

Cherokee Memorial (1829)

This memorial was sent to Congress by the Cherokee Nation in Georgia to demonstrate their objection to the depredation of their lands by white settlers from Georgia and their opposition to the proposed westward removal of their nation. As you read this document, carefully consider how the Cherokee described the history of their nation and its sovereign relations with the United States. On what basis did they declare themselves an independent nation? What were their "bulwarks of liberty" that predated the arrival of the Europeans? How did they defend themselves against those who complained that they were a sovereign nation within the nation, a thorn in the continuous political and commercial fabric of the United States? Finally, why would their efforts to frame a constitution similar to that of the United States produce protests from neighboring Georgia?

To the Honorable Senate and House of Representatives of the United States of America in Congress Assembled:

We, the representatives of the people of the Cherokee nation, in general council convened, compelled by a sense of duty we owe to ourselves and nation, and confiding in the justice of your honorable bodies, address, and make known to you the grievances which disturb the quiet repose and harmony of our citizens, and the dangers by which we are surrounded. Extraordinary as this course may appear to you, the circumstances that have imposed upon us this duty we deem sufficient to justify the measure; and our safety as individuals, and as a nation, require that we should be heard by the immediate representatives of the people of the United States, whose humanity and magnanimity, by permission and will of Heaven, may yet preserve us from ruin and extinction.

The authorities of Georgia have recently and unexpectedly assumed a doctrine, horrid in its aspect, and fatal in its consequences to us, and utterly at variance with the laws of nations, of the United States, and the subsisting treaties between us, and the known history of said State, of this nation, and of the United States. She claims the exercise of sovereignty over this nation; and has threatened and decreed the extension of her jurisdictional limits over our people. The Executive of the United States, through the Secretary of War, in a letter to our delegation of the 18th April last, has recognized this right to be abiding in, and possessed by, the State of Georgia; by the Declaration of Independence, and the treaty of peace concluded between the United States and Great Britain in 1783; and which it is urged vested in time previously, she claimed and exercised, within the limits of what constituted the "thirteen United States." It is a subject of vast importance to know whether the power of self-government abided in the Cherokee nation at the discovery of America, three hundred and thirty-seven years ago; and whether it was in any manner affected or destroyed by the charters of European potentates. It is evident from facts deducible from known history, that the Indians were found here by the white man, in the enjoyment of plenty and peace, and all the rights of soil and domain, inherited from their ancestors from time immemorial, well furnished with kings, chiefs, and warriors, the bulwarks of liberty, and the pride of their race. Great Britain established with them relationships of friendship and alliance, and at no time did she treat them as subjects, and as tenants at will, to her power. In

war she fought them as a separate people, and they resisted her as a nation. In peace, she spoke the language of friendship, and they replied in the voice of independence, and frequently assisted her as allies, at their choice to fight her enemies in their own way and discipline, subject to the control of their own chiefs, and unaccountable to European officers and military law. Such was the connexion of this nation to Great Britain, to wit, that of friendship, and not allegiance, to the period of the declaration of Independence by the United States, and during the Revolutionary contest, down to the treaty of peace between the United States and Great Britain, forty-six years ago, when she abandoned all hopes of conquest, and at the same time abandoned her Cherokee allies to the difficulties in which they had been involved, either to continue the war, or procure peace on the best terms they could, and close the scenes of carnage and blood, that had so long been witnessed and experienced by both parties. Peace was at last concluded at Hopewell, in '85, under the administration of Washington, by "the Commissioners, Plenipotentiaries of the United States in Congress assembled:" and the Cherokees were received "into the favor and protection of the United States of America. It remains to be proved, under a view of all these circumstances, and the knowledge we have of history, how our right to self-government was affected and destroyed by the Declaration of Independence, which has never noticed the subject of Cherokee sovereignty; and the treaty of peace, in '83, between Great Britain and the United States, to which the Cherokees were not a party; but maintained hostilities on their part of the treaty of Hopewell, afterwards concluded. If, as it is stated by the Hon. Secretary of War, that the Cherokees were mere tenants at will, and only permitted to enjoy possession of the soil to pursue game; and if the States of North Carolina and Georgia were sovereigns in truth and in right over us; why did President Washington send "Commissioners Plenipotentiaries" to treat with the subjects of those states? Why did they permit the chiefs and warriors to enter into treaty, when, if they were subjects, they had grossly rebelled and revolted from their allegiance? And why did not those sovereigns make their lives pay the forfeit of their guilt, agreeable to the laws of said States? The answer must be plain--they were not subjects, but a distinct nation, and in that light viewed by Washington, and by all the people of the Union, at that period. In the first and second articles of the Hopewell treaty, and the third article of the Holston treaty, the United States and the Cherokee nation were bound to a mutual exchange of prisoners taken during the war; which incontrovertibly proves the possession of sovereignty by both contracting parties. It ought to be remembered too, in the conclusions of the treaties to which we have referred, and most of the treaties subsisting between the United States and this nation, that the phraseology, composition, etc. was always written by the Commissioners, on the part of the United States, for obvious reasons: as the Cherokees were unacquainted with letters. Again, in the Holston treaty, eleventh article, the following remarkable evidence is contained that our nation is not under the jurisdiction of any State: "If any citizen or inhabitant of the United States, or of either of the territorial districts of the United States, shall go into any town, settlement, or territory, belonging to the Cherokees, and shall there commit any crime upon, or trespass against, the person or property of any peaceable and friendly Indian or Indians, which if committed within the jurisdiction of any State, or within the jurisdiction of either of the said districts, against a citizen or any white inhabitant thereof, would be punishable by the laws of such State or district, such offender or offenders shall be proceeded against in the same manner as if the offense had been committed within the jurisdiction of the State or district to which he or they may belong, against a citizen or white inhabitant thereof." The power of a State may be put under our national existence under its feet, and coerce us into her jurisdiction; but it would be contrary to legal right, and the plighted faith of the United States' Government. It is said by Georgia and the

