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Creek Tribe or Nation of Indians.

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CREEK TRIBE OR NATION OF INDIANS.

FEBRUARY 6, 1897.—Referred to the Committee on Indian Affairs and ordered to be printed.

Mr. JONES, of Arkansas, presented the following

MEMORIAL OF THE COMMISSION OF THE CREEK TRIBE OR NATION OF INDIANS IN RELATION TO THEIR REJECTION OF THE AGREEMENT SUBMITTED BY THE UNITED STATES COMMISSION TO THE FIVE CIVILIZED TRIBES, AND ACCOMPANYING CORRESPONDENCE.

To the Honorable the Senate and House of Representatives of the United States of America in Congress assembled:

GENTLEMEN: Your memorialists, representing the Muscogee Nation by virtue of an act of the Muscogee national council of October 28, 1896, respectfully submit that having been unable, after reasonable effort, to arrive at an agreement with the honorable the Commission to the Five Civilized Tribes, and having been disappointed in the promised return of that honorable Commission for the renewal and completion of negotiations relative to our country and government, beg now the privilege of submitting our views to your honorable body.

To fully explain our position we submit the correspondence which we held with the honorable Commission to the Five Civilized Tribes, from which it will be seen that—

First. That we were earnestly desirous of reaching a prompt settlement.

Second. That we answered directly the propositions submitted to us by your honorable Commission.

Third. That we yielded everything which the act of Congress of June 10, 1896, and the previous acts authorizing the Commission appeared to contemplate at our hands, only insisting on behalf of our government the protection which is essential under the proposed changes, to wit: First, a method of settling claims and the payment of what should be confessedly due before the civil death of the Muscogee Nation makes settlement impossible, and that a method be provided before the dissolution aforesaid by which fair treatment to the Muscogees should be secured when the nation ceases, to the end that they should not be robbed by State taxation, oppressed by discriminating laws, or otherwise injured; second, that our chief safeguard, the national title to the land patented to us, shall be preserved unimpaired until the consideration upon which we agree to its relinquishment shall have been secured.

We wish to defend the land allotted our citizens from excessive taxation, an evil greatly afflicting many new communities, especially Oklahoma.

The Arkansas constitution does this. We follow it.

We wish our citizens to be free from discrimination under the new State law and to retain for a short time after statehood some measure

of political respect in our own country, and not be overwhelmed by an alien and strange population at the first election. This political measure of protection is necessary until our people become accustomed to State law, in which they should have a voice as owners of the entire land. This we seek by a small and equitable property qualification to the right of suffrage.

These are political rights. We understand they can only be assured by that Congress which shall admit the new State; for this reason we ask to retain our national title, unimpaired, until such needed protection against State legislation shall have been obtained. We are informed that this is the only practical course by which we may with certainty avoid excessive taxation and injurious State legislation.

We appeal to the magnanimous judgment of the Representatives of the great American people, relying on their sense of fair play, asking only justice and firmly assured that our people will not be ungenerously treated.

Your numerous treaties with us, approved by the United States Senate, carried out by your House of Representatives, signed by the Presidents of the United States, have solemnly assured us, on the honor and good faith of the United States, our self-government forever. The patents delivered to our authorities on illuminated parchment, by the President of the United States, has conveyed to us a fee simple title incapable of trespass or violation. On these we have rested in peace with a faith incapable of being shaken.

Impelled, however, by a profound respect for the views of Congress, expressed for the first time on June 10, 1896, we have obtained our reluctant consent to make changes painful in the extreme to a large part of our people.

In doing so, we have set forth those measures of protection which are too reasonable to be disputed and too just to be denied. History will record that our people were manly men; that they were treated justly by the American people, and that they were capable and worthy of adding glory and brightness to one more star upon the greatest of all national flags.

With sentiments of the highest consideration, we have the honor to be, sincerely, your obedient servants,

G. W. GRAYSON,
 ROLEY MCINTOSH,
 P. PORTER,
 G. A. ALEXANDER,
 W. A. SAPULPA,
Commission of Creek Nation.

APPENDIX.

