

University of Oklahoma College of Law

University of Oklahoma College of Law Digital Commons

American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899

1-20-1853

Message from the President of the United States, informing Congress of the refusal of the Indians remaining in Florida to migrate to the country assigned to their tribe, west of the Mississippi

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indigenous, Indian, and Aboriginal Law Commons](#)

Recommended Citation

S. Exec. Doc. No. 23, 32nd Cong., 2nd Sess. (1853)

This Senate Executive Document is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact Law-LibraryDigitalCommons@ou.edu.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

INFORMING CONGRESS OF

The refusal of the Indians remaining in Florida to migrate to the country assigned to their tribe, west of the Mississippi.

JANUARY 20, 1853.—Referred to the Committee on Indian Affairs, and ordered to be printed.

To the Senate and House of Representatives of the United States:

I have the honor herewith to transmit a report from the Secretary of the Interior, from which it appears that the efforts of that department to induce the Indians remaining in Florida to migrate to the country assigned to their tribe west of the Mississippi, have been entirely unsuccessful. The only alternative that now remains is, either to compel them by force to comply with the treaty made with the tribe in May, 1832, by which they agreed to migrate within three years from that date, or to allow the arrangement made with them in 1842, referred to in the Secretary's report, by which they were permitted to remain in the temporary occupancy of a portion of the peninsula until the government should see fit to remove them, to continue.

It cannot be denied that the withholding of so large a portion of her territory from settlement is a serious injury to the State of Florida; and although, ever since the arrangement above referred to, the Indians have manifested a desire to remain at peace with the whites, the presence of a people who may at any time, and upon any real or fancied provocation, be driven to acts of hostility, is a source of constant anxiety and alarm to the inhabitants on that border.

There can be no doubt, also, that the welfare of the Indians would be promoted by their removal from a territory where frequent collisions between them and their more powerful neighbors are daily becoming more inevitable.

On the other hand, there is every reason to believe that any manifestation of a design to remove them by force, or to take possession of the territory allotted to them, would be immediately retaliated by acts of cruelty on the defenceless inhabitants.

The number of Indians now remaining in the State is, it is true, very inconsiderable, (not exceeding, it is believed, five hundred;) but, owing to the great extent of the country occupied by them, and its adaptation to their peculiar mode of warfare, a force very disproportioned to their num-

bers would be necessary to capture or expel them; or even to protect the white settlements from their incursions. The military force now stationed in that State would be inadequate to these objects; and if it should be determined to enforce their removal, or to survey the territory allotted to them, some addition to it would be necessary, as the government has but a small force available for that service. Additional appropriations for the support of the army would also, in that event, be necessary.

For these reasons I have deemed it proper to submit the whole matter to Congress, for such action as they may deem best.

MILLARD FILLMORE.

WASHINGTON CITY, *January 18, 1853.*

DEPARTMENT OF THE INTERIOR,
Washington, January 14, 1853.

SIR: In my last annual report to you I explained the measures which had been adopted by this department to effect the peaceable removal of the Seminole Indians from Florida, and expressed the opinion that they would shortly be crowned with success. I did so in consequence of the representations which had been made to the department by General Blake, the special agent employed by the government to induce them to migrate to the country west of the Mississippi river, and who assured the Commissioner of Indian Affairs that their removal might be confidently expected at an early day.

Within a few days past, however, further communications have been received from General Blake, and other authentic sources, which leave no doubt that the Indians have falsified their pledges, and now obstinately refuse to fulfil their contract to remove from the State of Florida.

The removal of the remnant of this tribe beyond the Mississippi has long been an object of much interest to the citizens of Florida, and to the government of the United States. As long as they shall be permitted to remain, they will be a terror to the population sparsely scattered along the frontiers, and the settlement and cultivation of the country must continue to be seriously obstructed. And as they are now acting in open defiance, not only of the provisions of a formal treaty concluded more than twenty years ago, but also of a written covenant entered into recently by their principal chiefs with the Commissioner of Indian Affairs, by which they re-acknowledged their obligation to remove, I feel it to be my duty to bring the subject to your notice, in order that you may consider and decide what measures should be adopted to enforce the stipulations of the treaty between them and the government of the United States.

