

University of Oklahoma College of Law

University of Oklahoma College of Law Digital Commons

American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899

8-25-1890

Coal Leases in Indian Territory

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indigenous, Indian, and Aboriginal Law Commons](#)

Recommended Citation

S. Misc. Doc. No. 223, 51st Congress, 1st Sess. (1890)

This Senate Miscellaneous Document is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact Law-LibraryDigitalCommons@ou.edu.

IN THE SENATE OF THE UNITED STATES.

AUGUST 25, 1890.—Reported and ordered to be printed, and recommitted to the Committee on Indian Affairs.

Mr. DAWES, from the Committee on Indian Affairs, reported the following

LETTER FROM THE SECRETARY OF THE INTERIOR ADDRESSED TO THE CHAIRMAN OF THE COMMITTEE ON INDIAN AFFAIRS, TRANSMITTING COPY OF A COMMUNICATION FROM THE COMMISSIONER OF INDIAN AFFAIRS AND ACCOMPANYING PAPERS, RELATIVE TO COAL LEASES IN THE INDIAN TERRITORY.

DEPARTMENT OF THE INTERIOR,
Washington, August 20, 1890.

SIR: I have the honor to acknowledge receipt of your communication of 1st instant and accompanying Senate resolution, 119, "relating to coal leases in the Indian Territory," wherein you request to be furnished with copies of such leases as is its intent to ratify, together with the opinion of the Department as to the propriety of the ratification of either of said leases.

In response I transmit herewith a copy of a communication of 14th instant from the Commissioner of Indian Affairs and accompanying papers.

In connection with this I also submit an opinion from the First Assistant Secretary, to whom the subject was referred, together with the letter of the Commissioner.

In my judgment the resolution should not be adopted. I believe it will establish a gross monopoly in the interest of the railroad company, and break down competitive interests in all the adjoining territory. It will cripple the Indian Nation now, and greatly interfere with the policy of the United States to lead the Indian tribes to lives of industry and self-support. Future opportunities and benefits to the Indian nation or its members would be anticipated and shut out for the immense period of a century; and when the United States endeavors hereafter to deal with these tribes, in the interests of our own people, the great values of the lands will be found in the hands of third parties, thus sanctioned. These coal leases will not be all if this policy is adopted. There will be more of these, and there will be many more as to other valuable products the Indians may be induced to barter.

The question of the legality of these leases is also, in my judgment, most serious, as exhibited by the First Assistant Secretary. But I place my objection chiefly upon the ground of public policy and the proper administration of our Indian Affairs.

Most respectfully,

JOHN W. NOBLE,
Secretary.

Chairman COMMITTEE ON INDIAN AFFAIRS,
United States Senate.

COAL LEASES IN THE INDIAN TERRITORY.

[Senate resolution 114, Fifty-first Congress, first session.]

JOINT RESOLUTION relating to leases in the Indian Territory.

Whereas certain citizens of the Choctaw Nation have, for the purpose of developing its mineral resources, made leases of coal and mineral rights to the Choctaw Coal and Railway Company, a corporation existing under the laws of the State of Minnesota, and having a right of way for railway, telegraph, and telephone lines granted to it through the Indian Territory by the Congress of the United States, and have, also, made to other persons leases of a similar nature, the consideration being the royalties expressed in said leases: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That consent be, and the same is hereby, given to all leases of coal and mineral lands or rights which the citizens of the Choctaw Nation have made, or may hereafter make, to the said Choctaw Coal and Railway Company, or to any other persons or corporations; and the leases heretofore made are hereby ratified and confirmed: *Provided*, That the terms expressed in the said leases heretofore taken shall not be changed, either as to the time, conditions, or royalties to be paid: *And further provided*, That the rights and privileges of the Choctaw citizens as guaranteed in said leases shall be at all times observed by the said Choctaw Coal and Railway Company, and all other persons or corporations holding such leases: *And further provided*, That all royalties which may become due the Choctaw Nation shall be promptly paid in accordance with the stipulations contained in said leases, unless the same shall be modified or changed by mutual consent of the lessees and the said Choctaw Nation: *Provided further*, That all citizens of the Cherokee, Chickasaw, Creek, and Seminole Nations shall have the same right and privilege of leasing coal and mineral rights as is herein granted to the citizens of the Choctaw Nation: *Provided further*, That nothing in this resolution shall be so construed as to convey to the lessees of the said coal and mineral rights any right, title, interest, or use of the surface of the lands covered by said leases, but shall be strictly confined to the mining and development of the coal or minerals found under said lands covered by the said leases, except the right of ingress, egress, and to so much of said surface as may be essential for right of way over said lands, and for the erection of buildings and machinery needful in the prosecution of the work of mining or developing the coal and minerals under said lands.

[Senate Resolution 119. Fifty-first Congress, first session.]

JOINT RESOLUTION relating to coal leases in the Indian Territory.

Whereas certain citizens of the Choctaw Nation have, for the purpose of developing its resources, made certain leases of coal rights to the Choctaw Coal and Railway Company, a corporation existing under the laws of the State of Minnesota, and having a right of way for railway, telegraph, and telephone lines granted to it through the Indian Territory by the Congress of the United States, and also certain other leases to citizens of the United States, which said leases were transferred to the said Choctaw Coal and Railway Company, the consideration being the royalties expressed in said leases: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That consent be, and the same is hereby, given to certain leases of coal rights which citizens of the Choctaw Nation have made to the said Choctaw Coal and Railway Company, or to citizens of the United States and by them transferred to the said Choctaw Coal and Railway Company, certified copies of the said leases to be deposited with the Commissioner of Indian Affairs, who shall receive and receipt for the same; and the said leases heretofore made are hereby ratified and confirmed: *Provided*, That the terms expressed in said leases heretofore taken shall not be changed, either as to the time, conditions, or royalties to be paid: *And provided further*, That the rights and privileges of the Choctaw citizens, as guaranteed in said leases, shall be at all times observed by the said Choctaw Coal and Railway Company: *And provided further*, That all royalties which may become due to the Choctaw Nation or its citizens shall be promptly paid in accordance with the stipulations contained in said leases, unless the same shall be modified or changed by mutual consent of the lessees to the said Choctaw Nation or its citizens: *Provided further*, That nothing in this resolution shall be so construed as to convey to the lessees of the said coal rights any right, title, interest, or use of the surface of the lands covered by the said leases, but shall be strictly confined to the mining and development of the coal found under said lands covered by said leases, except the right of ingress, egress, and to so much of said surface as may be essential for the right of

way over said lands, and for the erection of buildings and machinery needful in the prosecution of the work of mining or developing the coal under said lands: *Provided further*, That nothing herein contained shall be so construed as to deprive any individual Indian of any rights which he may have had before the passage of this resolution under the constitution and laws of his own nation: *Provided further*, That the lessees of said coal rights shall render a sworn statement to the Commissioner of Indian Affairs or the United States Indian agent for the Five Civilized Nations, during the first week of each month, showing the amount of coal taken from the mines on said coal rights for the month preceding, and the royalties paid to the said Choctaw Nation and to the individual citizens holding said coal rights: *Provided further*, That in the event of the extinguishment of the Indian title to the coal rights covered by these leases, the lessees agree to pay over, as the United States may direct, the royalties arising from the mining of coal on the said coal rights, which are now payable to the Choctaw Nation, in the same manner and for the same amount as at present.

DEPARTMENT OF THE INTERIOR, *Washington*.

MR. SECRETARY :

From such consideration as I have been enabled to give this case, during the limited time which I have had it under advisement, I can find no express authority for these leases, and, I suppose, that it is on account of there being no such authority that this joint resolution has been introduced to confirm them. So far as this Department is concerned, it seems to me that this is a question of administrative policy to be determined, taking into consideration: First, The rights of the Indian; second, those of the Government; and third, the interests of the company. Looking the field over in this light, the question naturally arises should the Department in the interest of this company and the individual Indian, recommend a measure which will place such varied interests and such great power as are necessarily incident to the control of these coal fields in its hands, as is here desired. As I look at it, it is practically granting to this company a gigantic monopoly of these coal fields, and places at its disposal franchises which ought not to be extended for a period of ninety-nine years.

While it is true, as I suppose, and as I gather from the letter of the Commissioner, that this company has invested hundreds of thousands of dollars in this enterprise in the construction of its road, and in preparing to operate these mines, yet, that is no reason why the coal fields of this nation should be placed at the disposal of this railroad company. It entirely ignores the nation as such, and deals exclusively with individual members thereof, so that it practically puts the Choctaw government at the mercy of this private enterprise; entirely ignoring any other interests than those of the individual, it proceeds to execute these leases with him. To recognize this right deprives this local government of the revenues which it has heretofore realized from its mines, and naturally creates a grating between it and the National Government, and while the local constitution for the government of the tribe itself as between individual members thereof, grants the citizen this extraordinary privilege of operating a mine a mile in any direction from his works or improvements thereon, yet there is nothing therein which prohibits the national council from placing such a wholesome legislative enactment thereon, as in its judgment it deems for its best interest; and now, by the recognition of these leases, to ignore the right of this nation to control mines within its territory, in my judgment, is taking a step which will not be conducive to the best interests of either the tribe or the individual members thereof.

Ultimately, I suppose, a large portion of this territory will become a part of the public domain, and will become the home of the settler, pur-

suant to the land laws of the United States, and that, too, many years before the expiration of these leases. And while by the terms thereof the surface soil is not to be disturbed, yet it gives this company such control over the country in which these mines are located as in my judgment will very seriously interfere with and retard private and individual enterprise. The experience of the past teaches us that no individual can compete with the railroad company, which owns and operates its own road and mines, so that the confirmation of these leases has the effect of destroying all competition in these coal fields. I do not believe it will be for the best interest of the Indian to place him at the mercy of this company by the ratification and confirmation of these sixty leases mentioned in this letter. It may be well to encourage the construction of this road, and indeed, by act of February 18, 1888 (25 Stats., 35), it is granted a right of way through these fields upon very favorable terms, and it ought now to be contented to allow these mines to be operated by individual enterprise, and be willing to transport the output thereof as a common carrier, rather than absorbing the entire enterprise itself. Or if it is absolutely necessary that it should operate the mines in this country as a feeder to its road, then, in my judgment, the terms of these leases should be recast more favorably to the Indian and should be limited in the number of mines which it shall control, and they should be subject to the supervisory control of the Secretary of the Interior, so that no wrong or injustice may be done either to the individual or tribal interests of the Indian.

In reviewing this matter, I have relied and counted upon the constitution, laws, and treaties affecting this subject, as set out in the Commissioner's letter, and, as heretofore suggested, I can find no express authority by legislative enactment justifying or authorizing the making of these leases, neither can I find any law of the United States which makes either the constitution or laws of this tribe a part of the laws of the United States, or which recognizes their force as between citizens of the United States and the tribe, or citizens of the United States and individual members thereof, other than such as may be implied from the act granting the right of way to this company where it speaks of a branch being constructed to its leased lands. But I do not deem such a mention of a terminus of a branch as a recognition of the validity of these leases; if so, why the necessity of this confirmatory act? While it is true that the constitution of this Choctaw nation authorizes a member of the tribe who discovers mineral land to operate a mine thereon in any direction within 1 mile from his works or improvements, yet I can find no law which extends that privilege to citizens of the United States by leasing from the Indian who discovers the mine. And I take it that it matters not, so far as the execution of these leases is concerned, as to the power of the Choctaw government to demand a royalty or execute leases for a period of one or six years, as provided in the act set out in the letter of the Commissioner accompanying these papers. Indeed, article 7 of the treaty made June 22, 1855, between the United States and the Choctaw and Chickasaw nations, quoted, would make this company an intruder, and it would become the duty of the United States to remove it therefrom, and, if necessary, to call upon the troops thereof to assist in so doing.

It being the opinion of the Attorney-General, likewise mentioned in the communication of the Commissioner, that the Choctaw tribe had no authority to make these leases prior to 1885, and that opinion being rendered prior to the passage of the act authorizing the construction of this road, I do not understand how the company can claim that the

Government is under any legal or moral obligation to approve leases of the character herein desired, and there has been no act of Congress since the rendering of that opinion which has enlarged upon the statutes then in force, unless it can be held by implication that the act of March 1, 1889 (25 Stats., 784), grants or recognizes such authority. In my judgment it does not, neither do I think it is susceptible of the construction placed upon it by the Commissioner. Now that portion of it necessary for consideration is quoted as follows:

That all laws having the effect to prevent the Cherokee, Choctaw, Creek, Chickasaw and Seminole nations, or either of them, from lawfully entering into leases or contract for mining coal for a period of not exceeding ten years, are hereby repealed, etc.

Now, I suppose that this act had reference to some prior existing laws, and I observe that section 86 of chapter 11 of the acts of the Cherokee Nation, which was in force at the time of the passage of this act relative to mineral lands, reads as follows:

No license shall be granted by the treasurer for a longer period than ten years at the option of the lessee, etc.

I am also informed that the Choctaw laws authorize leases for six years. Now, my opinion about the construction to be placed upon said act of March 1 is that it did away with all limitation upon the right of these nations to lease, leaving it to their option and their judgment as to the duration of leases. It stands to reason that such construction should be placed upon this act when considered in the light of the Indian statutes in force at the time. This statute had some purpose and object, and it was to do away with what was supposed to be the existing limitation upon the power of these several nations to make leases for a longer period than that which had theretofore existed, and it was to correct this abuse and overcome this objection and supposed evil that said act of March 1 was passed, so that I take it that the construction placed upon the statute by the Commissioner in that particular is erroneous; that this nation has just as much power and just as much authority to execute a lease for an unlimited time as the individual member of the tribe who has made discovery of the mines and is seeking to operate the same under the terms of the constitution heretofore mentioned. But as I believe neither of them has any authority outside the members of the tribe to execute these leases, it makes no particular difference what construction is placed upon the act of March 1, 1889, for the purpose of determining the question under consideration.

For the reasons here set out, and on account of the unusual length of time for which these lands are leased, and on account of what I believe will be a change in the prosperity of this country within the time provided for in these leases, and the reason that these Indians are protesting against the confirmation thereof, I do not believe that the Department should recommend the passage of this joint resolution. It is practically allowing this railroad company to usurp the authority which has heretofore been exercised by the national council over the mines within its borders, and I apprehend that very serious and direful results and manifold complications are likely to grow out of and arise therefrom, for it must be quite evident that the nation as such will not quietly submit, but will struggle to maintain and keep the revenues which have heretofore flowed into its national treasury from the operation of these mines, from being diverted to other channels, so that I view it as a matter of policy and amity between the tribe and the Government its interest as a nation should be carefully guarded and protected, and it should have a voice in saying what disposition shall be

made of its mineral lauds. When the Government comes to treat with it for its surplus domain, it deals directly with the tribe, and the tribe should, in my judgment, be heard and protected in these leases. As they are draughted they are one-sided, all in favor of the interests of the company; the term of the leases is at its option, the right to sublet is at its option, and the only option the Indian has is to take his three-fourths of a cent a bushel for the coal mined. I do not and can not believe that these leases should be confirmed.

