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FREEDMEN OF CHOCTAW AND CHICKASAW NATIONS.

PETITION

OF

FREEDMEN OF CHOCTAW AND CHICKASAW NATIONS,

WITH

Other papers on the same subject.

JANUARY 23, 1872.—Referred to the Committee on Freedmen's Affairs and ordered to be printed.

To the Honorable Senate and House of Representatives of the United States in Congress assembled :

Your petitioners, freedmen of the Choctaw Nation, feel grateful to the Government of the United States for the blessings of freedom, and are not willing to be adopted by the Choctaw Nation, or become citizens of any Indian nation, government, or power that claims to be foreign to the Government of the United States, but desire to be and remain citizens of the United States, and enjoy all the rights and privileges enjoyed by any other class of citizens.

Your petitioners do represent that the Choctaw Nation have refused to comply with the requirements of the treaty of 1866 by "acts" of their council in reference to freedmen; and after a trial of four years, without the protection of life or property, nor being allowed the privilege of educating our children, but being compelled to submit to the prejudice and persecution, which are very great, from citizens of the Choctaw Nation, on account of our race, color, and previous condition in servitude, we are fully satisfied that we cannot expect or receive justice at their hands, and deem it best for us and our children that we should select our homes and live under the laws of the United States, which we acknowledge ourselves willing and desire to do.

Your petitioners claim that the Choctaw Nation, in refusing to ratify the third article of the treaty of 1866, forfeited all right and claim to the \$300,000, as specified therein, and ask that said \$300,000 may be paid to the freedmen of the Choctaw and Chickasaw Nation.

Your petitioners do hereby select and appoint Daniel C. Finn, of Little River County, in the State of Arkansas, our attorney to represent us before the Congress of the United States, and the various Departments

thereof, hereby ratifying and confirming all lawful "acts" that our said attorney may do in the premises.

Your petitioners pray that a special agent may be appointed to assist us in selecting our homes, establishing schools, and to do all other lawful acts which may be lawful for an agent to do.

Your petitioners pray that the Government of the United States will make such arrangements for the freedmen of the Choctaw and Chickasaw Nation as to prevent speculation. Hereby relying on the Government of the United States, we have hereunto subscribed our names, set opposite the number in our families, and acknowledge it to be an act of our free will and accord, for the use and purpose therein contained. For all which your petitioners ever pray.

JAMES JONES, his x mark, wife and one child.

HENRY CLAY, his x mark, wife.

ALEXANDER JONES, his x mark, wife and one child.

ABRAHAM JONES, his x mark, wife and one child.

JANE JONES; her x mark, widow and three children,

WILLIAM C. ALEXANDER, his x mark, wife and two children.

ROBERT JOHNSON, his x mark, wife and two children.

NELSON LEWIS, his x mark, wife and one child.

NELLIE JONES, her x mark, widow and one child.

CHARLES MARK, his x mark, wife.

OLMSTEAD JONES, his x mark, wife and two children.

LORENZO D. JONES, his x mark, single.

DAVIS NEPTUNE, his x mark, wife and three children.

PETER GLENN, his x mark, wife and two children.

PHILIP SHOALS, his x mark, single.

AARON POWELL, his x mark, wife and three children.

HANNIBAL BUTLER, his x mark, wife and seven children.

ANDREW FOLSOM, his x mark, wife and six children.

ROBERT GRAHAM, his x mark, wife and one child.

MORANDA JONES, her x mark, widow and one child.

* SALLY JONES, her x mark, widow.

RACHEL POWELL, her x mark, widow and two children.

PEGGY JONES, her x mark, widow and two children.

GEORGE MCQUIN, his x mark, wife and two children.

DENNIS JONES, his x mark, wife and three children.

JOHN RUTHERFORD, his x mark, wife and two children.

SAMUEL REED, his x mark, wife and one child.

BENJAMIN ROBERSON, his x mark, wife and two children.

TYSON JONES, his x mark, wife and two children.

WILLIS POWELL, his x mark, wife and one child.

JERRY FRAZIER, his x mark, wife and six children.

ROBERT JONES, his x mark, wife and three children.

THOMAS SHOALS, his x mark, wife and two children.

EDWARD SHOALS, his x mark, wife and one child.

MATILDA SHOALS, her x mark, widow and two children.

LOUISA SHOALS, her x mark, widow and one child.

JOSEPH POWELL, his x mark, wife and two children.

ROSEANNA POWELL, her x mark, widow and one child.

ANNA POWELL, her x mark, widow and one child.

ZEFFER JOHNSON, her x mark, widow and two children.

CLARISSA ALEXANDER, her x mark, widow and two children.

CORNELIUS POWELL, his x mark, wife and three children.

