

12-18-1897

Agreement with the Five Civilized Tribes. Letter from the Secretary of the Interior, submitting to Congress, for its consideration and ratification, an agreement between the Commissioners of the United States to negotiate with the Five Civilized Tribes and the Commission on the part of the Muscogee or Creek Nation, concluded on the 27th day of September, 1897

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AGREEMENT WITH THE FIVE CIVILIZED TRIBES.

L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

SUBMITTING

TO CONGRESS, FOR ITS CONSIDERATION AND RATIFICATION, AN AGREEMENT BETWEEN THE COMMISSIONERS OF THE UNITED STATES TO NEGOTIATE WITH THE FIVE CIVILIZED TRIBES AND THE COMMISSION ON THE PART OF THE MUSCOGEE OR CREEK NATION, CONCLUDED ON THE 27TH DAY OF SEPTEMBER, 1897.

DECEMBER 18, 1897.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, December 17, 1897.

SIR: In compliance with the provisions of the sixteenth section of the Indian appropriation act of March 3, 1893 (27 Stat. L., 645), I have the honor to submit herewith to the Congress, for its consideration and ratification, an agreement between the commissioners of the United States to negotiate with the Five Civilized Tribes and the commission on the part of the Muscogee or Creek Nation, concluded on the 27th day of September, 1897, and also the reports of the Indian Office thereon, dated October 6 and December 13, 1897, with the further information that it has been reported to this Department by Hon. Tams Bixby, acting chairman of the Commission to the Five Civilized Tribes, in a telegraphic dispatch (copy herewith), that the council of the Muscogee or Creek Nation has rejected the said agreement.

Attention is also invited to the correspondence on this subject in the appendix to my annual report of June 30, 1897 (Exhibit E), pages 135 to 140, inclusive.

Very respectfully,

C. N. BLISS,
Secretary.

The PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., October 6, 1897.

SIR: I am in receipt, by Department reference for immediate report, consideration, and recommendation, of a letter dated September 29

1897, from Hon. Tams Bixby, acting chairman of the Commission to the Five Civilized Tribes, transmitting an agreement between said Commission and a commission representing the Creek Nation, concluded at Muscogee on September 27, 1897.

In reply, I have the honor to say that under date of May 12, 1897, the office, in reporting on an agreement made by the Commission to the Five Civilized Tribes on April 23, 1897, with commissioners on the part of the Choctaw and Chickasaw nations, stated that—

This agreement represents, without doubt, the most important proposition relating to Indian Affairs with which the Government has had to deal, at least in recent years.

The diversity and magnitude of interests existing in these two nations, covering as they do some 11,338,000 acres of land, and having a population, according to the Eleventh Census, of 14,560 Indians and 100,000, approximately, of whites and others, engaged as they are in nearly every kind of business and industry, make it a difficult problem to solve. Therefore it goes without saying that it would be almost impossible to frame an agreement satisfactory to all, or out of which some of the persons so variously affected could not draw forth a seemingly reasonable grievance. To arrive at just what these points of objection are, if any may hereafter seem to exist, would of course bring about the necessity of all interests being heard. At present no objections to this agreement have been filed in this office; therefore, so far as known, it is satisfactory to persons having interests in the country, or who may in any manner be affected by it, and I therefore recommend that the same be forwarded to Congress for its consideration, agreeably with the requirement in the fourth paragraph of said sixteenth section.

This agreement is doubtless as important in its effect as the one with the Choctaws and Chickasaws. It is not so complicated in its terms as the other, but as great a diversity of interests are affected, and doubtless there will be some who will find objections thereto; but at present this office has received no protests or objections to this agreement, and I think the action recommended with respect to the Choctaw and Chickasaw agreement should also be taken as to this.

I have the honor, therefore, to recommend that the same be forwarded to Congress on its assembling for its consideration, agreeably with the requirements of section 16 of the act of March 3, 1893 (27 Stat. L., 645), under which the Commission negotiating the agreement was first established. I inclose two copies of this report and two copies of the agreement.

Very respectfully, your obedient servant,

A. C. TONNER,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 13, 1897.

SIR: I am in receipt of your letter of December 8, 1897, returning office report of October 6, 1897, transmitting the agreement of September 27, 1897, between the Commission to the Five Civilized Tribes and the commissioners on the part of the Creek Nation for further consideration and report in connection with the telegram of October 21, 1897, from Hon. Tams Bixby, acting chairman of the first-named Commission, in which he stated that the Creek Nation had refused the agreement by an overwhelming vote, the resolution of the Creek council rejecting the agreement and the correspondence relating thereto, which is contained in Exhibit E of the Appendix of your annual report, pages 35 to 40.