Correspondence between the commission of the Creek tribe or nation and the Dawes Commission.

MUSCOGEE, IND. T.,
 Tuesday, December 15, 1896.

To the Creek Commission:

The conference between your commission and that of the Five Civilized Tribes was adjourned until 9 o'clock this morning.

The Commissioners on the part of the United States have been in attendance from that hour until 3 o'clock this afternoon without the appearance of your commission, or any message from you explaining your absence.

Yours, truly,

HENRY L. DAWES, *Chairman.*

(The above note was due to a misunderstanding, the Muscogee delegation having promised to make their reply as soon as it could be prepared, agreed on, and typewritten, and not being aware it was required at 9 a. m. or their attendance then expected.)

The above note was received at 3 o'clock p. m., December 15, and the letter below submitted immediately afterwards).

MUSCOGEE, IND. T., December 14, 1896.

Hon. HENRY L. DAWES, FRANK C. ARMSTRONG, A. S. MCKENNON, T. B. CABANISS, and A. B. MONTGOMERY, *Commissioners to the Five Civilized Tribes.*

GENTLEMEN: Pursuant to our informal conference this morning, in which we were given a typewritten copy of your general propositions inviting negotiations, not personally signed nor addressed specially to us, but which we gladly receive for its intended purpose (copy hereto attached, Exhibit 1), and in which conference we were informed you would meet the Cherokees on Tuesday and the Choctaws on Thursday and leave for Washington on Saturday with or without an agreement with our people, to make final report to Congress and advise legislation, and in which conference you seemed to feel that we had been inclined to be evasive in the matter of negotiation, we beg leave to submit our immediate answer:

First. We earnestly protest that we have been in no degree evasive. Our national legislature has in each instance heretofore replied promptly to your annual invitation to negotiate substantially that our people did not wish to make any changes in their government or land tenure.

We believed we had the right to remain as we were under the guarantees of our treaties with the United States, and did not understand the invitation to treat to be considered a demand.

On June 10, 1896, the Indian appropriation act became a law. We were astonished to see your Commission authorized to make up a roll of our citizens and a declaration that it was the duty of the United States to establish a government in the Indian Territory. This was a grave violation of the numerous treaty pledges made each of the Five Nations in ofttime-repeated treaties.

In this declaration of the law we felt that our treaties were no longer regarded as sacred by your Government, and that it was intended to coerce our people regardless of the solemn pledges of treaty on which we had happily and confidently rested in peace.

Our attention was also called to a bill which passed the House of Representatives named the Curtis bill, which proposed violently to disrupt our country and government, and our delegates were informed that this bill would be made a law if we did not agree to treat, and your honorable Commission has repeatedly declared the same thing substantially.

In view of these extraordinary events an international council was promptly called by the chief of our nation to meet July 7, 1896, at Okmulgee. The Choctaws were absent, and another meeting of the international council was called to meet July 28 at Eufaula. It was there determined to advise the Five Nations to treat with your Commission. Our principal Chief immediately called by proclamation an extra session of council to meet August 4, 1896, and this council appointed a committee of five to confer with your honorable Commission.

On September 11, 1896, this commission met you at Muscogee and requested your views in writing, which you mailed them.

On September 23, 1896, this commission met you at Eufaula and requested you to answer certain inquiries in writing, which you did by mail.

On October 6, 1896, the regular session of our council met and considered this subject.

On October 12, 1896, it appointed a committee of sixteen members to advise the council by report.

On October 28, 1896, upon the report of their committee, our national council passed an act authorizing our commission to negotiate with you. (Copy herewith, Exhibit 2.)

On November 7, 1896, all the members of our commission were finally confirmed and immediately organized.

On November 11, 1896, we met the commission of the Cherokees, Choctaws, Chickasaws, and Seminoles at South McAlester, and after two days' discussion expressed our views by resolutions herewith submitted (Exhibit 3).

On November 12, 1896, we appointed a committee to fix a date with you for negotiation.