Very respectfully,

GEO. CHANDLER,
First Assistant Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, August 14, 1890.

SIR: I have received, by Department reference of the 2d instant for report, a communication from Hon. H. L. Dawes, chairman of the Senate Committee on Indian Affairs, transmitting Senate resolution No. 119, relating to coal leases in the Indian Territory, and also, by reference of the same date, a communication from the chairman of the House Committee on Indian Affairs inclosing House joint resolution No. 206, which is identical in its provisions with the Senate resolution above referred to.

This resolution is transmitted as a substitute for Senate resolution No. 114 and House joint resolution No. 193. It is requested that the said committees be furnished with copies of such leases as are to be ratified by this resolution and the opinion of the Department as to the propriety of the legislation therein proposed is asked.

The said resolution provides for the ratification and confirmation of certain leases of coal rights, which citizens of the Choctaw Nation have made to the Choctaw Coal and Railroad Company, or to citizens of the United States, and by them transferred to the said company; that certified copies of said leases are to be deposited with the Commissioner of Indian Affairs, who shall receive and receipt for the same; that the terms expressed in such leases shall not be changed, either as to the time, conditions, or royalties to be paid; that the rights and privileges of the Choctaw citizens, as guaranteed in said leases, shall be at all times observed by said company; that all royalties due thereunder to the Choctaw Nation or its citizens shall be promptly paid in accordance with the stipulations contained in said leases, unless the same shall be modified or changed by the mutual consent of the lessees to (and with) the said Nation or its citizens; that nothing in said resolution shall be construed to convey to the lessees of said coal rights any right, title, interest, or use of the surface of the lands covered by the said leases, except the right of ingress, egress, and to so much of said surface as may be essential for the right of way over said lands, and for the erection of buildings and machinery necessary for the prosecution of the work of mining or developing the coal under said lands; that nothing therein shall be construed to deprive any individual Indian of any rights under the constitution and laws of his own nation which he may have had before the passage of the resolution; that the said lessees shall render a sworn statement to the Commissioner of Indian Affairs, or the United States Indian agent for the five civilized nations, during the first week of each month, showing the amount

of coal taken from the mines on said coal rights for the month preceding, and the royalties paid to the said nation and to individual citizens thereof; and that in the event of the extinguishment of the Indian title to the coal rights covered by these leases, the lessees agree to pay over as the United States may direct, the royalties arising from the mining of coal on the said coal rights, which are now payable to the Choctaw Nation, in the same manner and for the same amounts as at present.

The manager of the Choctaw Coal and Railway Company has filed in this office agreements covering sixty-two coal claims which, he states, include all the leases proposed to be validated by this agreement. Excepting the names of the parties, and the descriptions of the claims covered (all of which extend a mile in each of four directions), these leases are all substantially the same in their provisions. Attached to each of said indentures, except ten, is the certificate of the clerk of the United States court for Indian Territory, to the effect that the lessor in person, or by attorney, appeared before him and acknowledged the execution of the said lease.

There are also attached to each and every one of said indentures certificates of the county clerk and county and probate judge, of the county in said nation wherein the lands covered by such leases lie, that they were duly recorded upon the records of said county.

It is verbally stated by the representatives of the company that the said ten indentures will be acknowledged before the clerk of the said court as soon as the attendance of the parties can be secured.

I have the honor to inclose herewith a copy of one of these leases for the information of the Department. It will be observed that the lessor grants and leases to the said company his undivided interest in the coal claim therein described; that said lessee is given the exclusive right and privilege to take coal from said claim for its own use and for market upon the conditions therein named; that said lessee is also granted the exclusive right to have upon said claim all buildings, inclosures, machinery, tools, and apparatus used and required in carrying into effect the objects of the lease; that the said lessee is granted the right to permit its employés and other persons to go upon the said claim and the premises thereto attached during the pendency of the lease; that the said lease shall be in force for the term of ninety-nine years from its date, or so long as the said lessee shall observe the laws of the Choctaw Nation and perform the agreements of said lease; that no further consideration is to be paid and demanded for the rental of said coal claim and the premises thereto attached than three-fourths of 1 cent per bushel; that the said lease shall remain in force and effect for a period of ninety-nine years unless the said company shall give notice in writing to the lessor or his legal representatives, not less than thirty days of its intention to cancel the same, such notice to forfeit the right of renewal; that said company and assigns shall have the right to assign said lease or sublet any part of the coal claim or privileges granted therein; that said company and assigns shall pay to the lessor or his legal representatives one-fourth of 1 cent for each bushel of coal taken from any mine covered by such lease, and shall pay to the Choctaw Nation one-half of 1 cent for each bushel so mined, making a total royalty of three-fourths of 1 cent for each bushel of coal taken from said mine; that said company or assigns shall commence operating the said mine on said claim within twelve months after it shall have completed a branch line from its main line of railroad to said mine or coal claim; that the lessees and assigns shall have the peaceable possession and

enjoyment of the said coal claim without hindrance or interruption by the lessor, or any other person, and that the lessor and his heirs, etc., shall warrant the lessee and assigns in such quiet enjoyment.

With regard to mining claims within the Choctaw Nation, section 18 of Article VII of the Constitution of said nation provides that—

Any citizen of this nation who may find any mine or mines, or mineral waters, shall have exclusive right and privilege to work the same so long as he may choose, within 1 mile in any direction from his work or improvements; provided, however, he does not interfere with the rights of the former settler.

The land of the Choctaws was conveyed to said nation by patent in fee simple, "to them and their descendants to inure to them while they shall exist as a nation and live on it, liable to no transfer or alienation, except to the United States, or with their consent," and by the foregoing section of its constitution the nation clearly intended to recognize fully the rights of any citizen who is the original discoverer of any mining claim; but the laws with regard to leases passed by the Choctaw Council appear to relate only to the royalties to be paid into the treasury of said nation, without affecting the rights of the individual discoverer, claimant, or lessor.

The act of the Choctaw Council of November 5, 1880, provides that—

There shall be appointed by the principal chief, by and with the advice and consent of the Senate, one competent person, a citizen of said nation, to be known as national agent of the Choctaw Nation, whose duty it shall be to contract for the sale of stone, stone-coal, and timber of all kinds. Said national agent shall be commissioned, and before he enters upon the duties of his office shall take the oath of office prescribed in the constitution, and enter into bond with good and sufficient securities in the penal sum of ten thousand dollars, payable to the Choctaw Nation, conditioned that he will well and truly discharge his duties in accordance with law; which bond shall be filed in the national secretary's office. Said national agent shall hold his office for two years unless sooner removed by the principal chief for malfeasance in office.

Said national agent in making contracts with parties for the sale of any of the articles herein mentioned, shall charge royalty as follows:

On coal, one-half per cent per bushel.

Said section further provides that—

* * * All contracts made hereunder shall expire on the 31st day of December of each year, except contracts for mining coal which shall cover a period of six years; and all royalty accruing under the same shall be due and payable monthly.

This is, so far as this office is advised, the only leasing law upon the statute books of said nation affecting coal claims, and while it regulates the royalty to be paid into the tribal treasury and limits the duration of leases which are made with the tribal authorities, it appears to leave the individual claimant to make his own negotiations, and to arrange the compensation to be paid him for his interest in the mine which is guaranteed to him in the constitution, as above set forth.

The Choctaw Nation is secured the right of self-government and the jurisdiction over persons and property within its limits by the following treaty provisions:

Article VII of the treaty between the United States and the Choctaw and Chickasaw Nations, of June 22, 1855, provides that—

So far as may be compatible with the Constitution of the United States, and the laws made in pursuance thereof, regulating trade and intercourse with the Indian tribes, the Choctaws and Chickasaws shall be secured in the unrestricted right of self-government and full jurisdiction over persons and property within their respective limits; excepting, however, all persons with their property who are not by birth, adoption, or otherwise citizens or members of either the Choctaw or Chickasaw tribe, and all

persons not being citizens or members of either tribe, found within their limits, shall be considered intruders, and be removed from and kept out of the same by the United States agent, assisted, if necessary, by the military, with the following exceptions, viz: Such individuals as are now or may be in the employment of the government and their families; those peacefully traveling or temporarily sojourning in the country or trading therein under license from the proper authority of the United States, and such as may be permitted by the Choctaws or Chickasaws with the assent of the United States agent to reside within their limits, without becoming citizens or members of either of said tribes. (11 Stats., 612.)

These treaty obligations are reaffirmed in Article X of the treaty between the United States and the Choctaw and Chickasaw Nations, concluded April 28, 1866, which provides as follows:

The United States reaffirms all obligations arising out of treaty stipulations or acts of legislation with regard to the Choctaw and Chickasaw Nations, entered into prior to the late rebellion, and in force at that time, not inconsistent herewith; and further agrees to renew the payment of all annuities and other moneys accruing under such treaty stipulations and acts of legislation, from and after the close of the fiscal year ending on the 30th of June, in the year 1866. (14 Stats., 774.)

Prior to the year 1885, the right of the Choctaws to execute lawful leases was recognized, and the bonds filed by the lessees were approved by the Department, but at the request of the Secretary of the Interior, the Attorney-General took under consideration the question of the right of Indians to execute leases of their reservation lands, and on July 21, 1885, he rendered an exhaustive opinion upon the subject which has since governed the action of the Department in dealing with the matter in the absence of any special legislation by Congress affecting the reservation under consideration.

In this opinion the Attorney-General quotes section 2116 of the Revised Statutes, which provides that—

No purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto from any Indian nation, or tribe of Indians, shall be of any validity in law or equity unless the same be made by treaty or convention entered into pursuant to the Constitution.

and holds that—

This statutory provision is very general and comprehensive. Its operation does not depend upon the nature or extent of the title to the land which the tribe or nation may hold. Whether such title be a fee-simple, or a right of occupancy merely, is not material; in either case the statute applies. It is not, therefore, deemed necessary or important, in connection with the subject under consideration, to inquire into the particular right or title to the above-mentioned reservations held by the Indian tribes or nations respectively which claim them. Whatever the right or title may be, each of these tribes or nations is precluded, by the force and effect of the statute, from either alienating or leasing any part of its reservation, or imparting any interest or claim in and to the same, without the consent of the Government of the United States.

No general power appears to be conferred by statute upon either the President or Secretary, or any other officer of the Government to make, authorize, or approve leases of lands held by Indian tribes; and the absence of such power was doubtless one of the main considerations which led to the adoption of the act of February 19, 1875, chapter 90, "to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases." The act just cited is moreover significant as showing that, in the view of Congress, Indian tribes can not lease their reservations without the authority of some law of the United States.

All laws having the effect to prevent the Five Civilized Nations from lawfully entering into leases or contracts for mining coal for a period not exceeding ten years were, however, repealed by a proviso in section 6 of the act of Congress establishing a United States court in the Indian Territory, approved March 1, 1889 (25 Stats., 784), which reads as follows:

That all laws having the effect to prevent the Cherokee, Choctaw, Creek, Chickasaw, and Seminole Nations, or either of them, from lawfully entering into leases or contracts for mining coal for a period not exceeding ten years, are hereby repealed; and said court shall have jurisdiction over all controversies arising out of said mining leases or contracts and of all questions of mining rights or invasions thereof where the amount involved exceeds the sum of one hundred dollars.

With regard to the construction placed by the company upon the foregoing proviso, and the object sought to be obtained by the legislation proposed in the resolution under consideration, Mr. E. D. Chadick, the manager of said company, in a communication, copies of which are herewith transmitted, dated the 1st instant, makes the following statement:

We are expending money at the rate of \$140,000 to \$160,000 per month in the Territory in railway construction, mine development, etc., and the time must come very soon when it will be necessary to bond the line for its continuance through the Territory east and west, and for the north and south line provided for in its charter. To do this these bonds must be sold abroad or through agents of foreign houses here, and the ambiguous wording of the provision of the statute creating a court in the Indian Territory, which provision allows, in our opinion, or in the opinion of our counsel, the Indians to lease their lands for an indefinite period (but which interpretation is disputed by others), renders it necessary that in justice to ourselves there should be declaratory legislation upon this subject, and the resolution now before you contemplates simply the validation of what has been done under this statute of doubtful meaning.

The question of the construction of the provision of the act of March 1, 1889, above referred to, is raised, and it has been orally argued before this office by the representative of the company that this act only repeals all laws having the effect to prevent the Choctaw tribal government in its national capacity from lawfully entering into leases for a period not exceeding ten years, under which leases a royalty might be collected for the treasury of said nation. It is contended that under the section of the Choctaw constitution above quoted, the discoverer of the mine is guaranteed the exclusive right and privilege to work the same so long as he may choose and that it passes to his heirs at his death; that this carries with it the right to control the mine, or to have it worked under a lease or contract for a stated share of its proceeds.

In the opinion of this office this proviso is of doubtful meaning and application.

Under the tribal constitution the original discoverer of the mine is granted the exclusive right and privilege of working it so long as he may choose, but under the Attorney-General's opinion neither the discoverer nor the Choctaw nation can execute a lawful lease of it. The proviso in the act above referred to authorizes the nation to execute a lawful lease of it for a period not exceeding ten years, but is silent with regard to the rights and powers of the individual to execute a lease of his interest in the claim. If it shall be held that the force and effect of this statute is to authorize the execution of coal leases by the Choctaw Nation to the exclusion of the individual discoverer, it would seem to deprive such original discoverer of his rights guaranteed by the tribal constitution.

I have the honor to transmit also herewith copies of an affidavit of E. D. Chadick, esq., manager of said company, setting forth—

That he is the manager of the Choctaw Coal and Railway Company, and as such is responsible for and conversant with the business of said company, and fully aware of the nature, scope, and purpose of all contracts and obligations entered into by said Choctaw Coal and Railway Company, and that the company now holds, by virtue of an act of Congress entitled "An act to establish a United States court in the Indian Territory, and for other purposes," approved March 1, 1889, sixty-two leases of coal rights, made with citizens of the Choctaw Nation, either directly to

the Choctaw Coal and Railway Company or to citizens of the United States, and by them transferred to the said company; all the said leases being alike as to time, terms, and conditions, and only differing as to descriptions of the coal claims covered by the separate leases and the dates and names of lessors.

And deponent further says that each and all of the said leases were executed in good faith by the said Choctaw Coal and Railway Company, and will be carried out to the letter if said company is not hampered by an unfavorable construction of the leasing law contained in the act of Congress before mentioned allowing Indian citizens to lease their coal lands.

Deponent further says that the said Choctaw Coal and Railway Company has no right or title to or use of any leases in the Indian Territory, other than the sixty-two herein mentioned, and that said company seeks, by the resolution now pending before Congress, the validation of these sixty-two leases, and no others.

