

2-6-1897

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Recommended Citation

S. Doc. No. 112, 54th Cong., 2nd Sess. (1897)

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CORRESPONDENCE BETWEEN THE CHEROKEE NATION
OF INDIANS AND THE DAWES COMMISSION.

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

Mr. CALL presented the following

CORRESPONDENCE BETWEEN THE CHEROKEE NATION OF INDIANS AND THE DAWES COMMISSION RELATIVE TO THE PROPOSED CHANGE IN THEIR TRIBAL GOVERNMENT AND THEIR METHOD OF LAND TENURE.

To the Senate and House of Representatives of the United States:

In order to correct an erroneous impression as to the unwillingness of the Cherokee Nation of Indians to enter into negotiations with a commission appointed on the part of the Government of the United States by virtue of acts of Congress approved March 3, 1893, and March 2, 1895, as amended June 10, 1896, commonly known as the "Dawes Commission," for a change in their tribal government and their method of land tenure, we most earnestly invite your careful consideration of the following brief review of the proceedings had and communications interchanged between the representatives on the part of the Cherokee Nation and the United States Commission.

We do not publish this in the spirit of criticism, because the Cherokee people entertain the kindest consideration for the representatives of the United States individually and collectively, to whom we refer you for a corroboration of the facts herein contained, but for the purpose of refuting the current charge that we were not sincere in our public manifestations of a desire to negotiate and were playing for advantage through delay. This insinuation is unjust and untrue. No evasion was intended or attempted, as the members of the United States Commission will bear witness.

The Indian appropriation bill of last year, approved June 10, 1896, contained a provision returning the Dawes Commission to the Indian Territory with the additional authority to hear and determine the cases of all applicants for citizenship in the Five Civilized Tribes and to make a complete roll of all the citizens of those nations—a laborious task, that we fear that but few will appreciate the difficulties involved in its accomplishment. There were filed about 7,400 separate applications for citizenship in the Five Civilized Tribes, averaging about ten persons to each application. Testimony filed in many cases was voluminous and demanded painstaking consideration.

Some time after June 10, 1896, perhaps in July—we are not exact as to date—the Commission returned to the Territory and immediately entered upon its additional labors. A few days later S. H. Mayes,

Chief of the Cherokee Nation, convened the national council (legislature) in special session, which assembled at Tahlequah August 10, 1896, and urged upon them, among other things, the necessity of appointing a commission to meet and confer with the representatives of the United States. An act was passed and approved August 22, 1896, providing for the appointment of such a commission. Nothing was accomplished by the commission appointed by virtue of this act other than to receive the proposition of the Dawes Commission, for the reason that the time until December 10, 1896, when all cases of applicants for citizenship under the law had to be determined, necessarily was almost exclusively devoted to that work, and for the further reason that the time of the Cherokee commission expired by limitation about the middle of November. The national council was in regular session at the time, and Chief Mayes again urged the continuance of the commission, which was done by an act approved December 4, 1896, of which the following is a copy:

[Senate bill No. 37.]

AN ACT to continue the labors of a commission.

Be it enacted by the national council, That the commissioners appointed by authority of the act of the national council, approved August 22, 1896, entitled "An act providing for the appointment of Commissioners" be, and they are hereby, reinvested with and continued in the authority conferred upon them by said act for the purposes therein defined, which act with the provisions and requirements thereof is hereby revived and continued in full force and operation with the following amendments:

First. That the principal chief is authorized to appoint, by and with the advice and consent of the senate, two additional commissioners who shall be empowered to act with the five commissioners heretofore appointed, in whatever conferences and negotiations may be had with the Commission of the United States, in conformity with the authority vested by said act.

Second. That the principal chief is hereby attached to and made a member of the commission created by said act, and shall be ex-officio chairman thereof when present at any meeting of the same.

