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### Five Civilized Tribes of Indians

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IN THE SENATE OF THE UNITED STATES.

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MARCH 24, 1896.—Ordered to be printed.

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Mr. BERRY presented the following

**ARGUMENT MADE BY JUDGE M'KENNON BEFORE THE COMMITTEE ON INDIAN AFFAIRS OF THE HOUSE OF REPRESENTATIVES, RELATIVE TO CONDITION OF AFFAIRS IN THE INDIAN TERRITORY, TOGETHER WITH OTHER PAPERS, AND SENATE DOCUMENT NO. 12, REPORT OF THE COMMISSION APPOINTED TO NEGOTIATE WITH THE FIVE CIVILIZED TRIBES OF INDIANS, KNOWN AS THE "DAWES COMMISSION."**

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INDIAN AFFAIRS,  
Wednesday, March 11, 1896.

The committee met at 10.30 o'clock a. m., there being present: Mr. Sherman (chairman), and Messrs. Curtis, Doolittle, Fischer, Eddy, White, Stewart, Hyde, Maddox, Little, Pendleton, and Flynn.

The members of the Commission to the Five Civilized Tribes and others were also present.

Mr. DAWES. Mr. Chairman, it is the wish of the Commission, if agreeable to the committee, that my colleague, Mr. McKennon, may occupy the remainder of the time allotted by this committee to the Commission.

The CHAIRMAN. Senator Dawes, there has been no fixed time allotted to the Commission. We want you to have unlimited time to present to us every possible phase of the question that you think we ought to understand.

Mr. DAWES. We desire to have Mr. McKennon listened to this morning, if that be agreeable to the committee.

The CHAIRMAN. Certainly.

**STATEMENT OF HON. A. S. M'KENNON.**

Mr. MCKENNON. Mr. Chairman and gentlemen of the committee, you certainly have been very patient in the hearing of this question, as it is meet and proper you should be upon a question of so much importance to the country, and especially to the people of the Indian Territory who are directly concerned. I shall consume as little time as possible, though it will necessarily take some time to go over the ground which I desire to present for the consideration of the committee. We are here, as you know, simply to serve you; we have been brought here for that purpose, and we are at your service. We have

no other business on hand except to give such information to the committee as we may be able.

This is a matter that has attracted considerable attention for several years. It is nothing new. We find that in 1889 a committee was sent to the Territory to investigate affairs there. There must have been some reason for that committee going there. If everything had been regarded as in a perfectly safe condition, I apprehend that Congress would not have gone to the trouble of sending a committee there. That committee was headed by a then member of the House of Representatives, now one of the judges in that Territory, Hon. William M. Springer. Mr. Mansur, Mr. Perkins, Mr. Peters, and Mr. Allen were also members of it. I do not now remember who the other members were, if there were others. When they returned the chairman of that committee introduced a bill providing for statehood in that Territory. I shall leave a copy of that bill with the committee for its use, simply calling attention to it.

Mr. FISCHER. What is the number of that bill?

Mr. MCKENNON. It is the bill H. R. 224, Fifty-first Congress, first session.

Afterwards, in 1892, another committee was sent down there—that was in the first session of the Fifty-second Congress. The chairman of that committee was Senator Butler, and Mr. Perkins, and Mr. Higgins were his associates. When they returned Mr. Perkins introduced a court bill for the purpose of regulating affairs in that Territory.

Mr. FISCHER. What is the number of that bill?

Mr. MCKENNON. That was Senate bill 2924 of the Fifty-second Congress, first session.

In 1894 a bill was introduced by Mr. Higgins in regard to the intruder question. I desire to call attention to that. It is Senate bill No. 1850, Fifty-third Congress, second session.

I merely call attention to these in order to show you the interest that has been manifested in this question.

In 1893 Congress passed a bill for the creation of a commission to negotiate with the Five Civilized Tribes. Hon. Henry L. Dawes, Major Kidd, and I were appointed the members of that commission; Senator Dawes was made chairman of it. We went to the Territory about January 10, 1894.

Afterwards, during that year, a Senate committee, composed of Senators Teller, Platt, and Roach, came to the Territory to investigate matters, and on their return Senator Teller made a report (Senate Report No. 377). Gentlemen of the committee, I invite your especial attention to this report, because it is in the line of the report which we afterwards made, in substance the same, reporting the same condition of affairs that we found to exist in that Territory. I hope that every member of this committee will read that report. I will not undertake to go over the whole of it; you can read it for yourselves. That report stated conditions that were startling. The Congress of the United States had not been made acquainted with the condition of affairs existing in the Territory prior to that time, and I say that it was a startling report when it was made to the Senate of the United States. That report undertakes to review the situation, and in conclusion states in substance that the only thing that can be done is to wipe out the existing governments in the Territory, and put in lieu thereof a government capable of controlling affairs and taking care of the lives of the people. I do not undertake to quote the exact language, but that is the substance of it.

I have another report here, made by Senator Morgan (Senate Report No. 281, Fifty-second Congress, first session). It undertakes to review the whole question. I need not call your attention to the character of the man who took that matter in hand. You know him; you know his ability to investigate a question like that and to determine what ought to be done. I assert, in calling attention to that report, that it will give you more information than almost any other document that can be presented to you, as to the real condition of affairs in that Territory, and what may be necessary to regulate conditions there.

Before going to the Territory, the honorable chairman of this Commission gave notice to the heads of the various Indian governments that we were going to the Territory, and that when there we should be glad to confer with them, and asked that committees be appointed to confer with us.

Just after we went there the Cherokee council, then in session, authorized the chief of that tribe to appoint a committee to meet us, but in the resolution for that purpose expressly prohibited such committee from doing anything except to throw every possible obstruction in our way in order to prevent us from accomplishing the purposes of our mission. That committee came before us, and it was in that conference that the full-blood declared himself in the manner in which Senator Dawes stated the other day. After others had made their talks to the Commission he was called upon, and, through an interpreter, said he was opposed to any kind of a change there, but there was one thing he did not understand, and that was that while he had only a few acres of land others had boundless possessions and many acres. He could not understand that. He said he understood that the lands were to be held in common, but here was one feature he did not understand. Nothing, of course, was accomplished then.

But immediately afterwards Chief Harris called an international convention, which met at Checotah, in the Creek Nation, and there it was agreed that nothing should be done by any tribe, touching a change, without the cooperation of all the tribes; that no concessions would be made, and that nothing should be done in regard to the work we had in hand.

We had conferences after that with the other tribes in that Territory in which we laid this matter before them as pleasantly and as kindly as we could.

Mr. MADDIX. About what time was that?

Mr. MCKENNON. It was about the 21st of February.

Mr. MADDIX. Of last year?

Mr. MCKENNON. Of 1894. That was when the first Commission was down there.

Mr. MADDIX. Was that before you had had any consultations with the other tribes?

Mr. MCKENNON. We had visited and addressed the Choctaw council and had had conferences with the Creeks and with the Cherokees. At that time we had had no conference with the Chickasaws or Seminoles.

Mr. PENDLETON. Did you go to the capitals of those tribes?

Mr. MCKENNON. Yes; we first visited and addressed the Choctaw council; afterwards we addressed the Chickasaw council, then the Seminole council. At the request of the chief of the Creek Nation we went to their capital and addressed 1,500 or 2,000 Indians, laying this matter before them as clearly as we could, to which I shall hereafter refer.

During that year we visited the Cherokee capital, and at the request of those people we visited and addressed the nominating conventions of the two political parties there, the Downing party and the National party.

Mr. MADDOX. Before you leave that subject I want to suggest to you that Mr. Hastings, I believe it was, the other day in his argument here complained of the fact that you had not visited the Cherokees.

Mr. CURTIS. That was the second time, not the first time.

Mr. MADDOX. Perhaps, however, Mr. McKennon should be allowed to proceed with his statement in his own order, and we can ask him questions afterwards.

Mr. MCKENNON. I shall refer to that before I get through.

I understand that it has been claimed that we were unfriendly; that we went there with unfriendly feelings. We had our instructions, which this committee can see if they desire. Besides, the Secretary of the Interior had said to us: "You are going down there in the interest of the Indians; you are charged with the work of placing those people, if they negotiate with you, in the very best possible condition, in order that they may become good citizens of the United States and enjoy the property which belongs to them." We ourselves went there in that kind of a spirit. The President had also made some such remark to us. We commenced to consider the matter in this way: This country belongs to these people, every foot of it; not an inch of it belongs to a white man within these Territorial lines. If that be the case, then the Indian ought to enjoy his property—ought to govern the country. And the first proposition we made to these people, the first time we addressed them, was to establish an Indian government in which no one but the Indian and his descendants should have the right to vote, unless that right was conferred by the legislature. The legislature would, of course, be composed of Indians, and they would have had their affairs in their own hands. We were not then informed of the exact condition of affairs there as we are now or we would not have made any such proposition. I say this to show our friendly spirit—the interest we felt in them. This Commission never had other than a friendly interest for the common people of that country, and I now think we are the only persons here representing the common people there. And I can make this manifest before I get through.

When we found that we could do nothing with the tribal governments there, and when this international convention had forestalled any action upon their part, we then opened our doors to everyone. It was a new thing, and all the people in that Territory were much interested—the citizen and the noncitizen, the Indian and the white man; every kind of resident was interested, and we opened our doors to all, and they came and talked with us. We shut our doors against no one, no matter whether red or white or black. In that way we obtained information from all classes and conditions of the people. But I will not address myself to that any further just now.

I think I can show conclusively to the committee that the conditions in that Territory have not been exaggerated by the report of the Commission. We have said something about the corruptions of the national governments there, which has been questioned.

When we visited the convention of the National party we found the Indians encamped by a spring in the woods. That is their manner of holding conventions. They camp in the woods by a spring for a week or so—hold a kind of love feast—and make their nominations. We

addressed the people as pleasantly as we could. We have always talked to them pleasantly. No one can come from that Territory and truthfully assert that I ever uttered an unkind word against any of them, either privately or publicly, since I went there. I presented these matters just as kindly as I possibly could. Afterwards Mr. Boudinot came to me with others, several councilmen, six or eight I will say, and said to me: "The reasons you give do not seem to me to be sufficient for the Government of the United States interposing or intermeddling with our affairs here. Have you any other reason to give?"

I said to him: "Colonel Boudinot, this is a kind of love feast of your people and I have refrained from mentioning anything here to-day that I thought would be unpleasant to you gentlemen."

"Well," he said, "we insist upon it. Have you any other reasons? If so, we would like to know what they are."

I then said: "I think the corruptions existing in these governments not only warrant the Government of the United States in laying its hand upon affairs here, but I think they absolutely require the interposition of the United States Government for the protection of the common people."

"Well," he said, "will you please just mention some particular matter of corruption?"

"Yes," I said, "I will do that. It was made the duty of your national council to locate the payments of the Strip money in such places as would be most convenient to the people." That was the duty imposed upon them. They were paid for their services, and it was their duty to have done so willingly and cheerfully, and they should have sought nothing but the convenience of their people. Instead of that, however, they required the town of Vinita to pay them \$2,500 before they would locate a payment there. I said: "Major Kidd was in that town at the time that money was being raised, and it was asserted that the council would not locate a payment there if they did not raise that sum."

Mr. MADDIX. As I understand, the idea was that they would not pay off there unless they received that money?

Mr. MCKENNON. They would not locate any payments to be made at that town unless the town paid them that much money.

Mr. MADDIX. They attempted to compel that sum to be paid to them?

Mr. MCKENNON. Yes. Whether that much was paid or not I do not know, but a large sum was paid to the members of the council.

He asked: "What else?"

I said: "That council bled the citizens of the capital of your nation just as long as they could get a quarter of a dollar out of them, and would not locate a payment there unless they were paid."

He said: "Oh, well, your legislatures and your Congress are just as corrupt as our legislature. They would have done the same thing."

I said: "No, Colonel, that is not true. That is the only reply any of you make to these charges of corruption. It is not true, and does no credit to the people who make that charge." Then I undertook to show that the legislature of Arkansas was not corrupt, and told him that I judged the legislatures of other States by that of my own State. I then said: "So far as the Congressmen from the State of Arkansas are concerned, I have this to say: I know them personally, and if you were to make such a proposition to any one of them it would never be made but once, and I judge the Congressmen from other States by those from my own State. and, judging them that way, I say your statement is not correct and does no credit to your people." Now, sir, he made

no denial of those charges, and I do not suppose they could be denied by anyone. I will now read a petition which I have, and which I was requested to use here for the benefit of those who have signed it:

*Petition to the honorable council of the Cherokee Nation.*

We, the undersigned citizens, beg leave to call your attention to the deplorable and unsatisfactory condition of our public domain, with which you are familiar, and ask that you enact such law or laws as will correct this condition. A portion of our citizens, through the connivance and financial assistance of noncitizens, have managed to monopolize our entire public domain under various pretenses of law. Thousands of our citizens are to-day without homes—

Five hundred and twenty men say that, Mr. Chairman.

Mr. MADDOX. Cherokee citizens?

Mr. MCKENNON. Yes; Cherokee citizens and Indians, Indians entitled to all the rights belonging to Cherokee citizens—

and there is no land left upon which they can make homes. Our entire country is wired in, and anyone desiring to travel across the country a few miles is necessarily forced to go, in many instances, 10 miles around in order to reach a place only 3 or 4 miles away. In most places in the nation the noncitizens on land claims outnumber the citizens. West of Grand River, in Cooweescoowee and Delaware districts, it is the exception to the rule to find a citizen on a claim; the noncitizens will outnumber them 100 to 1. There is nothing thought of one man in this portion of country claiming from five to twenty farms. And in most instances these farms perhaps consist of 10 acres in cultivation, and from 1,000 to 5,000 acres in grass land, for hay to cut and ship out of the country for speculation. These noncitizens claim to be leasing this land from citizens. And in most instances when a noncitizen once gets to be a leaseholder he then commences to lease to other noncitizens on his own account. Hundreds of leases are held by noncitizens, emanating from another noncitizen. Thus our entire public domain is absorbed, and they even go so far as to sell the unfenced quarter for hay purposes, for shipment. This condition of affairs has been productive of a great hardship to a large portion of our citizens; they realize that they are entirely deprived of homes and privileges in the public domain, while the few citizens, together with noncitizens, are monopolizing all of their rights. Even hay and wood are denied them.

Heretofore we have endeavored through our counsellors and senators to obtain relief, but so far these land monopolists have been able to thwart us in our design, and with money have defeated us in this, our right. We are perfectly aware of the fact that these transactions with noncitizens are without the semblance of law to protect them under this Government. And the courts of the United States in this Territory have decided that they have no status under the Arkansas statutes. The Interior Department has long since decided that even our council had no right to lease land. And surely such a right can not be delegated to a citizen.

In view of all these things we, as law-abiding citizens, once more ask for relief at your hands. We view our own council as the proper place to make our wants known and obtain redress for our wrongs. And we trust that our appeal will not be in vain.

We are fully determined to have redress. We can no longer suffer our rights and the rights of our families to be trampled upon by monopolists and ignored by our officers. We ask you for relief once more, and trust you will not ignore our request. We would regret very much to be driven to the necessity of appealing to the United States Government for relief, but the duty we owe ourselves, our wives, and children, will impel us to this course as a last resort to obtain our rights. We ask your consideration of this subject at this assembling of council, and if not complied with this petition will surely be forwarded to the Congress of the United States, asking them for the relief our own government has steadily refused us.

We, your petitioners, will ever pray.

Mr. Chairman, that is signed by about 520 citizens, a number of them being adopted citizens. I have not counted to see what portion of them are adopted, but I will file this with you and you will see that there are not more than about one out of four or five who are adopted citizens. The others are Indian citizens by blood, and they are here to testify with reference to the condition of affairs obtaining in that Territory. When we were here a year ago it was roundly denied that there was anything like land monopoly in the Cherokee Nation. This

petition was gotten up, was presented to the council, and was referred to a committee, but no action has ever been taken of which we have any knowledge. At all events, nothing has been done. The party who had that petition circulated sent it to me, requesting me to use it to the best advantage, and I do as he requested. I will add that it is signed by a brother of Chief Harris, who is here, and is also signed by several members of the national council (senators and representatives) and one of the circuit judges of that country. It has been the fashion to deny everything, and to say that those who controvert the propositions made by the delegates here are not citizens; that they do not amount to anything; that they are pestiferous fellows. But here are 520 or more citizens of that country who tell you that that condition of affairs exists there, and they say that their prayers for relief have heretofore been defeated at that council by the use of money.

I will present another statement. I will read an extract from the fourth annual message of Principal Chief J. B. Mayes, of November 4, 1890, to the Cherokee council, referring to the absorption of the public lands by citizens:

Large wealth is being accumulated in tilling the soil, so much so that our valuable lands will soon be taken up and put in cultivation, thereby making permanent and happy homes. Hence this important question presses itself upon your consideration. The strong, energetic, and wealthy class of our citizens will naturally get possession of our rich lands and monopolize the use of the same. Our forefathers, in the formation of this government, wisely looked to this day, and ingrafted in the constitution a provision by which this monopoly could be restrained. At this time this monopoly has grown to be an evil and demands your immediate action. The information I have from many parts of the country is that individuals have become so infatuated with the accumulation of improvements that single persons claim as many as thirty farms.

Mr. LITTLE. That was in 1890?

Mr. MCKENNON. Yes, sir.

Mr. LITTLE. Is that J. B. Mayes a brother to the chief, S. H. Mayes?

Mr. MCKENNON. I do not know what relation he is to the present chief, but I wanted to read this extract in order that you may understand the magnitude of this land monopoly. The laws there give to every man land to the depth of a quarter of a mile immediately around his premises. If each of these farms consists of only 40 acres, you can see that 30 farms controlled by one man would embrace many thousands of acres and militate largely against the interests of the common people of that country. He says further:

The country in some sections is literally fenced up without a passway. While you should encourage every citizen to make and own good farms and become large tillers of the soil, there should certainly be a limit to this greed. You should teach the people that everyone has an equal interest in our common country; and when they properly understand and fully appreciate this family government and estate they will then know that a few citizens can not fence up and own the entire country. The way in which this monopoly is carried on is by our citizens entering into pretended leases of the land to noncitizens for a number of years, which is a plain violation of the law of this nation. The citizen is to get all the improvements after the noncitizen gets the use of the land, and in many instances after the land is nearly worn out. The citizen as a general thing has never invested a dollar in this transaction. I am also informed that a land-office business is being carried on between noncitizens in buying and selling leases. You can at once see the great evil and danger that will be entailed on this country by this unscrupulous action of our own citizens. I am of the opinion that you are justified in resorting to extreme measures to relieve our country of this curse.

While I have not the documents at hand to support it, I am informed, and I think credibly informed, that every other chief from that time on has called the attention of the council to this condition of affairs, but not a thing has been done, and these petitioners tell you why.



I will give you a list of some of these parties who hold lands, and the amount of lands they hold. Of course these are estimates, but they are approximately correct.

Mr. LITTLE. You are speaking of the Cherokee Nation?

Mr. MCKENNON. Yes; of the Cherokee Nation, according to the order of my argument. I shall next take up the Creek Nation. Here is the list:

	Acres.
F. Wasson.....	15,000
M. Holderman.....	8,000
William Nobles.....	12,000
Albert Morris.....	4,000
A. Mills.....	8,000
William Howell.....	10,000
George Warren.....	5,000
John Warren.....	5,000
W. C. Patton.....	5,000
William Halsel.....	20,000
J. H. Partles.....	10,000
James Martin.....	10,000
Robert Owens.....	10,000
P. B. Kennison.....	3,000
Clarence Turner.....	10,000
John Crutchfield.....	8,000
M. N. Couch.....	5,000
C. V. Rogers.....	5,000
Johnson & Keeler.....	8,000
L. W. Buffington.....	2,000
G. W. Green.....	4,000
S. S. Cobb.....	5,000
Dan Bachtel.....	2,000

Mr. Chairman, here are twenty-three persons holding 174,000 acres of land. Let me tell you where. These lands are held mostly in the western portion of that country, and the western portion embraces almost all the tillable land, or is at least the best portion of the Cherokee Nation. The eastern portion is broken and not so valuable as the land in the western portion; it is a beautiful and rich country. And these farms are mostly located upon that land.

In the reply of the Cherokee delegates here to the report of the Dawes Commission they state that it will be found that there are not more than 40 acres of good tillable land to each citizen of the nation. If that be true, then these twenty-three persons hold (because these farms are the good land of the country) the shares of about 4,350 people of that tribe—about one-seventh of the entire citizenship of the tribe. This is only a partial list, and I am informed, by reliable gentlemen who have written to me since I came to this city, that there are numbers of others holding from 500 to 2,500 acres of land in that country. This William Halsel is said to hold about 30 farms, and if that is so, he holds them in violation of the rights of the common people of that country, as much so as if one citizen of the State of Arkansas should hold that much land belonging to other individuals and they powerless to recover it.

Mr. LITTLE. Who is Mr. Halsel?

Mr. MCKENNON. He is a white man who first married an Indian woman, who died, and he then married a white woman, as I am informed.

Now, let me read again. A correspondent at Pryor Creek, Ind. T., in reporting a picnic that occurred at that place, gives one of the speeches made, in which a full-blooded Cherokee, Rev. Henry Cloud, spoke in favor of allotment. The speech is full of good, hard sense, as reproduced. Here is a full-blooded Cherokee talking. I insist that the

poorest full-blood or half-breed of that country, or any other kind of a citizen, has the same right to speak to this committee as any other man, no matter how high his position or how much wealth he has obtained at the expense of the common people. This full-blood, speaking to you to-day, says:

I am a native-born Cherokee Indian. I love God and my people, and when I look over the present situation my heart is pained, for decay is stamped on every phase of our government. Her institutions, in the main, are mammoth farces. Lands in common has long since ceased to be a reality. It is now almost impossible for a young, enterprising Cherokee to find a desirable location to make himself a home without purchasing a right from his rich brother to locate upon his almost boundless premises. My brothers, this ought not to be so. We want homes for all of our Cherokee boys and girls—which means allotment. It is coming, let us prepare for it.

Allotment is the only remedy to prevent ruin. I want every Cherokee by blood to have just and equal rights, for I know that if I were ostracized by my people I would contend with all my ability to be restored and reinstated to what might be my rights and immunities as a Cherokee Indian, and I don't blame those who have been rejected and turned away by prejudice—

This is a Cherokee Indian talking to us. They say our report is wrong when we say that has been done. This man talks with all the power and force of any other man who has addressed this committee—

I don't blame those who have been rejected and turned away by prejudice and injustice for contending for what they conceive to be their rights as a part of this great family. Let us do unto them as we would have them do unto us were matters reversed.

Here is a letter received only a few days ago by the chairman of this Commission:

TAHLEQUAH, I. T., *March 1, 1896.*

Senator DAWES, *Washington, D. C.*

SIR: As I am knocking around in the Creek and Cherokee nations, and am well acquainted in both nations—raised in the Cherokee Nation—and am one of your red men you speak of a short time ago, I noticed a bill which you blocked out, for the purpose of putting before Congress, which pleased two-thirds of the Indians, but made our middle men, and cream drinkers, and office holders, and pasture holders look a little serious, and they then began to rustle around among themselves and cattle holders to get money to put up big salaries to get delegates to Washington to veto your entire labor. But stay with them. I understand that the Cherokee delegates got \$5,000 apiece. I don't know what the Creek delegates got. What good are those delegates doing the poor Indians, gobbling up their lands and money? We are afraid to come out and express our feelings. But I will tell you we want our land and our money if we have got any. They are continually draining us of both. The only objection I have ever heard any of them make, is they think you ought to have put an Indian on the committee to decide whom their citizens should be. So I will close. I remain a friend and look for you soon. Don't let this Congress pass without doing something. If you do they will clean us up.

That man says he was born and raised a red man in the Cherokee Nation. Has he not all the rights of a citizen of that nation? Has he not a right to speak?

But let me read again a letter from T. D. Lee, in the Muldrow Register, a newspaper published at Muldrow, Cherokee Nation. I think he was an Indian policeman, though I am not sufficiently acquainted with him to be sure of this:

I wish to say something through your paper to my dear Cherokee people, the full bloods and the half-breeds who have no land nor no homes here in their own country. The intruder question is a big thing and making a good deal of noise. We are told that the intruders are all to be put out after January. That's all right, and good as far as it goes, but what is it likely to amount to? The monopolists have it all figured out to bid in the intruders' improvements, so that won't make it any better for Cherokees who have no land.

Some of our leaders make a great fuss and blow about the intruders robbing the poor Indians of their lands, when they know as well as anybody that some of our own people are robbing us a good deal worse—even 10 to 1—those fellows who are

"Indians for revenue only," many being white men who have married Cherokee women, and white "injuins." A few of this kind of people have gobbled up most of the best land in this nation, fenced it in with wire, and pastured many thousands of Texas cattle at a big profit, and pay not a cent of taxes on the land.

This class of people, who are called Cherokee citizens, rob us of ten times as much land as the intruders. Now, if we are robbed in this way, what's the difference who robs us? This everlasting talk of putting out the intruders and then doing nothing is getting so old and stale it makes me tired to hear it. Better say less and do something. If the bosses—

That is what they call these leading men—the "bosses"—

If the bosses want to help the people, why don't they handle those robbers who come under the Cherokee laws and make them give up those many thousand acres that belong to others? There has been lots of talk about doing this, but it has never been done. It appears that the cattlemen and the "Indians for revenue only" have too much money to have any such thing happen.

Is it not strange that they all refer to money when they speak of failure to get this thing done?

Some of those fellows who are making such noise about putting out the intruder robbers have robbed their own people worse than the intruder, and were the cause of getting many of the intruders into this country as a money-making scheme. This can't be denied. Before we make such a howl about the intruder robber let us sweep our own dooryard.

I see no good for the poor Cherokees in putting out the intruders if our rich men are to buy up their places.

The gentleman yesterday morning said to this committee that he had advised individuals to go and buy them out so that they could eject them, but the Indian has it in his mind that the rich men and the bosses will buy up those places and hold them, and they say that they would just as soon the intruders should hold them as the "bosses," because they will not be benefited by that transaction.

Just as well let the intruders stay here. The best way I can see out of this difficulty we are in is for all the land to be divided between the Cherokee people, so that each person may have what belongs to them, and no more. Then the intruders would have to go, and the land robbers give up what didn't belong to them. This would bring our home robbers to time and others also.

What that Indian has written has been said to this Commission time and again. The people talk about those men just in that way, and talk about the corruption of their council. Why, sir, since the last council adjourned the papers of the Territory, and even those published in Tahlequah, are charging that all kinds of jobs were sought to be put up there for the purpose of robbing the National Treasury. One paper published the statement that there was a \$400,000 steal on hand, but that it was discovered in time to defeat it. This statement was published time and again in the papers of the Territory, and in a paper printed in the capital of the nation. And it was said that there was another effort to rob them of about \$25,000; that on the evening of adjournment they had a good deal of whisky, and thought they had the thing safe, but in some way or other it was defeated. I am astonished only that any one of these jobs failed. The papers are full of another statement to the effect that during this session several parties were admitted to citizenship, and a reliable gentleman, writing to me from that Territory, tells me that some of them were intruders whose property had been appraised. The papers say and charge, and this gentleman writes me that it is an open secret, that they paid all of their Strip money for the purpose of getting their citizenship established by the council.

Mr. FISCHER. Is this division that you speak of, into the National party and the Downing party, a division upon political lines, or is it a

division having reference to the rights of the citizens against those in power?

Mr. MCKENNON. They are all alike. When it comes to the spoils there is no difference that I have ever heard of.

The statements further charge that one judge received as a fee for this the sum of \$500. These charges are made publicly in the papers, not only as to the last session of that council, but it is a general thing in that Territory. Hundreds of the common people have come to talk to us, whom we received kindly and heard all they had to say. They have told us one instance after another where these people have robbed them.

Have we a right to rely upon these statements and, as honest men, report to the Government the facts as we thus learn them? Have we a right to rely upon this information as to the condition of affairs existing there and to insist upon the intervention of this Government for the protection and care of the common people and their property in that country? Should we speak and act upon this information? Would you do so, sir? I apprehend that you would not long hesitate, but that you would report in even stronger terms than we have.

Just one other statement on that line. Mr. Cabaniss, about a year ago, received a letter from a young Cherokee Indian—as he called himself—in which he said that he was without a home and had been hunting a place to make a home; that he had ridden in company with one of these land barons pretty much all of one forenoon on his premises on one side of the Missouri, Kansas and Texas Railroad, and during the afternoon had ridden with him on the other side of the railroad—still on this man's premises. He told the baron that he wanted a home, and the baron was willing to sell him one, but the young man said it would cost him as much as it would to buy a home in Missouri, Arkansas, or Texas. That represents the condition of affairs there. It would have cost him as much for an occupation title only as for a fee-simple title in one of those States.

That is only one instance out of numbers that have come to our knowledge. These are the common people, it is true. But, sir, governments were made to protect the poor and the helpless. These people have appealed to us until we feel that something should be done to protect them.

Allow me to say a word here in regard to the argument that was made yesterday—remarkable, indeed—by my friend who had been the attorney-general of that nation, and whose duty it was to have the laws enforced. He was at the capital when this petition was introduced before the national council, and was there, I apprehend, when this message of Chief Mayes was read there, and has doubtless seen many of these publications in the papers, because they are constantly being made. Yet he could not tell you whether there was any monopoly of lands in that Territory. You will remember the question was asked him, and he said: "Well, well, now, you see—well, well—I don't know exactly myself; I don't deny that something may exist there, but you see, I don't know about this thing." That was the manner of his answer. Is it not remarkable that he did not know about these things? The common people know about these things, Mr. Chairman. We know about them; but Hastings knows not. Is there any question in your mind that such a condition of affairs exists there; if so, should it be allowed to exist longer? Should not the prayers of these people be heard? Should not their lands be restored to them for homes? They say they are homeless, and not only homeless, but in their own country

they are remediless. For that reason this bill was drafted, with a provision that these parties should turn these lands loose, and that they be apportioned among the people for homes; that the Government shall know that they have homes.

That is the duty of this Government in the sight of God and man. No honorable gentleman understanding the situation there can say aught to the contrary. It is in the hearts of this Commission, and we are here to plead for the poor full-blood who, in fact, knew nothing about his lands being sold for town lots. While public notice of the sale of lots may have been given, the fact remains that the bosses acquired and held the towns from one end to the other, and the plea has been made here that they be permitted to continue to hold them. Not only that, but that the men who hold these large pastures—these large tracts of land for which they have never paid a nickel—should continue to hold them, notwithstanding the fact that they have had the use and profits of them for years and years. They should not be dispossessed until they are paid for their improvements upon them.

Knowing the situation as I do, that argument impressed me and impressed my associates upon the Commission as an argument in favor of monopolies and against the common people of the country. The Commission ask for protection of the interests of these common people.

If we thus see these things, and are honest, should we not speak as we do? Should we, like cowards, slink away and refuse to give this information to the Government which we represent?

The CHAIRMAN. It is now 12 o'clock, and perhaps our sitting had better close, and you take up the thread of your statement at that point to-morrow.

Mr. MCKENNON. I am obliged to the committee.

Thereupon the committee adjourned till 10.30 o'clock a. m. to-morrow, Thursday, March 12, 1896.

THURSDAY, *March 12, 1896.*

The committee met pursuant to adjournment.

The CHAIRMAN. Judge McKennon, please proceed.

Mr. MCKENNON. Mr. Chairman and gentlemen of the committee, I stated on yesterday that this matter of the monopoly of lands of the Cherokee Nation had been mentioned by every one of the chiefs since 1890. Chief Mayes, in his message to the last council, recognized the fact that this monopoly was in existence, and as a remedy for it he recommended that the monopolists be required to pay a rental upon all the lands over and above a certain amount.

Mr. WHITE. Do you remember what that amount was?

Mr. MCKENNON. No, sir; I do not think there was any fixed amount; he just recommended that an amount should be fixed by the council. That was not done, but you will observe that he recognized the right of these people holding the lands to be left in possession while his countrymen were without homes. For what purpose? To raise a revenue for the General Government. He, in effect, recommended that the homes of the people be withheld from them in order that the tax thereon might be used as a revenue for the General Government. There is loud complaint against the intruders for taking money for appraised property and using it in support of their claim, and no one has justified proceedings so unfair. But those who make this complaint propose to with-

hold the lands from the people, leaving them homeless and to tax these lands, to raise a national fund with which to send delegates here to obstruct legislation by Congress by which these lands will be turned loose and restored to the unfortunate people for homes. This is the view taken of it by many of these people, as you discover from the letters which I have read to you from citizens of that Territory.

