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Letter from the Secretary of the Interior, relative to the survey of the eastern boundary of the Choctaw Indian country, with an estimate for the same

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SURVEY OF CHOCTAW COUNTRY.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

RELATIVE TO

The survey of the eastern boundary of the Choctaw Indian country, with an estimate for the same.

JANUARY 30, 1868.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,

Washington, D. C., January 29, 1868.

SIR: I have the honor to transmit herewith a copy of a letter, dated the 27th instant, from the Commissioner of Indian Affairs, relative to the survey of the eastern boundary of the Choctaw Indian country, together with an estimate of appropriation required for such survey; also a copy of a report from the Indian Bureau, dated June 29, 1867, on the same subject.

The Indians are entitled, under existing treaty stipulations, to have the eastern boundary of their country run as suggested and recommended by the Commissioner, and their exclusive right to the land up to that boundary recognized, or to be compensated for the land which they lose by being confined to the present line.

The report of the Commissioner of Indian Affairs to this department, dated June 29, 1867, gives a clear and distinct historical statement of the relations between the Indians and the government, and exhibits the present attitude of the case and the necessity of early action.

The attention of Congress is respectfully and earnestly invited to the consideration of the subject.

Very respectfully, your obedient servant,

O. H. BROWNING, *Secretary.*

Hon. SCHUYLER COLFAX,

Speaker House of Representatives.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,

Washington, D. C., January 27, 1868.

SIR: I have the honor to acknowledge the receipt by reference from you, on the 13th instant, of a letter addressed to you by Messrs. Hughes, Denver, and Peck, dated the 11th instant, calling your attention to the subject of the eastern boundary of the Choctaw country, and requesting you to submit the question,

with all the facts, to Congress for their consideration, and in regard to which you request an expression of my views as to what is proper to be done.

In reply, I would respectfully call your attention to a report from this office to Hon. W. T. Otto, acting Secretary of the Interior, dated the 29th of June last, in which a full history is given of the subject referred to, and in which report I had the honor to state as follows: "Good faith on the part of the United States, I think, demands that this boundary should be so established;" (*i. e.*, in accordance with the request of the Indians.) But inasmuch as there were no funds at the disposal of the office for the purpose, I recommended that Congress be requested to appropriate the necessary amount for this survey. I still adhere to the opinion then expressed, but would now respectfully suggest that, as an alternative, Congress be requested to provide for the payment to the Choctaws the appraised value of the lands they would secure by running their eastern line due south, as they request, the area being estimated at 161,280 acres, upon their relinquishing all claim to the same. This, I believe, will be satisfactory to the Indians.

I enclose herewith estimate of \$5,000 for this survey, to be transmitted to Congress, if you shall so decide.

The letter of Messrs. Hughes, Denver, and Peck is herewith returned.

Very respectfully, your obedient servant,

N. G. TAYLOR, *Commissioner.*

Hon. O. H. BROWNING,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., June 29, 1867.

SIR: My attention has been called to the enclosed communication, dated April 24, 1867, addressed to Hon. O. H. Browning, Secretary of the Interior, by P. P. Pitchlynn and Israel Folsom, delegates representing the Choctaw nation, who request that the eastern boundary of the Choctaw country may be established according to certain treaty stipulations, to which they refer.

The facts in reference to this boundary line, as appear of record, are as follows: By the second article of the treaty with the Choctaws of October 18, 1820, (Statutes at Large, volume 7, page 210,) the eastern boundary of the tract of land ceded to them on the west side of the Mississippi river was to be a line drawn from three miles below the mouth of Little river, where it empties itself into Red river, to a point "on the Arkansas river, where the lower boundary line of the Cherokees strikes the same." This line was surveyed in 1821 by Henry B. Downs, who acted under instructions from the Hon. John C. Calhoun, then Secretary of War.

By reference to American State Papers, Indian Affairs, volume 2, pages 547 to 558 inclusive, it will be seen that there was in 1824 and 1825 considerable correspondence between the Secretary of War and members of Congress and delegates in that body from the Territory of Arkansas, on the subject of this boundary line, during which time treaty negotiations were pending between the United States and the Choctaws; and on the 20th of January, 1825, a treaty was concluded, the first article of which provides that the eastern boundary of the Choctaw lands shall be defined by a line "beginning on the Arkansas, one hundred paces east of Fort Smith, and running thence due south to Red river." (Statutes at Large, volume 7, page 234.)

