

2-17-1894

Choctaw Tribe of Indians

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

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

Recommended Citation

S. Misc. Doc. No. 109, 53rd Cong., 2nd Sess. (1894)

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

IN THE SENATE OF THE UNITED STATES.

MARCH 5, 1894.—Referred to the Committee on Indian Affairs and ordered to be printed.

The VICE-PRESIDENT presented the following

**LETTER FROM THE COMMISSIONERS OF THE CHOCTAW NATION
CONCERNING THE TRIBAL RELATIONS AND TENURE OF LANDS
OF SAID NATION.**

CHOCTAW NATION, MCALESTER, IND. T.,
February 17, 1894.

Hon. ADLAI E. STEVENSON,
President of the U. S. Senate, Washington, D. C.:

SIR: We, as commissioners on the part of the Choctaw tribe of Indians, being fully advised as to the opinions and wishes of our people concerning any change in our tribal relations and the tenure of our lands, and feeling that we have been misrepresented by a lobby at Washington, and knowing that a systematic movement is in progress which for its object has the ultimate confiscation of our lands, now consider it our duty to make known the facts.

By solemn and binding treaties with the Government of the United States we and our fathers were possessed of the lands we occupy. When the white man settled among our people, and upon our old territory east of the Mississippi River, we surrendered valuable territory in exchange for what, at that time, was almost a wilderness. No people ever gave greater consideration for a purchase than did these Indians for the soil which the covetous boomer now seeks to make his own. Many of our numbers well remember the day when they bade farewell to their lands east of the Mississippi, knowing that the word of a great nation was pledged to protect them and their descendants in the undisturbed possession of their future home.

We feel and believe that to change the conditions which now exist among us, to allot our lands, to inaugurate statehood, to throw our territory open for the prey of the element which lately populated the "Strip" in a single day, would work destruction to us as a people. We believe, further, that the Indians, unable to cope with the white man in the barter and trade of his possessions, would soon be defrauded of that which they now own in common; that they would become impoverished, separated from each other, crowded from their present quarters, and finally annihilated. We are, therefore, in refusing the overtures of a friendly commission, prompted by that first law of nature, self-preservation.

We assert to be false the statement that Indian blood is becoming extinct. Fifty per cent of our people can not speak the English lan-

guage, and not a drop of Caucasian blood courses through their veins. We denounce motives which prompt men to contend that after a generation has passed away the compacts of a nation are no longer binding, and that land sold to a people should not descend to their heirs, even though a provision to that effect be stipulated in the contract. There certainly can be no division of opinion in holding that nation barbarous whose treaty with a smaller power are written in sand, to be obliterated when a few passing years have made of some value the property guaranteed the weaker nation.

We deny that we have made concessions to the boomer, which should estop us in the management and control of our lands, and we assert that those who to-day clamor for statehood are known as the intruders, who have entered upon our lands without permission, and in many instances defy our local laws and regulations; and yet they make demands that all power to enforce the law be placed in the U. S. court for the Indian Territory, to be operated and controlled by them.

THE EXPENSE OF U. S. COURTS.

These courts were established by Congress and without the Indians asking, and over the protest of some of the tribes. They are of no particular or exclusive benefit to the Indians. Undoubtedly they were established and are maintained for the protection and benefit of the white people among us, and while we do not object to their presence and continuance, we do say that it is unfair to establish these courts here to right the wrongs of the white man and deal justice to all, and then, because they entail a heavy expense use that as an argument to break a solemn treaty. This leads us to another kindred subject, to wit, the increase of jurisdiction of the U. S. court in the Indian Territory.

