

12-8-1879

Letter from the Secretary of War, transmitting information in regard to arrest and removal of J. M. Bell and other Cherokee Indians from the Cherokee Nation, &c

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Recommended Citation

S. Exec. Doc. No. 6, 46th Cong., 2nd Sess. (1879)

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LETTER
FROM
THE SECRETARY OF WAR,

TRANSMITTING

Information in regard to arrest and removal of J. M. Bell and other Cherokee Indians from the Cherokee Nation, &c.

DECEMBER 8, 1879.—Referred to the Committee on Military Affairs and ordered to be printed with accompanying documents.

WAR DEPARTMENT,
Washington City, December 5, 1879.

The Secretary of War has the honor to transmit to the United States Senate the inclosed copies of correspondence, in further compliance with the resolution of that body of June 4, 1879, calling for information of the circumstances which led to the arrest and removal of J. M. Bell and other Cherokee Indians from the Cherokee Nation, &c.

GEO. W. McCRARY,
Secretary of War.

THE PRESIDENT OF THE UNITED STATES SENATE.

DETACHMENT UNITED STATES TROOPS,
Arkansas City, Kans., June 7, 1879.

SIR: In compliance with your instructions of the 5th instant, I was ordered by the department commander, among other scouts, to make the following:

ARKANSAS CITY, KANS.,
May 24, 1879.

SIR: In compliance with the instructions of the department commander, you will send out as soon as practicable a scouting party consisting of one sergeant and eight men, in search of trespassers on lands in the Indian Territory. The party will be supplied with rations and forage for five days. The sergeant in charge will be directed to report before starting to the commanding officer of United States troops at this station for instructions.

I am, very respectfully, your obedient servant,

W. W. BARRETT,
First Lieutenant Sixteenth Infantry, Commanding United States Troops.

Lieut. A. K. SMITH,
Fourth United States Cavalry, Commanding Company B.

Which was followed by the accompanying written instructions to the sergeant in charge of the scout, as-follows:

INSTRUCTIONS.

ARKANSAS CITY, KANS.,
May 25, 1879.

Sergeant J. M. Warren, Company B, Fourth United States Cavalry, in charge of scouting party, will proceed south as far as the Ponca Agency, thence up Salt Fork to the mouth of the Chickaskie, some 15 or 18 miles, in search of trespassers upon lands in the Indian Territory. If any are found, you will remove them from the Territory by force, if necessary, and bring them to the commanding officer United States troops at this station. You will keep a journal of the scout made, containing an account of the distance traveled, incidents of the scout, and make a report of the same upon your return. You need not follow the route indicated in these instructions, if you should learn of trespassers in other parts of the Territory, but "go for them" wherever you can find them.

Respectfully,

W. W. BARRETT,
First Lieutenant, Sixteenth Infantry, Commanding United States Troops.

The scout left on the 26th May at 6 a. m., and marched to the vicinity of the Ponca Agency. On the 27th of May it marched in a northwesterly direction to Duck Creek, on the Chickaskie. On the morning of the 28th of May, about half past eight o'clock, on the right bank of the Chickaskie, it encountered a settlement of trespassers upon unauthorized lands. They had been located about two or three weeks; they had made their arrangements to settle, and were commencing to break ground that morning.

The sergeant allowed them the necessary time to collect their things and to pack their outfits; then they commenced the march out of the Territory towards Kansas. They gave their names as follows:

Claiming to be half-breed Cherokees.—J. M. Bell, George W. Garden-shire, George W. Burnett, Joshua McLaughlin, George W. Davis, T. F. Jordan and wife.

Claiming to be whites.—M. Convoy, C. M. Cochran, wife, and daughter, Hanston Hamilton, M. J. Welsh, David Surber, William Surber.

The trespassers, accompanied by the escort, arrived at camp of the detachment about 3 p. m. on the 29th May. On their arrival I said to them that they had been withdrawn from unauthorized lands as trespassers under the direction of the department commander, General Pope. I then informed them that they were at liberty to go where they pleased, except that they would not be permitted to trespass upon unauthorized lands. The second offense would cause the destruction of their outfit.

I could not discover any difference between the half-breed Cherokees and the whites. They looked alike, talked alike, acted alike, and appeared to be alike.

A large amount of their mail on the Chickasaw Colony was indorsed to the "Indian Territory Colonization Society, Chetopa, Kans."

I have not heard of the party herein referred to since they left the camp of the detachment.

I am, sir, very respectfully, your obedient servant,

W. W. BARRETT,
First Lieutenant Sixteenth Infantry, Commanding Detachment.

COMMANDING OFFICER UNITED STATES TROOPS,
Wichita, Kans.

WICHITA, KANS.,
June 10, 1879.

Official copy respectfully forwarded to the assistant adjutant-general department of the Missouri, Fort Leavenworth, Kans.

CHAS. E. MORSE,
Captain Sixteenth Infantry, U. S. A., Commanding Detachment.

[First indorsement.]

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Fort Leavenworth, Kans., June 13, 1879.

