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Report on the Organization of Indian Territory

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Mr. NYE made the following

REPORT.

[To accompany bill S. No. 679.]

The Indian Territory, proposed to be organized by the bill, is about 350 miles in length by 200 miles in width, with an area, therefore, of about 70,000 square miles. Its soil is fertile, its climate pleasant and healthful, and it is in every way fitted by nature to sustain as large a population as any tract of equal extent in the United States. Missouri, which forms a portion of its eastern border, has a population of 1,700,000; Arkansas, also bordering it upon the east, has a population of 500,000; and Kansas, forming its northern boundary, with scarcely five years of peaceful growth, has already a population of 400,000. The portion of Texas bordering upon the Red River, which forms its southern boundary, is rapidly filling up with agricultural settlers. Two railroads coming from the north, and connecting with the Kansas Pacific, one at Junction City and the other at Kansas City, have already reached the northern boundary of this Territory; a third, completed from St. Louis southwest a distance of 300 miles, and whose route lies through this Territory to the Pacific coast, is now within thirteen miles of the eastern border, and rapidly closing this small gap; a fourth, building from Memphis and Little Rock, will, by next July, have reached the border upon the southeast; and still a fifth, from Galveston, Texas, is rapidly approaching the Red River upon the south.

This Territory so surrounded is at present occupied exclusively by tribes of Indians numbering, all told, between fifty and sixty thousand souls. The bulk of this population is made up of the Cherokees having a reservation upon the north, the Choctaws and Chickasaws upon the south, and the Creeks and Seminoles in the central portions, the balance being composed of fragmentary tribes, with populations ranging from fifty to three thousand, occupying a few small tracts in the east, or roaming over large tracts in the west. The principal tribes above mentioned are further advanced in civilization than any others in the United States, having written governmental constitutions, schools, churches, and newspapers, and living chiefly by raising stock and tilling the soil.

From the above statement the importance of the proposed legislation is manifest. A country of such extent, capable, from its resources, of sustaining in comfort so large a population; situated in the heart of our republic; surrounded by populous and growing States; and whose borders on all sides already feel the pressure of emigration and American enterprise, certainly merits the most serious attention of the Congress upon which the responsibility of its government rests.

In order to determine upon the wisdom of the change of policy recommended, the present status of this Territory and of its inhabitants and

relations to the Government of the United States ought to be distinctly understood. The bill proposes important changes in two respects: 1st, in the form of the political government of this Territory, and, 2d, in the policy to be pursued respecting the tenure of its lands; and we will consider them separately in this order.

The relation between an Indian tribe occupying territory within the United States and the Federal Government is anomalous. These tribes have been, in certain respects, treated as foreign nations. They have been permitted, to a certain extent, their own internal government. The members of the tribe, though born upon the soil, have never been deemed American citizens. They have not been held subject to the ordinary exercise of Federal or State jurisdiction. They have been dealt with by treaties made between their chief men upon the one side, and the treaty-making power of this Government upon the other, and generally in official intercourse have been dignified by the name of nations.

On the other hand, that they are not, in the view of our Government, in reality foreign nations in any such sense as the term usually imports, is clearly shown from the fact that the territory occupied by them has been always termed and treated as a part of the territory of the United States, and subject to its jurisdiction whenever exercised; that they have never been permitted to have any relations with other foreign powers, nor with the States of the Union, nor, except as permitted by this Government, with individuals; that their internal government has been constantly supervised by Congress, their trade, internal and external, regulated, and articles of commerce admitted in or prohibited from their territory as the welfare of the Indian or the security of his neighbors seemed to require.

While permitted to retain some of the attributes of foreign and independent nations, their status has been determined, both by judicial decisions and by the practice of the other Departments of the Government, to be that of communities "domestic and dependent." (8 Wheaton, p. 592.)