On November 16, 1896, this committee met you at Fort Smith and could not arrange a date, but to-day was the first opportunity we have had to meet you; and we are promptly on hand.

We are not, therefore, subject to the charge of delay or evasion. On the contrary, we have not lost any time whatever, and make our reply at the earliest moment after meeting you and arranging a method of negotiation by written interchange of views.

We are authorized to treat, and are here with earnest intention and purpose of meeting the issues frankly and fearlessly.

First. We know that allotment unavoidably involves a change of government, and for this reason before any allotment takes place we insist that you agree to a complete review of our accounts and equitable dues under the treaties, which we have never had, and that payment of all sums found due us nationally and individually be provided for.

Second. A reasonable indemnity for the enormous sacrifices demanded of us in relinquishing a government whose foundation cost us the lives of one-third of our people by exposure in migrating to and living in a hostile frontier—a government to which we are strongly attached; in relinquishing laws, customs, habits, and social observances we love, and assuming those which will be strange, injurious, and painful to us; in assuming a condition which will cost every citizen a large sum in resetting fences, fields, houses, orchards, water supplies, etc., to conform to north, south, east, and west lines, and giving up the rights of free pasturage, free fuel, etc., from our beloved public domain, not naming the giving up of the official authority we have so long enjoyed.

By the treaty of 1866 we were induced to adopt a large number of freedmen, not expecting that they would demand part of our funds and lands, and we think the Indian owners of the title should be indemnified for this charge on our property, made, as it was, on the demand of and for the accommodation of the Government.

We shall ask you to allow us to draw certain constitutional clauses, which any future State constitution shall contain, that will protect our political and property rights under any new arrangements.

On the satisfactory adjustment of the above propositions, we will agree to your propositions provisionally, as follows:

First. That the nation will allot its own land on a basis of equal value to each and every citizen alike, under the supervision of the United States.

Second. That the town lots and mineral lands be disposed of in such manner as may be hereafter agreed on between us, and the proceeds be paid to each citizen of the nation equally, or used for such other purposes as they may desire.

Third. That provisions be made for laying off town sites and the incorporation and government of towns in the nation.

Fourth. We are not ready to agree to this proposition.

Fifth. We accept this proposition, and would like \$400,000 at this session of Congress to pay our public debt.

Sixth. We want the loyal Creek claim paid, and submit the following:

It is hereby agreed that there shall be made by the accounting officers of the Government, accompanied by a representative of the Creek Nation, a complete accounting of all funds established by treaty, or equitably due the Muscogee Nation under the treaties, agreements, or laws relating thereto by and between the United States and the Muscogee or Creek Nation from sale of lands, or due from other sources under any of such treaties, agreements or laws relating thereto; and the Muscogee Nation shall not be held by any relinquishments of such rights or equities under the treaties and agreements aforesaid further than the payments therein made may, in equity, require in the accounting provided for, but the whole subject-matter shall be reviewed in the true light of the treaties and history as shown by the Government records and the accounting made as equity and good conscience shall determine. In the event that such accounting shall prove unsatisfactory to either party, an appeal is hereby authorized to be made within ninety days after such accounting shall be declared to the Court of Claims; and such court is hereby authorized to hear such case upon the petition of either party within the time aforesaid, so that the rights, legal and equitable, of the United States and the Muscogee or Creek Nation shall be fully considered and determined, and to try and determine all questions that may arise on behalf of either party in the hearing of said claim; and the Attorney-General is hereby directed to appear in behalf of the Government of the United States, and either of the parties to said action shall have the right of appeal to the Supreme Court of the United States: *Provided*, That such appeal shall be taken within sixty days after the rendition of the judgment objected to, and that the said courts shall give such causes precedence.

Seventh. Any change of government shall be to statehood alone, with a constitution containing the following irrepealable provisions, to wit:

The State legislature shall not have power to levy State taxes for any one year to exceed in the aggregate 1 per cent of the assessed valuation of the property of the State for that year; and no county shall levy to exceed one-half of 1 per cent for all purposes, and that there shall be a right of redemption from tax sales for not less than three years. This section shall be irrepealable.