EMMA SIMMS, her x mark, widow and one child.
JOHN GANT, his x mark, wife and three children.
BENJAMIN WILSON, his x mark, wife and five children.
NELSON BUTLER, his x mark, wife and seven children.
WILLIAM BUTLER, his x mark, wife and four children.
LARKINS CAPET, his x mark, wife and one child.
ANDREW COLBERT, his x mark, wife and one child.
WHEELOCK BUTLER, his x mark, wife.
SOLOMON PYCHLAN, his x mark, wife and three children.
ABRAHAM BUTLER, his x mark, wife and ten children.
BENJAMIN F. BURRIS, his x mark, wife and five children.
EDWARD BURRIS, his x mark, wife and two children.
ADAM BURRIS, his x mark, wife and five children.
RUBEN BURRIS, his x mark, wife and one child.
SHEPARD PYCHLAND, his x mark, wife and three children.
ANAL BURRIS, his x mark, one child.
JOSEPH FOLSOM, his x mark, wife and three children.
DAVID FOLSOM, his x mark, wife and four children.
FRIDAY FOLSOM, his x mark, wife and two children.
MATILDA BURRIS, her x mark, widow and one child.
AZILLA BURRIS, her x mark, widow and three children.
WILLIAM WALL, his x mark, wife and five children.
SELY WALL, her x mark, widow and two children.
WILLIAM BUTLER, his x mark, wife and five children.
DAVID BURRIS, his x mark, wife.
EDWARD BURRIS, his x mark, wife.
TAYLOR BURRIS, his x mark, wife.
DANIEL BURRIS, jr., his x mark, wife and one child.
WINNA PYCHLAND, her x mark, widow and four children.
PROMICE MITCHELL, his x mark, wife and two children.
HENRY McDANIELS, his x mark, wife and one child.
JOHN LEWIS, his x mark, wife and nine children.
LIZZIE SCOTT, her x mark, single.
CHARLOTTE BUTLER, her x mark, widow and one child.
SARAH WRIGHT, her x mark, widow and two children.
JANE WRIGHT, her x mark, widow and one child.
KING WRIGHT, his x mark, single.
GEORGE WRIGHT, his x mark, five children.
DELSA BUTLER, her x mark, widow.
ABRAHAM CORIGHT, his x mark, single.
CAROLINE GARLAND, her x mark, widow and four children.
ELIZABETH GARLAND, her x mark, widow and one child.
FRANKLIN SHOALS, his x mark, wife.
WASHINGTON JONES, his x mark, wife and four children.
PESSION JONES, her x mark, widow.
WASHINGTON HARRIS, his x mark, wife and one child.
ROSE HARRIS, her x mark, widow and three children.
REUBEN HARRIS, his x mark, wife and one child.
ANDREW PYCHLAND, his x mark, single.
ROBERT HARRIS, his x mark, wife.
JUDITH JONES, her x mark, widow.
LEWIS ADAMS, his x mark, wife and one child.
CHARLES FRANCIS, his x mark, wife and one child.
WILLIAM COLE, his x mark, wife and three children.
HETTY COLE, her x mark, widow and two children.
LEMMON COLE, his x mark, single.

DANIEL W. COLE, his x mark, wife and one child.
 SAMUEL COLE, his x mark, wife and two children.
 RUTH SHOALS, her x mark, widow and one child.
 JAMES H. JONES, his x mark, wife and two children.
 DANIEL JONES, his x mark, wife and four children.
 ROBERT E. POWELL, his x mark, single.
 NELSON BRYANT, his x mark, single.
 HARRY JACKSON, his x mark, wife and one child.
 ABRAHAM L. THOMPSON, his x mark, single.
 BUNKY SHOALS, his x mark, wife and one child.
 ROBERT WRIGHT, his x mark, wife and one child.
 CHARLES JEFFREYS, his x mark, wife and four children.
 SAMUEL MITCHELL, his x mark, wife.
 JOANNA GRAHAM, her x mark, widow.
 NERO POWELL, his x mark, wife and one child.
 WHITE POWELL, his x mark, single.
 DAVID POWELL, his x mark, wife and one child.
 MARIA JONES, her x mark, widow and one child.
 MILLA GREEN, her x mark, widow and two children.
 VICTORIA HODGES, her x mark, single.
 DAFENA JONES, her x mark, widow and one child.
 COLONEL CARTER, his x mark, wife and two children.
 AUSTIN RILEY, his x mark, wife and two children.
 WILLIAM SHOALS, his x mark, wife and one child.
 FANNY JONES, her x mark, widow.
 ABRAHAM FOLSOM, his x mark, wife and two children.
 EDWARD BUTLER, his x mark, wife and four children.
 JAMES FLEMMING, his x mark, wife.
 JOSIAH JONES, his x mark, wife and two children.
 AMBROSE GREEN, his x mark, wife.
 JOHN C. COLEMAN, his x mark, wife and two children.
 HARRIET COLEMAN, her x mark, widow and two children.
 DAVID BURRIS, his x mark, wife and seven children.
 SILAS HUNTER, his x mark, wife and one child.
 MILTON MAJOR, his x mark, wife and three children.
 ANDREW GUESS, his x mark, wife and eight children.
 ARMANDA EDWARDS, her x mark, widow.
 THOMAS HOPKINS, his x mark, wife and eight children.
 MELVINA HOPKINS, her x mark, widow and three children.
 JAMES GOODLOW, his x mark, wife and two children.
 JAMES FOLSOM, his mark, wife and three children.
 GREEN FOLSOM, his x mark, wife and two children.
 VIRGINIUS BUTLER, his x mark, wife.
 HANNIBAL H. BUTLER, his x mark, wife and six children.
 MARIA BUTLER, her x mark, widow and three children.
 ZEBERDER BUTLER, his x mark, wife and one child.
 LEWIS BUCKINS, his x mark, wife and one child.
 WILLIAM COLBERT, his x mark, wife and five children.
 JOHN BRILEY, his x mark, wife.
 JAMES KILLEGORE, his x mark, wife and five children.
 WILLIAM CARTER, his x mark, wife.
 CHARLOTTE JEFFREYS,* her x mark, widow.
 ROBERT DOSSEN, his x mark, wife and one child.
 SAMUEL GUNN, his x mark, wife and one child.
 CHARLES MCINTOSH, his x mark, wife and two children.
 MARY MCINTOSH, her x mark, widow and two children.

