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Silas D. Fisher [to accompany bill H.R. no. 211].

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H.R. Rep. No. 191, 23rd Cong., 1st Sess. (1834)

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SILAS D. FISHER.

[To accompany bill H. R. No. 211.]

JANUARY 17, 1834.

Mr. ALLEN, of Ohio, from the Committee on Indian Affairs, made the following

REPORT:

The Committee on Indian Affairs, to which was referred the petition of Silas D. Fisher, report:

That, after a careful examination of the petition, the evidence, and the provisions of the treaty upon which it is founded, the committee concur in the report made thereon, from the Committee on the Public Lands, at the 2d session of the 22d Congress, and therefore adopt said report. The committee also report a bill.

JANUARY 10, 1833.

Mr. PLUMMER, from the Committee on the Public Lands, made the following report :

That, by the provisions of the second article of the supplement to the treaty made and entered into between the United States and the Choctaw nation of Indians, at Dancing Rabbit creek, on the 27th day of September, A. D. 1830, a reservation of one section of land was granted to Silas D. Fisher, alias Silas D. Fisher, the petitioner, to be located so as to include his residence and improvement at the time of the treaty. It appears from the statements of the petitioner, as well as other evidence, that the said Fisher had no permanent residence and improvement within the limits of the Choctaw nation at the date of the treaty, but that he was residing, temporarily, with his father-in-law near the Choctaw line, without the boundaries of the nation. The petitioner is therefore not only unable to avail himself of the provisions of the treaty in his favor, but, in consequence of his peculiar situation, is deprived of the provisions of the 14th article of the said treaty granting to each head of a family a section of land, to include his improvement, on condition of his residing on the same for five years; and also of the provisions of the 19th article, granting to each head of a family a tract of land in proportion to the quantity he might have had in cultivation at the date of the treaty.

Other persons provided for in the same article of the supplement to the treaty, who were similarly situated with Mr. Fisher, and did not reside in the nation, were, by a provision in the treaty, authorized to locate the reservations granted to them on any of the unimproved and unoccupied lands within that section of country acquired from the Choctaws by the aforesaid treaty. The petitioner was one of the mingoes or captains who signed the treaty. It is, therefore, evident from the foregoing, and other facts and circumstances, that it did not occur to the commissioners that the petitioner had no residence and improvement in the nation at the time of the execution of the treaty, or he would have been permitted, by a clause in the treaty, to locate the reservation granted to him on any of the unappropriated lands. The petitioner, therefore, prays the passage of a law authorizing him to locate the section of land granted to him on any of the unappropriated lands within the limits of that tract of country ceded to the United States by the treaty aforesaid. In the opinion of the committee, equity and justice demand the relief prayed for. The committee will not go into an argument in favor of the petitioner, but refer to the arguments so forcibly set forth in the petition, and the facts stated in the accompanying documents, made a part of this report.

The committee report a bill for his relief.

To the honorable the Senators and Representatives of the United States in Congress assembled :

The petition of the undersigned, one of the captains of the northwest district of the Choctaw nation, in the State of Mississippi,

RESPECTFULLY SHOWETH :

That the name of your petitioner is contained in the 2d article of the supplement to the late treaty between the United States Government and the Choctaw people, which reads as follows, viz. "Article 2. And to each of the following persons there is allowed a reservation of a section and a half of land, (to wit,) James L. McDonald, Robert Jones, Noah Wall, James Campbell, G. Nelson, Vaughan Brashears, R. Harris, Little Leader, S. Foster, J. Vaughan, L. Durans, Samuel Long, T. Magaha, Thomas Evidye, Giles Thompson, Thomas Garland, John Bond, William Leflore, and Turner Brashears. The two first named persons may locate one section each, and one section jointly, on any unimproved and unoccupied land, *these not residing in the nation.* The others are to include their present residence and improvement. Also, one section is allowed to the following persons, (to wit,) Middleton Mackey, Wesley Trahern, Chodehmo, Moses Foster, D. W. Wall, Charles Scott, Molly Nail, Susan Colbert, who was formerly Susan James, Samuel Garland, *Silas Fisher*, D. McCurtain, Oklahoma, and Polly Fillicutchy, to be located in entire sections, *to include their present residence and improvement*, with the exception of Molly Nail and Susan Colbert, who are authorized to locate theirs on any unimproved and unoccupied land." (Reference to the supplement to the treaty.) And your petitioner further showeth, that his residence, at the time of the execution of the treaty, *was*, and from the time he left his father's house, more than a year previous, *had been*, without the limits of the Choctaw country ; and that he never had a separate

residence, or any improvement, in the said Choctaw country. (Reference to the annexed certificates, and to the return of the agent of Government employed to take an account of the Choctaw improvements and residences.) And your petitioner further showeth, that the 18th article of the treaty contains the following provision, viz. "And further, it is agreed that, in the construction of this treaty, where well founded doubt shall arise, it shall be construed most favorably towards the Choctaws." (Reference to the treaty.) Your petitioner, therefore, prays that his case may receive from your honorable bodies a favorable construction, and that, in the decision to be made, regard may be had to the following considerations, viz. 1st. The intention of Government to grant him a section of land, as expressed in the words, "also one section is allowed to the following persons, &c."