In this report above mentioned it was recommended that the agreement described be forwarded to Congress on its assembling for its consideration, agreeably with the requirements of section 16 of the act of March 3, 1893 (27 Stat. L., 645), under which the Commission negotiating the agreement was organized.

The special provision of section 16 on which this recommendation was made is contained in a paragraph on page 646 of the statutes cited, as follows:

The Commissioners shall at any time, or from time to time, report to the Secretary of the Interior their transactions and the progress of their negotiations, and shall at any time, or from time to time, if separate agreements shall be made with them with any nation, tribe, or band, in pursuance with the authority hereby conferred, report the same to the Secretary of the Interior for submission to Congress, for its consideration and ratification.

While, in view of section 40 of the agreement, which provides that it "shall be binding on the United States when ratified by Congress, and on the Muscogee or Creek Nation, party thereto, when ratified by the national council of said nation," and of the fact of the refusal heretofore of the Creek council to ratify the same, said agreement can not, even though it may be ratified by Congress, be made binding on the Creek Nation unless that nation shall hereafter recede from its refusal to confirm it, still the agreement is an agreement made by the Commission with the commissioners of the Creek Nation, such as is required by the provision of law above cited, to be submitted to Congress for its consideration, and I would therefore recommend that the same be forwarded to Congress as originally recommended, with the information, however, that it has been rejected by the Creek council.

A copy of office report of October 6, 1897, inclosed with your letter, is herewith returned.

Very respectfully, your obedient servant,

W. A. JONES,
Commissioner.

The SECRETARY OF THE INTERIOR.

[Telegram.]

MUSCOGEE, IND. T., *October 21, 1897.*

The SECRETARY OF THE INTERIOR,
Washington, D. C.:

Creek council has refused agreement by overwhelming vote. New commission, consisting of five members of Creek council, has been appointed to continue negotiations. Prospects not flattering for making agreement that will be approved by council.

TAMS BIXBY,
Acting Chairman.

AGREEMENT BETWEEN THE UNITED STATES COMMISSIONERS TO NEGOTIATE WITH THE FIVE CIVILIZED TRIBES AND THE COMMISSIONERS ON THE PART OF THE MUSCOGEE OR CREEK NATION.

This agreement, by and between the Government of the United States of the first part, entered into in its behalf by the Commission to the Five Civilized Tribes, Henry L. Dawes, Frank C. Armstrong, Archibald

S. McKennon, Alexander B. Montgomery, and Tams Bixby, duly appointed and authorized thereunto, and the government of the Muscogee or Creek Nation in the Indian Territory of the second part, entered into in behalf of such Muscogee or Creek government, by its commission, duly appointed and authorized thereunto, viz, Pleasant Porter, Joseph Mingo, David N. Hodge, George A. Alexander, Roland Brown, William A. Sapulpa, and Conchartie Micco,

Witnesseth, That in consideration of the mutual undertakings herein contained, it is agreed as follows:

GENERAL ALLOTMENT OF LAND.

1. There shall be allotted out of the lands owned by the Muscogee or Creek Indians in the Indian Territory to each citizen of said nation one hundred and sixty acres of land. Each citizen shall have the right, so far as possible, to take his one hundred and sixty acres so as to include the improvements which belong to him, but such improvements shall not be estimated in the value fixed on his allotment, provided any citizen may take any land not already selected by another; but if such land, under actual cultivation, has on it any lawful improvements, he shall pay the owner of said improvements for same, the value to be fixed by the commission appraising the land. In the case of a minor child, allotment shall be selected for him by his father, mother, guardian, or the administrator having charge of his estate, preference being given in the order named, and shall not be sold during his minority. Allotments shall be selected for prisoners, convicts, and incompetents by some suitable person akin to them, and due care shall be taken that all persons entitled thereto shall have allotments made to them.

2. Each allotment shall be appraised at what would be its present value, if unimproved, considering the fertility of the soil and its location, but excluding the improvements, and each allottee shall be charged with the value of his allotment in the future distribution of any funds of the nation arising from any source whatever, so that each member of the nation shall be made equal in the distribution of the lands and moneys belonging to the nation, provided that the minimum valuation to be placed upon any land in the said nation shall be one dollar and twenty-five cents (\$1.25) per acre.

3. In the appraisalment of the said allotment, said nation may have a representative to cooperate with a commission, or a United States officer, designated by the President of the United States, to make the appraisalment. Appraisements and allotments shall be made under the direction of the Secretary of the Interior, and begin as soon as an authenticated roll of the citizens of the said nation has been made.

4. All controversies arising between the members of said nation as to their rights to have certain lands allotted to them shall be settled by the commission making allotments.

5. The United States shall put each allottee in unrestricted possession of his allotment and remove therefrom all persons objectionable to the allottee.