Although the course of the Government has been to endeavor to obtain the consent of the Indians to such measures as were deemed advantageous respecting their internal management, as being the wisest and most efficient mode of securing obedience to its will, this has nevertheless been so far matter of form and not of authority, that the supervisory power of Congress has been constantly exercised by intercourse laws, and otherwise independently of treaties, and Congress has never hesitated to adopt any measure respecting the internal or external government of the Indians deemed necessary to their advancement or essential to good government, because of a failure to obtain their consent. They are, as the courts have said, *wards* of the Government; and as to what is their best interest, the ultimate decision rests with the guardian. The wishes of the Indian always have been and always should be consulted, but at last the discretion to be exercised is that of Congress. With this body rests the power of final determination, and where the power is there also is the responsibility.

The present government of the Indian Territory exemplifies what has been said respecting the relation of Indian tribes to the United States. The separate tribes who occupy it have each their own distinct tribal government, essentially Indian and nominally sovereign, with a head executive chief, a legislative council, and courts more or less regularly organized, administering Indian justice according to customs or council regulations between the members of the tribe. At the same time the United States Government has its superintendent and its agent, who

supervise the different tribes. The intercourse laws passed by Congress are binding upon the individual members of the tribes, and for the purpose of carrying out the laws of Congress the territory is attached to and made part of the United States judicial district for Arkansas. These officers, superintendent, agents, and court, are charged with the duty of enforcing, not the Indian laws, but the laws of Congress affecting this people. Their authority is not, therefore, different in quality from that which would be exercised by a governor, judges, and other officers under a regular territorial organization, such as that provided for in this bill. The change proposed is only in the degree and manner of application of the authority of the United States to the inhabitants of this Territory. We have said this much upon this point for the purpose of showing, (what, perhaps, no one disputes, but which ought, in our opinion, to be clearly stated,) that in the establishment of a territorial government for this Territory, of such form as Congress may prefer, there is no question of authority, but only one of discretion, requiring for its solution simply a determination of the fitness of the form proposed.

That the present government of this Territory is no longer a suitable one is universally admitted; that it is inadequate to the proper protection of life and of property among the Indians, in their present advanced condition, is not denied. Not only is its continuance earnestly protested against by the people of the bordering States, but the Indians themselves admit its unfitness and demand a change, and the change which they propose is in the direction of the establishment of a stronger central authority with fuller and more direct control, and is so far in accord with the general plan of this bill. The Committee on Territories in each branch of Congress, and also the Committee in each branch upon Indian Affairs, have severally recommended the passage of a bill of some form providing for a change in the government of this Territory. It may then be taken for granted that a change of some character should be made.

The bill now recommended, so far as it relates to the government of this Territory, is very similar in its provisions to those under which all our other Territories have been organized, differing chiefly in conceding to the peculiar present condition of its inhabitants a different mode of selecting the legislative body, and a restriction upon its powers. Being, therefore, substantially in accordance with the precedents upon the subject, it ought to be accepted, unless there are special reasons against it.

The principal objection urged, so far as we have heard, is that the bill is not in accordance with the wishes of the Indians. Conceding the fact, (although among the Indians there are two opinions,) we differ with those who make this objection, as to the weight to which it is entitled. While it is true that Congress should listen with patience and interest to suggestions from this source, it should be constantly kept in mind that it is Congress who is to prescribe a government for this Territory, and not the Indians who are to prescribe to Congress how it shall be governed. The Congress of the United States is not accustomed to ask the people who inhabit one of its Territories to determine for it the form of government to be established. If this is not done with intelligent American citizens, we are not disposed to depart from the rule in favor of those whose political experience would necessarily entitle their advice to less consideration.

The responsibility belongs to Congress, and it is the judgment of Congress which must be exercised. In the same line of objection it has been said that the provisions of the bill are not in accordance with