We are opposed to any further increase in the jurisdiction of the U. S. court in the Indian Territory. The objects of courts is justice, and we believe that that end is more apt to be attained in Judge Parker's court at Fort Smith, Ark., and Judge Brant's court at Paris, Tex., than in the U. S. courts within our borders, for the following reasons:

First. The jurors of the Fort Smith and Paris courts are, with but few exceptions, bona fide residents of the district; they are landowners; they have their permanent homes, and, being property owners, are interested in the promotion of justice by the first law of nature—self-preservation. These qualities are necessary in jurors, and in all cases of notorious miscarriage of justice by a jury an examination of the personnel of that jury will disclose a ruling per cent of it to have been of men who owned no land or had no permanent home in the district. In the very nature of things the noncitizen jurors of the U. S. courts in the Indian Territory are lacking in these qualities. They have no permanent home; they own no land; by Choctaw law they are limited in the amount of stock they own, and if their love of gain causes them to acquire property and hold the same contrary to Choctaw law this very disregard of law unfits them for jurors. What is said of the jurors is, considering their superior intellectual and moral training, true of the judges of these several courts, with this additional weight that, whereas the judges at Fort Smith and Paris are appointed for life, the judge for the U. S. court in the Indian Territory is appointed for four years only.

Second. The Indians would have to become citizens of the United States before they could sit as jurors in criminal cases, and if this were

done it would bring about a prejudice among mixed juries, which would result in mistrials and would be continually degenerating into mere bias of opinion based upon the nationality of the litigants.

Third. If the United States will not keep her solemn obligations, if the saving of a few dollars every year weighs more with the U. S. officials than the breach in the honor and common honesty of any nation as a result of breaking treaties; if, when U. S. officers hold up their right hands and take their oath of office, calling a just God to bear witness to the purity of their intentions, they have a secret or mental reservation that Indian treaties are not a part of the laws of the United States; if these assertions are true, then we say let her strike us openly; strike us above the belt, and not come as Joab did to Amasa, and put her judicial arm around us and with prejudiced and interested jurors send us to the gallows and to the penitentiary with the ultimate view of securing our lands.

In reply to the assertions that the welfare of the Indians is the ultimate object of these negotiations, we call attention not to our own progressive condition, but the absolute destitute condition, both morally and financially, of the Choctaws in Mississippi and Louisiana, who took lands in severalty and remained under the soothing and sustaining influences of the whites. They are to-day without schools, without homes, and yet they are in the very center of civilization. Again, the United States has treated during its existence with Indians from Narragansett Bay to the everglades of Florida and from the Atlantic to the Pacific; these treaties have included millions and multiplied millions of acres of land; they have changed the homes and manner of holding their lands of thousands of Indians, and yet we defy you to show us as a result of these negotiations a tribe of Indians where real progress, as regards personal property, in education, contentment, and religion is considered, to be compared with the Five Civilized Tribes, as they are called. But it is stated that the object is to fix our lands in severalty, so that we can never be robbed. We say: "That is all right, but you rob us in your very exertions." Besides, there is no lameness in our present patent. The patent is all right, and if the honor of the United States is unable to protect it, why attempt to seduce us by saying that the United States will protect 14,000 patents among individuals? When we become citizens of the United States and take our lands and our individual patents for the same and are 21 years of age, and of sound and disposing mind, and sell our lands to a white man, the courts of the United States will confirm that sale, "all rot and bosh in preceding negotiations to the contrary notwithstanding," and sell their lands, is just what the average Indian will do and ten years will find them houseless and homeless.

We recognize the fact that Congress may, by legislation, abrogate a treaty; but we do not think that any Congress will so far forget its moral obligations as to do it, especially the treaties with the Five Civilized Tribes. Whenever the Senate of the United States is composed of Senators who will ruthlessly and because their conditions entail pecuniary expense nullify our treaties, the end will have come not only to the Indians but to the United States, and we will simply go down together. In other words, the honor and integrity of Congress is our only safeguard, and when these fail, we fail; these stand, we stand.

We have a patent to our lands; the words and meaning of this patent are so plain, the promises of our treaty are so full, that the absolute legal right is on the side of the Choctaws. The power of the United States and her ability to keep these present promises are so ample that

we, as Choctaws, would not be acting with proper prudence if we agreed to other treaties and other smoother promises. In other words, what respect or confidence can we have in any promises that can be made to us when the very intent of those promises is to undo most solemn obligations entered into years ago?