Eighth. That no person shall be entitled to suffrage who does not have taxable property to the extent of \$100 in excess of legal exemptions.

We earnestly trust that the above propositions will meet with your approval, and that we may have the honor of a written response at your early convenience to each counter proposition, with your views thereon in detail, and we beg to assure you that we will give the matter earnest and immediate consideration.

Yours, very respectfully,

P. PORTER.
D. M. HODGE.
JOE MINGO.
G. A. ALEXANDER.
W. A. SAPULPA.
ROLAND BROWN.
CONCHARTY MICCO.
R. W. STEWART.
Interpreter.

I. H. LYNCH, *Clerk.*

The above letter was the result of continuous painstaking labor of thirty hours, involving almost the entire night Monday, and the following answer was immediate, the subject having been considered, agreed on, the answer dictated, typewritten, signed up, and returned to us within thirty minutes.

EXHIBIT 1.

First. That there be an equal division of all the lands of the tribe among all its citizens, except such town lots and mineral lands as are not susceptible of equal division, and that the United States put the citizens in possession of the land set apart to them.

Second. That the town lots and mineral lands be disposed of in such manner as may be agreed upon and the proceeds divided equally among the citizens or used for such other purposes as they may desire.

Third. That provision be made for laying off town sites and the incorporation and government of towns in the nation.

Fourth. That the jurisdiction of the tribal courts be transferred to such United States courts as have been or may be established within the limits of the Territory.

Fifth. An equal division by the United States, among the citizens, of all invested funds not devoted to school or charitable purposes, or such other disposition of these funds as may be desired by the Creek Nation.

Sixth. The settlement of any other matters between the Creek Nation and the United States within the authority of this Commission.

Seventh. The present tribal government to continue in existence until after the lands are divided and the citizens put in possession of their lands, after which the United States may establish a government for the Territory.

EXHIBIT 2.

Resolutions adopted in convention by the commissioners of the Choctaws, Chickasaws, Creeks, Cherokees, and Seminoles, in session at South McAlester on call of the governor of the Choctaw Nation.

[Passed November 12, 1896.]

Resolved, That it is the sense of this convention that the time has arrived when the repeated demands of the United States make it imperative on the Five Civilized Nations to treat with the United States Commission.

It is of the highest importance that the Five Nations act in perfect harmony and on a definite common line of policy which is hereby solemnly pledged by each to the other. The following line of policy is regarded as essential to securing the best interests of the Five Nations under the pending conditions, and it is adopted:

POLICY.

We recognize that the proposals of the United States for disintegrating the land of our people by allotment and town-site division mean ultimate State government, and that in dealing with the United States we must fully and clearly recognize this

policy of the General Government and conduct our negotiations on this basis so as to secure all of the amounts due our nations and people with an agreement of method of conserving our material and political rights, as a condition precedent to disintegration of lands and tribal governments.

If impelled to dissolve our tribal governments, we wish to construct an abler government which shall protect the lives, the happiness, and the property of our people and secured by the proposed negotiations.

1. We will insist first on a full payment of all claims due to each of the nations, arising out of treaty stipulations or other relations, to be agreed on by the commission of each nation and the United States Commission and paid as soon as practicable and before any impairment of tribal government.

2. When division of land shall be made, all the land shall be divided among the citizens of the nations share and share alike, except as modified by Indian law and treaty, and the patent shall remain inviolate, retaining sovereignty in the nation until a State government, containing constitutional protection, as hereinafter set forth, shall have gone into effect.