the treaties existing between the tribes of Indians inhabiting this Territory and the United States. If by this is meant that there are any provisions of the bill relating to the government of the Territory which are in violation of any provisions in any existing treaty or treaties with either of said tribes, then it is a mistake in point of fact. We have examined the treaties carefully, and no one contains any prohibitory clause of this character. If, however, it be meant that there are no provisions in these treaties which expressly authorize this legislation, and that it would therefore be unauthorized, then the objection implies a limitation upon the power and duty of Congress in the premises, which cannot for a moment be admitted. It is asserting that any one of the numerous tribes who occupy this Territory, who style themselves nations and claim to be sovereign, have a veto power upon legislation of this character, and that before Congress can adopt a form of political government for this extensive portion of the territory of the republic, not only the 16,000 Cherokees, but the 80 sovereign Shawnees and the 200 sovereign Wyandottes must be consulted and their permission obtained. The good order of this Territory and the security and prosperity of its neighboring population are not held by any such frail tenure. It might be said and with truth that in the treaties with the principal tribes in this Territory, as in that of 1866 with the Choctaws and Chickasaws, (U. S. Statutes, vol. 14, p. —,) that of same year with the Creeks, (U. S. Statutes, vol. 14, p. —,) and with the Seminoles, (same volume, p. —,) the right of Congress to legislate in this manner has been expressly declared; but we prefer not to rest the right to regulate the government of our Territory and secure the welfare and protection of our citizens upon any such precarious foundation as the assent of any tribe of Indians, civilized or uncivilized, who may chance to inhabit within its limits.

Returning, then, unembarrassed by any preliminary questions of authority or propriety, to the question of the merits of the form of government to be adopted, we find that there is no substantial dissimilarity in the forms proposed by the various bills introduced in either branch of Congress, except in that prepared by the Indians themselves at their general council, recently held at Ocmulgee, and embodied in the bill recently introduced by the chairman of the Committee on Indian Affairs, as expressing the supposed views and wishes of the Indians. This plan is entitled to careful and respectful consideration, and if otherwise unobjectionable, should for that reason be preferred. But in saying this we wish to guard against being understood as supposing that there is anything authoritative in the source in which this plan of government originated.

The council by which it was adopted had never been intrusted, by any law or by any treaty, with the duty of forming or recommending a system of government for this Territory.

By certain treaties made with a portion of the tribes represented, (to the terms of which, in this respect, Congress, by making an appropriation for the purpose, consented,) this council was authorized to meet and to transact certain specified business, no part of which, however, was the adoption or consideration of a form of government, either for submission to Congress, or for any other purpose. The resolution of this body into a constitutional convention was entirely gratuitous.

There was no impropriety in this council expressing its wishes in this respect, but it must be regarded as simply the expression of a wish, and not as having any authority additional to its merits, by reason of having been framed by a body to whom the consideration of the question had

been by law or treaty confided. Upon its merits, the plan thus proposed seems to us thoroughly objectionable, not only in its details, but in its general scope. Its fundamental idea is that of a confederation of sovereign and independent communities, and it seems to have been modeled on the old confederation of the United States existing prior to the adoption of the present Constitution in 1789. It proceeds upon the theory that each tribe, great and small, occupying any portion of this Territory is a sovereign nation, foreign not only to the other tribes, but to the Government of the United States, with which the instrument studiously avoids recognizing any connection, except by treaties proper between sovereign States. Its preamble states that this Territory is a "*country occupied and owned by them*," (these nations.) One article provides that the rights of "*transit, commerce, trade, and exchange*," shall be fixed by agreement between the "*nations of Indians*" who may "*enter this confederacy;*" another that no one shall be eligible to a legislative position except "*a bona fide citizen of the nation he represents.*" The oath prescribed for its officers is, "*that I will support the constitution of the Indian Territory*," totally ignoring here as elsewhere the Constitution of the United States. By another section "*no power of suspending the laws of this Territory shall be exercised, unless by the general assembly, or its authority.*" Again, "*all commissions shall be in the name and by the authority of the Indian Territory;*" and "*all writs and other process shall run in the name of the Indian Territory;*" and indictments are to conclude, "*against the peace and dignity of the Indian Territory.*" By the schedule this constitution is to be submitted, not to the Congress of the United States, but to "*the councils or people of the respective nations;*" and it is finally provided, "*that this constitution shall be obligatory and binding only upon such nations and tribes as may hereafter duly approve and adopt the same.*" It is needless to continue these citations. Enough has been quoted to show the real character of this instrument, and to show further that, unless this Government desires to cede absolutely its sovereignty and jurisdiction over this Territory, and to consent to the establishment of a foreign nation in the midst of the republic, any time given to the consideration, in detail, of its provisions is wasted.