And deponent further says that of the sixty-two leases herein mentioned not exceeding one-fourth of the whole number is valuable for working purposes, the balance being taken for the purpose of covering the claims of certain citizens of the Choctaw Nation who had associated themselves together in different groups and had agreed to join all their claims and share in the profits of any claim of the whole number which might prove on examination to be valuable.

I also have the honor to transmit herewith copies of a communication dated the 1st instant, from Chief Mayes, of the Cherokee Nation, relative to leases in the Cherokee Nation. As the resolution under consideration has reference only to leases within the Choctaw Nation, the Cherokees do not appear to be affected thereby.

In addition to the foregoing I also inclose copies of a communication from Agent Bennett, of the Union Agency, Indian Territory, dated the 2d instant, with which is transmitted a report from Clerk and Acting Agent Morris, of said agency, relative to certain transactions of employes of the company with regard to a townsite in the Indian Territory. I merely inclose these papers for the consideration of the Department, with the suggestion that they do not appear to be pertinent to the consideration of the matter of the leases referred to in the resolution. The matters therein referred to will be made the subject of a separate report to the Department.

Under date of the 8th instant this office received the following telegram from Agent Bennett:

Choctaw people are filing strong protests against leases of coal lands to Choctaw Coal and Railway Company. Will transmit promptly. Hold your report for their consideration.

In compliance with the foregoing suggestion of Agent Bennett the report of this office has been held, in order that any communication the Choctaw Nation might choose to make with regard to the matter might be considered in connection with the other documents on file in the case.

No such communication has been received, however, and, if it is received in the future, it will be promptly forwarded to the Department.

I also transmit copies of another communication, dated the 10th instant, filed in this office by Mr. Chadick. With regard to the subject matter of the resolution, and the leases proposed to be validated thereby he states as follows:

" * * That the royalty now paid the Indians under the leases made by the Choctaw Coal and Railway Company are larger in amount per bushel than paid in any other part of the United States. In the Pocahontas mining district of West Virginia the royalty averages 12½ cents per ton; in the Clearfield district, Pennsylvania, about 12½ to 15 cents per ton, and in no other part of the United States so far as my knowledge goes is there anything paid higher than these figures, except in the Indian Territory, where the royalty will average 20 cents per ton on all classes of merchant coal.

Concerning the working of all the leases held by us would say that an examination of the names of the lessors in the different basins covered by these coal leases will show that all of them in each group have a common interest, and we also have in

contemplation the consolidation of all the holders of all the leases into one association to be known as the Choctaw Citizens Royalty Association. In fact some of the lessors have consented to joining the royalty association and all of them will, but it was a matter that required more time and attention than we have been able to bestow upon it heretofore.

It is the intention of the company, and it is carrying out this policy as fast as practicable, of opening two or more mines in each group, so that each lease-holder may be benefited by its work. In proof of this fact I may mention that our first mine is situated at Alderson, 6 miles east of South McAlester, the second is 16 miles east, the third 17 miles north of east, the fourth 21 miles north of east, and the fifth 31 $\frac{3}{10}$ miles east of No. 4, and all of them represent different ownerships in part, although there are some of the lessors interested in all of these mines. The sixth mine we are opening is 71 miles east of South McAlester, 8 miles east of our junction with the St. Louis and San Francisco Railway, and 12 miles west from the Arkansas line. This covers all the groups but one, which comprises the leases taken by Gleason, Colbman, Denton, and others, which will be opened at a point near Red Oak during the coming fall. You can readily understand from the foregoing that no injustice is being done in any way to the holders of these coal claims, and it is, as before stated, our object to consolidate them all into one as soon as possible.

As regards the surrender or cancellation of any lease caused by our voluntary abandonment for two consecutive years, after having commenced work on the same, I think it only a fair provision, and we are perfectly willing to accede to it. Would represent that the protests, etc., now being forwarded have only one object, viz, delay. They are inspired by our competitors in the coal trade, who foresee that our sworn monthly statement as to the amount of coal mined, and royalty paid, will inevitably force them to do the same thing before very long.

* * * * *

I kindly ask you to let this matter go before Congress as promptly as possible owing to the fact that we are getting so dangerously near the close of the session.

Before proceeding to the consideration of the text of the said resolution, it may be proper to state that several railway companies have, within the last few years, been granted right of way through the Choctaw Nation and through the vicinity of the coal lands covered by most of the leases affected by this proposed legislation. One of these companies had constructed only about 10 miles of its line before the forfeiture limit in its right of way act expired. Another filed maps of definite location more than a year ago, but this office is not advised that any work of construction has been begun. The Choctaw Coal and Railway Company has proceeded with the work of constructing its line, and its road is reported to be first-class in all respects, promising to be a continuous highway through the Indian Territory and the Territory of Oklahoma, which will greatly enhance the value of the products of those Territories.

In view of the treaties, laws, and facts herein set forth and referred to, and in view of the present advanced civilized state of the majority of the citizens of the Choctaw Nation, I am of the opinion that they should be given due encouragement in all proper efforts to develop the resources of their country, and to realize as much therefrom as practicable. Due regard should also be had, in the consideration of the questions presented in this resolution, to the fact that this company has, under the authority of the act of Congress, granting it right of way for a line of railway through the said Territory, expended large sums of money in the construction of a permanent and substantial highway through the Territory, where other companies with equal franchises have either been unable or unwilling to build their roads, thereby greatly enhancing the value of these coal claims by affording the best facilities for transportation.

On the other hand, it becomes the duty of this office to guard carefully the interests of these Indians, civilized though they be, and to promptly point out the features of any proposed legislation which may be deemed prejudicial thereto.

With this view of the matter, I have the honor to present it to the Department with the following suggestions :

It is provided in these leases that they shall be in force for a period of ninety-nine years from the date of their execution. Under the Constitution of the Choctaw Nation, as hereinbefore set forth, these coal claims are recognized as the property of the finder, and, under the customs of said nation, may descend to his heirs. It thus seems that the nation has practically surrendered control over them, to the individual finder, except to collect a royalty on all coal taken therefrom. These leases provide for the payment to the nation of the royalty prescribed by its laws, and they appear to leave the control of the nation over these claims practically unchanged.

After a careful examination of the matter, I am not, however, prepared to recommend legislation validating all of these leases for a period of ninety-nine years, but, in view of the statement of Delegate Standley, of said nation, that the coal supply in most, if not all, of the claims covered by these leases would be exhausted in ten years of continuous operation, I suggest that lines 11, 12, and 13, of the resolution be modified as follows :

In line 12, strike out the word "time," and after the word "paid," in line 13, insert the words—

And provided further, That said company shall have no further right, title, or interest in or to, or jurisdiction over, any claim covered by any of said leases after the supply of coal in said claim shall have been exhausted: *And provided further*, That after work is begun upon any of the claims embraced in said leases a voluntary suspension of the continuous operation of said claim, for a period of two consecutive years, shall be deemed conclusive evidence that such coal supply has been exhausted: *And provided further*, That the terms expressed in said leases with regard to time shall not be changed except as hereinbefore provided.

It is further suggested that the word "to" in line 21 be stricken out, and the word "and" be inserted in its place; and also, in the same line that the words "or its citizens" be stricken out, and the words "and the lessors" be inserted in lieu thereof.

It was the intention of this office to recommend that the company be required to begin the operation of these claims within a limited time or forfeit its rights therein, but from the communication of Mr. Chadick, dated the 10th instant, above referred to, it appears that the individual lessors of these claims have organized themselves into groups, under an arrangement whereby they share alike in the proceeds of any claim in such group which may prove valuable. He further states that it is the intention of the company, if the resolution shall become a law, to open without unnecessary delay one or two mines in each group.

I inclose herewith copies of the statement prepared by Mr. Chadick, showing, as he states, the groups and locations of the claims of the different lessors.

If the resolution shall be amended as suggested it presents the question whether the interests of these Indians would be subserved by validating leases of these coal claims entered into by the comers under the Choctaw constitution, said leases to run until the coal supply in the claims covered by them shall be exhausted.

In view of the fact that the company is represented to have in process of construction a line of railway which proposes to be an interstate medium of transportation, and which therefore promises to be of great influence in facilitating transportation, and stimulating production in the Indian and Oklahoma Territories; and in view of the further fact that it can doubtless command sufficient means to operate these coal

claims so as to secure to the Indian the largest returns therefrom, I have the honor to state, that if the said resolution shall be amended as herein indicated, I see no objection, so far as this office is concerned, to its passage.

The communications from the Senate and House of Representatives, above referred to, and the resolution, are herewith returned.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

WASHINGTON, D. C., August 1, 1890.

SIR: Referring to the joint resolution of Congress, now before you for report, regarding certain leases made to the Choctaw Coal and Railway Company, I desire to submit the following statement of facts directly bearing upon this subject, and would first call your attention to the financial condition and standing of the Choctaw Coal and Railway Company and the amount which it has expended in the Indian Territory.

Of all the numerous charters granted by the Fiftieth Congress, only two roads which secured these privileges have been built or are building, and these two are, first, the Arkansas Valley Railway and the Choctaw Coal and Railway Company. Speaking for the latter, would say that we have expended up to this date over \$2,000,000 in the construction of our road, the development of our mines, and preparations for further extension, south and west. We have 92 miles of road in operation—orrather 65 miles in operation and 32 built upon the west end,—which is ready, but will be operated only when connection between the Missouri, Kansas and Texas Railway, and the Atchison, Topeka and Santa Fé Railway is made. We have constructed this road in the best manner yet known in the West. It is laid with 70-pound steel rail and stone ballast; with every opening, from 10 feet upward, masonry, with iron girders; under 10 feet, masonry, with triple stringers; all our depots, station-houses, and other buildings are first class in every respect, and adapted to the requirements of modern trade; we have built and are building two thousand coal cars, besides the regular complement of box and freight cars, and the finest passenger coaches and trains west of the Mississippi River, south of St. Louis. We are now mining about 500 tons of coal each day of twenty-four hours, which amount will be increased by the first of the year to 1,200 tons per diem; the royalties paid to the Indians aggregating about \$30 per day at present, to the citizens and nation combined. We have paid for every dollar's worth of property taken, destroyed, or damaged along our line. We have fenced the road in the most substantial manner; putting down crossings, cattle-guards, and other appliances for safety, and have preserved unhurt the cattle ranges of the Indians, and I may add in this connection that the company, in consequence of the precautions taken, has not killed one head of stock since it began operating its trains, nor has it ever injured a passenger or a person at any of its highway crossings.

No bonds have been placed upon the road, the money being advanced by the owners, who are satisfied that the development of the coal properties along the line would yield them a satisfactory return. Our object in seeking to validate these leases by the joint resolution of the two houses, is this: We are expending money at the rate of \$140,000 to \$160,000 per month in the Territory, in railway construction, mine developments, etc., and the time must come very soon when it will be necessary to bond the line for its continuance through the Territory east and west, and for the north and south line provided for in its charter. To do this, these bonds must be sold abroad or through agents of foreign houses here, and the ambiguous wording of the provision in the statute creating a court in the Indian Territory, which provision allows, in our opinion or in the opinion of our counsel, the Indians to lease their lands for an indefinite period (but which interpretation is disputed by others), renders it necessary that in justice to ourselves there should be declaratory legislation upon this subject, and the resolution now before you contemplates simply the validation of what has been done under this statute of doubtful meaning.

I am fully aware, that in the heat of the political campaign now going on in the Choctaw Nation, a great many charges have been made against us, as against all railroads in the Territory, but can only say that we court the fullest and freest investigation in all these matters, and it will be shown in the end that we have not only kept within the limits of our charter but have done more for the Indians and for the improvement of their country and the development of its resources than any other cor-

poration or combination which has yet entered the Territory. No other company has attempted to provide schools in its mining towns, which are free alike to Indian and white children; this we have done and are doing; wherever we establish a mine we provide for the education of the children without regard to race or color.

But it is not because we desire to sound our own praises that I call your attention to this matter, but because of the unjust and unwarranted attacks which have been made from certain interested quarters upon us, and to explain the position to you from the stand-point of an interested party, and yet one who is liberal enough to see that the best interests of the company will be served by kind and fair treatment of these Indians, and by a strict adherence to the terms of our charter contract with the United States. It is not alone for the amount of money we have spent that we are entitled to recognition and protection, but for the further fact that we have maintained inviolate our obligations to these people, that we have not sought in any way to deprive them of anything justly theirs.

I would further call your attention to the fact that within a year from this date the development of our coal mines will have reached a point where the average daily output will range from 3,500 to 5,000 tons per day, and the royalties arising therefrom will be sufficient for the educational fund of the entire Choctaw Nation, if honestly appropriated to that purpose. It was with a view to this that I placed in the resolution a provision requiring sworn statements to be furnished by us to your office each month for the month preceding. You will then be enabled to see for yourself just how far we are an advantage to these people.

In the present anomalous condition of affairs in that country with the rights of the Indians and of the railways imperfectly understood, and in many cases without established precedents to guide us, it is of the utmost importance that every lawful step be taken to encourage legitimate enterprises in the hands of men of established good reputation, and such enterprises should be afforded every possible guaranty on the part of the United States that they will not be subjected to the chances of loss or injury which may ensue from a change of conditions that must take place in the near future. It is for this purpose that we ask your careful attention to our case, and believe that you will find us in every respect attempting at least to fulfill our contracts to the letter and in the spirit in which they are made. And we have, therefore, asked the United States Government to declare these leases valid, seeing that the sole doubt or cloud cast upon their validity is the ambiguous wording before mentioned of the provision of the statute establishing a United States court in the Indian Territory.

As regards the right of the Choctaw citizens to discover and hold this coal, that is settled by the constitution of their country, which was approved and made a part of their treaty with the United States. The right to lease is with the individual; it is his coal by discovery, and the constitution makes it his right and he is not prohibited from leasing it. The only provision in the law is, that the parties attempting to mine such coal shall first make a contract with the Choctaw Nation for six years' permit, and deposit with the national agent a bond for \$10,000 to guaranty the collection of the royalties due the Choctaw Nation, and the observance of the Choctaw law as regards the sale of liquor, etc. All these we have complied with, and believing ourselves fairly entitled to the recognition asked for, we have therefore appealed to you for a favorable consideration of the same.

Trusting that this will meet with your approbation, I remain, very respectfully,

E. D. CHADICK,

Manager Choctaw Coal and Railway Company.

THE COMMISSIONER OF INDIAN AFFAIRS.

DISTRICT OF COLUMBIA, *City and County of Washington, ss.*

This day personally appeared before me, a notary public of the city and county of Washington, District of Columbia, Edwin D. Chadick, who, being duly sworn, deposes and says:

That he is the manager of the Choctaw Coal and Railway Company, and as such is responsible for and conversant with the business of said company, and fully aware of the nature, scope, and purpose of all contracts and obligations entered into by said Choctaw Coal and Railway Company, and that the company now holds, by virtue of an act of Congress, entitled "An act to establish a United States court in the Indian Territory, and for other purposes," approved March 1, 1889, sixty-two leases of coal rights, made with citizens of the Choctaw Nation, either directly to the Choctaw Coal and Railway Company or to citizens of the United States, and by them transferred to the said company; all the said leases being alike as to time, terms, and conditions, and only differing as to descriptions of the coal claims covered by the separate leases and the dates and names of lessors.