I assume that no national council of any one of the tribes in that Territory had the power, by any kind of legislation, to vest any right in any individual to take and hold more of that property than his fair and reasonable share of it. The legislation by which they have sought to transfer and alienate those town lots is an open and flagrant violation of the treaties and can not serve to divest any one of these people of his undivided interest in each one of those lots. Every individual Indian in that Territory has an equal undivided interest in every particle of that soil, and there never was any power in any tribal council to divest him of it. No other tribe has gone so far and presumed thus to violate the treaties. As I said before, these lots are held by a favored few. You can go to the little city of Vinita, one of the most prosperous and one of the largest cities in the Cherokee Nation, and you will find half a dozen persons owning almost the entire town, and all this property may be held from the common people, as well as these large holdings of land outside, in which the gentleman, Mr. Hastings, declares these people have a vested right. A vested right! Think about it! The gentleman is here representing one class of people, who say to this committee that these men who have obtained possession of these large holdings and are still withholding those lands from the homeless people unlawfully and unjustly thereby have obtained vested rights in them! If that is true, then I advise immediate legislation by which the titles of these land barons may be settled and quieted. They ought to have quiet possession of all their vested rights.

Those who have sent this petition to me requested me to intercede with the Secretary of the Interior and if possible secure transportation and subsistence for a committee to come here, composed of full-bloods and mixed-breeds—six in number—to present the side of the people as against those who are here. They complain that these people are using their money, the national funds, in which each individual Indian has an equal interest, for the purpose of their oppression. They want to come, but are poor and unable to defray their own expenses.

I have a letter from Vinita in which the writer states that Judge Springer's court is embarrassed with suits between lessors and lessees, between landlords and tenants, of these large holdings in the Cherokee Nation. Pass this bill and it will settle all such questions and relieve that court of this burden.

To illustrate the perplexing conflict of jurisdiction there, let me give you a case of which a gentleman wrote me a few days ago. Congress passed an act providing that a citizen of any of those tribes might take the oath of allegiance to the United States and thereby secure the protection of the United States, and specifically provided that this should not affect his rights as an Indian citizen. These people, in the face of that law, decitizenize a man for taking this oath. A negro, who is an Indian citizen, stole some fence wire from an Indian citizen, Charley Poole, a man who was born and reared there and whose citizenship was never questioned, but who had taken that oath. Poole undertook to have this negro prosecuted in the United States court at Muskogee, but that court very properly decided that as they were both Indian citizens it had no jurisdiction.

Poole went back and secured an indictment by a Cherokee grand jury against the negro. But when the case was called for trial before Judge Starr, the judge held that, as Poole had taken the oath of allegiance to the United States, he was in consequence not an Indian citizen, and that, therefore, he had no jurisdiction to try the negro for stealing his wife, and dismissed the case. Now, Charley Poole wants to know, as he is thus compelled to be a law unto himself, if there is any law against him killing the negro, and if he should do so whether he would lay himself liable. The courts are no better than anything else down there, and if any of them are honest I never heard of it. Numbers of instances have been given to this Commission in which the courts have asked and obtained money for their decisions. Senator Dawes told you of one case the other day.

I will add one more: One of the ablest and most prominent of the Creek Indians who have been here during this session of Congress gave Senator Dawes this statement. There were two Creek Indians, lawyers, who were partners. One of them was made a judge of a district court. When he was made judge he made this kind of a contract with his partner, the other lawyer: "I will decide all your cases in your favor that you bring in my court, and you divide the fees with me." That worked very well for some time. They got along harmoniously, and the fees were divided. But finally the lawyer got a \$2,500 fee, and the \$1,250 was just a little too much for even an Indian to hand over, and so he went back on the judge. Then the judge went about telling of this and denouncing his partner as a dishonest man for not living up to his contract.

Mr. FISCHER. The judge ought to have reversed his opinions.

Mr. WHITE. May I ask how those courts are formed? I do not know, and I ask for information.

Mr. MCKENNON. They are a part of the government.

Mr. WHITE. Are the judges elected?

Mr. MCKENNON. Yes; by the people I think. I will state, however, that any man may be a judge there without regard to any special qualifications.

Mr. GAMBLE. Without regard to his legal attainments?

Mr. MCKENNON. Yes.

The CHAIRMAN. A blacksmith is chief justice of the Cherokee Nation, is he not?

Mr. MCKENNON. I do not know. As to this matter of citizenship, I want to read some affidavits which were sent us, and you will see what they say to us. A number of these persons, I suppose eight or ten, came to us at Fort Smith and desired to be heard. We did not refuse them. Some of them looked just as much like Indians as any Indians you have seen in this city during this sitting of Congress.

Rachel Edwards, who on oath states: I am about 65 years old; my post-office address is Muldrow, Ind. T.; I am a Cherokee woman; I was born in the old nation, East, and was emigrated to this, the Cherokee Nation, by the United States Government in the year of 1836, as well as I can remember.

Her record as an Indian seems to be pretty good.

I have lived in this nation from that time to this date.

My first husband was Moses Edwards, a prominent Cherokee citizen, from which marriage there was no issue, Edwards dying soon after the war.

Some years later I was married to a United States citizen, a white man, by the name of Timpson. We could not get along peaceably together, hence I was divorced under the Cherokee law. My rights have never been brought in question until the census taker of my district reported me as being doubtful. Their plan of marking Cherokees doubtful was to place a red mark opposite the name. This was in 1893.

On September 5 I made an application to a merchant of Muldrow for credit, on the strength of my Strip money. The merchant, to satisfy himself of my being a legal Cherokee citizen, wrote to the executive department of the Cherokee Nation, requesting to know my true status as a Cherokee citizen. He was furnished with the following certificate:

"EXECUTIVE DEPARTMENT, CHEROKEE NATION, IND. T.,  
"Tahlequah, September 5, 1892.

"I hereby certify that the name of one Rachel Edwards, female, appears on the census rolls of 1880, Schedule I, census of Sequoyah district, Cherokee Nation, as a native Cherokee by blood.

[SEAL.]

"R. T. HANKS, *Assistant Executive Secretary.*"

On the assurance of the Strip money I secured credit of something over \$100. When the treasurer of the Cherokee Nation was paying the Cherokees' pro rata share of the Strip money I applied for my money. Their excuse was I was marked doubtful, and that I would have to appear before the Cherokee council and be reinstated before I could get my Strip money. I went before the council in 1894. After pleading with the members to place my name on the proper roll I was treated with contempt, and couldn't secure any action for or against my case. There are many others in the same condition to-day. I make this statement to show the injustice that is being meted to citizens of the Cherokee Nation by people of our own blood.

Gentlemen of the Dawes Commission, if within the scope of your authority, make such recommendations to the Government of the United States as will correct this great wrong which is being practiced by those in authority in the Cherokee Nation.

Your petitioner will ever pray.

RACHEL EDWARDS.

Attest:

J. F. ANDERSON.

Does not that look upon its face like that woman ought to be entitled to the rights of citizenship in the Cherokee Nation? When such a statement is presented to us what should we think of it?

I will now read you a short certificate:

[Commission on citizenship, Cherokee Nation, Ind. T., Tahlequah.]

OFFICE SUPREME COURT, CHEROKEE NATION.

This will certify that Mrs. Sarah J. Bell, wife of Dr. M. Bell, has proven to my satisfaction, by affidavits of Dr. S. H. Payne and wife, Martha A. Payne, made before Eli Sanders, clerk of the district court for Sequoyah district, that she is a full sister to said Martha A. Payne and Eudoria Cobb, who established their Cherokee right before the court of commission at its sitting, and dated May 29, 1871, by blood. Therefore Mrs. Sarah J. Bell is entitled to all rights and privileges of other Cherokees in the Cherokee Nation.

Given from under my hand the 13th day of November, 1871.

JOHN S. VANN,  
*Chief Justice, Supreme Court.*

I hereby certify that the above is a true copy of the original on file in this office.

D. S. WILLIAMS, *Clerk Commission.*

This 19th day of April, 1889.

Mr. CURTIS. Those are the same parties, the Cobb man and woman and the Paynes, that were turned out of the Cherokee Nation because they had obtained admission by means of false affidavits, are they not?

Mr. MCKENNON. I suppose they are the same. This is Dr. Payne, and I suppose it is the same Payne.

Mr. CURTIS. Yes; and that ruling was sustained by the Interior Department.

Mr. MCKENNON. Yes; this woman was admitted to citizenship. She was never turned out.

Mr. CURTIS. What was her name?

Mr. MCKENNON. Sarah J. Bell.

Mr. CURTIS. Wife of Dr. Moses Bell?

Mr. MCKENNON. Dr. M. Bell. I suppose it is the same. Do you say she has been tried and turned out?



Mr. CURTIS. Yes; Dr. Bell had his trial on that question; at least the name is similar.

Mr. MCKENNON. Then, this plainly shows their methods. I have another case which I will file, without undertaking to read it. The case of Mrs. E. M. Black.

The paper is as follows:

MULDROW, IND. T., *November 12, 1895.*

The Hon. DAWES COMMISSION,  
*Fort Smith, Ark.:*

Having learned that your honorable body would hear complaints of persons termed by the Cherokee authorities as intruders, permit me to say that I am a Cherokee woman; derived my Cherokee blood from my grandmother, Cerena Sevier, a half-breed Cherokee, who married Culwell, a white man. My mother, Elizabeth D. Culwell, married John C. Jackson, a white man. I married William P. Black, September 1, 1867, in Hunt County, Tex. Since our marriage there have been five children born to us. We moved to the Cherokee Nation, and on the 22d day of September, 1888, the Adair court readmitted myself and five children to citizenship in the Cherokee Nation, which right we enjoyed until we incurred the displeasure of some official. (See certificate of citizenship marked A.) We have, by hard labor and by close economy, accumulated considerable improvements. We have now about 500 acres in cultivation, with six dwellings on it, and four houses and lots here in Muldrow, all made since August 11, 1886. All these the Cherokee authorities propose to confiscate January 1, 1896.

It is and has been the custom of the Cherokee authorities to place any person who incurred their displeasure on the intruder list.

In December, 1891, the sheriff seized and sold 175 tons of hay of ours on a report, so he said, that we were intruders. I offered to show him my certificate, and he would not look at it.

In May, 1892, Dr. Nairn, a Cherokee citizen, began suit in the United States Court at Muscogee, Ind. T., to take my home on the plea that I was an intruder. The court sustained me as a citizen of the Cherokee Nation by giving me my home and also the hay. Then they tried to have Mr. Black indicted for testifying that he saw the chief sign my certificate. The grand jury refused to find a bill against Mr. Black (my husband).

The census takers took our census, and afterwards placed us on the roll of intruders and as such refused to pay me our Strip money, and our names were reported to the board of appraisers who were appointed by an act of Congress to appraise the improvements of the so-called intruders. The said board didn't appraise our improvements, they having been made or acquired since August 11, 1886. Our valuable improvements, the fruits of industry and hard labor for many years, they now propose to confiscate January 1, 1896; and not only this, but they propose to put us out beyond the limits of the Cherokee Nation as vagabonds and intruders.

Gentlemen of the Dawes Commission, I am a citizen of the Cherokee Nation by blood, and was readmitted to citizenship by a Cherokee court, created by an act of the Cherokee national council, and was so recognized by the authorities of the Cherokee Nation. (See shippers' permit, and law regulating the shipment of hay, back of permit; also, blank of monthly reports.)

Please permit me, in the name of justice, to say, if such a removal is anticipated by the United States Government, if it is under the scope of your authority, please recommend to the Honorable Secretary of the Interior and to the Congress of the United States a suspension of the removal, in view of pending legislation by Congress.

Your petitioner ever prays.

E. M. BLACK.

Sworn to and subscribed before me on this 12th day of November, 1895.

[NOTARIAL SEAL.]

W. J. WATTS, *Notary Public.*

This certifies that this is a true and correct copy of the original certificate of citizenship to her and five children, September 22, 1888.

Given under my hand this 11th day of September, 1895.

L. S. BYRD,  
*Notary Public, Northern District of United States Court, Ind. T.*

My commission expires January 1, 1898.

*Certificate of admission to Cherokee citizenship.*OFFICE OF COMMISSION ON CITIZENSHIP,  
*Tahlequah, Cherokee Nation.**To all whom it may concern, greeting:*

This is to certify that the following-named, to wit: Eliza M. Black and her five children, Dora L., Forrest C., J. Elliott, Kennie D., and Della M., ages, respectively, viz, 44, 17, 11, 9, 8, 7, did, pursuant to the provisions of an act of the national council of the Cherokee Nation, approved December 8, 1886, entitled "An act providing for the appointing of a commission to try and determine application for Cherokee citizenship," make such application to and before said commission, on the 26th day of September, 1887; that the proof submitted by the above-named applicants in support of their said application has been found and is hereby declared and certified to be sufficient and satisfactory to the said commission according to the requirements of section 7 of said act of the national council, and that by virtue of such finding of fact by the commission, and in conformity with the fourteenth section of said act, the above-named parties (applicants for citizenship) are from this the date of said finding and decision of the said Commission announced and recorded, readmitted by the national council, as provided in said fourteenth section, to the rights and privileges of Cherokee citizenship, under section 2, article 1, of the constitution of the Cherokee Nation; and this certificate of said decision of the Commission and of readmission by council is made and furnished to the said parties accordingly.

In witness whereof I hereunto sign my name, as chairman of the commission, on this the 22d day of September, 1888.

J. T. ADAIR,  
*Chairman Commission on Citizenship.*

Attest:

CONNELL ROGERS,  
*Clerk, Commission on Citizenship.*

Approved and indorsed.

J. B. MAYES,  
*Principal Chief Cherokee Nation.*

[SEAL.]

HENRY EFFORT,  
*Assistant ex-Secretary, Cherokee Nation.*

Received of W. P. Black \$1.35, for royalty paid for prairie hay shipped at the station of Watoba, Ind. T., 13,700, subject to a tax of 20 cents per ton.

F. METZNER,  
*Deputy Clerk, C. D., C. N.**Monthly statement.*

Of prairie hay shipped or sold by \_\_\_\_\_, of Ind. T., during the month \_\_\_\_\_, 189—, \_\_\_\_\_ tons and \_\_\_\_\_ pounds, subject to a tax of 20 cents per ton, amounting to \_\_\_\_\_ dollars and \_\_\_\_\_ cents.

Sworn to and subscribed before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 189—.

\_\_\_\_\_  
*Clerk Cooweescoowee District, C. N.*To H. H. TROTT,  
*Clerk Cooweescoowee District, C. N.*

Received of E. M. Black \$6.00 to apply on permit to employ Frank Banks to labor as a farmer within this district for the term of (12) months from date.

This Jan. 1st, 1892. Expires Jan. 1, 1893.

F. METZNER, *Spec. Dep. Clerk, C. D., C. N.*CHEROKEE NATION, COOWEESCOOWEE DISTRICT,  
*Office of Clerk.*

Whereas E. M. Black has petitioned this office for a permit to ship prairie hay beyond the limits of the Cherokee Nation:

Now therefore, I, H. H. Trott, clerk of Cooweescoowee district, Cherokee Nation, by virtue of authority in me vested by law, empower, authorize, and permit E. M. Black, a citizen of the Cherokee Nation, to ship, transport, or carry beyond the limits of the Cherokee Nation, prairie hay cut in said Cooweescoowee district in the year of 1891 and 1892. The said E. M. Black being subject to and required to

comply with all the conditions of the act of national council approved Dec. 2, 1889, entitled "An act to protect the public domain, and for the purpose of revenue."

In testimony whereof, I hereunto set my hand and affix the seal of my office on the 27th of June, one thousand eight hundred and ninety-one.

H. H. TROTT,

*Clerk of Cooweescoowee Dist., Cherokee Nation.*

W. H. DREW, *Debt.*

Mr. MCKENNON. These papers were given to us, and there are persons who came before us, and who looked as much like Indians as any Indian I have ever seen, and who said they were born and reared in the Cherokee Nation and that they had been deprived of citizenship. They made those statements before the Commission, and we had no cause to disbelieve them.

Mr. CURTIS. May I ask another question?

Mr. MCKENNON. Yes, sir.

Mr. CURTIS. Did those who claimed to have been born and reared there and to have been deprived of citizenship, claim to have been born prior to the passage of the resolution by their council calling upon these people to come and make proof of citizenship?

Mr. MCKENNON. Yes; they were grown people.

Mr. CURTIS. There were others besides these you mention?

Mr. MCKENNON. Oh, yes; a number of others came and made such statements to us, and they seemed to be just as honorable and credible people as these before you. We do not know the difference; we never learned the difference.

There were some families who had for a time been living over in the Creek Nation. When the Cherokee Strip payment was being made they were excluded, and they were told that they would have to be readmitted. They stated, as we were informed, and that is the general talk there, and none of these Commissioners ever heard it denied, that they had to pay that council \$100 each to get readmitted, and that that money went into the pockets of the councilmen.

I can give you two or three such cases, as reported to us, and I understand there are a number of others. One was the case of the Willison family, about five in number, who had to pay \$100 a piece, which would have made \$500, to get reinstated. There were two Berry families treated in the same way.

The only reply I have ever heard made in such cases is, "Oh, well, they were entitled to citizenship anyway; they were not wrongfully admitted." If that be true they should have had their citizenship without money and without price. These are the kind of statements made to us in regard to citizenship.

When we were here last winter a serious complaint was made against Major Kidd. Major Kidd is an irritable man and sometimes says unpleasant things. But I am pleased to say that I have been associated with him; that I know him, and that he is a just, honest, upright, honorable, conscientious, and kindhearted gentleman. No man who knows him will speak to the contrary. But they complained that he was not acceptable, that he had made himself unpopular, and in order to conciliate these people it was determined to transfer him to another service, which was done, and, as I understand, at their suggestion General Armstrong was put in his place. General Armstrong was born in the Choctaw Nation, was well acquainted with the people in the Territory, and was regarded as their fast friend always. Judge Montgomery, of Kentucky, you well know. Mr. Cabanis, of Georgia, you also well know. They were also placed upon the Commission. They went down there with the idea that we had been harsh with those people, and that

our report was too severe. When we went there we were, as we are to-day, the friends of the common people of that country, and we are here in their interest.

When it came time for us to make our report they signed the present report which indorsed the other. Six gentlemen, as members of this Commission, have signed these reports and make these statements. And there are three members of the Senate (Senators Teller, Platt, and Roach) who make similar statements, supporting everything we have said as to the corruptions of these governments. Yet these gentlemen say we have all stated falsehoods. They even went further than that. Chief Mayes wrote an article, published in the New York Sun, in which he said that it was all a lie, false as hell. Is it not strange that we would all lie in that way?

I have seen, also, the correspondence of a man in the Philadelphia Press, who went down there and wrote from the parlor of Chief Harris, and he says that he was not there more than an hour before he knew the whole situation, and he says we lied. That is fine proof, isn't it?

I hope that I have shown you gentlemen that we went there in the friendliest possible spirit toward those people, as did also our associates within the last year—General Armstrong, Judge Montgomery, and Mr. Cabanis. When the Commission was reorganized and we were getting ready to start down there, Senator Dawes wrote a communication to each one of the chiefs, informing him of our contemplated visit to the Territory and the purposes of our visit. We went down, and immediately Chief Harris again proceeded to call an international convention for the purpose of uniting the tribes in a general resistance to the work of the Commission, which was called to meet at Fort Gibson. We were informed that a resolution to invite the Commission to be present and talk to that council was promptly voted down. When the convention met the Choctaws were not represented, and for that reason it adjourned to meet at a subsequent date, on the 28th of June, at Eufaula.

They met at Eufaula and reaffirmed the resolutions adopted the preceding year. That was the action of the chief of the Cherokee Nation. They complained bitterly that we did not pay any attention to them: Chief Harris came to visit us at Muscogee, and as you will see in his communication to us, which is printed in our report, in answer to our propositions to have a committee appointed to confer with us, he says that he had no authority to do that, that no one was authorized to do that, no one could be authorized without the convening of the council; and that it would not convene until the 1st of November, and it did not convene until then.

In the meantime, gentlemen, we did not visit them. Do you suppose that had we paid them a social visit it would have promoted the work? Will you conclude that there was any kind of obligation resting upon us to pay them a social visit? We did not do it because we did not believe that it could in any way promote the work we were sent there to accomplish. But they complain.

At a later date we addressed a communication to them calling their attention to the fact that the time was coming when we should be required to make our report to the Secretary of the Interior, and urging upon Chief Harris the appointment of a commission to negotiate with us. He answered that he was going out of office, but would lay the matter before his successor and ask him to lay it before the council.

They were informed of the time when we would leave that Territory. We remained there until we were required to make our report to the

Secretary, which we prepared, and then were ordered away by the Secretary. After we went away from there the council proceeded to appoint some gentlemen to confer with us, but expressly forbade them to do anything.

In their reply to our report you will see printed a communication which purports to have been addressed to us. Not one member of this Commission ever saw that communication until after we arrived in the city of Washington, when a friend hunted up a copy of that reply and brought it to me, and then we read that communication for the first time.

We had left the Territory before that was written or purports to have been written, and they knew we had gone.

Mr. DAWES. They were informed of the fact that we were going away.

Mr. MCKENNON. I stated that they had information of the fact that we were going away. When we first went down there the first year we were invited by the people at various points to visit and address them. They wanted to see us and talk to us; wanted to hear what the Government was going to do. They sent us invitations from all parts of the country to visit them. For a time we declined to accept these invitations, but when we found that we could do nothing else, I believe I made the suggestion, and we finally determined to visit them, and Major Kidd and I visited various places in the Territory and addressed large audiences of the people. We thought this right, as we could not do anything else. We sought by that means to reach the common people, the common citizens of the Indian Territory. I spoke in the Cherokee Nation at Muldrow, Vinita, and Chelsea, and, as I stated yesterday, we addressed the nominating conventions of the two parties. We went all through that country. They say we do not know anything about it; we do know too much about it and that is the difficulty. You see I know about this thing. I have been there almost all my time for two years; I have visited almost every section of that country; I have gone through the country and talked to all classes of people, the citizen and noncitizen, the white, the black, and the red; all of them. From these sources I have been informed of the actual condition of affairs there, and I do not think it is arrogating too much to myself to say that I think I know as much about that Territory as anyone.

They insist upon another committee being sent down there. Six commissioners have reported upon the condition of affairs there, three from the Senate, and all concurring in the same statements. When they ask for another committee it is simply for the purpose of delay in order that they may prolong their holding and control of that country.

If you conclude to pass some such legislation as this suggested, and you come to the conclusion that we are not honest and will not do right and what is best for the people there—if any question arises in your minds in regard to that—look for some one else, get somebody else, and they will go away from there in just as bad repute as we are, for they do not like anybody who comes between them and their unholy money getting. You can see that these are the facts. They are unpleasant facts to state, but you can comprehend them just as well as I can.

They say we have exaggerated the amount of crime committed there. It has been said that we adopted the statements published by a paper in one of the border States, written by some one who knew nothing about it. We have made no statement on that line. A member of this committee has in his possession a list, taken from the papers published

in the Territory, of the murders committed since the adjournment of Congress on the 4th of March last up to the present time, amounting to 260 or 275; I do not know the exact number. Reason will teach you gentlemen, however, that those were not all the murders that were committed there. This list does not contain all of them. Many were committed, statements of which never appeared in print. No one man, no half dozen men, can go through the papers and get every instance of murder committed in that Territory.

Mr. CURTIS. Please tell us what classes commit these murders.

Mr. MCKENNON. All classes; Indians and white men.

Mr. CURTIS. Do the white intruders commit many murders?

Mr. MCKENNON. I have never heard of any murders committed by those called intruders. I have never heard that charge made against the class that are properly termed intruders. The white population, aside from about 200, as stated here by Mr Hastings, are not regarded as intruders. A man is an intruder who, claiming to be an Indian, gets possession of land and claims that he has a right to it. A man who goes in there and leases land from an Indian is not regarded as an intruder. If he pays his permit he is there lawfully. Of course many of them do not pay for their permits. But I answer that all classes of people there commit murders—white and black, Indians and all.

Mr. LITTLE. There are renegades there from the States.

Mr. MCKENNON. Yes, sir.

Mr. FISCHER. I understood Senator Dawes to say that they had some trouble with regard to fugitives from justice.

Mr. MCKENNON. About a year ago Governor Fishback, of Arkansas, addressed an open letter to the President of the United States—possibly you have not seen that—in which he sets out the difficulty that the State of Arkansas labors under in getting fugitives from that Territory. It is a city of refuge for criminals from the surrounding country.

Mr. FISCHER. Have you any data to show the causes of those murders, whether they arose from disputes about land, drunken brawls, or how?

Mr. MCKENNON. I do not know about any disputes as to land.

Mr. FISCHER. They do not settle them in that way?

Mr. MCKENNON. No, sir.

Mr. LITTLE. There are robberies committed there?

Mr. MCKENNON. Numbers of them; almost of daily occurrence. It is hard to tell what causes the murders. They kill for any cause and without cause.

Mr. GAMBLE. What is the rule in the courts there in regard to the punishment of these crimes? Are the courts capable of prosecuting and convicting?

Mr. MCKENNON. You mean the Indian courts?

Mr. GAMBLE. Yes.

Mr. MCKENNON. I have not known exceeding half a dozen punishments for murder since I have been in that Territory.

Mr. GAMBLE. So they really go unpunished?

Mr. MCKENNON. A number of them have come to my knowledge that were never prosecuted at all.

The statement has been made that there is no more crime in that Territory than there is in the States surrounding it. Let us see about that. I am going to give you the figures and I shall stand by the record. We will say, for instance, that there were 275 murders committed in that Territory.

Mr. GAMBLE. Within what time?

Mr. MCKENNON. Since the adjournment of Congress on the 4th of March last. Let us see the magnitude of that. I have inquired of the officials of my State (Arkansas) in order to determine how many murders would probably be committed in Arkansas during that time, and they have estimated the number at from 40 to 60, not higher than 60. The estimates were made by ex-Governor Fishback, Governor Clarke, and Attorney-General Kinsworthy, and I have talked to Judge Little upon the subject. No one has fixed the number higher than 60; we will take that as the number. How does that compare with the Territory? The Territory comprises something less than 20,000,000 of acres; that would be about 33,000 square miles. Arkansas has 52,000 square miles. If 33,000 square miles has 275 murders, 52,000 square miles would have about 433.

Mr. GAMBLE. But how would the comparison stand if made by density of population?

Mr. MCKENNON. I am coming to that. The population of the Territory will not exceed 400,000, and that is a high estimate. The population of Arkansas is something over 1,500,000, about four times as many. If the population of Arkansas committed as many murders in proportion, the number would be about 1,732, or 23 to the county. Do you not know that if such a condition existed in Arkansas martial law would be proclaimed there for the protection of the people? That is not an exaggeration. Make your own calculations and see if I am not correct.

If such is the condition of affairs there I ask whether this Government, which is responsible for it, ought to stand by and allow it to remain as it is.

Mr. CURTIS. Could not that same argument be applied by one State to the population of another State?

Mr. MCKENNON. We do not find that same showing in any State of the American Union. Nor has there ever been anything like it in any Territory in this country that we are advised of.

Mr. CURTIS. I do not mean that. I mean the rate. There are States where there have not been ten murders committed in the last year.

Mr. MCKENNON. The relations between States are different from the relations between the United States and that Territory. One State is not responsible for the conditions of another State, nor is the General Government.

Mr. CURTIS. But you are making the comparison of the Indian Territory with Arkansas. It is admitted by everybody that the Territory is the place where men charged with crimes in the border States go to, because in the Territory the laws are not properly administered and there is only limited jurisdiction in the courts. You would not expect that degree of peacefulness to exist there that you would expect in a State. A lawyer from Topeka, Kans., who lives at Muscogee, told me that in two years' residence in that town he had not known of but two street brawls. I think that is a pretty good showing for a town where there is no law.

Mr. MCKENNON. Let me give you the facts about the town of Antlers, in the Choctaw Nation. I had it in a letter, and a gentleman was here who talked to the Commission about it, and from the 15th of November up to the first part of last month 6 men were killed within a mile of that town; that a man was moving from Kansas to Texas, and stopped and encamped in the woods with his family 7 miles from the town; that an Indian came along with his Winchester, and seemed to be very friendly; they invited him to eat supper with them and he did so; he started off after supper in an apparently good humor, and upon getting

off about 40 yards he fired into the family and killed the man. That was only 7 miles from the town of Antlers. The town of Muscogee is composed mostly of whites. They have fine schools and churches, and the United States court, with all its officers, are there to preserve order.

In the city of Ardmore the population is composed of good white people, who regulate their own affairs. The city of Purcell is in like condition. You will not find many murders committed in Purcell or Ardmore. They have good order.

There are just as good people in that Territory as you have in any State of the American Union. A large majority of them are good people. But, sir, I am comparing these conditions, and while I would not expect the conditions to be as good there as in the States, I say that this Government, which is responsible, ought to place that Territory in such condition that we might expect the same protection for life and property there that we find in any State of the Union.

Mr. CURTIS. Why could not that be accomplished by extending the jurisdiction of United States courts over all the Territory for all crimes committed against the peace, regardless of the citizenship of the party committing the crime?

Mr. MCKENNON. Give the United States courts such jurisdiction?

Mr. CURTIS. Yes.

Mr. MCKENNON. I believe there is a provision in this bill to accomplish that; but those courts are incapable of doing all the business of that Territory. If you enlarge their jurisdiction to that extent you will have to create additional courts. My dear sir, I make these suggestions as to the conditions there, and it is for you to determine what shall be done. Of course we drafted this bill, and you know why we did it.

Mr. CURTIS. We understand that.

Mr. MCKENNON. We are here to serve the Government, and are trying to do it just as modestly as we can. We are called upon to inform you of the conditions, and then it is your business to determine what is best to be done.

As a citizen of Arkansas, as a citizen of this Government, having an interest in every portion of this country from one end to the other, I hope the Government will interfere in these matters so far as to do something for the protection of life and property in that Territory, for it is certainly necessary to our civilization to improve the conditions that now exist there.

Mr. MADDOX. How does that condition affect the surrounding States?

Mr. MCKENNON. Last year Governor Fishback addressed an open letter to President Cleveland for the purpose of calling his attention to the difficulties that we labored under there upon the borders of that State. We have a letter from Governor Fishback, which I will read, and which shows that condition of affairs, and how we are affected by it.

Mr. CURTIS. We have the same trouble along the Kansas border.

Mr. MCKENNON. I will read this letter:

●

FORT SMITH, ARK., *March 7, 1896.*

Hon. J. S. LITTLE.

DEAR BASS: We have had two recent raids upon banks, one in Arkansas and one in Kansas, from the Indian Territory. They killed Director Goodwin in Warren the other day, and were chased back to the Territory 175 miles, but not caught. They killed Dorsey in Wichita, but were caught and mobbed.

The United States Government is responsible for these murders, for it fosters the condition which tempts them.

Very truly, your friend,

WM. M. FISHBACK.



I will ask Mr. Cabanis now to read a letter written by Mr. Smith, who is the assistant United States district attorney at Fort Smith, addressed to Judge Springer.

Mr. Cabanis read as follows:

FORT SMITH, ARK., *January 2, 1896.*

Judge WILLIAM M. SPRINGER, *Muskogee, Ind. T.:*

DEAR SIR: Complying with your request, I inclose herewith statement showing number of criminal cases disposed of in this court during the fiscal year ending June 30, 1896, and also number pending at commencement of present fiscal year.

To this I would add that the two grand juries, August and November, since the close of the last fiscal year have found thirty-three indictments in capital cases. Four hundred and fifty-five indictments for crimes other than capital have been found since the close of the last fiscal year.

Court opened for August term on 5th of August, and the regular panel of jury held until about the 20th of October, every day from 8.30 to 6 o'clock, being occupied with the trial of criminal cases. Court was open regularly from this time to November 2, but there was no time for civil business, this time being necessary for motions for new trial, sentences, etc. Then on November 4 the November term commenced, with a new jury, and continues at this time. The work has occupied every day except November 28 and December 25, and I suppose the present jury can be discharged about the 15th of this month. The February term will commence February 2, and so on ad infinitum.

You ask what per cent of this business comes from the Creek, Cherokee, and Seminole nations. There is no way of determining definitely, but a conservative estimate would be 75 per cent. I have never heard it placed lower, and those most familiar with the court would probably consider it greater. I should say at least 75 per cent of the cases come from these nations. This court has jurisdiction over a part only of the Choctaw Nation, and this nation as a whole has less of crime than either the Creek or Cherokee. \* \* \*

Yours, most respectfully,

EDGAR SMITH,  
*Second Assistant District Attorney.*

United States court for the western district of Arkansas: Number of criminal prosecutions terminated during the fiscal year ended June 30, 1895, 909. Of these there were 662 convictions, 158 acquittals, and 89 dismissed. There were 193 criminal prosecutions pending July 1, 1895.

Mr. FISCHER. That court has no jurisdiction over crimes committed in the Indian Territory by Indians against Indians?

Mr. CABANIS. None at all; but it has jurisdiction of Indians who commit crimes against white men, and vice versa.

Mr. STEWART. Cases between Indians are disposed of in the Indian courts?

Mr. CABANIS. Yes.