Respectfully forwarded to the Adjutant-General of the Army, through headquarters Military Division of the Missouri, in connection with papers on this subject forwarded on the 6th and on the 9th instant.

In the absence of the brigadier-general commanding,
E. R. PLATT,
Assistant Adjutant-General.

[Second indorsement.]

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,
Chicago, June 16, 1879.

Respectfully forwarded to the Adjutant General of the Army.
In absence of the Lieutenant-General commanding,

WM. D. WHIPPLE,
Assistant Adjutant-General.

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
ASSISTANT ADUTANT-GENERAL'S OFFICE,
Fort Leavenworth, Kans., June 18, 1879.

SIR: I have the honor to acknowledge the receipt of your telegram of the 16th instant, informing General Pope that "the Secretary of War desires more particular report as to cause for removing James M. Bell and other Cherokees from lands they were occupying," and in the absence of that officer to make the following report:

In pursuance of most stringent instructions from the General of the Army to enforce the President's proclamation of April 26, 1879, "forbidding trespass by emigrants on the Indian Territory," detachments were posted at various points along the Kansas border, and at Vinita, Ind. T., with instructions to warn all those intending to settle in the Territory, but who had not yet entered it, of the consequences of doing so, and to make every effort, by persuasion and giving information of the law, the proclamation of the President, and the purpose of the government, to prevent such settlement. Those who had already entered the Territory were to be turned back, by force if necessary, and warned not to re-enter it. Parties were to be sent out, also, from these points to search the country for intruders, and when any were found to remove them.

The first instructions received here, and communicated, were to use force for the above purposes only "on the requisition of and, when practicable, under the personal supervision of the officers of the Indian Bureau"; these were, however, afterwards modified as follows:

President considers request already received from authorities of the Indian Bureau as sufficient to authorize the employment of the troops in expelling intruding emigrants, and stopping and turning back such as are entering the Territory. The President directs that the military authorities proceed, without waiting for further requests, to carry out the orders already issued.

In pursuance of these instructions a detachment of one sergeant and eight privates of Company B, Fourth Cavalry, was sent out on the 26th of May, 1879; from the post at Arkansas City, Kans., in search of trespassers on lands in the Indian Territory. (See letter of instructions to the sergeant, forwarded to Adjutant-General on the 9th instant.)

On the 28th of May, on the right bank of the Chickaskie, it encountered a settlement of supposed trespassers upon unauthorized lands. These had been located about two or three weeks and were commencing to break ground. They were allowed time to collect their things and pack their outfit, and were then taken out of the Territory.

The sergeant says in his report (forwarded to Adjutant-General June 6): "At first they hesitated, but upon hearing a portion of my order read they agreed to go." There were in the settlement and removed from it six men and one woman claiming to be half-breed Cherokees, and six men and two women claiming to be whites.

J. W. Bell was one of those who claimed to be half-breed Cherokees, and who were removed from the Territory.

These parties, accompanied by the escort, arrived at Arkansas City on the 29th of May, where they were informed by the commanding officer that they had been withdrawn from unauthorized lands as trespassers; that they were at liberty to go where they pleased, except to trespass upon the Indian Territory. The second offense would cause the destruction of their outfit. The party then left the camp, and nothing more is known of them. Lieutenant Barrett, Sixteenth Infantry, the commanding officer of the post at Arkansas City, from whose report (forwarded to Adjutant-General on 13th instant) most of these statements of facts have been taken, adds: "I could not discover any difference between the half-breed Cherokees and the whites; they looked alike, talked alike, acted alike, and appeared alike."

It will be seen from the foregoing that if these people are Cherokees and were expelled from Cherokee lands it was because appearances were so much against them as to excuse, if not justify, the act. This man Bell is supposed to have been an agent of, or at any rate in correspondence with, "The Indian Territory Colonization Society, Chetopa, Kans.," as letters passed through the post addressed to him marked to be returned to that address if not delivered, and the circumstance of his having with him at this new settlement, where "they were just breaking ground," eight white persons goes a great way to establishing the presumption. The matter of the correspondence was not known here, however, until after his expulsion.

I have stated already that our latest orders required us to act without waiting for the requisition of the officials of the Indian Bureau, and the result has been to deprive us of the assistance which the local knowledge and information of these officials would have been to us, for in no instance known to these headquarters has an Indian official reported to a military commander the presence of intruders or made requisition for the removal of such, and, under these circumstances, it may well have occurred that a mistake was committed; but if there was, there was no damage done nor great hardship inflicted.

Very respectfully, your obedient servant,

E. R. PLATT,
Assistant Adjutant-General.

The ADJUTANT-GENERAL OF THE ARMY,
Through Headquarters Military Division of the Missouri.

[First indorsement.]

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,
Chicago, June 20, 1879.

Respectfully forwarded to the Adjutant-General of the Army.
In absence of the Lieutenant-General commanding,
WM. D. WHIPPLE,
Assistant Adjutant-General.

[Telegram.]

FORT LEAVENWORTH, KANS.,
June 19, 1879.

