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MUSCOGEE OR CREEK INDIANS.

LETTER

FROM THE

COMMISSIONER OF INDIAN AFFAIRS,

In reference to the affairs of the Creek Indians.

JANUARY 17, 1853.—Ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, January 17, 1853.

SIR: I have the honor to communicate the information desired by you in your letter of the 28th ultimo, respecting the origin and history of the claim of the Creek nation for compensation for the lands taken from the "friendly Creeks," by the treaty of Fort Jackson, made on the 8th of August, 1814.

In 1813 a portion of the "upper Creeks" commenced a civil war against the "lower Creeks," and those of their own people who were friendly to the whites, and also commenced hostilities against the neighboring white settlements.

All the "lower towns" remained friendly, and gave refuge to the friendly Indians driven from the "upper towns." They raised large bodies of warriors, and implored arms and assistance from the United States repeatedly, and in the most earnest language. But only a few muskets, and a small supply of ammunition, were furnished them, and these charged against their annuities. (See Colonel Hawkins's letter to the Secretary of War of July 6, 1813; 1 *Indian Affairs*, 848.)

Large bodies of the friendly Creeks fought on the side of the United States in the battles of Autossee and Calebee, under General Floyd; and in those of Tallassee, Talladega, Emuckfau, and the Horse Shoe, under General Jackson. In these battles many of them were killed and wounded. They fought with great bravery, and rendered important service throughout the war, although their annuities for 1812, 1813, and 1814, were unpaid, and they thereby greatly distressed. Throughout the war the lower Creeks were emphatically the faithful friends and allies of the United States. (See letters of Colonel Hawkins to the Secretary of War of January 11, 1813, May 3, 1813, and October 5, 1814; 1 *Indian Affairs*, 838, 840, 842, 861.)

On the 23d of April, 1814, General Thomas Pinckney, senior officer and in command of the southern army, announced to the *hostile* Creeks the

terms on which peace would be granted to them. The Secretary of War had instructed him to make, in conjunction with Colonel Hawkins, the agent for the Creeks, a treaty with the *hostiles*; and had also instructed him that one of its terms must be "an indemnification for expenses incurred by the United States in prosecuting the war, by such cession or cessions of land as might be deemed an equivalent for such expenses." And he had afterwards suggested to the General that the proposed *treaty* should take a form altogether *military*, and be in the nature of a *capitulation*, and to be made by the General alone.—1 *American State Papers*, Indian Affairs, 836, 837.

General Pinckney, thus instructed to receive a *capitulation* from the *hostile* Indians, directed Colonel Hawkins to announce to the "hostile Creeks" the terms on which peace would be granted to them. He said, as one of these terms, "the United States will *retain* so much of the *conquered* territory as may appear to the government thereof to be a just indemnity for the expenses of the war, and as a restitution for the injuries sustained by its citizens *and the friendly Creek Indians*."—*Id.* 857.

And the General directed the terms to be communicated to the *friendly* Indians also; and instructed Colonel Hawkins to inform them "that the United States will not forget their fidelity; but, in the arrangements which may be made of the lands to be *retained* as indemnity, *their claims will be respected*; and such of their chiefs as have distinguished themselves, by their exertion and valor *in the common cause*, will also receive a remuneration *in the ceded lands*, and in such manner as the government may direct."—*Id.* 857.

It is evident, from these terms, that General Pinckney was not authorized to make a treaty with the friendly Indians, and procure a cession of any part of their lands; but that his only authority was, to receive from the *hostiles* a cession, by way of *capitulation*, of part of the lands *conquered* by the United States, which conquered lands were to be *received* by the latter; and that all the claims to land of the friendly Creeks, even to parts of the conquered land so to be retained, were to be *respected*.

And, moreover, that the friendly Creeks were not only guaranteed all their own lands, but also restitution for the burning of their houses and destruction of their property out of the lands conquered from the *hostiles*; and gratuities by way of remuneration out of the same lands, for their valor and fidelity.

On the 10th July, 1814, General Jackson succeeded General Pinckney in the command, and was instructed by the Secretary of War to carry out the instructions given to General Pinckney.—2 *Indian Affairs*, 593.

