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Election of delegate from Indian Territory

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ELECTION OF DELEGATE FROM INDIAN TERRITORY.

JANUARY 22, 1878.—Recommitted to the Committee on Indian Affairs and ordered to be printed.

JUNE 17, 1878.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. THROCKMORTON, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 4868.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 979) to authorize the election of a Delegate to Congress from the Indian Territory, respectfully beg leave to submit the following report :

The bill proposes to allow representation in Congress to the inhabitants of the Cherokee, Creek, Seminole, Choctaw, and Chickasaw Nations of Indians. These nations are located in the Indian Territory, and occupy reservations adjoining the States of Kansas, Missouri, Arkansas, and Texas. The aggregate area of these reservations is about eighteen millions of acres, comprising a territory somewhat larger than the State of Alabama.

On the 13th day of November we addressed a note to the honorable Secretary of the Interior, requesting such statistical information respecting the character of the population of these tribes as he might be able to furnish. We submit the letters of the Secretary and Commissioner of Indian Affairs, with the table of statistics, as a part of this report :

DEPARTMENT OF THE INTERIOR,
Washington, D. C., November 15, 1877.

GENTLEMEN: I have the honor to acknowledge the receipt of your letter of the 13th instant, inclosing copy of H. R. 979, and requesting to be informed relative to the number, character, and wealth of the Indian tribes which the bill proposes shall be represented on the floor of Congress, together with such information respecting the schools of said tribes as will assist you in an examination of the merits of the bill.

In reply, I transmit herewith copy of a report, dated this day, from the Commissioner of Indian Affairs, and accompanying papers, which contain the latest and most reliable information upon the subject in the possession of the Indian Office. H. R. 979 is herewith returned.

Very respectfully, your obedient servant,

C. SCHURZ, *Secretary.*

Hon. J. W. THROCKMORTON,
Hon. MARTIN I. TOWNSEND,
Subcommittee, Indian Affairs, House of Representatives.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, November 15, 1877.

SIR: I have the honor to acknowledge the receipt, by reference for report, of a communication, dated the 13th instant, from Hons. J. W. Throckmorton and Martin I. Townsend, of the Committee on Indian Affairs of the House of Representatives, inclosing a copy of House bill 979, "to authorize the election of a Delegate to Congress from the Indian Territory," and requesting information relative to the numbers, character, wealth, and schools of the inhabitants of said Territory.

ELECTION OF DELEGATE FROM INDIAN TERRITORY.

In response thereto, I have the honor to submit herewith copy of a special report, inclosing statistical tables, made November 8, 1877, by Agent Marston, of the Union agency, which embodies the latest and most reliable information upon the subject now in the possession of this office.

I respectfully return the letter and copy of resolution submitted by Messrs. Throckmorton and Townsend.

Very respectfully, your obedient servant,

E. A. HAYT,
Commissioner.

The honorable the SECRETARY OF THE INTERIOR.

OFFICE OF INDIAN AFFAIRS,
UNITED STATES INDIAN AGENCY,
Muskogee, Indian Territory, November 8, 1877.

SIR: In compliance with department instructions in letter of May 19, 1877, I herewith transmit the statistics of the five tribes in Union agency. I have used my best efforts to make as full a report as possible, and at the same time reliable. In doing this it may be proper to state that immediately upon the receipt of the above instructions I addressed a written circular to several of the most enterprising and well-informed men of each tribe, but only a comparatively few of them paid any attention to my request. But from what returns I did secure, and from other sources of information, I have been able to furnish, at this late date, the inclosed compilation of statistics, which I think are in the main correct.

It is very difficult to obtain correct statistics of population and farming interests among these tribes, and the only way possible to do it would be to employ suitable persons in each tribe for the purpose; and even then the effort would be attended with many hinderances, specially the suspicion that it had reference to the opening up of the Territory.

Very respectfully,

S. W. MARSTON,
United States Agent.

Hon. E. A. HAYT,
Commissioner of Indian Affairs, Washington, D. C.

Statistics of Indian tribes in Union agency, Indian Territory, as near as can be estimated from census and papers in office of said agency.