And deponent further says, that each and all of the said leases were executed in good faith by the said Choctaw Coal and Railway Company, and will be carried out to the letter, if said company is not hampered by an unfavorable construction of the leasing law contained in the act of Congress before mentioned, allowing Indian citizens to lease their coal lands.

Deponent further says that the said Choctaw Coal and Railway Company has no right or title to, or use of, any leases in the Indian Territory, other than the sixty-two herein mentioned, and that said Company seeks, by the resolution now pending before Congress, the validation of these sixty-two leases, and no others.

And deponent further says that of the sixty-two leases herein mentioned, not exceeding one fourth of the whole number is valuable for working purposes, the balance being taken for the purpose of covering the claims of certain citizens of the Choctaw Nation who had associated themselves together in different groups, and had agreed to join all their claims, and share in the profits of any claim of the whole number, which might prove, on examination, to be valuable.

Subscribed in my presence and sworn to before me, this 30th day of July, 1890.
 EDWIN D. CHADICK,
 THOS. HOPKINS,
 Notary Public.

List of leases, Choctaw Coal and Railway Company.

Name.	Residence.	Date	No. of Claims
Moses Williams.....	Tobucksey and Gaines Counties, Choctaw Nation, Ind. T.	Aug. 4, 1889	4
John M. Grady.....			
James F. Freeney.....			
G. M. Bond.....			
Fritz Sittel.....			
Robert J. Ward.....			
Simon James.....			
Robert James.....			
James F. Freeney.....			
John M. Grady.....			
G. M. Bond.....	Tobucksey and Gaines Counties, Choctaw Nation, Ind. T.	Aug. 1, 1889	2
Fritz Sittel.....			
R. J. Ward.....			
John M. Grady.....			
James F. Freeney.....			
G. M. Bond.....			
Fritz Sittel.....			
Robert J. Ward.....			
Ahotubbee.....			
John M. Grady.....			
James F. Freeney.....	Tobucksey and Gaines Counties, Choctaw Nation, Ind. T.	Aug. 1, 1889	2
G. M. Bond.....			
Fritz Sittel.....			
Robert J. Ward.....			
John M. Grady.....			
James F. Freeney.....			
G. M. Bond.....			
Fritz Sittel.....			
Robert J. Ward.....			
Mrs. John Adams.....			
John M. Grady.....	Tobucksey and Gaines Counties, Choctaw Nation, Ind. T.	Aug. 1, 1889	1
James F. Freeney.....			
G. M. Bond.....			
Fritz Sittel.....			
Robert J. Ward.....			
Ahotubbee.....			
Ishilatubbee.....			
John M. Grady.....			
James F. Freeney.....			
G. M. Bond.....			
Fritz Sittel.....	Tobucksey and Gaines Counties, Choctaw Nation, Ind. T.	Aug. 1, 1889	1
Robert J. Ward.....			
James Arnature.....			
John M. Grady, as guardian of Henry Freeney, a minor.....			
Josiah Gardner.....			
G. M. Bond.....			
James J. McAlester, by his attorney in fact, Josiah Gardner.....			
John M. Grady.....			
J. F. Freeney.....			
J. F. Freeney.....			

List of leases, Choctaw Coal and Railway Company—Continued.

Name.	Residence.	Date.	No. of Claims.
James F. Freeney	Choctaw Nation, Ind. T	Aug. 1, 1889	1
John M. Grady			
G. M. Bond			
Robert J. Ward			
Jonas Durant			
John Denton	Choctaw Nation, Ind. T	1889	1
M. H. Gleason			
John M. Grady	Gaines County, Choctaw Nation, Ind. T	1889	1
J. F. Freeney			
John M. Grady	Choctaw Nation, Ind. T	1889	1
J. F. Freeney			
John M. Grady, guardian of Henry Freeney.	Indian Territory	1889	1
John M. Grady	Choctaw Nation, Ind. T	1889	1
James Anacher	Choctaw Nation, Ind. T	1889	1
John M. Grady			
Jesse Carter	Choctaw Nation, Tobucksey County, Ind. T	1889	1
John M. Grady			
James F. Freeney	Gaines County, Choctaw Nation, Ind. T	1889	1
John M. Grady			
G. M. Bond			
Robert J. Ward			
Jonas Durant			
John Denton	Tobucksey County, Choctaw Nation, Ind. T	Dec. 2, 1889	1
M. H. Gleason			
Hubbard M. Quincy, guardian of Ellis Anolatubbee, infant heir of Martin Anolatubbee, deceased.			
M. H. Gleason	Tobucksey and Gaines Counties, Choctaw Nation, Ind. T.	Mar. 7, 1890	1
John M. Grady			
R. O. Edmunds	Gaines and Tobucksey Counties, Choctaw Nation, Ind. T.	Mar. 7, 1890	1
John Benton			
R. O. Edmunds	Tobucksey, Gaines, and Sugar Loaf Counties, Choctaw Nation, Ind. T.	Mar. 7, 1890	1
M. H. Gleason			
R. B. Coleman	Tobucksey, Gaines, and Sugar Loaf Counties, Choctaw Nation, Ind. T.	Mar. 7, 1890	1
M. H. Gleason			
R. O. Edmunds	Tobucksey, Gaines, and Sugar Loaf Counties, Choctaw Nation, Ind. T.	Mar. 7, 1890	1
Morris Green			
Handy La Flore	Tobucksey and Gaines Counties, Choctaw Nation, Ind. T.	Mar. 7, 1890	1
M. H. Gleason			
R. O. Edmunds	Tobucksey, Sugar Loaf, and Gaines Counties, Choctaw Nation, Ind. T.	Mar. 7, 1890	1
Morris Green			
Joshua McCurtin	Tobucksey and Gaines Counties, Choctaw Nation, Ind. T.	Mar. 7, 1890	1
M. H. Gleason			
R. O. Edmunds	Tobucksey, Sugar Loaf, and Gaines Counties, Choctaw Nation, Ind. T.	Mar. 7, 1890	1
John Denton			
M. H. Gleason	Tobucksey and Gaines Counties, Choctaw Nation, Ind. T.	Mar. 7, 1890	1
Morris Green			
R. O. Edmunds	Tobucksey and Gaines Counties, Choctaw Nation, Ind. T.	Mar. 7, 1890	1
John Denton			
M. H. Gleason	Tobucksey and Gaines Counties, Choctaw Nation, Ind. T.	Mar. 7, 1890	1
John M. Grady			
R. O. Edmunds	Tobucksey and Gaines Counties, Choctaw Nation, Ind. T.	Mar. 7, 1890	1
John Denton			
M. H. Gleason	Tobucksey and Gaines Counties, Choctaw Nation, Ind. T.	Mar. 7, 1890	1
John M. Grady			
James F. Freeney	Tobucksey and Gaines Counties, Choctaw Nation, Ind. T.	Mar. 7, 1890	1
R. O. Edmunds			
John Denton	Wade, Sugar Loaf, and Scullyville Counties, Ind. T.	Apr. 8, 1890	7
Robert J. Ward			
Lomon Jack	Tobucksey County, Choctaw Nation, Ind. T	Feb. 4, 1890	1
Hampton Perry			
Austin Nelson	Tobucksey County, Choctaw Nation, Ind. T	Feb. 4, 1890	1
Tom Folsom			
John Slaughter	Tobucksey County, Choctaw Nation, Ind. T	Feb. 17, 1890	1
Robert C. Miller			
Maria Miller	Tobucksey County, Choctaw Nation, Ind. T	Feb. 17, 1890	1
Lefsey Harkins			
S. C. Lewis	Tobucksey County, Choctaw Nation, Ind. T	Feb. 17, 1890	1
Jackson Perris			
Robert Carter	Tobucksey County, Choctaw Nation, Ind. T	Feb. 17, 1890	1
Josiah Gardner			
Kingsbury Harkins	Tobucksey County, Choctaw Nation, Ind. T	Feb. 17, 1890	1
Beckey Wealy			
L. Worcester	Tobucksey County, Choctaw Nation, Ind. T	Feb. 17, 1890	1
Nicholas Worcester			

EXECUTIVE DEPARTMENT, CHEROKEE NATION, INDIAN TERRITORY,
Tahlequah, August 1, 1890.

DEAR SIR: Inclosed please find a copy of protest I have sent to Congress against the passage of a joint resolution for individuals of my own tribe to lease our coal mines to non-citizens. This is a scheme to deprive our people of the full benefit of our public property and in violation of our laws.

Please see that this imposition is not put upon us. I send a copy of laws in regard to minerals.

Very respectfully,

J. B. MAYES,
Principal Chief.

Hon. JOHN T. MORGAN,
Commissioner of Indian Affairs, Washington, D. C.

A PROTEST AGAINST SENATE JOINT RESOLUTION 114, AND AGAINST HOUSE JOINT RESOLUTION 193.

The purpose of these resolutions is to ratify and confirm the coal lease made by Choctaw citizens to the Choctaw Coal and Railway Company.

They likewise contain the following:

"That all citizens of the Cherokee, Chickasaw, Creek, and Seminole Nations shall have the right and privilege of leasing coal and mineral rights as herein granted to the citizens of the Choctaw Nation."

According to Cherokee law the lands and their natural products are the common property of the Cherokee Nation, to be used *ad libitum* by Cherokee citizens for personal or private purposes. No citizen is permitted to speculate in these products except within the nation and to its citizens, unless otherwise authorized by law. To operate a mine for coal or for any kind of mineral, gold and silver excepted, a license must be obtained from the treasurer upon a bond given to his satisfaction to secure a specified royalty to the Cherokee Nation. The law authorizes such citizens or company of citizens to associate with himself or themselves citizens of the United States upon such terms as may be agreeable to all parties and consistent with the law, but no subleasing or transfer of lease is permitted.

The language of the provision quoted, or of either of the resolutions, is not so clear and guarded as to require a strict conformity with Cherokee law on the subject in granting to Cherokee citizens the right and privilege of leasing coal and mineral rights to citizens of the United States, or to prevent Cherokee citizens from so leasing without the authority of Cherokee law.

The absence of a clearly specified compliance with Cherokee law, as a necessary condition precedent to such leasing, carries with it the implied protection of the United States Government and the enforcement of leases so made, despite Cherokee law on the subject.

If Cherokee authority, regulating the lease of coal and mineral rights in the Cherokee country, is not to be respected, these resolutions, to the extent of the right and privilege granted, annuls the guaranty of the United States to the Cherokee Nation in—

"The right by their national councils to make and carry into effect such laws as they shall deem necessary for the persons and property in their own country, belonging to their own people, or such persons as have connected themselves with them."

This loose and unqualified manner of authorizing the proposed leases will prove as good an opportunity as many Cherokee citizens will want to monopolize that which, under Cherokee law and the present tenure of lands, is the common property of all; and there being no limit to the leases or to the quantity of mineral lands to be leased, these conditions are entirely left to the discretion of the parties. Coal being in greater or less quantities all over the country, the leases could not only be co-extensive with its supposed presence and of other minerals, but could be extended to such time as to amount, in effect, to an absolute sale of such property throughout the entire country.

It is certainly questionable, if nothing more serious, that Congress in any sense of accommodation or alleged necessity can assume the right, unless for public purposes, to separate the natural products of a country from its lands, so that in granting a privilege there may be no interference with the ownership of the lands. If Congress has the right to authorize citizens of an Indian nation, whose lands are held in common, to lease for an indefinite time the coal or other minerals of such nation it certainly can, without any great stretch of authority, legalize a lease of any quantity of lands so held, and for any period of time, by the citizens of such Indian nation to citizens of the United States.

This privilege will in time prove, should either one of these resolutions be affirmed, a direct hindrance to the policy of the United States to change the tenure of Indian lands in common to that of severalty among the members. The argument that such leases will not interfere with the use and occupancy of the lands by Indian citizens is too miserable an excuse for such leases to be seriously entertained.

There are thousands of acres of land in the Cherokee Nation which, if they contain no mineral, are nearly worthless, yet in the event of allotment, must in part at least, become the pro rata share of Cherokee citizens.

Should the other Indian nations, to whom this peculiar privilege is to be extended, not object to the passage of either of these resolutions, we respectfully request that the Cherokee Nation remain undisturbed in the right to manage its own mineral interests.

JOHN L. ADAIR,
Cherokee Delegate.

WASHINGTON, D. C., July 25, 1890.

WASHINGTON, D. C., August 2, 1890.

SIR: Relative to the matter of the proposed legislation to legalize certain coal leases in the Indian country, and in the jurisdiction of Indian agency, I have the honor to transmit herewith a report of Acting Agent Fred. Morris, dated McAlester, Ind. T., July 28, 1890, said report being accompanied by a number of affidavits and exhibits. Mr. Morris very fully sets forth the operations of the Choctaw Coal and Railway Company. The plea of the Choctaw Coal and Railway Company that, having invested large sums of money in the Choctaw Nation, they ought to have this legislation which grants them a ninety-nine year monopoly, in order to protect their capital, would be commonly called the plea of the "baby act." In this connection I cite to you the fact that the Osage Coal and Mining Company, the Kansas and Texas Coal Company, and several other coal and mining companies, have been operating for many years in the Choctaw Nation under the laws of said nation, and have been amply protected in their investments. The Choctaw Coal and Railway Company will be similarly secure in its investments if its operations are confined within the scope of its chartered rights.

The proposed leases are virtual sales of the lands. If legalized they will defeat every step taken to upbuild the Indians. With their country plastered over with leases, these people would encounter an insurmountable barrier to the individualization of their lands, their progress to a higher development would be obstructed, their tribal relations would be perpetuated, the sense of personal independence would be destroyed, and would defeat what has seemed the purpose of all prior legislation, the final absorption of the Indians into American citizenship. The Indian people are unanimously opposed to these leases, and those which have been signed are either made with ignorant Indians and under a misapprehension, or as is the case of "Lease No. 109, series O," made with an infant still drawing the milk of life from its mother's breast.

I most respectfully ask a most careful scrutiny of the facts in this case, believing that, if you can understand the situation, you will appreciate the evils that would result, and will take such action as will assure to the Indian people undisturbed control of their own lands.

Very respectfully, your obedient servant,

LEO. E. BENNETT,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS.

McALESTER, IND. T., July 28, 1890.