As early as the 9th of May, 1832, a treaty was entered into with the Seminoles, known as the treaty of Payne's Landing, by which they relinquished all their claims to lands in Florida, and bound themselves to remove therefrom within three years. When that time had expired, they refused to comply with the terms of the treaty, and resort was had to military force to expel them from the country. A fierce struggle ensued, which lasted for more than six years; and after a vast expend-

iture of blood and treasure the government found itself baffled in all its attempts to drive them from their haunts in the swamps and forests with which the country abounds, and which were inaccessible to the regular troops.

On the 11th of August, 1842, Colonel Worth, then in command of the United States troops in Florida, by the authority of the Secretary of War and the President, entered into an arrangement with the Indians, which was promulgated in an order in the following terms: "By arrangement with the few Indians remaining in the southern portion of Florida, between whom and the whites hostilities no longer exist, they are permitted for a while to plant and hunt on the lands included within the following boundaries," &c. After describing the boundaries referred to, the order proceeds: "Within the boundaries thus described, no settlement can, with safety or propriety, be formed; and any persons making settlements within these limits will be subjected to removal, in conformity with the law in reference to the Indians and their places of residence. The foregoing temporary arrangement, being in conformity with the instructions of the President of the United States, is communicated for the information of all whom it may concern."

This arrangement was acquiesced in by the Indians and the whites until the year 1845, when collisions having taken place which threatened a renewal of hostilities, it was modified by an order from the General Land Office, approved by the Secretary of the Treasury, (Mr. Walker,) and the President of the United States, (Mr. Polk,) which established a neutral territory, of twenty miles in width, along the entire border of the district in which the Indians were allowed to remain.

It will be perceived that nothing has been done by the government of the United States to impair its title to any part of the territory acquired under the treaty of Payne's Landing. On the contrary, great care has been observed to exclude every idea of the kind, by avoiding the use of any terms which could be construed into the grant or acknowledgment of any right on the part of the Indians inconsistent with the absolute ownership of the country by the United States. By the arrangement they were permitted for a while to plant and hunt on the lands included within the prescribed boundaries; and still further, to guard against misunderstanding, it was expressly provided that the arrangement should be merely "temporary." The utmost that the Indians can claim, therefore, is, to be considered as tenants at the will of the United States, and liable to be removed whenever the public interests may require.

Regarding the subject in this light, and being anxious to gratify the people of Florida, who, in public meetings and through their executive and legislature, had manifested the most earnest desire to have the Indians removed, the department employed such means as were deemed most just, humane, and expedient, to accomplish that object. The Indians were notified of the desire of the government of the United States that they should comply with the stipulations of the treaty of Payne's Landing, and General Blake was employed to go among them, and to take with him a delegation of the Seminoles, who had emigrated westward, to add their testimony and counsels to his in favor of the proposed removal, and thus to effect the desired object peaceably. Some reluctance having been manifested by a portion of the tribe, and an idea having obtained currency

among them that the government of the United States would not insist on their removal, a delegation of the principal chiefs, with their interpreter, were allowed to come on to Washington to confer with the President, and ascertain from him directly what he expected and desired them to do. Upon receiving from him the assurance that they would be required to leave Florida, they acknowledged in writing their obligation to remove, and agreed to use all their influence to induce their people to emigrate at the earliest possible day.

A copy of this agreement is appended to this report, and also copies of the letter of General Blake, and of a letter from the Hon. S. R. Mallory, of the United States Senate, to me, enclosing one addressed to him by Mr. Thomas P. Kennedy, of Tampa Bay.

On receiving notice of the refusal of the Indians to comply with the treaty, I called for a report from the Commissioner of Indian Affairs; which was made on the 10th instant, and is now appended to this communication.

It will be seen from these papers that it is strongly urged on the government to regard the permission which was given to the Indians, under the order of Colonel Worth, in 1832, to plant and hunt for a while on the lands set apart for them, as revoked and annulled, and to proceed at once to survey not only the neutral territory, but also the country heretofore occupied by the Indians, and to bring the same into market for settlement and cultivation at an early day.

As the adoption of this policy will inevitably lead to the renewal of hostilities with the Indians, and a very large expenditure of money and of human life in expelling them, and as, in any event, additional appropriations will be necessary to defray the cost of the surveys, I did not feel warranted in assuming the responsibility of setting aside the arrangement entered into by the previous administration. Believing it to be a subject which appertains appropriately to Congress, I now respectfully bring it to your notice, in order that you may lay it before that body for such action as the public interests may in their judgment demand.