Early in August, 1814, General Jackson assembled at Fort Jackson thirty-five friendly chiefs and *one* hostile chief, and compelled them to sign the treaty of Fort Jackson, on the 8th August, 1814.—*Id.* 493, 494.

By this treaty General Jackson took from the Creeks 14,284,800 acres in the State of Alabama, 400,000 acres in Mississippi, and 7,084,800 acres in Georgia; in all over twenty-one and a half millions of acres of land.

Of these lands, all those in Georgia, and a portion of those in the

southeastern part of Alabama, belonged *exclusively* to the lower or friendly Creeks, and cover, as will be seen by the map which accompanies this report, an area of 8,849,940 acres. As alleged in the petition of the chiefs, headmen, and people of the Creek nation, which accompanied your letter, these (the *lower or friendly Creeks*) were, it is believed, the original owners of all the land in the Creek confederation. They were the original Muscogees; while the upper or hostile Creeks were composed of the Took-a-batches, Uchees, Alabamas, and others, and by the former incorporated into the confederation—the Muscogees, or friendly Creeks, at the commencement of the war, residing upon the lands on and near the Chattahoochie; and the hostile Creeks, on those of the Coosa and Tallapoosa.

General Jackson, however, did not pretend to take or retain the lands of the *friendly Creeks* as part of the *conquered* territory. His reasons for taking them were stated by him in his letter to the Secretary of War, dated August 10, 1814, in which he said: "Considerations interesting to the United States, relative to the Spanish dominions immediately south of us, induced me to procure the cession of all the Creek lands of consequence, bounding on foreign claims of territory, in order to prevent future connexions injurious to our tranquillity."—(1 *Indian Affairs*, 838.) On the 15th of April, 1824, Mr. Forsyth, from a select committee in regard to the claims of Georgia, made a report, in which it is said: "In 1814, General Jackson, acting under the authority of the government, took from the Creek Indians, for an equivalent named by himself, all the land the United States chose to require, to effect a great object of national policy in regard to the Indian tribes. *It cannot be alleged that this was done by virtue of conquest.* This acquisition *by conquest* was an acquisition of lands from *friends and allies* for an equivalent named by the United States."

This equivalent named by the United States was, simply, that General Jackson left the hostile Indians a small piece of country on the Coosa and Tallapoosa, part of the conquered country; and consequently, as Colonel Hawkins said, the Indians did not consider it as an *equivalent*. The lands taken from the *friendly Creeks* were in no sense "*conquered*" country. The Indians allege that they had not been trodden during the war "by the foot of a white soldier."

The *friendly* chiefs were unwilling to sign the treaty; but General Jackson was peremptory. He marked the line, ordered them to sign the treaty, and left them no option.

In this extremity they submitted, on the condition that a paper should be draughted and sent to the President, as their part of the treaty, showing which of the Creek towns were the real owners of the national lands; that they had been uniformly faithful; and that, for the lands in the lower Creek country, they had received no equivalent. Such an instrument was accordingly drawn, showing that the lower Creeks owned all the lands, and had *been always friendly*; and that for the lands in Georgia and southeast Alabama they did not consider those between the Coosa and Tallapoosa, left to the hostile chiefs, to be a fair equivalent. They then, on the conditions named in this instrument, signed the treaty; and they requested, and General Jackson agreed, that this instrument, with General Pinckney's letter, and the

answer of Colonel Hawkins thereto, should be sent to the President with the treaty.—*Id.* 837, 838. *Report of Committee of Ways and Means, by Mr. Lowndes; 2 Indian Affairs, 126.*

This report of Mr. Lowndes shows that Col. Hawkins advised the friendly chiefs to submit to the line, and that they regarded the instrument signed by them as their part of the treaty; and the committee said, "These extracts appear to the committee to be sufficient to show, that if the friendly Creeks are to be considered as having consented to the cession made by the treaty of 1814, it was only on the condition that their claims to indemnity should not be disregarded."—*Id.* See also letter of Col. Hawkins to the Secretary of War, August 1, 1815; *2 Indian Affairs, 493-'4.*

In August, 1814, Col. Hawkins urged on General Pinckney the propriety of endeavoring to have his promises to the friendly Creeks fulfilled; and General Pinckney urged the same on the Secretary of War.—*2 Indian Affairs, 594.*

For these lands so taken from the friendly Creeks, the friends and allies of the United States, by a compulsory treaty, not a dollar of compensation has ever been made. Nearly nine millions of acres were thus obtained without payment, then or afterwards.