WASHINGTON BELL, his x mark, wife and one child.
RICHARD OVERTON, his x mark, wife.
LEMUEL COLBERT, his x mark, wife and four children.
HENRY COLBERT, his x mark, single.
ABIGAL GUNN, her x mark, widow and two children.
WILLIAM HIRAM, his x mark, widower.
TONY WILLIAMS, his x mark, wife.
LYDIA CRITTENDEN, her x mark, widow and two children.
ANDERSON SHOALS, his x mark, wife and four children.
WILLIAM FOSTER, his x mark, wife and three children.
MARY FOLSOM, her x mark, widow and four children.
WELLIS WAKER, his x mark, wife and two children.
TOLBERT GOODING, his x mark, wife and two children.
THOMAS LAFLORE, his x mark, wife and three children.
HANNAH COBB, her x mark, one child, widow.
CHARLES BEANS, his x mark, wife and one child.
JERRY CRAFT, his x mark, wife and six children.
LINA SCEDMORE, her x mark, single and one child.
LILA STANLEY, her x mark, single and one child.
SALLY HARKINS, her x mark, single and one child.
REBECCA LAFLORE, her x mark, widow.
ALEXANDER FISHER, his x mark, single.
NELLIE LAFLORE, her x mark, single and one child.
SUSAN SHOULS, her x mark, widow and one child.
WILLIAM LAFLORE, his x mark, wife.
LUCY LAFLORE, her x mark, widow and two children.
ANDREW LAFLORE, his x mark, wife and two children.
TENNESSEE CLEVELAND, her x mark, widow and three children.
MILLA COWEN, her x mark, single and one child.
LILA BATTICE, her x mark, single and one child.
JOSEPH MAY, his x mark, wife and four children.
EDWARD MURRY, his x mark, wife and three children.
FACTOR JONES, his x mark, wife.
ALEXANDER MURRY, his x mark, wife and two children.
JAMES BUTLER, his x mark, wife and two children.
FRANKLIN W. SHOALS, his x mark, wife and two children.
MITCHEL SHOALS, his x mark, single.
JOHN HOWELL, his x mark, wife and three children.
JAMES MURRY, his x mark, wife and one child.
JAMES BURRIS, jr., his x mark, wife and one child.
ELIJAH JONES, his x mark, single.
DANIEL H. JONES, his x mark, single.
CHARITY JONES, her x mark, widow and four children.
MARIA BURRIS, her x mark, widow and two children.
SALINA HARKINS, her x mark, widow and one child.
JACKSON COVERT, his x mark, single.
BABE COVERT, her x mark, single.
MARY CLABKE, her x mark, widow and three children.
LUCY CLARKE, her x mark, single.
SARAH HARKINS, her x mark, widow and four children.
ORANGE HARRIS, his x mark, wife and two children.
HARRY REEVES, his x mark, wife and one child.
AMOS BUTLER, his x mark, wife and one child.
JAMES GARLAND, his x mark, wife and one child.
ABRAHAM SPRINGS, his x mark, wife and three children.
JAMES WALKER, his x mark, wife and four children.
RUTH SHOALS, her x mark, widow and one child.

PEGGY FOLSOM, her x mark, widow and two children.
 RANY GARLAND, her x mark, widow and six children.
 WILLIAM HARRIS, his x mark, wife and four children.
 TONY PYTCHLAND, his x mark, wife and one child.
 RANDALL HARRIS, his x mark, wife and four children.
 ISHAM HARRIS, his x mark, wife and five children.
 HENRY HOWELL, his x mark, wife and six children.
 FRANKLIN HARNS, his x mark, wife and two children.

STATE OF ARKANSAS, *Little River County, ss :*

I, John D. Layne, a justice of the peace in and for the county of Little River, in the State of Arkansas, do hereby certify that such of above-named persons whose names appear to the above petition personally appeared before me, and after the same was read to each person, acknowledge that they made their mark to the same as act of their own free will and accord for the use and purpose therein contained, without any undue influence, and I do certify that I have no interest whatever in the same.

Given under my hand this 5th day of December, A. D. 1870.

J. D. LAYNE,
Justice of the Peace.

STATE OF ARKANSAS, *Little River County, ss :*

I, R. D. Sessions, county clerk and ex-officio clerk of the circuit court for Little River County, State of Arkansas, do hereby certify that John D. Layne is an acting justice of the peace in and for the county and State as aforesaid, duly commissioned and qualified according to the laws of the State of Arkansas, and that full truth and credit are due to his official acts.

In witness whereof I have hereunto subscribed my name and set the seal of said court at Rocky Comfort, Arkansas, December 5, A. D. 1870.

[SEAL.]

R. D. SESSIONS, *Clerk.*

A statement showing the action of the Office of Indian Affairs in regard to the freedmen living among the Choctaws and Chickasaws, to accompany a letter written by the Commissioner of Indian Affairs on the 20th of January, 1872, to the honorable chairman of the Committee on Freedmen's Affairs, of the United States House of Representatives.

Under the treaty concluded on the 28th day of April, 1866, between the United States and the Choctaw and Chickasaw Nations of Indians provision was made for the persons of African descent formerly held by these Indians in slavery in the following articles :

ART. 2. The Choctaws and Chickasaws hereby covenant and agree, that henceforth neither slavery nor involuntary servitude, otherwise than in punishment of crime, whereof the parties shall have been duly convicted in accordance with laws applicable to all members of the particular nation, shall ever exist in said nations.