3. Impelled by the earnest and repeated instance of the United States demanding of our people the relinquishment of our tribal governments, we feel obliged to insist on a personal compensation to each of our citizens of not less than \$500 apiece, to be paid before our governments are destroyed, the amount to be determined by each nation. This demand is based on the following reasons:

a. Our people must relinquish a government to which they are deeply attached. They must give up social customs, habits, and observances which, observed for very many years, have become essential to their happiness.

b. They must assume new and strange duties and habits to which they are totally unaccustomed, and which will prove irksome and expensive in the extreme to our individual citizens, especially to our thousands of non-English-speaking people.

c. Each individual will have to build new outside fences on north and south, east and west lines, according to the lines newly surveyed by the United States. This will cost hundreds of dollars to each quarter section, about which would be 2 miles of fence, at least, in every instance. This will cost money.

d. Our citizens will have to move houses, fences, corrals, etc., and change orchards, water supplies, cultivated fields, etc., and other established improvements to conform to these new lines of survey. This will require money.

e. Our citizens will lose free pasturage for cattle and every family cow that now has open range, and will require the building of small pastures for such cattle and providing of necessary forage for such stock. This needs money.

f. Our people who have gotten their winter's meat and annual food from swine running on the open mast will be compelled to bring them home and build special close pens and provide food for them. Our people will have to pay the bill.

g. Our people will be driven to abandon all their previously constructed roads, and must of necessity build new roads for travel on north and south, east and west lines, build bridges, etc., which will impose a new, unavoidable, and unexpected expense on our people.

h. Our people will, under the new conditions, be required to bear the immediate, close, personal contact with numerous impecunious persons impoverished in other States, who will endeavor to better their condition in the Indian country, and who will subject our people to the same line of small, exasperating, and aggressive trespasses that drove the Indians allotted in Kansas, as the Shawnees, Delawares, Pottawatomies, and others, out of that State for refuge in Indian Territory.

We are not unaware that the total involved would be large, yet we are fully advised that the huge development under the new condition in opening to its full productive power our Indian domain will be of great advantage to the United States, and that the United States will be fully repaid out of the revenue that will flow therefrom.

4. We realize the great benefits our people have derived from our educational institutions, and also that many of our people will by the new conditions be reduced to destitution, and being anxiously desirous of providing for the children of such citizens, we wish to set aside land out of our domain to be a permanent investment for the benefit of certain educational institutions sufficient for the education of these children. We shall further insist that the institutions we have erected for educating our people shall be sustained by the United States under their Carlisle system.

5. We will maintain our tribal governments as long as possible.

6. Before relinquishing tribal government and before the disintegration of land shall be made, we shall insist that all the conditions heretofore set up shall have been carried out.

7. We will never consent to a territorial government or to a union with Oklahoma Territory.

8. When a change of government takes place, we will ask that the proposed agreements provide admission as a State of the Union, with constitutional provisions irrevocable, protecting the property rights and political privileges of our people,

the constitution to be made by our own people, with absolute prohibition of the liquor traffic.

We represent 65,000 sober, industrious, self-supporting, and God-fearing people; owners of the entire soil of Indian Territory by solemn treaty and patented titles—people who came to a wilderness, driven by force, and made it a cultivated land—people who have erected schools, churches, and courts of justice and governments under which they have found safety and happiness. We rely on the justice of our cause and the guidance of Divine Providence, and we appeal to the moral sentiment of a great and magnanimous nation, in whose hauds is our ultimate destiny and in whose honorable national life and history we have earned a decent and honorable place.

[Amended by Governor John F. Brown, that it is the sense of this meeting and in our judgment we should be allowed twenty-five years before being required to assume State government.]

The above resolutions were unanimously adopted without a negative voice.

Choctaw delegation.—Green McCurtain, principal chief; Sans Bois, Ind. T., ex officio chairman; J. S. Standley, Atoka, Ind. T.; N. B. Ainsworth, McAlester, Ind. T.; Amos Henry, Red Oak, Ind. T.; A. S. Williams, Alikchi, Ind. T.; Wesley Anderson, Tusahoma, Ind. T.; D. C. Garland, Janis, Ind. T.; E. N. Wright, Atoka, Ind. T.; Ben Hampton, Caddo, Ind. T.