ADJUTANT-GENERAL, UNITED STATES ARMY:

I beg to add to report mailed yesterday in case of Bell:

That point from which he was removed is on west border of Chicaskie River, about where Indian meridian crosses between meridians 97 and 98. (See Ruffner's military map of Indian Territory.

E. R. PLATT,
Assistant Adjutant-General.

WAR DEPARTMENT,
Washington City, July 11, 1879.

SIR: I have the honor to transmit herewith a report compiled from papers on the subject on file in the office of the Adjutant-General, touching the alleged improper expulsion of J. M. Bell, a Cherokee half-breed, from lands in the Indian Territory.

It will be seen from the facts in the case, as cited in the report, that if Bell, and those with him claiming to be half-breeds, are Cherokees, they were expelled from the lands occupied by them because all the surroundings appeared to the military authorities to justify the act under the terms of their instructions; but assuming that he is a citizen of the Cherokee Nation, I have respectfully to ask whether, in your opinion, he was a trespasser upon the land in question, and was he rightfully expelled by military authorities?

I am, sir, very respectfully, your obedient servant,

G. W. McCURARY,
Secretary of War.

The Hon. ATTORNEY-GENERAL.

WASHINGTON, D. C.,
June 19, 1879.

SIR: From your office and that of the Adjutant-General of the Army we learn that one Elias C. Boudinot has presented a brief, or other papers, which we have seen in General Townsend's office, complaining that certain Cherokees and persons claiming to be Cherokees, among whom is one James Bell, were expelled by the military from the Cherokee Nation in violation of their rights as Cherokees. We desire to state to you that we are the properly accredited and, at present, only delegates of the

Cherokee Nation in Washington. Our credentials are on file in the Interior Department, and we are here attending to the business of the nation under act of her council. With us, as special agents under our treaty of 1866, and as counselor and attorney, is Hon. William A. Phillips, of Kansas.

Among other important matters, we are directed to dispose of the ceded lands lying west of 96° under existing law and treaties, and have just concluded an appraisal. By reserving the lands lying east of 96° for the people of the Cherokee Nation, and agreeing that those west of it should be sold for "other Indians," the Cherokee Nation understands, as it believes the Government of the United States does, that settlements west of that line by Cherokees is neither designed nor to be permitted, unless the United States shall fail to execute the treaty of 1866, and pay for the same; in which event it might revert for the use and homes of her people under new arrangements. As matters stand, any such settlement by Cherokees in that country is as much a violation of law as other settlements, and the military were entirely right in effecting their removal. This is particularly the case when all the facts are considered.

If you examine the reports sent from your and the other departments to Congress, you will find, from what is there on record, that three of the leading conspirators who tried to instigate the recent invasion of the Indian Territory were an adventurer of the name of Carpenter, and the complainants, Boudinot and Bell. After the scheme of invasion had been prevented and put a stop to by the President's proclamation and the action of the military, the same conspirators have tried, under pretense of being Cherokee citizens, to inveigle other adventurers into that Territory, and under various pretexts to embarrass the action of the military.

The Cherokee Nation desires faithfully to execute the treaty of 1866. Neither her government nor her representatives give any color to the lawless enterprises of James Bell and E. C. Boudinot, and if they, or either of them, present themselves to your department, we ask that they be required to show who they represent and by what authority they pretend to interfere with the business or interests of the Cherokee Nation.

We are, very respectfully,

W. P. ADAIR,
DANL. H. ROSS,
Cherokee Delegation.

Hon. GEO. W. McCRARY,
Secretary of War.

NOTE.—In confirmation of the correctness of the views expressed, that while the Cherokee Nation, as such, in a corporate capacity, has the possession of and jurisdiction over the Cherokee lands west of the Arkansas River, in the Indian Territory, not occupied by other Indians and paid for, the said lands are subject to settlement only by other Indians than the Cherokees, we respectfully refer you to—

1st. The fifteenth and sixteenth articles of the Cherokee treaty of 1866.

2d. To Executive Documents Nos. 20 and 26, transmitted.

3d. To Report No. 13, Forty-sixth Congress, first session, House of Representatives, transmitted.

ADAIR AND ROSS,
Delegates.

[First indorsement.]

ADJUTANT-GENERAL'S OFFICE,
Washington, June 26, 1879.

Respectfully returned to the Secretary of War, in connection with papers left in the Secretary's hands on the same subject. Messrs. Adair and Ross, delegates of the Cherokee Nation, submit herein a statement justifying the removal of Bell and others from the Cherokee lands by military force, and deny authority of Boudinot and Bell in the matter.

E. D. TOWNSEND,
Adjutant-General.

WAR DEPARTMENT,
Washington City, July 12, 1879.

SIR: I have the honor to inform you that the subject involving the alleged improper expulsion, by military authority, of J. M. Bell, a Cherokee half-breed, and others, from lands in the Indian Territory, has been submitted to the honorable the Attorney General, to whom it is suggested should be forwarded any information or papers in your possession that you may desire to have considered in connection with the subject.

Very respectfully, your obedient servant,

G. W. McCRARY,
Secretary of War.

Co'. W. P. ADAIR,
Delegate Cherokee Nation, Vinita, Ind. T.