



# Executive Department,

CHEROKEE NATION, IND. TER.

Dahlequah, April 12<sup>th</sup>/1886.

To the Honorable  
The Senate & Council  
in National Council convened:

Gentlemen,

Your presence here today has for one of the "extraordinary occasions" of your meeting (Constitution Art 4. Sec 8) the passage of an Act of Congress approved July 4. 1884, and entitled "An Act granting to the Southern Kansas Railway Company a right of way through the Indian Territory and for other purposes", a printed Copy of which Act is herewith submitted for your information, together with Copies of the Protests of the Cherokee Delegation against the Act, and against the passage of any such measure, dated

respectively July 8<sup>th</sup> and Feby 8/84, as well as a Copy of Col. W. A. Phillips in this Nations behalf, on the occasion of the filing of Maps of the said Railway's location through our country.

I submit also a Copy of an Act of Council protesting against the measure.

The position taken by the Authorities of this Nation in the Protests mentioned as well as by your own Enactment is that the said Act of Congress misconstrues the treaties between this Nation and the United States and is violative of the guarantees made in such treaties by the United States.

The Act, you will perceive, grants a right of way of sufficient extent, as contemplated by the Act, to allow of the permanent settlement, as residents of non citizens employed by the R. R. Company - upon such right of way.

I also call your attention to the 5<sup>th</sup> & 6<sup>th</sup>

Sections of the Act of Congress, which provides that after filing the Maps of location, as required by the Act of the R.R. Co, in the Office of the Principal Chief of each of the Nations or Tribes through whose lands said Railway may be located—four months are allowed to any of the Nations to dissent from the allowances provided for in Sec. 5 of the Act.

It is evident that simply to dissent under the provision referred to would be tantamount to a tacit acknowledgment of the authority of Congress to enact the measure.

I suggest therefore that the position taken by the Delegation at that time (Feb 8/84) be adhered to, and that should any dissent be expressed by you to the "allowances" mentioned—that your Act be so framed as to be consonant with such protest and the Treaties, or provision of treaties, upon which such Protest is

based.

It is evident to me that a judicial determination of the authority of Congress in the premises is very necessary to be had, and that this Nation must be suitably represented before the Gov't. of the United States with the view of settling the rights of the parties in accordance with prior decisions.

With the above brief statement of this most important matter I submit the Act of Congress in question for your consideration & action.

Very Respectfully,  
D.W. Bushyhead,  
Principal Chief.

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I certify that the foregoing  
four pages, hereto attached, contains a  
literal and full copy of the original  
Message now on file in this the Executive  
Office of the Cherokee Nation.

Tahlequah. C. N. R. O. Trent

May 26<sup>th</sup> 1886. Ass't Exce. Secy C.N.