Creek delegation.—Roley McIntosh, Eufaula, Ind. T.; G. W. Grayson, Eufaula, Ind. T.; P. Porter, Muskogee, Ind. T.; D. M. Hodge, Tulsa, Ind. T.; G. A. Alexander, Wetumka, Ind. T.; W. A. Sapulpa, Sapulpa, Ind. T.; Joseph Mingo, Wagoner, Ind. T.; Concharie Micco, McDermott, Ind. T.; Roland Brown, Okmulgee, Ind. T.; J. H. Lynch, secretary, Okmulgee, Ind. T.; Robert W. Stewart, interpreter, Holdenville, Ind. T.

Cherokee delegation.—S. H. Mayes, principal chief Cherokee Nation, Tahlequah, Ind. T.; D. W. Bushyhead, chairman Cherokee commission, Tahlequah, Ind. T.; C. V. Rogers, Oolagah, Ind. T.; Te Kinney Waters, Braggs, Ind. T.; Robert B. Ross, Tahlequah, Ind. T.; William Eubanks, interpreter, Tahlequah, Ind. T.

Seminole delegation.—John F. Brown, principal chief Seminole Nation, Sasakwa, Ind. T.; Nuth Cap. Harjo, Wewoka, Ind. T.; William Cully, Sasakwa, Ind. T.; Nokas Fixico, Wewoka, Ind. T.; Thomas McGeisey, Maud, Okla.

Chickasaws.—M. V. Cheadle, Tishomingo, Ind. T.; R. McLish, Ardmore, Ind. T.

MUSKOGEE, IND. T., *December 15, 1896.*

To the commissioners appointed by the Creek Tribe or Nation to negotiate with the Commission to the Five Civilized Tribes in respect to changes in their tribal government and the holding and use of their tribal property.

GENTLEMEN: The Commission acknowledge the receipt, this afternoon, of your answer to propositions of this Commission concerning such changes, furnished your government nearly five months since.

In answer to this communication they have to say that it proposes negotiations upon terms and conditions they can not entertain. And if these terms and conditions are insisted upon they will be compelled to report your answer to the Government of the United States, with such comments as, in their judgment, the conditions and facts involved may require.

Respectfully,

HENRY L. DAWES,
FRANK C. ARMSTRONG,
A. S. MCKENNON,
T. B. CABANISS,
A. B. MONTGOMERY,
Commissioners.

MUSKOGEE, IND. T., *December 16, 1896.*

Hon. HENRY L. DAWES, FRANK C. ARMSTRONG, A. S. MCKENNON, T. B. CABANISS, and A. B. MONTGOMERY, *Commissioners.*

GENTLEMEN: We acknowledge the receipt of your favor of December 15, 1896, replying to our proffer of negotiation delivered to you between 4 and 5 p. m. of that date.

You state that our agreement to negotiate "proposes negotiation upon terms and conditions you can not entertain."

These conditions were, first, a method of final settlement of all claims against the United States to be provided before tribal dissolution made settlement impossible; second, indemnity for sacrifices and losses we were invited to undergo; third, provisions in a future State constitution that would save our people from oppression and injury by law.

To the first proposition we have your own indorsement. (Art. 4 of your proposition of 1894).

To the second, it is so just we do not believe you can on consideration refuse it your approval.

To the third we are convinced you will gladly assent when you consider its justice and wisdom.

We entertain the highest respect for your honorable Commission, and now that your labors on the thousands of citizenship cases are ended and you are able to consider the vital issues of the great changes contemplated—where our domestic dependent states are to be transformed into a State of the Union—and you can now give for the first time the undivided attention the magnitude and character of these issues demand, we trust you will not be wanting in patience or magnanimous consideration of our rights in the premises. We have requested bare justice alone on the conditions above recited, and we are not willing to believe you will refuse their consideration when you shall have had time to examine them, which was hardly possible in the incredibly short time between your receipt of our proposition and your answer.

We trust you will perceive that it is not unreasonable to ask the adjustment of all unsettled matters before the dissolution of tribal governments make settlement impossible. We are not willing to believe you propose to create a condition which will make future settlement impossible, and yet on deliberation refuse to consider a method of present settlement.