ART. 3. The Choctaws and Chickasaws, in consideration of the sum of three hundred thousand dollars, hereby cede to the United States the territory west of the 98° west longitude, known as the leased district, provided that the said sum shall be invested and held by the United States, at an interest not less than five per cent., in trust for the said nations, until the legislatures of the Choctaw and Chickasaw Nations respectively shall have made such laws, rules, and regulations as may be necessary to give all persons of African descent, resident in the said nations at the date of the treaty of Fort Smith, and their descendants heretofore held in slavery among said nations,

all the rights, privileges, and immunities, including the right of suffrage of citizens of said nations, except in the annuities, moneys, and public domain claimed by, or belonging to, said nations respectively; and also to give to such persons who were residents as aforesaid, and their descendants, forty acres each of the land of said nations on the same terms as the Choctaws and Chickasaws, to be selected on the survey of said land after the Choctaws and Chickasaws and Kansas Indians have made their selections as herein provided; and immediately on the enactment of such laws, rules, and regulations, the said sum of three hundred thousand dollars shall be paid to the said Choctaw and Chickasaw Nations, in the proportion of three-fourths to the former and one-fourth to the latter, less such sum, at the rate of one hundred dollars per capita, as shall be sufficient to pay such persons of African descent before referred to, as within ninety days after the passage of such laws, rules, and regulations, shall elect to remove and actually remove from the said nations respectively. And should the said laws, rules, and regulations not be made by the legislatures of said nations, respectively, within two years from the ratification of this treaty, then the said sum of three hundred thousand dollars shall cease to be held in trust for the said Choctaw and Chickasaw Nations, and be held for the use and benefit of such of said persons of African descent as the United States shall remove from the said territory in such manner as the United States shall deem proper, the United States agreeing, within ninety days from the expiration of the said two years, to remove from said nation all such persons of African descent as may be willing to remove; those remaining or returning after having been removed from said nations to have no benefit of said sum of three hundred thousand dollars, or any part thereof, but shall be upon the same footing as other citizens of the United States in the said nations.

ARR. 4. The said nations further agree that all negroes, not otherwise disqualified or disabled, shall be competent witnesses in all civil and criminal suits and proceedings in the Choctaw and Chickasaw courts, any law to the contrary notwithstanding, and they fully recognize the right of the freedmen to a fair remuneration on reasonable and equitable contracts for their labor, which the law should aid them to enforce. And they agree, on the part of their respective nations, that all laws shall be equal in their operation upon Choctaws, Chickasaws, and negroes, and that no distinction affecting the latter shall at any time be made, and that they shall be treated with kindness, and be protected against injury; and they further agree that, while the said freedmen now in the Choctaw and Chickasaw Nations shall remain in said nations, respectively, they shall be entitled to as much land as they may cultivate for the support of themselves and families, in cases where they do not support themselves and families by hiring, not interfering with existing improvements without the consent of the occupant, it being understood that in the event of the making of the laws, rules, and regulations aforesaid, the forty acres aforesaid shall stand in the place of the land cultivated as aforesaid.

The first communication received at this office regarding the effect of this treaty, came from Mr. W. K. McKean, of Ultima Thule, Arkansas, and was dated September 23, 1866. This gentleman, claiming to write at the request of certain freedmen affected by the treaty, stated that many of them having left the country since its conclusion, considered themselves entitled to the allowance of \$100 *per capita*, mentioned in the third article, and asked when this allowance would be paid. He further stated that in view of the probable refusal of the Choctaw legislature to concede to them the rights of citizenship, they were anxious to know where they would be removed and settled, and he suggested the county of Sevier, in Arkansas, as a suitable place for such a settlement. To this letter, received upon the 18th of the following October, this office replied upon the 20th by inclosing to Mr. McKean a copy of the treaty.

Upon the 19th day of January, 1867, W. Byers, esq., superintendent of Indian affairs at Fort Smith, Arkansas, submitted for the consideration and advisement of this office a letter from M. W. Chollar, esq., United States Indian agent for the Choctaws and Chickasaws, dated the 17th of the same month, with its inclosures, which are noted below in the order of their dates.

1. A copy of the act of the Chickasaw legislature, approved November 9, 1866, which assents to and confirms the treaty as amended by the Senate of the United States, assents to the sectionizing and allot-

ment of their lands in severalty, and requests the President to cause the same to be done as soon as possible; declares that the United States shall keep and hold the sum of \$300,000, appropriated in the third article of the treaty for the benefit and use of the freedmen; requests the governor of the Chickasaw Nation to notify the Government of the United States of their desire for the removal of the negroes, and authorizes the governor to appoint commissioners to confer with the Choctaws and make preliminary arrangements for carrying out the provisions of the third and eleventh articles of the treaty.

2. A letter addressed to Agent Chollar by a committee appointed at a council of freedmen, which letter, dated Pickens County, Cherokee Nation, December 8, 1866, sets forth that the unfriendly and bitter feeling held by the Indians toward the freedmen renders them anxious to remove to any land designated by the Government, but that they—the negroes—would prefer a location on Cash Creek, one hundred miles southwest of Fort Arbuckle, on the leased lands; that the Chickasaws are willing to give up their proportion of the \$300,000 provided by the third article of the treaty, to be held in trust for them; asking that the Government provide transportation for themselves and their families, and necessary supplies, to enable them to start on their new location; expressing their desire to remove at the earliest day possible, and estimating their number at 1,500. This letter is accompanied by a list containing 292 signatures.

3. A copy of a letter dated December 25, 1866, addressed by Agent Chollar, after receiving this communication from the freedmen, to Cyrus Harris, governor of the Chickasaw Nation, asking his views on this question.

4. The reply of Governor Harris to this letter of Agent Chollar, in which the governor approves the course of the freedmen, and, although not claiming the interference of the United States to remove them until after the expiration of two years from the ratification of the treaty, acknowledges the advantages to be gained by early action. Attached to Governor Harris's letter is a certified copy of an act of the Chickasaw legislature, approved November 10, 1866, authorizing and requesting the governor to "issue forthwith a general order requiring all intruders, refugees, (negroes not embraced within the treaty of 1866,) to forthwith leave the Chickasaw Nation, and forever stay out of the same, or procure, by the recommendation of good citizens, a permit to remain," and cautions the governor to use discretion in granting such permits. With this copy of the act Governor Harris sends a copy of the proclamation issued by him in accordance with its provisions, which proclamation bears date November 17, 1866. In the letter transmitting these documents, Governor Harris asks the advice of Agent Chollar in cases where negroes who were not residing in the nation at the time of the treaty of Fort Smith should refuse to leave the country under his proclamation, and also asks his opinion as to the right of the nation to try under their laws any negroes violating them, or any Indian accused of the murder of a negro who was a resident of the country at the time the treaty was concluded.

