[From the National Intelligencer.]

Memorial of a Delegation from the Cherokee Indians.

HOUSE OF REPRESENTATIVES,
January 18, 1831.

The following Memorial was presented and referred to the Committee on Indian Affairs:—

To the Honorable Senate and House of Representatives of the United States of America in Congress assembled.

The memorial of the undersigned delegation from the Cherokee nation east of the Mississippi, there to especially instructed by their nation, respectfully sheweth unto your honorable bodies the afflictive grievances which it has been their unhappy fate to endure for some time past.

They would respectfully call your attention to the memorials submitted before you during the last session of Congress, embracing subjects of great importance to the interests and welfare of their people, some of which they beg leave at this time again to repeat.

The State of Georgia, in its earnest desire to acquire the extent of her chartered limits, set forth a claim to a large portion of Cherokee lands, as having been purchased under the treaty of the Indian Springs made with the Creek Nation, and which, it is well known, was rendered null and void by a subsequent treaty, entered into in 1826, in this city, with the same nation. Under the authority of said State, a line has been run by commissioners, comprehending more than a million of acres of land, lying north of the established boundary between the Cherokee and Creek nation, and to which the latter disavowed any pretension of right, claim, or interest. The subject was brought before the President of the United States, who has caused a *third* line to be established, never contended for by any of the parties, and unauthorized by any existing treaty with either nation, though officially declared *shall be* the line between the lands ceded by the Creeks in 1826 to the United States and the Cherokees. Of the portion of territory we have thus been deprived of, were the houses and homes of many Cherokees, who have been compelled to leave them, with the farms that afforded their families subsistence. "The tract of land," says Governor Gilmer, in his late message, "from which the Cherokees have been removed by order of the President, is supposed to contain 464,646 acres, and *now* subject to be disposed of," &c. From the decision of the President on this subject of boundary, your memorialists, in behalf of their nation, beg leave to appeal, and to question the legal and constitutional powers of the Chief Magistrate to change or alter, in any manner, the established line between the Cherokees and Creeks, without their consent. A difference of opinion had arisen in 1801, between the same nations, relative to a certain part of their boundary; and when the subject was introduced at the War Department by a deputation of Cherokee chiefs, and the interference of the government solicited, the following reply was given by direction of President Jefferson:—"It will be very difficult for the President to ascertain the lines between the several countries of the red people. *They must settle all such controversies among themselves. If you cannot agree, how shall we be able to decide correctly.*" [See Minutes of Conferences holden at the War Office, between the Secretary for the Department of War, on behalf of the United States, and a deputation from the Cherokee Nation of Indians, on behalf of the said nation, on the 30th of June and 3d of July, 1801.] During the administration of the same eminent lawyer and statesman, the treaty of 1806 was made with the Cherokees, by the third article of which, the right of Indian Nations is admitted, to settle and determine questions of boundary among themselves, viz:—"It is also agreed on the part of the United States, that the Government thereof will use its influence and best *endeavors* to *prevail* on the Chickasaw Nation of Indians to agree to the following boundary between that Nation and the Cherokees," &c. "But it is understood by the contracting parties, that the United States do not engage to have the aforesaid boundary established, but only to prevail on the Chickasaw Nation to consent to such a boundary between the two Nations." By these references, we believe the position of our Nation to be fully and clearly sustained; and that its agreement with the Creek Nation in 1801, on this subject, is binding to all intents and purposes; and that the sanction of this Government was not essential thereto, to make it so, and that they alone, by *voluntary surrender* of their lands, have the right to alter that boundary.