We rely on the repeated declarations made by those high in official life, including your honorable self, that the betterment of the Indian people was a chief motive in sending you to treat with us, and we hope you will not refuse to entertain a plan for referring unsettled matters to the courts of the United States, or other form of present settlement and at the same time insist on a method that will prevent a future hearing by destroying the life of the plaintiff.

If, however, you are unable to negotiate with us, if we insist on these matters being entertained and you need further authority, we shall be glad to have you present our views to Congress with such recommendations as your high sense of justice suggests. We doubt not Congress will authorize you fully to grant our request.

We have the utmost reliance on the American sense of justice and confidently rely upon it to give us a hearing. The life of the Indian race is involved, a life which it has been the sentiment of the American people to cherish and raise to the highest ideal of Christian citizenship. And the disposition of such an issue invites patience and the earnest consideration of their interests even if not presented, but when these interests are presented in terms, we believe that they will be certainly entertained and given fair consideration.

The conditions we present are a necessary and essential part of any agreement that proposes to fully protect the interests of our people, as we can fully establish, if permitted the opportunity.

We wish you to apprise us of any specific objection you may have to our propositions, with your reasons clearly set forth, so we can furnish you with its proper answer.

We have given the subject earnest attention ever since June 10, 1896, when we learned for the first time that the Government regarded it a duty to establish a government in Indian Territory, and we are now profoundly interested in bringing this vital matter, upon which depends the life and happiness of many thousands of our people, to an honorable and propitious adjustment.

Very respectfully,

P. PORTER.
D. M. HODGE.
JOE MINGO.
G. A. ALEXANDER.
W. A. SAPULPA.
ROLAND BROWN.
CONCHARTY MICCO.
R. W. STEWART,
Interpreter.

J. H. LYNCH, *Clerk.*

MUSCOGEE, IND. T., December 16, 1896.

To the commissioners appointed by the Creek tribe or nation to negotiate with the Commission to the Five Civilized Tribes in respect to changes in their tribal government, and the holding and use of their tribal property.

GENTLEMEN: The Commission to the Five Civilized Tribes acknowledges the receipt, at 3 p. m. this afternoon, of yours of this date in reply to the letter addressed by them to you on yesterday.

This second letter from you does not purport to be a withdrawal or modification in any respect of the terms and conditions submitted in your communication of yesterday which, after due consideration, the Commission to the Five Civilized Tribes were compelled to inform you that they could not entertain. The effort in this last communication to restate those terms and conditions has not rendered them more clear and capable of being understood than the original statement of yesterday. On the contrary, that statement, with the accompanying exhibits, which you were careful to make a part of it, left nothing to be inferred as to their true intent and scope. The Commission regrets that this communication does not in any respect change the attitude which your commission have assumed in response to the proposed change heretofore submitted to your government, and therefore requires but a repetition of the answer therein contained, that they can not be entertained by the Five Tribes Commission.

The Commission fails to find in this communication any notice of the fact of your declining to accede to one of the most important of the propositions to your government, viz., that concerning the change of jurisdiction in your tribal courts.

They are gratified to be assured that you "have given the subject earnest attention ever since June 10, 1896," and that therefore there can be no question that you fully understand the character of the propositions submitted to your government, and it also removes all just cause of complaint of undue haste.

In answer to your suggestion that this Commission seek further authority from Congress, if able to negotiate with you upon the terms and conditions set forth in your communication, they have to say that it would be idle for them to ask from Congress to be clothed with power which Congress itself does not possess.

Respectfully,

HENRY L. DAWES,
FRANK C. ARMSTRONG,
A. S. MCKENNON,
T. B. CABANISS,
A. B. MONTGOMERY,
Commissioners.

MUSCOGEE, IND. T., December 18, 1896.