2d. The fact that the two persons first named in the second article of the supplement, which contains the name of your petitioner, having been known to the United States commissioners to reside without the limits of the Choctaw country, were permitted *expressly* upon that ground to locate their reservations upon any unimproved and unoccupied land.

3d. The nature of the case presented by your petitioner, (there being a grant of land without any residence or improvement to fix its location,) as one involving a well founded doubt to be construed agreeably to the 18th article of the treaty; and

4th. The fact that your petitioner will remain entirely unprovided for, unless the grant made to him by Government shall be constituted a floating reservation.

In view of these considerations, your petitioner prays that he may be permitted and authorized to locate the section of land granted to him by a provision in the 2d article of the supplement to the treaty lately concluded between the United States Government and the Choctaw people, upon any lands in the northwest district of the country ceded by said treaty, (to which your petitioner was attached,) unimproved and unoccupied at the time of the execution of said treaty. And your petitioner, as in duty bound, will ever pray, &c.

S. D. FISHER.

October 15, 1832.

Certificate of Colonel G. Leflore.

I, Greenwood Leflore, chief of the northwest district of the Choctaw nation, in the State of Mississippi, do hereby certify that Silas D. Fisher, named in the 2d article of the supplement to the late treaty between the United States Government and the Choctaw people, was, at the time of the execution of said treaty, one of the captains of said district, and, as such, used his influence in favor of the measure, and signed the treaty. That, in consideration of his merit as a virtuous man and an active officer, he was proposed as one eminently entitled to the gratuity of a section of land, and his name was accordingly inserted in the 2d article of the supplement to the treaty. That the fact of his having no residence or improvement in the Choctaw country did not occur at the time his name was introduced, but that it is well known to me that the said Fisher re-

sided at the time of the execution of the treaty with his father-in law, a white man, without the limits of the Choctaw country, where he had lived from the date of his marriage, a considerable time previous, and that he never had a separate residence or any improvement in said Choctaw country. As, therefore, the article embracing the name of, said Fisher is so worded as, in connexion with the fact above stated, may prevent a location of the land granted to him by Government, in consequence of which, if a rigid construction is enforced, a poor but highly meritorious man may be deprived of the bounty intended to be bestowed, I would earnestly recommend his case to Government as one involving a *well founded doubt* as to the location of a claim, which, I hope, may be so construed as to admit of a location upon any lands in the northwest district of said Choctaw country, to which said Fisher was attached, unimproved and unoccupied at the time of the execution of said treaty.

Given under my hand, the 15th day of October, 1832.

GREENWOOD LEFLORE.

Certificate of United States agents.

We, the undersigned, agents of Government for the Choctaw people, do hereby certify our belief of the facts stated in the foregoing certificate of Chief Greenwood Leflore, and, from our knowledge of the character and services of Captain Silas D. Fisher, as a man of correct moral deportment, and an efficient assistant of the agents of Government in the removal of his people, do cheerfully concur in the recommendation of his case to the favorable consideration of Government, believing that his interests can only be protected by a grant of the privilege of locating his claim in the manner stated in the foregoing certificate.

Given under our hands, the 15th day of October, 1832.

S. T. CROSS, *Agent Cr. Removal.*

WM. S. COLQUHOUN, *Assistant Agent.*

N. B. The foregoing certificate of the agents for the Choctaws would have been signed by Major W. Armstrong, the superintending and only remaining agent of the Choctaw removal, and also by Colonel F. Armstrong, the agent for the Choctaws west, and one of the agents for examining the Choctaw improvements, if it had been possible for my friend, who assisted me in procuring certificates, to have seen them. When I last saw Colonel Armstrong, he informed me that he had represented my case to the department, and expressed his wish and his confident belief that my claim would be constituted a floating reservation.

S. D. F.

WASHINGTON, January 7, 1833.

In answer to your request to be informed what I know of the facts stated by Mr. Silas D. Fisher, in his petition to Congress on the subject of his claim to a reservation of land under a provision of the late treaty with the

Choctaw tribe of Indians, I have the honor to state that I am personally acquainted With Silas D. Fisher : he was at the time of the treaty a captain, in Colonel Greenwood Leflore's district : he had returned from school from Kentucky, and married a short time before the treaty. I am confident he had no improvement in the nation. He had not settled, but was at the time staying with his father-in-law, Mr. Kelly.

Yours, &c.

JOHN BLACK.

Hon. F. E. PLUMMER.