6. The excess of lands after allotment is completed, all funds derived from town sites, and all other funds accruing under the provisions of this agreement shall be used for the purpose of equalizing allotments, valued as herein provided, and if the same be found insufficient for such purpose, the deficiency shall be supplied from other funds of the nation upon dissolution of its tribal relations with the United States, in accordance with the purposes and intent of this agreement.

7. The residue of the lands not taken in allotments (town sites, railroad rights of way, school and other exemptions and donations excepted) shall be appraised, and citizens having lawful improvements on lands in excess of their allotments shall have the right to purchase said land at the appraised price of the land so covered by their improvements. If any person fails to take such improved land the improvement shall be appraised and the land and improvements sold, and the appraised value of the improvements shall be paid to the owner thereof, and the remainder into the United States Treasury for the benefit of said nation.

8. All the residue of the land not taken in allotment and not herein otherwise provided for, and not taken by citizens to equalize the value of their allotments, shall be sold to the highest bidder at public auction for not less than one dollar and twenty-five cents (\$1.25) per acre, and the proceeds paid into the Treasury of the United States, to be devoted to the fund for equalizing the value of allotments.

9. Patents to all lands sold shall be issued in the same manner as to allottees.

SPECIAL ALLOTMENTS.

10. There shall be allotted and patented one hundred and sixty acres each to Mrs. A. E. W. Robertson and Mrs. H. F. Buckner (nee Grayson) as special recognition of their services as missionaries among the people of the Creek Nation.

11. Harrell Institute, Henry Kendall College, and Nazareth Institute, in Muscogee, and Baptist University, near Muscogee, shall have free of charge, to be allotted and patented to said institutions or to the churches to which they belong, the grounds they now occupy, to be used for school purposes only and not to exceed ten acres each.

RESERVATIONS.

12. The following lands shall be reserved from the general allotment hereinbefore provided:

All lands hereinafter set apart for town sites; all lands which shall be selected for town cemeteries by the town-site commission as herein-after provided; all lands that may be occupied at the time allotment begins by railroad companies duly authorized by Congress as railroad rights of way; one hundred sixty acres at Okmulgee, to be laid off as a town, one acre of which, now occupied by the capitol building, being especially reserved for said public building; one acre for each church now located and used for purposes of worship outside of the towns, and sufficient land for burial purposes, where neighborhood burial grounds are now located; one hundred sixty acres each, to include the building sites now occupied, for the following educational institutions: Eufaula High School, Wealaka Mission, New Yaka Mission, Wetumpka Mission, Euchee Institute, Coweta Mission, Creek Orphan Home, Tallahassee Mission (colored), Pecan Creek Mission (colored), and Colored Orphan Home. Also four acres each for the six court-houses now established.

TITLES.

13. As soon as practicable after the completion of said allotments the principal chief of the Muscogee or Creek Nation shall execute under his hand and the seal of said nation, and deliver to each of said allottees, a patent, conveying to him all the right, title, and interest of the said nation in and to the land which shall have been allotted to him

in conformity with the requirements of this agreement. Said patents shall be framed in accordance with the provisions of this agreement and shall embrace the land allotted to such patentee and no other land. The Secretary of the Interior of the United States shall annex to said patent his official certificate that it is drawn in accordance with the provisions of this agreement; that it embraces the land allotted to such patentee and no other land, and that he approves said patent, and said certificate shall be operative as a relinquishment of all rights, title, and interest of the United States in and to the land conveyed by said patent and as a guaranty of the United States of title to and possession of the land so conveyed, and the acceptance of his patent by such allottee shall be operative as an assent on his part to the allotment and conveyance of all the land of the said nation in accordance with the provisions of this agreement, and as a relinquishment of all his rights, title, and interest in and to any and all parts thereof, except the land embraced in said patent; except, also, his interest in the proceeds of all lands herein excepted from allotment.

14. The United States shall provide by law for proper record of land titles in the territory occupied by the said nation.

TOWN SITES.

15. There shall be appointed a commission, which shall consist of one member appointed by the executive of the Muscogee or Creek Nation, who shall not be interested in town property other than his home, and one member who shall be an officer of the United States, to be designated by the President of the United States. Said commission shall lay out town sites, to be restricted as far as possible to their present limits, where towns are now located. No town laid out and platted by said commission shall cover more than four square miles of territory.

16. When said towns are laid out, each lot on which substantial and valuable improvements have been made shall be valued by the commission at the price a fee-simple title to the same would bring in the market at the time the valuation is made, but not to include in such value the improvements thereon.

17. In appraising the value of town lots, the number of inhabitants, the location and surrounding advantages of the town shall be considered.

18. The owner of the improvements on any lot shall have the right to buy the same at fifty per centum of the value within sixty days from the date of notice served on him that such lot is for sale, and if he purchase the same he shall, within ten days from his purchase, pay into the Treasury of the United States one-fourth of the purchase price and the balance in three equal annual payments, and when the entire sum is paid he shall be entitled to a patent for the same, to be made as herein provided for patents to allottees.

