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Memorial of the Choctaw Nation, asking for the settlement of its claim arising under the Treaty of 1855

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CHOCTAW CLAIMS.

MEMORIAL

OF

THE CHOCTAW NATION,

ASKING

For the settlement of its claim arising under the treaty of 1855.

NOVEMBER 10, 1877.—Referred to the Committee on Indian Affairs and ordered to be printed.

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

The memorial of the Choctaw Nation respectfully sheweth :

That on the 9th March, 1859, the Senate of the United States decided certain questions submitted in the eleventh article of the treaty of 1855 with the Choctaws and Chickasaws by awarding the Choctaws the net proceeds of the lands ceded by them in 1830.

That by the terms of the treaty the decision of the Senate was final.

That \$250,000 was appropriated by Congress in part payment of said award on the 2d March, 1861.

That no part thereof has been paid since.

That propositions have been made from time to time in both houses of Congress to provide, in the regular appropriation bills, for the payment of the balance due the Choctaws under the award of the Senate; but such propositions, though repeatedly recommended by committees of each house, have invariably been defeated, sometimes, as shown by the debates, on points of order, and sometimes because the Choctaw claim had not been sufficiently investigated by the great body of either house to warrant an appropriation of so large an amount.

Therefore, your memorialist respectfully asks that an act be passed similar in character to that reported by the House Committee on Indian Affairs at the last session of Congress, (H. R. 3798,) giving the Court of Claims jurisdiction over the subject, with instructions to render judgment for whatever may be found due the Choctaws under the eleventh and twelfth articles of the treaty of 1855, and authorizing the Secretary of the Treasury to pay such amount to the proper authorities of the Choctaw Nation in manner and form as provided by said treaty.

Your memorialist calls attention to the two classes of objections heretofore urged in the debates on this claim :

1st. That the treaty which made the cession does not give the Choctaws the net proceeds of the lands ceded, an objection sufficiently answered in the report of the Senate Committee to which the questions submitted by the treaty were referred, namely, whether the Choctaws are entitled to or shall be allowed the net proceeds of the lands ceded by them. The committee reported that by the terms of the treaty of cession the

Choctaws were not entitled to the net proceeds, but should be allowed them, inasmuch as they would be less than an equivalent for other just claims specified in their report.

2d. A second objection is, that the claims for which the committee regarded the net proceeds as certainly no more and probably much less than a fair equivalent, had been previously barred by a receipt in full given by the Choctaws before the claim was presented, as shown by a photographic copy exhibited in Congress.

This objection is urged in manifest ignorance of the fact that the Choctaws do not claim the money for which that receipt was given, but only what remains due them after charging that sum in an account stated by the Secretary of the Interior, and also of the very material circumstance that in less than three years after that receipt was given the same body, composed mainly of the same Senators who made the subsequent award, ratified a treaty in which the United States, as an inducement to the Choctaws to make certain important concessions involving eighteen millions of acres of land, agreed to reopen former settlements and give the claims referred to in that receipt a "just, fair, and liberal consideration."

The first section of the bill reported to the House for the relief of the Choctaws is so framed as to call the attention of the courts to "any previous settlements with or receipts executed by" the Choctaws, and also to every other allegation ever made against the claim, although a sufficient answer to the same might be found, without any such clause, in the unbroken series of thirteen favorable reports from different committees of the two houses, not a single one of an adverse character having been made by any committee, or any minority of a committee, of either house.

Of the thirteen reports recommending favorable action—

Four were from the Senate Committee on Indian Affairs, namely:

Hon. W. K. Sebastian, February 15, 1859, and June 19, 1860.

Hon. Garret Davis, January 5, 1871.

Hon. James Harlan, January 22, 1873.

Four from the House Committee on Indian Affairs, namely:

Hon. William Windom, July 6, 1868.

Hon. J. P. C. Shanks, February 22, 1873.

Hon. A. Comingo, May 20, 1874.

Hon. W. W. Wilshire, May 15, 1876.

Three from the House Committee on Appropriations, namely:

Hon. Thaddeus Stevens, by bill, February 27, 1867.

Hon. B. F. Butler, May 30, 1868.