By the treaty made with the Arkansas Cherokees, in 1822, inducements were held out to the individuals of our Nation, to remove West of the Mississippi, and join their brethren, who had withdrawn from their connexion with us in 1817 and 1819, and established for themselves a separate and distinct Government, thereby absolving all the political relationship which had previously existed as citizens of the same community. That treaty was never presented to the authority of our nation for its assent, nor the right of the Arkansas Cherokees ever admitted to interfere with, or affect in any manner, the rights and the interests of our People. Under its provisions, however, individuals have been induced to emigrate; and in pursuance of the stipulation contained in one of the articles, that the Government would make to every individual so emigrating "a just compensation for the property he may abandon," appraisers were appointed by the President, who has extended the term "*property abandoned*," to embrace the houses, farms, and lands upon which situated, *claimed* by emigrants, and who have valued, agreeably to instructions, the improvements so claimed or occupied by them; and it is now contended that the United States have acquired a title to the lands as well as to the improvements valued, and permission given by the Executive to citizens of the United States to enter the nation, and occupy them to the exclusion of the native. The lands are, it is well known, not held in severalty by the Cherokees, but *as a Nation;* and this right has been solemnly *guaranteed* to them by treaty with the United States. The right of *individuals* to cede or transfer any portion of their territory has never been admitted, either by themselves or the Government; and in point of justice and law, all such citizens of the United States who have thus been permitted to enter and settle upon our territory, are intruders, and the faith of this Government is pledged for their removal. We protest against the right of the Arkansas Cherokees, or the Government, to enter into any arrangement to affect our rights contrary to the will of the Nation, and also against the introduction and continuance of a population in our country so detrimental to the interests and peace of our citizens, the security of their persons and property from insults and outrage, and so utterly at variance with the plighted faith of this Government, for our territorial protection and promise of good neighbourhood.

It is further contended by the Executive, that the United States have acquired a title to *lands within* the present acknowledged bounds of the nation under the 7th article of the treaty of 1817 with the Cherokees, which stipulated that the United States should lease *to the Indians* improvements that had been abandoned by emigrants, and who had received compensation for the benefit of "the poor and decrepid warriors" of the nation, and which was to be continued until such improvements were "surrendered by the nation or to the nation." By the treaty of 1819, the leases under that of 1817 were declared void, which is of itself sufficient evidence of a surrender *to the nation* of all such improvements as fell within its limits agreeably to the boundary then established; and it is moreover declared, that the treaty of 1819 is *a final adjustment of the treaty of* 1817, and the lands then ceded to the United States are *in full satisfaction of all claims* which the United States have on that nation on account of a cession of lands on the Arkansas, for the benefit of the emigrating Cherokees; yet a claim has been asserted by the Executive, on the part of the United States, to a title to lands within our present bounds, acquired under an article in the treaty of 1817, which, by the treaty of 1819, was rendered void, and *fully satisfied*, which, it is said, *enures to the benefit of Georgia*, and is made another plea to allow intrusions. Added to all these are many other intruders, who, without any other pretext than to trespass upon our possessions and our rights, contrary to existing laws, are allowed to annoy and harass our peaceable citizens to an almost insufferable degree. In many instances have they by violence forced the natives out of their houses, and taken possession; while others, less daring, have erected buildings for their own use upon the premises of the objects of their oppression. The frequent complaints made through the agent, and otherwise, to the Government, failed to produce the desired relief from circumstances so well calculated to produce excitement and disturbance between the whites and the red people. To such an alarming extent had intrusion been indulged, that the authority of the nation, relying on an article of treaty, and the former advice of the present Chief Magistrate of the United States when a General of the southern division of the United States' Army, removed a few families who had penetrated far into the country, and of the most exceptionable character—a measure demanded by the security of the persons and property of the Cherokees. It was seized upon and declared a hostile movement, and an armed band of intruders, in retaliation, wreaked their vengeance upon a few peaceable individuals. One was cruelly murdered, another wounded, and a third led a prisoner into Georgia, and thrown into jail, whence he was subsequently released, after much trouble, by a writ of habeas corpus. A report of these transactions was made to the Government by the United States' Agent, which, however, resulted only in calling forth language of exception against our chiefs; and the perpetrators of the murder are still trespassing, in open day, upon our rights and our territory, which has drank the blood of an innocent victim to their outrages. During the past summer, the United States troops were ordered into the nation, as we believe, for the purpose of redeeming the pledges of the Government for our protection; they removed the intruders, who had flocked in thousands to our gold mines, and a few also along the frontier settlements; many, however, were not molested, and others returned in a short time after, placing at utter defiance the authority vested in the United States' Agent, and heretofore exercised by his predecessors. All the Cherokees who had been engaged at their gold mines were removed with the intruders, and experienced much injury and inconvenience under an order from the Department of War, and, during the stay of the troops in the nation, were not permitted to re-engage at their mining operations. The troops have been suddenly withdrawn, and our country again left exposed to the ravages of intruders. An act has recently been passed by the Legislature of the State of Georgia, authorizing the Governor thereof to take possession of our gold mines, and appropriating twenty thousand dollars for that purpose; and another providing for the survey of our country into sections, and for the appointment of magistrates therein; against which we would most solemnly protest, as a departure from the obligations of good faith, and the desire to secure and promote the peace and friendship so often repeated in our treaties. The language of the great and illustrious Jefferson, through the Secretary of War, to our chiefs, recurs to our memory with peculiar force: "The President listens *willingly* to your representations, and requests you and your nation to be *assured of the friendship of the United States*, and that *all our proceedings* towards you shall be directed by *justice* and *a sacred regard to our treaties*. You must be sensible that the white people are very numerous, and that we should therefore be desirous to buy your land when you are *willing* to spare it; but we *never* wish to buy except when you are *perfectly willing* to sell. The lands we have heretofore bought of you have been marked off by a line, and all beyond that line we consider *absolutely* belonging to our *red brethren*. You shall now receive the map of the last line, which has heretofore been promised to you, to stand in evidence between your people and ours, and to show which lands *belong* to you, and which to *us*." [See document before referred to.] We would most earnestly pray that the kind assurances of the friendship of the United States, by one whose examples are so worthy of imitation, may never be passed over with an unfeeling heart for the unfortunate Cherokees, and that all proceedings towards them may be directed by justice and a sacred regard to treaties.