19. In any case where the two members of the commission fail to agree as to the value of any lot they shall select a third person, who shall be a citizen of said nation and who is not interested in town lots, who shall act with them to determine said value.

20. If the owner of the improvements on any lot fail within sixty days to purchase and make the first payment on the same, such lot, with the improvements thereon (said lot and the improvements thereon having been theretofore properly appraised), shall be sold at public auction to the highest bidder, under the direction of said commission, at a price not less than the value of the lot and improvements, and the purchaser at such sale shall pay to the owner of the improvements the

price for which said lot and the improvements thereon shall be sold, less fifty per centum of the said appraised value of the lot, and shall pay fifty per centum of said appraised value of the lot into the United States Treasury, under regulations to be established by the Secretary of the Interior, in four installments, as hereinbefore provided. Said commission shall have the right to reject a bid on any lot and the improvements thereon which it may consider below the real value.

21. All lots not having improvements thereon and not so appraised shall be sold by the commission from time to time at public auction, after proper advertisement, as may seem for the best interest of the said nation and the proper development of each town, the purchase price to be paid in four installments, as hereinbefore provided for improved lots.

22. All citizens or persons who have purchased the right of occupancy from parties in legal possession prior to the date of signing this agreement, holding lots or tracts of ground in towns, shall have the first right to purchase said lots or tracts upon the same terms and conditions as is provided for improved lots, provided said lots or tracts shall have been theretofore properly appraised, as hereinbefore provided for improved lots.

23. Said commission shall have the right to reject any bid for such lots or tracts which is considered by said commission below the fair value of the same.

24. Failure to make any one of the payments as heretofore provided for a period of sixty days shall work a forfeiture of all payments made and all rights under the contract; provided that the purchaser of any lot may pay full price before the same is due.

25. No tax shall be assessed by any town government against any town lot unsold by the commission, and no tax levied against a lot sold as herein provided shall constitute a lien on the same until the purchase price thereof has been fully paid.

26. No law or ordinance shall be passed by any town which interferes with the enforcement of or is in conflict with the constitution or laws of said nation or of the United States, or in conflict with this agreement, and all persons in such towns shall be subject to such laws.

27. Said commission shall be authorized to locate a cemetery within a suitable distance from each town site, not to exceed twenty acres; and when any town shall have paid into the United States Treasury for the benefit of the said nation ten dollars per acre therefor, such town shall be entitled to a patent for the same, as herein provided for titles to allottees, and shall dispose of same at reasonable prices in suitable lots for burial purposes; the proceeds derived therefrom to be applied by the town government to the proper improvement and care of said cemetery.

28. No charge or claim shall be made against the Muscogee or Creek Nation by the United States for the expenses of surveying and platting the lands and town site, or for grading, appraising, and allotting the land, or for appraising and disposing of the town lots as herein provided.

29. There shall be set apart and exempted from appraisement and sale, in the towns, lots upon which churches and parsonages are now built and occupied, not to exceed fifty feet front and one hundred and fifty feet deep for each church and parsonage. Such lots shall be used only for churches and parsonages, and when they cease to be so used, shall revert to the members of the nation, to be disposed of as other town lots.

30. Said commission shall have prepared correct and proper plats of each town, and file one in the clerk's office of the United States district

court for the district in which the town is located, one with the executive of the nation, and one with the Secretary of the Interior, to be approved by him before the same shall take effect.

31. A settlement numbering at least three hundred inhabitants, living within a radius of one-half mile at the time of the signing of this agreement, shall constitute a town within the meaning of this agreement. Congress may by law provide for the government of the said towns.

CLAIMS.

32. All claims, of whatever nature, including the "Loyal Creek Claim" made under article 4 of the treaty of 1866, and the "Self Emigration Claim," under article 12 of the treaty of 1832, which the Muscogee or Creek Nation, or individuals thereof, may have against the United States, or any claim which the United States may have against the said nation, shall be submitted to the Senate of the United States as a board of arbitration; and all such claims against the United States shall be presented within one year from the date hereof, and within two years from the date hereof the Senate of the United States shall make final determination of said claim; and in the event that any moneys are awarded to the Muscogee or Creek Nation, or individuals thereof, by the United States, provision shall be made for the immediate payment of the same by the United States.

JURISDICTION OF COURTS.

34. The United States courts now existing, or that may hereafter be created in the Indian Territory, shall have exclusive jurisdiction of all controversies growing out of the title, ownership, occupation, or use of real estate in the territory occupied by the Muscogee or Creek Nation, and to try all persons charged with homicide, embezzlement, bribery and embracery hereafter committed in the territory of said Nation, without reference to race or citizenship of the person or persons charged with any such crime; and any citizen or officer of said nation charged with any such crime shall be tried and, if convicted, punished as though he were a citizen or officer of the United States; and the courts of said nation shall retain all the jurisdiction which they now have, except as herein transferred to the courts of the United States.