Precisely why it is brought to Congress is not clear, as there is nothing in its terms or character which suggests such a reference. The only object which can be aimed at is to obtain a recognition of *independence*—just such as Ohio might ask for if her people desired to sever her relations with the Federal Government—very much such as Virginia and South Carolina did ask for in 1861. A proposition of this sort made to this Congress by any other portion of our people than these Indians would be resented as an insult to its good sense if not to its loyalty. There is, however, one clause which is suggestive of some sort of relation with the United States. It is that which says, "*Whenever the general assembly shall deem it necessary to provide means to support the governernment of the Indian Territory, it shall have the power to do so.*" This mention in a constitution of the provisions of means to support a complicated government thereby created as a contingency which might or might not happen, is of an aboriginal simplicity which would be admirable did we not know that the language in fact conceals a humiliating concession of national pride to individual interest, and that the true intent and meaning of this clause is that this new government, independent otherwise, expects its bills to be footed by its neighbor the United States. The futility of any attempt by Congress to indorse this plan is

sufficiently seen by a consideration of the effect of the final clause of the Constitution as above quoted.

If adopted it is only to be obligatory upon such of the nations as may choose hereafter to ratify it. Suppose it then approved by Congress, and suppose also, what is not at all unlikely, that the Creeks or Seminoles, like Rhode Island on a former occasion, through motives of jealousy or distrust, should refuse to ratify, as to such tribe it would be inoperative; and it might thus happen that by the attempt to substitute this unratified constitution a considerable portion of these tribes would be left without any government whatever.

Independent of the impracticability of this scheme, and of the fundamental political error on which it is based, the spirit of its provisions is not in our judgment commendable. The end proposed seems to have been, as far as possible, isolations from other portions of the republic. A true policy would aim at a closer affiliation. If individualities or circumstances peculiar to the Indian require some departures from the ordinary legislation providing government for our citizens, those departures should be made as few in number and as unimportant in their features as possible.

This republic has, under its liberal system of government, buried a score of nationalities. A single form has been found adequate to protect and make prosperous every variety of race, color, language and creed. It is certainly broad enough for the civilized Indian, and all intelligent men must see that his destiny is either to become a part of this system or to cease to exist within the limits of this republic.

Those provisions of the bill which treat of the tenure of the lands in this Territory are not less important or less pertinent to the general purpose of this legislation than those which regulate its government.

In order that this Territory may be prosperous, it must not only be well governed, but the development of its resources must be encouraged, or at least made possible. No proposition is better established in the American mind than that the welfare of a state and the happiness of its citizens require that the lands be held in private proprietorship, and in tracts sufficiently small that each may be cultivated and managed in person by its individual owner.

Any system which does not encourage this is bad, and any which actually prohibits it will not long be tolerated.

The extensive area of the Indian Territory is all, or nearly all, claimed and held in reservations of colossal proportions.

The Cherokees alone, with a population of sixteen thousand souls, claim and hold a tract of about twenty-five thousand square miles, three times as large as the State of Massachusetts, with a population of one and a half millions.

The reservation of the Choctaws and Chickasaws, with nineteen thousand population, embraces an area of about the same extent.

Whatever of title the Indians have to these lands, is a title in common. They belong to the tribal community, and not to the individual members of the tribes. There are in most of the tribes customs or regulations by which there can be an occupation in severalty, but nothing which at all realizes the conditions of private proprietorship.

Owing to the disparity of the population, only a small proportion of these vast domains could be cultivated, but the operation of the community principle prevents any considerable portion of the actual occupants from engaging in the tilling of the soil.

From these immense reservations all white men are excluded, and by the laws of Congress, as well as treaty provisions, *all of these lands are in-*

alienable. Is it to be wondered at that under these conditions these people make slow advancement in civilization?