Mr. MCKENNON. I will make another statement to show you further difficulties. The last council of the Cherokee Nation passed what is called the "white clerk law," which provides that no white clerks should be employed by the merchants in the Cherokee Nation. I am informed now that, in order to defeat the operation of that law, these parties who want to employ white clerks take the oath of allegiance to the United States Government and then employ them as they choose.

Mr. LITTLE. They become decitizenized.

Mr. GAMBLE. Will you not repeat that statement? Mr. White did not quite catch it.

Mr. MCKENNON. The last council of the Cherokee Nation passed a law prohibiting the merchants who are citizens of the nation from employing white clerks, to force them to employ Indian clerks. Now, I understand that, in order to avoid that, they just simply take the oath, and thus avoid the force of the law. They avoid jurisdiction of the Indian courts.

Mr. GAMBLE. By taking the oath to the Government of the United States they decitizenize themselves; do they surrender all rights in the tribal property?

Mr. MCKENNON. No, sir; I do not understand that the Indians claim that. They simply deprive them of the political rights of citizens. They do not undertake to deprive them of property rights.

Yesterday, after I had closed my remarks, Mr. Hastings mentioned the fact that I read a letter stating that it was in the writer's mind that the bosses, as they term them, would buy in the intruder property, and thus secure advantages to themselves. He says that the last council passed an act providing that the payments should be in six equal annual installments, thereby enabling the common people to buy these places. I make this statement because I do not desire to do any one an injustice.

Mr. MADDOX. What do you mean by taking the oath?

Mr. MCKENNON. They take the oath of allegiance to the United States to avoid the jurisdiction of the Indian courts to try them for violations of law.

Mr. MADDOX. What do you find to be the feeling of these people toward the United States—I mean as to whether the Government is their enemy or their friend? I have heard something on that score recently.

Mr. MCKENNON. I have heard some violent expressions from the leading class of men there in that regard, but I have heard nothing of the kind from the common people. I do not know that I have heard anything of that sort at any time from the common people. I have heard of expressions from some of them since they have been in this city. I have heard that some of these gentlemen who have been before you have used some violent expressions, but it was not my purpose to mention this.

Mr. STEWART. I think it is important for this committee to know that.

Mr. LITTLE. I suggest that there is a gentleman present who has heard those declarations, and he will give them to the committee.

Mr. MCKENNON. I have heard that they made some very violent statements against the United States Government since they have been here, but I can not state who made them. I have not sufficiently accurate information to be willing to make any statement to this committee.

A MEMBER. Was it something about Hawaii?

Mr. MCKENNON. No; I think the wish was that three or four of the great powers would jump on us and give us a good flaxing.

The CHAIRMAN. Let me suggest, Mr. McKennon, that it is now ten minutes of 12, and perhaps you had better refrain from beginning upon a new topic. We have been having these hearings for a couple of weeks, and we have some bills to dispose of. If there is no objection, the hearing will now be adjourned until half past 10 Saturday morning.

The committee adjourned until 10.30 o'clock, Saturday, March 14, 1896.

THURSDAY, *March 19, 1896.*

The committee met pursuant to adjournment.

The CHAIRMAN. Judge McKennon, please proceed.

Mr. MCKENNON. Mr. Chairman, I feel it due to General Armstrong, as also to the committee, to say that the reason why he has not been in attendance upon the meetings of the committee, as requested, is that he has been confined to his home sick.

I desire to read an extract from a letter to Judge Little, of recent date, from the town of Vian, in the Cherokee Nation:

I had been here at this little place but four months, and there were six men killed in 5 miles square of this place. I arrested three parties charged with murder of two of these parties, two of which were convicted of murder and one of manslaughter. Four of these were Indians on both sides, and there has never been an arrest made for all of these killings. This is in Illinois district of the Cherokee Nation.

You spoke in your speech of dropping off the roll. We have just had a taste of that. A young fellow by the name of McAnally was enrolled as an Indian, and did at one time draw money, but when the last per capita payment came he found he was not on the roll. He committed an assault with intent to kill on an Indian here a few days ago, and the Indian authorities here arrested him, and their district attorney would not try him. He said if they tried him they admitted he was an Indian, so they turned him over to the Fort Smith court, and he just plead jurisdiction and come out of his trouble.

Also, an extract from the Muskogee Phoenix, of March 12:

A crowd of drunken fellows terrorized the people of Fort Gibson by running their horses over town and the promiscuous shooting of Winchesters, last Friday night. They wound up their carousal by shooting out the front window of a store in old town and carrying off a lot of flour, coffee, tobacco, cigars, etc.

Such raids upon that town have occurred a number of times since the Commission went to the Territory, and more than once they have robbed the railroad agent there. From the newspapers and statements of individuals who live in Muldrow, we have information of a number of raids by desperadoes upon that town who rode through the town firing their guns and intimidating the town authorities. The mayor of Afton came before the Commission at Fort Smith and made statements of similar raids upon his town, and said that the town government serves only to invite attacks of desperadoes of the surrounding country. These are all towns in the Cherokee Nation, and these offenses were in open daylight and in the face of Cherokee officials. Mr. Chairman, you can not pick up a newspaper published in that Territory which does not contain accounts of murders, and these are never denied down there by anyone, and the crimes of robbery and larceny at least keep pace with the crime of murder.

I regret that I did not get a copy of Judge Bryant's letter, but from hearing it read I understood him to say that there was less crime committed in the Indian Territory than in the territory of other States surrounding it; yet, he says that is necessary to maintain two United States courts on the outside in order to keep the peace in the Territory, and if they were removed there would be a pandemonium in the Territory. He suggests that if the United States Government would remove all criminals from the Territory there would be no trouble there. So if the criminals were removed from any other State or Territory, the country there would be left in profound peace. It would have been kind of Judge Bryant had he thought to suggest how all of these criminals could be removed from the Territory.

I now desire to show you how the members of the Creek council when assembled determined to administer upon the estate of their constituents, and proceeded to apportion among themselves the lands of that

tribe, from which you will see that a few of the Creek leaders at least favor allotment. I will read to you a partial list of Creek pastures.

For convenience the Creek Nation is divided into three districts, or belts, in the investigation of this monopoly. Here is a result of that classification, with the names of the monopolists and the number of acres they have fenced:

## NORTH BELT.

	Acres.
Standwatie pasture.....	4,344
John Yargee.....	9,085
Pole Cat Pasture Company.....	18,046
Rock Creek Pasture Company.....	15,305
Post Oak and Bruner Pasture Company.....	15,688
Wm. Sapulpa Pasture Company.....	17,762
Samuel C. Davis pasture.....	8,151
Bluford Miller Pasture Company.....	10,870
Salt Creek Pasture Company.....	26,081
N. P. Smiley Pasture Company.....	4,781
S. A. Bland Pasture Company.....	5,946
D. M. Hodges Pasture Company.....	26,920
Fisher & Anderson Pasture Company.....	19,098
G. B. Perryman.....	68,170
Ben Marshall.....	6,116
Drew & Kelly.....	2,468
Warrion & Marshall.....	13,865
Bob Daniels.....	2,915
Chissee & Robinson.....	4,362
Hotulkee Hajo Pasture Company.....	32,000

## WESTERN BELT.

John Buck Pasture Company.....	32,000
C. B. & Thomas Perryman.....	32,000
T. J. Adams.....	32,000
H. J. Reed.....	31,160
George Toger.....	32,000
Bruner, Hailey & McIntosh.....	32,000
Knight Bros.....	34,420
Jones & Sands.....	24,560
Dunson & Jeffers.....	10,240
Cornelias & Knight.....	32,000
Hill & Cornelias.....	32,000
W. A. Palmer.....	32,000
Robert Stewart.....	6,320
Hotulkee Hajo.....	32,000

## SOUTHERN AND EASTERN BELT.

Oparchewa Pasture Company.....	10,522
Roly McIntosh.....	24,050
S. A. Alexander.....	17,200
Bruner Town.....	32,000
Grayson, Stidham & Smith.....	10,240
Smith & Stidham.....	5,887
McKellop.....	52,118
W. J. McIntosh.....	2,152
Ochohunwa.....	8,640
Willison & Shannon.....	10,572
Independent Grazing Company.....	6,007
Freeland McIntosh.....	10,572
Bruner Pastor.....	5,962
Porter Pasture Company.....	32,232
Mingo Pasture Company.....	25,522
Barber Pasture Company.....	6,936
Willison & Welden.....	4,101
Moses Smith.....	3,872
Welden & Barber.....	2,319
Pale Childers.....	25,558
Bob Childers.....	5,219

	Acres.
Bob Childers.....	2, 044
Daniel Drew.....	1, 234
Robert & Primus.....	13, 143
Ellis Childers.....	24, 479
Tom Scott.....	4, 300
<hr/>	
Total acres.....	1, 072, 215

By this you discover that sixty-one citizens embraced in this list hold of the public domain of that nation 1,072,215 acres. There are about 15,000 citizens of this tribe. This list does not embrace all the pastures in that tribe, and I am sure that others added to this will increase this number to at least 1,500,000 acres. The public domain of that tribe embraces 3,042,000 acres, so you will see that a few citizens hold at least half of the lands belonging to that people. This list of pastures was made from the records at Okmulgee, the capital of the Creek Nation.

I now desire to call your attention to the parties who hold these large pastures:

	Acres.
A. P. McKellop and N. P. Murphey.....	4, 000
A. P. McKellop and Blackstone.....	38, 000
A. P. McKellop (McKellop, national attorney, clerk house of warriors, national delegate).....	20, 000
<hr/>	
Total.....	62, 000
Grayson, Stidham & Smith (Grayson, member of council, delegate; brother to Sam. Grayson, national treasurer; Stidham, clerk of house of kings, tax collector Eufaula district; George W. Smith, president board of education)	64, 000
William Sapulpa (member of council).....	17, 762
Samuel C. Davis (private secretary of Chief Perryman).....	8, 151
<hr/>	
George B. Perryman.....	68, 170
George B. and Thomas Perryman (George B., brother of Chief Perryman; Thomas, member of council and president of house of warriors).....	32, 000
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Total.....	100, 170
The Bluford Miller Pasture Company (member of council).....	10, 870
The D. M. Hodges Pasture Company (member of council).....	26, 920
Bob Daniels (member of council).....	2, 915
Chissoe and Robinson (Chissoe, member of council; Robinson, member of council and school superintendent).....	4, 362
The John Buck Pasture Company (John Buck, judge Okmulgee district)...	32, 000
T. J. Adams (member of council for many years).....	32, 000
H. C. Reed (member of council).....	31, 160
George Tiger (member of council).....	32, 000
Knight Brothers (Thomas Knight, member of council).....	34, 240
W. A. Palmer (national auditor for several years).....	32, 000
Robert Stewart (prosecuting attorney Wewoka district).....	6, 320
Hotulkee Harjo (member of council).....	32, 000
Parchewa Pasture Company (Parchewa, member of council).....	10, 522
Rolla McIntosh (speaker of house when pasture law passed; now second chief of the Creeks).....	2, 405
G. A. Alexander (member of council. He is here now as a delegate).....	27, 200
W. J. McIntosh (chief justice of supreme court).....	2, 152
Freeland McIntosh (member of council).....	10, 572
Porter Pasture Company (member of council when pasture law passed and former national delegate).....	31, 232
Mingo Pasture Company (member of council and judge of Coweta district).....	31, 232
Pole Childers (member of council and former delegate).....	25, 558
Ellis Childers (member of council).....	24, 479

It has been denied that these pastures were so held that the common people could not make their homes upon them, but in fact they are

held as absolutely by these leading men as the lands of any individual in any State are held by him against his neighbors.

I will read you a letter received by Senator Dawes a few days ago:

WAGONER, IND. T., *March 5, 1896.*

Hon. H. DAWES, *Washington, D. C.*

DEAR SIR: I take this as an opportunity of writing to you. You will find inclosed a letter from E. B. Childers in the Muskogee Phœnix. I thought it would probably be of some benefit to you. My dear sir, you must do all you can for us poor devils down here. I am a Creek citizen with seven in family, and can not fence an acre of ground in one of those pastures, for I fenced me up a farm in one, and they cut my wire, and got an injunction in the court at Muscogee, and I haven't got the money to fight it and break the order, and if I go on they will get me for contempt. So you see how we are situated unless you can do something for us. So, for God's sake, try to get something for us.

I will read the letter of Childers to which he refers:

WASHINGTON, *February 20, 1896.*

I arrived at the city of Washington last Sunday all safe and sound. Upon my arrival I found the Indian delegations all stationed at the National Hotel, working heroically against all bills or measures having a tendency to the destruction of Indian nations or their autonomy. The Cherokees have a very strong delegation. The Seminoles have two, and the Creek delegation is here with the exception of David Anderson. Isparhecher is now here at the request of the delegation, accompanied by N. B. Moore. Upon my arrival I found the delegations feeling good over the prospects of their mission. They had the promise of the various committees having the bills in charge which pertained to Indian matters, especially the Committee on Indian Affairs. The Dawes Commission were to be heard and whenever they appear we expect to go before the committee and present our side of the question. They were expected to appear before the committee for a week, but we had no notice, and I suspected that some secret movements were on foot, and started in to make close investigation, and through a warm friend here in the city I got on to their plans.

The Dawes Commission held a conference with Secretary Smith in reference to this matter, and Secretary Smith and the Dawes Commission held a conference with the President. This was done in order to get the President's views and formulate a bill that he could approve. Finally, ex-Senator Dawes was delegated to draft a bill that would be in line with the agreement made. The plan to secure the passage of the bill was, that instead of introducing in Congress and let it be referred to the Committee on Indian Affairs, so that all concerned can have a chance to protest, they take the bill to the committee, and the committee was to report the bill as a committee report, and then a strong effort is to be made to rush it through Congress at once. This was all to be done without the knowledge of the Indian delegations, so they have no chance to protest or do anything. It seems very strange and touching to think a powerful Government like the United States would plan and steal a march on a weak, defenseless ward of theirs in order to injure and exterminate them, yet such steps have been taken. The present Congress seems very determined to do something with the Indian nations, and at present matters look very, very gloomy.

I have laid a plan to defeat them in their undertaking and asked the delegates to work to my plans. The Creek and Seminole delegates have agreed to them and the movement is now on foot, and if the Dawes Commission and others interested in the passage of the bill don't catch on we will beat them sure in the House. We are not going to pay any attention to the Senate at all. The Senate will pass anything to do away with the Indian governments. We haven't seen the bill that has been formulated by the Dawes Commission, but I understand that it is not as radical as thought by the people at home, yet it is radical enough. It provides for the appointment of a commission to make a roll of all that are entitled to participate in land and money of the various Indian nations, and allot the lands to the Indians; to lay off town sites and allot the same to Indians at a high value; to extend Federal jurisdiction over the Indian courts; that is, allowing any Indian citizen to appeal from the Indian courts to the United States in the Indian Territory. It also provides that all acts passed by the Indian councils must be approved by the President of the United States before it becomes a law, and contains various other provisions which means the abolishment of Indian courts and the existence of Indian tribes as nations. But I have now great hopes of defeating the bill. In regard to the \$400,000 matter, nothing had been done when I arrived, and in fact I was glad that it had not been pushed, for I wanted to work in a way that is likely to win, and I wanted to find out what that was before doing so. I have a transfer on foot, and

have had a bill introduced to allow us to transfer \$400,000 of their indebtedness, which I have hopes of being successful.

Upon my arrival here I thought that it wouldn't be necessary for me to stay longer than a month, but I now see that I will have to be here for an indefinite length of time. I can't tell how long, but I will not leave until I win or fail and the Indians go overboard. I have been very kindly treated since I have been here and find that we have plenty of good friends who are glad to serve us in every way possible. I am working to effect something good for the Creeks, if it can be done through these friends.

I would like to write to all my friends in the Creek Nation stating the conditions here in Washington, but time will not permit me to do so. My kindest regards to all my friends and fellow citizens.

Very respectfully,

E. B. CHILDERS.

This is a kind-hearted man who has profound regard for the "poor full-blood" in his country, but his sympathy may be in a manner accounted for in the fact that he holds a pasture of 24,479 acres of their lands on which he receives \$6,000 a year rents. His father, Pole Childers, holds 25,558 acres on which he receives \$6,000 a year rents, making in all held by father and son, 50,037 acres, with \$12,000 rents. He has profound reason for his patriotism.

I will now give you a partial list of rents as reported to me which these land barons receive annually:

Perrymans .....	\$25,000	Willison, Welden & Co .....	\$3,000
Turner & Porter .....	16,000	Robinson & Chissoe .....	2,000
Childers .....	6,000	Bob Childers .....	800
Childers .....	6,000		
Childers .....	3,000	Total .....	61,800

These amount to \$61,800 and I have a letter which places the entire amount of rents received by these large landholders at \$100,000 a year, all of which we insist belongs to the common people of that nation; and we further insist that this money should be cared for and paid to these people, many of whom are in destitute circumstances. It has been said that we are opposed to any man accumulating wealth. We answer that we are opposed to anyone accumulating wealth as these men are doing, at the expense of the common people. We insist that it is not right that these men should grow rich on the proceeds of the property of the common people while they are destitute and in want.

I have a letter from a business man in Wagoner, a town in the Creek Nation, from which I wish to read, and which will throw some light upon the manner in which rents of these pastures are disposed of:

I have been on the go for the last thirty days. Have not written you, but see your letter to Mr. Wallace. I don't fully understand who you mean when you say cow men are opposing the passage of the Flynn bill. I know the men who own the cattle would rather pay the rents they are now paying where the Creek Nation would get the whole of the money. Under existing laws here the pasture owner, who is supposed to be a Creek Indian, will get, say, \$5,000 to \$6,000 per year for a pasture, and he agrees to pay the Creek Nation 5 cents per acre each year, which but few of them do. The men who occupy the pastures are white men, but they pay for pasture privileges here more than \$100,000 annually, besides large amounts of money for winter feed. There are a few Indians (half-breeds) that get all this pasture rent, but they own no cattle; if they do they let them run on the public domain. I assure you the white men who own the cattle and pay that heavy pasture rent are in favor of the Flynn bill, or all that I have seen, and you know I see the most of them. And another reason I have for seeing the Flynn bill pass is this: I, as a trader, am compelled to buy their warrants that are given to their standing officers, school teachers, support of schools, and all debts the nation owes. They have no money, but pay in warrants on the National Treasurer. The nation gets no revenue. The tax collectors—but few of them turn anything over to the nation. They are entitled to from 25 per cent to 50 per cent for collecting, and often make no report of their collection.

Should the Flynn bill pass and the revenue all be paid where it would be properly handled, it would pay off this accumulated indebtedness and enable them to continue their schools. Unless something is done I don't see how they can keep up much longer. Last payment they only paid 12 per cent on general warrants and 46 per cent on school warrants. They take the money to send delegates to Washington, or anything of that kind. They will hold just enough to keep them going and let their debt accumulate.

I think the sooner the change is made the better for nearly all the Indians and all the whites. The most of the Indians I see, except politicians, don't care how soon the change is made.

You will see from this that the collector gets one-half of the 5 cents per acre which these parties claim they pay to the Government—that is, 2½ cents. I have not yet run down the other 2½ cents to ascertain how much of it, if any, ever reaches the Treasury. Should it run the gauntlet and succeed in making its way into the National Treasury, I imagine, however, that it would sit down, draw a long breath, and congratulate itself upon its narrow escape.

Mr. FLYNN. Can you state how many acres of the Creek lands are held by John F. Brown, governor of the Seminoles?

Mr. MCKENNON. I can not. I understand he has large holdings in the Creek Nation; but I do not know the number of acres.

Mr. FLYNN. I understand 40,000 acres.

Mr. MCKENNON. That may be so. I only know that it is said he has large pastures in that nation. The list I have given is only a partial list. I am not able to give names of other pastures and the number of acres embraced in them.

I will now read from a letter written to Judge Little by an intelligent intermarried citizen at Muskogee:

Full jurisdiction in all civil and criminal cases in the Indian Territory between all persons of any blood or kindred ought to be conferred upon the United States courts now established in the Territory. To do this would do away with the so-called courts of the Indian nations, but they are so manifestly an evil that their suspension would be very generally approved. The administration of "justice" by the Indian courts is a menace to the liberties and property of the people, as they have been conducted during the past ten years. Some of the most notorious scoundrels of the Territory occupy the highest judicial positions, acquiring and holding same through their "usefulness" to those who place them in power.

Not a member of this commission ever heard any individual, red, white, or black, in that Territory, deny the charges of corruption in every department of those tribal governments, including the courts, where such charges are constantly made in public prints and discussed by individuals publicly and privately. I have myself discussed these matters in public speeches in all the tribes except the Seminole, and no one ever questioned my declarations there in regard to them.

Mr. Chairman, I have read to you a large petition from the citizens of the Cherokee Nation asking that their lands be released by these large holders, but we have no petition here from the Creek Nation. I want to show you why. I read a section from the Creek statute of 1872:

*Be it further enacted*, That no citizen of this nation shall exercise the power of petitioning any foreign power upon any question when such petition shall be in its nature subversive to the laws and constitution of this nation; and any citizen who shall be found guilty of violating the above law shall receive 50 lashes upon the bare back.

The Creek citizen can not afford to take the chances of this severe punishment by asking this Government to wrest from the hands of his



educated and powerful brethren their large holdings of lands and to restore it to them for homes.

I now desire to call your attention to some startling facts showing the corruption of the national council of the Choctaw Nation. I hold in my hand a certified copy of a bill which passed the Choctaw council and was approved by Governor Wilson N. Jones January 27, 1894. This bill undertakes to authorize the construction of a railroad called the Choctaw and Chickasaw National Railroad, from a point near Fort Smith, on the eastern border of the Choctaw Nation, through the Choctaw and Chickasaw nations, to a point between the towns of Duncan and Chickasha, on the western border of the Chickasaw Nation. It also provides for a branch road leaving the main line at or near the line between the Choctaw and Chickasaw nations and running to a point on the Red River, north of Grayson County, Tex. It provides that this company, in addition to liberal provisions for the right of way, shall have alternate sections of land on each side of the road for a distance of 6 miles, equivalent to a solid belt of land 6 miles wide running the whole distance through these two nations. It is intended that this line shall run over the richest coal lands belonging to those people, taking in also valuable iron and manganese deposits on the main line. The branch road is intended to take in almost the finest deposit of asphaltum in the world, sufficient in quantity, it is said, to pave the streets of all the cities of the United States. It is known to be 80 feet wide and 80 feet deep, running for a long distance in the Chickasaw Nation. The property thus intended to be given to this company, I am confident, would be worth not less than \$10,000,000.

Now let me show you how the passage of this bill through the Choctaw council was procured. Capitalists of Kansas City, Mo., entered into agreement with certain parties in the Choctaw Nation, Dr. E. N. Wright, Mike Conlan, and H. Y. McBride, by which they were to and did furnish to these parties large amounts of money with which to buy up the governor and members of the council of the Choctaw Nation to pass this bill just as they did pass it. The money was furnished and was paid to the members of the council, and I here give the name of each individual and the amount he received.

Mr. WHITE. Will you please state how you got this information?

Mr. MCKENNON. Yes, with pleasure. While in the Territory in 1894, immediately after the passage of this bill, a member of the council stated to the Commission the particulars of this transaction, admitting that he received \$300, for which he said he agreed to vote for the passage of the bill, but that nothing was said about his doing anything more, and that when the next council convened he would vote to repeal it. He then gave me a partial list of the names of the members of the council and the amounts they received, and from him and others I learned that this was true, and that in addition to the money paid there was a written agreement or contract given to each member of the council in which the company bound itself to convey to the member holding the instrument the number of acres mentioned therein as soon as the company obtained title to the lands. There has been recently instituted by these Kansas City capitalists a suit in the United States court in Atoka, in the Choctaw Nation, against these three parties for \$37,000, which it is claimed they did not disburse according to agreement between the parties, but which they charge was embezzled by them. The attorney prosecuting this suit laid before me the original correspondence between these parties in the Choctaw Nation and Kansas City, from which I copied the letters and receipts I here present, as also

the full list of members who received the money and the amounts they received. I now give you the list:

John Harrison.....	\$1,000.00	John Wilson.....	\$1,000.00
Charles Vinson.....	500.00	Davis Bell.....	362.50
John Pulcher.....	750.00	B. Wade.....	300.00
Jerry Folsom.....	1,000.00	S. E. Lewis.....	250.00
M. V. Everidge.....	500.00	Thomas D. Ainsworth.....	500.00
Joe Bryant.....	500.00	A. Pursley.....	500.00
Robert Frazier.....	500.00	S. Belvin.....	100.00
Cornelius Jones.....	500.00	Joe McClure.....	200.00
L. Hancock.....	500.00	B. Byington.....	20.00
William Harrison.....	350.00	G. H. Dukes.....	250.00
Will. Durant.....	500.00	J. B. Jester.....	250.00
Joe Coley.....	500.00		

Charles Vinson, who received \$500, was at the time speaker of the house of representatives. Jerry Folsom, who received \$1,000, was president of the senate of the last council of the Choctaw Nation. Joe Bryant, who received \$500, was in 1874 superintendent of public instruction of the nation. G. H. Dukes, who received \$250, was judge of the district or circuit court, I am not certain which. All these were members of the council at the time, and these amounts were paid to them for their votes favoring the passage of the bill, besides the contract for conveyance of lands as before stated. Governor Jones received one of these contracts for 10,000 acres of land. After the bill was passed, Green McCurtain, who opposed its passage, and who was at the time national delegate, was leaving the capitol when one of these parties handed him a contract of conveyance of 5,000 acres, which he retained and used in his communications to the Secretary of the Interior to secure the defeat of the measure.

I now read to you a number of letters and receipts which passed between these parties in the Territory and their friends in Kansas City, which will give you a better idea of the nature and extent of this transaction:

AMERICAN NATIONAL BANK,  
Fort Smith, Ark., April 5, 1894.

Pay to the order of American National Bank \$3,162.50, thirty-one hundred sixty-two <sup>10</sup>/<sub>100</sub> dollars, value received, and charge to account, with exchange, of

MIKE CONLAN.

To NEWTON B. CHILDS, *Kansas City, Mo.*

DENISON, TEX., *Sept. 26, 1894.*

Received of S. F. Scott fifteen thousand dollars (\$15,000), to be returned to him at once, provided favorable bill is not passed by Chickasaw Nation this term.

H. Y. McBRIDE.

OFFICE OF NATIONAL AGENT, CHOCTAW NATION,  
*Indian Territory, June 8, 1893.*

DEAR SIR: Green McCurtain called on me to-day. He has the money deposited in subtreasury in St. Louis to his credit, but can't say just what we will do until after we have a conference with the governor next Monday. Will let you know everything working along. The 500 did not get us even. Two parties here now requesting money. Have none and am trying to put them off, which I hate to do, as it requires that much more labor. We must square up old scores to be able to begin anew and in the proper course.

Yours, truly,

E. N. WRIGHT.

NEWTON B. CHILDS, Esq.

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HOTEL ADAMS, MUSCOGEE, IND. T., *July 7, 1894.*

DEAR SIR: Please see that everything in the way of finances is on hand at Tishomingo to carry our point if needed. Take no chances. Attorneys urge action. If action questioned, it can be corrected next September at regular session. After Wednesday noon I expect to be in Fort Smith.

Yours, truly,

E. N. WRIGHT, *President.*

NEWTON B. CHILDS and S. F. SCOTT, Esqs.

TUSKKAHOMA, IND. T., *October 25, 1895.*

DEAR SIR: Yours 23d instant received, and in reply will state that, as to the matter you speak of, that I do not quite understand what you are driving at. As to any services that was used in the railroad matters I think you know about, and I am certain every dollar can be accounted for except the last \$18,000, which was disposed of by other parties, \$300 of which was mine, besides something like \$500 out of the \$1,500 I advanced Scott. I have not been able to see much of the other two parties, but think they will meet you all in court, and, if I am compelled to, I guess I will, also. I am as anxious as you all are to get this matter in some shape, and want to know where my money went to. It seems a shame that out of the \$50,000 or \$60,000 spent, nothing can be accounted for except the passage of the bill through the Choctaw council, a full statement of which we hold; at least you were furnished with the amount, so I am told; as to the power of attorneys and papers signed by me, I have. Please notify me when this case is coming up. Perhaps it will help me to get some of my money back, at which time, if I am indebted to you, will pay you. It is very kind of you to notify me in such a friendly manner that you are bringing suit against me, and I appreciate it. I hope you will make Conlan account for the money. He told me, when I asked him about it, that he will gladly furnish full information when required to, so I don't think there will be any trouble about it. Write me here, as I am a member of council and will not get home until some time in November.

Very truly,

E. N. WRIGHT.

NEWTON B. CHILDS, Esq.

ATOKA, IND. T., *November 19, 1895.*

DEAR SIR: Mr. Scott, the lawyer employed by yourself and Childs, is here to file a suit presumably against Conlan, McBride, and myself, but I take it against myself personally. I have just had a talk with him, and I must say this is the first time I have ever been informed by anyone that you or Childs doubted that the money was spent according to agreement in the Choctaw council. Now, I had supervision of that part of the deal, and, as far as you and Childs were concerned, you have always stated to me that you were satisfied, until now. Now, in justice to me, I think you should give me a chance to meet you both, and let us go over the matter together, and I believe we can come to an agreement. Now, from the nature of this suit and the way it is brought, it is nothing more or less than a blackmailing case, and, as I told Scott, I never would believe that you were a party to the suit unless you told me in person that you ordered it. In bringing this suit, it affects no one but myself, and if you all were not satisfied with it you should tell me so, at least. It has nothing whatever to do with the \$18,000 that was made away with. Now, I asked Scott not to file this suit until you received my letter and I had a reply from you. Now, wire me as soon as you receive this, or write me. I will be glad to meet you and Childs in the matter, and if you wish I will come to Kansas City or Excelsior, but it would be only fair for you all to pay half of my expenses for going, or I will meet you all in Fort Smith. Let me hear as soon as you can. I am anxious to have this other suit brought, as I am needing my money. Scott can tell you all I had to say to him in the matter, and how I feel personally about it. Write me fully about this.

Yours, very truly,

E. N. WRIGHT.

Col. S. F. SCOTT.

P. S.—Why would it not be better to meet in Parsons, Kans.?

ATOKA, IND. T., *January 10, 1894.*

DEAR SIR: The Choctaw special will not be held until January 22, as we could not get ready before that time. I have just returned from the Chickasaw country, and everything is in good shape there, and so soon as we get through at Tushkahoma we will hit them hard. Let me know how things are with the other end. Regards to Mrs. Childs; also Scott and the "push."

Yours, very truly,

MIKE CONLAN.

N. B. CHILDS, *Kansas City, Mo.*

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TUSHKAHOMA, IND. T., *June 29, 1893.*

DEAR SIR: If you can, pray have the business start at once, for your friends need it. We are having a fight to a finish. McCurtain went back on us, but we have him in a corner, and he said to-day he would resign. The governor is true blue, and with us, so I must wait until the end before I can tell you anything, but make up your mind that if things do not come our way the others will have a long, hard road to travel. Do not think anything will be done this week.

Yours, very truly,

MIKE CONLAN.

NEWTON B. CHILDS, *Kansas City, Mo.*

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ATOKA, IND. T., *September 11, 1894.*

FRIEND CHILDS: Inclose you a letter from Ludgate. I will go out this morning and see him. Hope things will get in shape at your end this week, as the council is now ready to do business, and I ought to be there by next Monday, at the outside. Keep me posted.

Ever yours,

MIKE.

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ATOKA, IND. T., *September 13, 1894.*

FRIEND CHILDS: Inclosed find notice of H. H. C. & Co., and I told the men that they would be paid every Saturday, so please send some to-morrow, and write me what you people are doing about the other business, as I am still in the dark, and would like very much to know whether anything can be done. This end is in good shape, and I am only waiting for you, and I do not think it would be safe to put it off too long. I keep thoroughly posted on what they are doing, but can't tell whether they will hold longer than October 1 or not.

Yours,

MIKE.

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N. B. CHILDS, *Kansas City, Mo.*

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ATOKA, IND. T., *September 29, 1894.*

DEAR SIR: The deal is dead for this council. The full-bloods all went back on Mike, and would not do anything. The opposition were all posted, and were there in full force and had money. Mike still out in the country. As soon as he gets in will make a full report in Kansas City. Criner and the governor were with us. I leave to-day for court. Will be away several days.

Yours,

H. Y. McBRIDE.

Col. SAM. SCOTT, *Denison, Tex.*

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FORT SMITH, ARK., *April 2, 1894.*

I hereby authorize and empower Mr. Michael Conlan to draw drafts on me for amounts not to exceed \$2,500 at any one time, if audited and marked approved by Clayton and Brizzolara, attorneys, and I hereby guarantee payment of the same. Drafts to be drawn at sixty days' sight, without grace.

NEWTON B. CHILDS.