ENACTMENTS OF NATIONAL COUNCIL.

34. No act, ordinance, or resolution of the council of the Muscogee or Creek Nation in any manner affecting the land of the nation, or of individuals, after allotment, or the moneys or other property of the nation, or citizens thereof (except appropriations for the regular and necessary expenses of the government of the said nation), or the rights of any person to employ any kind of labor, or the rights of any persons who have taken or may take the oath of allegiance to the United States, shall be of any validity until approved by the President of the United States. When such act, ordinance, or resolution passed by the council of said nation shall be approved by the executive thereof, it shall then be the duty of the national secretary of said nation to forward same to the President of the United States, duly certified and sealed, who shall, within thirty days after receipt thereof, approve or disapprove the same, and said act, ordinance, or resolution, when so approved, shall be published in at least two newspapers having a bona fide circulation through-

out the territory occupied by said nation, and when disapproved shall be returned to the executive of said nation.

MISCELLANEOUS.

35. Neither the town lots nor the allotment of land of any citizen of the Muscogee or Creek Nation shall be subjected to any debt contracted by him prior to the date of his patent.

36. All payments herein provided for shall be made, under the direction of the Secretary of the Interior, into the United States Treasury, and shall be for the benefit of the citizens of the Muscogee or Creek Nation. All payments hereafter to be made to the members of the said nation shall be paid directly to each individual member by a bonded officer of the United States, under the direction of the Secretary of the Interior, which officer shall be required to give strict account for such disbursements to the Secretary.

37. The United States agrees to maintain strict laws in the territory of said nation against the introduction, sale, barter, or giving away of liquors and intoxicants of any kind or quality.

38. All citizens of said nation, when the tribal government shall cease, shall become possessed of all the rights and privileges of citizens of the United States.

39. This agreement shall in no wise affect the provisions of existing treaties between the Muscogee or Creek Nation and the United States, except in so far as it is inconsistent therewith.

40. This agreement shall be binding on the United States when ratified by Congress, and on the Muscogee or Creek Nation, party hereto, when ratified by the national council of said nation.

In witness whereof, the said Commissioners do hereunto affix their names at Muscogee, Indian Territory, this the twenty-seventh day of September, eighteen hundred and ninety-seven.

HENRY L. DAWES,
Chairman.

TAMS BIXBY,
Acting Chairman.

FRANK C. ARMSTRONG,
ARCHIBALD S. MCKENNON,
A. B. MONTGOMERY,
Commission to the Five Civilized Tribes.

ALLISON L. AYLESWORTH,
Acting Secretary.

PLEASANT PORTER,
Chairman.

JOSEPH MINGO,
DAVID M. HODGE,
GEORGE A. ALEXANDER,

ROLAND X BROWN,
^{his}
_{mark}

WILLIAM A. SAPULPA,

CONCHARTY X MICCO,
^{his}
_{mark}
Muscogee or Creek Commission.

J. H. LYNCH,
Secretary.

EXHIBIT E.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Muscogee, Ind. T., October 27, 1897.

SIR: I have the honor to report herewith, for your information, full text of the message of Honorable Isparhecher, principal chief, Muscogee (or Creek) Nation, dated October 6, 8, and 22, to the national council of said nation, relating principally to the dissolution of tribal affairs, together with copies of the report of the commission on the part of the Muscogee (or Creek) Nation, dated October 5, 1897, transmitting agreement between the United States Commission to the Five Civilized Tribes and the Creek Commission; and copy of the resolution of the national council of the Muscogee (or Creek) Nation, rejecting said agreement, and providing for another commission to prepare and submit to the United States Commission propositions "which shall fully provide for and protect all the needs and interests of said Muscogee Nation."

[Copy.]

EXECUTIVE OFFICE, MUSCOGEE NATION,
Okmulgee, Oct. 6th, 1897.

To the NATIONAL COUNCIL OF THE MUSCOGEE NATION.

GENTLEMEN: It is with pleasure that I welcome you upon your reassembling in annual session of council, because I believe the Great Ruler of the universe has so ordered it. To Him, I desire to express my grateful thanks in behalf of the Muscogee Nation and people for that care and protection He has extended over us all during the past year. We have had no special scourge or pestilence to affect us, and peace has prevailed within our borders. The returns of the labor of our farmers have been fairly good in portions of our nation, which, if fairly husbanded, will, in those portions of the nation, afford adequate subsistence until another harvest. In consequence, however, of excessive rain in the early spring and the extended drouth following later in the season, it is feared that many of our citizens in the western portions of our nation will suffer for want of breadstuff. It is said that the yield of corn has been very scant. I regret to state that there have been vexatious delays in the enforcement of some important enactments of our body. Among these I would mention the pasture law, the cattle law, the lease law, and the timber law. The delay has been caused principally by restraining orders from our U. S. Indian agent and the U. S. court at Muscogee. Not only have injunctions been served upon our officers, but some of them have been arrested and forced to appear before said court for trial, where the causes are now pending. These proceedings have resulted in perpetuating the existence of unlawful pastures, the protection of unlawful leases, and the unlawful grazing of foreign cattle in our nation.