Third. That any agreement that may be prepared for ratification pursuant to the provisions of said act, shall, before going into effect or becoming binding upon the Cherokee Nation in any degree or respect, be ratified and approved by the national council, and shall then be submitted by said council to the Cherokee people, and be by a majority of them ratified and approved.

Fourth. That the sum of eight hundred dollars, or so much thereof as shall be necessary, is hereby appropriated, out of the general fund, and made immediately available, to defray the personal traveling and incidental expenses of the Cherokee commissioners while conferring and negotiating with the United States Commission as authorized by said act.

Passed the senate December 3, 1896.

SAMUEL SMITH,
President Senate.

BROWN HITCHCOCK,
Assistant Clerk Senate.

Passed the council December 4, 1896.

JOHNSON SIMMONS,
Speaker of Council.

JOHN R. LEACH,
Clerk of Council.

Approved this December 4, 1896.

WASH SWIMMER,
Assistant and Acting Principal Chief.

EXECUTIVE DEPARTMENT, C. N., December 9, 1896.

The above is a true and correct copy of the original as appears of the records of this office.

W. H. MAYES,
Assistant Executive Secretary.

The two additional members provided for in section 1 of the above act were immediately appointed, and the commission as then constituted

consisted of seven representative men besides the principal chief. Then and for some time previous the United States Commission was engaged in negotiating with the representatives of the Choctaw Nation, which was not concluded until December 18, 1896. (S. Doc. No. 94, Fifty-fourth Congress, second session.) The Cherokee commission was reorganized without delay, went to Muscogee, Ind. T., met the Dawes Commission, and on December 16, 1896, addressed them the following communication:

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

Hon. Henry L. Dawes, chairman; Frank C. Armstrong, A. S. McKennon, T. B. Cabaniss, and A. B. Montgomery, Commissioners United States.

GENTLEMEN: The undersigned commissioners of the Cherokee Nation respectfully inform you that two of their members, with the principal chief of the nation, were, on the 4th instant, added to the Cherokee commission, created by act of the national council approved August 22, 1896 (copy of which has been furnished you), and that the others were reappointed with the same powers and authority as before, by act of said council approved December 4, 1896, a copy of which is inclosed.

In reply to your communication of September 29, 1896, in which you "propose to treat with the Cherokee Nation on the general lines indicated in the communication," to be modified as may be deemed best after conference with any commission appointed by the council of said nation with full authority to treat with us (you), your honorable Commission is respectfully referred to the copies of the said acts of council in regard to the extent of our authority in the premises "indicated."

By virtue of the authority vested in the undersigned commissioners by said acts, we consider ourselves empowered to make an agreement with your honorable Commission upon the lines and for the objects indicated in your said communication, subject, of course, to the necessary ratifications, but embracing such modifications of your propositions as you suggest, and which a due regard for the rights of and justice to the Cherokee people shall be found and decided, after conference, to be required.

It is perhaps proper for us to repeat the information given to your Hon. Commission in a former letter, that when the Cherokee Commission took your propositions into consideration upon their return from Vinita on Sept. 30th last, the Cherokee Commission were impressed with the fact that the negotiations authorized to be had by the act of Congress creating your Commission, as well as your propositions to negotiate presented to the Creeks and Cherokees, required the Five Tribes of the Territory to act largely in unison in negotiating with your Commission.

The representatives of the tribes were therefore called together at McAlester, and the interests of them all consulted in a joint conference. No time was lost in doing this, but it was not until Nov. 15th, when the authority of the Commission expired by limitation of law, that we were enabled to make suitable answer to your propositions. It was then too late for any definite action, even had not the time of your Commission been consumed in attending to the citizenship business, and our Commission so reported to the Cherokee National Council. The council, without unnecessary delay, continued our services, as shown by the act enclosed, about two weeks ago.

Respectfully,

D. W. BUSHYHEAD,
Chairman Cher. Com.

The above is a true copy of the original.