AMERICAN NATIONAL BANK, *Fort Smith, Ark.*

FORT SMITH, ARK., *April 5, 1894.*

DEAR SIR: Your telegram received, and we forwarded drafts to-night through National Bank of Kansas City. Mr. Conlan telegraphed for the \$2,500 from Tushkahoma, and to get him to draw draft and to insure safety, I started on the night train for Tushkahoma, and was there when the council adjourned next day. The boys have had a hard fight on hand, and maneuvered it very successfully. I have paid them \$3,160 more, which they needed to square up. I have forwarded draft for this amount through National Bank of Kansas City also. Dr. Wright and Mr. Conlan will start for Kansas City to-night and will explain all.

Yours, truly,

FRED. TITGEN, *Cashier.*

NEWTON B. CHILDS, Esq., *Kansas City, Mo.*

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FORT SMITH, ARK., *April 23, 1894.*

DEAR SIR: This morning Dr. Wright came in from Tishomingo, and he reports the outlook very flattering. He did not think an arrangement for funds via Ardmore necessary, as he already had made an arrangement which was better suited to the locality, and which he would explain in his letter to you to-day. I had already written the Ardmore Bank, as per agreement, but, upon Dr. Wright's instructions, will let the matter rest.

Hoping for a speedy and successful termination of matters at issue, I am, truly,

Yours,

FRED. TITGEN, *Cashier.*

Col. NEWTON B. CHILDS, *Kansas City, Mo.*

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FORT SMITH, ARK., *January 27, 1894.*

Received of Newton B. Childs, esq., one package said to contain one thousand dollars, addressed to Mike Conlan, Tushkahoma, Ind. T., by the American National Bank.

MIKE CONLAN.

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FORT SMITH, ARK., *January 27, 1894.*

Received of Newton B. Childs, esq., two thousand seven hundred and fifty dollars in U. S. currency.

MIKE CONLAN.

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AMERICAN NATIONAL BANK,  
*Fort Smith, Ark., April 3, 1894.*

At six days' sight, without grace, pay to the order of American National Bank (\$2,500.00) twenty-five hundred dollars value received, and charge to account of, with exchange.

MIKE CONLAN.

To NEWTON B. CHILDS, *Kansas City, Mo.*

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KANSAS CITY, MO., *May 5, 1894.*

Received from Newton B. Childs (chairman) three hundred dollars account ex. Davis & Conlan to Tishomingo.  
\$300.

MIKE CONLAN.

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KANSAS CITY, *April 7, 1894.*

Received from Newton B. Childs two hundred dollars, account R. R. deal.  
\$200.

MIKE CONLAN.

KANSAS CITY, *May 14, 1894.*

Received from Newton B. Childs eight hundred dollars, account R. R. expenses.  
\$800.

MIKE CONLAN.

JUNE 29, 1894.

Received from N. B. Childs fifty dollars, account of R. R. deal ex.  
\$50.

E. N. WRIGHT.

As soon as Major Kidd, who was then a member of the Commission, and I ascertained these facts, we, in our addresses to the people of the Choctaw and Chickasaw tribes, stated the particulars of this attempted robbery by their national council. The first time I ever spoke of it publicly was at Hartshorn. There were in the audience three members of that council; and after stating the particulars of the transaction and denouncing it severely, I stated that there were members of that council in the audience who accepted these bribes, and if they wished to deny anything I had said and any one of them would stand up, I would tell him how much he got. They did not respond, and afterwards one of them said to me, "You gave us some pretty heavy jolts." I said, "Yes, but I did not give you a lick amiss." He then said, "I don't deny that I got some of that money." I asked him how much he got, and he said, "Enough to help me along right nicely." I replied, "You got \$500." He responded, "How did you know that?"

Once in an interview through an interpreter with a number of full-blood Indians in the Chickasaw Nation, I gave them the particulars of what this bill proposed to do and the manner in which it had been passed through the Choctaw council, and stated to them that efforts were going to be made to pass it through the Chickasaw council in like manner. When they came to understand it they said that if their council undertook to pass that bill and thus rob them of that property, they would repeal it with their Winchesters.

One of the letters I read to you states that the opposition were present at the Chickasaw council with plenty of money, and thus defeated its passage. I say that they had no money with which to defeat it and no money was used; but my belief is that it was the influence of the Winchester which prevented its passage.

Mr. COLBERT (Chickasaw delegate). You are mistaken; I was a member of that council and I did not see a Winchester on the ground.

Mr. MCKENNON. Mr. Colbert, you were not a member of that council; you came in since that time.

Mr. COLBERT. Yes; I understand now.

Mr. MCKENNON. Mr. Chairman, I desire to say here that I know Governor Mosely and I believe him to be an honorable man. I know Mr. Colbert, and he is an honorable gentleman. I believe that the present members of the National Council of the Chickasaw Nation are honorable, but the administration which preceded it was beyond all question wretchedly corrupt.

The CHAIRMAN. Judge McKennon, it is now 12 o'clock, and you will have to suspend your remarks and we will hear you further to-morrow.

Mr. MCKENNON. Mr. Chairman, I regret that I am taking so much of the valuable time of your committee, but since these matters have been questioned I felt that it was my duty to lay these facts, which in my estimation were so important, fully before this committee.

The CHAIRMAN. They are important, and we desire to be fully informed and wish you to take such time as you may desire to present them in full.

FRIDAY, *March 20, 1896.*

The committee met at 10 a. m., Hon. James S. Sherman, presiding.

**STATEMENT OF MR. A. S. M'KENNON—Continued.**

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE: When I concluded yesterday, I was endeavoring to show some of the methods used in the Choctaw Nation in getting the railroad bill through the council. I believe I have stated everything in regard to the Choctaw Nation that I desire to say, and now I want to make a statement as to what I understood in reference to the transaction as to the Chickasaw council, and the manner in which they made and unmade governors for the purpose of passing this bill. I may not be correct in the particulars, but I will state it as it was told to me. Governor Wolfe is not very well informed, but he is an honest man.

Mr. FLYNN. He is a full blood?

Mr. MCKENNON. Yes, sir. It is well known that he could not be used for such purposes, and they proceeded to get indictments against him. They said to him, "You can not be governor while you have an indictment pending against you, and you will have to turn this matter over to Nelson Chigley," who was president of the senate. And so they brought in Nelson Chigley, and Wolfe turned the office over, as they termed it, to Chigley as governor. Afterwards they got Chigley over in Gainesville, Tex., got him intoxicated, and made a contract with him to call the legislature together; but when he got back and was straight he refused to do so. He is an honest man, and whether he did it from fear, or whether it was because he did not wish to, I can not say. They then said to Chigley, "These indictments against old man Wolfe do not amount to anything, and you can not be governor," and got him to turn the office back to the old man again.

As soon as Chigley turned the office over to Wolfe, they told the old man that he could not be governor with the indictments pending against him, so he turned it over to Tecumseh McClure, speaker of the house of representatives, who was sworn in and called the legislature. They had previously "arranged" with Tecumseh. When it met, for some reason which I can not state, they did nothing the first day. It is supposed that influences heretofore mentioned caused this delay. The question of the legality of the call was raised and discussed during one day. Some influence was brought to bear during the night, and the next morning there was not a quorum present and they adjourned to another day, and never did meet again. They never could handle the next council; so it was defeated, and that was the end of it.

These statements may not be entirely correct in all particulars, but in all essential features they are substantially true. The effort was made and governors were made and unmade in the interest of the scheme.

The western part of the Chickasaw Nation is the richest portion of all that country, and the lands are almost entirely in the hands of white people held under leases from the citizens of the Chickasaw Nation. The lands are not pastured as they are in the Creek Nation and a portion of the Cherokee Nation, but are inclosed in farms. It is a fine farming country. In the Chickasaw Nation, as in every other nation, these lessees hold the lands against the citizens of that country as absolutely as you hold your lands against all others. The Chickasaw Nation has only about 4,000 Indian citizens, and that government is absolutely powerless to wrest these lands from the grasp of these people and restore them to the common people. It therefore becomes necessary

for the Government to interpose for the relief of these people. These lands should be allowed to the citizens, who could rent them to white people and live comfortably from the rents.

As I stated on a former occasion, my conviction is that Governor Mosley is an upright, honorable gentleman, and that the present council of that nation is composed of men who propose to do right, and the disposition of these people has been reflected in the character of the argument of their attorney before you. They are conservative and reasonable, and, I think, seek to do right.

The condition of the government is such as I have depicted before you this morning. In the Choctaw Nation the monopoly of lands does not exist to such an extent as in the other nations. There are only two persons who have large holdings. McAllister is said to have 30,000 acres in one pasture, and Governor Jones is said to have 7 miles. I do not know whether it is 7 miles both ways or not. He was governor at the time this bill was passed and signed. He had liberal views on the question of lands. He only had a contract for 10,000 acres in case the railroad company got title to it.

Mr. PENDLETON. Is he a fullblood?

Mr. MCKENNON. Yes; and does not talk English very well.

Mr. FLYNN. If he did he would have all the land.

Mr. S. W. PEEL. He is not a fullblood.

Mr. MCKENNON. He looks like one. He does not speak the English language very well. I want to repeat what Green McCurtin said in a speech at Hartshorn. He said that some people claimed that the common people in Indian Territory were in good condition and happy and not destitute. He described the condition of the fullbloods. He said that formerly they had herds of ponies and cattle and plenty of pasture, and by means of what they raised the life of the fullblood was made easy. They had these herds to sell from, and every family was in easy circumstances; but it is not so now. The public domain has been fenced off until the full-blood Indian has been deprived of his land. While everything appears to be prosperous, and magnificent houses are all around him, one looks at these magnificent farms which are held by the white people, while the Indian sits in front of his cabin with a bushy-tailed pony lariat to a post.

The next thing to which I wish to call attention is the holding of coal lands in the Choctaw Nation, and almost everything else of any value, but especially the coal lands. There are citizens there who are holding large tracts of these coal lands, and who are receiving in royalties from them immense sums of money—enough to run any one of these governments, properly and economically administered. We think these royalties belong to the common people. No one man has a right to hold and use the proceeds and profits of land which belongs to the common people. There was one little man here during the early part of these hearings, and I am sorry he is not present now. He has been maneuvering in this thing; he is a modest man, and only claims 50 miles of coal lands in the Choctaw Nation.

Mr. FLYNN. Is he an Indian?

Mr. MCKENNON. No; he is as white as you are.

Mr. FLYNN. What is his name?

Mr. MCKENNON. Dr. Haley. He says he favors a change; but this bill is too radical.

Mr. PENDLETON. He is in favor of vested rights?

Mr. MCKENNON. Yes, sir. He and others like him claim that they have honestly invested money in these royalties; but for every dollar invested they have received one hundred dollars. They have not been



called upon to invest any of their money. All they have to do is to put the lands in the hands of a company, who will furnish the means and operate the mines, and they receive the profits.

Mr. FLYNN. In the event allotment were made, what would be the portion of each Indian in the Choctaw and Chickasaw nations?

Mr. MCKENNON. About 700 acres.

Mr. FLYNN. State the amount of royalties paid to individuals.

Mr. MCKENNON. A statement was made by the former collector of the Choctaw Nation, in which he said that \$125,000 in royalties was paid to the nation and \$65,000 to 39 individuals in 1894. I believe I have now gone over the ground as far as necessary. I did not, however, go as fully into details of the conduct of the Creek council as I intended, because I was pressed for time, or felt so, at least; but I think that all you need to understand is simply the fact that the council, when assembled, sat down deliberately and planned to place within the control of themselves and a few favorites at least a million and a half acres, or one-half of the domain of that people, which they absolutely hold from them, and for which they pretend to pay as rent the small and insignificant sum of five cents per acre, very little of which, as I have shown, ever gets into the National Treasury.

As to the Cherokee Nation, it has been said here that the intruders were inviting a great many people into the country, holding out inducements to them to go and acquire rights as citizens of that nation.

I call attention to the fact that Cherokee lawyers have been doing that, until recently our Government took the matter in hand, and the United States court at Fort Smith sent a number of them to the penitentiary. There was one man they did not send, and he was one of the original workers who has done a little more than anybody else. That man was Hooley Bell, who proved to be too big for the Cherokee government to tackle, as was shown when he went out and collected the Strip lease money, and said that he collected as much as \$11,000 and never paid over a farthing, and they never prosecuted him for it. That government is powerless to handle Hooley Bell.

We have been asked about white children attending the Indian schools of these nations. We have understood that in some localities the citizens were liberal and some white children were permitted to attend the schools; but that has been done to a very limited extent, and really does not amount to anything. It is only in a few instances that it has been permitted.

Mr. FLYNN. You have not stated anything about the Seminoles. Did you go over there?

Mr. MCKENNON. Yes; I visited and addressed the Seminole council in April, 1894. That nation is governed by John F. Brown, who is governor, and his brother is treasurer, and they generally control everything.

Mr. FLYNN. Did you notice my amendment?

Mr. MCKENNON. Yes; I think it is correct, and ought to be made. I intended to speak of the payments in the Chickasaw Nation. The money, as I have been often told, was taken down and deposited in a bank in Denison, Tex., and after that, persons went around and told the citizens that their claims were worth only about \$60 or \$70, and bought them for so much, when they were really worth \$130. There is general complaint, and there is no doubt but that in those payments the people have been outrageously swindled, and that the Cherokee payment was a disgrace to civilization.

Mr. CURTIS. How do they pay, by draft on St. Louis, or is the claim sent through a Denison bank, or is it by check on Denison?

Mr. MCKENNON. I do not remember.

Mr. MONTGOMERY. Checks are given on individual banks.

Mr. MCKENNON. I know that complaints came from all classes about the manner in which these payments were made, and that several men made large fortunes out of them. Like complaints were made as to the Cherokee payment, and the Government ought not to permit payments of that character to be made in any of those tribes. It is the duty of the Government to interpose and to see that the payments are made in a decent way, so that they will not corrupt the people, as has been the case heretofore, and that each individual gets the money to which he is entitled.

Mr. FLYNN. In the Seminole Nation Brown issues his own money?

Mr. MCKENNON. Brown, as I understand, simply issues what he calls a due bill, payable in merchandise at the company stores run by his brother and himself. They control the mercantile business of that nation, and when the treasurer receives the money he appropriates it to the payment of the due bills.

Mr. FLYNN. State about the kind of council house they have in the Seminole Nation.

Mr. MCKENNON. One other matter first: The people of these tribes in discussing this tell of the way in which they have been treated, and the way in which their governments are run and the property handled.

In my speeches to them I stated that it would be wiser if their leading men would join us in bringing about the change; that it could be done better than by legislation. In various instances these people have come to us afterwards and said: "If you intend to allow our leading men to control this thing we do not want anything to do with it; they have robbed us of about all we have had, and they will rob us of our land. We are perfectly willing for you or any commission of the Government to attend to it, but we do not want them to do it."

As to the council house in the Seminole Nation, of which you make inquiry: It is simply a cheap wooden building. I do not believe the rooms are as large as this committee room.

Mr. FLYNN. Is it not a fact that they built a large two-story stone building as a council house, and that it is now occupied by Brown, while the council meets in this frame shed?

Mr. MCKENNON. I do not know.

Mr. FLYNN. Were you at Brown's house?

Mr. MCKENNON. I was not.

Mr. FLYNN. It is as nice a house as any in Washington.

Mr. MCKENNON. There is a large class of freedmen living in the Chickasaw Nation. Their status is not well defined, and they are in that condition that something ought to be done for them. Whatever bill is passed should consider them. Hon. R. V. Belt, their attorney suggests that whatever commission goes there should look into the condition of these freedmen, and make a careful report as to their condition and their relation to the Chickasaw Nation, under their laws and the treaties between that nation and the United States, and report same to the Secretary of the Interior with recommendations, which he in turn should report to Congress with his recommendations. This is as little as could be done for those people. They are good and deserving people and I was much impressed with the appearance of delegations of them whom I met, and the sentiments of love and care they expressed for their families, and the rearing and education of their children. Due consideration should be given them, as also the Choctaw freedmen, but not as against the rights of the Indians.

Mr. CURTIS. In other words, you think the Government ought to

compel the Indians to carry out the stipulations of the treaties with them?

Mr. MCKENNON. Yes, sir.

Mr. FLYNN. Have you read Mr. Curtis's bill? There is a provision in it about that.

Mr. MCKENNON. Yes; I suggested the same provision for the bill under consideration. Mr. Belt gave it to me, and I believe I handed it to Judge Little.

Mr. Chairman, I thank you and the members of your committee for the patient hearing given me and will consume no more of your time.

#### STATEMENT OF HON. HENRY L. DAWES.

Mr. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE: There is one provision in this bill which I think, perhaps, I should speak of, rather than any other member of the Commission. I allude to the provision in the bill with reference to further work for this Commission. It has been suggested to this committee that probably this Commission would like to continue its work; that it is on a salary, and it would be natural for them to desire to continue it, and therefore they have endeavored to provide for themselves. I want to call your attention to the report of this Commission and to what they recommend in their report. You will see that their recommendations had no reference whatever to any further work for this Commission. They had concluded the work given to them and did it as well as they knew how.

When they came here and were asked to aid in the preparation of measures, further work of that kind seemed to the executive department of this Government absolutely necessary, and the executive department thought that some commission of some kind should be appointed to carry it out, and it was the provision of the executive department and not of this Commission.

I want to say, further, in reference to my associates, that for reasons obvious to you I have less interest in any matter that may be further committed to this Commission than any other man. I had retired to private life of my own accord, and I had intended to remain there, and had no idea of ever having any occasion to change my mind. When I was called by the President of the United States—not belonging to his political affiliation at all—and was asked if I would not consent to join this Commission and do what I could to help carry out the idea of persuading these people to change their relations, the President of the United States was kind enough to say to me that if they would not listen to me they would not listen to anybody. I did not feel at liberty under those circumstances to decline, and I found myself drawn from my retirement into this work. This work is concluded, and I have no desire and do not expect to take any further work, for reasons which I need not suggest. Therefore, I have no interest at all in this matter.

I want to say that I have been connected in public life with a great many men. I am not one of those who believe that the public men of this country are bad men. I believe they are faithful and honest; and I have never been associated with public men who have been more faithful in the discharge of their duties than these associates of mine on this Commission. With an eye single to the object and the trust for which they were appointed, and with a devotion to that interest which has filled me with satisfaction and admiration, I felt that I wanted to say that much to this committee in their behalf, because they know very well I have no further interest in this work. If this work is to be

committed to anybody, no selection of new men could bring to this work the wisdom and the experience, not to speak of the honesty and kindness of purpose toward all those people, that these men can. And I want to say that it is not from them that this request comes for the continuance of their duties, as provided for in this bill.

It is appropriate for me to make this remark in view of the fact that it has been charged that they were providing places and continuing their salaries. These men do not have to depend on these positions for their livelihood, whatever may be said of me. It is not a very pleasant life, nor a pleasant duty. It is a pretty hard thing to deal with the character of men who refuse to see what is the best thing for them, and to see what they ought to do; and to deal with men who do not know when propositions are presented to them that those propositions are for their best interests. It is a hard duty, and one with which I have had a good deal to do in the last fifteen years. The worst feature of the Indian service is that the Indian sometimes does not know what is best for him; and when he does know, ten chances to one he listens to the wrong man.

This is the condition of things which has been dividing those people, and whether this provision in this bill should devolve upon these gentlemen or somebody else is a matter of the smallest possible consequence. There are great questions connected with this matter which rise above all these considerations; and whether the work be given to these gentlemen or to new men is not worth a farthing; but it is due to these gentlemen that someone who knows how faithful they have been should state that this does not spring from a desire of theirs.

The CHAIRMAN. I am glad to have you make these remarks, and I am sure that I voice the sentiment of the members of the committee when I say that they coincide with everything you have said, and we are greatly obliged for your very full and fair statement.

Mr. CURTIS. I will state on behalf of the committee, and I think I can speak for them when I say that the complaints made against the Commission were not very well received by this committee.

Mr. MCKENNON. We of course feel and appreciate the honor we have enjoyed in being associated with the distinguished gentleman (Mr. Dawes), one of the purest and best of America's statesmen.

Adjourned.



Senate Document No. 12.—34th Congress, 1st Session.

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REPORT OF THE COMMISSION APPOINTED TO NEGOTIATE WITH  
THE FIVE CIVILIZED TRIBES OF INDIANS, KNOWN  
AS THE DAWES COMMISSION.

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## REPORT.

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FORT SMITH, ARK., *November 18, 1895.*

SIR: The Commission to the Five Civilized Tribes hereby report what progress has thus far been made in the work intrusted to them since their last report.

Since that report the Commission has undergone some changes in its composition. Mr. Frank C. Armstrong has been appointed in the place of Meredith H. Kidd, transferred to other service, and under the provisions of the act making appropriations for the Indian service for the year ending June 30, 1896, Mr. Thomas B. Cabaniss and Mr. Alexander B. Montgomery have been added to the Commission and Mr. Allen R. Boyd made its secretary.

Immediately upon this reorganization, and after conference with the Honorable Secretary of the Interior in Washington, the Commission repaired without delay to the Territory for the purpose of continuing the negotiations heretofore intrusted to them, in conformity with the instructions under which they were acting.

In anticipation of their arrival in the Territory they caused letters to be addressed to the chiefs of the Cherokee and Creek nations, informing them of the intention of the Commission to renew the negotiations heretofore pending, and that upon the date named they would be at Muscogee, in the Creek Nation, and would be pleased to be notified upon arrival there at what time and place it would be agreeable for them to meet the Commission, either in person or by others duly authorized by them or their governments to act, and renew negotiations which might lead to an agreement in regard to the objects of our mission.

To these letters the Commission received the following replies from the chief of the Cherokee Nation and the chief of the Creek Nation, respectively:

TAHLEQUAH, I. T., *May 6th, 1895.*

Hon. HENRY L. DAWES,  
*Muscogee, Ind. Ter.*

DEAR SIR: I have the honor to acknowledge your favor of the 25th ultimo, in which you mention the request of the President to meet your Commission at an as early day as convenient. In reply thereto, I shall name the day on which I shall meet you, which is Saturday, the 11th instant; the place of meeting, Muscogee.

I have the honor to be, very respectfully, yours,  
(Signed) C. J. HARRIS, *Principal Chief.*

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TULSA, IND. TER., *May 11th, 1895.*

Hon. HENRY L. DAWES,  
*The Chairman Ind. Commission of the U. S.*

SIR: Yours has been rec'd, but has not been able to say definitely the time you can meet the Creeks. I will say now that a call session of the national council will meet at Okmulgee on the 14th of this month, and will continue in session for at least the following week, and should you wish to see the Creeks at that time will be pleased to meet you or any of the Commission.

Yours, truly,  
(Signed) L. C. PERRYMAN, *Prin. Chief, M. N.*

On arrival at Muscogee, where they held for the time being their headquarters, they addressed to the chief of each of the Five Civilized Tribes the following letter,



inclosing a letter from the President to the Honorable Secretary of the Interior, and from the Secretary to the chairman of the Commission :

DEPARTMENT OF THE INTERIOR,  
COMMISSION TO THE FIVE CIVILIZED TRIBES,  
*Muscogee, Ind. T., May 13, 1895.*

To the PRINCIPAL CHIEF OF THE ——— NATION :

DEAR SIR: The Commission to the Five Civilized Tribes have been directed to present again to the several nations for further consideration the matters upon which they are authorized to confer, and are in receipt of a letter from the honorable Secretary of the Interior, in which he encloses one from the President of the United States disclosing his great interest in the success of this Commission in coming to some agreement with your people, which shall secure all your just rights and promote your highest welfare, as well as contribute to the best interests of the whole country.

By direction of the Commission I enclose to you copies of these letters, with the hope that you will make them known to your people, and commend their spirit and purpose to the favorable consideration and cooperation of your nation.

I am, with the highest consideration, truly yours,

(Signed) HENRY L. DAWES, *Chairman.*

DEPARTMENT OF THE INTERIOR,  
*Washington, May 6, 1895.*

Hon. HENRY L. DAWES,  
*Chairman Five Civilized Tribes Commission, Muscogee, Ind. Ter.*

MY DEAR SIR: Enclosed I hand you a copy of a letter from the President, in which he discusses the work of the Commission of which you are the chairman. I hope it may aid you to convince the Indians that this work has really their own advantage in view. The impossibility of permanently continuing the present form of government of the Five Civilized Tribes must be apparent to those who consider the great difficulty already experienced, even by an administration favorable to the enforcement of treaties, in preserving for them the rights guaranteed by the Government. As the time must come when they will change their present system, how much better for them to inaugurate with you now, under an Administration favorable to their rights, the plan by which this change will be accomplished?

Very truly, yours,

(Signed) HOKE SMITH, *Secretary.*

EXECUTIVE MANSION, *Washington, May 4, 1895.*

Hon. HOKE SMITH,  
*Secretary of the Interior.*

MY DEAR SIR: As the Commissioners to negotiate and treat with the Five Civilized Tribes of Indians are about to resume their labors, my interest in the subject they have in charge induces me to write you a few words concerning their work.

As I said to the Commissioners when they were first appointed, I am especially desirous that there shall be no reason, in all time to come, to charge the Commission with any unfair dealing with the Indians, and that, whatever the result of their efforts may be, the Indians will not be led into any action which they do not thoroughly understand or which is not clearly for their benefit.

At the same time I still believe, as I always have believed, that the best interests of the Indians will be found in American citizenship, with all the rights and privileges which belong to that condition. The approach to this relation should be carefully made, and at every step the good and welfare of the Indian should constantly be kept in view, so that when the end is reached, citizenship may be to them a real advantage instead of an empty name.

I hope the Commission will inspire such confidence in those with whom they are to deal that they will be listened to, and that the Indians will see the wisdom and advantage in moving in the direction I have indicated.

If they are unwilling to go immediately so far as we think desirable, whatever steps are taken should be such as point out the way, and the result of which will encourage those people in further progress.

A slow movement of that kind, fully understood and approved by the Indians, is infinitely better than swifter results gained by broken pledges and false promises.

Yours, very truly,

(Signed) GROVER CLEVELAND.

Not receiving any replies to these letters the Commission addressed to each of the chiefs of these nations a letter bearing date May 18th, 1895, of which the following is a copy:

MUSCOGEE, INDIAN TERRITORY, *May 18, 1895.*

To the PRINCIPAL CHIEF OF THE ——— NATION.

SIR: As representing the Commission to the Five Tribes, I took the liberty a few days since to direct to you a copy of a letter from the President of the United States and the Honorable Secretary of the Interior upon the subject of the mission of the Commission to this Territory,

The Commission has also been directed by the President to communicate to you and the chiefs of the other four nations the fact that they have returned to the Territory for the purpose of renewing their negotiations with the authorities of the several nations in reference to the subject-matter committed to them.

They desire to open negotiations with you in accordance with the spirit of the letter of the President heretofore sent to you, and therefore they would be gratified to know at what time and where it will be most agreeable to you to meet and confer with them upon that subject, either yourself, personally, or others appointed by you for that purpose.

It is not necessary to enlarge at this time upon the purposes and object which the Commission has in charge. Those have all been heretofore presented to you. It is sufficient at this time to assure you that the Commission have not come here to interfere at all with the administration of public affairs in these nations, or to undertake to deprive any of your people of their just rights. On the other hand, it is their purpose and desire, and the only authority they have, to confer with you upon lines that will result in promoting the highest good of your people and securing to each and all of them their just rights under the treaty obligations which exist between the United States and your nation.

If you and your authorities are willing to confer with the Commission upon these questions and along these lines please indicate to us here in Muscogee, at an early date, when and where and in what manner it would be most agreeable to you to hold such conference.

I have the honor, with much consideration, to be,

Very truly, yours,

(Signed) HENRY L. DAWES, *Chairman.*

In answer to this the chief of the Choctaw Nation wrote as follows:

EAGLE TOWN, IND. TER., *May 27, 1895.*

Hon. HENRY L. DAWES,

*Chairman of Commission to the Five Tribes, Muscogee, I. T.*

DEAR SIR: Yours of 18th inst. rec'd, and in replying I have only this authority to say: As we hold our land in common and in accordance with our treaties and constitution, it is necessary and just to all of the Choctaws to get their consent before we could open negotiations with this Commission.

At the convening of the board of education at Tushka Homma, the 8th day of July, 1895, I, with a great many others, will be there; should it meet with the convenience of the Commission to meet us there at that time they would get their views on the subject of the Commission.

Hoping this will suffice for the time,

I am, very truly, yours,

(Signed) JEFF. GARDNER, *P. C. C. N.*

This letter was answered by the Commission as follows:

MUSCOGEE, INDIAN TERRITORY, *June 5, 1895.*

Hon. JEFF. GARDNER,

*Principal Chief, Choctaw Nation, Eagletown, Indian Territory.*

DEAR SIR: I am in receipt of yours of the 27th ult., and am directed by the Commission to express to you their thanks for a courteous and early reply to their communication of the 18th ult.

They are led, however, to think from your letter that perhaps they have failed to make clear to you the purposes of their request. The Commission understands that neither you as chief nor any other of your citizens, except expressly authorized by your national council, would have any authority which would be binding to negotiate with this Commission upon any of the subjects with which they are charged. The law which created this Commission expressly provided that before any agreement or any proposed agreement can have any binding force, it shall be first approved

by your council, and if so approved it shall be afterwards approved by Congress or go for nothing. So that if you and the Commission should agree upon anything it would not have the slightest binding force until after the approval of both bodies. For this reason the Commission does not ask you to make any agreement with them. What they do desire and what is the purpose of their correspondence is a conference with you, or with some persons selected by you for that purpose, that you may the better understand what the Government of the United States desires of your people, and what modification of the present condition of public affairs among your people would, in your opinion, be for the best interests of your people, and which you might be willing to present to your council at its next meeting for their consideration. Without such preliminary conference it is difficult to see how anything tangible can be brought before them for their consideration. Such a conference can do no harm, if nothing results from it, and the Commission are confident that much good will come of it, and that from it some measure may be arrived at which you can submit to your council for them to consider. Such a measure could be altered and modified to meet objections while under consideration by your council, if they desired, and up to the last moment of approval, and if in the end it should fail, things would remain as before.

The Commission takes this opportunity to assure you that they recognize fully your treaty rights, and are instructed to respect them. The United States wants nothing which belongs to your people, either their lands or any other rights they enjoy under their treaties, but they are impressed with the conviction that some change in the present condition of affairs is necessary for the good of your people, and their desire is that you shall make that change yourself, and this Commission is sent here to aid you in effecting such a change.

The fact that the treaty rights of each nation are distinct and different from those of the others make a separate conference with each necessary, and one in which all the nations are represented impracticable.

The Commission submits these considerations to you in the hope that they will satisfy you that its presence here is from no other motive or object than to promote the welfare of your people under the treaty rights secured to them, and that you will think it wise to appoint at an early day such a conference as is here suggested.

An early reply, that we may report to the President your conclusions, is urgently requested.

I am, with high consideration, yours, truly,

(Signed) HENRY L. DAWES, *Chairman.*

There being no other replies to their letter of May 18th the Commission again, on June 5th, addressed still another letter to the chiefs of the different nations, of which the following is a copy:

MUSCOGEE, INDIAN TERRITORY, *June 5th, 1895.*

To the PRINCIPAL CHIEF OF THE ——— NATION.

SIR: The Commission to the Five Civilized Tribes, appointed by the President of the United States in conformity with the act of Congress approved March 3rd, 1893, and amended March 2nd, 1895, has heretofore addressed to you certain communications, dated, respectively, May 13th and May 18th, 1895, copies of which are herewith enclosed, and has received no response to the request for conference therein contained.

The Commission was sent here to confer with each of the tribal governments, and would, therefore, be pleased to know if such conference with duly authorized representatives of your government will or will not be accorded.

If at such conference an agreement is reached, you are aware that it will not be binding until approved both by your council and the Congress of the United States.

It is desired that the objects of our mission should be fully understood by your representatives, that the same may be presented to your national council for consideration.

We have the honor to be, with sentiments of high consideration,  
Respectfully,

(Signed) HENRY L. DAWES.  
FRANK C. ARMSTRONG.  
A. S. MCKENNON.  
T. B. CABANISS.  
ALEXANDER B. MONTGOMERY.

To this letter the chief of the Cherokee Nation on the 11th of June replied, giving what he considers sufficient reason for not complying with the request of the Commission to enter again into negotiations.

The following is a copy of his letter:

TAHLEQUAH, I. T., *June 11th, 1895.*

Hon. HENRY L. DAWES and others of the Commission to visit the Five Civilized Tribes of the Ind. Ter.

GENTLEMEN: Yours of the 5th instant relative to a conference between your Commission and authorized representatives of this nation is at hand. However anxious I may be to accommodate you in this matter, it is not within my power to say when this opportunity can be offered you. The council at its late session made no provision for such a contingency. I am therefore without authority to appoint the kind of representatives you mention in your letter, because any appointment of representatives could not be considered properly authorized unless I was myself authorized by law to make such an appointment.

How it is with the other nations of the Territory I know not, but there is to be a general council of the nations at Eufaula on the 28th instant. The prime object of this council being the propositions of your commission, it is reasonable to suppose that some disposition will be made of them by the representatives of the several nations in convention.