Complaint was made last April by your delegates, G. W. Grayson and myself, to the Interior Department against the unlawful introduction of foreign cattle and the intruder element, with an earnest appeal for their removal from our nation, and the matter was referred to the U. S. Indian agent for investigation, who subsequently called on this office for certain information. In response the district officers were at once instructed to enumerate the foreign cattle and procure the name of all intruders and report the same to me, which was done. These reports have long since been placed in the hands of the U. S. Indian agent. Thus has rested the matter until, within the last few days, I received a communication from the Hon. Secretary of the Interior, dated September 31, 1897, calling for another list of the names of intruders, which is hereto attached for your information. It is evident from this letter that the list heretofore furnished did not afford the information he desires. It therefore becomes necessary that a new list be made in conformity with his request before any action will be taken by the Department. In view of this fact I deem it highly important that a competent person be delegated to perform this special service, in conformity with the requirements embraced in the Secretary's letter, as the surest and most prompt means for securing favorable action by the United States Government on this vital question. The intruder question is now the principal source of dissatisfaction in our nation. It is one requiring the strong arm of both governments to control, a question that is growing in magnitude and power, threatening by occupation the eventual absorption of our entire country by a noncitizen element. We have an alarming instance of the reckless and unscrupulous persistence of the genuine intruder as exhibited by the notorious Watts organization in the Cherokee Nation, and latterly, in this nation. Let us do our part promptly and submit the rest to the action of the United States Government.

You are, doubtless, anxious to learn the results of the efforts of your commissioners whom you appointed to negotiate a treaty with the United States Government. I have heard that a treaty has been concluded, and I expect it to be officially reported at an early day, but as it has not been so reported to this office I can not express an

opinion on its merits, but hope to have an opportunity of doing so before many days. There are other matters of general importance to which your attention will be called, from time to time during your present session, in special communications.

In the matter of the \$333,000 appropriated by last Congress for the payment of the outstanding indebtedness of the Muscogee Nation, I would state for your information that I have issued consolidated warrants, as provided by your act of November, 1896, in lieu of old ones investigated and retired by your committee on warrants, amounting in the aggregate to \$352,243, and I have so reported to U. S. Indian Agent Wisdom. I am credibly informed that the Secretary of the Interior has detailed two special agents, charged with the duty of investigating and determining whether or not there was any fraud in the incurring of such indebtedness, as provided in the act of appropriation, who are now conducting such investigation at Muscogee. It is hoped that their investigations will be completed and the payment of the funds be made within the next few weeks. In view of the fact that there will be an excess of our indebtedness over and above the \$333,000, I suggest that you instruct the national treasurer to cancel that excess out of any funds he may have on hand to the credit of the Muscogee Nation.

In conclusion, gentlemen, permit me to remind you that, as a people, we are in the midst of what appears to be one of the most extraordinary crises that have ever confronted our people, and it will require the exercise of your coolest and friendliest efforts in the work of evolving good and providing safety out of it for our waiting people. You may have to canvass grave questions involving the very life or death of our nation. In the faithful discussion of such questions honest differences of opinion must need appear; but I indulge the hope that your deliberations will always be characterized by kindly and respectful consideration of each other's views, however divergent, and that any heat of debate that may arise in your discussions will not be that of personal feelings, but the impulse of true and patriotic devotion to duty. Hoping that your session will be harmonious and marked by wise and beneficent legislation, I have the honor to be.

Very respectfully, your obedient servant,

ISPARHECHER, *Principal Chief, M. N.*

[Copy.]

EXECUTIVE OFFICE, MUSCOGEE NATION,
Ocmulgee, I. T., Oct. 8th, 1897.

To the NATIONAL COUNCIL OF THE MUSCOGEE NATION.