DEAR SIR: In response to your telegram of the 27th inst., I came here this morning and met Mr. Phillips, who was just boarding the train for a two days' absence. He referred me to J. J. McAlester and W. B. Ainsworth, who have rendered me all the assistance in their power. I went over to South McAlester and found it booming, new houses being built and streets being laid out, this latter being done under the supervision of one Shymer, who, it appears, is in the employ of Ed. Chadick. No doubt exists in the minds of any one of the many to whom I talked as to prime movers in this enterprise, or the persons who are to be benefited thereby. But to secure proof, or the sworn statement of persons who know, is a different matter, and almost, if not quite, impossible of accomplishment.

It is ostensibly being done in the name of Fritz Sittle, who is an intermarried citizen of the Choctaw Nation. I have been shown receipts for rent of town lots in the town of South McAlester, signed by Ed. Chadick, agent for Fritz Sittle, per Shymer, who is evidently Chadick's agent.

In the affidavit of W. B. Smith it is stated that he type-wrote from the dictation of Mr. Chadick an agreement between the said Ed. Chadick and Ed. Sittle, parties on the one part, and Fritz Sittle, party of the other part, in which it was provided that the said Ed. Chadick and Ed. Sittle were to lease town lots as the agent of the said Fritz Sittle only; that the said land over which they were thus constituted agents was surveyed into town lots and fenced, and that it contained about $1\frac{1}{2}$ miles square. The land, or tract of land, as now fenced and held subject to lease by these parties is more than double those dimensions. Mr. Smith, who wrote the agreement, states further that if any compensation was named for their services in thus acting as agent he does not remember what it was. That an agreement of this character did exist is further evidenced by the press copy of the contract submitted to Mr. McAlester for his signature, and in which Mr. Chadick is named as the agent of Fritz Sittle, and which Mr. McAlester refused to sign as being in violation of the Choctaw law. Mr. Chadick has made several futile attempts to recover this lease sent to Mr. McAlester, so I am informed. Town lots leased more recently are leased for a term of one year, payable monthly in advance; they are made without a written contract. The rent is collected by Shymer, who receipts, as above stated, Ed. Chadick, agent for Fritz Sittle, per Shymer.

It thus would appear that Ed. Chadick, who is the superintendent of a wealthy railroad company, is acting as the agent for a Choctaw citizen in leasing lots, with no apparent compensation, and employing watchmen and officers to keep Choctaw citizens from settling thereon; for Jack Ellis, who is the constable for the United States Court at So. McAlester, stated to Mr. Pate that he received \$50 per month to run a bluff on people (Choctaws) who presumed upon their rights as citizens of the Choctaw Nation to settle upon Choctaw soil; and when Mr. Pate persisted in asserting his rights as a Choctaw and prosecuted the work on his building, he admitted that he had no further authority or power to stop him. That Mr. Chadick has an interest in these lots and in this town site is evidenced by the complaint filed with the deputy clerk of the court for the Indian Territory at So. McAlester, in which he became a party with Ed. and Fritz Sittle in a suit in forcible entry and detainer against George A. Pate and Arlington Fell, stating that they (the plaintiffs) were in possession of block No. 47, etc., and demand damages in the sum of \$50 for such unlawful detention on the part of the defendants. This proceeding is entirely out of order on the part of "agents only." Mr. G. A. Pate, who is one of the defendants in this case, makes a sworn statement relative to his taking up of this land, which is herewith transmitted. In this he states that Mr. Shymer stated upon this occasion, in ordering Mr. Pate off the premises, that he was acting as Mr. Chadick's agent. While on the one hand it is alleged that Mr. Chadick is Fritz Sittle's agent, when it comes to the question of a suit in the Choctaw courts Mr. Sittle and his partners dodge the issue.

Under the Choctaw law a citizen of the Choctaw Nation is entitled to one-quarter of a mile from his improvement except where a town has been formed. The town of South McAlester has here been surveyed and town lots laid out, and the town named; a town formed for the purpose improving the advantages offered by the junction of the two railroads, and under the Choctaw law any unoccupied town lot may be taken up and built upon by any citizen of the Choctaw Nation, and these people are greatly incensed that (as one of them said to me) two Dutchmen, who did not hesitate to perjure themselves when it served their purpose, and the representative of a corporation should order them off of their own soil. That Mr. Chadick has an interest in the town site of South McAlester is further evidenced by the sworn statement of Mr. McAlester that Mr. Sittle told him that he had received from Mr. Chadick \$2,000 for his property there; and this is corroborated by the affidavit of Josiah Gardner, who is a reliable Choctaw citizen, that he heard Mr. Chadick say to Mr. Sittle that "he (Chadick) had promised to pay to him (Sittle) \$2,000 for the hay, the sand, and the whole business, and that he had paid him all he had promised."

It might be a pertinent question why had Mr. Chadick refused \$3,500 from Mr. McAlester to bring the road to the old town of McAlester and paid Mr. Sittle \$200 for his interests at South McAlester, and built the road by its present course at an estimated additional cost of about \$50,000, and it is a question that, in view of what has transpired, has been answered, because the present location afforded privileges for town siting that the old town of McAlester did not. It appears that the men employed in the construction of buildings upon this town site are employed by Mr. Chadick and, as stated to Mr. McAlester and reported by him under oath, are carried upon the pay-roll of the Choctaw Coal and Railway Company. It is said that one of these buildings now in process of erection will cost \$60,000 when completed; this building is to be used as a hotel and stores when completed.

The Sittles until recently had less than \$1,000; this is a notorious fact. Dr. Hailey stated to me that he once owned the place now claimed by Fritz Sittle and bought it for \$35. Some of the evidence submitted is direct and shows conclusively that Ed. Chadick and Ed. Sittle, two United States citizens, are members of a syndicate engaged in leasing town lots; the balance is of a character that is corroborative, and calculated to warrant the conclusion that has been reached in the matter by every one who is acquainted with the town, to wit, that Ed. Chadick either is the agent or superintendent of the Choctaw Railway Company, or as the manager of a side corporation is engaged in town-siting and leasing land in an Indian country in violation of the Indian laws and the statutes of the United States.

The coal lease, a copy of which is herewith transmitted, is the form used by the Choctaw Coal and Railway Company, and as can be seen, is invalid in law, and moreover has the appearance of being misleading in its provisions. I learn that one hundred and sixty of these leases were made before the road was in operation and that they cover a distance of 50 miles or more; that a large portion of this land includes that which has been pre-empted and occupied by Choctaw citizens for many years. The Choctaw people have known of these leases and laughed at their absurdity, but since the matter has been taken to Congress for the purpose of having them legalized, have taken a more serious view of the matter, but still do not believe that any measure so unjust can become a law, and are now preparing a protest against it. I have the assurance of some intelligent and prominent men among them that a memorial will be forwarded as soon as it can be prepared that will show fully that the indorsement of these leases by Congress would aid and abet the most nefarious scheme of land-grabbing that was ever perpetrated in any country. I can not do the matter justice in the time that I feel has been allotted me for the purpose. I might remain another day and delay these papers so much longer, but I do not know that I could get anything more definite or to the point than the complaint of Messrs. Sittles and Chadick, and the copies of the lease sent for Mr. McAlester's signature, with the statements of Messrs. McAlester, Smith, and Gardner.

I could find no one who had any definite knowledge of George Chadick's connection in these matters, though it was said that he is reported to have made leases with individual citizens.

At Hartshorn it was the same as at South McAlester, Mr. Edwin Ludlow operating there as Chadick does here, he himself having a house in town (not on the right of way) and leases lots for building purposes.

Now the business is conducted differently. Mr. Bond, a citizen of the nation having been interested in the business, a quit claim is made out by him and sold to any person who is in the country by authority of law; and I learned that other little towns are being built up in the same manner all along the line of road; and that whoever it may be who holds the claim to that land under the Choctaw laws, the officials of the Choctaw road are the persons with whom the leases are made. There are men of judgment and discretion who have been offered lots free of cost at South McAlester, but who deemed their tenures so risky under the terms proposed by Chadick that they have refused to accept the offers made them. You direct me to show by affidavit the relationship between Ed. and George Chadick; both of them are out of town. Mr. Smith states that they are half brothers, and his affidavit shows what their business relations are, also. I might add that in the case of Pate and Fell, they gave a bond of \$4,000 and still retain possession of the lot in controversy, and have nearly completed a two-story house thereon. Mr. McAlester is still in possession and completing his building, waiting to defend his right to build in the courts when called upon. The affidavits should be read in the order as numbered.

Very respectfully,

FRED MORRIS,
Acting Indian Agent.

LEO E. BENNETT,
United States Indian Agent, Washington, D. C.

Before me, a United States commissioner in and for the western district of Arkansas, appeared Walter C. Smith, of lawful age, who being by me first duly sworn according to law this 28th day of July, 1890, deposes and says, that he is a citizen of the United States, and has resided in South McAlester in the Indian Territory for a period of seventeen months.

Q. In what business have you been engaged?—A. Have been engaged as Mr. Ed. Chadick's private stenographer, superintendent of telegraph of Choctaw Coal and Railway Company, and proprietor of the Delicatessen at South McAlester, in which business I am at present, also, and in connection with which I am assistant postmaster.

Q. How long were you connected with Mr. Chadick?—A. About one year in the Territory and about six months doing business as a public stenographer in Hotel La Fayette, Philadelphia.

Q. What was the nature of your business while thus employed?—A. A general answer to this question would be a breach of confidence. Any special question you may ask, if I can conscientiously, I will answer.

Q. Are you able to state from the knowledge gained while in Mr. Chadick's employ anything as to the character of the lease by which lots are held and sublet in the town of South McAlester, by Mr. Ed. Chadick of the Choctaw Coal and Railway Company?—A. The agreement which I type-wrote at Mr. Ed. Chadick's dictation invested in him (Chadick) and Ed. Sittle, Fritz Sittle's father, the right to lease lands as agents only, these lands are marked by survey and line of fence, the land being held by Fritz Sittle by virtue of his right of citizenship in the Choctaw Nation.

Q. What compensation did Messrs. Chadick and Ed. Sittle receive for so acting as agents?—A. I don't know; if a compensation was mentioned in the contract I don't remember it.

Q. How much land is comprised in the contract made with Fritz Sittle above mentioned?—A. About $1\frac{1}{2}$ miles square or more.

Q. Has this tract of land been surveyed into town lots?—A. Yes.

Q. By whom was it surveyed?—A. By the engineers connected with the Choctaw Coal and Railway Company.

Q. At whose expense was it surveyed?—A. I don't know.

Q. Are these town lots so surveyed sublet to non-citizens and others by Ed. Chadick and Ed. Sittle?—A. Yes. I have one.

Q. Upon what terms?—A. It depends on location.

Q. For how long a term do you lease?—A. For one year.

Q. To whom do you pay your rents?—A. To the agent of Ed. Chadick, receipt therefor being signed Fritz Sittle, per pro.

Q. What benefit is derived by Chadick and Ed. Sittle from this arrangement?—A. Leave that for surmise; I don't know.

Q. Is the tract of land mentioned and surveyed and included in the contract between Messrs. Ed. Chadick and Ed. Sittle on the one part and Fritz Sittle on the other a coal claim?—A. A drilling for coal by the Choctaw Coal and Railway Company drilling outfit, on the claim formerly owned by Henry Franth, an Indian citizen, which claim is within 300 yards of Fritz Sittle's claim, failed to find coal at a depth of about 700 feet.

Q. Do you know of any cases where town lots have been leased at South McAlester for a term of 99 years or for more than one year?—A. Do not know of a single instance.

Q. Is the style of coal lease exhibited to you by me and marked Exhibit A the same as used by the Choctaw Coal and Railway Company in effecting a lease from private citizens of the Choctaw Nation?—A. It is the same.

Q. Have these leases been used for the securing of other lands aside from coal claims?—A. No. They are strictly for coal, as exhibit shows.

Q. Do you know if George Chadick has made leases of coal lands in his own name with private citizens?—A. Have heard so, but know nothing of it.

Q. What relation is George Chadick to Ed. Chadick?—A. Half brother.

Q. Is George Chadick connected with or employed by the Choctaw Coal and Railway Company?—A. I do not know.

Q. Does the Choctaw Coal and Railway Company own buildings erected at South McAlester on land other than that granted for right of way and other purposes?—A. They collect the rents, as agents, as I understand.

WALTER C. SMITH.

Sworn to and subscribed before me, this 28th day of July, 1890.

FRED MORRIS,
United States Commissioner.

Before me, a United States Commissioner in and for the western district of Arkansas, this 28th day of July, 1890, appeared J. J. McAlester, who being by me duly sworn according to law, states upon his oath that—

He is a citizen of the Choctaw Nation, and a resident of the town of McAlester; that in January, 1890, and in conversation with Ed. Sittle, in which a discussion was had relative to the depreciation in values at the old town of McAlester as the business would go to the new town of South McAlester, the said Ed. Sittle had stated to him that he should stay with the old town; that he had sold his place, the present town-site of South McAlester, to the Choctaw Coal and Railway Company for \$2,000.

Affiant further states that Ed. Chadick, early in or during the construction of the said Choctaw Coal and Railway Company's road, invited him to come to the new town of South McAlester and build a store, and said that affiant was at liberty to locate the store upon any lot or place that suited affiant. Affiant did accordingly after-

ward go there and select a lot and commenced the erection of a store-house thereupon, and was a little later requested by the said Ed. Chadick to sign a lease for said lot, a copy of which is hereto attached, marked Exhibit B, which affiant declined to sign, because it was illegal and not in accordance with the laws of the Choctaw Nation.

Affiant further states that he was told by the foreman in charge of a building now in course of construction upon Indian lands, that the said Choctaw Coal and Railway Company were the owners of said property; that the men employed in its construction were paid by the said Choctaw Coal and Railway Company, and that they were carried on the pay-roll of said company.

JAS. J. McALESTER.

Sworn to and subscribed before me this 28th day of July, 1890.

FRED. MORRIS,
United States Commissioner.

Before me this 28th day of July, 1890, appeared Josiah Gardner, who being by me duly sworn states on oath that he is a citizen of the Choctaw Nation, and resides at McAlester, in the Choctaw Nation; that some time in the month of March he was at South McAlester, and that he heard a conversation between Ed. Chadick and Ed. Sittle, and during the conversation it transpired that Chadick said to Sittle that he had been offered \$3,500 by Mr. McAlester to have the road go through the old town of McAlester, and had offered Sittle \$2,000 to allow the road to go there, and in the conversation Chadick said, "I promised to give you \$2,000 for the grass and the sand and the whole business, and I have paid you all I promised."

JOSIAH (his x mark) GARDNER.

Witness:

W. B. AINSWORTH.

Sworn to and subscribed before me this 28th day of July, 1890.

FRED. MORRIS,
United States Commissioner.

G. A. Pate, being by me duly sworn, states as follows: I am a citizen of the Choctaw Nation; reside in Atoka County; came to South McAlester on or about the 23d day of June, 1890; employed hands and proceeded to inclose a vacant town lot; was ordered to quit the premises by one Kirkpatrick, special watchman of the Choctaw Coal and Railway Company. When I had nearly completed my work, one Slyner put a wagon and team in my way to prevent my inclosing my lot. I asked him to move it. He said: "No, you have no right to fence this; it belongs to the railroad company." I then asked him in the presence of several others if he was acting as Frit Sittle's agent or the agent of Chadwick when he run the wagon in my way. He replied, "I was acting as Mr. Chadwick's agent."