All I can do just now to further your project is to give you what aid I can in any manner or means you may wish to adopt to reach the people of this nation on the purpose of your mission. This I will endeavor to do at your wishes or suggestions.

Your letter of the 13th of last month, inclosing the President's letter to the Hon. Secretary of the Interior, has been received and the President's letter published as you desired, but your communication of the 18th ult. and the inclosures of the one now before me have not been received.

With the tone of the President's letter I am well pleased, as he seems to appreciate the gravity of your propositions and the immense and the untried effects they involve. No people except the nations of this Territory, either fortunately or unfortunately, are to feel the consequences of this experiment. The President is humane enough not to desire to force conditions on us with the prospect of doubtful consequences that present themselves in the consideration of your propositions.

The national council will not meet in regular session before the first Monday in November of this year, but that you may know something of its sentiments on the subject of your mission I inclose you a copy of their reply submitted last winter.

Very respectfully,

(Signed) C. J. HARRIS, *Principal Chief.*

The chief of the Creek Nation on the 10th of June replied as follows:

TULSA, IND. TER., *June 10, 1895.*

The Hon. U. S. COMMISSION:

Your letter has just been read. In answer to same, I will state that I submitted all your other letters to the extra session of council for their action. At present I am unable to ascertain what action was taken by the council touching your propositions. You will be informed at a later date the action taken by the council.

Yours, truly,

(Signed) L. C. PERRYMAN, *Chief M. N.*

These are the only replies made in writing by the officials of any of these nations either to our written requests or personal application to them to consider the question of further negotiating with the Commission upon the subject-matter of the present condition of affairs in the Territory. The chief of the Cherokee Nation had a personal interview with the Commission soon after the receipt of the last letter, in which he stated that an international council—that is, a conference of delegates from the several five tribes—was about to meet to take into consideration the question of a renewal of negotiations with the Commission. It came to the knowledge of the Commission that immediately upon the receipt by Chief Harris of letters from the Commission informing him that the work of the Commission was to be renewed in the Territory, he instituted proceedings at once for the calling together of representatives of the Five Nations in council, to concert measures more effectually by united action of all the nations, to resist any attempt from any quarter to effect a change of the present condition of affairs, and that this council was the result of this action on the part of the chief of the Cherokee Nation. The council was not attended by delegates from the Choctaw Nation, and in consequence action upon the question was postponed to a future time. The sentiment of the council,

however, so far as it was expressed, was of a most positive character adverse to further treating on any conditions with the United States Government upon the subject of change in any respect in the condition of affairs in the Territory.

At the adjourned meeting of this international council it reaffirmed the resolutions adopted at the international council of last year, declining to enter into negotiations, and ordered that several thousand copies of these resolutions be printed and circulated throughout the Territory. A copy is attached to this report and is made a part thereof.

At this meeting the Choctaw Nation was again not officially represented, but three volunteer delegates from that nation were permitted to occupy seats and represent the nation in this council.

The Commission have sought personal interviews with the officials of each of the tribes in the endeavor to ascertain what modifications of the propositions heretofore made would induce them to consider the question of negotiating with the Commission.

During the months of July and August the citizens of two or three of the leading tribes in the Territory were engaged in exciting election campaigns, and apprehensive that it might be thought we were interfering with their political affairs, the Commission, in a measure, refrained from intermingling with the people, and nothing of significance occurred during that time save the holding of meetings at Hartshorne and Atoka, in the Choctaw Nation, by citizens favoring allotment, both of which were addressed by one of our number.

On the 28th of September the following communication was received from Hon. P. S. Mosely, governor of the Chickasaw Nation:

TISHOMINGO, IND. TER., *September 27, 1895.*

Hon. HENRY L. DAWES,  
*Chairman of the U. S. Commission.*

HON. SIR: You will find herein inclosed a copy of a resolution which has, as you will see, been passed by our legislature. Same will explain itself. Please notify me when you can meet us.

Very respectfully,

(Signed) P. S. MOSELY, *Governor C. N.*

The resolutions are as follows:

Whereas the United States Government has appointed a Commission known as the Dawes Commission to visit the Five Civilized Tribes of Indians for the purpose of inducing said tribes to change the tenure of their lands.

And whereas the courtesy due from one government to another demands that their representatives be treated with all due respect and consideration:

Now, therefore, be it resolved, that we, the Chickasaw legislature in council assembled, recognizing the above facts, hereby authorize the governor of the Chickasaw Nation to notify said Dawes Commission that we are now ready to give whatever proposition they may make due consideration.

Recommended by Holmes Colbert. Amended by the house by striking out the clause "Tribes of Indians" and inserting in lieu thereof "legislature."

Approved Sept. 24, 1895.

P. S. MOSELY, *Gov. C. N.*

Passed the Senate Sept. 23rd, 1895.

N. G. FRAZIER, *Prest. Senate.*  
WM. M. GUY, *Secy. Senate.*

Passed the House with the amendment within Sept. 24th, 1895.

LEWIS KEEL, *Speaker of the House.*

Attest:

ARCH MCGEE, *Clerk.*

Passed the Senate as amended Sept. 24th, 1895.

N. G. FRAZIER, *Prest. Senate.*

Attest:

WM. M. GUY, *Secry. Senate.*

To this letter of the governor of the Chickasaw Nation the following reply was made:

DEPARTMENT OF THE INTERIOR,  
COMMISSION TO THE FIVE CIVILIZED TRIBES,  
*South McAlester, Ind. Ter., Sept. 28th, 1895.*

Hon. P. S. MOSELY,  
*Governor Chickasaw Nation, Tishomingo, Ind. Ter.*

DEAR SIR: We beg leave to acknowledge the receipt of your letter of the 27th inst., enclosing resolution of your legislature, passed and approved September 24th, 1895, authorizing you to notify this Commission that they were ready to give whatever proposition we might make due consideration; and in accordance with which you ask us to name a day when we can meet with you and them.

This action of your legislature has been duly considered, and whilst we believe that the most feasible if not the only practicable way to accomplish results is to negotiate with a commission appointed by your legislature, clothed with authority to act, subject to approval by your people, as set forth in our letters of the 8th of May and the 5th of June last, addressed to you, yet with pleasure we accede to your request and name Saturday, October 5th, 1895, as a time when we can meet you and your legislature for the purpose specified.

We have the honor to be, yours, very respectfully,  
(Signed)

FRANK C. ARMSTRONG.  
A. S. MCKENNON.  
T. B. CABANISS.  
A. B. MONTGOMERY.

Governor Mosely responded, fixing Tuesday, October 8th, as the day for the meeting. According to this arrangement, four members of the Commission visited the capital of the Chickasaw Nation and addressed its legislature, setting forth fully the purposes of the Commission and asking and urging the appointment of a commission of such number and in such manner as they might deem best, clothed with authority to act in conjunction with a similar commission to be appointed by the Choctaw council, then in session, to which commissions in joint session this Commission might make propositions and with whom we might negotiate an agreement.

On November 6th the Commission received from Governor Mosely the following letter:

TISHOMINGO, IND. TER., *Nov. 1st, 1895.*

Hon. HENRY L. DAWES,  
*Chairman Dawes Com., Ft. Smith, Ark.*

DEAR SIR: Our legislature has now elected five commissioners to confer with the like commissioners from the Choctaws and also with your Commission. I suppose when the commission gets organized you will receive further notification.

Very respectfully,

(Signed) P. S. MOSELY, *Gov. C. N.*

Since the receipt of this letter no further advices, either from Governor Mosely or from any commission of the Chickasaw Nation, have been received.

On the 28th of October the following invitation was received:

TO THE HON. MEMBERS OF THE DAWES COMMISSION.

GENTLEMEN: You are hereby invited to come to the Choctaw capitol on the 29th day of October, 1895, at 10 o'clock a. m., to meet the committee organized to confer with your honorable body.

Yours, respectfully,

OLOSACHUBBEE, *Chairman.*

TUSHKAHOMMA, IND. TER., *Oct. 28th, 1895.*

Accepting the same, three of our number visited the Choctaw capitol at the time appointed, met and conferred with said commission, submitting to them orally the propositions afterwards reduced to writing and transmitted to them, which are as follows:

FORT SMITH, ARKANSAS, *October 30, 1895.*

To the Honorable Olosachubbee, Chairman, and Members of Committee appointed by the National Council, Choctaw Nation, Tushkahomma, Indian Territory:

The undersigned commissioners, appointed for that purpose by the United States, propose to negotiate with the Choctaw Nation for the purpose of exchanging, by said

nation, upon terms that shall be just, fair, and reasonable to all concerned or interested therein, the present tribal title of said nation to its lands and other property for an equal division thereof among all citizens of the tribe entitled to share therein, and an adjustment and full settlement of all demands, claims, and other unsettled matters of any kind existing between the United States and said nation, so far as may be necessary and proper for the ultimate creation of a Territorial or State government under authority of the United States, embracing said Choctaw Nation and such other nations of the Indian Territory as may desire to become a part thereof.

The United States to put each person in possession of the lands to which he is so entitled, without expense to him and the tribal government, to remain in authority until the completion of the changes herein proposed, and as much longer as shall be agreed upon in such negotiations.

(Signed)

HENRY L. DAWES.  
FRANK C. ARMSTRONG.  
ARCHIBALD S. MCKENNON.  
THOS. B. CABANISS.  
A. B. MONTGOMERY.

No reply to this communication has been received, but immediately upon its receipt by the national officials the following bill was introduced and passed by the Choctaw senate with only one dissenting vote. The bill failed of passage in the house:

*Be it enacted by the general council of the Choctaw Nation, assembled,* That it shall be unlawful for any citizen of the Choctaw Nation to attempt to overthrow the Choctaw government by exciting or subverting the minds of the people against the Choctaw form of government, and shall not hold or attempt to hold Choctaw land in severalty, nor shall attempt to convey any part or parcel of the Choctaw land to a noncitizen or citizens, or attempt to betray said land and Choctaw country into the hands of a foreign power.

*Be it further enacted,* That any person or persons violating the first section shall be prosecuted against in the circuit court having jurisdiction, and if proven guilty of treason by two or more witnesses, shall be punished by confinement in jail not less than six months nor more than twelve months, and fined not less than \$1,000 nor more than \$10,000, at the discretion of the court.

*Be it further enacted,* That if any person or persons violate this act the second time he or she shall be arrested, sentenced, and executed until dead.

*Be it further enacted,* That any act or part of act coming in conflict with this act is hereby repealed, and that this act shall take effect and be in force from and after its passage.

On the 4th day of October, 1895, the Commission addressed the following communication to the principal chief of the Muskogee Nation:

DEPARTMENT OF THE INTERIOR,  
South McAlester, Ind. Ter., October 4th, 1895.

To the PRINCIPAL CHIEF OF THE MUSKOGEE NATION,

Okmulgee, Ind. Ter.

SIR: On June 5th, 1895, we addressed a letter to Hon. L. C. Perryman, principal chief of the Muskogee Nation, calling attention to certain communications, dated respectively May 13th and 18th, 1895, asking for a conference with himself or duly authorized representatives of his nation, to which no reply had been received, and repeating the object of our mission, and again asking for a conference.

To this last communication a reply, dated June 10th, 1895, was had, stating that our former letters had been submitted to the extra session of the Muskogee council, which convened on the — day of —, 1895, and that later information would be given of its action.

We have waited patiently for that promised information, but none has been received; and as we are required to make report by the first of November next to the Secretary of the Interior, and through him to the Congress of the United States, of the result of our mission, we again respectfully request that your council will appoint commissioners clothed with authority to act. If upon conference an agreement is reached, it will not be binding until approved both by your council and the Congress of the United States.

An early reply to this is desired, as our further stay in the Territory is limited.

Very respectfully,

(Signed)

FRANK C. ARMSTRONG.  
A. S. MCKENNON.  
T. B. CABANISS.  
A. B. MONTGOMERY.

To this letter no reply has been received by the Commission. Propositions similar to those forwarded to the Choctaw Nation were at the same time forwarded to the chief of the Cherokees, with the request that he would lay the same before the council about to assemble, to which he replied as follows:

TAHLEQUAH, IND. TER., *November 1st, 1895.*

Hon. HENRY L. DAWES,  
*Chairman Committee, Fort Smith, Arks.*

DEAR SIR: I have the honor to acknowledge your favor of the 30th ultimo, renewing the propositions of your Government to this nation. My term of office will expire in a few weeks more, and upon my successor will devolve the duties of principal chief. Among the many will be the submission of your propositions to the national council as requested by you, and to which I will call his particular attention.

I am, very respectfully,

(Signed) C. J. HARRIS, *Principal Chief.*

The Commission has had no notice of any further action in the matter.

In connection with the official intercourse here briefly outlined the Commission availed themselves of every opportunity of conference with private citizens of the several nations, men of character and influence among their people. By visits to the various localities they familiarized themselves with the conditions of life and the opinions and prejudices which prevail in the different sections, and adapted the methods of their attempt at negotiation to these conditions. But thus far they have met with no favorable response among those holding power and controlling the political machinery in the governments now existing in the Territory. It is otherwise with those, believed to be a large majority, who, in the machinery by which affairs are administered, are without voice or participation in the policy or laws by which they are governed. The causes, which thus far have proved insurmountable in all the efforts at a peaceable solution of the problem by negotiation, can only be understood by a thorough knowledge of the conditions into which these people have been permitted to fall by the indifference and noninterference of the National Government.

The Commission has heretofore reported how completely the tribal governments have fallen under the control of the mixed bloods and adopted citizens, and have been used by them to secure to the exclusive use and private gain of a few of their own number much of the tribal property in the land, and from other sources everything valuable and capable of producing profit. More than a third of the whole territory of one of the nations is exclusively appropriated and fenced in by barbed wire to the sole use of a few citizens for pasturage. In other of these nations, under similar legislation, vast and rich deposits of coal of incalculable value have been appropriated by a few to the exclusion of the rest of the tribe, and to the great profit of those who operate them and appropriate their products to their individual use. Similar legislation has enabled private individuals to appropriate the timber of vast pine forests and denude the public domain of this essential element of future development and growth. In short, almost everything of tribal property in which every citizen Indian has of right an equal share has, if of any value, been appropriated to the use and gain of the few, while the real full blood has been left destitute and crowded out upon the mountains and unproductive land, to take care of himself as best he can.

This condition of affairs has not improved since the last report of the Commission. On the contrary, the indications are very manifest that the discussion of the question of a possible change has had the effect of stimulating an unusual activity in efforts to realize as early as possible all available gains arising from this exclusive appropriation of the use of common property. The grasp of those holding power upon the tribal resources has become firmer, and the uses to which the powers of the government have been put for the benefit of the few have become more palpable and flagrant. Those thus prostituting the forms of their laws to private gain have become so open and bold in their operations as in many cases to freely avow that the terms upon which they may be corrupted are made more easy in view of the possibility that the opportunity for such gain may be short.



## TOWN SITES.

The attention of the Commission was early called to the anomalous conditions under which a large number of towns of considerable size and growing importance have sprung up in different parts of the Territory destined to exert an important influence upon its future. These towns are the natural and necessary outcome of the great change which is forcing all the active agencies of these nations into new channels. The railroad has been fatal to the old order of things, and has forced upon these people much that is found new among them, and so firmly fastened upon them that removal is impossible and resistance to further advances equally futile. The trunk lines of great railroad systems now traverse the Territory its entire length, north and south and east and west, and lateral feeders connect almost every portion of it with railroad facilities hardly less convenient than those existing in the neighboring States.

But the first railroad that crossed its border brought with it these towns just as much as it brought commerce and commercial relations, the avowed object for which it sought entrance. The two are inseparable. Traffic and business centers live each by and upon the other, and they multiply and prosper side by side. These towns are at this moment growing rapidly in number, size, and importance as marts of trade and places of attractive residence in all parts of the Territory. They have come to stay, and their removal is as impossible as the restoration of the tepee and the war dance in the valley of the Mohawk in the place of the cities and towns now flourishing there. Nor does the Indian citizen desire their removal. The Commission have failed to find an intelligent citizen Indian who desires the removal of the white residents of the Territory, except that small portion in the Cherokee Nation called intruders, who claim to be Indians, but whose claim is disputed by the nation.

But the existence of these towns in the Territory has come to be as much of a necessity to the citizen Indian as to the white resident, as has the business traffic which railroad enterprise has stimulated wherever it has been permitted to lay its track.

No greater change in any of the conditions existing in these nations is manifest than in the life of the citizen Indian himself. He no longer depends upon his own labor for his livelihood. The white man, invited to the Territory under laws enacted for that purpose, or the negro, once the slave of the Indian and his children, now labor for him, and he has become a landlord, a trader, or an owner of herds kept for him by others. This is the rule, well-nigh universal, with only here and there an exception to make the rule more marked and significant. Places for trade and markets for their products as well as supplies are therefore an absolute necessity to this new mode of life. Take them away and the Indian landlord, trader, or keeper of herds would be at once deprived of all opportunity for profit or even means of support.

These towns have been built and peopled by white residents, whose capital has been invested in large amounts in structures necessary for the great and increasing trade which is being carried on at these centers. Costly and attractive residences have been erected in many of them, and in character they compare favorably with like towns in any of the new States. They vary in population at the present time from 800 to 5,000 inhabitants, and, with few exceptions, are doing a surprisingly large and prosperous business. And yet those who have built these towns, invested their capital in these expensive structures and have made these beautiful homes, have no title to the land on which they rest. This remains in the nation, where it was placed by the original treaty seventy years ago, subject to a reversion to the United States when the tribe ceases to exist. The devices resorted to in the different nations to give the builders of these towns a semblance of a claim to the land upon which they have erected them are valuable only as showing the subterfuges which the radical departure from the original plan and basis on which these govern-

ments were established has forced them to adopt. These devices have no validity in law. The title still remains in the nation, subject to the above reversion, and must from its very nature be held by the nation for the use of all its citizens, share and share alike, and can not be appropriated to the exclusive use of any one citizen or resident.

Generally these towns rest on the following unsubstantial arrangement with the national authorities. A citizen Indian is first authorized by the laws of the nation to inclose for his own exclusive use any unoccupied territory. He, having first inclosed a prospective town site, leases town lots at a ground rental, or quitclaims his title for a gross sum to the incoming builder, sometimes covenanting that if he ever gets a better title it shall inure to his grantee. Millions of dollars have been expended in the laying out of streets and building of necessary structures in these towns by those who have no other title than this, hardly more as against the holder of the fee than a tenancy at sufferance. The Cherokees have in two or three instances gone a little further than this, have conveyed what title they could in town lots to citizen Indians, but without power to sell to any white resident, and vested in such Indians the control of any town government that might be created.

With these exceptions these towns in the Territory are without town government or town officers, town police, or police courts of any kind, and are unable to adopt or enforce any municipal ordinance or regulation. They can not impose a tax for any municipal purpose, such as laying out and improvement of streets and sidewalks, bringing in gas or water, the construction of sewers and the maintenance of a fire department. They can not even appoint a constable to keep the peace. They are merely a voluntary association of white residents with not only no power to govern their own organizations, but without a vote or voice in the election of the rulers, or the making of the laws under which they live.

The Commission have been agreeably surprised at the good order and quiet prevailing in the towns here spoken of, where there exists no authority for its enforcement, or for punishment of its infraction. But they have not been able to lose sight of the conditions, unsafe at all times and sometimes dangerous, which have no other reliance than the good disposition of the body of the people composing the population of cities and towns like these. It is an exposure of life and property to dangers which can not be justified and should not be continued an hour beyond necessity.

Besides, a town that is not owned by those who build it and make it their home can not prosper, and it needs no argument to show that ownership is essential to development, and that there can be no healthy and permanent growth so long as there remains an uncertainty hanging over the title to whatever may be added. The residents whose capital and business connections have made these towns what they are have become very uneasy and much disturbed over these defects of title and impediments in the way of future growth. The Commission have been pressed on every side by those interested in the permanent prosperity of these towns and the safety and well-being of the people residing in them to devise some remedy. They thought that a solution of this town-site question would be one step and a long one toward the solution of the greater question of conforming the holdings and governments of the Territory to the system of government under which all communities within our borders must live. And accordingly they prepared a bill designed to secure to those who build these towns the ownership of the lots, within a suitable area, upon paying to the nation their value, and also the authority to maintain a suitable town or city government in the same. This bill, if ratified by the legislative authority of the nation and by Congress, would have secured these most desirable ends. But the provision in it which enabled the citizens of the United States who were not citizen Indians to obtain title to the lots on which they had built the town proved fatal to its approval by the nation. There was no objection to any other provision of the bill, but it was insisted that under no conditions would a United States citizen be permitted to gain title to any portion of the national soil,

no matter what amount of capital or other improvement he had been invited or permitted to invest or expend upon the same for the mutual benefit of himself and the community among whom he resides. The Commission has not been able, therefore, to secure from these nations any agreement which, if ratified by Congress, would put these growing and multiplying towns on any safe and permanent position, or secure to their residents the authority to so govern them as to maintain good order and secure health and prosperity to all whose business or homes are within their borders. So long as the present autonomy remains this unsafe and precarious condition of affairs must hang over these communities.

#### UNITED STATES CITIZENS.

No one carefully studying the condition of affairs in the Indian Territory and the many difficulties by which it is surrounded will fail to take into serious consideration the question of the disposition of that large and preponderating body of residents who are not citizen Indians and who have no foothold in the soil or voice in the governments. There are of these nearly, if not quite, 300,000, not including those called "intruders," whose claim to be Indian citizens is denied, and whom the United States has recently agreed to remove.

The status of these 300,000 United States citizens residing in this Territory has been already partially discussed in connection with the town-site question, but its serious character requires further notice.

These residents are in no sense intruders, and are not so classed by anyone. They are in the Territory by invitation, by consent, and by encouragement. Their capital and labor have been availed of for the development of the productive resources of the Territory, and they have built homes for themselves, erected costly edifices and marts of trade and centers of business to meet the demands of the new life forced upon the people. Some thousands of their children who were born in the Territory are now of school age. The doors of the schools of the nations are shut against them, and what education they get is by private contribution. The tribal governments and courts make no provision for the protection of the life or property of these white residents, constituting in number four-fifths of the entire population. Whatever protection of law they have, the United States has sparingly afforded them in United States courts, which necessity has forced into the Territory in the face of the claim of the Indian governments that even this much of interference is forbidden by treaty. So long as these residents are content to remain without interest in the soil or voice in the government or share in its opportunities, those holding control of public affairs do not molest or disturb them, but eagerly avail themselves of all the incidental advantages their presence affords. Their capital and enterprise and labor are most willingly turned to the development and increase of the wealth of these nations, in which sedulous care is taken that these United States citizens shall have no lot, and for whose safety of person and property no provision is made. The Commission is impressed with the conviction that this condition of affairs can not long continue.

It can not be possible that in any portion of this country government, no matter what its origin, can remain peaceably for any length of time in the hands of one-fifth of the people subject to its laws. Sooner or later violence, if nothing else, will put an end to a state of affairs so abhorrent to the spirit of our institutions. But these governments are of our own creation, and rest for their very being on authority granted by the United States, who are therefore responsible for their character. It is bound by constitutional obligations to see to it that government everywhere within its jurisdiction rests on the consent of the governed. There is already painful evidence that in some parts of the Territory this attempt of a fraction to dictate terms to the whole has already reached its limit, and, if left without interference, will break up in revolution. The Chickasaw Nation, in its zeal to confine within the narrowest limits and to the smallest number all privileges and rights, as well as

participation in the government, and to weed out as many as possible of the uneasy, has enacted the following confiscation law :

AN ACT to amend an act in relation to United States citizens procuring license to marry citizens of this nation.

SECTION 1. *Be it enacted by the legislature of the Chickasaw Nation*, That an act in relation to United States citizens procuring license to marry citizens of the Chickasaw Nation be amended thus:

SEC. 2. *Be it enacted*, That all United States citizens who have heretofore become citizens of the Chickasaw Nation or who may hereafter become such by intermarriage and be left a widow or widower by the decease of the Chickasaw wife or husband, such surviving widow or widower shall continue to enjoy the rights of citizenship, unless he or she shall marry another United States citizen, man or woman, as the case may be, having no right of Chickasaw citizenship by blood; in that case all his or her rights as citizens shall cease and shall forfeit all rights of citizenship in this nation.

SEC. 3. *Be it further enacted*, That whenever any citizen of this nation, whether by birth or adoption or intermarriage, shall become a citizen of any other nation or of the United States or any other Government, all his or her rights of citizenship of this nation shall cease, and he or she shall forfeit all the land or money belonging to the Chickasaw people.

SEC. 4. *Be it further enacted*, That the rights and privileges herein conferred upon United States citizens by intermarriage with the Chickasaws shall not extend to the right of soil or interest in the vested funds belonging to the Chickasaws, neither the right to vote nor hold any office in this nation. All parts of acts coming in conflict with this act are hereby repealed, and that this act take effect from and after its passage.

Approved, October 1, 1890.

I hereby certify that the above is a true and correct copy of the original act now on file in my office.

Given under my hand and seal this the 18th day of October, 1895.

L. S. BURRIS,  
*National Secretary, Chickasaw Nation.*

It will be observed that among the other penalties here imposed the third section forbids on pain of confiscation any Indian citizen to apply under existing United States laws for United States citizenship, and thus gain a right to enter United States courts for vindication of his rights or avail himself of any anticipated authority conferred on that court to partition the common lands of the nation.

The anticipated enforcement of this act has caused great consternation and excitement among a considerable number of residents in the Chickasaw Nation who were, up to its enactment, admitted citizens enjoying all the rights accorded to any citizen, and possessed, some of them, of very large property interests in the nation. Preparation is being made by the authorities of the nation for its enforcement, and notice to quit is being served upon those to whom it applies. In the meantime threats of open resistance are rife. The resolutions of a secret organization among those whose property is by this act confiscated have been laid before the Commission, in which the determination is avowed "in the event that Indian officials undertake to carry out this law to exterminate every member of this council from the chief down." The commission is appealed to for relief, but without power to interpose they can only bring this critical condition of affairs to the attention of the United States Government as one among the many reasons for immediate Congressional action.

#### CHEROKEE CITIZENSHIP.

Citizenship in these nations has been left by the National Government entirely under the control of the authorities in the several existing governments.

The citizenship roll of the Cherokees has dealt with a larger number than any of the others, affecting as it does all North Carolina Cherokees who desire to become a part of the nation, and a more liberal policy of adoption by intermarriage and otherwise than exists in the other tribes.

A tribunal was established many years ago for determining the right of admission to this roll, and it was made up at that time by judicial decision in each case. Since that time and since the administration of public affairs has fallen into present hands, this roll has become a political football, and names have been stricken from it and added to it and restored to it, without notice or rehearing or power of review, to answer political or personal ends and with entire disregard of rights affected thereby. Many who have long enjoyed all the acknowledged rights of citizenship have, without warning, found themselves thus decitizenized and deprived both of political and property rights pertaining to such citizenship. This practice of striking names from the rolls has been used in criminal cases to oust courts of jurisdiction depending on that fact, and the same names have been afterwards restored to the roll when that fact would oust another court of jurisdiction of the same offense. Glaring instances of the entire miscarriage of prosecutions from this cause have come to the knowledge of the Commission and cases of the greatest hardship affecting private rights are of frequent occurrence. This practice is persisted in, in defiance of an expressed opinion of the Attorney-General of the United States forwarded to this nation on a case presented that it was not in their power to thus decitizenize one who has been made a citizen by this tribunal clothed by law with the authority. There is no remedy but an interference of the United States.

The "intruders' roll" is being manipulated in the same way. This "intruders' roll" is the list of persons whose claim to citizenship is denied by the nation, and who by the agreement in the purchase of the "Cherokee Strip" the United States are to remove from the Territory by the 1st of January next. This roll is now being prepared for that purpose by the Cherokee authorities, in a manner most surprising and shocking to every sense of justice, and in disregard of the plainest principles of law. The chief assumes to have authority to "designate" the names to be put upon the intruders' roll, and names are, by his order, without hearing or notice, transferred from the citizens' roll to that of intruders, so that, on January 1, 1896, the United States will be called upon to remove from the Territory, by force if need be, thousands of residents substantially selected for that purpose by the chief of the nation. It has been made clear to the Commission that the grossest injustice and fraud characterize this roll. Persons whose names have been upon the citizens' roll by the judicial decree of the tribunal established by law for that purpose for many years, some of them for twenty or more, persons who have enjoyed all the rights of citizens, unquestioned by anyone until distribution per capita of the strip money, have been by the mere "designation" of the chief stricken from the citizens' roll and put upon that of intruders, with notice to quit before January next. Children of such parents, born in the nation, now of age, with families and homes of their own, are receiving this notice to leave forever all they have earned and the homes they have built for themselves, and this at the will of the chief alone. If the United States Government removes such persons it will become a participant in this fraud and injustice, for which ignorance alone can form any excuse. The Commission feel it a duty to call attention to these facts, and invoke the direct intervention of the Government to prevent the consummation of this great wrong.

These remarks apply specially to the Cherokee Nation, with which the United States has recently entered into obligations in respect to "intruders." But much of what is here said is applicable also to the condition of affairs in the other nations. In these nations many persons coming to the Territory by invitation of the governments themselves, or under the provisions of the laws enacted by them, and acquiring citizenship, with homes and property, in conformity to such laws, have been in many instances stricken from the rolls of citizenship by those in power, for political and personal purposes, and laws enacted and other means resorted to to deprive them of the homes and property acquired.

The Commission is of the opinion that if citizenship is left, without control or supervision, to the absolute determination of the tribal authorities, with power to

decitizenize at will, the greatest injustice will be perpetrated, and many good and law-abiding citizens reduced to beggary.

#### MISRULE IN THE TERRITORY.

A greater familiarity with the condition of affairs in the Territory than the Commission had at the time of making their last report does not enable it to abate anything of its representation of the deplorable state of affairs as therein stated. They are not only compelled to reaffirm all that they reported of the utter perversion of justice by those who have gotten possession of the machinery and funds of its administration in this Territory, inflicting in its name and that of the lawmaking power irreparable wrongs and outrages upon a helpless people for their own gain, but they are compelled to report that statistics and incontrovertible evidence shows a much more deplorable and intolerable state of affairs than was there represented. They refer to that report for a more extended detail of the character of the misrule which exists among these people, and make that more particular description than is here necessary a part of this report. If the end of government and the administration of justice is the protection of the life and liberty and property of the citizen, then the governments and courts of these nations are a failure, for they afford that protection to neither. They are powerless to these ends, and the victims of this misrule are helpless sufferers at the mercy of the malign influences which dominate every department and branch of the governments as administered here. It matters little, except as to the character of the remedy, whether this failure and misrule arises from impotence or willful and corrupt purpose, the evil consequences are incalculable and its continuance unjustifiable. It is no less true now than when the Commission reported last year that "all of the functions of the so-called governments of these five tribes have become utterly unable to protect the life or property rights of the citizen. Their courts of justice have become powerless and paralyzed. Violence, robbery, and murder have become almost of daily occurrence, and no effective measures of restraint or punishment are put forth by these governments and courts to suppress crime. Railroad trains continue to be stopped and their passengers robbed in the very presence of those in authority. A reign of terror exists, and barbarous outrages almost impossible of belief are enacted, and the perpetrators hardly find it necessary to shun daily intercourse with their victims."

The United States district court at Fort Smith, Ark., has been given jurisdiction in the Indian Territory only over crimes committed by an Indian upon a white man or by a white man upon an Indian. Of all crimes committed by Indians upon Indians the Indian courts still have sole jurisdiction. In this limited jurisdiction of the United States court the present able and upright judge has, since his appointment in 1875, sentenced to death on conviction in his court 153 persons, and there are to-day in the United States jail at Fort Smith under sentence of death appealed on questions of law 26. Of these 20 have been convicted the present year, the largest number in any one year. There are now under indictment for murder and awaiting trial 13 others, and several are in jail awaiting examination. There is also a United States court at Paris, Tex., having similar jurisdiction in the Indian Territory, the records of which show that since 1890 there have been 22 sentenced to death for murders committed in the Territory, and there are now under indictment 128, nearly all of whom are eluding arrest. How many murders in addition to these have been committed by Indians upon Indians, of which their courts have exclusive jurisdiction, there is no record available, but there is good reason to believe that they exceed these numbers. Reliable newspapers and individuals who have endeavored to obtain accurate information as to the prevalence of crime in the Territory agree in the statement that up to November 1 there had been 257 murders committed in the Territory since the last adjournment of Congress. Of course there have been many others not thus ascertained. If other crimes have in any degree a proportion

to that of murder in the Territory the condition must be appalling, and can not fail to call loudly for a remedy.