GENTLEMEN: I herewith transmit the report and treaty recently concluded by your commissioners with the commissioners on the part of the United States, for your consideration. It will be observed by you that it provides for the allotment of our lands and the extinguishment of our tribal titles. I regard this feature of the treaty as being very dangerous, and, therefore, very objectionable. Allotment of land to Indians has heretofore proven disastrous in every instance, and is sure to result likewise with us when we try it. It is a system of holding lands entirely new to our people. Some of us, however, tried the sad experiment in Georgia and Alabama a little over a half century ago, resulting in our final removal therefrom. My advice is never to try it again. Our system of land tenure has proven successful and satisfactory to us through all the years of our tribal existence. Never have we had a homeless wanderer during all of that time, nor are we likely to have one so long as we continue to hold our lands as we now do. We now hold our lands by the united power of two governments, general and local. By allotment we substitute the power of one individual for the power of our local government. Each one of our citizens will then have to employ the protective power over his realty that has been afforded by the local government. In other words, every citizen will take upon himself the duty of protecting his home that is now being done by the combined wisdom and strength of the Muscogee Nation. Not only so, but he assumes the responsibility of coping single-handed with the avaricious land sharks of the American continent. Many of the shrewdest and enlightened citizens of the United States are homeless simply because they are not able single-handed to protect their homes from sharpers.

We now have no suits about land titles, for our land title is not disputable, and never will until we allot our lands. Then the courts of the country will be thronged with such suits, just as they are in Oklahoma. We now pay no tax on our land, and never will until we allot. Then the taxgatherers will become as numerous as in Oklahoma. These things will inevitably follow allotment of our lands. I, therefore, advise you to weigh and calmly consider these facts before accepting this treaty.

I think it far better for us to stand firm by the treaties we have, and plead the justice of our cause by all lawful and honorable means, than enter into this agree-

ment. I fail to see any betterment of our condition by this agreement, but, to the contrary, I can see much that will be to our detriment. But you have had my views on this subject heretofore, and I do not deem it necessary to add anything more at this time to evidence to you my reasons for my opposition to the changes provided for by this agreement.

I am aware that the United States Government is urging us to change our relations with her, and has expended considerable money in surveying our country and for maintaining a Commission for the past three years. But all this has been done at the option of the Government, and not at our request. We have not asked for any of these things, but they have been asked for by the yelping, insatiable boomers who are always on the trail of the Indian, and will be until every foot of this land is opened up; and when we make this treaty these will be the people that will first through this country to scheme us out of our homes. It is simply a question as to the ownership of our lands. The boomers are hungry for them, and it seems the only means of making them accessible is by allotment. It therefore only remains for you to decide whether or not you will make yourselves a party to this scheme of the boomers. No, we have not asked for a new treaty nor for the allotment of our lands, but we have frequently requested the Government to remove from our country the intruder, which request has never been heeded, although solemnly guaranteed to be done by existing treaties. If intruders can not be removed from our country at this time, the question arises, Will they be removed by the promises of a new treaty agreeing to do so?

It seems that the Cherokees have tried both and have found the new treaties to be no better than old ones on this subject, and I believe we would have the same experience whenever we shall try it. For this reason I withheld my approval of the act of your called session last August authorizing your commission to treat. At that session of council I presented to you my views as to what seemed to me to be the most advisable course for us to pursue at this time. I am still of the opinion that we should test our constitutional right before the Supreme Court of the United States, and provision should be made at once for procuring the ablest counsel to represent us.

In conclusion, gentlemen, allow me to say that I have endeavored honestly to present my views on the subject before you, and feel that in this I have discharged my duty, and indulge the hope that you will consider the question in the same spirit of earnestness that has actuated me, and discharge the duty you owe your constituency intelligently, honestly, and faithfully.

I have the honor to be, very respectfully, your obedient servant,
 ISPARHECHER, *Prin. Chief, M. N.*

[Copy.]

EXECUTIVE OFFICE, M. N.,
Okmulgee, I. T., Oct. 22.

To the NATIONAL COUNCIL OF THE MUSCOGEE NATION.

GENTLEMEN: In view of the fact that much important matters are before your body not yet disposed of by you, and the shortness of time remaining of your session, I would suggest that you repeal the act of your last session reducing this term of your council to 15 days, in order that you may continue your session thirty days, if that time should be needful to dispose of the needful legislation before you. Special committees, to whom has been referred matters relating to the situation of our national affairs, has very recently been appointed and should be given ample time for mature thought and investigation before intelligent action can be taken by you. No preparation has yet been made to meet the new order of our public affairs that will begin on January 1st next, and is a matter that should enlist your best thought at this time. Our efforts to treat with the United States Government have proven unsuccessful, and we can now have no hope of continuing our government much longer as we now do, by the terms of any new treaty.

The time has now come, in my opinion, when the citizens of the Five Nations should get together and agree upon the establishment of a general government by which we might perpetuate the right of self-government. Should we be attached to Oklahoma as a Territory or State this right of self-government will be taken from us by the superior number of its voting population. None of us want such a connection with Oklahoma, yet there are strong efforts being made by her politicians for single statehood, including the Five Nations.