The rights of individual friendly Indians in the conquered lands were "respected" only by giving each one living there a reservation of the mere use of a mile square, including his improvements.

The chiefs were never remunerated for their valor and fidelity by donations of parts of the ceded lands.

The amount of losses and injuries by destruction of property was afterwards ascertained by agents of the United States to be \$195,417 90; of which \$85,000 were paid in 1817, and an appropriation made at the last session of Congress to pay the residue, the amount of which has been remitted to the agent for that purpose, and it is presumed, ere this, has been paid over to the claimants.

The foregoing is a report of the facts connected with the prayer of the petitioners, required by you in your letter before referred to. With regard to the "recommendation rejecting or allowing the prayer of the petitioners, as shall seem just and proper," which you also require of this office, I have to submit the following:

The prayer of the petitioners is, "that for the compulsory cession of 8,849,940 acres of land they may be paid such sum as may seem to the honorable Senate and House of Representatives to be fit and proper." They go on further to state that "they do not ask or expect the full value of the lands even at that time, but venture to hope that a moderate compensation for this vast and valuable domain may be made to them; and making this brief appeal, but prepared, at such time and in such manner as may be indicated, to establish fully and at large, by the records of the country, the justice of their claim, and to present in detail its history and evidences, they intrust this their petition to your justice and equity."

As to what may be deemed "just and proper" compensation for the lands referred to, I have to remark that Colonel Hawkins, in his letter of the 1st of August, 1815, (*2 Indian Affairs, 493,*) said that he believed the Indians would at the time have accepted \$60,000 as an indemnity.

The committee of the 14th Congress, of which Mr. Lowndes was chairman, considered the remark to refer exclusively to their claim for indemnity for injuries and losses, (2 *Indian Affairs*, 126.) So did the Committee of Ways and Means of the House, in 1824, (*ib.* 492.) On the contrary, my predecessor in office, Orlando Brown, esq., with whom I concurred, was of a contrary opinion; (*see Commissioner Brown's report, made in 1850, to the Committee on Indian Affairs of the Senate.*) But be this as it may, even if the friendly Indians, seeing their land irretrievably taken from them, expressly informed by General Jackson that he had no authority to comply with General Pinckney's promises, crushed under a great weight of misfortunes, disheartened and despairing, would have received at that time for their lands so inadequate a compensation, that affords no rule by which to measure what they ought now to receive; and to consider them bound by what it was Colonel Hawkins's opinion they would have received, if paid them then, would be the strangest injustice.

The case is simply this: that a great government, at the close of a war waged against her and her allies, who had fought bravely in every battle by the side of her own troops, forces those allies to make a treaty, by which, in order to cut them off from a foreign country, she takes from them nearly nine millions of acres of land, they claiming compensation for it, and signing with protestation against its injustice; and yet for this land they have never received a dollar.

In the history of our country it does not appear that any such case has ever occurred; nor has the government ever desired to obtain lands from friendly Indians except by treaty, mutually assented to, and for a satisfactory compensation, except in this single instance. It is, therefore, my conclusion that the present claim is eminently just, and that "moderate compensation for the vast and valuable domain" which these Indians were forced to surrender, should be made by Congress. This is all that the Indians in their petition claim; and in the absence of any information which would enable me to specify an amount that would satisfy them, and as they indicate in their petition an intention to present "in detail" to Congress the history and evidences of their claim, so as to establish it more fully and at large, I refrain from saying more at present than that just compensation should be made to them for the 8,849,940 acres of land, lying in Georgia and Alabama, and which, for political purposes, under the treaty or capitulation at Fort Jackson, they were compelled to cede to the United States. The amount of that compensation Congress will have to determine.

The petition referred by you is herewith returned.

Very respectfully, your obedient servant,

L. LEA, *Commissioner.*

Hon. R. W. JOHNSON,

Chairman Committee on Indian Affairs, H. R.