CHEROKEES.		
Indians by blood	14,800	
White Indians by marriage.....	700	
Black Indians by treaty.....	3,500	
		19,000
CREEKS.		
Indians by blood	11,700	
White Indians by marriage.....	60	
Black Indians by treaty.....	2,500	
		14,260
CHOCTAWS.		
Indians by blood	14,700	
White Indians by marriage.....	1,300	
		16,000
CHICKASAWS.		
Indians by blood	5,600	
White Indians by marriage.....	200	
		5,800
SEMINOLES.		
Indians by blood (census 1877).....	1,936	
White Indian by adoption (census 1877)	1	
Black Indians by treaty (census 1877)	506	
		2,443
RECAPITULATION.		
Cherokees		19,000
Creeks		14,260
Choctaws		16,000
Chickasaws.....		5,800
Seminoles.....		2,443
Citizens, total number.....		57,503

CHEROKEES.

Number of schools.....	78
Number of scholars—Indians, whites, blacks—aggregate number.....	3,000
Number of negroes who cannot speak English.....	None.
Number of Indians who can read in English or Cherokee.....	14,500
Number of negroes who can read.....	800

Cost of government:

Education.....	\$79,000	
Executive, judicial, and legislative.....	80,000	
		\$159,000

Number in tribe.....	19,000
Number of mixed bloods who talk English.....	6,000
Number of full bloods who talk English.....	4,000
Number of white citizens.....	700
Number of negro citizens.....	3,500
Number of Indians who do not speak English.....	4,800
Number of negroes emancipated by treaty of 1866.....	3,300
Number of white residents by permits United States.....	38
Number of whites resident by permits Cherokee authority, have no knowledge.	

CREEKS.

Number of schools.....	28
Number of scholars—Indians, whites, blacks—aggregate number.....	3,000
Number of negroes who cannot speak English.....	None.
Number of Indians who can read in English or Creek.....	3,000
Number of negroes who can read.....	500

Cost of government:

Twenty-eight day-schools.....	\$12,000	
*Two mission schools.....	11,000	
Pay members council.....	18,750	
Pay judicial and executive officers and expenses of judiciary.....	13,000	
Pay delegates to Government of United States.....	6,000	
Sending 18 boys to school in States.....	3,500	
		\$64,250

Number in tribe.....	14,260
Number of mixed bloods who talk English.....	1,200
Number of full bloods who talk English.....	5,000
Number of white citizens.....	60
Number of negro citizens.....	2,500
Number of Indians who do not speak English.....	5,500
Number of whites resident by permits of United States authority.....	76
Number of negroes emancipated by treaty of 1866.....	2,500
Number of whites resident by permits Creek authority, have no knowledge.	

CHOCTAWS.

Number of schools.....	56
Number of scholars—Indians, whites, blacks (none)—aggregate number.....	1,200
Number of negroes who cannot speak English.....	None.
Number of Indians who can read English, 5,000; in Choctaw, 5,000.....	10,000
Number of Indians who can read both English and Choctaw.....	7,000

Cost of government:

Members of council.....	\$7,000	
Executive and judicial officers and expenses of judiciary.....	27,000	
Education.....	29,000	
		\$63,000

Number in tribe.....	16,000
Number of mixed bloods who talk English.....	6,000
Number of full bloods who talk English.....	2,000
Number of white citizens.....	1,300
Number of Indians who do not speak English.....	6,700
Number of negroes emancipated by treaty of 1866.....	4,000
Number of whites resident by permits of Choctaw authority, have no knowledge.	
Number of whites resident by permits of United States authority.....	42

* Discontinued the only female school (exclusively) in nation.

CHICKASAWS.

Number of schools.....		13
Number of scholars—Indians, 400; whites, none; blacks, none—aggregate number.....		400
Number of negroes who cannot speak English.....		None.
Number of Indians who can read in English.....		2,500
Cost of government:		
Executive and judicial officers.....	\$20,000	
Legislative department.....	1,500	
Education.....	21,000	
		\$42,500
Number in tribe.....		5,800
Number of mixed bloods who talk English.....		2,500
Number of full bloods who talk English.....		500
Number of white citizens.....		200
Number of negro citizens.....		None.
Number of Indians who do not speak English.....		2,600
Number of negroes emancipated by treaty of 1866.....		2,300
Number of whites resident by permits of United States.....		165
Number of whites resident by permits of Chickasaw authority, have no knowledge.....		