It is not too much to say that so long as these conditions continue they never can become civilized. Civilization is, more than anything else, industry, labor; not for present sustenance merely, but for acquisition, with security of acquisition as the reward of labor. Where there is no individual property there will be no considerable individual industry. If the Indian is to be civilized, he must learn to work, and no man will work cheerfully without the spur of competition and incentive of acquiring wealth. The common good of a large community, the public welfare, are ideas too vague to inspire personal effort, except with very few, even in the highest stages of civilization. To the masses they furnish no incentive to toil. And of all the species of property whose acquisition stimulates exertion the soil is first in rank.

This alone gives a home. The opportunity to acquire in absolute unconditional proprietorship a tract of land, by the cultivation of which the individual can be supported in independence, and the family reared in comfort, is the highest motive to effort which can be proposed.

While the land in this Territory is held by the tribes and occupied in common, or by the most precarious and unreliable of all species of severalty title, is it a matter of astonishment that the problem of Indian civilization is not solved?

If an equal number of persons could be taken from the most intelligent portion of Massachusetts and placed in this Territory under the same conditions as these Indians, with the lands owned in common, with no opportunity to acquire any portion of the soil in individual proprietorship, with all species of property so far common that practically the necessities of the idle are supplied through charity, if not on compulsion, from the stores of the industrious; separated from all political connection and commercial intercourse with the surrounding States; and, superadded to this, the constant expectation of a congressional appropriation in money to meet exigencies otherwise unprepared for, it is not too much to say that under such circumstances the thrift, virtue, and intelligence, which even such colonists could bring to the experiment, would gradually give place to indolence and vice, low desires and feeble ambitions, and that in twenty years they would become semi-barbarians. What these Indians most need next to a better government—perhaps before it—are homes and property; and we are fully persuaded that it would be better for each of them to be the owner of fifty acres of land in the same full manner as the New England farmer is the owner of his farm—and should understand that by industry he might add to its value and acquire additional acres, and also that by idleness he might lose that which he had—than that he should be a joint copartner with the balance of his tribe in all the lands between the two oceans.

The bill introduced by the late Senator from Missouri undertakes to provide for the ownership in severalty of the lands of this Territory, and its provisions are substantially in accordance with the views expressed in his recent message by the governor of that State, so largely interested in the prosperity of those who are its nearest neighbors. It provides that each Indian—man, woman, and child—shall select one hundred and sixty acres of land from the tribal reservation, and receive for it a patent from the United States, conveying full title, except that it shall be temporarily inalienable.

To the balance of the lands there shall be no further right of occu-

pancy, but they shall be sold for the benefit of the tribe, (in the same manner as public lands are sold,) and the interest of the funds expended under the direction of the Secretary of the Interior annually for the education and industrial improvement of the tribe.

These provisions seem to us just and expedient. They are not, however, acceptable, as we understand, to those who profess to represent at Washington the Indians. That these provisions should be personally objectionable to these gentlemen, we can well understand, for if this bill becomes a law the occupation of a considerable number who deem it necessary to spend their time during the sessions of Congress at the Capitol, to guard the Indian interests, will be gone. But, as we have before said, the wishes and opinions of the Indians are entitled to patient and respectful consideration, and we have examined carefully their objections to this measure, so far as they have come to our knowledge. It is first said that Congress has no power to adopt these provisions, that these lands belong to the Indians, and can only be dealt with by them, or with their consent.

These lands are tracts which have been ceded to the Indians by treaties made from time to time with the respective tribes.

In these treaties the reservations have been guaranteed to the tribes as a home forever, with an exclusive right to their perpetual occupancy, with a provision forbidding alienation, and a further provision that in case of abandonment or of extinction of the tribe, the possessions shall revert to the United States. These treaties, though some of them are more formal in their terms, do not differ in substance from those which, from the inauguration of the Government, have been made between it and the aboriginal inhabitants, prescribing the lands which shall be occupied by each. The provisions for perpetual occupancy against alienation, with a reversion under certain conditions to the United States, are common, and constitute the essential elements of the title. The character of the tenure has been frequently the subject of judicial decisions, and is well settled. The Indian title is a right of occupation with the ultimate fee or reversion in the United States Government. (8 Wheaton, 592; 5 Peters, 1; 6 Peters, 519; 6 Cranch, 88, 142; 9 Cranch, 11; 2 Yerger, p. 407.)