G. A. PATE.

Sworn to and subscribed before me this 28th day of July, 1890.

FRED. MORRIS,
United States Commissioner.

THIS INDENTURE, made in duplicate, this the _____ day of _____, A. D. 1889, between _____, citizens of _____ County, _____ nation, and in the Indian Territory, of the one part, and the Choctaw Coal and Railway Company, a corporation organized under the laws of the State of Minnesota, of the other part.

Witnesseth: That said _____, for and in consideration of the sum of one dollar to _____ in hand paid by the said Choctaw Coal and Railway Company, the receipt whereof is hereby acknowledged, and the rents and covenants hereinafter mentioned to be paid, kept, and performed by the said Choctaw Coal and Railway Company or assigns, has granted and leased, and by these presents do grant and lease unto the said Choctaw Coal and Railway Company and assigns, _____ certain coal claim _____ lying and being situated in _____ County, _____ nation, and described as follows: _____ the same being the coal claim recorded by the said _____ in the records of said _____ county in said _____ nation, in record _____ book No. _____, pages _____ (inclusive); and the exclusive right and privilege to mine for coal and take coal for its own use and benefit, and for market, from said claim under the conditions hereinafter

named. And it is understood and agreed to that the above description of the coal claim herein leased is not as accurate as an actual survey giving field notes by metes and bounds, and if such a survey shall be made, the parties hereto agree that it shall be accepted and taken to be a more definite description of the coal claim herein leased, and shall determine and fix the description of the coal claim this lease is intended to cover by the parties hereto. And the said ——— also agree that the Choctaw Coal and Railway Company and assigns shall have the exclusive right and grant to erect, construct, and use any and all buildings, inclosures, machinery, tools, and apparatus used and required in mining, or used and required by said company in connection with the object and purpose of this lease, and to have all labor, mechanics, artisans, and employes, and all other persons permitted by said company, or its legal representatives and assigns, at will, on said coal claim and the premises thereto attached, to be and remain during the pendency of this lease.

This lease shall be in force for the term of ninety-nine years from the date of this indenture, or so long as the said Choctaw Coal and Railway Company and assigns shall observe the laws of the ——— nation and perform the agreements of this lease; it being understood and agreed to that there is not to be paid or demanded any other or further consideration for the rental of said coal claim and the use of the premises thereto attached than three-fourths of 1 cent per bushel of 85 pounds of merchant coal royalty. It is the intention of the parties, and agreed to, that this lease shall remain in force and effect for a period or term not exceeding ninety-nine years, unless the said Choctaw Coal and Railway Company or assigns shall give notice in writing to the said ——— heirs, executors, administrators, and assigns not less than thirty days of its intention to cancel the same; and upon the giving of said notice the right to renew shall cease.

The said Choctaw Coal and Railway Company and assigns shall have the right to assign this lease or sublet any part of the coal claim or privileges hereby granted and leased to it. And the said Choctaw Coal and Railway Company or assigns shall pay to the said ——— heirs, executors, administrators, and assigns one-fourth of 1 cent for each bushel of 85 pounds merchant coal royalty taken from any mine or mines on said claim herein leased, and shall pay to the lawful authorities of ——— nation one-half of 1 cent for each bushel of 85 pounds merchant coal so mined and taken; making a total royalty of three-fourths of 1 cent for each bushel of coal so taken from said mine.

And the said Choctaw Coal and Railway Company or assigns shall commence operating the said mine, on said claim, within twelve months after it shall have completed and operated a branch line from its main line of railroad in said Indian Territory to said mine or coal claim.

The said ——— covenant and agree, with the said Choctaw Coal and Railway Company and assigns that they, paying the royalty aforesaid and performing the covenants herein contained and to be by them performed, shall peaceably hold and enjoy said leased coal claim and privileges without hindrance or interruption by the said ——— or any other person or persons whomsoever; the said ——— for ——— sel— and ——— heirs, executors, administrators, and assigns, hereby agree to warrant and defend the possession of said leased coal claim and privileges and rights herein expressed unto the said Choctaw Coal and Railway Company and assigns against the right of any and all persons whomsoever entering thereon or enjoying the privileges leased herein during the existence of this lease.

In witness whereof we have this day affixed our hands and seals (using scrolls for seals) at ——— of ——— in the said ——— Nation.

Attest:

The foregoing lease was by me this day recorded in record book No. ———, on page ——— (inclusive) of the records of ——— County, ——— Nation, Indian Territory.

County Clerk of ———, County, ——— Nation, Indian Territory.

To whom it may concern:

This is to certify that upon the date of recording the foregoing lease of coal claim by ——— to the Choctaw Coal and Railway Company, ——— was the county clerk of ——— County, of ——— Nation, and ——— was his lawful deputy.

In witness whereof I have hereunto set my hand and the seal of ——— County, ——— Nation, Indian Territory.

County and Probate Judge of ——— County, ——— Nation, Indian Territory.

[In the United States court for the Indian Territory. Edward Sittel, Edwin D. Chadick, and Fritz Sittel plaintiffs, vs. George A. Pate and Arlington Felle defendants. Second judicial division, Indian Territory, United States of America. Complaint at law.]

Plaintiffs complain of the above-named defendants, George A. Pate and Arlington Felle, for that on the 23d day of June, 1890, they were in possession of block 47, between First and Second streets in the town of South McAlester, in the second judicial division in the Indian Territory, and were then and now entitled to possession of the same, and that upon the 23d day of June, 1890, the said defendants did unlawfully and forcibly enter into and upon said land and took possession of same without consent of said plaintiffs, and have ever since and do now unlawfully hold the same with force and a strong hand, and that said plaintiffs did on the 24th day of June, 1890, cause to be served on said defendants a written demand or notice, notifying said defendants to quit or leave said premises or land, or deliver possession of same to said plaintiffs.

Plaintiffs therefore ask that a writ of possession be issued, and that plaintiff be put in possession of said land, and for damages in the sum of \$50 for the unlawful detention of the same.

That the plaintiffs are all white men and citizens of the United States, and that the defendants are citizens of the Choctaw Nation, Indian Territory.

HARRISON, PASCO & HARRISON,
JAMES WILSON,
J. C. CLOCK,

Attorneys for Plaintiffs.

I, Edward Sittel, being first duly sworn, say that each and every allegation and averment in the foregoing complaint is true in substance and in fact.

EDWARD SITTEL.

Subscribed and sworn to before me the 24th day of June, 1890.

WM. NELSON,
Clerk.

By T. H. FOSTER,
Deputy.

I, the undersigned, hereby certify that the foregoing is a true and correct copy of a complaint filed in the office of the clerk of the United States court for the second judicial district of the Indian Territory at South McAlester.

FRED. MORRIS,
United States Commissioner.

MCALISTER, IND. T., July 28, 1890.

WASHINGTON, D. C., August 10, 1890.

SIR: Referring to the conversation had with you this a. m., I desire to state that the royalty now paid the Indians under the leases made by the Choctaw Coal and Railway Company are larger in amount per bushel than paid in any other part of the United States. In the Pocahontas mining district of West Virginia, the royalty averages 12½ cents per ton; in the Clearfield district, Pennsylvania, about 12½ to 15 cents per ton, and in no other part of the United States, so far as my knowledge goes, is there anything paid higher than these figures, except in the Indian Territory, where the royalty will average 20 cents per ton on all classes of merchant coal.

Concerning the working of all the leases held by us, would say that an examination of the names of the lessors in the different basins covered by these coal leases will show that all of them in each group have a common interest, and we also have in contemplation the consolidation of all the holders of all the leases into one association, to be known as the Choctaw Citizens Royalty Association. In fact, some of the lessors have consented to joining the royalty association, and all of them will, but it was a matter that required more time and attention than we have been able to bestow upon it heretofore.

It is the intention of the company, and it is carrying out this policy as fast as practicable, of opening two or more mines in each group, so that each leaseholder may be benefited by its work. In proof of this fact I may mention that our first mine is situated at Alderson, 6 miles east of South McAlester, the second is 16 miles east, the third 17 miles north of east, the fourth 21 miles north of east, and the fifth 31½ miles east of the No. 4, and all of them represent different ownerships in part, although there are some of the lessors interested in all of these mines. The sixth mine we are opening is 71 miles east of South McAlester, 8 miles east of our junction with the St. Louis and San Francisco Railway, and 12 miles west from the Arkansas line. This

covers all the groups but one, which comprises the leases taken by Gleason, Coleman, Denton, and others, which will be opened at a point near Red Oak during the coming fall. You can readily understand from the foregoing that no injustice is being done in any way to the holders of these coal claims, and it is, as before stated, our object to consolidate them all into one as soon as possible.

As regards the surrender or cancellation of any lease caused by our voluntary abandonment for two consecutive years after having commenced work on the same, I think it only a fair provision and we are perfectly willing to accede to it.

I kindly ask you to let this matter go before Congress as promptly as possible owing to the fact that we are getting so dangerously near the close of the session.

I remain, very respectfully,

E. D. CHADICK,

Manager Choctaw Coal and Railway Company.

HON. T. J. MORGAN,
Commissioner of Indian Affairs.

N. B.—Would represent that the protests, etc., now being forwarded, have only one object, viz, delay. They are inspired by our competitors in the coal trade, who foresee that our sworn monthly statement as to the amount of coal mined and royalty paid will inevitably force them to do the same thing before very long. Senator Dawes expects to leave for the East before long, and my only chance is to get this in promptly.

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, Ind. T., May 29, 1890.

SIR: I have the honor to report, in compliance with instructions contained in Indian Office letter, dated May 6, 1890 (L. 13529—1890), that on May 12 I notified Mr. Secor and the manager of the Choctaw Coal and Railway Company that I would be in McAlester on May 15 for the purpose of investigating Mr. Secor's complaint against said railway company; and accordingly on May 15 I was at McAlester, at the place agreed upon.

Mr. E. D. Chadick, manager of the Choctaw Coal and Railway Company, filed with me a written communication, which is herewith inclosed; also copies of a coal lease executed to him by W. H. Secor on the 7th day of May, 1887; a copy of a right of way lease executed by Mr. Secor on the 20th day of March, 1890; also copy of general release executed on 20th of March, 1890. The originals of these papers were presented for my inspection.

Mr. Secor failed to appear, and though I have written him three times relative to the matter, I have heard nothing from him. Mr. Chadick claims the right to purchase and use 200 feet for a right of way, by virtue of a joint resolution of the Choctaw council, which he states is now on record in Washington.

Very respectfully, your obedient servant,

LEO E. BENNETT,
United States Indian Agent.

THE COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

SOUTH MCALESTER, IND. T., *May 15, 1890.*

DEAR SIR: Referring to the question raised in your favor of this date as regards settlement with W. H. Secor, residing 2 miles west of our crossing with the Missouri, Kansas, and Texas Railway would respectfully state that the letter of Mr. Secor to the Department has absolutely misrepresented the facts in so far as it represents us as trespassers without legal right.

Regarding our right to take and use 200 feet would say that we received this additional 100 feet by a joint resolution of the Choctaw council, which is now on record in Washington; said resolution recognizing this road as the eastern and western treaty road of 1866, and giving us the 200 feet right of way.

Outside of this and beyond all enactments referring thereto, would respectfully represent that Mr. Secor sold us a strip of land 200 feet in width through his farm, for which he received the sum of \$300, and an additional sum of \$200 for the privilege of working the coal contained on said farm, which said coal lease gave us the right to build switches, branches, place buildings, or to do any other thing necessary for the successful mining of coal on the said premises.

We carried out literally the provisions of this agreement as regards the coal, and the right of our taking the strip of land 200 feet through his farm is a matter of agreement with himself for which he has been paid three times its value.

I am sorry that Mr. Seccor should refer to himself as an Indian seeing that he is a white man who married an Indian woman in this country, and is as perfectly competent to contract as any citizen of the United States.

Would further say that he was perfectly contented with the settlement, until instigated to his present course by parties to whom we refused to grant privileges at our crossing.

I inclose copy of the right of way sold us by Mr. Seccor, also copy of general release executed by him at that time, and also a copy of the coal lease under which you will see that our right to this strip of land, or more if required, is fully sustained.

Very truly, yours,

E. D. CHADWICK,
Manager.

H. L. E. BENNETT,
United States Indian Agent, Muscogee, Ind. T.

THIS INDENTURE, made in duplicate, this the 7th day of May, A. D. 1887, between W. H. Secor, a citizen of Coal or Tobucksey County, Choctaw Nation, and in the Indian Territory, of the one part, and Edwin D. Chadick, a citizen of the United States, residing in the city of Minneapolis, state of Minnesota, of the other part.

Witnesseth, That the said W. H. Secor, for and in consideration of the sum of \$200 to me in hand paid by the said Edwin D. Chadick, the receipt whereof is hereby acknowledged, and of the rents and covenants hereinafter mentioned to be paid, kept and performed by the said Edwin D. Chadick, his heirs, executors, administrators, and assigns, has granted, demised and leased, and by these presents, does grant, demise and lease, unto the said Edwin D. Chadick, his heirs, executors, administrators, and assigns, the coal claim lying and being situated in Coal or Tobucksey County, Choctaw Nation, in said Indian Territory, and which is described as follows: Beginning at a point on Sandy Creek in the western half of Coal or Tobucksey County, Choctaw Nation, Indian Territory, one-half mile southeast of the farm known as the W. H. Secor place, and from said beginning-point extending one mile due north, one mile due south, one mile due east, and one mile due west, embracing all the coal found under the lands lying within a circle drawn from or through the extreme points of said north, south, east and west lines, including all the coal under the spurs, dips and angles of said land.

Reference is herewith made to certain zinc plates fastened to stakes and located as follows on said claim: Plate No. 1, placed at or near the beginning or central point of said claim; plate No. 2 placed at or near the terminal point of said claim on a due north line from said beginning point; plate No. 3, placed at or near the terminal point of said claim on a due south line from said beginning point; plate No. 4, placed at or near the terminal point of said claim on a due east line from said beginning point; and plate No. 5, at or near the terminal point of said claim on a due west line from said beginning point. It being understood and agreed to that the said plates shall be accepted as defining the boundaries of said claim until such time as said boundaries shall be determined by actual survey of said claim.