In addition to these statistics of prevalent crime taken from judicial records and other authentic sources, there is equally clear evidence of organized force in active operation intimidating and putting in peril witnesses who appear in court to testify for the Government in these cases. In cases of the most serious character now pending in these courts the witnesses have been, one by one, secretly assassinated. In others they have disappeared, and whether slain or not is not likely to be known until, by the failure of justice thus brought about, those charged with the most atrocious crimes have gone free. This terrorism makes it most difficult to obtain in the first instance witnesses to appear in court, knowing that by so doing they expose themselves to all possible persecution and personal danger, even to loss of life. In spite of the best efforts of the United States courts, there is for this reason a most lamentably frequent failure of bringing to justice those guilty of the most flagrant crimes in the Indian Territory.

The terrorism and intimidation is extended even to those who appear before this Commission with information as to the condition of affairs in the Territory and offer their views as to necessary changes. Not infrequently have highly respected citizens of these nations requested the Commission to withhold their names from any connection with the statements made by them as a necessary precaution to personal safety. And in the discussion among themselves of the questions involved they for the same reason take care that it shall be only in the presence of those whom they can trust not to betray them to others who are hostile to the objects of this Commission.

Recently the mayor of one of the towns which have sprung up in the Territory, a man of known integrity and irreproachable character, appeared before the Commission and presented his knowledge of the condition of affairs and his views of the necessity of a change. In a few days the Commission were in receipt of a letter from him informing them that he had been followed into Missouri, where he went on business, by two armed Indians, who informed him that he would be killed if he returned home through the Territory. He called upon the Commission for protection, which it had no power to give. This is not a singular instance, but the like of it is so frequent as to disclose a condition of affairs as deplorable as it is intolerable.

#### CONCLUSIONS.

The Commission was charged with the duty of negotiation only. They have been clothed with no authority beyond presenting to these "nations" such reasons as might induce them to consent to a change of their tribal holdings and governments upon terms that shall be just and equitable to all concerned, to be made binding only after ratification by the tribes themselves and the United States. Keeping strictly within their instructions, they have presented to these nations every argument and consideration open to them calculated to make clear the necessity, the justice, and the benefit of such a change in the tenure of their tribal property and in their tribal governments as will conform all to our national system and prepare them to become a part of it. The Commission has found, however, that those having authority to consider these proposed changes are the very persons whose interest it is to prevent them, and that the longer the present conditions continue the greater will be their gain. Every selfish instinct of those holding the power to consider propositions for a change is therefore arrayed against its exercise. They have declined directly, or ignored altogether all formal propositions for negotiation made to them, and in informal conferences have made it clear that no considerations the Commission has authority to present will induce them to voluntarily relinquish their present opportunities for vast gain and consent to share equally with all the Indian citizens that tribal property the United States originally placed in the custody of these "nations" for the common use of all, or to exchange the power they now possess to perpetuate their exclusive use of common property and dictate the character and terms of government under which these people live for anything analogous to

the institutions of our own Government by which they are surrounded. The very men who, in the manner heretofore described, have got in their personal grasp the vast tribal wealth of these "nations," elect and control the legislators in their councils, and denominate the work of this Commission as the "interference of a foreign power," not to be tolerated, and seek to punish with the penalties of treason any citizen Indian found advocating a change that shall require equal rights and equal participation.

The Commission is compelled to report that so long as power in these nations remains in the hands of those now exercising it, further effort to induce them by negotiation to voluntarily agree upon a change that will restore to the people the benefit of the tribal property and that security and order in government enjoyed by the people of the United States will be vain.

The Commission is therefore brought to the consideration of the question: What is the duty of the United States Government toward the people, Indian citizens and United States citizens, residing in this Territory under governments which it has itself erected within its own borders?

No one conversant with the situation can doubt that it is impossible of continuance. It is of a nature that inevitably grows worse, and has in itself no power of regeneration. Its own history bears testimony to this truth. The condition is every day becoming more acute and serious. It has as little power as disposition for self-reform.

Nothing has been made more clear to the Commission than that change, if it comes at all, must be wrought out by the authority of the United States. This people have been wisely given every opportunity and tendered every possible assistance to make this change for themselves, but they have persistently refused and insist upon being left to continue present conditions.

There is no alternative left to the United States but to assume the responsibility for future conditions in this Territory. It has created the forms of government which have brought about these results, and the continuance rests on its authority. Knowledge of how the power granted to govern themselves has been perverted takes away from the United States all justification for further delay. Insecurity of life and person and property increasing every day makes immediate action imperative.

The pretense that the Government is debarred by treaty obligations from interference in the present condition of affairs in this Territory is without foundation. The present conditions are not "treaty conditions." There is not only no treaty obligation on the part of the United States to maintain, or even to permit, the present condition of affairs in the Indian Territory, but on the contrary the whole structure and tenor of the treaties forbid it. If our Government is obligated to maintain the treaties according to their original intent and purpose, it is obligated to blot out at once present conditions. It has been most clearly shown that a restoration of the treaty status is not only an impossibility, but if a possibility, would be disastrous to this people and against the wishes of all, people and governments alike. The cry, therefore, of those who have brought about this condition of affairs, to be let alone, not only finds no shelter in treaty obligations but is a plea for permission to further violate those provisions.

The Commission is compelled by the evidence forced upon them during their examination into the administration of the so-called governments in this Territory to report that these governments in all their branches are wholly corrupt, irresponsible, and unworthy to be longer trusted with the care and control of the money and other property of Indian citizens, much less their lives, which they scarcely pretend to protect.

There can be no higher obligation incumbent upon every branch of the General Government than to exert its utmost constitutional authority to secure to this people, in common with all others within our borders, government in conformity with constitutional authorities. The Government can not abdicate or transfer to other shoulders this duty as to any portion of territory or people in the land. It



can not escape responsibility if the dark record which has now been brought to light is permitted to continue. Delay can bring nothing but increased difficulty and danger to peace and good order in the Territory. The situation calls for prompt action. These considerations lead but to one conclusion.

It is, in the judgment of the Commission, the imperative duty of Congress to assume at once political control of the Indian Territory. They have come with great reluctance to this conclusion, and have sought by all methods that might reach the convictions of those holding power in the Territory to induce them by negotiation and mutual agreement to consent to a satisfactory change in their system of government and appropriation of tribal property. These efforts have failed, and the Commission is driven to the alternative of recommending abandonment of these people to the spoliation and outrages perpetrated in the name of existing governments or the resumption by Congress of the power thus abused.

They therefore recommend immediate legislation as follows:

1. A Territorial government over the Five Civilized Tribes, adapted to their peculiarly anomalous conditions, so framed as to secure all rights of residents in the same, and without impairing the vested rights of the citizen Indian or other person not an intruder.

2. The extension of the jurisdiction of the United States courts in the Territory, both in law and equity, to hear and determine all controversies and suits of any nature concerning any right in or use and occupation of the tribal lands of the several nations, to which any citizen Indian or other person, or the tribal government of any nation, is or may be made a party plaintiff or defendant.

The Commission is confident that such a government wisely administered will restore the observance of law and preserve order among the people residing in these several nations, and make secure their lives and all just property rights. And that the determination in the United States courts of the most important and complicated questions in which the tenure of their land is unfortunately involved, lifting them out of the unhealthy and unreliable influences which prevail in the Indian courts, where now alone they are disposed of, would go far toward a solution of the difficult problem the present condition of the Territory presents.

Respectfully submitted.

HENRY L. DAWES.  
FRANK C. ARMSTRONG.  
ARCHIBALD S. MCKENNON.  
THOMAS B. CABINISS.  
ALEXANDER B. MONTGOMERY.

The SECRETARY OF THE INTERIOR.

Since the completion of the foregoing report the Commission, not having received any notice of action taken by the Choctaw and Chickasaw Nations, either in council or by committee, upon the propositions heretofore submitted by the Commission to these bodies separately, but having heard of some action being taken by them in respect to these propositions, made personal application to the secretary of the Choctaw Nation for information, and have received from him the following attested copy of resolutions adopted. They desire to make these resolutions a part of their report, without modifying, however, in any respect, the statements made or the conclusions of the Commission as set forth in the report, but for the purpose of making complete the record of the official intercourse between the Commission and the several nations, up to date.

HENRY L. DAWES, *Chairman.*

Whereas the Congress of the United States having appointed the honorable Dawes Commission to visit the five tribes within the limits of the Indian Territory for the purpose of inducing said five tribes of the Indian Territory to allot or divide our lands in severalty, now we, the committee duly appointed on the 9th day of November, A. D. 1895, by virtue and authority of the Choctaw general council, and in conjunction with the duly appointed and commissioned Chickasaw delegates from the

Chickasaw Nation having concurred and find that proposition made by the Dawes Commission in the United States and forwarded by mail to the Choctaw general council now in session, find that it was read and carefully interpreted, now do with matured minds and deliberate consideration have invited to recommend the following resolution :

*Be it resolved by the general council of the Choctaw Nation assembled,* That the proposition submitted to the Choctaw general council now in session does not meet with the approval in our conference or the consent of the Choctaw and Chickasaw people at large.

*Be it further resolved,* That we can not entertained the belief that a Christian nation as the United States Government would use fraudulent means, directly or indirectly, to deprive a weak and dependent people out of our lands now owned and held through a patent issued by the proper authority of the United States Government.

*Be it further resolved,* We ask the honorable Dawes Commission to make their report to Congress of the United States favoring the extension of justice to us and our peaceful homes, and ask to be permitted without molestation to possess that which is ours and only ours.

M. N. CASS, *Chairman of Committee.*

Approved, Nov. 12th, 1895.

JEFF. GARDNER, *P. C. C. N.*

This is to certify that the foregoing is a true and correct copy from the original resolution of the general council of the Choctaw Nation now on file at my office in Tushkahomma, the capitol of the Choctaw Nation.

Witness my hand and the great seal of the Choctaw Nation this the 15th day of November, A. D. 1895.

J. B. JACKSON,  
*National Secretary, Choctaw Nation.*

S. Doc. 182—5



IN THE SENATE OF THE UNITED STATES.

MAY 7, 1894.—Ordered to be printed.  
MAY 12, 1894.—Ordered to be reprinted.

Mr. TELLER, from the Select Committee on the Five Civilized Tribes of Indians, submitted the following

REPORT:

The Senate on the 29th of March, 1894, adopted the following resolution:

*Resolved*, That the Committee on the Five Civilized Tribes of Indians, or any subcommittee thereof appointed by its chairman, is hereby instructed to inquire into the present condition of the Five Civilized Tribes of Indians, and of the white citizens dwelling among them, and the legislation required and appropriate to meet the needs and welfare of such Indians; and for that purpose to visit Indian Territory, to take testimony, have power to send for persons and papers, to administer oaths, and examine witnesses under oath; and shall report the result of such inquiry, with recommendations for legislation; the actual expenses of such inquiry to be paid on approval of the chairman out of the contingent fund of the Senate.

In pursuance to this resolution three of the members of the Committee on the Five Civilized Tribes of Indians, viz, Messrs. Teller, Platt, and Roach, visited Indian Territory, arriving at Muscogee on the 8th of April, and after conferring with representatives of the Indians, the white citizens, and white residents who have no right of citizenship, and also with representatives of the colored race residing in the Territory, left the Territory on the 17th of April.

Without deeming it necessary to give a detailed account of the proceedings of the committee in the Territory or elsewhere, we submit herewith a statement of the facts ascertained and the conclusions drawn therefrom.

The Indian Territory contains an area of 19,785,781 acres, and is occupied by the five civilized tribes of Indians, consisting of the Cherokees, Creeks, Choctaws, Chickasaws, and Seminoles. Each tribe occupies a separate and distinct part, except that the Choctaws and Chickasaws, though occupying separately, have a common ownership of that part known as the Choctaw and Chickasaw territory, with rights and interests as recognized in their treaties as follows: The Choctaws, three-fourths, and the Chickasaws, one-fourth.

The character of their title, the area of each tribe, together with the population and an epitome of the legislation concerning these Indians during the last sixty-five years, is shown by the report of the Committee on Indian Affairs, submitted to the Senate on the 26th day of July, 1892, and we insert so much of said report as touches on the points above mentioned.

With reference to the present relations between the U. S. Government and the five civilized tribes, and the advantages to be derived by the Indians as well as the United States by the surrender of such governments and their incorporation into our system, the committee submits the following summary:

(1) *Cherokees*.—In the preamble to the treaty of May 6, 1828, the United States guarantees the Cherokee Nation, in their lands west of the Mississippi, a permanent home "that shall never, in all future time, be embarrassed by having extended

around it the lines, or placed over it the jurisdiction of a Territory or State, nor be pressed upon by the extension, in any way, of any of the limits of any existing Territory or State." (7 Stats., p. 311.) By the fifth article of the treaty of December 29, 1835, the United States agreed that the lands ceded to the Cherokees by that treaty should, in no future time, without their consent, be included within the territorial limits or jurisdiction of any State or Territory. But they should secure to the Cherokee Nation the right, by their national councils, to make and carry into effect all such laws as they might deem necessary for the government and protection of the persons and property within their own country belonging to their people, or such persons as had connected themselves with them, if not inconsistent with the Constitution of the United States and such acts of Congress as had been or might be passed, regulating trade and intercourse with the Indians. (7 Stats., p. 481.) By the seventh article of said treaty it is stipulated that the Cherokee Nation "shall be entitled to a Delegate in the House of Representatives of the United States whenever Congress shall make provision for the same" (p. 482).

By the second article of the treaty of August 6, 1846, it is provided that "laws shall be passed for equal protection, and for the security of life, liberty, and property; and full authority shall be given by law to all or any portion of the Cherokee people, peaceably to assemble and petition their own government, or the Government of the United States, for the redress of grievances, and to discuss their rights." (9 Stats., p. 872.) The laws provided in this article, it is presumed, are such as were thereafter to be enacted by the Cherokee council.

The fourth and fifth articles of the treaty of 1866 contain stipulations concerning Cherokees, freed persons, and free negroes who may elect to reside in a specified district within the Cherokee domain, and the sixth article provides as follows:

"The inhabitants of the said district hereinbefore described shall be entitled to representation according to the number in the national council, and all laws of the Cherokee Nation shall be uniform throughout said nation; and should any such law, either in its provisions or in the manner of its enforcement, in the opinion of the President of the United States, operate unjustly or injuriously in said district, he is hereby authorized and empowered to correct such evil, and to adopt the means necessary to secure the impartial administration of justice as well as fair and equitable application and expenditure of the national funds as between the people of this and every other district in said nation." (14 Stats., 800.)

In article 12 the Cherokees give their consent to a general council consisting of delegates elected by each nation or tribe lawfully residing within the Indian Territory, to be annually convened in said Territory, with powers as therein prescribed. The sixth subdivision of this article reads as follows:

"The members of said council shall be paid by the United States the sum of four dollars per diem during the term actually in attendance on the sessions of said council, and at the rate of four dollars for every twenty miles necessarily traveled by them in going from and returning to their homes, respectively, from said council, to be certified by the secretary and president of the said council." (*Ibid.*, 803.)

The twenty-second article provides for the survey and allotment of their lands whenever the national council shall request it. (*Ibid.*, 803.)

By the twenty-sixth article the Cherokees are guaranteed peaceable possession of their country and protection against domestic feuds, insurrections, hostile tribes, and intrusion from all unauthorized citizens of the United States; and by the thirty-first article thereof it is expressly stipulated that nothing therein contained shall be construed as a relinquishment by the Cherokee Nation of any claims or demands under the guaranties of former treaties, except as therein expressly provided (p. 805).

(2) *Chickasaws*.—By the second article of the treaty of May 24, 1834, the United States consented to protect and defend them in their home west of the Mississippi, when selected, against the inroads of any other tribe of Indians, and from whites, and agreed to keep them without the limits of any State or Territory. (7 Stats., p. 450.)

By the seventh article of the joint treaty of April 28, 1866, with the Choctaws, the Chickasaws and Choctaws agreed to such legislation as Congress and the President of the United States might deem necessary for the better administration of justice and the protection of the rights of person and property within the Indian Territory: *Provided, however*, That such legislation should not in anywise interfere with or annul their present respective legislatures or judiciaries or the rights, laws, privileges, or customs of said nations, respectively. (14 Stats., p. 771.)

This eighth article provided for a national council of the various tribes of Indian Territory, and the ninth clause thereof stipulates that "whenever Congress shall authorize the appointment of a delegate from said Territory it shall be the province of said council to select one from among the nations represented in said council" (p. 773).

The eleventh article provides for the survey and allotment of their lands, whenever their national councils should request it (p. 774). The Chickasaws did, by their legislative council, give said assent, but the Choctaw council has never agreed

thereto, the tenure of the lands being such as to require joint and concurrent action of the two bodies.

(3) *Choctaws*.—The fourth article of the treaty of September 27, 1830, granted the Choctaw Nation of Indians exclusive jurisdiction and self-government over the persons and property of the nation, so that no Territory or State should ever have a right to pass laws for the government of that nation and their descendants; and that no part of the land granted them should ever be embraced in any Territory or State, and further would secure forever said nation from and against all laws except such as from time to time might be enacted in their own national council, not inconsistent with the Constitution, treaties, and laws of the United States and except such as might be enacted by Congress in exercising legislation over Indian affairs as required by the Constitution. (7 Stats., p. 333.)

By the fifth article the United States guarantees protection to said Indians from domestic strife and foreign enemies on the same principles that the citizens of the United States are protected (p. 334), and by the twenty-second article the Choctaws express "a solicitude that they might have the privilege of a Delegate on the floor of the House of Representatives extended to them (p. 338).

By the seventh article of the joint treaty of April 28, 1866, they agree with the Chickasaws to the legislation hereinbefore recited under the head "Chickasaw." Provision for a Delegate to Congress is set forth in the eighth article, and for survey and allotment of lands in the eleventh article of said joint treaty. (See Chickasaw.)

(4) *Creeks*.—By the fourteenth article of the treaty of March 24, 1832, the Creek Nation of Indians are guaranteed a patent for their lands west of the Mississippi agreeably to the third section of the act of Congress of May 2 (28), 1830; also that no State or Territory should ever have a right to pass laws for the government of said Indians, but that they should be allowed to govern themselves, so far as might be compatible with the general jurisdiction which Congress might think proper to exercise over them. (7 Stats., p. 368.)

The fourth article of the joint treaty of August 7, 1856, with the Creek and Seminole Indians provides that no State or Territory shall pass laws for said tribes, and no portion of their lands defined in said treaty shall ever be embraced or included within or annexed to any Territory or State, nor shall either or any part of either ever be erected into a Territory without the full and free consent of the legislative authority of the tribe owning the same. (1 Stats., p. 700.)

The fifteenth article of said treaty secures the unrestricted right of self-government and full jurisdiction over person and property within their respective limits, excepting all white persons, with their property, who are not, by adoption or otherwise, members of either the Creek or Seminole tribe, so far as may be compatible with the Constitution of the United States and the laws made in pursuance thereof regulating trade and intercourse with the Indian tribes (p. 703).

The eighteenth article provides for the protection of said tribes of Indians from domestic strife, hostile invasion, and aggression by other Indians or white persons not subject to their jurisdiction and law (p. 704).

By the tenth article of the treaty of June 14, 1866, the Creeks agree to such legislation as Congress and the President of the United States may deem necessary for the better administration of justice and the protection of the rights of person and property within the Indian Territory: *Provided, however*, That said legislation shall not in any manner interfere with or annul their present tribal organization, rights, laws, privileges, and customs. (14 Stats., p. 788.)

(5) *Seminoles*.—By the seventh article of the treaty of March 21, 1866, the Seminoles agree to such legislation as Congress and the President of the United States may deem necessary for the better administration of justice and the protection of the rights of person and property within the Indian Territory: *Provided*, That said legislation shall not in any manner interfere with or annul their present tribal organization, rights, laws, privileges, and customs. (14 Stats., p. 758.)

Neither the Creeks nor Seminoles in any joint treaty, nor by this treaty of 1866, express any desire or wish upon the subject of a Delegate to Congress.

The Creeks having, on the 10th of July, 1861; the Choctaws and Chickasaws on the 12th of July, 1861; the Seminoles on the 1st of August, 1861, and the Cherokees on the 7th of October, 1861, made treaties, respectively, with the Confederate States, the President, by the Indian appropriation act of July 5, 1862 (12 Stats., p. 528), was authorized by proclamation to declare all treaties existing between the United States and said tribes to be abrogated, if, in his opinion, it could be done consistently with good faith and legal and national obligations. (See R. S., 2080.)

Not desiring to take advantage of or to enforce the penalties therein authorized, the President, in September, 1865, appointed a commission empowered to make new treaties with the tribes residing in the Indian Territory upon a basis containing seven propositions, the sixth of which was that "it is the policy of the Government, unless other arrangements be made, that all the nations and tribes in the Indian Territory be formed into one consolidated government after the plan proposed by the Senate of the United States in a bill for organizing the Indian Territory."

The representatives of the various tribes were assembled at Fort Smith and signed what is known as the Fort Smith treaty—made preliminary to the subsequent treaties of 1866.

The Cherokees held that "the consolidation of all the nations and tribes in the Indian Territory into one government is open to serious objection. There are so many, and in some instances antagonistic, grades of tastes, customs, and enlightenment that to throw the whole into one heterogeneous government would be productive of inextricable confusion; the plan proposed by the U. S. Senate may obviate the difficulties which now appear so patent to us." (See Annual Report of Commissioner of Indian Affairs for 1865, p. 306.)

The Chickasaws reported, "We thought the Government would first make a treaty of peace with us all. Indians are different from whites. They are vindictive; hatred lasts long with them. Not so with whites. The Government must settle the difficulty; the Indians can not. That done, let us be centralized, and a government established in the Indian Territory (p. 317)."

The Creeks reported that: "As to a Territorial form of government, we have to say that we know but little, but prefer our tribal condition (p. 341)."

The loyal Creeks signified to the Commissioner their entire assent to most of the propositions, including Territorial government (p. 341).

The Seminoles consented to the sixth proposition, then afterwards rescinded their action and asked that the question stand open for future consideration (p. 351).

In the subsequent treaties made in 1866 the Choctaws and Chickasaws by the seventh article, the Creeks by the tenth article, and the Seminoles by the seventh article, agreed, "to such legislation as Congress and the President of the United States may deem necessary for the better administration of justice and the protection of the rights of person and property within the Indian Territory: *Provided, however,* That such legislation shall not in anywise interfere with or annul their present tribal organization, or their respective legislatures or judiciaries, or the rights, laws, privileges, or customs."

Under the provision of these treaties the Indians have agreed that Congress may legislate for the better administration of justice and the protection of the rights of property and person within the limits of the present Indian Territory so far as it relates to the Choctaw, Chickasaw, Creek, and Seminole Indians.

Consul Bulletin No. 25 gives the population of the Five Civilized Tribes, including colored Indian citizens and claimants, as 66,289, as follows:

Cherokee Indians .....	25,357	Colored.....	4,242	Total.....	29,599
Chickasaw Indians.....	3,464	do .....	3,718	do .....	7,182
Choctaw Indians.....	9,996	do .....	4,401	do .....	14,397
Creek Indians.....	9,296	do .....	5,341	do .....	14,632
Seminole Indians.....	2,539	do .....	22	do .....	2,561

68,371

Deduct number of colored persons probably not members of tribes (estimated)..... 3,500

64,871

Indians other than Chickasaws in that nation..... 1,161

Indians other than Choctaws in that nation..... 257

Population of the Five Civilized Tribes:

Indians..... 52,065

Colored Indian citizens and claimants..... 14,224

Total..... 66,289

The same bulletin discloses the fact that there are white and colored persons not Indians or recognized as members of the Indian nations within the limits of the Five Civilized Tribes, as follows:

White persons in—

Cherokee Nation..... 27,176

Chickasaw Nation..... 49,414

Choctaw Nation..... 27,991

Creek Nation..... 3,280

Seminole Nation..... 96

107,989

Colored persons in the Five Civilized Tribes probably not members of the tribes (estimated)..... 3,500

Chinese in the Chickasaw Nation..... 6

Total..... 111,493

The following table shows the amount of land to which each man, woman, and child would be entitled if the lands were divided in severalty:

*Statement showing per capita distribution of the whole reservation among the people of the respective tribes.*

Tribe.	Area of the reservation.	If to persons of Indian blood only.		If to persons of Indian blood and to the colored persons claiming rights in the respective tribes, as set out in Census Bulletin No. 25.	
		Population.	Acres to each.	Population.	Acres to each.
Cherokees.....	5,031,351	25,357	198.4	29,559	170
Chickasaws.....	*4,650,935	3,464	1,342.6	7,182	647.5
Choctaws.....	*6,688,000	9,996	669	14,397	464.4
Creeks.....	3,040,485	9,291	327.3	14,632	207.7
Seminoles.....	375,000	2,539	147.7	2,561	146.4

\*The lands held by the Choctaw and Chickasaw Indians are held by them in common with rights and interests as recognized in their treaties as follows: The Choctaws, three-fourths; the Chickasaws, one-fourth.

At the breaking out of the rebellion the Five Civilized Tribes entered into treaties with the Confederate States, so called, and it was claimed had forfeited treaty rights.

But by the new treaties, however, former treaty rights, not inconsistent with the treaties of 1866, were restored and guaranteed by the United States.

At this time it seemed to be the policy of the Government to make an exclusive Indian Territory, to which should be removed other Indians, so that the whole Territory should become filled with Indian tribes alone. This policy of the Government seems to have included the idea of a Territorial Government, in which all of the tribes which might occupy the Indian Territory, as well as the Five Civilized Nations, should have representation after the manner of other Territorial organizations.

The territory which was to be thus organized into what might be called a distinctly Indian government was, until the organization of the Territory of Oklahoma, marked upon our maps and known as the Indian Territory, deriving that name from the plan of the Territorial organization already alluded to.

An article was inserted in each of the treaties made with the Five Civilized Tribes in 1866, by which they consented to become members of such Indian Territorial government. This article in the Cherokee treaty is article 12, and is identical with similar articles found in the other treaties. The president of the legislative council was to be designated by the Secretary of the Interior."

The plan thus proposed was never carried into execution; and a large part of the lands (probably more than one-half) which, under the policy then mapped out, were to have been occupied by Indian tribes and consolidated into one Territorial government, has been opened for settlement, and now comprises the Territory of Oklahoma. It is essential to bear in mind this policy of the Government, and the consent of the Five Civilized Tribes, as expressed in said treaties, for a thorough and correct understanding of many of the provisions found in those treaties.

In the report of the Committee on Indian Affairs, mentioned above, the Indian population is given as 58,331. The corrected census report for 1890, gives the Indian population at 50,055, and is given as follows:

Five Civilized Tribes, Indians living in the tribes.....	45,494
Other Indians including some Five Civilized Tribes Indians.....	4,561
Total Indians.....	50,055

But in addition to this 50,055 Indians there are large numbers of claimants to Indian citizenship who may or may not be Indians, within the provision of our treatise. These are put down as 18,636, and include the colored people whose rights of Indian citizenship are admitted as well as a large number who are not recognized by the Indian authorities as entitled to the rights of Indian citizenship, but who claim to be legally Indian citizens.



According to the census report, then, the population is as follows: Indians, 50,055; colored Indians, colored claimants to Indian citizenship, freedmen, and colored, wholly or in part, 18,636; Chinese, 13; whites, 109,393. Whites and colored on military reservation, 804; population of Quapaw Agency, 1,281, or a total of 180,182.

Since the taking of the census of 1890, there has been a large accession to the population of whites who make no claim to Indian citizenship, and who are residing in the Indian Territory with the approval of the Indian authorities. It is difficult to say what the number of this class is, but it can not be less than 250,000, and it is estimated by many well-informed men as much larger than that number, and as high as 300,000.

It is said that in and about McAlester there are about 5,000 white coal miners, and at Lehigh, about 6,000. In many sections the country is thickly settled with white farmers who farm the lands occupied by them under lease granted to them by individual Indians, or as the employés of Indians. To such an extent has this character of settlement and occupation gone, that in some agricultural sections the whites outnumber the Indians ten to one; this is especially true in the section occupied by the Chickasaws, who number only about 3,500, while the white population is variously estimated at from 50,000 to 70,000.

Flourishing towns have grown up along the lines of the railroads, composed wholly of white people. The town of Ardmore, in the Chickasaw country is said to contain 5,000 white people and not to exceed 25 Indians. Duncan and Purcell contain a population of from 1,000 to 1,500, composed of white people. The town of Muscogee, in the Creek country, contains a population of from 1,200 to 1,500 white people, and many other towns of from 500 to 1,500 people are known as "white towns." It is rare to see an Indian in any of these towns, except as they come in from their farms to dispose of their produce or purchase goods of the white trader.

Outside of the Cherokee country there are no laws for the organization of municipal governments for these growing towns, and no means by which the population of these towns can establish and maintain streets and sidewalks or organize and maintain a constabulary, such as has been found indispensable in urban communities.

The entire Indian Territory is well watered, with considerable forest and, in some sections, very excellent timber lands. Coal is found in nearly all parts of the Territory, and especially in the Choctaw and Chickasaw countries, and it is of an excellent character. The climate is good, the winters are mild, the soil productive, and the natural wealth very great. It is believed that the hilly country, sometimes called the mountain region, contains valuable minerals. It is certainly capable of maintaining a large population in independence and comfort.

This section of country was set apart to the Indian with the avowed purpose of maintaining an Indian community beyond and away from the influence of white people. We stipulated that they should have unrestricted self-government and full jurisdiction over persons and property within their respected limits, and that we would protect them against intrusion of white people, and that we would not incorporate them in a political organization without their consent. Every treaty, from 1828 to and including the treaty of 1866 was based on this idea of exclusion of the Indians from the whites and nonparticipation by the whites in their political and industrial affairs. We made it possible for the Indians of that section of country to maintain their tribal relations and their Indian polity, laws, and civilization if they wished so

to do. And, if now, the isolation and exclusiveness sought to be given to them by our solemn treaties is destroyed, and they are overrun by a population of strangers five times in number to their own, it is not the fault of the Government of the United States, but comes from their own acts in admitting whites to citizenship under their laws and by inviting white people to come within their jurisdiction, to become traders, farmers, and to follow professional pursuits.

It must be assumed in considering this question that the Indians themselves have determined to abandon the policy of exclusiveness, and to freely admit white people within the Indian Territory, for it can not be possible that they can intend to demand the removal of the white people either by the Government of the United States or their own. They must have realized that when their policy of maintaining an Indian community isolated from the whites was abandoned for a time, it was abandoned forever.

We did not hear from any Indian the suggestion that the white people there, with the consent of the Indian, should be removed.

We do not overlook the fact that there is a class of white people denominated by the Indians as intruders, who are not there with the approval of the Indians, but the number of this class is so small as compared with the white population not claiming rights of citizenship that they may not be considered in this connection. The United States was bound by its treaties to remove such whites as made an unauthorized settlement in the Indian Territory, and is now taking measures to remove from the Cherokee country a large band of such intruders. These intruders claim to be Indian citizens, and that they were invited by the Cherokee authorities to reside within the Territory, but the Cherokee authorities hold that they are not Cherokees. We believe there has been but little complaint in other sections of the Indian Territory of intruders.

The Indians of the Indian Territory maintain an Indian government, have legislative bodies and executive and judicial officers. All controversies between Indian citizens are disposed of in these local courts; controversies between white people and Indians can not be settled in these courts, but must be taken into the court of the Territory established by the United States. This court was established in accordance with the provision of the treaties with the Choctaws, Chickasaws, Creeks, and Seminoles, but no such provision seems to have been made in the treaty with the Cherokees. We think it must be admitted that there is just cause of complaint among the Indians as to the character of their own courts, and a good deal of dissatisfaction has been expressed as to the course of procedure and final determination of matters submitted to these courts. The determination of these courts are final, and, so far, the Government of the United States has not directly interfered with their determinations. Perhaps we should except the recent case where the Secretary of the Interior thought it his duty to intervene to prevent the execution of a number of Choctaw citizens.

As the Indian courts established within the limits of the Five Civilized Tribes had jurisdiction only of matters civil or criminal arising between members of the same tribe, it became necessary to provide courts with jurisdiction over criminal and civil matters arising between Indians of different tribes, and between white citizens and Indian citizens. Accordingly, by the act of January 31, 1877, the "country lying west of Missouri and Arkansas, known as the Indian Territory," was attached to the western district of Arkansas.

The Indian Territory at that time included what is now the territory of the Five Civilized Tribes, together with the territory now embraced within the limits of Oklahoma. Very few white people were then residents within the Indian Territory, but as the practice of the Indians to admit white citizens into their Territory increased, it was found that the jurisdiction conferred upon the U. S. court in the State of Arkansas did not meet the requirements of the situation.