Hon. J. C. Parker, April 9, 1874.

One from the Senate Committee on the Judiciary, namely:

Hon. B. F. Rice, June 22, 1870.

One from the House Committee on the Judiciary, namely:

Hon. M. C. Kerr, February 27, 1871.

Attention is also invited to the letter of the Secretary of the Treasury, Hon. B. H. Bristow, of December 23, 1874, transmitting, by order of Congress, information concerning the liabilities of the Choctaw Nation to individuals, for which the eleventh and twelfth articles of the treaty of 1855 were intended to provide.

The Choctaw Nation, by its delegate,

P. P. PITCHLYNN.

NOVEMBER 10, 1877.

APPENDIX.

11th and 12th articles treaty of 1855, referred to in foregoing memorial.

ARTICLE XI. The Government of the United States not being prepared to assent to the claim set up under the treaty of September 27, 1830, and so earnestly contended for by the Choctaws as a rule of settlement, but justly appreciating the sacrifices, faithful services, and general good conduct of the Choctaw people, and being desirous that their rights and claims against the United States shall receive a just, fair, and liberal consideration, it is therefore stipulated that the following questions be submitted for adjudication to the Senate of the United States:

“First. Whether the Choctaws are entitled to, or shall be allowed, the proceeds of the sale of the land ceded by them to the United States by the treaty of September 27, 1830, deducting therefrom the costs of their survey and sale, and all just and proper expenditures and payments under the provisions of said treaty; and, if so, what price per acre shall be allowed to the Choctaws for the lands remaining unsold, in order that a final settlement with them may be promptly effected; or,

“Second. Whether the Choctaws shall be allowed a gross sum in further and full satisfaction of all their claims, national and individual, against the United States; and, if so, how much.”

ARTICLE XII. In case the Senate shall award to the Choctaws the net proceeds of the lands ceded as aforesaid, the same shall be received by them in full satisfaction of all their claims against the United States, whether national or individual, arising under any former treaty; and the Choctaws shall thereupon become liable and bound to pay all such individual claims as may be adjudged by the proper authorities of the tribe to be equitable and just; the settlement and payment to be made with the advice and under the direction of the United States agent for the tribe; and so much of the fund awarded by the Senate to the Choctaws as the proper authorities thereof shall ascertain and determine to be necessary for the payment of the just liabilities of the tribe shall, on their requisition, be paid over to them by the United States. But should the Senate allow a gross sum in further and full satisfaction of all their claims, whether national or individual, against the United States, the same shall be accepted by the Choctaws, and they shall thereupon become liable for and bound to pay all the individual claims as aforesaid; it being expressly understood that the adjudication and decision of the Senate shall be final.

(11 Stat. at Large, page 611.)

Decision of the United States Senate upon questions submitted in foregoing articles.

Whereas the eleventh article of the treaty of June 22, 1855, with the Choctaw and Chickasaw Indians, provides that the following questions be submitted for decision to the Senate of the United States:

“First. Whether the Choctaws are entitled to or shall be allowed the proceeds of the sale of the lands ceded by them to the United States by the treaty of September 27, 1830, deducting therefrom the costs of their survey and sale, and all just and proper expenditures and payments under the provisions of said treaty; and, if so, what price per acre shall

be allowed to the Choctaws for the lands remaining unsold, in order that a final settlement with them may be properly effected ; or

“Secondly. Whether the Choctaws shall be allowed a gross sum in *further* and full satisfaction of *all* their claims, national and individual, against the United States ; and, if so, how much ?”

Resolved, That the Choctaws be allowed the proceeds of the sale of such lands as have been sold by the United States on the 1st day of January last, deducting therefrom the costs of their survey and sale, and all proper expenditures and payments under said treaty, excluding the reservations allowed and secured, and estimating the scrip issued in lieu of reservations at the rate of \$1.25 per acre ; and, further, that they be also allowed twelve and a half cents per acre for the residue of said lands.

Resolved, That the Secretary of the Interior cause an account to be stated with the Choctaws, showing what amount is due them according to the above-described principles of settlement, and report the same to Congress.

(Senate Journal, 2d session 35th Congress, page 493.)

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