By the enforcement of this proclamation of Governor Harris number of freedmen, non-residents of the Chickasaw Nation at the date of the treaty of Fort Smith, were driven from the country and took refuge, among other places, at Fort Gibson. The major commanding that post reported their presence to Brigadier and Brevet Major General E. O. C. Ord, commanding the Department of the Arkansas, at the same time stating that some of those thus excluded had not at the date of that

treaty returned to their homes in the Indian Territory of the Union Army, and asked for instructions. General Harris, on February 17, 1867, referred the subject to this office, transmitting a copy of this letter.

Upon the 20th of July, 1868, Mr. Holmes Colbert, a Chickasaw commissioner, stated that a conflict (as anticipated by Governor Harris) had arisen between the authorities of the United States and those of the Chickasaw Nation regarding the status of negroes who are parties in criminal cases. Accompanying this letter was an opinion obtained on behalf of Governor Harris from Mr. J. H. B. Latrobe, attorney for the Chickasaws, which, with a statement of the case, Mr. Colbert desired should be laid before the Attorney General of the United States for his consideration. In compliance with this request, these papers were forwarded to the Secretary of the Interior upon the 27th of the ensuing August, to be by him transmitted to the Attorney General. The Acting Secretary failing to perceive the necessity for such reference, returned them on the following day to this office. Mr. Colbert was advised of this action upon the 15th of September, 1868.

Under date of June 27, 1868, Superintendent Wortham forwarded to this office a resolution passed by the freedmen, and a second petition made by them to the United States Government. This petition, after quoting the third article of the treaty of 1866, sets forth that, in view of the action had by the legislative council of the Chickasaws in November, 1866, (previously noticed,) and of similar action by that of the Choctaws at its last session, whereby these Indians refused to grant to the freedmen the rights mentioned in the said third article, the petitioners desire to be removed from those nations, and to have the \$300,000 provided in the treaty expended for their benefit and use as the Government may deem best; and further, that a delegation from their number may be permitted to visit this city to represent their wishes and consult with the authorities regarding their future. This petition was laid before the Secretary of the Interior by the Commissioner of Indian Affairs upon the 20th of July, 1868, with the recommendation that the visit of a delegation of freedmen be authorized by the Department, and that measures be immediately adopted by the Government for the fulfillment of its treaty stipulations upon the subject of removing these freedmen.

In compliance with a request of the Commissioner of Indian Affairs of the 18th of the ensuing August, asking to be informed as to the action taken by the Department upon his letter of the 20th of July, just noticed, the Secretary of the Interior stated that he had laid the whole matter before Congress on the 23d of July, asking that body to take early action for the removal of these freedmen, by designating a place to which they should be removed, and making an appropriation for the expense of their removal, but that as Congress had failed to pass the measures indicated, the Department was powerless in the premises.

Upon the 21st of September, 1868, a copy of this communication from the Secretary of the Interior was transmitted to L. N. Robinson, esq., who had succeeded Mr. Wortham as superintendent of Indian affairs.

Copies of this communication were also furnished to Mr. Holmes Colbert, Chickasaw commissioner, and Mr. Sampson Folsom, attorney general of the Choctaw Nation, as the basis of letters sent to these gentlemen in reply to one addressed by them, jointly, to the office on the 17th of August, 1868. In this joint letter they officially call the attention of the office to article 3 of the treaty, and state that the legislative council of neither tribe had passed "such laws, rules, and regulations

...the freedmen the rights" there enumerated, but
 ...ary, both of these councils had expressed the desire
 ...nment of the United States should, with the least possible
 delay, carry into effect those stipulations of the treaty which looked to
 their removal.

Under dates of November 23 to 28, 1868, Mr. Folsom presented to this office certain suggestions, "with a view to modify the stipulations of the treaty of 1866, so as to provide homesteads for all freedmen, and to give them all the rights of citizenship, including the right of suffrage." He remarks that these freedmen, numbering about 3,000, are in a condition of great destitution, and ask for the protection of the Government, and that an early settlement of the question is desirable for both parties. After inquiring whether, or not, the removal of the freedmen from the Choctaw and Chickasaw Nations will settle the question of negro citizenship among those nations, he seems to indicate it as his opinion that it would be advisable for those tribes to reconsider their action in refusing such rights to the freedmen. As the main ground for this opinion, he refers to the eighth article of the treaty of 1866, which provides for the organization of a Territorial council, and says that the Choctaws and Chickasaws, having excluded the freedmen, would not be fairly and equally represented along with the Cherokees, Creeks, and Seminoles, who had granted to their freedmen the rights of citizenship. He suggests that it would be preferable to survey the Choctaw and Chickasaw country, as well as the leased district, to make an allotment of lands to each and every citizen and freedman, without the right of alienation, and then organize the Territory of Oklahoma with a view to its admission in due time as one of the States of the Union, and concludes by recommending that a delegation of the freedmen be permitted to represent their race before the Department at the same time with a delegation of Indians, who were to be appointed to negotiate a supplemental treaty in regard to this subject.

The next information furnished to the office on this matter came in the annual report of Agent Chollar for 1868, to be found in the report of the Commissioner of Indian Affairs for that year, page 279. It is here stated that the failure of the Government to remove the freedmen, as provided in the treaty, had caused much trouble, in which quite a number of them had been killed, and that in the judgment of the agent nothing but prompt action on the part of the Government would prevent more serious difficulties and complications, as the negroes are uneasy and dissatisfied. He closes the subject by recommending the land west of the Seminole reservation as suitable for their use, and satisfactory to the freedmen, and asks for the speedy action of the Department.