SEMINOLES.

Number of schools.....		5
Number of scholars—Indians, 100; whites, none; blacks, 80—aggregate number.....		180
Number of negroes who cannot speak English.....		None.
Number of Indians who can read in English or Seminole.....		450
Cost of government:		
Legislative, executive, and judicial.....	\$11,200	
Education.....	2,800	
		\$14,000
Number in tribe, per census of 1877.....		2,443
Number of mixed bloods who talk English.....		33
Number of full bloods who talk English.....		6
Number of white citizens.....		1
Number of whites resident by permits of Seminole authority.....		35
Number of whites resident by permits of United States authority.....		6

Statistics of Sequoyah District, Cherokee Nation.

Indians who talk Cherokee only.....	500
Indians who talk both Cherokee and English.....	500
Indians who talk English only.....	200
Indians of mixed blood.....	700
Indians of full blood.....	200
White Indian citizens—42 males, 20 females.....	62
Negro citizens.....	100
Whites, intruders, 42; women and children, 150, not reported.....	192
Negro intruders, 26; women and children 80, not reported.....	106
Citizens of United States, resident by permit of Cherokee authority: Men, 50; their families, women and children, 200.....	250
The Watts family, who have made proof of being Cherokees, but not yet admitted to rights, number.....	12

They raise and have 50 bales cotton, 500 pounds each, making \$2,500; 4,000 bushels oats, \$1,200; 200 gallons sorghum, \$100; 100 head of cattle, \$1,000; 30 head horses and mules, \$2,250; 400 head sheep, \$800; 150 head goats, \$150; 8 wagons, \$480; 200 hogs over one year old, 300 hogs under one year old, \$2,000; making a total of \$10,480; with 500 acres of land in cultivation.

FULL-BLOOD CHEROKEES.

One hundred farms in cultivation, 1,500 acres; in corn 800 acres, average 30 bushels per acre; in cotton 300 acres, average 300 pounds per acre, ginned; in wheat 300 acres, average 15 bushels per acre; in oats 100 acres, average 20 bushels per acre; 500 head cattle, 300 head horses and mules, 300 head sheep, 200 head goats, 800 head hogs over one year old, 1,200 head hogs under one year old, 1 horse grist-mill, 4,000 bushels potatoes, both Irish and sweet, 3,000 pounds tobacco, 1,000 bushels fruit, 1,000 bushels turnips, \$1,000 worth of fur-skins sold annually, \$2,000 worth of peltries and dry hides, 500 bushels pecans, 50 bushels berries, all kinds.

MIXED-BLOOD CHEROKEES.

One hundred and fifty farms, containing 3,000 acres; 2,000 acres in corn, average yield 30 bushels per acre; 500 acres in wheat, average yield 15 bushels per acre; 200 acres in oats, average yield 20 bushels per acre; 300 acres in cotton, average yield 300 pounds (ginned) per acre; 1,500 head cattle; 500 horses and mules; 800 sheep; 300 goats; 1,000 hogs over one year old; 1,500 hogs under one year old; 1 steam saw-mill; 7,000 bushels potatoes; 4,500 pounds tobacco; 3,000 bushels fruit; 750 bushels turnips; \$1,500 worth of peltries; \$2,000 worth of small furs; \$1,000 worth of dry hides; 500 bushels pecans; 25 bushels berries, of all kinds.

WHITE CHEROKEE CITIZENS.

Forty farms, 12,000 acres cultivated; 600 acres corn, average yield 30 bushels per acre; 300 acres wheat, average yield 15 bushels per acre; 100 acres oats, average yield 20 bushels per acre; 200 acres cotton, average yield 300 pounds (ginned) per acre; 2,000 bushels fruit; 2,000 bushels potatoes; 400 bushels turnips; 400 head cattle; 300 head horses and mules; 500 head sheep; 150 head goats; 400 head of hogs over one year old; 800 head hogs under one year old; 1,500 pounds tobacco; 1 steam grist-mill.