I have the honor to be, sir, very respectfully, your obedient servant,
ALEX. H. H. STUART,

Secretary.

To the PRESIDENT.

P. S.—Since writing the foregoing, I have received a communication from the governor of the State of Florida, a copy of which, for further information on the subject, I also enclose.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, January 10, 1853.

SIR: I have the honor to enclose herewith a copy of a letter from special agent General Luther Blake, dated December 15, 1852, from which it appears that the Indians in Florida refuse to comply with their obligations to emigrate, and that coercive measures must be employed to effect their removal. All previous advices from General Blake au-

thorized the confident expectation that the peaceable removal of these Indians would soon be accomplished. But it is now evident that no such expectation can reasonably be indulged; and if it be determined that they are not to remain in Florida, the only question to be considered is, how shall their removal be enforced? I have heretofore expressed the opinion that a prompt and vigorous prosecution of the public surveys of the lands in the occupancy of these Indians would have a salutary effect in bringing them to realize the fact that they cannot be permitted to remain where they are. Nothing has occurred to change that opinion, and I would recommend that the survey of the country be regarded as a prominent and essential part of any future plan of operations for the removal of the Indians. The surveying parties should be amply protected by military escorts from the army, and a considerable force should be thrown into the country at different points, with a view of destroying the property and supplies of the Indians and capturing all they could catch. An agent should be stationed at Fort Myers to receive and ship the captives to their country west, as well as those who might voluntarily surrender to him for emigration.

I submit with diffidence the foregoing suggestions, as an outline of the plan most likely, in my judgment, to effect a speedy removal of the Seminoles from Florida.

The authorities and people of Florida are anxious that the force to be employed against the Indians shall be composed of volunteers, but I presume an act of Congress would be necessary to legalize the employment of such troops; and as even the surveying of the country would probably result in hostilities on the part of the Indians, I suggest the propriety of submitting the whole subject to Congress, in order that suitable provision be made by law for the accomplishment of the object in view.

Very respectfully, your obedient servant,

L. LEA, *Commissioner.*

HON. A. H. H. STUART,

Secretary of the Interior.

Memorandum of an agreement between Luke Lea, Commissioner of Indian Affairs, and Billy Bowlegs, Nokose Emarthla, Foschatchlee Emarthla, and Chocote-Tustenugee, chiefs and headmen of the Seminole Indians in Florida.

The said Indians having visited Washington for the purpose of seeing the President and Commissioner of Indian Affairs, and of understanding from them what the Seminoles in Florida were required to do in regard to their removal west, and being now satisfied, from what the President and Commissioner have said to them, that they and all the Seminoles in Florida are under obligations to remove, do hereby agree to use all their influence for the purpose of getting their people to emigrate at the earliest possible day.

The said Lea, Commissioner as aforesaid, agrees that the Indians shall be comfortably transported to their country west of the Mississippi and that for all the stock and other property they may have in Florida

the owners shall be paid a reasonable price. After their removal, the government will, by treaty or otherwise, adopt such measures as may be necessary and proper for their protection and support. Their removal is to be conducted by General Blake, or such other agent as the government may appoint. And the chiefs and headmen who sign this agreement faithfully promise to give the said agent all the assistance in their power, so that the removal of all the Indians in Florida may be effected with the least possible delay.

Signed at the city of Washington, this 20th day of September, 1852.

L. LEA, [L. S.]

Commissioner of Indian Affairs.

BILLY BOWLEGS, his x mark.

NOKOSE EMARTHLA, his x mark.

FOSCHATCHLEE EMARTHLA, his x mark.

CHOCOTE TUSTENUGGEE, his x mark.

Witness:

JNO. JUMPER, his x mark.

SARPARK YOHOL, his x mark.

ABRAM, *Interpreter*, his x mark.

L. BLAKE, *Agent*.

JOAB GRIFFIN.

Fort Myers, December 15, 1852.

Sir: I am truly sorry to inform you that Billy Bowlegs and the other delegates refuse to comply with what they agreed to do. They have been counselling for some time, and wanted to counsel still longer. Believing it to be all pretence, I urged them to make the sign they had promised to do this month, to start fifty or seventy-five, and I would believe they intended to comply with their agreement in full. The above is their answer; and more, they do not intend to leave. They do not believe that the government will permit the cow-boys, as they call them, to come upon them.

