

After 1817, war had been declared by the United States against the Cherokee Nation, would all those Cherokees within the limits of the Nation, who had registered their names for a reservation, have been traitors and liable to be punished for treason, if they had taken the side of the Cherokees? It must be answered, *certainly*, if their registration made them citizens of the United States. No one would seriously maintain such a proposition as true? But this is not all. The United States was pledged by Treaty stipulation to remove her citizens without the boundaries of the Cherokee Nation. Could they have removed McNair? If so, what would become of his reservation? And of his Indian wife and children? Or did the place where he resided cease, by his registration, to be a part of the Cherokee Nation? Neither he nor any one else so understood it. If it did, then the twelve thousand odd dollars, he received for his improvements, under the Treaty of 1835, should be refunded, for they were not upon lands ceded by that Treaty to the United States. I deem it unnecessary to enter into further discussion to prove that which is so apparent—that David McNair had no right to a reservation under the Treaty of 1817. Every Cherokee upon the ceded Territory, who took a reservation, paid for it a consideration by surrendering his interest in the national funds and his share of the Territory allowed to the Cherokee Nation, west of the Mississippi, and all his share of the money given for the lands recently ceded. Not so with David McNair.


As McNair's alleged right cannot be sustained by anything to be found in the Treaty of 1817, let us see if it be strengthened by any provision in that of 1819. Whatever his hopes or expectations, McNair might have had of a reservation at any future time under the prospective provisions of the Treaty of 1819, they were destroyed by the destruction of the prospective operations of that instrument by the Treas-

continue a member of the Cherokee community, to remain subject to the Indian laws, to share with my nation the almost boundless Territory secured to them west of the Mississippi, and the ample funds which they possess, the proceeds of the lands sold and surrendered by them where they formerly resided, and at the same time, I will claim in my individual right the price of that portion of land which would have been given to me on condition I had separated from my nation, given up all my interest in its territory, and in its funds, and subjected myself to the laws of the white man and bound myself by allegiance to the Government of a civilized community." Can any claim be more unjust? Can any demand be more unreasonable!—But that part of the treaty of 1835, under which he could have had any pretence to hold a reservation even on the condition of becoming a citizen of the United States, has been abrogated; and in the supplemental treaty, a new provision has been made.—Now let us see whether, under that provision; the petitioners are authorised to claim the value of the land on which David McNair formerly resided. By the first article of the supplemental treaty, it is agreed all the preemption rights and reservations provided for in articles 12 and 13 of the treaty of 1835 be relinquished & declared void. By the third article of the supplemental treaty, "it is agreed the sum of six hundred thousand dollars shall be & the same is hereby allowed to the CHEROKEE PEOPLE, to include the expense of their removal, and all claims of every nature and description against the U. States, not therein otherwise expressly provided for, and to be in lieu of the said reservations and preemptions, and of the sum of three hundred thousand dollars for spoliations described in the first article of the treaty of 1835." Which sum of six hundred thousand dollars was to be appropriated and distributed agreeably to the provisions of the said treaty, & any surplus remaining after the removal and payment of the claims so

of that nation. Why then shall it be paid to them, and the nation sustain the loss?—To pay them would be palpable injustice to other members of the Cherokee community. Such reservation claims were never claims against the United States, and if paid for, must be, out of the Cherokee fund. Form such construction, it would follow that McNair was entitled to his improvements upon the land reserved by him to the amount of \$12,220 25, then to about \$10,000 for the reservation as unimproved lands, (all of this out of the common property of the nation,) and then, in addition to all that, to an equal share of the residue of that common property. To allow this, would make him a peculiar favorite, and tend to exhaust a fund that I think should be guarded with solicitous care. The Cherokee nation never intended to do her citizens such injustice or to enrich a few at the expense of the many; and if intended, the United States would have prohibited it. Aside from principle, such a construction is not warranted by the language of the treaties. I am therefore of opinion, that the widow and children of David M'Nair are not entitled to the value of the reservation claimed by them, as unimproved lands; and I am further of opinion that all whose claims are situated on the territory ceded by the Cherokee treaty of 1835, are not entitled to any compensation for their reservations as unimproved lands.

JOHN KENNEDY,
One of the Commissioners.

HOUSE OF ENTERTAINMENT.

 THE subscriber respectfully begs to leave to inform the public, that the tavern house which was formerly occupied by B. Hanbright, in the town of Calhoun, is still kept open for the accommodation of travellers and all others, who may feel disposed to give him a call. He pledges himself that no pains shall be spared to render entire satisfaction to all who may favor him with their custom. His bills shall be moderate.

J. M. WALLIN.
Calhoun Feb. 8, 1839.—3m.

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7/6/89