There are nine districts in the Cherokee Nation. This district is probably over an average in some things, and under it in others. Had there been funds in this office to have paid persons a fair compensation for services, statistics might have been obtained from every district; but, as there were none, statistics could not be obtained.

It will be observed that these statistics do not include the number of white men with their families employed on the railroads in this Territory, nor the number employed by the Indians of the tribes upon their farms, by the permission of the local Indian authorities, with the exception of one district. Neither is there any estimate of the amount of property owned by the railroads, their employés, and their laborers employed by the Indians.

The Missouri, Kansas and Texas Railroad crosses the Kansas line into the Indian Territory, and passes through the reservations of the Cherokee, Creek, Choctaw, and Chickasaw Nations into Texas, a distance of about two hundred and fifty miles.

The Saint Louis and San Francisco Railroad enters the Territory from Southwest Missouri, and is completed to Vinita, in the Cherokee Nation, a distance of about forty miles.

Altogether there are about two hundred and seventy-five miles of railroad completed within the limits of the five civilized nations, which employ in the aggregate several hundred men, who with their families must increase the population in these five tribes about twelve hundred. It is known that under the law and customs of these nations white men are allowed to work upon the farms of the Indians under certain regulations made by the tribal authorities; the number of such white laborers must amount to several thousands, so that the total resident population of the five tribes may safely be reckoned at more than sixty thousand, divided, as near as our imperfect statistics will justify, as follows:

Indians by blood:	
Cherokees	14,800
Creeks	11,700
Choctaws	14,700
Chickasaws	5,600
Seminoles	1,936

Total number of Indians by blood

48,736

There are white citizens of the United States who are members of the several nations by reason of marriage or adoption:

Among the Cherokees	700
Among the Creeks	60
Among the Choctaws	1,300
Among the Chickasaws	200
Among the Seminole	1

Total number of white members of the tribes

2,261

In the treaties with the Cherokees, Creeks, and Seminoles, made in 1866, the negroes who had before that date been slaves of those Indians were made citizens of the several tribes. There appears to be among these three tribes 6,506 negroes, who are members and citizens of the nation, and at the same time citizens of the United States. They are distributed as follows:

Negroes among the Cherokees.....	3,500
Negroes among the Creeks.....	2,500
Negroes among the Seminoles.....	506
Negro Indians, total number.....	6,506
White Indians, total number.....	2,261

Total number of whites and negroes who are members of the three tribes. 8,767

The Choctaws and Chickasaws owned quite as many slaves as the Cherokees and Creeks; but, though these Indians agreed in their treaty of 1866 that slavery should no longer exist among them, they did not adopt their former slaves as members and citizens of their tribes. We should estimate the number of negroes in the Choctaw and Chickasaw Nations, who are allowed by the treaty of 1866 to reside in those nations, but who are not members of the same, about 5,000, which is 1,000 less than is officially reported to be members of the Cherokee and Creek Nations.

To recapitulate the number and classes of the residents in the five civilized tribes, we find there are:

Indians by blood.....	48,736
White and negro members of the tribes.....	8,767
Negroes, not members of the Chickasaw and Choctaw Nations.....	5,000
Railroad employes.....	1,200
Other white residents of the five civilized nations.....	5,000

68,703

We observe from the statistics referred to that there are 21,962 Indians among the five nations who do not speak English, while the rest of the population speak and most of them read the English language. These latter number 46,741. This is a much larger English-speaking population than resided in any of the organized Territories in 1870, with the exception of the Territory of Utah, 86,786, and New Mexico, 91,874.

The other Territories, according to the census report of 1870, numbered as follows:

The Territory of Washington.....	23,955
The Territory of Montana.....	20,595
The Territory of Idaho.....	14,999
The Territory of Dakota.....	14,181
The Territory of Arizona.....	9,658
The Territory of Wyoming.....	9,118

Allowing for an increase of population in all these Territories, it is not probable that any of them exceed in numbers or wealth at this date the five civilized tribes who will be granted representation in Congress under this bill. Each of these five nations, with possibly the Seminoles, have a regularly organized form of government, with written constitutions and codes of laws; they have their legislatures, called by some "councils," composed of an upper and lower house, the members of which are elected every two years from the various districts or counties into which the nations are divided. These governments are supported in great part from the interest on their funds, which are held in trust for them by the United States.