The delegation appointed by the freedmen to further the necessary congressional action arrived in this city and were introduced to the Department by a letter from Superintendent Robinson, dated February 16, 1869. They had addressed a memorial to Congress on the subject, a copy of which they inclosed, and in the support of which they asked such assistance as the Department might rightfully furnish.

February 18, 1869, Mr. J. H. Leavenworth, claiming to write at the request of Governor Harris of the Chickasaw Nation, addressed to this office a communication, suggesting that the lands purchased by the United States of the Seminoles should be set apart exclusively for the benefit of the freedmen. This communication was referred to the Secretary of the Interior for his consideration, upon the 2d of March following, but as the subject had been laid before Congress for its action, the Secretary did not deem it advisable to issue any further instructions re-

garding it, and so informed the
decision by the Secretary Mr. Luce
of the same month.

Under date of April 26, 1869, Mr. J. B. Luce
a letter addressed by the delegation of freedmen, which
city has been previously noticed, asking for definite inform-
ing the purposes of the Department in their case, and also an
of the amount required to defray their necessary expenses.

In referring this letter to the Secretary of the Interior, the Commis-
sioner of Indian Affairs stated that he could furnish this delegation
with no satisfactory or definite information on the subject, and that he
knew of nothing that could be done toward removing the freedmen with-
out an appropriation from Congress for the purpose. He stated further
that, as Congress had failed to appropriate the amount due as interest
on the \$300,000 mentioned in the third article of the treaty, the only
funds available for the expenses of the delegation were those set apart
for "provisions for Indians." On the recommendation contained in this
letter the Secretary of the Interior directed that the necessary expenses
of this delegation be defrayed out of the appropriation indicated, and
the amount of \$601 50 was therefore advanced for the purpose.

In reply to a communication addressed by Hon. A. A. Bradford, of
Colorado, to the Secretary of the Interior, under date of April 15, 1869,
and by him referred to the Commissioner of Indian Affairs for report, the
Commissioner expressed the opinion that it was competent for the Ex-
ecutive to permit Indians and freedmen to locate upon the lands ceded
by the Seminoles, by the third article of the treaty concluded with them
in 1866, (14 Statutes at Large, p. 755,) although the provisions of the
homestead or pre-emption laws had not then been extended over those
lands.

May 25, 1869, Mr. Leavenworth, still claiming to act as the agent of
Governor Harris, addressed a letter to the Secretary of the Interior,
which was referred by him to this office, asking the opinion of the De-
partment upon the right of freedmen who have removed from the juris-
diction of the Choctaws and Chickasaws to the \$100 mentioned in the
treaty, inasmuch as the Indians had failed to recognize the freedmen
as citizens, and the Government had also failed to take measures for
their removal.

June 11, 1869, Mr. Tranceway Battice, assistant national attorney for
the Choctaw Nation, having learned that the Department proposed to
ascertain through a commission the views and wishes of the freedmen,
requested that this commission be instructed to allow no secret or ex-
clusive consultations to be held with these freedmen, nor with certain
few of them, but that interviews should be held in those districts most
thickly settled by the freedmen, and that due notice of such interviews
should be given to the governor and other head men of the tribe, in
order that they might be present.

A copy of Mr. Battice's letter was forwarded to Captain George T.
Olmsted, jr., the then agent for these tribes, and incorporated with the
instructions issued to him on the 29th of June, 1869, by which he was
directed to make an impartial investigation of the condition of affairs
and report without unnecessary delay the wishes of the freedmen regard-
ing their future.

August 2, 1869, Agent Olmsted's instructions were renewed and
amplified. He was directed to thoroughly and carefully investigate
and to carefully report the sentiments of the Indians and the freedmen
relative to the treaty, whether or not the Indians had complied with its

ENS.
... so to do; whether or
... in Arkansas; and where they
... and leave the Indian country. It was
... investigations should be open and public,
... be influenced by *ex-parte* considerations, and that
... should set forth the true sentiments and feelings of both

Captain Olmsted, on the 19th of August, submitted an estimate of the amount of money requisite to a full compliance with these instructions, and the funds thus called for were placed at his disposal.

In another communication of the same date he submitted a report of the investigations already made, inclosing therewith a copy of a letter dated August 18, 1869, received by him from governor Harris, with which the governor forwards a copy of the act of the Chickasaw legislature approved November 9, 1866, previously noticed, and states that the sentiments there expressed are still held by the Indians. Captain Olmsted also forwards with this report a copy of a letter written by an outsider, a negro at Fort Smith, recommending that the freedmen should organize and demand the sectionizing of the land, and its sale to white settlers, who might be expected to be friendly to the negroes, and states that the freedmen, influenced by advice of this character, are somewhat divided in opinion.

In his annual report, dated September 21, 1869, (Report of the Commissioner of Indian Affairs for 1869, p. 408,) Captain Olmsted notices this subject, stating that the freedmen decided in a body to remain, if possible, but that they were desirous of living under the protection of the United States Government, as they were unwilling to be left under the sole control of the Indian tribes, or of any State or community, where they would be deprived of a direct appeal to the Government on every question involving their interests. He reports the Choctaws as in favor of having the freedmen remain, while the Chickasaws, at first desiring their removal, appeared to be waiting the action of the Government in the matter. Captain Olmsted suggests that measures be taken for the negotiation of a supplemental treaty with the Indians, by which the freedmen could be fairly settled and established as citizens of the nations, considering this method of settling the question necessary in view of the failure of the Government to fulfill the stipulations of the treaty of 1866.