Persons committing offenses within the Territory, not punishable in the Indian courts, were taken, in some instances, a distance of nearly 600 miles to the court at Fort Smith; and parties having civil controversies were not able to maintain their rights on account of the distance to be traveled and the expense entailed by proceedings in the Fort Smith court. So, by the act of January 6, 1883, that part of the Indian Territory lying north of the Canadian River and east of Texas and the one hundredth meridian not occupied by the Creek, Cherokee, and Seminole tribes, was annexed to and made part of the district of Kansas, and the U. S. district courts at Wichita and Fort Scott were given original and exclusive jurisdiction over all offenses committed within that territory against any of the laws of the United States. By the same act that part of the Indian Territory not annexed to the district of Kansas, and not set apart and occupied by Cherokee, Creek, Choctaw, Chickasaw, and Seminole tribes, was annexed to the northern district of Texas, and jurisdiction was given to that court over all offenses committed within the limits of the territory last named.

Prior to March 1, 1889, there was no court whatever in the Territory, except the Indian courts. But Congress, by act of that date, established a "U. S. court in the Indian Territory," extending over the entire Territory, including the present limits of Oklahoma and the Five Civilized Tribes, with exclusive jurisdiction over all offenses against the laws of the United States committed within the Indian Territory not punishable by death or imprisonment at hard labor, and jurisdiction in civil cases arising between citizens of the United States, residents of the Indian Territory, when the value of the thing in controversy or damages claimed amounted to not more than \$100; and also jurisdiction over all controversies arising out of mining leases or contracts for mining coal made by the Indians. Two terms of said court were to be held each year at Muscogee, in the Indian Territory.

By section 17 of the same act the land embraced within the Chickasaw Nation and a portion of the Choctaw Nation, and all the part of the Indian Territory not theretofore annexed to the district of Kansas, was annexed to the eastern district of Texas. This left the land embraced within the Cherokee Nation and a portion of the Choctaw Nation attached to the western district of Kansas, and a portion of the Indian Territory lying north of the Canadian River attached to the judicial district of Kansas. Thus the U. S. courts at Paris, Tex., Fort Smith, Ark., and Fort Scott, Kans., retained jurisdiction, respectively, over all offenses punishable by death or imprisonment at hard labor arising within the Indian Territory, as then existing, except matters arising between Indians of the same tribe, which were still punishable only in the Indian courts.

By act of May 2, 1890, all that portion of the Indian Territory except that occupied by the Five Civilized Tribes and by the Indian tribes within the Quapaw Agency was included within the boundaries of the Territory of Oklahoma; but the Cherokee Outlet and the Public Land Strip and the Indian reservations included within said boundaries were not to become fully a part of said Territory until the proclamation of

the President should be made to that effect, and in case of the Cherokee Outlet and the Indian reservations not until the title of the Indians should be extinguished.

By the same act a new Indian Territory was created, consisting of all that portion of the Indian Territory as it had formerly existed not then included within the boundaries of the Territory of Oklahoma; and the same was divided into three divisions for the purpose of holding the terms of the court established at Muscogee by the act of March 1, 1889. The places for holding said court were fixed at Muscogee in the Creek country, at South MacAlester in the Choctaw country, and at Ardmore in the Chickasaw country. The jurisdiction of the country was further defined, and certain general laws of the State of Arkansas were made applicable to the Indian Territory, except as to causes, civil and criminal, in which members of the respective Indian tribes, by nativity or adoption, were the only parties.

The act of May 2, 1890, authorized the appointment of three commissioners within each of the divisions of the U. S. court in the Indian Territory, who, in addition to the powers of commissioners of the circuit court, should be ex-officio notaries public and have power to solemnize marriages, and were given the powers of justices of the peace of the State of Arkansas, but limited in their jurisdiction in civil suits to \$100, with an appeal from their judgment.

It is estimated that at the present time there are between 250,000 and 300,000 white people, not citizens of the Indian nations by marriage or adoption, residing within the Indian Territory. They are not and can not be subject to the laws of the Indian nations, and can not obtain or enforce their rights in the Indian courts. These courts have no jurisdiction over them, either civil or criminal. All jurisdiction, therefore, over matters arising between white citizens in the Indian Territory and between white citizens and Indians, and between Indians of different tribes, is thus vested partly in the U. S. courts at Fort Smith, Ark.; Paris, Tex., and partly in the U. S. court established in the Indian Territory. This latter court has no jurisdiction of felonies, and no other court has final jurisdiction over misdemeanors, the powers of the commissioners in misdemeanors being merely those of an examining magistrate.

There is much conflict of jurisdiction in matters other than felonies between the U. S. courts and the courts at Fort Smith, Paris, and the Indian court within the Indian Territory. New statutes have been passed relating to offenses in the Indian Territory, and the statutes of Arkansas, which have been extended over the Territory, raise frequent and difficult questions of jurisdiction. The distances which parties are required to travel in cases where jurisdiction is claimed by the courts at Fort Smith and Paris are great, and the expense of deciding causes in those courts, by reason of the distance to be traveled and the time necessarily spent in their determination, is enormous. The court established for the Indian Territory, having cognizance of all minor offenses and of the smallest civil controversies, becomes the only court having police powers within the Territory, so that parties charged with the smallest misdemeanors are often taken over 200 miles to court for trial, and in civil controversies involving the smallest amounts may be compelled to resort to a court 200 or 300 miles distant. And this court is so burdened with business that prompt disposition of its cases, either criminal or civil, is utterly impossible. It is absolutely the only court of final jurisdiction administering justice in matters

large or small in a Territory as large as the State of Indiana, for a people numbering now at least 250,000 and rapidly increasing.

The conditions set forth result in a practical denial of justice in the Indian Territory, except in matters of paramount importance, and in these only after much delay. The criminal business of the Territory is transacted at enormous expense. Cases of the smallest importance, like ordinary assaults, often cost the Government from \$200 to \$500 each, by reason of the distance traveled by the deputy marshals in taking the prisoner charged to court and the fees of witnesses for travel and attendance. The temptation to arrest persons for trivial offenses under such conditions, where the deputy marshals receive such unusual fees, is very great, and complaint of the misuse of power in arrests and prosecutions is frequent. The expense of prosecuting crimes and maintaining courts in the Indian Territory amounts to about one-seventh of the judicial expense of the United States, and this not because crime is more prevalent in the Indian Territory than is usual in new and unsettled countries, but because of the system under which justice is supposed to be administered therein. Such glaring and unbearable evils can not be fully remedied until the question of political and judicial jurisdiction shall be finally changed and a Territorial or State government established.

A partial remedy, however, may in the opinion of the committee be applied at the present time. One judge can not dispose of the criminal and civil matters arising among 250,000 people with justice to the parties and reasonable dispatch of business. Moreover, misdemeanors and civil suits of limited amount should be disposed of mainly in the immediate locality where the offenses are committed or where the cause of action arises. The committee is of opinion that two additional judges for the court should be appointed, thus making one judge for each division, and that additional commissioners should be appointed by the court, and that such commissioners should have within their districts, to be limited and defined, final jurisdiction in misdemeanors where the punishment does not exceed a fine of \$50 or imprisonment for six months, or both, with a right of appeal to the U. S. court in the Indian Territory, and should have final jurisdiction of civil suits arising within their respective jurisdictions where the value of the matter in controversy or damages claimed shall not exceed the sum of \$300, with the right of appeal to said court; that the jurisdiction now conferred upon the U. S. district courts at Fort Smith and Paris should be taken away, and jurisdiction in all matters not punishable by said U. S. courts in Arkansas and Texas should be conferred upon the U. S. court in the Indian Territory.

The reason urged against this transfer of jurisdiction from the courts in Arkansas and Texas to the U. S. court in the Indian Territory no longer exists. It was first conferred because there was no court in the Indian Territory. It has been continued since the establishment of a court there because of the claim that it was impossible to secure proper juries to serve in the Indian Territory. However potent that reason may have been in the past, it can no longer be successfully maintained that jurors can not be found and are not found in the Indian Territory equally competent to try causes of the highest importance with those obtained in the adjoining States of Arkansas, Texas, and Kansas. The white people of the Indian Territory will compare favorably with the people of the adjoining States, and jurors selected from among such population may as safely be trusted to do justice. The change in the judicial system of the Territory thus out-

lined will, in the opinion of the committee, result in a great reduction of expense to the Government and a far better administration of justice than now exists. The present system is intolerable.

The Indians maintain schools for their own children. The Choctaws, Cherokees, and Creeks maintain schools for the children of recognized colored citizens, but the Chickasaws have denied to these freedmen not only the right of suffrage, especially provided for in the treaty of 1866, but have also denied to the children of freedmen the right to participate in their schools. We find in the Chickasaw country a freedmen population somewhat in excess of that of the Indian population, not only deprived of citizenship, but denied the privilege of schools, so that the children of that class are growing up in ignorance except in a few cases where schools have been maintained by individual means for the education of the freedmen children. This is in plain and open violation of the treaty of 1866.

The large white population of the Indian Territory are without the means of maintaining schools, except by means of rate bills. We believe there is nowhere else in the United States a population so large that has not the benefit of the truly American system of education—the public schools. No public schools are possible for this class of our citizens while the present condition of affairs continues in the Indian Territory.

It may be said that these people went to the Indian Territory with the knowledge that the education of their children would be left to their individual efforts, and therefore they ought not to complain. We do not stop to inquire whether the parents of these children complain or not—the nation at large has the right to protest against a condition that deprives the children of 200,000 or 300,000 white and several thousand colored people of the opportunity to acquire an education that will fit them for the discharge of the duties of citizenship, which they have the right to exercise in other parts of the country if they have not in the Indian Territory. It is not the concern of the parents alone, nor of the children alone, but of all the people of the United States, and it is a matter of concern to the citizens of those States contiguous to the Indian Territory. Common humanity demands that we take steps to secure to the people the advantages of education, even if they do not appreciate such advantages.

The theory of the Government was when it made title to the lands in the Indian Territory to the Indian tribes as bodies politic that the title was held for all of the Indians of such tribe. All were to be the equal participators in the benefits to be derived from such holding. But we find in practice such is not the case. A few enterprising citizens of the tribe, frequently not Indians by blood but by intermarriage, have in fact become the practical owners of the best and greatest part of these lands, while the title still remains in the tribe—theoretically for all, yet in fact the great body of the tribe derives no more benefit from their title than the neighbors in Kansas, Arkansas, or Missouri.

According to Indian law (doubtless the work of the most of the enterprising class we have named) an Indian citizen may appropriate any of the unoccupied public domain that he chooses to cultivate. In practice he does not cultivate it, but secures a white man to do so, who takes the land on lease of the Indian for one or more years according to the provision of the law of the tribe where taken. The white man breaks the ground, fences it, builds on it, and occupies it as the tenant of the Indian and pays rental either in part of the crop or in cash, as he may agree with his landlord.

Instances came to our notice of Indians who had as high as 100 tenants, and we heard of one case where it was said the Indian citizen, a citizen by marriage, had 400 holdings, amounting to about 20,000 acres of farm land. We believe that may be an exceptional case, but that individual Indians have large numbers of tenants on land not subdued and put into cultivation by the Indian, but by his white tenant, and that these holdings are not for the benefit of the whole people but of the few enterprising ones, is admitted by all. The monopoly is so great that in the most wealthy and progressive tribe your committee were told that 100 persons had appropriated fully one-half of the best land. This class of citizens take the very best agricultural lands and leave the poorer land to the less enterprising citizens, who in many instances farm only a few acres in the districts farthest removed from the railroads and the civilized centers.

As we have said, the title to these lands is held by the tribe in trust for the people. We have shown that this trust is not being properly executed, nor will it be if left to the Indians, and the question arises what is the duty of the Government of the United States with reference to this trust? While we have recognized these tribes as dependent nations, the Government has likewise recognized its guardianship over the Indians and its obligations to protect them in their property and personal rights.

In the treaty with the Cherokees, made in 1846, we stipulated that they should pass laws for equal protection, and for the security of life, liberty, and property. If the tribe fails to administer its trust properly by securing to all the people of the tribe equitable participation in the common property of the tribe, there appears to be no redress for the Indian so deprived of his rights, unless the Government does interfere to administer such trust.

Is it possible because the Government has lodged the title in the tribe in trust that it is without power to compel the execution of the trust in accordance with the plain provisions of the treaty concerning such trust? Whatever power Congress possessed over the Indians as semidependent nations, or as persons within its jurisdiction, it still possesses; notwithstanding the several treaties may have stipulated that the Government would not exercise such power, and therefore Congress may deal with this question as if there had been no legislation save that which provided for the execution of the patent to the tribes.

If the determination of the question whether the trust is or is not being properly executed is one for the courts and not for the legislative department of the Government then Congress can provide by law how such question shall be determined and how such trust shall be administered, if it is determined that it is not now being properly administered.

It is apparent to all who are conversant with the present condition in the Indian Territory that their system of government can not continue. It is not only non-American, but it is radically wrong, and a change is imperatively demanded in the interest of the Indian and whites alike, and such change can not be much longer delayed. The situation grows worse and will continue to grow worse. There can be no modification of the system. It can not be reformed. It must be abandoned and a better one substituted. That it will be difficult to do your committee freely admit, but because it is a difficult task is no reason why Congress should not at the earliest possible moment address itself to this question.

We do not care to at this time suggest what, in our judgment, will be the proper step for Congress to take on this matter, for the commis-

sion created by an act of Congress, and commonly known as the Dawes Commission, is now in the Indian Territory with the purpose of submitting to the several tribes of that Territory some proposition for the change in the present very unsatisfactory condition of that country. We prefer to wait and see whether this difficult and delicate subject may not be disposed of by an agreement with the several tribes of that Territory. But if the Indians decline to treat with that commission and decline to consider any change in the present condition of their titles and government the United States must, without their aid and without waiting for their approval, settle this question of the character and condition of their land tenures and establish a government over whites and Indians of that Territory in accordance with the principles of our constitution and laws.

As the matters submitted are so complicated and of such grave importance, the committee has thought proper to submit this preliminary report, and hopes, upon further investigation, to be able to make such further and more specific recommendation as to necessary legislation as will lead to a satisfactory solution of this difficult question.





## IN THE SENATE OF THE UNITED STATES.

DECEMBER 10, 1894.—*Resolved*, That the Report of the Commission appointed to negotiate with the Five Civilized Tribes of Indians, known as the Dawes Commission, which report is attached to the Annual Report of the Secretary of the Interior as Appendix B, be printed as a Senate document.

Attest:

WM. R. COX,  
Secretary.

## B.

## REPORT OF THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

WASHINGTON, D. C., November 20, 1894.

SIR: The Commission to the Five Civilized Tribes, appointed under the sixteenth section of an act of Congress making appropriations for the Indian service, approved March 3, 1893, report what progress has thus far been made by it.

Immediately upon receiving their instructions they entered upon their work and made their headquarters, on reaching the Territory, at Muskogee, in the Creek Nation, removing it in March to South McAlester, in the Choctaw Nation, where it still remains.

Upon arriving in the Territory the commission immediately sent to the chief or governor of each tribe an official notice of their appointment and of their authority and the objects of their mission in accord with their instructions, and requested an early conference with him, or those who might be authorized to confer with this commission, at such time and place as might be designated by him. Such conferences were held separately with the chief and duly authorized commission of each of the tribes. At each of these conferences the commission explained with great pains the wishes of the Government and their authority to enter into negotiations with them for an allotment of their lands and exchange of their tribal for a Territorial government. They were listened to attentively, and were asked many pertinent questions, which were fully answered so far as their authority justified. No definite action was taken at either of these conferences, though the indications were adverse to a favorable result. They all asked for time to consider, and promised a renewal of the conferences.

Afterwards, at the suggestion of one of the chiefs, an international council, according to their custom on important questions, consisting of delegates appointed for that purpose from each of the tribes, except the Seminoles, who took no part in it, was held to confer upon the purposes of this commission. The commission attended this conference, and on request presented the subject to them more elaborately and fully than had been done before. The conference continued three days, and at first the views of the commission were treated with seriousness, and the impression seemed favorable in the body that a change in their present condition was necessary and was imminent, and that it was wise for them to entertain our propositions. During the deliberations, however, telegraphic dispatches from Washington reached them indicating that the sentiment of the Government, and especially of Congress, from whose action they had most to apprehend, was strongly in favor of what they maintained as "the treaty situation," and that no steps would be taken looking to a change unless they desired it. This put an effectual check upon the disposition to negotiate, and the result at this international conference was the adoption of resolutions strongly condemning any change and advising the several tribes to resist it. Each of the tribes subsequently acted in accord with this advice, and several of them took official action condemning any change, and refusing to negotiate upon any terms looking to a change in the present condition in respect either to their form of government or the holding of their domains. This refusal has been repeated many times in these tribes in several ways since, and stands to-day as the official position of the governments of those who have taken action thereon.

It was apparent that this convention was dominated by the tribal officials and those having large holdings of land.

## CREEK NATION.

On the 23d of January, a commission appointed by the chief of the Creek tribe met us at Muskogee to confer with us, but had no authority whatever, as they stated, to enter into negotiations or conclude any agreement with us. After a conference, however, they expressed a desire that we should make any appointment to meet and address their people at Okmulgee, their capitol, and explain the policy and purposes of the U. S. Government in sending us to the Territory, which we accordingly did on the 3d day of April, 1894. Our audience was large, embracing the chief, council, and Creek citizens. A number of prominent citizens, who have almost absolute control of the government and a monopoly of the lands of the tribe, were present, actively opposing the work of this commission.

After arriving at Okmulgee, we had frequent and free conversations with quite a number of Creek citizens, who expressed themselves favorable to the propositions we were submitting, and detailed the poverty-stricken condition of the common people, and the consequent necessity for a change. They also expressed their desire that their council should accede to the proposed changes. After we had addressed fully and in detail the meeting upon the subject of our mission, we were followed by the chief, who addressed them in the Creek language, which was not interpreted and which we therefore could not understand. But we were informed by one present, and believe truthfully, that the chief stated to them that if they acceded to the propositions of the Government and accepted allotment they would each receive a lot of land only 4 by 8 feet, and thereupon called for a vote of the meeting upon the propositions discussed by us, and all of the meeting passed over to the side against our propositions. Immediately thereafter the council met and passed resolutions declining to appoint a commission to treat with us, or take any steps looking to the allotment of lands or change of government.

That our propositions to the Creek tribe might be definite and specific, and the action of their council thereon free from doubt and misconstruction, we, on the 25th day of July, 1894, submitted to the tribe, through its principal chief, written propositions upon which we proposed to negotiate with them, as follows:

## PROPOSITIONS TO THE CREEKS.

The commission to the Five Civilized Tribes, appointed by the President under section 16 of an act of Congress approved March 3, 1893, propose to treat with the Creek Nation on the general lines indicated below, to be modified as may be deemed wise by both parties after discussion and conference.

First. To divide all lands now owned by the Creek Nation, not including town sites, among all citizens, according to the treaties now in force, reserving town sites, coal, and minerals for sale under special agreement. Sufficient land for a good home for each citizen to be made inalienable for twenty-five years, or such longer period as may be agreed upon.

Second. The United States to agree to put each allottee in possession of the land allotted to him, without expense to the allottee, that is, to remove from the allottee's land all persons who have not written authority to be on the same, executed by the allottee after the date of the evidence of title.

Third. Town sites, coal, and mineral discovered before allotment to be the subject of special agreement between the parties, such as will insure to the nation and to those who have invested in them just protection and adjustment of the respective rights and interests therein.

Fourth. A final settlement of all claims against the United States.

Fifth. All invested funds not devoted to school purposes, and all moneys derived from the sale of town sites, coal, and minerals, as well as all moneys found due from the United States, to be divided per capita among the citizens, according to their respective rights under treaties and agreements.

Sixth. All moneys due the citizens of said Nation, except that devoted to school purposes, to be paid per capita to the citizens entitled thereto by an officer of the United States, to be appointed by the President.

Seventh. A board of three persons to be agreed upon, to whom shall be referred all questions of citizenship and right to allotment, to consist of one member of this commission and one Creek by blood, they to select the third member, wholly disinterested; and in case they shall fail to agree upon such third member, such third member shall be appointed by the President.

Eighth. If an agreement shall be reached with the Creek Nation, a Territorial form of government may be formed by Congress and established over the territory of the Creek Nation, and such other of the Five Civilized Tribes as may have at the time agreed to allotment of lands and change of government.

Ninth. Such agreement, when made, shall be submitted for ratification to the Creek government, and if ratified by it, shall then be submitted to Congress for approval.

Tenth. The present tribal government to continue in existence until after the lands are allotted and the allottees put in possession—each of his own land—after which a Territorial government may be established by Congress.

HENRY L. DAWES,  
MEREDITH H. KIDD,  
ARCHIBALD S. MCKENNON,  
*Commissioners.*

These propositions were accompanied by the following letter of transmittal:

SOUTH MCALESTER, *July 25, 1894.*

DEAR SIR: The commission appointed by the President under the sixteenth section of an act of Congress approved March 3, 1893, has not heretofore submitted to the Creek government formal propositions looking to concluding an agreement as provided in such section. We, therefore, herewith inclose such propositions, and request that a commission be constituted by the Creek government, with full power to settle upon the terms of such agreement.

We also request a definite answer prior to 1st of October next, as at that time it is the purpose of this commission to report to the Secretary of the Interior the influences which prevent such an agreement should your government further decline to enter upon negotiations with this commission, as also all other matters which should properly be embraced in such report.

We are, very respectfully,

HENRY L. DAWES,  
MEREDITH H. KIDD,  
ARCHIBALD S. MCKENNON,  
*Commissioners.*

Hon. LEGUS C. PERRYMAN,  
*Principal Chief, Creek Nation.*

The national council of the Creek Nation convened in regular session in October, 1894, and adjourned without having taken any action upon the foregoing propositions, so far as this commission has been advised.

#### CHOCTAW NATION.

By agreement this commission met and addressed the council of the Choctaw tribe at the capitol, Tushkahoma, on the 25th day of January, 1894, explaining the objects of the commission, and the desires and purposes of the U. S. Government in sending it to the Territory. After the international council above alluded to, a commission of Choctaws waited upon us at Muskogee and requested that members of the commission visit and address the Choctaw people at a number of points in the Choctaw tribe; which we did during the spring and summer, accompanied by a commission of three, appointed by the Choctaw council, who could speak both the English and Choctaw languages, and who were instructed to use their influence to prevent favorable consideration of the propositions submitted by this commission.

On the 23d day of April, 1894, we submitted propositions to the Choctaw tribe as follows:

#### PROPOSITIONS TO THE CHOCTAW AND CHICKASAW NATIONS.

We propose to treat with the Choctaw and Chickasaw nations jointly, on these general lines, to be modified as may be deemed wise by both parties, after discussion and conference.

First. To divide all lands now owned by the Choctaws and Chickasaws, not including town sites, among all citizens of the two nations, according to the treaties now in force, reserving the coal, minerals, and town sites for sale.

Second. The United States to agree to put each allottee in possession of the land allotted to him without expense to the allottee.

Third. Town sites, coal and minerals discovered to be the subject of special agreements between the parties, and such as will secure to the nation and to those who have invested in them a just protection and adjustment of their respective rights therein.

Fourth. A settlement of all claims against the United States, including the "leased district."

Fifth. All invested funds and all moneys derived from the sale of town sites, coal and minerals, and from the sale of the leased district, as well as all moneys found to be due from the United States to either of said nations, to be divided per capita among their citizens according to their respective rights under the treaties and agreements.

Sixth. All the moneys due the citizens of said nations, except that devoted to school purposes, to be paid per capita to the citizens of each nation respectively by an officer of the United States, who shall be appointed by the President.

Seventh. If an agreement shall be reached with the Choctaws and Chickasaws, a territorial government shall be formed by Congress over the territory of the two nations, and such other of the Five Civilized Tribes as may have at the time allotted their lands and agreed to a change of government.

Eighth. The present tribal governments to continue until after the lands are allotted and the allottee put in possession, each, of his own land and the money paid to those entitled to the same.

HENRY L. DAWES,  
MEREDITH H. KIDD,  
ARCHIBALD S. MCKENNON,  
*Commissioners.*

These propositions were accompanied by a letter of transmittal similar to the one to the Creeks above copied.

Since these propositions were submitted the Choctaw council met in regular session in October last, and adjourned without having taken any action thereon, so far as this commission is advised.

#### CHICKASAW NATION.

In answer to our letter announcing our presence in the Territory, heretofore alluded to, Hon. Jonas Wolfe, governor of the Chickasaw Nation, suggested the 6th day of February, 1894, at Tishomingo, as the time and place for a meeting of this commission with a commission appointed by him. At that time and place we met and addressed the commission so appointed, together with a large number of Chickasaw Indians, on the objects and purposes for which this commission was appointed, and by request of the governor and members of said commission we met the citizens of the Chickasaw tribe at a number of places and addressed large audiences on the subject of our mission during the spring and summer.

On the 23d day of April, 1894, we submitted propositions to the Chickasaw tribe, through its governor, like those submitted to the Choctaw Nation and copied above, which were accompanied by a like letter of transmittal.

Since these propositions were submitted the national council of the Chickasaw Nation met in regular session and adjourned without having taken any action on such propositions, so far as we are advised.

#### CHEROKEE NATION.

On the 30th day of January, 1894, a commission of Cherokees met us at Muskogee, they having been appointed by the principal chief, in response to our letter heretofore referred to. They presented to us a copy of the resolutions adopted by their tribal council, under which they were appointed, which expressly forbade them from entering upon negotiations with this commission, looking to allotment of lands or change of government, and in effect instructing them to use all means within their power to prevent the accomplishment of our mission. After a conference with us, however, they invited us to make a number of appointments and to meet and address the citizens of the Cherokee tribe on the subject of our mission. This we accordingly did during the ensuing spring and summer.

On the 25th day of July, 1894, we submitted to the Cherokee tribe, through its principal chief, propositions as follows:

#### PROPOSITION TO THE CHEROKEES.

The Commission to the Five Civilized Tribes, appointed by the President under section 16 of an act of Congress approved March 3, 1893, propose to treat with the Cherokee Nation on the general lines indicated below, to be modified and extended as may be deemed wise by both parties after discussion and conference.

First. To divide all lands now owned by the Cherokee Nation, not including town sites, among all citizens according to treaties now in force, reserving town sites and minerals for sale under special agreements. Sufficient land for a good home for each citizen to be made inalienable for twenty-five years, or such longer period as may be agreed upon.

Second. The United States to agree to put each allottee in possession of the land allotted to him without expense to allottee—that is, to remove from the allottee's land all persons who have not written authority from the allottee to be on the same, executed after the date of the evidence of title.

Third. Town sites, coal and minerals discovered before allotment to be the subject of special agreement between the parties, such as will secure to the nation and to

those who have invested in them a just protection and adjustment of their respective rights and interests therein.

Fourth. A final settlement of all claims against the United States.

Fifth. All invested funds not devoted to school purposes and all moneys derived from the sale of town sites, coal and mineral, as well as all moneys found due from the United States, to be divided per capita among citizens according to their respective rights under the treaties and agreements.

Sixth. All moneys due the citizens of said nation, except that devoted to school purposes, to be paid per capita to the citizens entitled thereto by an officer of the United States, to be appointed by the President.

Seventh. A board of three persons to be agreed upon, to whom shall be referred all questions of citizenship and right to allotment, except freedmen, to consist of one member of this commission and one Cherokee by blood, they to select the third member, who shall be wholly disinterested; and in case they shall fail to agree upon such third member, he shall be appointed by the President.

Eighth. A board of three persons to be agreed upon, to consist of two members of this commission and one Cherokee by blood, who shall revise the roll of freedmen, known as the Wallace roll, and erase the names of such as may be improperly placed on said rolls and add such as may be entitled thereto, including such as may have been born since that roll was made.

Ninth. If an agreement shall be reached with the Cherokee Nation, a Territorial government may be formed by Congress and established over the Cherokee Nation and such other of the Five Civilized Tribes as may have, at the time, agreed to allotment of lands and change of government.

Tenth. Such agreement, when made, shall be submitted for ratification to the Cherokee government, and if ratified by it shall then be submitted to Congress for approval.

Eleventh. The present tribal government to continue in existence until after the lands are allotted and the allottee put in possession of his own land, after which a Territorial government may be established by Congress.

Twelfth. The agreement entered into by the United States, in reference to intruders, is to be in no way impaired, but is to continue in force and be carried out as originally made, if desired by the Cherokee Nation.

HENRY L. DAWES,  
MEREDITH H. KIDD,  
ARCHIBALD S. MCKENNON,  
*Commissioners.*

These propositions were accompanied by the following letter of transmittal:

SOUTH MCALESTER, IND. T., *July 25, 1894.*

DEAR SIR: The commission appointed by you last January, upon an interview with this commission, under instructions from the Cherokee council, declined to take any steps looking to a change of land tenure and the organization of a territorial government by the United States. Believing the Cherokee people did not fully comprehend the changes proposed, and the willingness and anxiety of the United States Government to throw around them protection against any possible injury resulting from such proposed change, it was deemed advisable by this commission to disseminate among them such information as would enable them to fully understand the same, with the necessity therefor, and the reasons why the same was desired by our Government. This was promptly done, and a sufficient time has now elapsed for them to reach a deliberate conclusion.

We therefore have the honor to submit for the consideration of your government propositions outlining the prominent features of an agreement desired by the United States Government, and to request that the same be submitted to your legislative council, and that a commission on the part of the Cherokee Nation be appointed to negotiate with this commission under the provisions of the sixteenth section of an act of Congress approved March 3, 1893.

We shall be pleased to learn of the action of your government prior to the 1st day of October, 1894, at which time it will be the duty of this commission, if negotiations have not been previously entered upon, to report to the Secretary of the Interior the condition of the Cherokee people, the system of land holding now prevalent, and the influence now obstructing the policy of the Government in securing a change of both land tenure and government, and such other matters as should be embraced in said report.

We have the honor to be, governor, yours, with great respect,

HENRY L. DAWES,  
MEREDITH H. KIDD,  
ARCHIBALD S. MCKENNON,  
*Commissioners.*

Hon. C. J. HARRIS,  
*Principal Chief, Cherokee Nation.*

After these propositions were submitted, it came to our knowledge that the honorable Secretary of the Interior had decided that the Cherokee tribe was the exclusive judge as to who were citizens of said tribe, and we accordingly waived the appointment of a board as provided for in the seventh proposition, and notified the principal chief of the Cherokee tribe of such decision and waiver.

After said propositions were submitted to the Cherokee tribe, Chief Harris requested that the time for an answer thereto be extended until a meeting of the Cherokee council on the first Monday in November, 1894, which we agreed to. The Cherokee council is now in session, but up to this date no response has been received.

#### SEMINOLE NATION.

In answer to our letter to the governor of the Seminole tribe, he suggested that the national council of the Seminole tribe would convene early in April and named the 6th day of April, 1894, as the time and Wewoka as the place he desired this commission to meet and address said council. Pursuant to such suggestion we met and addressed the council and a large number of citizens of said tribe. Afterwards the council met and adopted resolutions declining to take any action whatever with a view of negotiating with this commission. Not having done so before, we, on the 26th day of July, 1894, in order to make our propositions more specific and definite, and to obtain a clear response thereto, submitted to the Seminole tribe the following propositions:

#### PROPOSITIONS TO THE SEMINOLES.

The commission to the Five Civilized Tribes, appointed by the President under section 16 of an act of Congress, approved March 3, 1893, propose to treat with the Seminole Nation on the general lines indicated below, to be modified as may be deemed wise by both parties after discussion and conference.

First. To divide all lands now owned by the Seminole Nation, not including town sites, among all citizens according to the treaties now in force, reserving town sites, coal and minerals, for sale under special agreement. Sufficient land for a good home for each citizen to be inalienable for twenty-five years, or such longer period as may be agreed upon.

Second. The United States to agree to put each allottee in possession of the lands allotted to him without expense to the allottee—that is, to remove from the allottee's land all persons who have not written authority to be on the same, executed by the allottee after the date of the evidence of title.

Third. Town sites, and coal and minerals discovered before allotment, to be the subjects of special agreements between the parties—such as will secure to the nation and to those who have invested in them a just protection and adjustment of the respective rights and interests therein.

Fourth. A final settlement of all claims against the United States.

Fifth. All invested funds, not devoted to school purposes, and all moneys derived from the sale of town sites, coal and minerals, as well as all moneys found due from the United States, to be divided per capita among the citizens according to their respective rights under the treaties and agreements.

Sixth. All moneys due the citizens of said nation, except that devoted to school purposes, to be paid per capita to the citizens entitled thereto by an officer of the United States, to be appointed by the President.

Seventh. If an agreement shall be reached with the Seminole Nation a Territorial government may be formed by Congress and established over the territory of the Seminole Nation and such other of the Five Civilized Tribes as may have at the time agreed to allotment of lands and change of government.

Eighth. Such agreements when made shall be submitted for ratification to the Seminole government, and, if ratified by it, shall then be submitted to Congress for approval.

Ninth. The present tribal government to continue in existence until after the lands are allotted and the allottee put in possession, each of his own land, after which a territorial government may be established by Congress.

HENRY L. DAWES,  
MEREDITH H. KIDD,  
ARCHIBALD S. MCKENNON,  
*Commissioners.*

The foregoing propositions were accompanied by the following letter of transmittal:

SOUTH McALESTER, IND. T., *July 28, 1894.*

DEAR SIR: Please find inclosed formal propositions indicating the general line upon which this Commission proposes to negotiate with the Seminole Nation.