The United States hold in trust for the Cherokees about \$2,500,000.

Of the interest on this amount they expend for purposes of education the sum of \$79,000; and for executive, judicial, and legislative purposes, \$80,000; total, \$159,000. They have 78 schools and 3,000 pupils. The pay of the Cherokee delegates we suppose is included in the executive and legislative account.

The Creeks have 28 public schools and two mission schools, costing \$23,000, with 1,200 pupils. They pay the members of their council per annum the sum of \$18,750; to their judiciary, \$13,000; delegates to Washington, \$6,000; sending 18 boys to schools in the States, \$3,500; mission schools, \$23,000; total expenses of the Creek Nation, \$64,250.

The Chickasaws have 13 public schools with 400 pupils, costing the sum of \$21,000; they pay their executive and judiciary \$20,000; and their legislative department, \$1,500; total, \$42,500.

The Choctaws have 56 schools with 1,200 pupils, costing \$29,000; they pay their council \$7,000, and their executive and judiciary \$29,000; total, \$65,000.

The Seminoles have 5 schools with an attendance of 180, for which they pay the sum of \$2,800; the cost of their government is \$11,200; total, \$14,000.

On the 3d day of March, 1877, a written report was made to the House by the Hon. Mr. Seelye, a member of the Committee on Indian Affairs, in relation to the formation of a territorial government for said tribes. Among other valuable information to be found in that report, the following extract is selected to show something of the cost the Indians are constrained to incur in order to have their affairs properly understood at the seat of government. The extract says:

It also appears that an expenditure which sometimes reaches \$25,000 a year is made by this (the Cherokee) nation in the support of delegates at Washington. This large amount is expended by the Cherokee Nation alone, and does not include the money expended by the other four nations which maintain delegates at Washington every year.

It must be plain to every one that a single Delegate, chosen from the members of these tribes, upon the floor of Congress, would have a great deal more official influence than the combined delegations they are in the habit of sending, and that many thousand dollars would be saved to the tribes every year.

We are reliably informed that the Chickasaws have at the present time a delegation of three persons. A delegation of four has been appointed by the Creek council, while the Cherokees, Choctaws, and Seminoles will each send as large a delegation, making a delegation of nineteen to represent 58,000 people at Washington.

We think we have demonstrated that, as far as population, wealth, and intelligence go, these five civilized tribes of Indians should be allowed a Delegate in Congress; but, in addition to all this, there are special treaty stipulations with some of these tribes looking to the very legislation which this bill provides.

Article 9 of the treaty made with the Cherokees in 1785 reads as follows:

That the Indians may have full confidence in the justice of the United States respecting their interests, they shall have the right to send a deputy of their choice, whenever they think fit, to Congress.

Article 7 of the Cherokee treaty of 1835 reads as follows:

The Cherokee Nation having already made great progress in civilization, and deeming it important that every proper and laudable inducement should be offered to their people to improve their condition, as well as to guard and secure in the most effectual manner the rights guaranteed to them in this treaty, and with a view to illustrate the

liberal and enlarged policy of the Government of the United States towards the Indians in their removal beyond the territorial limits of the States, it is stipulated that they shall be entitled to a Delegate in the House of Representatives of the United States whenever Congress shall make provision for the same.

Article 8 of the Choctaw and Chickasaw treaty of 1866 provides for the assembling of a legislature in the Indian Territory, which has been known as "the grand council." Congress for several years appropriated money to pay the members of this legislature or council; but as Congress neglected to provide for the other branches of a government, which seemed to be necessary to make the legislature of utility, no appropriation has been made for a year or two, and in consequence the council has not convened. It is provided in the ninth section of said eighth article that "Whenever Congress shall authorize the appointment of a Delegate from said Territory, it shall be the province of said council to elect one from among the nations represented in said council."

We do not find any special stipulation of treaty providing for a Delegate to Congress from the Creek or Seminole Nations, but, situated as they are, between the Choctaws and Cherokees, it seems eminently proper that they should be allowed a voice in the selection of the Delegate which has been solemnly promised by treaty to the Choctaws, Chickasaws, and Cherokees.