Agent Olmsted made his final report under these special instructions under date of November 1, 1869. After setting forth the fairness and the completeness of his investigations, and the full opportunity afforded by him for the public and private expression of the views held by leading men of both sides, he gives the result of his investigations as follows: that the freedmen, while generally desiring to retain their residence in the Indian country, desire it only upon the condition that they remain under the exclusive jurisdiction of the courts of the United States. The agent gives it as his opinion that if the freedmen were subjected to the control of the Indian courts, they would labor under great disadvantages in the contests which would inevitably arise between them and the Indians, and if no plan can be arranged by which the United States courts can protect them while remaining among these tribes, their removal to Arkansas or elsewhere should be effected. The agent further says that while the Chickasaws have generally expressed a desire for the removal of the freedmen, he has recently observed a change of sentiment among them regarding the matter, and that the Choctaws see the advantages to be derived by retaining the freedmen among them,

although his strenuous efforts to induce their council to act upon the question during the session just closed had failed.

Captain Olmsted again alludes to this subject in his annual report for 1870, (Report of the Commissioner of Indian Affairs for 1870, p. 291.) He there states that the unsettled condition of the freedmen, and their uncertainty as to the final action of the Government, render some of them dissatisfied; but those of them with energy to labor for themselves and their families live as well as the Indians, and are better able to take care of themselves than the majority of their race in the Southern States. He declares the rumors and reports regarding their ill-treatment by the Indians as almost entirely without foundation, but considers it as becoming every day more and more evident that it will be incompatible with their interests to be received as citizens of the nations, or to live under Indian laws. As the Chickasaws had refused them the rights of citizenship, and the Choctaws had taken no action whatever in the matter, he recommends that in case the latter should fail to provide for the necessities of the case, the Government should remove them, or make other provision for them as soon as possible, as the Indians are evidently determined to await action by the United States authorities.

In agent Olmsted's special report of November 1, 1869, previously noticed, he gives the substance of three plans proposed and discussed by the Indians, by which the details of a supplemental treaty might be arranged if that manner of settling the difficulty was agreed upon. The first of these plans, which was most favored by the Indians, was one providing for the meeting of a commission at Boggy Depot, Cherokee Nation, this commission to be composed of the Commissioner of Indian Affairs and one delegate from each of the tribes.

The second plan was for a commission to meet at Boggy Depot, to be composed of one delegate from each tribe, a special agent of the Department of the Interior, and the United States Indian Agent.

The third plan looked to the appointment of a delegation to visit this city, but received no great favor among the Choctaws on account of the limited amount of funds at their command from which the expenses of such a delegation could be met.

In a communication addressed to this office on the 25th of November, 1870, Mr. Sampson Folsom, the former national attorney for the Choctaws, stated that the two tribes differed widely in regard to the status of the freedmen, and requested the Commissioner of Indian Affairs to inform himself without delay, by a personal visit, if possible, or by a trusty commission, of the true condition of affairs.

January 8, 1871, T. D. Griffith, esq., the then agent for these tribes, reported some agitation among the freedmen, caused by a rumor that the Chickasaws were about to require them, if they remained, to obtain permits, for which the sum of \$1 for each person so remaining was to be charged. He stated that the freedmen desired to obtain homes of their own, to build school-houses, &c., and to send a delegation to Washington for the purpose of conference. At the time of writing this letter, Mr. Griffith appears to have acknowledged the right of the Chickasaws to impose such taxes and restrictions upon the freedmen, but in a letter written to this office on the 21st of the same month, with which he forwarded a copy of Governor W. P. Brown's proclamation requiring the freedmen to obtain these permits, he incloses a copy of a letter addressed by himself to Governor Brown, suggesting that the enforcement of this proclamation would be in contravention of the fourth article of the treaty of 1866, which provides that "all laws shall be equal in their

effect upon the Choctaws, Chickasaws, and negroes," and that "no distinction affecting the latter shall at any time be made," and that these provisions of the treaty should be carefully considered by him, (the governor,) before active measures in the matter were had by the Indians. The agent refers to this office the question of the status of the freedmen asking its opinion thereon, and he has furnished as yet no information to show that this proclamation was ever enforced by the Chickasaw authorities.

This office, upon the 31st of October last, directed Agent Griffith to take a census of these freedmen; but at this date no reply from him has been received, other than a letter written by him from Fort Smith, on the 31st of December, 1871, in which he says that the work of taking this census was interrupted by a summons to attend the session of the United States court at Fort Smith, where he was still detained, without being able to say when he could be released from this unexpected duty.

A statement of the direct correspondence of the Department on this subject will be completed by the notice of a letter addressed to the Secretary of the Interior, by Mr. J. H. Leavenworth, under date of October 3, 1871. In this letter Mr. Leavenworth refers to previous correspondence on the subject, and renews his suggestion that a part of the lands acquired from the Seminoles and Creeks, under the treaties of July 19, 1866, be set apart for the exclusive settlement of freedmen, and that such of the freedmen as desire to remove themselves be permitted to do so at once, and to receive the one hundred dollars per capita provided in the treaty.

Through a reference, however, from Brevet Major General Howard, Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands, the office was placed, on the 4th of March, 1870, in possession of an official extract of a report made to him by Major S. N. Clark, a special agent of that Bureau, under date of February 1, 1870, which bears upon the condition of the freedmen among these tribes.

In this extract which is indorsed by General Howard as fully reliable, Major Clark, after premising that the freedmen subject to the operations of the treaty of 1866 number about 4,500, and that the Choctaws and Chickasaws, having been almost without exception disloyal to the Government during the rebellion, could hardly be expected to regard the rights of their former slaves with favor, cites the third article of the treaty, and states that at the time of the convention or treaty of Fort Smith, which was made the basis of this treaty, four months after the close of the war, nearly one-half of the colored people who ought to receive the benefits of its provisions were refugees from the Territory, the women and children having fled to the North to escape persecution on account of their loyalty, or having been taken to Texas by their masters to prevent them from becoming free, and the men not yet having been discharged from the Union Army, so that the only loyal people in the Territory were excluded from any participation in the benefits of the treaty.