W. P. BOUDINOT,
Clk. Commission of Cher. Nation.

You will observe that the Cherokee commission, in construing their authority in the above letter, said:

By virtue of the authority vested in the undersigned commissioners by said acts, we consider ourselves empowered to make an agreement with your Honorable Commissioner upon the lines, and for the objects, indicated in your communication—subject, of course, to the necessary ratifications, but embracing such modifications of your propositions as you suggest, and which a due regard for the right of and justice to the Cherokee people shall be found and decided, after conference, to be required.

This explanation and assurance of willingness and authority was entirely satisfactory to the Dawes Commission, as their reply of the following date shows:

MUSCOGEE, IND. T., *December 17, 1896.*

To the Commission of the Cherokee Tribe appointed to confer with the United States Commission to the Five Civilized Tribes.

GENTLEMEN: The Commission to the Five Civilized Tribes acknowledges the

receipt of your communication of the 16th instant indicating to them your authority to negotiate with them upon the subject of proposed changes in your tribal government and tribal property, and in reply they have to say that they are now ready, here or elsewhere, to enter into negotiations with your commission along the lines indicated in the propositions made to your government September 29, 1896, and desire an explicit answer what portion (if any) of them you accept, and what modification of any of them you desire to propose to our Commission for consideration, as also your willingness now to enter into negotiations thereon.

Respectfully,

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

On the same date the Cherokee commission addressed another letter to the Dawes Commission signifying their willingness and readiness to enter upon negotiations, and called the attention of the Commission to a provision in the original act approved August 22, 1896, a copy of which had been furnished them, requiring the negotiations to be conducted within the limits of the Cherokee Nation. Muskogee is in the Muskogee (Creek) Nation:

MUSCOGEE, IND. T., *December 17, 1896.*

Hon. Henry L. Dawes, Frank C. Armstrong, A. S. McKennon, T. B. Cabaniss, and A. B. Montgomery, United States Commissioners.

GENTLEMEN: In reply to your communication of this date, in which you inform the Cherokee commission that you "are ready, here or elsewhere, to enter in negotiations with our Commission along the lines indicated in the propositions made to our government September 29, 1896, and desire an explicit answer, what portion, if any, of them we accept, and what modifications of any of them we desire to propose to your Commission for consideration, as also our willingness now to enter into negotiations thereon," we have respectfully to state that this commission signified, by communication addressed yesterday to your Commission, their willingness to make an agreement along the lines referred to, subject to such modifications of your propositions as might be agreed on upon further conference and negotiations with your Commission, leaving the time when such further conference and negotiations should be made to be settled upon according to the convenience of both Commissions.

The place for such further conference and negotiations is fixed, in one respect, by the law defining our authority, and to which you have been referred, and in answer to your solicitation that we proceed immediately to make an agreement by definitely accepting such of your propositions as we can accept, and by proposing modifications of those we can not accept as they stand, we have to say that we are ready to begin negotiations in the way you propose when it will be mutually convenient, but only within the limits of the Cherokee Nation—say at Fort Gibson or Tahlequah, as most convenient—out of which limits, as you have been made aware, the Cherokee commission has no authority to make, or commence making, an agreement.

D. W. BUSHYHEAD,
Chairman Cherokee Commission.

C. V. ROGERS.
ROBT. B. ROSS.
ROBIN PAN.
TEKINNY WATERS.
W. P. DUNCAN.
A. L. LACIE.

The change of the government to which they were so strongly attached and the land tenure they earnestly desired, and insist upon now, should be done among and under the supervision of their own people. It was also thought advisable because the various provisions of the agreement could be satisfactorily explained to our people by the Commission. The following is their friendly response:

MUSCOGEE, IND. T., *December 17, 1896.*

To the Commission of the Cherokee Tribe, appointed to confer with the United States Commission to the Five Civilized Tribes.