We think that it is time that the promise made to the Cherokees forty-two years ago, and to the Choctaws and Chickasaws eleven years ago, should be carried out by Congress.

We believe that the advancement made by these tribes in civilization, their progress in all that tends to elevate a people, and the good that will result to them in the future justify and require this action on the part of the government.

Your committee, therefore, report a substitute for the bill, which contains the main features of the bill referred, but which goes more into detail as to future elections of the Delegate, and recommend its passage.

[House report 807, 45th Congress, 2d session.]

MAY 18, 1878.—Recommitted to the Committee on Indian Affairs and ordered to be printed.

Mr. THROCKMORTON, from the Committee on Indian Affairs, submitted the following report, to accompany bill H. R. 4868:

The Committee on Indian Affairs, to whom the foregoing report and substitute for the original bill were, by order of the House, recommitted, were, after such recommitment, attended by the agents of the Choctaw, Chickasaw, Creek, Seminole, and Cherokee Nations, who all concurred in the expression of a wish that if a Delegate should be granted to the Indian Territory, such Delegate should be appointed by the Indian Council of the Territory, and claimed that they had such right under the Choctaw and Chickasaw treaty of April 28, 1866.

The eighth article of that treaty provided for the establishment of a great territorial council for the Territory, to consist of delegates from all the tribes inhabiting said Territory.

Under that provision a territorial council has been organized in said Territory, in which a number of tribes are represented by delegates. Congress has repeatedly recognized said council.

The eighth article of the treaty above mentioned further provides that—

Whenever Congress shall authorize the appointment of a Delegate from said Territory, it shall be the province of said council to elect one from among the nations represented in said council.

The committee, in deference to the wishes of the agents of the five nations specially mentioned in our former report, and in compliance with said provisions of said treaty, now recommend the adoption of the substitute for the original bill, attached to and made a part of this report.

[House report 807, part 2, 45th Congress, 2d session.]

MAY 20, 1878.—Recommitted to the Committee on Indian Affairs and ordered to be printed.

Mr. BOONE, from the Committee on Indian Affairs, submitted the following as the views of the minority (to accompany bill H. R. 4868):

The Committee on Indian Affairs, to whom has been referred bill H. R. 4868 as a substitute for bill H. R. 979, "to authorize the election of a Delegate to Congress from the Indian Territory," having by a majority of said committee agreed to recommend to the House for its passage a substitute bill for the same purpose, entitled "A bill to authorize the appointment of a Delegate to the House of Representatives by the council of the Indian tribes resident in the Indian Territory," the undersigned, as a minority of said committee, beg leave to present, as they now do, their views to the House *adverse* to the passage of said bill, which they ask to be printed and considered by the House, and which are substantially as follows:

1st. The Indian nations and tribes to be affected by the passage of this bill comprise about thirty-three tribes, embracing the Cherokees, Creeks, Seminoles, Choctaws, Chickasaws, Pawnees, Keechies, Confederate Peorias, Eastern Shawnees, Absentee Shawnees, Black Bob Shawnees, Ottawas, Modocs, Sacs and Foxes, Mexican Kickapoos, Wichitas, Iowas, Wacoos, Comanches, Tawaconies, Caddoes, Andarcos, Delawares, Kaws, Osages, Pottawatomies, Cheyennes, Arapahoes, Wyandotts, Quapaws, Senecas, Mandans, &c., and aggregate a population of about 70,000 souls, and occupy a country of about 44,154,240 acres immediately west of Arkansas and south of Kansas, and outside of the limits of any State or Territory of the United States. It is not an organized Territory of the United States, but embraces a region set apart by the act of Congress of May 28, 1830 (United States Statutes, volume 4, page 411); and the Indian treaties as a home for such tribes as are now there, or as shall hereafter be located thereon by the government. This country is sometimes referred to by our statutes and treaties as the "Indian country" and the "Indian Territory," and the tribes inhabiting the same have been recognized by the government as having distinct tribal organizations—some of which are written and republican in form, not unlike those of our States. The bill in question, without the consent of the majority of these tribes, provides for a Delegate to represent them in Congress, the same as the Delegate from New Mexico represents that Territory, and also contains the further provision that such Delegate (after the same is provided for) shall be appointed by the Indian council of the tribes, according only to the treaty of 1866 between the government and two of the tribes—the Choctaws and Chickasaws—and ignores the treaties of the other thirty-