The interest of the United States in these Indian lands is such that a grant may be made by it to an individual notwithstanding the possession of the Indians, and the grantee will take an estate capable of being sold or transmitted and subject only to the right of occupancy by the tribe. (6 Cranch and 2 Yerger, above cited.) The Indian right scarcely rises to the dignity of property, and the tribe cannot, with any propriety, be called the owner of land which it cannot alienate, and its right to the possession of which is destroyed by removal or by tribal dissolution.

The Indians are, therefore, greatly mistaken when they deny to Congress the right to legislate concerning the lands in this Territory, for however sacred may be their right of occupancy, the paramount reversionary title of the United States, coupled with the sovereignty and political jurisdiction, not only permits but requires that they should be the care of the law-making power of the Government.

If, when it is said that Congress has not the power to legislate as proposed, it is meant that there is a technical constitutional objection which would make the legislation ineffectual upon an appeal to the courts, the position is entirely untenable.

First. The title of the Indians, of the character above stated, even if assured by a law of Congress, is not of the quality of a vested right

which may not be modified by a repealing statute as proposed in this bill; and, secondly, whatever rights the Indians have to these lands were acquired by treaties, the parties to which were in this respect and as to the execution of these instruments acting towards each other in the capacity of independent sovereignties, and the validity of the stipulations, and the sanction for their performance, must be found in the rules regulating the intercourse of independent communities. That the execution, mode of execution, and prohibition of execution of treaties are within the control of the law-enacting and war-making department, is apparent from the structure of the Government. Rights acquired by treaty may, if of a character to be cognizable in the courts, be protected or enforced by them so long as the treaty is the law of the land, but if Congress shall, for any reason of necessity or policy, forbid the execution of a treaty provision, the citizens of this Government and its other departments, executive and judicial, must acquiesce. There is no remedy for rights thus violated when an appeal to the justice of Congress shall fail, except an appeal to arms. (2 Curtis C. C. Reports, and late opinion of Attorney General upon Choctaw treaty.)

This is said simply for the purpose of keeping the question clear from any technical objection of power in the premises which might embarrass the consideration of its merits, and not, most certainly, to pave the way for a proposition to do any injustice toward these Indians because we have the power so to do.

As has been often said, the very fact that they are weak and we are strong should make us more than ordinarily careful that there shall be observed toward them the most scrupulous good faith. This question should be dealt with in no technical spirit on either side. We do not propose to look into these treaties for the purpose of finding some clause under color of which a substantial right of the Indian can be taken away, nor on the other hand do we propose that the phraseology of the treaties shall be made a pretext for the refusal by Congress to adopt needful reforms either in Government or in the general policy to be pursued with regard to these lands. Looking at the substance, then, we have promised in these treaties to give these Indians a home forever. The bill certainly accomplishes this when it gives to each man, woman, and child one hundred and sixty acres of land to be selected by him or her from a reservation sufficiently extensive to insure the choice of land of the highest fertility and value. To these lands the selector is to have a complete title, not merely the present tribal right of occupancy, but added to this the fee simple title now in the Government, so that this home shall be the property of the individual in reality, and not, as it now is, in name merely.

The treaties also provide that the tribes shall have the right to occupy the entire reservation. With their present adoption of the habits of civilized life an actual occupancy is impossible.

Four-fifths of this fertile country must either be sold to others or remain unoccupied. That the Indians themselves recognize this fact is shown in their constant applications to dispose of large tracts to the Government or corporations for a money consideration.

The spirit of this portion of the treaties is in our judgment fully carried out when, after providing them with homes, the balance of the land which they cannot occupy is to be sold for their benefit.