The Executive of the United States, during the past summer, issued an *order* to the agent of our nation, changing the mode of paying the annuity, and providing for its *distribution* amongst the individuals, averaging about forty-two cents to each, contrary to the well-known wishes of the Cherokees, and their solemn protest against the measure, the stipulations of the existing treaties, and the uniform practice of the Government down to the payment of the last annuity in 1830. It is a stipend due to the *nation*, and has ever been controlled by its authority. The Cherokees have a treasury, into which it is placed for the support of their Government—"a Government of regular law," modelled agreeably to and in pursuance of the kind and parental advice of President Jefferson, contained in a written address to the Cherokees, 9th of January, 1809,—and other national objects, by which means all are enabled to enjoy, in some degree, the benefits arising from its application; but of what possible advantage will it be, if paid as contemplated, when hundreds will have a hundred or more miles to travel, neglecting all other business, to obtain the small sum of forty-two cents? But it cannot be: we protest against any alteration, and humbly hope that you will direct the payment as heretofore, and in conformity with the treaties under which the fund is stipulated. We are aware that it has been asserted that the *chiefs* and others speculate upon this fund, *but it is not so*: even if it were, would it justify a departure from the course which the pledges of the U. States have bound its officers to pursue? The language of one so truly the friend of the weak and the oppressed as the Chief Magistrate of the U. States in 1808, is too explicit to pass unnoticed on this occasion. To the chiefs of the upper Cherokee towns he spoke as follows: "You *complain* that you do not receive your just proportion of the annuities we pay your *nation*—that the chiefs of the lower towns take for them more than their share. My children, this distribution is made *by the authority of the Cherokee nation*, and according to their *own* rules, over which *we have no control*. We do our *duty* in delivering the annuities to the *head men* of the nation, *and we pretend to no authority over them, to no right of directing how they are to be distributed*." (See Address signed Th. Jefferson, to the upper Cherokees, dated 4th May, 1808.) That the same mode may still be continued is all we ask, and it is anxiously desired by the whole nation. Since that year there have been no "complaints" on the subject; why then, at this late period, when civilization has taught better the manner in which this small sum should be applied, is the change in the mode of payment to be made?