one tribes in the country; and this, if it becomes a law, will work a radical change in the existing relations of the tribes to be affected and the government. As this change in the relations of the Indians will be to them of a grave character, a fair investigation of it necessarily involves the question: *Have the Indian nations and tribes of the Indian country or territory given their consent to such change?* We maintain that such consent of the tribes has not been granted by them as will authorize Congress to pass the bill referred to, and that the consent of the tribes should be a *condition precedent* to the passage of the bill.

It cannot be successfully denied that these tribes all have treaties of protection with the government, executed by the executive department and by acts of Congress as binding obligations. Of the thirty-three tribes to be affected by the bill, only three, the Cherokees, Choctaws, and Chickasaws, have ever given their implied or expressed consent by treaty stipulations to be represented by a Delegate in Congress, while the treaties with the other thirty tribes have no such provisions. The Cherokees have made two treaties, the last one in 1836, under which they were entitled to the privilege, if they accepted it, of sending a Delegate to Congress whenever Congress should make provision for the purpose (Revision Indian Treaties, p. 70). But this treaty of 1836 only had reference to the Cherokees, who alone made it, and certainly ought not to be applied to the other thirty-two tribes of the Indian territories who were not represented. But it is respectfully submitted that even this treaty provision of the Cherokees has been suspended by their subsequent treaty of 1846 (Revision Indian Treaties, p. 80), which secures to the Cherokee people the privilege of "petition" to and discussion before the Government of the United States, in the maintenance of their rights, on the passage by them (the Cherokees) of laws for these purposes. And no act of Congress is therefore necessary to enable the Cherokees to be represented before the government. In pursuance of this special treaty provision, which is but an acknowledgment of an inherent right that naturally belongs to all the tribes, the Cherokee Nation, through its national council or legislature, has enacted, and may continue to enact if it chooses, laws sending delegates before the government to present the petitions and discuss the rights of the Cherokee Nation and people at their own expense and at no expense to the government.

Such delegates have been and may continue to be received and admitted by the President, by the departments, as well as by the committees of Congress, and their petitions and discussions are properly admissible before the President, the departments, and Congress.

Indeed, many of these delegates have negotiated treaties of the highest order with the government.

As regards the treaty of 1866 of the Choctaws and Chickasaws (Revised Indian Treaties, p. 291) that provides for the election of a Delegate to Congress from the Indian Territory, and to which alone the bill under consideration refers, we suggest that the same principle applies to it that we have applied to the Cherokee treaty alluded to, viz: that it only binds the two tribes that made it, the Choctaws and Chickasaws, and places no obligations upon the other thirty-one tribes that are not parties to it. This treaty of the Choctaws and Chickasaws provides that "whenever Congress shall authorize the appointment of a Delegate from said (Indian) Territory, it shall be the province of said (Indian) council to elect one from among the nations represented in said council."

The "Indian council" referred to above is provided for by article 8 of the Choctaw and Chickasaw, article 12 of the Cherokee, article 10

of the Creek, article 7 of the Seminole treaties of 1866 (Revision Indian Treaties, pp. 90, 119, 289, 315), and was organized in 1869 by the executive department of the government and the Indian tribes under these treaty provisions, and none of these treaty stipulations, except those with the Choctaws and Chickasaws, authorize a Delegate to Congress. This Indian council is a legislative body or "congress" of the Indians, and was *legitimized* by Congress in 1870 by an act of that date (United States Stats., vol. 16, p. 359), which made appropriations for its expense, as provided for by the treaties, and since that time every succeeding Congress have made the legitimate appropriations to defray the expenses of the council, and which is, in view of our treaties, a regularly organized Indian legislature.