The history of the Anglo-Saxon in America for four hundred years, where the Indians and their lands were concerned, is one of deception, robbery, and murder. Descendants partake of the predominating characteristics of their ancestors. The love of land is so strong in the Anglo-Saxon that when he views it, it at once becomes the promised lands and he must secure it.

We come now to that hardest of all our positions to be understood by the white man, viz: Our opposition to land in severalty. At a glance it seems little less than absurd for an Indian to refuse to have pointed out to him, by proper metes and bounds, land on which he may stand and say "by justice and law this is my own;" that he would be absolutely opposed to an individual patent so that he might rent, lease, or sell his land as he may see fit. Now, bear with us a little longer, and we will give you a few reasons why Indians are opposed to lands in severalty.

Every Indian tribe from time immemorial has held its land in common, and whether this be the result of race preference or race inactivity is immaterial. It is a fact, and hence it is bred and born in the present Indians, whether full-blood or half-breed or even where they have only one-sixteenth Indian blood. Considering this inbred trait with that other dominating characteristic of the Indian—firmness, in many amounting to stubbornness—you have a combination that can not be moved. It is no idle word or boast when the Indian says that he is opposed to land in severalty or sectionizing. You may call on him to divide his personal property; you may demand of him that he shall work instead of hunt; you may require him to educate his children, yea, you may fetter him with all the obligations of civilization, and he will submit, but whenever you touch his "land in common" he will meet you with all the opposition in his power.

Again, the Indian is opposed to a change in his present form of government, because it will inevitably lead to a change in the manner of holding his land. He knows that the breaking up of tribal relations means sectionization. In short, the *summum bonum* of all government, the dearest idol known to him in all politics, is land in common. But there are reasons acquired under the influences of civilization which impel the Indian to oppose any change in our present tribal relations. The history of all Indian tribes who have allotted their lands has been the same; the Indian got allotment and the deed, and the white man soon got the land. We cite only the Choctaws in Mississippi and the Delawares now in the Cherokee Nation.

Again, if land in severalty is the panacea for all the Indians' ills, why is it that the five civilized tribes are better off morally, socially, and financially than any other Indians of to-day? We are doing well; we are progressing; we are pressing on to a higher education; we are following in the way of progress. Why not let us alone? Has it come to this, that the honor and honesty of the United States weighs nothing when placed in the balance opposite money appropriated to preserve, not only a treaty, but to promote common justice?

Again, we are opposed to land in severalty because it will be the sword that will cut the Gordian knot—holding our lands in common. When a white man touches a part he touches the whole. No part of

our land can be taken without the consent of Congress and the President, and we are intelligent enough to see that Congress, the President, and the Supreme Court of the United States are no mean barriers to have between us and the rapacious boomer. We know that men must have a higher sense of absolute justice, even though it be between the strong and the weak, to attain either of these offices. Scallawag politicians and boomers don't reach the Presidency, the Supreme Bench, or the Senate; and while by accident now and then one may draw his pay as a member of the lower House, still he is an unknown factor in its legislation. But if we take our lands in severalty all will be changed.

That old adage "united we stand, divided we fall" is truer of the Indians than any race on the earth to-day. And why? Because as soon as the Indian receives his individual patent to his land the white man will be there with his money in one hand, whisky in the other, and soon the trade will be consummated. Then will come up the rights of property before a "boomer jury," and if the Indian escapes without being sent to the penitentiary he will be lucky. It is the little foxes that eat up the grapes. The taking of one Indian's individual land will not create any commotion or surprise and hence in a few years, by purchases fair or foul, by overreaching, by absolute bulldozing, as in the case of the Delawares in Kansas, the land will be all in the hands of the whites. Another thing, when you confine an Indian to a certain tract and all the tracts adjoining him are owned by the whites, this will be sufficient reason for the Indian to sell and go and live on a tract with some other Indian. This is absolutely what did happen when the Choctaws took land in severalty in Mississippi. We ask you, who press allotment on us, how will you cure this evil?