The mode of sale proposed by the bill is certainly the wisest which could be selected. It is to be surveyed and sold to actual settlers as other public lands, at not less than one dollar and twenty-five cents per acre. In this manner a price will be realized three times greater than

has heretofore been ordinarily obtained for any cession of the Indian title. The tribe, it will be observed, gets in this manner not only the price of the occupancy title, to which alone it has under the treaties any claim, but also that of the Government reversionary title. The principal tribes will from these sales acquire a magnificent fund, the interest of which is by the bill wisely dedicated to the purpose of their education and to furnishing them the materials and the instruction necessary to their industrial pursuits.

It will enable them to be supplied with all the modern appliances in agriculture and mechanics, and to erect costly and permanent universities and public buildings. This disposition of these lands seems to us not only just but liberal to the Indians and in full accord with the spirit of the treaties heretofore made.

But this subject is not to be regarded entirely from the stand-point of Indian interest. American citizens and emigrants who want homes, and bordering States, to whom trade, commercial facilities, and free intercourse are a necessity, have claims which ought not to be and which cannot be ignored. There is not and never has been in the United States a land monopoly so monstrous as that existing by the present system in the Indian Territory.

Small communities hold millions of fertile acres which they cannot occupy themselves, and which they will not, and by present laws cannot, permit to be occupied by others. Nothing can be more thoroughly inconsistent with the well-established land policy of this country. That policy is to sell the lands as rapidly as possible in small tracts to those who will occupy and improve them—not for the purpose of making money by the sale, but for the purpose of affording homes to its citizens and developing the resources of the country. It is this policy which has made our national wealth and the unequaled prosperity of our people; and from this policy extended in the West is to come that immense development and accumulation which will make the burden of the national debt weigh but as a feather on the broad shoulders on which it will be borne.

There should be very good reasons for making the vast region watered by the Red River, the Arkansas, and the Canadian an exception to this policy. Seventy thousand square miles of our territory, capable of supporting in luxury a population of ten millions, cannot long be monopolized by sixty thousand idlers. Kansas on the north cannot long be separated from Texas on the south, and Missouri and Arkansas on the east from Texas and New Mexico on the west, by an intervening country which it is a trespass for their citizens to enter, whose laws are strange, whose trade regulations are foreign, and which is preserved an unproductive waste in their midst by prohibition of population and of all internal improvements.

The objections to the severance of these community lands, in the manner proposed by the bill, all concentrate in a single proposition—that this country will thereby be opened to white settlement, and distinctive Indian nationality will thereby sooner or later be destroyed. With the fact we admit the consequence, and we contemplate this result without any of the forebodings which seem to agitate those who claim to be the peculiar champions of the red man. We see nothing about Indian nationality or Indian civilization which should make its preservation a matter of so much anxiety to the Congress or the people of the United States. The fundamental idea upon which our cosmopolitan republic rests is opposed to the encouragement or perpetuation of distinctive national characteristics and sentiments in our midst.

We see no reason why the Indian should constitute an exception. We owe to the individual Indian kindness, and, above all, justice. He should be protected religiously in all his individual rights, and for this purpose, if necessary, we should, as we have done in the past, yield something of the general principles which govern our legislation to the peculiarities of his situation. But when, in addition to this, we are asked to change the well-established policy of our legislation to suit what is called the sentiment of nationality of the Indian tribes, we are asked to do what we have never before done for any portion of our white citizens, and which, in obedience to the principles of our Government, we cannot do for these Indians. There may be, as has been said, "poetical justice" in the idea of an exclusivly Indian state, but in this Government a more practicable species of justice is administered. Under our Constitution we can have no States except States subordinate to that Constitution and republican in form, in which all American citizens have equal privileges. If the Indian cannot learn to forego such of his habits as are peculiar to savage life, and such of his political opinions and sentiments as are not in harmony with the general policy of our Government, then he cannot, beyond a limited period, exist among us, either as a nation or as an individual. If he can learn this lesson—and we do not doubt his ability to do this when surrounded by circumstances which require or persuade to it—then his ultimate destiny is American citizenship, with American law for his protection, and the ballot to secure the equity of the law.

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