Besides the Choctaws and Chickasaws, whose treaty provides for a Delegate to Congress, the other thirty-one tribes (including the Cherokees, Creeks, and Seminoles) are also represented in this Indian council, but *their* treaties, as before stated, do not authorize the Delegate provided for in the bill now under review. It would, therefore, be manifestly unjust to apply the terms of the Choctaw and Chickasaw treaty to all the rest of the tribes in the Territory, *without their consent*, and in the face of their protests that have been filed before Congress in writing. Besides, the most of the tribes that have not given their assent to be represented in Congress by one Delegate, and who have the right to send their own respective Delegate before the government, are sufficiently intelligent to know and appreciate their rights, and as human beings it is but natural to suppose that they, like the white race, are sensitive as to these rights. They also have governments of their own which they love and respect, and which they have been inclined to believe our own government will respect. For these reasons, if for no other, the dictates of ordinary justice and prudence would seem to indicate that these tribes should at least be consulted as to their wishes with regard to their being represented in Congress by one joint Delegate to attend to their interests, which are not confined to Congress but also extend to the departments. The majority of the committee, in acknowledgment that the consent of all the tribes is a *condition precedent* to the passage of the bill under discussion, evidently have endeavored to frame the bill so as to comply with the Indian treaties and thus obviate the difficulty by having a provision in the bill that the Delegate may be elected by the Indian council. But it will be seen that this effort is a failure, as none of the treaties authorize such Delegate, nor authorize his election by the council, except that of the Choctaws and Chickasaws, to which alone the bill refers.

2d. Having shown, as we believe successfully, that the passage by Congress of the bill in question is not warranted by the relations existing between the tribes to be affected and the government, we further object to it because we believe it unnecessary, impolitic, and that it will entail additional expense to the government, and that the passage would be unwise, in that it might disturb the present quiet and prosperous condition of the tribes, by stirring up strife and dissatisfaction among them and between them and the government and its citizens. We have already shown, in the case of the Cherokees, that this bill is not *necessary* to enable the Indian tribes to send their delegates or representatives before the government to secure their rights. This is a privilege they always have had and still have, and under it the tribes present their petitions and discuss their rights before the departments, the President, and Congress, as before stated. The passage of the bill providing for one general Delegate to Congress will not in any manner

abridge the right of the tribes to send their tribal delegates before the government. So that, if the bill becomes a law, these tribes may, as they doubtless will, continue to send their tribal delegates before the government at their own expense. The bill is not in the interest of economy, because it will not prevent the expenditure by the tribes of their own funds on their respective representatives before the government. Besides, these funds are due the tribes, and must be paid annually to them, if we keep faith with them under our treaties, by appropriations from Congress. On the other hand, the bill will impose an additional tax on the government, to the extent of the expense that will attach to the Delegate provided for.

The trust imposed upon the government as the guardian of the Indians is as important to the Indians as it is responsible to the government. It is the desire and hope of the government, as it is its obligation to the Indians, to encourage their civilization, and no wise statesman, in the light of experience, will doubt that the civilization and preservation of the Indians center in cordiality and friendship among themselves and a friendly, social feeling toward and confidence in the white race. We therefore think it would be unwise to pass an act like the one under consideration without the consent of the tribes interested and contrary to their solemn protests, and which, under the most charitable construction, will be liable to breed discord among the Indians and create distrust, if not antagonism and open rupture of peace, toward the government and its citizens.

From the reports of the Indian Bureau and the Board of Indian Commissioners, the tribes of the Indian Territory are at perfect peace with the government, are increasing in wealth and population, and are rapidly advancing in education, agriculture, and all the acquirements of a civilized people. Any legislation that might possibly tend to a fatal interference with this hopeful condition of our wards we think should be carefully avoided.

For the general reasons indicated, the undersigned, as a minority of the Committee on Indian Affairs, recommend that the bill as reported by the majority of said committee be not passed by the House, and further recommend the passage of the following resolution:

Resolved by the House of Representatives, That the Committee on Indian Affairs appoint a subcommittee of three of its members to proceed, as soon as convenient after the adjournment of the present session of Congress, to the Indian Territory, and ascertain whether or not the Indian nations and tribes therein desire Congress to legislate for the purpose of enabling them to have representation in Congress through a Delegate to be elected by them; and also whether said tribes, or the majority of the members thereof, desire any change of government over them through the legislation of Congress.

A. R. BOONE.
A. M. SCALES.