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1863, February 18 - Communication from S. S. Scott, Commissioner of Indian Affairs, Confederates States of America

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MESSAGE OF THE PRESIDENT

RICHMOND, VA., Feb. 20, 1863.

To the House of Representatives :

I herewith transmit, for your information, a communication from the Secretary of War, covering a report from the Commissioner of Indian Affairs in response to your resolution of the 6th inst., in regard to sums invested or funded for the Cherokee Indians under the treaty of New Echota.

JEFFERSON DAVIS.

COMMUNICATION FROM THE SECRETARY OF WAR.

CONFEDERATE STATES OF AMERICA, }
War Department, }
Richmond, Va., Feb. 20, 1863. }

His Excellency, THE PRESIDENT :

SIR : I have the honor to enclose a report from the Commissioner of Indian affairs in response to a resolution of the House of Representatives.

Very respectfully,

Your obedient servant,

JAMES A. SEDDON,

Secretary of War.

COMMUNICATION FROM S. S. SCOTT, COMMISSIONER OF
INDIAN AFFAIRS.

CONFEDERATE STATES OF AMERICA,
War Department, Office of Indian Affairs. }
Richmond, Va., Feb. 18, 1863. }

HON. JAMES A. SEDDON,
Secretary of War :

SIR: The following resolution of the House of Representatives was transmitted, "for attention and proper action," to this office on the 12th instant:

"*Resolved,* That the President be requested to inform this House what sum or sums of money have been vested or funded for the Cherokee Indians, east of the Mississippi river, out of the removal and subsistence fund, under the treaty of the New Echota of 1835-36, by the United States; when the same was funded; when the interest was last paid; what legislation has been heretofore enacted by the United States, and what legislation is now necessary to carry into effect the late treaty stipulations with said tribe."

In response to the demands of the House of Representatives as set forth in the foregoing resolution, I have the honor to state, that the treaty of New Echota, to which reference is therein made, was entered into with the Cherokee Indians by the United States, for the purpose of inducing the former to remove to lands set apart for them west of the Mississippi river, etc., and the 8th section reads as follows:

"The United States also agree and stipulate to remove the Cherokees to their new homes, and to subsist them one year after their arrival there. * * * * Such persons and families, as in the opinion of the emigrant agent, are capable of removing and subsisting themselves, shall be permitted to do so; and they shall be allowed in full for all claims for the same *twenty dollars* for each member of their family, and in lieu of their one year's rations, they shall be paid the sum of *fifty-three dollars and thirty-three cents*, if they prefer it. Such Cherokees, also, as reside at present out of the nation, and shall remove with them in two years west of the Mississippi, shall be entitled to allowance for removal and subsistence as above provided."

From this clause of the treaty it will be perceived that this sum of \$53 33 was only granted to those Cherokees who removed west of

the Mississippi within two years from the date of its ratification; but by the fourth section of the act of July 29th, 1848, interest at 6 per cent. on a like amount was allowed to every member of the nation who were in North Carolina at the time of the said ratification, and had not since removed west, or received commutation for removal and subsistence.

The section referred to provides "That the Secretary of War cause to be ascertained the number and names of such individuals and families, including each member of every family of the Cherokee Nation of Indians, that remained in the State of North Carolina at the time of the ratification of the treaty of New Echota, May twenty-three, eighteen hundred and thirty-six, and who have not removed west of the Mississippi, or received the commutation for removal and subsistence, and report the same to Secretary of the Treasury; whereupon the Secretary of the Treasury shall set apart out of any moneys in the Treasury, not otherwise appropriated, a sum equal to *fifty-three dollars and thirty-three cents* for each individual ascertained as aforesaid, and that he cause to be paid to every such individual, or his or her legal representative, interest at the rate of *six per cent.* per annum on such per capita, from the said twenty-third day of May, eighteen hundred and thirty-six, to the time of the passage of this act, and continue annually thereafter said payment of interest at the rate aforesaid."

No further legislation was had by the United States with regard to this fund until *March 3rd*, 1855, when to get rid of the trouble of paying the interest upon it annually, an appropriation was made with the view of having the claim settled.

By the third section of this law of *March 3rd*, 1855, it is enacted: "That the Secretary of the Interior is hereby authorized and required to cause to be paid to the North Carolina Cherokees embraced in the roll of John C. Mullan, or the legal representatives of such of them as had died since their enrolment, *the sum* of fifty-three dollars and thirty-three cents, respectively, for the expenses of their removal and subsistence, now held in trust by the United States, according to the terms of the fourth section of the Act of twenty-ninth July, Anno Domini, eighteen hundred and forty-eight, for which purpose there is hereby appropriated the sum of forty-two thousand two hundred and ninety dollars and sixty-nine cents: *Provided*, That each and every Indian so receiving such payment in full, shall give his assent thereto: *And provided further*, That said Secretary shall be first satisfied that the *State of North Carolina* has, *before such payment*, by some *appropriate act*, agreed that said Cherokees may remain permanently in that State, any thing in the treaty of eighteen thirty-five, six, to the contrary, notwithstanding."

The debt was not extinguished, as was hereby intended, the State of North Carolina having refused to pass the "appropriate act" required in the foregoing proviso; and the United States continued for some time thereafter regularly to pay the interest upon it.

I have on file in my office a paper, which purports to be a copy of a roll of these North Carolina Cherokees, prepared under the direction of

the United States. Its correctness is certified to by James W. Terrell, of Qualla Town, North Carolina, formerly United States agent, for the payment of interest upon this removal and subsistence fund.

By this roll it appears there were fifteen hundred and seventeen Indians, who were entitled to this interest under the act of July 29th, 1848. Since the passage of that act, however, *five*, it is stated, have removed West, and drawn commutation for removal and subsistence, which they had the privilege of doing under the 5th section of said act.

According to this showing, the amount of interest due these Indians by the United States, each year, was \$4,838.09.

For what year the last payment of this interest was made, it is impossible to determine satisfactorily, from any information at present within the reach of this office. Private letters in my possession indicate the year 1859.

It is, however, certain that no part of the interest, which accrued subsequent to *January 1st*, 1861, was ever paid; and if any action on this subject should be deemed advisable by Congress, I would respectfully suggest that it be based upon the supposition of *that day* being the time, to which the last payment was made.

There is no evidence of the investment of this removal and subsistence fund by the United States.

I have the honor to be,

Very respectfully,

Your obedient servant,

S. S. SCOTT,

Commissioner, &c.

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