HON. HENRY L. DAWES, FRANK C. ARMSTRONG, A. S. MCKENNON, T. B. CABANISS,
and A. B. MONTGOMERY, *Commissioners.*

GENTLEMEN: Our second letter earnestly requesting your views on the counter propositions submitted by us, designated by you "terms and conditions," did not purport, of course, to be a withdrawal of such propositions without consideration or any stated explanation or objection by you. You replied, indeed, you could not entertain our propositions, but you did not make any explanations or state any objection. It is manifestly impossible for us to answer your objections unless they are stated. Nor are we prepared to recede before unknown objections, but we are anxious to know them, and if we can not know what they are, then at least we shall await your pleasure if you wish to decline to assign any reason for the positions you take in these negotiations.

We were advised by you and the acts authorizing your honorable Commission that you were sent to negotiate with us. We have promptly and courteously responded as directly as we knew how. You reply very briefly, and with no reason assigned, you can not entertain our propositions. We urged you a second time to assign your objections in detail, which is not done. You reply that our first statement with exhibits is so clear that it "left nothing to be inferred as to their true intent and scope."

Our statement modified the McAlester resolutions, which was an exhibit and which was only intended as an outline of policy in the negotiations, as you have fully learned from the Choctaws, who signed it, and from ourselves. We earnestly implore you, as the representatives of a Government in whose history we have a personal pride, that you do be plain and frank with us and state to us what objections you have and the reasons that impel you to feel you can not do us the honor of entertaining our views or propositions.

How can we conduct this negotiation with honor to you and to ourselves while you remain unwilling to answer our propositions?

We feel assured you have some reason that commends itself to your judgment and to your conscience, and we are deeply desirous of knowing what it is. You state, in substance, that it would be idle for you to ask Congress for authority to negotiate with us on the "terms and conditions" (our propositions) set forth by us, and imply that Congress itself does not possess such power.

Our counter propositions were: First, to provide a method of stating accounts and making payment; second, a provision for reasonable indemnity; third, protection against future State law.

You do not state which of these Congress does not possess the power to grant, but seem to think that none of them can be provided by Congress. As you are not specific, we will not at present take them up in detail, but feel impelled to express our earnest conviction that Congress has full authority in the premises, and will, upon our agreement, exercise such power by confirming such agreement.

Your attention is respectfully called to the language of the act of Congress of March 3, 1893 (27 Stat. L., p. 646) giving your commission "power to negotiate any and all such agreements as, in view of all the circumstances affecting the subject, shall be found requisite and suitable to such an arrangement of the rights and interests and affairs of such nations," to enable the ultimate creation of a State in the Union.

This language we think broad enough to fully cover our propositions, but as you appear not only not to think so, but you also think Congress itself has no power to provide what we wish, we must again urge you to assign the reasons for such position.

We are unable to conceive the ground upon which you base your conclusions.

You state that because since June 10, 1896, our people have given this matter earnest attention "all just cause of complaint of undue haste" is removed. We respond that it takes time for an unlettered and retired Indian people to learn fully, and understand the conditions referred to; that thousands of our citizens do not yet understand them, and that we will be obliged to take great pains to satisfy our own people and persuade them to agree to any agreement we may make with you on propositions we have already submitted. Still we have not complained of undue haste, and do not expect to do so as we know you will take reasonable time to treat of every point involved in this important transaction which involves the property, the political and social life of every man, woman, and child belonging to our people.

Again earnestly urging you to reply directly to our request, we remain, with sentiments of the highest respect,

Yours, very truly,

P. PORTER.
D. M. HODGE.
JOE MINGO.
G. A. ALEXANDER.
W. A. SAFPULPA.
ROLAND BROWN.
CONCHARTY MICCO.
R. W. STEWART,

Interpreter.

I. H. LYNCH, *Clerk.*

To the above letter the honorable Commission very briefly replied on Saturday, December 9, that they would reply more formally at a later date, their arrangements having been made to leave the Territory on that day.

Not having that letter at hand, application was made February 4, 1897, for a copy.

The chairman of the United States Commission advised us February 5, 1897, that he could not find the letter referred to.

From the above correspondence it will be seen that our Commission is still patiently and respectfully awaiting the promised answer.