But this can be averted by timely and united efforts of the Five Nations. They are yet the sovereigns of their soil, and politically freeborn, with the right to shape

for themselves a government that will best suit them for the protection of their lives and property. I would therefore suggest that you constitute a delegation, consisting of a suitable number of your most competent citizens, for the purpose of visiting the other nations with a view of agreeing upon a time and place for the assembling of a constitutional convention, to be composed of duly authorized delegates representing the several nations; that is to say, a convention having for its purpose the framing of a general constitutional government that will afford protection to the Indian owners of the country. This is the first step looking to the formation of a government of the Indians and for the Indians of the Five Nations, and the only course that gives any hope of perpetuating our rights of self-government. I regard this as a step that should be taken at this time, for united we stand, divided we fall. I now submit this question for your calm and deliberate consideration and for such action as your better judgment shall direct.

I am, very respectfully, your ob't serv't,

ISPAHIECHER, *Prin. Chief, M. N.*

[Copy.]

REPORT OF THE COMMISSION TO COUNCIL.

OKMULGEE, I. T., *October 5, 1897.*

To the NATIONAL COUNCIL OF THE MUSCOGEE NATION:

We have the honor to submit to your honorable body the herewith accompanying agreement, entered into by and between the United States Commission to the Five Civilized Tribes, in behalf of the United States of the first part, and the Creek commission in behalf of the Muskogee or Creek Nation, of the second part. In view of all the circumstances and perplexing conditions, not necessary to enumerate, the agreement, we think, is as satisfactory as could be hoped for. It provides for the allotment of our lands and disposition of town sites, a method of settlement of all claims, titles to allotment, and town sites; it defines the jurisdiction of the United States courts, the limitation of the power of the national council, and miscellaneous provisions.

The intention and purpose of the agreement is to provide a method of distribution of all lands belonging to our nation in a manner that will give each citizen an equal share in the value of said lands.

The concessions of the powers of government and jurisdiction of the United States Government, provided for, seemed necessary to meet the new conditions brought about by this agreement.

We feel gratified to state that the Commissioners of the United States showed, throughout our conference, a spirit of fairness and conciliatory appreciation of the whole range of matter and conditions which we were called upon to arrange.

Herewith we submit, for your information, all the correspondence in their order; also arguments of the Missouri, Kansas and Texas Railroad, Creek Oil and Gas Company, and Okmulgee Oil Company, which we did not feel authorized to consider; also a proposition transmitted to us through the United States Commission, made by the principal chief of the Seminole Nation. Not having authority to give this matter consideration, it is respectfully submitted to your honorable body.

Feeling that we have discharged the duties entrusted to us conscientiously in a manner that will protect the interests of our people, and with a spirit of fairness and justice to all, and trusting that you will give it full and fair consideration and approval, we are,

Very respectfully, your obedient servants,

P. PORTER, *Chairman.*

JOSEPH MINGO.

DAVID M. HODGE.

GEO. A. ALEXANDER.

his

ROLAND x BROWN.

mark

W. A. SAPULPA.

his

CONCHARTY x MICCO.

mark

J. H. LYNCH, *Secretary.*

ROBERT W. STEWART, *Interpreter.*

RESOLUTION OF NATIONAL COUNCIL,

[Copy.]

Whereas the commissioners hereto appointed by the Muscogee Nation to prepare a treaty with the United States, through its Commissioners appointed for that purpose, and to present the same to the Muscogee Nation through its national council for ratification or rejection, have presented an agreement duly signed by the said commissioners on the part of the Muscogee Nation and by the said Commissioners on the part of the United States, and dated September 27th, 1897; and

Whereas the said agreement is unsatisfactory to the Muscogee Nation: Therefore, be it

Resolved, By the national council of the Muscogee Nation that the said agreement or treaty is hereby rejected. Be it further

Resolved, That a special joint committee, to be composed of two members from the house of kings and three members from the house of warriors, to be selected by a vote of their respective houses, be created, whose duty shall be to prepare an answer to the Commission, setting forth the reasons why the national council of the Muscogee Nation has rejected the said agreement, and also to prepare and submit to the present session of the national council, to be submitted to the United States, a proposition in relation to a change of tribal conditions of the Muscogee Nation which shall fully provide for and protect all the needs and interests of the said Muscogee Nation.

Adopted unanimously.

Concurred in—23 pro, 8 con.

Approved, October 18, 1897.

Respectfully submitted.

The SECRETARY OF THE INTERIOR.

ALEC DAVIS,
Speaker House of Warriors, pro tem.
A. P. MCKELLOP, *Clerk.*

G. A. ALEXANDER,
President House of Kings.
J. A. ALEXANDER, *Clerk, pro tem.*

ISPARHECHER, *Principal Chief, M. N.*
S. B. CALLAHAN, *Private Secretary.*

TAMS BIXBY, *Acting Chairman.*
A. L. A.