During the last session of Congress a bill was passed, whose object, as we understood, was to enable the President of the United States to comply with the compact of 1802, between the United States and the State of Georgia, and afford means to the Indian tribes, whose great desires were represented by the advocates of its passage, to effect their removal west of the Mississippi. It is not desirable for us to remonstrate upon this occasion, but we hope that the kind indulgence of your honourable bodies will be extended, while we state some of the many cases of affliction and oppression which have occurred since the passage of the act. A ray of hope, in the midst of great apprehension, seemed to shed its glimmering light on the minds of the Cherokees, to learn from the speeches of the Georgia delegation and others, in Congress, that nothing should be practised on the Indians in the operation of the bill, or in connexion with it, that benevolence and humanity could censure; that neither force nor injustice was contemplated by the government, or the authorities of Georgia; and that they should be left to the exercise of their own free will. But experience has taught us to know that a powerful auxiliary has been afforded to forward the views and policy of that and other States, and of the Executive of the United States, towards the unfortunate aborigines of this continent. They have looked back upon the scenes and prospects of other days, and the contrast with those of the present time, has caused much sorrowful feeling. Georgia, in the recent measures put in force to compel the Cherokees to listen and yield to the eloquence of the Secretary of War, and government's special agent, has departed from the high and magnanimous pledges of kind dealing toward the Indians on the floor of Congress, and has frowned and threatened to prostrate their innocent determination to abide on their ancestral territory; but without effect. She has sent armed guards of fifties, thirties, and tens, in time of profound peace, under pretence of executing her laws, and when the occasion did not require a display of "the pomp and circumstance of war." Leaving the Indian children in destitution, to mourn their hapless lot, she has led their fathers in captivity to a distant land, to destroy their spirits by immuring them in the walls of her prisons. In one case, a white man, who had a long while ago taken the protection of the nation, and married a Cherokee woman, and, under the care of the Cherokee nation, had acquired property and a large family, whose interests are identified with those of the Indians; having entered into a mercantile partnership with two Cherokees, he soon fell out with them, and instituted suit against them before the courts of the nation, which decided against him. After this he filed a bill in the Superior Court of Gwinnett county, in Georgia, against the two Cherokees, and prayed a writ of *ne exeat*, before Augustin S. Clayton, judge of the court, sitting in chancery, who awarded the writ, which was served upon one of them in the Cherokee nation by a deputy sheriff of Georgia, and under guard of three men, he was carried about eighty miles to the common jail of Gwinnett county, in said state, where he was kept in close confinement until the sitting of the court in September last, when he was brought up for trial before his honor A. S. Clayton, who issued the writ, and was discharged on the ground that the affidavit of the plaintiff was not sufficient to have warranted the issuing of such a writ. During the same trip by the deputy sheriff, he arrested an elderly Cherokee woman, a married lady, with a large family, on a plea of debt, and carried her off captive from her husband and children, fifteen miles on towards Georgia, when she fortunately succeeded in obtaining her liberty by giving bail.

In another case, in the name and authority of George R. Gilmer, Governor of Georgia, a bill was filed in chancery in the Superior Court of Hall county, in July last, against certain sundry Cherokees, praying for an injunction to stop them from digging and searching for gold within the limits of their own nation; and the bill being sworn to before the same A. S. Clayton, he awarded an injunction against the parties named in the bill as defendants, commanding them, forthwith, to desist from working on those mines, under the penalty of 20,000 dollars, at a time and place where there were unmolested several thousand intruders from Georgia and other states, engaged in robbing the nation of gold, for which the owners were ordered not to work by the said writ. Under the authority of this injunction, the Sheriff of Hall County, with an *armed force*, invaded the nation, consisting of a Colonel, a Captain, and thirty or forty militia of the State of Georgia, who arrested a number of Cherokees engaged in digging for gold, who were at first rescued by the troops of the United States stationed near the place, and the sheriff and his party themselves made prisoners, and conducted fifteen miles to a military camp, and a council of examination was held, and the exhibition of their respective authorities was made, which resulted in the release of the sheriff and his party, and a written order by the commanding officer of the United States troops, directing the Cherokees to submit to the authority of Georgia, and that no further protection could be extended to the Cherokees at the gold mines, as he could no longer interfere with the laws of Georgia, but would afford aid in carrying them into execution. On the return of the sheriff and his party, they passed by the Cherokees, who were still engaged in digging for gold, and ordered them to desist, under the penalty of being committed to jail, and proceeded to destroy their tools and machinery for gleaning gold, and after committing some further aggression, they returned. Shortly afterwards, the sheriff, with a guard of four men, and a process from the State of Georgia, arrested three Cherokees for disobeying the injunction, while peaceably engaged in their labours, and conducted them to Waddkinsville, a distance of seventy-five miles before the same A. S. Clayton, who then and there sentenced them to pay a fine of ninety-three dollars cost, and stand committed to prison until paid, and also compelled them to give their bond in the sum of one thousand dollars for their personal appearance before his next court, to answer the charges of violating the writ of injunction aforesaid. In custody they were retained five days, paid the cost, gave the required bond, and did appear accordingly as bound by Judge Clayton, who dismissed them on the ground that the Governor of Georgia, could not become a prosecutor in the case. For the unwarrantable outrage committed on their persons, no apology was made, and the cost they had paid was not refunded.

