have assented. As the delegation expressed their fears that a form of government might be imposed which they were neither prepared for nor desirous of, the assurance is hereby repeated, that no form of government will be imposed upon the Cherokees without the consent of the whole nation, given in council, nor shall their country be erected into a territory without such previous concurrence.

With regard to the payment of a further sum of money by the United States, the undersigned cannot consent to recommend such a measure to Congress. The Senate of the United States deliberately decided that \$5,000,000 was a full and sufficient indemnification to the Cherokees for the lands they relinquished on the eastern side of the Mississippi; and it is understood that the members of that body see no reason at present to alter that decision.

In the third article of your project, you ask that "the said Cherokee nation, party hereto, through and by their acknowledged chiefs and officers, shall have the entire control, management, and disposition, responsible only to their own nation, of the funds to be paid under this treaty."

The undersigned would very much prefer making this disposition of the funds of the nation, but as the interests of those Cherokees who have lately emigrated are deeply involved in this proposition, the Executive cannot recommend such an alternative without the previous consent of all the parties concerned.

The next article asks "that in addition to the said sum mentioned in the foregoing second article, the United States shall forthwith pay, or arrange to be paid, to the Cherokee nation, party hereto, the arrearages of the annuities which were provided for in the treaty of 1819, up to this date, and shall continue such annuities during the two years allowed for said removal."

The undersigned assures the delegation that whatever arrearages of annuities are due to the Cherokee nation under the treaty of 1819 shall be promptly paid up to this date, and a continuance of that annuity for two years longer shall be asked of Congress.

The fifth article requires "that inasmuch as the Cherokees contemplate removing, as provided for in said first article, as rapidly as their numbers and engagements will permit, the United States stipulate and engage to pay to them, as such removal and the necessary preparations therefor progress, out of the money mentioned in said second article, such sums as may, from time to time, be necessary to defray the expenses incident thereto."

All payments and necessary advances for the purposes herein set forth will be liberally provided for in the contract which the commanding general will be authorized to make with the Cherokee agents for the emigration of that portion of the nation east of the Mississippi.

The sixth article asks "that, during the period prescribed and allowed by this treaty for said removal, the United States stipulate and contract to

protect the persons and property of said Cherokees from all acts of encroachment and violence, and to furnish them, when required, with the necessary escort and protection during such removal, until their arrival at their destination beyond the Mississippi."

The necessary escort and protection during the removal of the Cherokees, until their arrival at their destination beyond the Mississippi, will be furnished; and the United States will protect the persons and property of the said Cherokees from all illegal acts of encroachment and violence, and will use their best efforts with the States interested to prevent their pressing the execution of their rights in a manner calculated to oppress or inconvenience any individual of the nation.

In the seventh article the request is made "that, in addition to the moneys hereinbefore stipulated to be paid by the United States, they further agree to pay to the said Cherokee nation, party hereto, the gross sum of dollars, in full discharge of all claims upon the United States under the stipulations of former treaties, for public or private property, spoiliations, indemnities, and other reclamations, whether national or individual, and for reimbursement of expenses incurred in and about this arrangement."

Six hundred thousand dollars was set apart for this purpose by a vote of Congress, and to defray the expenses of the removal of the nation to their new homes. But as this sum proves to be inadequate for both objects, the Executive will recommend to Congress to make a further appropriation in order to satisfy them.

The undersigned trusts that the Cherokee delegation will see in these liberal concessions the earnest desire of the President to reconcile the nation to the necessity of removing without any other delay than a due regard for their comfort and convenience demands; and in this conviction confidently relies upon the cordial co-operation of the chiefs and headmen to effect this desirable object.

On the part of the Government, copies of this document, with suitable applications to the States interested, will be immediately transmitted to the several Governors thereof; instructions will be sent to the commanding general to act in conformity with its assurances; and a communication be made to Congress, asking the consent of that body to the provisions proposed for the benefit of the Cherokee nation.

The undersigned, in closing this communication, which has been considered with great deliberation, and drawn with the utmost regard for the wishes of the delegation, desires it to be distinctly understood, that it contains the most liberal terms the Executive can grant, with a due regard to the rights and interests of all the parties concerned, and therefore presents it as the final determination of the Government, and the peremptory conclusion of the correspondence with the Cherokee delegation on this subject.

J. R. POINSETT.

DEPARTMENT OF WAR, *May 18, 1838.*