Being the coal claim as recorded by the said W. H. Secor in the records of said Coal or Tobucksey County in said Choctaw Nation in the record book for 1879 on page 75; and the exclusive right and privilege to mine for coal and take coal for his own use and benefit and for market from said claim under the conditions hereafter named. And it is understood and agreed to that the above description of the claim herein leased is not as accurate as an actual survey giving field notes by metes and bounds, and if such a survey shall be made and the parties hereto agreeing to it, it shall be accepted and taken to be a more definite description of the claim herein leased, and shall determine and fix the description of the claim this lease is intended to cover by the parties hereto. And the said W. H. Secor also agrees that the said Edwin D. Chadick his heirs, executors, administrators, and assigns shall have the exclusive right and grant to erect, construct, and operate any and all machinery, tools, and apparatus used and required in mining, or used and required by him in connection with the object and purpose of this lease, as well as all labor, mechanics, artisans, and employes, and all other persons permitted by him or his legal representatives and assigns, at will on said claim to be and remain, during the pendency of this lease.

This lease shall be enforced for the term of six years from the date of this indenture, and at the expiration of said six years the said Edwin D. Chadick, his heirs, executors, administrators, and assigns shall have the privilege and right of renewing the same for another period of six years, and at the expiration of each next succeeding term of six years thereafter the said Edwin D. Chadick, his heirs, executors, administrators, and assigns shall have the privilege and right of renewing this lease for

another term of six years upon the same terms and conditions as is herein expressed so long as the said Edwin D. Chadick and his heirs, executors, administrators, and assigns shall observe the laws of the Choctaw Nation, and perform the agreements of this lease, it being understood and agreed to that there is not to be paid or demanded any other or further consideration for the rental of said claim than the 1 cent per bushel royalty.

It is the intention of the parties and agreed to that this lease shall remain in force and effect for a period or term not exceeding ninety-nine years, unless the said Edwin D. Chadick, his heirs, executors, administrators, and assigns shall give notice in writing to the said W. H. Secor, his heirs, executors, administrators, and assigns, not less than thirty days next preceding the expiration of any term of six years, of his or their intention not to renew the same, and upon the giving of said notice the right to renew shall cease. The said Edwin D. Chadick shall have the right to assign this lease or sublet any part of the same and privileges hereby granted, demised, or leased to him.

And the said Edwin D. Chadick, his heirs, executors, administrators, and assigns, shall pay to the said W. H. Secor, his heirs, executors, administrators, and assigns, one-half cent for each bushel of coal taken from any mine or mines on said claim herein leased and shall also pay to the lawful authorities of the Choctaw Nation, one-half cent for each bushel of coal mined and taken, making a total royalty of one cent on each bushel of coal taken from said mine.

And the said Edwin D. Chadick, or his legal representative or assigns shall commence operating the said mines on said claim within six months after a railroad shall have been completed and operated from any main line from railroad in said Indian Territory to said mines or coal claim.

And the said W. H. Secor doth covenant and agree with the said Edwin D. Chadick, his heirs, executors, administrators, and assigns, that he and they paying the royalty aforesaid, and performing the covenants herein contained, and to be by him and them performed shall peaceably hold and enjoy said lease claims and privileges without hindrance or interruption by the said W. H. Secor or any other person or persons whatsoever. The said W. H. Secor, for himself and each of his heirs, executors, administrators, and assigns, hereby warrants and defends the possession of said lease claim and the privileges and rights herein expressed unto the said Edwin D. Chadick, his heirs, executors, administrators, and assigns, against the right of any and all persons whatsoever, entering thereon or enjoying the privileges leased herein, during the existence of this lease.

In witness whereof, we have this day appended our hands and seals (using scrolls as seals), at the town of McAlester in the said Choctaw Nation. May 7, 1887.

WILLIAM H. SECOR. [SEAL.]
EDWIN D. CHADICK. [SEAL.]

Attest:

R. B. COLEMAN.
F. W. ALLISON.

CHOCTAW COAL AND RAILWAY COMPANY. RIGHT OF WAY AND RELEASE OF DAMAGES.

Know all men by these presents :

That I, Wm. H. Secor, of the County of Tobucksey, in the Choctaw Nation, Indian Territory, for and in consideration of the benefits resulting to the undersigned and to his lands by the construction and operation of the railway hereinafter mentioned, and of the sum of three hundred (\$300) dollars to me paid by the Choctaw Coal and Railway Company, the receipt of which is hereby acknowledged, have granted, bargained, and sold, and by these presents do grant, bargain, sell, and convey to the said Choctaw Coal and Railway Company, the right of way for its railroad, telegraph, and telephone lines over, through, and across the lands owned or claimed by the undersigned, lying and being situate in the county of Tobucksey, in the Choctaw Nation, in the Indian Territory, and described as follows, to wit: Near Sand Creek and between stations ——— west and on the 3rd and 4th miles west, on the line of the said Choctaw Coal and Railway Company. Said right of way to include a strip of land two hundred feet in width, the same to extend one hundred feet on each side of the center of the road-bed or track of said road, with the right to use such additional ground where there are heavy cuts or fills as may be necessary for the construction and maintenance of the road-bed, not exceeding one hundred feet in width on each side of the said right of way, or as much thereof as may be included in said cut or fill; the field notes, plats, surveys, and maps of said strip of land as made or to be made by said Choctaw Coal and Railway Company, are hereby referred to and adopted as a part of this deed for greater certainty of description of the land conveyed.

To have and to hold the same with the right to take and use the earth, stone, gravel, timber, and other material thereon necessary or useful in the construction, maintenance or operation of said road or lines, together with, all and singular, rights, privileges, and appurtenances thereto belonging, and all the rights and privileges granted by the act of Congress granting said railway the right of way through the Indian Territory, approved February 18th, 1888, unto the said Choctaw Coal and Railway Company, its successors and assigns forever, for the use of said railroad, telegraph, and telephone lines and for a perpetual way therefor.

And I do hereby bind myself, my heirs, executors, and administrators, to warrant and forever defend, all and singular, the said premises to the said Choctaw Coal and Railway Company, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same.

And in further consideration of the premises, I do hereby acknowledge the receipt in full of all compensation and satisfaction for property taken or to be taken and damage done or to be done by reason of the construction of said railway.

Witness my hand and seal, using scroll for seal, this 20th day of March, 1890.

WM. H. SECCOR. [SEAL.]

Attest:

S. R. BENSON.

GENERAL RELEASE.

To all whom these presents shall come or may concern, greeting:

Know ye that I, Wm. H. Seccor, of Tobucksey County, Choctaw Nation, Indian Territory, for and in consideration of the sum of three hundred (\$300) dollars, in lawful money of the United States of America to me in hand paid by the Choctaw Coal & Railway Company, of ———, the receipt whereof is hereby acknowledged, have remised, released and forever discharged, and by these presents for myself, my heirs, executors and administrators, remise, release, and forever discharge the same Choctaw Coal & Railway Company, heirs, executors, administrators and assigns of and from all and all manner of action and actions, cause and causes of actions, suits, debts, dues, and sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever in law or in equity which against the said Choctaw Coal & Railway Company I ever had, now have, or which myself, my heirs, executors, administrators, or assigns hereafter can, shall, or ever may have upon, or by reason of any matter, cause or thing whatsoever from beginning of the world to the day of the date of these presents. And especially for and from all damages caused by the construction of the said Choctaw Coal and Railway Company's line of railroad through my claims in said Choctaw Nation, Tobucksey County, near Sand Creek, between stations west and on the third and fourth miles west of said railroad.

In witness whereof, I have hereunto set my hand and seal the 20th day of March, in the year of our Lord eighteen hundred and ninety.

W. H. SECCOR. [SEAL.]

Sealed and delivered in presence of—

C. R. BENSON.

(Copy of contract is so indistinct as to make it impossible to decipher it. It is, therefore, not included among these papers.)

UNITED STATES INDIAN SERVICE,
Union Agency, Muscogee, I. T., July 11, 1890.

SIR: Herewith I have the honor to transmit complaint of Hon. B. F. Smallwood, governor of the Choctaw Nation, with an affidavit of G. A. Pate against Edward Chaddick and E. S. Ludlow, representatives of the Choctaw Coal and Railway Company, Edwin Sittle, a trader in the Choctaw Nation, Fritz Sittle, King and Holloway, for alleged intrusion. Section 8 of an act of Congress approved February 18, 1888, granting a right of way to the Choctaw Coal and Railway Company, clearly places the settlement of all controversies arising between any tribe or nation, or citizens of

any tribe or nation through which said road may pass, and the said Choctaw Coal and Railway Company, within the jurisdiction of the courts established by Congress. I have therefore deemed it unadvisable to take any action in the matter. So far as I am advised and can learn from an informal investigation an effort has been and now is being made to town-site both Hartshorn and South McAlester, and that Fritz Sittle, King and Holloway, in whose names these lots are held, are citizens of the Choctaw Nation and within the jurisdiction of the courts of said nation. If in view of these facts you deem it advisable for this office to interfere in the premises, I respectfully request instructions.

Very respectfully, your obedient servant,

FRED MORRIS,
Acting United States Indian Agent.

Authorized to act July 7, 1890.

Fritz Sittle, King and Holloway are Choctaw citizens.

BENNETT,
Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

B. F. SMALLWOOD,
Principal Chief.

EXECUTIVE OFFICE, CHOCTAW NATION,
Lehigh, Ind. T., July 10, 1890.

SIR: I inclose herewith a complaint against Edward Chadick, Edwin Sittle, and one Ludlow, all citizens of the United States, who are illegally doing a business in the Choctaw Nation not approved of by this office. The nature of the business engaged in is fully set forth in the complaint. After a careful investigation of this complaint and other facts connected in the premises, this office unhesitatingly declares these non-citizens above mentioned to be intruders on Choctaw soil, and respectfully and earnestly demand that you cause their immediate removal from the limits of the Choctaw Nation.

Very respectfully,

B. F. SMALLWOOD,
Principal Chief Choctaw Nation,
Per DAN J. FOLSOM,
Private Secretary.

Hon. LEO E. BENNETT,
United States Indian Agent, Muscogee, I. T.

CHOCTAW NATION, *Atoka County:*

Before me, William Bassett, clerk of the county court of Atoka Co., Choctaw Nation, appeared G. A. Pate, who, being duly sworn, says on oath that one Edwin Sittle, a licensed trader of the Choctaw Nation, and Edward Chadwick, an agent for the Choctaw Coal and Railway, now doing business with headquarters at South McAlester Choctaw, Nation, and Ludlow, another agent of said corporation, located at Hartshorn, I. T., are intruders in said Choctaw Nation.

Affiant further states that said Sittle, Chadick, and Ludlow are building, owning, and leasing, under illegal contracts with Fritz Sittle, one King and Holloway, town lots in each of said towns of South McAlester, and Hartshorn; that they refuse to allow a Choctaw citizen the right to own a lot in these towns; that they have fenced in large lots of lands and, under the pretense of being Fritz Sittle's agents, they, the said Edwin Sittles and Edward Chadick, non-citizens, are interfering with the affairs of the Choctaw Nation by using every means in their power to prevent a Choctaw citizen from owning or building lots in South McAlester; that they are claiming title to Indian soil, and flee to the United States courts to hold off Choctaw citizens who attempt to build in said town. That they, as agents of said Fritz Sittle, have invoked the aid of the United States courts in an action of "unlawful entry and detainer, in a matter now pending in the United States courts, and required Choctaw citizens to give bond for the possession of lands subject to entry under Choctaw laws. That the said Sittle is running a general merchandise business in the town of McAlester, with lots and blocks owned in his own name, in the town of South McAlester, and that the said Chadick and Ludlow are building or leasing town lots for a term of ninety-nine years. That they have on record in Atoka, To-bucksey, Gaines, and Sugar Loaf Counties illegal leases for ninety-nine years, as evi-

denced by the records of said counties. Affiant further states that he believes it to be the duty of the principal chief to revoke the license of said Edwin Sittle as a license trader and enter complaint against said Chadick, Sittle, and Ludlow before the United States agent, and ask him to declare them intruders, that they may be so declared before the sitting of the United States court in September next.

Sworn to and subscribed before me this 7th day of June, 1890.

[SEAL.]

G. A. PAATE.

W. BASSETT,
County Clerk.

WASHINGTON, D. C., July 24, 1890.

DEAR SIR: Referring to certain complaints made by the Hon. L. C. Perryman, governor of the Creek Nation, and Leo C. Bennett, United States Indian agent for the Five Civilized Nations, the same being now on file in your office, I beg leave to reply as follows:

First, that the Hon. L. C. Perryman's letters and complaints, as above referred to, are based upon the action of George C. Chadick, a relative of mine residing in the Creek Nation, who, in conjunction with Stuart (first name unknown) and Dr. J. T. Lowry of We-wo-ka, has made leases in the Creek Nation from the individual which the governor complains is contrary to Creek law. Would say in this connection that the Choctaw Coal and Railway Company is in no way connected with Messrs. George C. Chadick, J. T. Lowry, or Stuart (first name unknown); these parties, whatever they have done, have acted for themselves and independently of this company, which has no control over them, and is in no sense of the word responsible for their conduct; at the same time being personally acquainted with all the parties except Stuart, I have no hesitation in saying that any violation of the law on their part has been unintentional, and that you can assure the governor that this company will do everything in its power to see any offense righted which may have been committed by them against the laws and customs of the Creek Nation, but can only act as an intermediary between themselves and the Creek governor, having no interest in or title to or use of any lease or leases they may have taken.

Referring to the letter of Hon. Leo C. Bennett, Indian agent, bearing date July 21, 1890, would answer the complaints and questions, which he therein asks, as follows:

First, by the accompanying copy, which is made a part of this letter, it will be seen that the Choctaw Coal and Railway Company holds a right of way for 200 feet in width through the Choctaw Nation, by virtue of the joint resolution of the Choctaw general council, approved the 20th day of December, 1889, by which resolution it will be seen that the Choctaw Coal and Railway Company was declared the east and west line of railway through the Choctaw Nation, provided for by the treaty of 1866 between the United States of America and the said Choctaw Nation. By reference to that treaty (see Choctaw laws, treaty of Dancing Rabbit Creek, and treaty of 1866) it will be noted that a right of way for 200 feet in width was to an east and west railroad, as also to the north and south railroad to be constructed through the Indian Territory. Under this resolution and the adoption of this company's line as the east and west railroad contemplated by the treaty, this company claims an undoubted right to 100 feet from the center of the track on each side of the company's line, with all the additional privileges granted it by the act of Congress, approved February 18, 1868, with amendments, approved February 13, 1889.

Referring generally to the charges contained in Agent Bennett's letter, that this company is endeavoring to absorb lands to which it has no right under its charter, and that it has not paid proper respect and attention to the rights of Indian citizens, I desire to state that we court the fullest investigation in every respect and if it can be shown that we have in any particular, overstepped our charter rights or have shown any disposition to encroach upon the rights and privileges of the Indian citizens, either as individuals or as tribes, we are perfectly willing to abide the consequence of such acts and to make restitution by every means in our power; but acting as the representative of the company I desire to state, that the Choctaw Nation is at present agitated by a bitter political campaign which involves the selection of a governor and legislature, and that each party to this controversy has availed itself of every possible means to bring discredit upon the other--as also to insinuate that under the administration of the present governor (who seeks re-election), the railways, and other foreign corporations, are gradually encroaching upon the rights and privileges of the Choctaw citizens. To support these charges there is not a scintilla of evidence beyond the jealous imaginations engendered by a political heated contest. If your honorable bureau will take the pains to investigate thoroughly and to send a special agent upon the ground, we will be able to show that in every respect our engagements with the Choctaws and all other Indians, have been faithfully and honorably kept and that we are to-day doing more for the benefit of that nation, for the education of the

children of its people, and the development of the country generally on the lines suggested by the policy of the United States, than any other one influence or power within its borders.