Again, while land in severalty carries with it individuality, citizenship, etc., it carries with it also, selfishness; that is "I have my own and will have to look after it and you must do the same." In other words, "All things have changed and I am no longer my brother's keeper."

Under our present Government the educated and most intelligent Indian must in times of danger come to the front and protect the nation because his part is involved and, hence, "land in common" appeals to the strongest powers known to human nature, viz, self-preservation and self-interest, and the nobler instinct, that we that are strong ought to help those that are weak. The boomer may say that under our present system a few Indians are growing rich and the full-blood is left; but we tell you that when it comes to genuine charity, the helping of a man because he is our brother, that the example set by Indians who have property (because an examination will show we have no rich men in the sense the word rich is used now in the United States) could well be imitated by the white man.

As a matter of fact, to-day an Indian in trouble or distress can not only appeal for, but will receive, assistance from another Indian, whereas a white man under similar circumstances going to another well-to-do he would not only be refused but would be extremely lucky if he was not started from the premises by the toe of the boot with the further assistance of the bulldog in the front yard; and we claim that this disposition to help one another is nurtured and developed in us by our system of holding our lands in common. And finally, if you find that we have stated facts, if you find after proper investigation that our treaties, our social, moral, and financial conditions are as we have stated, and that history and past experience show that land in sever-

alty has proven a curse and not a boon to the Indian, we ask of you to so report, and not practically say to us that we have no right to open our mouths, because if we do speak and speak the truth, and you don't listen to it and are not governed by it, then you have literally denied us the right to be heard.

Justice as against rapacity, patience as against ruthless force, and humanity as our common bond, is our last request.

GREEN McCURTAIN, *Chairman*,
 H. C. HARRIS,
 JNO. P. TURNBULL,
 JAMES DYER,
 G. W. DUKES,
 JOE EVERIDGE,
 SAMSON HOLSON,
 MITCHELL HARRISON,
 JNO. M. HARRISON,
 J. D. WILSON,
 JOSIAH GARDNER,
 N. B. AINSWORTH,
 AMOS HUMP, *Secretary*,
Choctaw Commissioners.

AN ACT providing for the appointment of commissioners on the part of Choctaw Nation to attend an international council of Five Nations of Indian Territory and to meet the United States commissioners.

Be it enacted by the general council of the Choctaw Nation assembled, That the principal chief, by and with the advice and consent of the senate, shall appoint and commission twelve commissioners, four from each district in addition to the present delegate, who are hereby directed and instructed to meet and confer with similar commissioners from Cherokee, Chickasaw, Creeks, and Seminole nations, in an international council, and said commissioners are hereby instructed to enter against any dissolution of our present tribal relations or tenure of our lands.

SEC. 2. That a copy of said protest shall be sent to the President of the United States, also the presiding officers of both Houses of the Congress of the United States, the principal chief and delegate of the Choctaw Nation and the United States commissioners.

SEC. 3. That the said commissioners are hereby further instructed to meet the United States commissioners and receive any propositions that they may have to present, and to transmit a copy of such propositions to the principal chief.

SEC. 4. That said commissioners shall receive, each, five dollars per day for each day of actual services and ten cents per mile for each mile traveled going to and returning from said international council and United States commissioners, except the regular delegate, and the national auditor shall issue his warrants upon the presentation of certificates issued by the principal chief, and the national treasurer shall pay the same.

SEC. 5. That this act take effect and be in force from and after its passage.
 Approved January 26, 1894.

W. N. JONES,
 P. C. C. N.

I hereby certify that the foregoing is a true and correct copy from the original act of the general council in special session, and approved January 26, 1894, now on file in my office.

Witness my hand and the great seal of the Choctaw Nation, this, the 14th day of February, A. D. 1894.

[SEAL.]

J. B. JACKSON,
National Secretary Choctaw Nation.