GENTLEMEN: We have the honor to acknowledge the receipt of your communi-

tion of this date, in which you state "we have to say that we are ready to begin negotiations in the way you propose when it will be mutually convenient, but only within the limits of the Cherokee Nation—say, at Fort Gibson or Tahlequah, as most convenient." We would respectfully ask that you kindly consent to substitute the place of Vinita as the place of meeting instead of Fort Gibson or Tahlequah, on account of the convenience as to accommodations and railroad facilities, and name Saturday, the 19th instant, as the earliest time practicable on which we can meet together to begin negotiations.

Respectfully,

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

After organizing at Tahlequah and before going to Muscogee, the Cherokee commission, realizing the many difficult questions that would necessarily arise and appreciating the fact that no agreement could be concluded before the holidays, made arrangements accordingly, as shown by the following letter:

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

The UNITED STATES COMMISSION TO THE FIVE INDIAN TRIBES.

GENTLEMEN: In regard to the time to begin negotiations, we would say that our proposal made yesterday was to meet when it will be *mutually* convenient. From information we considered reliable before we came here, we were induced to understand that after giving you an assurance that we would negotiate on the terms you have proposed, no agreement would be begun until after the holidays, and our arrangements were made accordingly. It will not therefore be convenient for us to meet your Commission to-morrow for the purpose of making an agreement with you, but we will be pleased to meet you at any time after January 1. The reason we preferred Tahlequah was because it would be much more satisfactory to our people to have the negotiation carried on there or Fort Gibson, and access could be had more easily to our national records.

Very respectfully,

D. W. BUSHYHEAD,
Chairman Cherokee Commission.

W. P. BOUDINOT,
Clerk Commission.

A true copy.

DECEMBER 25, 1896.

There was nothing unusual or indicative of a desire to delay or evade or not negotiate in the above letter; neither was it so construed by the Dawes Commission, as their prompt and amicable reply acceding to the suggestion shows:

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

To the Commission of the Cherokee Tribe appointed to confer with the United States Commission of the Five Civilized Tribes.

GENTLEMEN: We have the honor to acknowledge receipt of your communication of this date, suggesting that negotiations be resumed at Tahlequah or Fort Gibson after the 1st day of January, 1897. In response thereto we beg leave to inform you that we accede to the same, and will notify you what day it will be convenient for us, after said date, to meet you at Tahlequah for the purposes named.

Respectfully,

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

The two commissions entertained the kindest feelings toward each other, and, in addition to the communications above inserted, many conferences were had, at which addresses were made and satisfactory assurances given by the members of the Cherokee commission of their earnest desire to accede to the demands of the United States. With this they separated to meet again in about two weeks, as the above

correspondence shows. The Cherokee commission received the impression from conversations with some of the members of the United States Commission that they would again meet January 5, 1897, and accordingly on that date the Cherokee commission met at Tahlequah, Ind. T., and remained in session several days, until they were notified that the members of the Dawes Commission were detained here, in Washington, D. C., indefinitely, when they adjourned, subject to the call of the chairman. Justice to our people and our posterity demands that this record be made. Should it indict us of insincerity or a desire not to accede to the policy of the United States Government? With this information before them, is Congress justified in ignoring their wishes? We think not.

There are many complex questions to be settled, involving unquestionably vested rights, and we beg permission to suggest that legislation as proposed by Senate bill 3544 and H. R. act 7907 on the part of Congress would result in litigation in the Federal courts located in the Indian Territory that would require a number of years to adjudicate, and thereby defeat the ends greatly desired both by the United States and the Indians themselves. We respectfully invite your attention to the fact that a division of the use of the lands of the Cherokees will interfere with vested rights which, with the opportunity afforded, we think we are fully prepared to show.

With sentiments of the highest regard, we are,
Very sincerely,

S. H. MAYES,
Principal Chief Cherokee Nation, Indian Territory.

G. W. BENGE,
W. W. HASTINGS,
Cherokee Delegates.

WASHINGTON, D. C., *February 6, 1897.*