If a special agent, detailed for this purpose, will investigate each mile of the road, and will ask the people with whom we have dealt and are dealing, and ascertain for himself their feeling towards us we have nothing to fear from his report. A few men have controlled this Territory so long and have worked with the large body of the people in such manner as they pleased that their jealousy and alarm is excited by the appearance upon the scene of a company whose management deals direct with the Choctaws and not with certain self-constituted leaders and white men who have intermarried among them.

Again referring to that portion of the complaint that we have fenced our line against the Choctaw citizens and are fencing large parts of land at our stations, will say that there is not one word of truth in any of the assertions. We are fencing the line of railway for protection of the lives of passengers and for the safety of our own property. It is a prairie country and largely used as a cattle range, and the experience of the Missouri, Kansas and Texas, and other roads, as to the value of the stock killed, to say nothing of the damage to their own property, led us to the conclusion that the only safe way for ourselves and the public was to fence the right of way, making proper highway crossings, cattle guards, etc. And, I may add, that in the Red Oak Valley we did this upon direct petition of the stock-raisers in that valley. By adopting this course we have saved every stock-raiser the range, it being as easy for him to raise cattle along the line as it was before the rails were laid, and in the seven months operation of our first division the best proof of the safety afforded by this policy is the fact that we have not killed a single head of stock, nor injured any passenger or person crossing our line of public highways. We think this record speaks for itself as to the advantage both to the nation and the company gained by fencing the line. As to the fence put around stations, would say that in no case has this company had anything to do with the fencing of these lands or been in any way responsible for them. Our work in that direction has begun and ended on our right of way. Certain Choctaw citizens who occupied these lands prior to our coming have seen fit to inclose their tracts of lands at or near our stations. The company has not aided nor abetted them in any way in such action; has no connection with them or responsibility for their acts. All these matters have been referred to the Choctaw court by suits brought between citizens of that nation, and in each case the result will show the truth of my assertion, that the Choctaw Coal and Railway Company has no control over or interest in the matter.

In conclusion allow me to say regarding all charges against us we only ask investigation, fair, full, and immediate. As before stated, we are perfectly willing to abide by the result.

Very respectfully,

E. D. CHADICK,

Manager of the Choctaw Coal and Railway Company.

THE COMMISSIONER OF INDIAN AFFAIRS.

JOINT RESOLUTION OF THE CHOCTAW GENERAL COUNCIL.

Whereas it has been reported to this body from reliable sources and has been publicly announced in the newspapers upon the authority of the officers of the St. Louis and San Francisco Railway that the said company has prepared a bill to be presented to the next session of the Congress of the United States, asking that the right of way through the Indian Territory be granted by the said Congress to a corporation known as the California and St. Louis Railway, said corporation being owned and controlled by the said St. Louis and San Francisco Company system; and

Whereas the right of way to be asked for aggregates more than 2,000 miles, and covers every section of the Indian Territory available for railway purposes, also paralleling rights of way already granted by Congress, and lines of railways now building or in process of construction, and practically constitutes a monopoly of the railway business in the said Indian Territory, and grants the same to the California and St. Louis Railway, otherwise known as the St. Louis and San Francisco Railway, to the exclusion of all competitors, and to the consequent injury of the citizens of the said Indian Territory; and

Whereas by the terms of the treaty made by the United States with the Indian tribes in the year 1866 provided that one right of way should be granted for a railway north and south through the said Indian Territory, and one right of way east and west through the said Indian Territory; and

Whereas the north and south right of way has been taken by the Missouri, Kansas and Texas Railway, and a line of railway constructed thereon, and a line of railway east and west has been taken by the Choctaw Coal and Railway Company, which said company is constructing a line of railway thereon; and

Whereas in addition to these railways provided for in the treaty of 1866 the Congress of the United States has granted to other railways at different times right of way through the said Indian Territory; some of which have actually been built upon and others are now building; and

Whereas the policy demands the business of this Territory shall not be given to one corporation to the exclusion of all others, and the Territory obligations of the United States having been violated by the giving of other rights of way than those provided for in the treaty of 1866; Now, therefore,

Be it resolved by the general council of the Choctaw Nation in joint session assembled, That we hereby solemnly protest against the granting of the rights of way asked for by the said California and St. Louis Railway, otherwise known as the San Francisco Railway Company, as being subversive of all the rights of Indian citizens and as having a tendency to destroy that competition which has been inaugurated by the granting of the rights of way other than those provided for in the treaty.

And we desire to respectfully represent to the Congress of the United States that is the St. Louis and San Francisco Railway, otherwise known as the California and St. Louis Railway, be granted the rights asked for, it will practically end railway building outside of that company in the Territory, and leave the citizens of the Five Nations at the mercy of one corporation in all future railway developments.

And we further declare that in our opinion, based upon the record of the St. Louis and San Francisco Railway in this Territory in the past, that the said railway does not desire to build the railways for which the rights of way are to be asked in the proposed bill, and that the corporation is asking for the same for the purpose of intimidating other corporations seeking to do business in the Territory and to retard the developments of competitive systems.

And further respectfully represent to the Congress of the United States that the St. Louis and San Francisco Railway has held for over twenty years rights of way through this Territory, upon which it has never built and is not now engaged in building.

Be it further resolved, That a certified copy of this joint resolution be forwarded by the national secretary of the Choctaw Nation to the President of the United States, to honorable Secretary of the Interior, to the President of the Senate, and to the Speaker of the House of Representatives of the United States of America.

Be it further resolved, That this resolution shall take effect and be in force from and after its passage.

Approved November 5, 1889.

B. F. SMALLWOOD, P. C. C. N.

This is to certify that the foregoing is a true and correct copy of the resolution of the general council of the Choctaw Nation, passed and approved at the regular November term thereof, 1889.

Witness my hand and seal this 20th day of December, 1889.

J. B. JACKSON,
National Secretary, C. N.

ARTICLE XVIII.—MINERALS.

SEC. 80. All gold, silver, lead, copper, iron, stone, coal, petroleum, salt, or other mineral, or medicinal water, existing in its natural state, which has been or may be hereafter discovered within the limits of the Cherokee country, is the property of the Cherokee Nation, and subject to the control of the national council.

SEC. 81. Every "bona fide" citizen of this nation, who may wish to prospect for and engage in the mining of the minerals there, of gold and silver excepted, or in the manufacture of salt, or in the collection and refining of coal oil or petroleum, or in the preparation and sale of mineral or medicinal waters, shall make application in writing to the treasurer for that purpose, stating the mineral he wishes to operate in, the number and names of the company, the district and section thereof in which located, and the metes and bounds of the reservation on which he proposes operating; provided, also, that the same shall not be within, or infringe upon, the improvements or legal boundaries or limits of any other citizen or mining company, without the written consent of such other.

SEC. 82. No person or company shall locate, hold, or operate a second claim for any particular mineral without first surrendering the claim first located.

SEC. 83. Every person or company proposing to engage in mining shall, before beginning the work, obtain from the treasurer a license for such purpose, which license shall clearly describe the location of the reservation selected, with its metes and bounds, and the minerals to be mined; and shall at the same time execute to the Cherokee Nation, and file with the treasurer and to his satisfaction, a bond in the sum of two thousand dollars, with good and sufficient security, conditioned upon compliance with the requirements of this act.

SEC. 84. Every person or company operating in the minerals of this nation shall be required to report, on oath, to the treasurer, quarterly, on the first days of January, April, July, and October, of each year, the gross amount of minerals mined, or salt manufactured, or medicinal waters prepared for sale, during each quarter preceding such report, and at the same time pay into the treasury, for the benefit of the school or orphan funds, a sum of money equal to five per cent. of the value of such minerals at the place of production. And the mines, the stock on hand, the buildings, machinery, and fixtures thereto belonging, shall be held liable for the payment of the same. The refusal or failure of any person doing business under the provisions of this act to comply with the conditions of his bond shall be good and sufficient cause for the revocation of the lease by the treasurer.

SEC. 85. Every citizen of this nation who shall lease, sublease, sell, or give, or grant, in any manner, any interest in any mine, or medicinal or mineral water, in this nation, to any person other than a citizen of the same, shall be fined in any sum not exceeding two thousand dollars for each and every such offense, and forfeit his bond and lease; and the treasurer is hereby authorized to proceed against such person or company in the name of the Cherokee Nation, before any court of the nation of competent jurisdiction.

SEC. 86. No license shall be granted by the treasurer for a longer period than ten years, at the option of the lessee; but every lessee who may elect to renew his lease, and who shall have complied with the terms of his former lease, may do so by complying with the law governing the same; but no new lease shall be granted or old lease renewed until all arrears shall have been paid; provided, that the national council may at any time change, amend, or repeal any, or all of the conditions of leases so as not to affect leases in force at the time of such change or repeal.

SEC. 87. Should any mining company find upon his reservation any mineral other than that named in the lease, and for which the lease was granted, such company shall at once report such discovery to the treasurer; and shall have the right to work the same by incorporating it into the original contract, and by paying five per cent. thereon for all such mineral obtained; provided, that such act of incorporation shall expire on the expiration of the original lease; provided further, that parties locating claims under this act shall begin work thereon within one year from the date of their license, otherwise such license shall be null and void.

I hereby certify that the foregoing is a true and correct copy of an act of the compiled laws of the Cherokee Nation.

[SEAL.]

W. H. MAYES,
Assistant Executive Secretary Cherokee Nation.

JULY 31, 1890.

AN ACT to amend section 85, of article 18, chapter 12, compiled laws, shall read as follows:

"That any 'bona fide' citizen of this nation, who shall have a license from the national treasurer to prospect for, and engage in, the mining of minerals, or stone thereof, gold and silver excepted, or in the manufacture of salt, or in the collection and refining of coal oil or petroleum, or in the preparation and sale of mineral or medicinal waters, or in the shipment of stone or rock of any kind in the nation, and in the sale of the same beyond the limits of the nation, if necessary to raise sufficient capital to successfully work the same, and thereby increase the revenue of the nation shall have the right to associate any person or persons, other than citizens of this nation, with him or them for that purpose; and the courts of the Cherokee Nation shall have full and complete jurisdiction over all transactions growing out of the same."

Be it further enacted, That section 86, article 18, chapter 12, shall read as follows: "That no license shall be granted by the treasurer for a longer period than ten years, at the option of the lessee, but every lessee, who may elect to renew his lease, and shall have complied with the terms of his former lease, may do so by complying with the laws governing the same; but no new lease shall be given or old lease renewed until arrears to the nation shall have been paid; provided that the national council may at any time change, amend, or repeal any or all of the conditions of leases, so as not to affect leases in force at the time of such change or repeal."

Be it further enacted, That any persons, citizens of the nation, operating or working mines of minerals, or making salt, or preparing medicinal or medical waters, or refining coal oil, or shipping stone or rock of any kind, under license as above provided, shall pay into the national treasurer, quarterly, upon the sworn statement of the persons holding and working under said license, a tax as follows:

For all stone coal, ten cents for every ton mined and sold.

For all lead ore mined, two dollars for each one thousand pounds.

For all coal oil gathered in barrels or tanks, for each barrel of forty gallons rectified, ten cents.

For all salt manufactured, one dollar for each ton.

For all rock or stone of any kind, three cents for each ton shipped outside the nation.

And all tax on licenses herein provided for shall be paid in the same manner; and persons from whom taxes are due shall be subject to the same conditions and penalties as is provided in the act of the national council, dated December 8, 1883, and entitled "An act granting licenses to trade in the Cherokee Nation."

Be it further enacted, That nothing in this act shall operate to prevent any citizens from obtaining coal at any mine or bank for his own use.

Concurred in by council with the following amendment: That the preparation and sale of mineral or medicinal waters be excluded with gold and silver, and that all revenue derived from that source be added to the school fund.

Approved December 15, 1883.

D. W. BUSHYHEAD,
Principal Chief Cherokee Nation.

I hereby certify that the foregoing is a true and correct copy of the amendment of the compiled laws of the Cherokee Nation. Approved December 15, 1883.

[SEAL.]

W. H. MAYES,
Assistant Executive Secretary.

EXECUTIVE DEPARTMENT CHEROKEE NATION, IND. T.,
Tahlequah, August 1, 1890.

To the United States Congress:

GENTLEMEN: Please allow me to call your attention to joint resolution (S. R. 114), introduced July 11, 1890, by Senator Jones, of Arkansas, relating to leases in the Indian Territory.

As chief of the Cherokees, I earnestly protest against its passage, so far as it affects the interest of my people and nation. The laws of the Cherokee Nation declare and make all minerals the property of the nation, and provisions are made whereby a citizen can lease a mine for a period not to exceed ten years, and associate with himself foreign capital in this lease to successfully work the same; but no right is given a non-citizen to lease a mine himself.

So you see the resolution is in plain violation of the laws of the Cherokee Nation regulating the use of her own property.

Now, I respectfully ask you not to interfere with the property rights of this nation. This action on the part of Congress seems very strange indeed to the Cherokees, in thus attempting to lease their mineral resources, in violation of their laws, to non-citizens for a period of ninety-nine years, which has the appearance of much inconsistency in your great Government in its dealings with this weak race of people.

Since your Government, through its President, has issued an order that we shall not let our grass to United States citizens, and has by that order stopped a revenue due our nation at the rate of \$200,000 per annum, it appears to the Cherokees that your Government is determined that they shall not use their property to the best advantage. I earnestly ask you again not to interfere with our sacred property rights, that we have enjoyed undisturbed for over half century.

I have the honor to be, very respectfully,

J. B. MAYES,
Principal Chief Cherokee Nation.

COAL LEASES IN THE INDIAN TERRITORY.

UNITED STATES INDIAN SERVICE.

Union Agency, Muscogee, Ind. T., August 11, 1890.

SIR: I have the honor to report that Agent Bennett left last night for the Chickasaw Nation, to be present at the election in the interest of peace and order. Before his departure, he instructed me to advise you that numerous petitions, with many signers, were being sent in from all parts of the Choctaw Nation, protesting against the Choctaw Coal and Railway Co.'s leases, and to request you to take such action as would delay action upon the part of Congress in this matter until these petitions reach your office; that as soon as he returns those already filed and some to come will be transmitted.

Very respectfully, your obedient servant.

FRED. MORRIS,
Cler

The COMMISSIONER OF INDIAN AFFAIRS,
Washington D. C.

○