Pardon me, sir, for recommending that the whole country be surveyed at once: let the military of Florida protect the surveyors, &c., and 300 Creek warriors sent into the swamps, under their own officers, and in their own way, capture and bring into the nearest post all they can find. For the army to penetrate these swamps would be attended with enormous expense, and accomplish nothing. This would require no more regulars than what are now here. No time should be lost. There are many that are willing to emigrate. Action now will prove to them that the government is determined. As peace-offerings will not do, force must.

Very respectfully, sir,

LUTHER BLAKE,
Special Agent.

Hon. LUKE LEA, *Washington City.*

WASHINGTON, January 9, 1853.

SIR: I have the honor to hand you herewith a letter which I have just received from Mr. Kennedy, a gentleman of high respectability, who has resided near the Indians in Florida for many years, from which it appears that the efforts of General Blake and the delegation of friendly Indians to induce their removal from the State have utterly failed. I also enclose a Florida Sentinel of the 4th instant, containing a resolution offered in the State legislature, instructing the Florida delegation in Congress to urge upon the general government their speedy removal by force. It also publishes a letter from General Blake, dated at Fort Myers, December 15, and addressed to his excellency Governor Brown, announcing that the Indians refuse to emigrate; that he has reported the facts to the department, and recommended that the country be surveyed at once into townships, and that three hundred Creek warriors be sent into the swamps, under their own officers, to bring them in. Under these circumstances, I deem it my duty again to call your attention to the subject, and to urge the great necessity of adopting prompt measures to compel the removal of this band of cut-throats, who have outraged every feeling of humanity, and whose treachery demands the sternest correction.

I repeatedly expressed to the Commissioner of Indian Affairs, last winter, my conviction that military force alone could remove them—a matter which their late conduct places beyond all doubt. Circumstances justify the inference that they believe the government forces will not be employed against them; and a prompt display of troops on the Caloosahatchee and Peat creek may produce an immediate and beneficial effect.

I am very anxious to communicate to the executive and people of Florida the views of the department upon the subject, and respectfully ask that you will enable me to do so at your earliest convenience.

With great respect, I have the honor to be, your obedient servant,
S. R. MALLORY.

HON. A. H. H. STUART,
Secretary of the Interior.

TAMPA, FLORIDA,
December 22, 1852.

DEAR SIR: The schooner "Louisa Tift" arrived at this place yesterday, bringing the intelligence that the Indians in council have abrogated the right of Bowlegs and suite to make a treaty for emigration west; and are about to depose Bowlegs, and place their affairs in the hands of his sister, who is the wife of the chief Assinwah. Colonel Bowman, an assistant of General Blake's, leaves here to-day for Washington, to report the entire failure of the pacific policy of the government in regard to these Indians.

The sparcity of frontier population, I am fearful, will lead to much inconvenience and loss—an event much to be deplored. This commu-

nication is made you to apprise you of the state of our Indian relations.

I am, sir, very respectfully, yours,

THOS. P. KENNEDY.

Hon. S. R. MALLORY,
U. S. Senate, Washington.

EXECUTIVE DEPARTMENT, FLORIDA,
Tallahassee, January 12, 1853.

SIR: Having received the enclosed communication from General Blake, the *special agent* of the United States for the removal of the Indians from Florida, and a number of letters from intelligent persons residing on the frontier, informing me that serious danger is apprehended by the people from Indian violence, I have considered it to be my duty to exercise the discretion confided to me by an act of the General Assembly of this State of the 20th January, 1851, to call out, for the protection of the frontier settlements, when deemed necessary, a regiment of mounted volunteers. Accordingly, I have ordered to the frontier a regiment of mounted volunteers; and I have appointed Major General Benjamin Hopkins to be colonel of the regiment until the authorities of the general government shall take action upon this subject.

I have the honor to be, respectfully, your obedient servant,

THOMAS BROWN.

Hon. A. H. H. STUART,
Secretary of the Interior, &c.

EXCELLENT SIR: I regret to inform you that the Seminoles refuse to comply with their agreement to emigrate. They say they intend to stay here.

I have reported the facts to the department in Washington, and recommend that the country be surveyed into townships at once—the surveyors to be protected by the military of Florida, &c.; and that three hundred Creek warriors be sent into the swamps, under their own officers, and in their own way, bringing in to the nearest post all they can capture.

Very respectfully, sir,

LUTHER BLAKE,
Special Agent.

His Excellency Gov. THOMAS BROWN.