Passing to the fourth article of this treaty, Mr. Clark says that its requirements have been steadily disregarded, and that the infractions of the civil-rights bill have been so frequent and flagrant as to call the attention of the district judge.

To show the condition and wishes of these freedmen, Major Clark quotes from a letter written by S. S. Mitchell, a citizen of the Chickasaw Nation, on the 12th of December, 1869. From this letter it would appear that the freedmen were very much divided among themselves, and that it was the universal opinion that they could not live in the Indian country under the Indian laws. Mr. Mitchell suggests that as those

who were absent from the nation at the time the treaty of Fort Smith was concluded, (and whom Major Clark considers the most deserving,) would be unable to obtain land under its provisions, that the Government should set apart for them a tract of country in the "leased district," appoint an agent for them, furnish rations for one year, and hold the \$300,000 as a permanent investment for their benefit. He suggests further that, in his opinion, the Indians would sooner give up the money than allow each of the freedmen 40 acres of land, an amount insufficient at the best, and that if other freedmen could be permitted to join the colony thus formed, it would soon be in a flourishing condition. Also, that if the freedmen were subjected to Indian laws they would have but a small chance in the Indian courts, and that their leading men, coming to him for advice, invariably say that they cannot think of remaining under such Indian laws. As a reason for adopting his suggestion in regard to this colony, which he would locate in the country purchased of the Seminoles, north of the Canadian River, he advances the opinion that the members of such a colony would raise sufficient corn to supply the requirements of the military posts on the frontier. Major Clark does not indorse these views of Mr. Mitchell further than to embody them in his report.

Major Clark then quotes certain resolutions passed at a meeting of the freedmen held in September, 1869, which, based upon a preamble charging the Choctaws and Chickasaws with willful neglect of their treaty stipulations, set forth—

1. That they do not consider themselves to be bound by the treaty of 1866.
2. That they consider themselves full citizens of the nations and entitled to all their rights as such.
3. That they express their desire to remain in the Indian country.
4. That they desire the sectionizing and allotment of lands in severalty.
5. That they favor the opening of the Territory to white immigration, and the sale of lands to such immigrants for the benefit of the whole people; and,
6. That they elect three trusty men to serve for them as delegates whenever their interest demands such service.

In commenting on these resolutions Major Clark advances the opinion that the freedmen are entitled to all the rights claimed in the second of them, especially to a share of the tribal funds, and to their proportion of the amount devoted to educational purposes of the benefits of which they are deprived, and asks for further congressional action to enable them to obtain and enjoy these privileges.

This extract of Major Clark's report is closed by a quotation from the annual report of Agent Chollar, for 1868, to which reference has been previously made in this statement.

LETTER FROM MR. EDWARD EARLE.

To the Hon. CLINTON L. COBB,
*Chairman of Committee on Freedmen's Affairs of
 House of Representatives :*

The freedmen situated among the Choctaws and Chickasaws (numbered by the two nations, 3,000) are peculiarly situated. Previous to the war they were the *slaves* of these red men. In 1866 a treaty be-

tween the United States and the Choctaw and Chickasaw Indians, was made; this I refer you to for a starting point. It was concluded April 28, 1866, and proclaimed July 10, the same year. The report of the Commissioner on Indian Affairs, for 1866, Nos. 147 and 148, by J. B. Sanborn; for 1868, No. 126, page 279, by Martin W. Chollar; for 1869, No. 126, page 407, by G. T. Olmsted; for 1870, No. 104, p. 291, by G. T. Olmsted. These reports are pretty fairly stated, as I should judge from my travels through and among them with Dr. William Nicholson, 1870. It is generally said they are contented and doing well; so they are, as for *the day*, because they are getting a living; in some cases they are opening farms, building huts, fencing lands, raising grain, cattle, hogs, ponies, &c., &c. This at first idea seems all well, but when we take into account that they are there by no legal rights, and can at the slightest provocation be driven off without any right to their improvements, it seems all wrong. Many of them use our language as well as the Indian language, and they all speak of their situation and of the anxiety they feel in regard to it, pressing for something to be done in their behalf. In one or two cases they referred to the propriety of being collected in some one portion of the Territory, but said it probably would not be as well, for they would be more likely to be disturbed as they improved their lands. Our company spent one night with an intelligent retired trader, who gave us much information in regard to them, spoke in favorable terms of their general habits—more provident than many of the Indians, often good workers and could be hired—closing his remarks with the hope that we would urge upon Government the importance of its selecting a location for them at some favorable point outside these nations, where they could have their farms to themselves and thus be providing good homes for themselves and their posterity.

All, or nearly all, the Indians have an organization and some means at their disposal, so they can find an attorney who will take up their case and act in their behalf for pay, but these people, so far as we could learn, rarely, if ever get together, perhaps once a year in small companies at camp-meetings in different localities, and then for religious purposes. Thus, unless Government acts in their behalf, they may run on for years and largely increase, making it much more difficult to effect a change. I observe in the educational reports there is no allusion to the freedmen's children, and, therefore, infer there is no provision for education. From the references I have given you, together with the account of my short experience with them, (in company with Dr. Wm. Nicholson,) I trust you will find abundant cause for a report to Congress recommending such assistance as the treaty of 1866 provides for.

This I submit as a brief statement for the Committee, as requested when present yesterday.

Truly and respectfully,

EDW. EARLE,
Worcester, Mass.

ARLINGTON HOUSE,
Washington, D. C., January 19, 1872.