This boundary line was reaffirmed by the treaty of September 27, 1830, (Statutes at Large, volume 7, page 333.) Article second of this treaty, in describing the boundaries of the Choctaw country, provides that "the boundary of the same to be agreeably to the treaty made and concluded at Washington city in the year 1825."

The treaty of June 22, 1855, (Statutes, volume 11, page 611,) in the first article reiterates this boundary, viz: "Beginning at a point on the Arkansas river one hundred paces east of old Fort Smith, where the western boundary line of the State of Arkansas crosses the said river, and running thence due south to Red river." &c.

The act of Congress approved August 18, 1856, (Statutes at Large, volume 11, pages 78 and 79,) made an appropriation "for surveying and making the boundaries of the Choctaw and Chickasaw countries, in pursuance of the provisions of the nineteenth article of the treaty of June 22, 1855;" which article provides that the United States shall, as soon as practicable, cause the eastern and western boundary lines of the tract of country described in the first article of that treaty to be run and permanently marked.

Mr. A. H. Jones and H. M. C. Brown, with Daniel C. Major as astronomer, were employed by this office to survey and mark this line, under contract and instructions dated October 13, 1857. They were instructed as follows, viz: "* * * * * after establishing the initial point, (one hundred paces east of old Fort Smith,) you will run south on a true meridian, * * * * * until you arrive at the terminating point on Red river."

They proceeded to Fort Smith, where they were joined by commissioners representing the State of Arkansas and the Choctaw nation. The initial point was established by astronomical observations, and a line was run due south, according to the terms of the treaty of 1855, for a distance of eight miles. When they reached this point they received instructions from this office directing them to suspend operations on that line, return, and retrace the old line which was surveyed by H. W. Downs, under the sanction of the War Department, in 1824, which they proceeded to do. A copy of these instructions are herewith enclosed, from which it appears that this office, by direction of the Secretary of the Interior, (which direction must have been verbal, as it cannot be found in the files,) instructed the contractors to return and distinctly mark the line established by Downs in 1824. As appears from the letter of Messrs. Jones and Brown, dated January 21, 1858, (copy herewith enclosed,) the line established by Downs, and which was retraced as stated, diverges to the west from a due south course; the distance from where this line strikes Red river to the point where a due south line would reach it, being four miles and sixteen chains due east; the area contained between the two lines amounting to 161,280 acres, as appears from a plat enclosed in said letter.

The treaty of April 28, 1866, (Pamphlet Laws, first session thirty-ninth Congress, Treaties, page 85,) reaffirms all obligations arising out of treaty stipulations or acts of legislation entered into prior to the rebellion.

It therefore appears that the eastern boundary line of the Choctaw country has never been established according to the provisions of the treaty of 1855, which repeats the boundary provisions of the treaties of 1825 and 1830. Good faith on the part of the United States, I think, demands that this boundary should be so established; but inasmuch as the appropriation by Congress of August 18, 1856, has been exhausted, and there are no funds at the disposal of this office, applicable for the payment of the expenses of establishing this line, and as under existing laws the department is not authorized to enter into contract contemplating the expenditure of money unless an appropriation for the purpose shall have been previously made by Congress, I respectfully recommend that Congress at its next session be requested to appropriate a sum sufficient to defray the expenses of this survey.

Very respectfully, your obedient servant,

N. G. TAYLOR, *Commissioner.*

Hon. W. T. OTTO,

Acting Secretary of the Interior.

SURVEY OF CHOCTAW COUNTRY.

Estimate of appropriation required for the survey of the eastern boundary line of the Choctaw country, as provided by the nineteenth article of the treaty concluded with the Choctaws and Chickasaws, June 22, 1855, (Statutes at Large, volume 11, page 615,) or as much thereof as may be necessary for this service..... \$5,000

Explanation of the foregoing estimate.

For surveying 120 miles, at \$15 per mile.....	\$1,800
For establishing 120 stone posts or monuments, with appropriate marks thereon, at \$10 each.....	1,200
For transportation and other necessary expenses attending this service.....	2,000
	5,000