Honorable Secretary of War, that one sovereignty cannot exist within another, and, therefore, we must yield to the stronger power; but is not this doctrine favorable to our Government, which does not interfere with that of any other? Our sovereignty and right of enforcing legal enactments, extend no further than our territorial limits, and that of Georgia is, and has always terminated at, her limits. The constitution of the United States (article 6) contains these words: "All treaties made under the authority of the United States shall be the supreme law of the land, and the judges in every State shall be bound thereby, any thing in the laws or constitution of any State to the contrary notwithstanding." The sacredness of treaties, made under the authority of the United States, is paramount and supreme, stronger than the laws and constitution of any State. The jurisdiction, then, of our nation over its soil is settled by the laws, treaties, and constitution of the United States, and has been exercised from time out of memory.

Georgia has objected to the adoption, on our part, of a constitutional form of government, and which has in no wise violated the intercourse and connexion which bind us to the United States, its constitution, and the treaties thereupon founded, and in existence between us. As a distinct nation, notwithstanding any unpleasant feelings it might have created to a neighboring State, we had a right to improve our Government, suitable to the moral, civil, and intellectual advancement of our people; and had we anticipated any notice of it, it was the voice of encouragement by an approving world. We would, also, while on this subject, refer your attention to the memorial and protest submitted before your honorable bodies, during the last session of Congress, by our delegation then at Washington.

Permit us, also, to make known to you the aggrieved and unpleasant situation under which we are placed by the claim which Georgia has set up to a large portion of our territory, under the treaty of the Indian Springs concluded with the late General M'Intosh and his party; and which was declared void, and of no effect, by a subsequent treaty between the Creek Nation and the United States, at Washington City. The President of the United States, through the Secretary of War, assured our delegation, that, so far as he understood the Cherokees had rights, protection should be afforded; and, respecting the intrusions on our lands, he had been advised, "and instructions had been forwarded to the agent of the Cherokees, directing him to cause their removal; and earnestly hoped, that, on this matter, all cause for future complaint would cease, and the order prove effectual." In consequence of the agent's neglecting to comply with the instructions, and a suspension of the order made by the Secretary afterwards, our border citizens are at this time placed under most unfortunate circumstances, by the intrusions of citizens of the United States, and which are almost daily increasing, in consequence of the suspension of the once contemplated "effectual order." Many of our people are experiencing all the evils of personal insult, and, in some instances, expulsion from their homes, and loss of property, from the unrestrained intruders let loose upon us, and the encouragement they are allowed to enjoy, under the last order to the agent for this nation, which amounts to a suspension of the force of treaties, and the wholesome operation of the intercourse laws of the United States. The reason alleged by the War Department for this suspension is, that it had been requested so to do, until the claim the State of Georgia has made to a portion of the Cherokee country be determined; and the intruders are to remain unmolested within the border limits of this nation. We beg leave to protest against this unprecedented procedure. If the State of Georgia has a claim to any portion of our lands, and is entitled by law and justice to them, let her seek through a legal channel to establish it; and we do hope that the United States will not suffer her to take possession of them

forcibly, and investigate her claim afterwards.

Arguments to effect the emigration of our people, and to escape the troubles and disquietude incident to a residence contiguous to the whites, have been urged upon us, and the arm of protection has been withheld, that we may experience still deeper and ampler proofs of the correctness of the doctrine; but we still adhere to what is right and agreeable to ourselves; and our attachment to the soil of our ancestors is too strong to be shaken. We have been invited to a retrospective view of the past history of Indians, who have melted away before the light of civilization, and the mountains of difficulties that have opposed our race in their advancement in civilized life. We have done so; and, while we deplore the fate of thousands of our complexion and kind, we rejoice that our nation stands and grows a lasting monument of God's mercy, and a durable contradiction to the misconceived opinion that the aborigines are incapable of civilization. The opposing mountains, that cast fearful shadows in the road of the Cherokee improvement, have dispersed into vernal clouds; and our people stand adorned with the flowers of achievement flourishing around them, and are encouraged to secure the attainment of all that is useful in science and Christian knowledge.

Under the fostering care of the United States we have thus prospered; and shall we expect approbation, or shall we sink under the displeasure and rebukes of our enemies?

We now look with earnest expectation to your honorable bodies for redress, and that our national existence may not be extinguished before a prompt and effectual interposition is afforded in our behalf. The faith of your Government is solemnly pledged for our protection against all illegal oppressions, so long as we remain firm to our treaties; and that we have, for a long series of years, proved to be true and loyal friends, the known history of past events abundantly proves. Your Chief Magistrate himself has borne testimony of our devotedness in supporting the cause of the United States, during their late conflict with a foreign foe. It is with reluctant and painful feelings that circumstances have at length compelled us to seek from you the promised protection, for the preservation of our rights and privileges. This resort to us is a last one, and nothing short of the threatening evils and dangers that beset us could have forced it upon the nation but it is a right we surely have, and in which we cannot be mistaken--that of appealing for care we have been led to the present degree of civilization, and the enjoyment of its consequent blessings. Having said thus much, with patience we shall await the final issue of your wise deliberations.