During the past summer, a Cherokee was arrested in the nation, by an officer of the state of Georgia, on a charge for murder, committed upon the body of another Indian, in said nation, and carried to Hall county, and placed in jail, to await his trial under the laws of that state. After some months' confinement, he was taken out, and tried by the aforesaid A. S. Clayton, and sentenced by him to be executed on the 24th December last. An application was made to the Chief Justice of the United States for a writ of error, in order that the case might be brought before the Supreme Court of the United States, to test the constitutionality of the proceedings, and was obtained. The arbitrary manner in which the citation was treated by the Governor and Legislature, then in session, are known to you. The resolutions adopted on the occasion breathe a spirit towards our nation of which we will not permit ourselves to speak: suffice it to say, therefore, that the writ of error has been disregarded, and the unfortunate man executed agreeably to the sentence of the judge.

One other case: A party of armed men, ten in number, from De Kalb county, Georgia, committed numerous outrages, under the pretence of being Georgia officers, as far as seventy-five miles within the nation. They arrested a Cherokee without cause, and compelled him to pay a horse for his release. Under forged claims, they attempted to arrest another individual, and, with him, his negroes, but failed; arrived at the residence of another, in his absence, they were in the act of driving his cattle off, when they were rescued by his neighbours, though they succeeded in committing some robbery upon the house. At another place they forced from an Indian his horse, without even a pretended claim, and cruelly abused the persons of two aged Cherokees, one a female, causing a flow of blood, because they did not quietly suffer themselves to be robbed of their property. Two of their children, who had felt it their duty to interfere for the protection of their aged parents from an insult and outrage so barbarous, were led captive into Georgia, and compelled for their liberty to give their notes for one hundred dollars each, payable in ten days!

Many other cases of aggravating character could be stated, did the nature of a memorial allow, supported by unexceptionable evidence. To convince the United States of our friendship and devotedness to treaty obligations, we have endured much, though with bleeding hearts, but in peace. And we hope enough has been done to convince even the most sceptic that a treaty "on reasonable terms" can never be obtained of our nation, and that it is time to close this scene of operations, never contemplated by the compact between the State of Georgia and the United States. How far we have contributed to keep bright the chain of friendship which binds us to these United States, is within the reach of your knowledge. It is ours to maintain it, until, perhaps, the plaintive voice of an Indian from the south shall no more be heard within your halls of legislation. Our nation and our people may cease to exist before another revolving year re-assembles this august assembly of great men. We implore that our people may not be denounced as *savages*, unfit for the "good neighborhood" guarantied to them by treaty. We cannot better express the rights of our nation than they are developed on the face of the document we herewith submit; and the desires of our nation, than to pray a faithful fulfilment of the promises made by its illustrious author through his Secretary. Between the compulsive measures of Georgia and our destruction, we ask the interposition of your authority, and a remembrance of the bond of perpetual peace pledged for our safety, the safety of the last fragments of once mighty nations, that have gazed for a while upon your civilization and prosperity, but which now totter on the brink of angry billows whose waves have covered in oblivion other nations that were once happy, but are now no more!

The schools where our children learn to read the word of God, the churches where our people now sing to his praise, and where they are taught that "of one blood he created all the nations of the earth;" the fields they have cleared and the orchards they have planted; the houses they built, are all dear to the Cherokees, and there they expect to live and to die, on the lands inherited from their fathers, as the firm friends of all the people of these United States.

R. TAYLOR,
JOHN RIDGE,
W. S. COODEY,
In behalf of the Cherokee Nation.

WASHINGTON CITY, Jan. 15, 1831.