We request that your nation appoint a commission to arrange the details of such an agreement as this commission is authorized to make under the sixteenth section of an act of Congress approved March 3, 1893.

We hope to be informed in regard to the action of your nation prior to the 1st of October next. If your nation should decline to appoint a commission as requested, we desire at that time to submit a report to the Secretary of the Interior of the condition of the Seminole people and the causes and influences obstructing the policy of the U. S. Government in regard to a change of land tenure and government, with such other facts as may seem pertinent and will enable the Government to take such further action as it may deem wise.

Information, alike accessible to all, must convince you of the earnest desire of the United States to effect a change in the condition of the Five Civilized Tribes, and of the many advantages which would accrue to your people if they shall effect such change by agreement.

We have the honor to be, respectfully, yours,

HENRY L. DAWES,  
MEREDITH H. KIDD,  
ARCHIBALD S. MCKENNON,  
*Commissioners.*

Hon. JOHN F. BROWN,  
*Principal Chief, Seminole Nation, Wewoka, Ind. T.*

To the above propositions we have not, as yet, received any reply.

#### SOME EXPLANATIONS.

Early interviews with us by commissioners appointed by the several tribes, and with citizens, satisfied us that the Indians would not, under any circumstances, agree to cede any portion of their lands to the Government, but would insist that if any agreements were made for allotment of their lands it should all be divided equally among them. Among other reasons assigned, it was stated that a cession to the United States would likely make operative and effective the various railroad grants; that they preferred each to sell his share of the lands and receive the money for it, as if ever their lands were converted into money it would go into the hands of the officers of the tribes, who would swindle them out of a large portion of it. Finding this unanimity among the people against the cession of any of their lands to the United States, we abandoned all idea of purchasing any of it and determined to offer them an equal division of all their lands. Hence the first proposition made to each tribe.

An objection very generally urged to allotment of lands was that they would be in possession, when allotted, of noncitizens, whom they could not dispossess without interminable lawsuits, and as the Indians, especially the full-bloods, have a settled aversion to go into our courts, we, to remove this difficulty, submitted the second proposition to each tribe.

There are towns in the Territory ranging in population from a few people to 5,000 inhabitants. Nearly all of them are noncitizens. These towns have not been surveyed or platted, and streets exist only by agreement and arrangement among the people who have constructed them, and are often bent and irregular. Many large and valuable stone, brick, and wooden buildings have been erected by noncitizens of these towns, and the lots on which they stand are worth many thousands of dollars. These town sites are not susceptible of division among the Indians, and the only practicable method of adjusting the equities between the tribes who own the sites and those who have constructed the buildings is to appraise the lots without the improvements and the improvements without the lots, and allow the owners of the improvements to purchase the lots at the appraised value, or to sell lot and improvements and divide the money according to the appraisal. Hence, the third proposition to all the tribes, town sites were reserved for disposition under special agreements.

Complaints are made by the Cherokees that many freedmen are on the rolls made under the direction of the Government, and known as the "Wallace Roll," who are not entitled to be there, and many freedmen complain that they have been improperly omitted. The chief of the Cherokee tribe suggested that they might be willing to submit all these disputes to this commission for decision, but it was believed that if an intelligent Cherokee by blood was one of such board, it would give the Cherokee people a knowledge of the good faith and correctness of the decision, and secure their confidence in the conclusions arrived at. Hence, in the eighth proposition to the Cherokees, we propose such board be composed of two members of this commission and one Cherokee by blood.

The Cherokee tribe is clamorous for the execution of the agreement in regard to intruders contained in the contract heretofore made with that tribe in purchasing the "Outlet," and we have been met by the declaration repeatedly made by those in power, that when that agreement was carried out it would be time to discuss the propriety of making another. We therefore provided that that agreement should



not in any way be impaired, though it is believed the proposition numbered second is certainly the most satisfactory and effective method of settling the intruder question that has been suggested.

Our instructions were to endeavor to secure the sixteenth and thirty-second sections for school purposes. This was strenuously objected to on the ground, as was claimed, that it would be requiring them to furnish a large school fund for a people of whom they did not constitute more than one-seventh. It was therefore omitted in the propositions made to all the tribes.

The Choctaws and Chickasaws are still claiming an interest in the south part of what is known as the "Leased district," and they insisted that if negotiations were entered upon this matter should also be adjusted before the abolition of their tribal governments, and we embraced it in the fourth proposition to them that the matter might properly come before the tribe and the Government when negotiations were concluded.

In addition to these official communications, and in order that their purport might reach as many individual Indians of the several tribes as possible and their importance be fully understood, we have held frequent conferences with the citizens themselves and personally with those in authority at their respective capitols, at our own headquarters, and whenever an opportunity presented itself. We addressed frequent meetings of the Indians also for that purpose in different parts of the Territory, and have visited all parts of it to acquaint ourselves with the condition of the people and with their views upon the subject-matter of our mission. We have also presented the subject through the public press of the Territory whenever possible, and have caused our addresses, circulars, and propositions to be translated into the languages of the different tribes and circulated among those who do not understand the English language. A copy of our address to the citizens of the Five Tribes, issued soon after our arrival in the Territory, is herewith submitted.

The east half of the Territory, inhabited by the Five Civilized Tribes, is mostly covered with dwarf oak, and a belt of similar timber extends west to Oklahoma through the north part of the Chickasaw and south part of the Creek countries, and covers most of the Seminole country. In the Chickasaw, Choctaw, and Seminole countries are mountains of considerable extent covered with pine forests. The margins of streams are bordered with heavy timber, in which are jungle and vines, constituting impenetrable thickets. The remainder of the country is prairie of rich alluvial soil and admirably adapted to agricultural purposes. The land covered with oak timber is generally poor, rocky, and mostly worthless for cultivation.

Coal of superior quality abounds in the Territory, and in the Choctaw country especially are immense beds, worth many millions of dollars, which are being extensively worked by large and costly plants. These coal beds are shingled over with leases and discoverers' rights, claimed under existing law, and complications are arising which will lead to conflict and endless litigation, and which are constantly growing worse.

The abundance of game, fine spring water, and convenience of wood led the Indians to settle in the timber country when first transferred to the Territory, and where the full-bloods still remain, eking out an existence on a few acres of corn raised in the small valleys, and the hogs raised on the acorns.

The real Indian is living in this sterile country, far from the whites and from all civilizing influences.

The mountains and thickets along the water courses afford a refuge and abiding place for criminals and outlaws, whence they sally in their forays on the surrounding country and States, and to which they return when pursued. The immunity thus afforded from arrest and punishment, encourages lawlessness and only the presence of large bodies of armed men or the settlement of the country can extirpate this evil.

Indians living in the woods are by the admission of their wisest men less civilized and fit for citizenship than they were twenty years ago. Theirs is a case of arrested progress, and it is believed that the only hope of civilizing them is to induce them to settle on the fertile lands, rent portions to the whites, mingle freely with them, attending the same churches and schools.

The barrier opposed at all times by those in authority in the tribes, and assuming to speak for them as to any change in existing conditions, is what they claim to be "the treaty situation." They mean by this term that the United States is under treaty obligations not to interfere in their internal policy, but has guaranteed to them self-government and absolute exclusion of white citizens from any abode among them; that the United States is bound to isolate them absolutely. It can not be doubted that this was substantially the original governing idea in establishing the Five Tribes in the Indian Territory, more or less clearly expressed in the treaties, which are the basis of whatever title and authority they at present have in the possession of that Territory, over which they now claim this exclusive jurisdiction. To that end the United States, in different treaties and patents executed in

pursuance of such treaties, conveyed to the several tribes the country originally known as the "Indian Territory," of which their present possessions are a part only, and agreed to the establishment by them therein of governments of their own. The United States also agreed to exclude all white persons from their borders.

These treaties, however, embraced stipulations equally clear, that these tribes were to hold this territory for the use and enjoyment of all Indians belonging to their respective tribes, so that every Indian, as is expressed in some of the treaties, "shall have an equal right with every other Indian in each and every portion of the territory," and the further stipulation that their laws should not conflict with the Constitution of the United States. These were executory provisions to be observed in the future by both sides. Without regard to any observance of them on their part, the Indians claim that these treaties are irrevocably binding on the United States. These stipulations naturally grew out of the situation of the country at the time they were made, and of the character of the Indians with whom they were made. The present growth of the country and its present relations to this territory were not thought of or even dreamed of by either party when they entered into these stipulations. These Indians were then at a considerably advanced stage of civilization, and were thought capable of self-government, in conformity with the spirit if not the forms of the National Government, within whose limits they were to remain. It was not altogether unreasonable, therefore, to conclude that it would be possible, as it was by them desirable, that these Indians could have set apart to them a tract of country so far remote from white civilization and so isolated that they could work out the problem of their own preservation under a government of their own, and that not only with safety to the Union but with altogether desirable results to themselves.

For quite a number of years after the institution of this project it seemed successful, and the Indians under it made favorable advance toward its realization. But within the last few years all the conditions under which it was inaugurated have undergone so complete a change that it has become no longer possible. It is hardly necessary to call attention to the contrast between the present conditions surrounding this Territory and those under which it was set apart. Large and populous States of the Union are now on all sides of it, and one-half of it has been constituted a Territory of the United States. These States and this Territory are teeming with population and increasing in numbers at a marvelous rate. The resources of the Territory itself have been developed to such a degree and are of such immense and tempting value that they are attracting to it an irresistible pressure from enterprising citizens. The executory conditions contained in the treaties have become impossible of execution. It is no longer possible for the United States to keep its citizens out of the Territory. Nor is it now possible for the Indians to secure to each individual Indian his full enjoyment in common with other Indians of the common property of the Territory.

The impossibility of enforcing these executory provisions has arisen from a neglect on both sides to enforce them. This neglect is largely the result of outside considerations for which neither is responsible and of the influence of forces which neither can control. These executory conditions are not only impossible of execution, but have ceased to be applicable or desirable. It has been demonstrated that isolation is an impossibility, and that, if possible, it could never result in the elevation or civilization of the Indian. It has been made clear that under its operations, imperfectly as it has been carried out, its effect has been to retard rather than to promote civilization, to impair rather than strengthen the observance of law and order and regard for human life and human rights or the protection or promotion of a virtuous life. To such a degree has this sad deterioration become evident that to-day a most deplorable and dangerous condition of affairs exist in the Territory, causing widespread alarm and demanding most serious consideration.

All the functions of the so-called governments of these five tribes have become powerless to protect the life or property rights of the citizen. The courts of justice have become helpless and paralyzed. Violence, robbery, and murder are almost of daily occurrence, and no effective measures of restraint or punishment are put forth to suppress crime. Railroad trains are stopped and their passengers robbed within a few miles of populous towns and the plunder carried off with impunity in the very presence of those in authority. A reign of terror exists, and barbarous outrages, almost impossible of belief, are enacted, and the perpetrators hardly find it necessary to shun daily intercourse with their victims. We are now informed that, within the territory of one of these tribes, there were 53 murders during the month of September and the first twenty-four days of October last, and not a single person brought to trial.

In every respect the present condition of affairs demonstrates that the permission to govern themselves, under the Constitution of the United States, which was originally embraced in the treaty, has proved a failure. So, likewise, has the provision that requires the United States to exclude white citizens from the Territory. The

course of procedure by the governments of the Five Tribes has largely contributed to this result, and they are quite as much responsible as the United States for the fact that there are 250,000 white people residing in the Territory. These citizens of the United States have been induced to go there in various ways and by various methods by the Indian governments themselves. These governments consented to the construction of a number of railways through the Territory, and thereby consented that they bring into the Territory all that is necessary in the building and operation of such railroads—the necessary depots, stations, and the inevitable towns which their traffic was sure to build up, and the large building which white men alone could develop and which these railroads were sure to stimulate and make profitable.

Besides these, they have, by their laws, invited men from the border States to become their employés in the Territory, receiving into their treasuries a monthly tax for the privilege of such employment. They have also provided by law for the intermarriage of white persons with their citizens and adopted them into their tribes. By operation of these laws large numbers of white people have become adopted citizens, participating in the benefits of citizenship. A single instance of such marriage has enabled one white man under the laws to appropriate to his exclusive use 50,000 acres of valuable land. They have, by their legislation, induced citizens of the United States to come in from all sides and under leases and other agreements with private citizens, sanctioned by their own laws, farmed out to them large ranges of their domain, as well as inexhaustible coal deposits within their respective borders, and other material interests which civilized white men alone could turn to profit. In some sections of the Territory the production of cotton has proved so feasible and profitable that white men have been permitted to come in by thousands and cultivate it and build trading marts and populous towns for the successful operation of this branch of trade alone.

In a single town of 5,000 white inhabitants, built there by their permission and also for the profit of the Indian, there were during last year marketed 40,000 bales of cotton. They have also sold off to the United States one-half of their original territory, to be opened up to white settlement on their western borders, in which, with their consent thus obtained, 300,000 white citizens have made their homes, and a Territorial government by this means has been erected in the midst of their own territory, which is forbidden by one of the executory provisions of the treaty. The day of isolation has passed. Not less regardless have they been of the stipulations in their title that they should hold their territory for the common and equal use of all their citizens. Corruption of the grossest kind, openly and unblushingly practiced, has found its way into every branch of the service of the tribal governments. All branches of the governments are reeking with it, and so common has it become that no attempt at concealment is thought necessary. The governments have fallen into the hands of a few able and energetic Indian citizens, nearly all mixed blood and adopted whites, who have so administered their affairs and have enacted such laws that they are enabled to appropriate to their own exclusive use almost the entire property of the Territory of any kind that can be rendered profitable and available.

In one of these tribes, whose whole territory consists of but 3,040,000 acres of land, within the last few years laws have been enacted under the operation of which 61 citizens have appropriated to themselves and are now holding for pasturage and cultivation 1,237,000 acres. This comprises the arable and greater part of the valuable grazing lands belonging to that tribe. The remainder of that people, largely the full-bloods who do not speak the English language, are excluded from the enjoyment of any portion of this land, and many of them occupy the poor and hilly country where they get a scanty living from such portions as they are able to turn to any account. This class of persons in the Territory are making little if any progress in civilization. They are largely dependent on those in control of public affairs, whose will they register at the polls and with whose bidding, in a large measure, they comply without question. Those holding power by these means oppose any change and ask only to be let alone.

In another of these tribes, under similar legislation, vast and rich deposits of coal of incalculable value have been appropriated by the few, to the exclusion of the rest of the tribe and to the great profit of those who operate them and appropriate their products to their individual use. Large and valuable plants for mining coal have been established by capitalists under leases by which, together with "discoverer's claims" authorized by the tribal governments, these coal lands are covered, and under the workings of which the rightful owners are being despoiled of this valuable property with very little or no profit to them; and it is clear that this property should be restored to the common domain and protected to the common people, and the mines worked under a system just and equitable to all who have rights therein.

The vast pine forests heretofore spoken of, which are of incalculable value, if not indispensable, in the future development of the country and the building up of homes and improvements of the agricultural lands, are being spoliated and laid

waste by attempts, under laws enacted for that purpose, to grant to a few, mostly adopted white citizens, the right to cut and market for their own use whatever timber they can turn to their own profit. This is an irreparable destruction of one of the most essential elements of the progress of the country in the future and should be at once arrested.

Towns of considerable importance have been built by white persons under leases obtained from Indians claiming the right to appropriate the common property to these uses. Permanent improvements of great value have thus been made by white citizens of the United States, induced and encouraged thereto by the tribal governments themselves, and have become immovable fixtures which can not be taken away. However difficult the problem of adjusting rights thus involved, nothing can be more clear than that the step can not be retraced. Towns built under such inducements can not be removed nor their structures razed to the ground, nor can the places they occupy be restored to the conditions originally contemplated by the treaties. Ruinous as any such attempt would be to those thus induced to expend their money in building these towns, it would not be less ruinous to the Indians themselves to be, by any such attempt, forced back to the methods of life existing before the coming of these white men. The original idea of a community of property has been entirely lost sight of and disregarded in every branch of the administration of their affairs by the governments which have been permitted to control this Territory under the treaty stipulations which are now being invoked, by those who are in this manner administering them, as a protection for their personal holdings and enterprises.

The large payments of moneys to the Indians of these tribes within the last few years have been attended by many and apparently well-authenticated complaints of fraud, and those making such payments, with others associated with them in the business, have, by unfair means and improper use of the advantages thus afforded them, acquired large fortunes, and in many instances private persons entitled to payments have received but little benefit therefrom. And worse still is the fact that the places of payments were thronged with evil characters of every possible caste, by whom the people were swindled, defrauded, robbed, and grossly debauched and demoralized. And in case of further payments of money to them the Government should make such disbursements to the people directly, through one of its own officers.

We feel it our duty to here suggest that any measures looking to any change of affairs in this Territory should embrace special, strict, and effective provisions for protection of the Indian and other citizens from the introduction, manufacture, or sale of intoxicants of any kind in the Territory, with penalties therefor and for failure by officers to enforce same, sufficiently severe to cause their perfect execution. A failure to thus protect these Indians will, in a measure, work their extinction at no distant day.

It is a deplorable fact, which should not be overlooked by the Government, that there are thousands of white children in this territory who are almost wholly without the means of education, and are consequently growing up with no fitting preparation for useful citizenship. A matter of so much concern to the country should not be disregarded.

When the treaties were reaffirmed in 1866, provision was made for the adoption and equality of rights of the freedmen, who had theretofore been slaves in the tribes, upon terms provided in the treaties. The Cherokees and Choctaws have appeared to comply with the letter of the prescribed terms, although very inadequately and tardily, and the Chickasaws at one time took some steps toward complying with these terms, but now deny that they ever adopted the freedmen, and are endeavoring to retrace the steps originally taken. They now treat the whole class as aliens without any legal right to abide among them, or to claim any protection under their laws. They are shut out of the schools of the tribe, and from their courts, and are granted no privileges of occupancy of any part of the land for a home, and are helplessly exposed to the hostilities of the citizen Indian and the personal animosity of the former inaster. Peaceable, law-abiding, and hard-working, they have sought in vain to be regarded as a part of the people to whose wealth their industry is daily contributing a very essential portion. They number in that tribe about 4,000, while the Chickasaws number 3,500. The United States is bound by solemn treaty to place these freedmen securely in the enjoyment of their rights as Chickasaw Indians, and can not with honor ignore the obligation.

Upon this subject, as also the claims and condition of the Choctaw freedmen, referred to us by the Department, we submit with this report briefs prepared and submitted to us by Hon. R. V. Belt, and Hon. J. P. Mullen, counsel for the Choctaw and Chickasaw freedmen.

The condition of the freedmen in the Choctaw and Cherokee tribes is little better than that of those among the Chickasaws, although they have been adopted according to the requirements of the treaties. They are yet very far from the enjoyment of all the rights, privileges, and immunities to which they are entitled under the

treaties. In the Choctaw tribe, the 40 acres to which they are entitled for a home has not been set apart to them and no one has any title to a single foot of land he may improve or occupy. Whenever his occupancy of land is in the way of any citizen Indian he is at once, by means sufficiently severe and threatening, compelled to leave his improvements. He consequently has no abiding place, and what he is enabled to get from the soil for his support, he is compelled to gather either furtively or by the most absolute subserviency to the will, caprices, or exactions of his former master. But meager provision is made for the schooling of his children, and but little participation in the management of the government of which he is a citizen is permitted him. He is nevertheless moral, industrious, and frugal, peaceable, orderly, and obedient to the laws, taking no part in the crimes which have of late filled the country with alarm and put in peril the lives and property of law-abiding citizens. A number of these sought an interview with us on one occasion, but were, as we were informed, warned by a prominent Indian citizen that if they called upon us they would be killed, which warning they heeded.

In the Cherokee tribe the schools provided for the freedmen are of very inferior and inefficient character, and practically their children are growing up in deplorable ignorance. They are excluded from participation in the per capita distribution of all funds, and are ignored in almost all respects as a factor in the government of a people of whose citizenship they are by the treaties in all respects made a part. Yet in this tribe the freedmen are conspicuous for their morality, industrial and frugal habits, and for peaceable and orderly lives.

Justice has been utterly perverted in the hands of those who have thus laid hold of the forms of its administration in this Territory and who have inflicted irreparable wrongs and outrages upon a helpless people for their own gain. The United States put the title to a domain of countless wealth and unmeasured resources in these several tribes or nationalities, but it was a conveyance in trust for specific uses, clearly indicated in the treaties themselves, and for no other purpose. It was for the use and enjoyment in common by each and every citizen of his tribe, of each and every part of the Territory, thus tersely expressed in one of the treaties: "To be held in common, so that each and every member of either tribe shall have an equal undivided interest in the whole." The tribes can make no other use of it. They have no power to grant it to anyone, or to grant to anyone an exclusive use of any portion of it. These tribal governments have wholly perverted their high trusts, and it is the plain duty of the United States to enforce the trust it has so created and recover for its original uses the domain and all the gains derived from the perversions of the trust or discharge the trustee.

The United States also granted to these tribes the power of self-government, not to conflict with the Constitution. They have demonstrated their incapacity to so govern themselves, and no higher duty can rest upon the Government that granted this authority than to revoke it when it has so lamentably failed.

In closing this report we may be permitted to add that we have observed with pain and deep regret that the praiseworthy efforts of the Christian church, and of benevolent associations from different parts of the country, so long continued among the tribes, are being counteracted and rendered in a large measure nugatory by the untoward influences and methods now in force among them tending directly to destroy and obliterate the beneficial effects of their good work.

Respectfully submitted.

HENRY L. DAWES,  
MERIDITH H. KIDD,  
ARCHIBALD S. MCKENNON,  
*Commissioners.*

Hon. HOKE SMITH,  
*Secretary of the Interior, Washington, D. C.*

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STATEMENT OF THE CHOCTAW FREEDMEN,  
SETTING FORTH  
THEIR WRONGS, GRIEVANCES, CLAIMS, AND WANTS.

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AUGUST, 1894.

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Submitted to HON. HENRY L. DAWES, Chairman,  
HON. MEREDITH H. KIDD,  
HON. ARCHIBALD S. MCKENNON,  
*Commission to the Five Civilized Tribes, Muscogee, Indian Territory.*

By E. D. COLBERT,  
D. BARROWS,  
WESLEY MCKENNEY,  
*Committee of the Choctaw Colored Citizens' Association.*

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HON. R. V. BELT, Washington, D. C.,  
HON. J. P. MULLEN, Fort Smith, Ark.,  
*Attorneys and Counsel for Association.*



INDIAN TERRITORY, August —, 1894.

Hon. HENRY L. DAWES, *Chairman*,  
Hon. MEREDITH E. KIDD,  
Hon. ARCHIBALD S. MCKENNON,

*Commission to The Five Civilized Tribes, Muscogee, Indian Territory.*

GENTLEMEN: For the purpose of considering the business, claims, and grievances of those persons who were formerly held in slavery by the Choctaw Indians, and their descendants, including those persons who have intermarried with Choctaw freedwomen, and those Choctaw Indian women by blood who have intermarried with persons of African descent, and all other persons of African and Choctaw blood and descent, residing in the Choctaw Nation, an association has heretofore been formed, whose membership is composed of the classes of persons enumerated, and is known by the name of the Choctaw Colored Citizens' Association.

REFERRED TO THE DAWES COMMISSION.

In response to a letter addressed to him on the subject, the honorable Secretary of the Interior has advised us to lay our grievances, condition, claims, etc., before the Commission appointed by the President to negotiate with the Five Civilized Tribes in the Indian Territory.

PROCEEDINGS OF THE CHOCTAW COLORED CITIZENS' CONVENTION.

In order that we might comply with this suggestion, a call was made, of which due and timely notice was given, for the members of the Choctaw Colored Citizens' Association to meet in convention at Goodland, Kiamichi County, Choctaw Nation, on the 1st day of February, 1894. At the time and place indicated, the convention was duly and regularly assembled and the proceedings thereof are contained in the accompanying printed pamphlet, embracing a "Memorial of the Choctaw Colored Citizens' Association," wherein is set out very briefly and very generally the wrongs and injustice suffered by the classes of persons comprising the association (who, for convenience, will hereafter be referred to in this paper as the "Choctaw freedmen") by reason of the failure of the Choctaw Nation and the United States to fulfill the treaty relations concerning and affecting the Choctaw freedmen.

It will be seen by reference to the printed pamphlet of the proceedings of the convention (copy herewith, Exhibit 1), that the undersigned were appointed a committee to call upon, confer with, and make known to your Commission the condition, status, grievance, and wants of the Choctaw freedmen.

CONFIDENCE IN THE DAWES COMMISSION.

The Choctaw freedmen consider themselves fortunate indeed in that they have the privilege of laying their claims and grievances before a Commission, now so close at hand, and composed of gentlemen so able, so wise, and so well known for their disposition to do what is fair, right, and just in all matters with which they have to deal. They consider themselves particularly fortunate that they are referred to a Commission whose chairman is a statesman of such exalted national reputation, having such long and thorough familiarity with and experience in the affairs concerning the Indians of this country, and whose wisdom in discerning what is right has contributed so largely to the solution and adjustment of so many difficult problems affecting the relation of the Indian tribes to each other and to the Government of the United States. We therefore feel encouraged that at the hands of your Commission some fair and just plan will be adopted whereby the great wrongs and injustice inflicted upon and suffered so long by the Choctaw freedmen will be righted and adjusted.

UNJUST DISCRIMINATION AGAINST CHOCTAW FREEDMEN AND THE RESPONSIBILITY THEREFOR.

The Choctaw freedmen had no choice in the establishment of the relation of slaves to the Choctaw Indians which previously existed. Their lot, like that of all slaves doomed to unrequited toil and the privations, sufferings, and sorrows of involuntary



bondage and servitude, was a hard one. But when their freedom was secured their great love and attachment for home, kindred, and the associations of their youth induced them rather to remain in the place of their birth, among familiar scenes, customs, and habits, notwithstanding all the surrounding embarrassments, hindrances, etc., than to adventure forth to new fields and occupations amid untried and unfamiliar environments.

The liberation of the Choctaw slaves was a consequence and result of the great war of the rebellion, in which the Choctaw Indians generally threw their aid and influence against the United States. The provision of the treaty of 1866, against slavery thereafter in the Choctaw Nation, was only to give formal acquiescence to what had already been accomplished and already existed.

The Choctaw freedmen claim that when the Choctaw Indians were seeking the reconstruction of their treaty relations with the United States the Choctaw freedmen at that time should have been recognized and treated as Choctaws in all respects, with equal rights with the Choctaw Indians by blood, without regard to their previous condition of servitude.

Upon every principle of justice the recognition of the right of the Choctaw freedmen to a proportionate share in all that belonged to or was claimed by the Choctaw Nation should have been secured to them when the treaty relations between the United States and the Choctaw Indians, broken during the war of the rebellion, were reconstructed.

That such recognition of the equal rights of the Choctaw freedmen in and to the national estate of the Choctaw Indians was not secured in the treaty of 1866 is no fault of the Choctaw freedmen, as they had no voice in the making of that treaty, and they were represented therein only so far as the United States looked after their interests and welfare. That treaty left them without defined rights; unsecured in any privileges, rights, and immunities, with only a stipulation for alternative prospective action for the establishment of their status by either the Choctaw Nation or the United States, as contained in articles 3 and 4 of said treaty, which are as follows:

**ART. III.** The Choctaws and the Chickasaws, in consideration of the sum of three hundred thousand dollars, hereby cede to the United States the territory west of the 98<sup>th</sup> west longitude, known as the leased district, provided that the said sum shall be invested and held by the United States, at an interest not less than five per cent, in trust for the said nations, until the legislatures of the Choctaw and the Chickasaw nations, respectively, shall have made such laws, rules, and regulations as may be necessary to give all persons of African descent, resident in said nations at the date of the treaty of Fort Smith and their descendants, heretofore held in slavery among said nations, all the rights, privileges, and immunities, including the right of suffrage, of citizens of said nations, except in the annuities, moneys, and public domain claimed by, or belonging to, said nations, respectively; and also to give to such persons who were resident as aforesaid, and their descendants, forty acres each of the land of said nations, on the same terms as the Choctaws and Chickasaws, to be selected on the survey of said land, after the Choctaws and Chickasaws and Kansas Indians have made their selections as herein provided; and immediately on the enactment of such laws, rules, and regulation, the said sum of three hundred thousand dollars shall be paid to the said Choctaw and Chickasaw nations in the proportion of three-fourths to the former and one-fourth to the latter, less such sum at the rate of one hundred dollars per capita, as shall be sufficient to pay such persons of African descent before referred to, as within ninety days after the passage of such laws, rules, and regulations, shall elect to remove, and shall actually remove, from the said nations, respectively. And should the said laws, rules, and regulations not be made by the legislatures of the said nations, respectively, within two years from the ratification of this treaty, then the said sum of three hundred thousand dollars shall cease to be held in trust for the said Choctaw and Chickasaw nations, and be held for the use and benefit of such of said persons of African descent as the United States shall remove from said territory, in such manner as the United States shall deem proper, the United States agreeing, within ninety days from the expiration of the said two years, to remove from said nations all such persons of African descent as may be willing to remove; those remaining, or returning after having been removed from said nations, to have no benefit of said sum of three hundred thousand dollars, or any part thereof, but shall be upon the same footing as other citizens of the United States in the said nations.

**ART. IV.** The said nations further agree that all negroes, not otherwise disqualified or disabled, shall be competent witnesses in all civil and criminal suits and proceedings in the Choctaw and Chickasaw courts, any law to the contrary notwithstanding; and they fully recognize the right of the freedmen to a fair remuneration on reasonable and equitable contracts for their labor, which the law should aid them to enforce. And they agree, on the part of their respective nations, that all laws shall be equal in their operation upon Choctaws, Chickasaws, and negroes, and that no dis-

junction affecting the latter shall at any time be made, and that they shall be treated with kindness and be protected against injury; and they further agree that while the said freedmen now in the Choctaw and Chickasaw nations remain in said nations, respectively, they shall be entitled to as much land as they may cultivate for the support of themselves and their families, in cases where they do not support themselves and families by hiring, not interfering with existing improvements without the consent of the occupant, it being understood that in the event of the making of the laws, rules, and regulations aforesaid, the forty acres aforesaid shall stand in place of the land cultivated as last aforesaid." (14 Stat., 769.)

The delay and failure of both the Choctaw Nation and the United States for so many years in any attempt at fulfillment of the treaty stipulations, wrought irreparable wrongs, untold hardships, and great injustice and suffering to the Choctaw freedmen.

They had no adequate legal security in any kind of property; no place they could call their own; were not encouraged by any sufficient legal protection, they could not build themselves homes, or surround themselves with even the barest means of existence; to say nothing of the comforts and pleasures which come with an advancing civilization. No provision was made by the United States or by the Choctaw Nation for the education of their children, and they, in their poverty, and with no defined rights, privileges, and immunities, could not procure and provide necessary educational facilities; in the absence of which their children grew up in ignorance, to their great harm, wrong, and disadvantage.

The status of the former slaves of the Indian tribes, among which slavery existed, after their liberation as a result of the war of the rebellion, was not in many respects analogous to that of the liberated slaves of the other sections of the country. The latter were made citizens of the United States, and of the States in which they resided, by an amendment to the Constitution. They became thereby owners in common with equal rights and interests, with all other citizens of the United States in all of the common property of the United States, and with the citizens of their respective States of the common property of said States, and became entitled to full and equal enjoyment of all benefits and advantages derived therefrom.

If the land and other property in the States had been held in common by the citizens thereof, instead of in severalty, as was and is the case, the former slaves and newly made citizens would have become entitled to a pro rata share thereof according to their numbers.

As the land, invested funds, annuities, and other moneys belonging to or claimed by the Choctaw Nation, and constituting the estate of said nation were—as they are yet—held in common by the citizens of the Choctaw Nation, the former slaves of the Choctaw Indians, when liberated as a consequence of the war of the rebellion, should have been recognized at once as Choctaws in all respects and entitled to all the rights, privileges, and immunities, including the right of suffrage, of citizens of said nation, and also including the right to share equally with the citizens of said nation in the annuities and other moneys and the public domain belonging to or claimed by said nation. That this claim is right and just is shown by the action taken in the reconstructed treaties of 1866 made with the Creeks, Seminoles, and Cherokees, of the Five Civilized Tribes.

In the treaty of 1866 with the Creeks, this provision is made:

"ART. II. The Creeks hereby covenant and agree, that henceforth neither slavery nor involuntary servitude, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted in accordance with laws applicable to all members of said tribe, shall ever exist in said nation; and inasmuch as there are among the Creeks many persons of African descent who have no interest in the soil, it is stipulated that hereafter these persons lawfully residing in said Creek country under their laws and usages, or who have been thus residing in said Creek country, and may return within one year from the ratification of this treaty, and their descendants and such others of the same race as may be permitted by the laws of said nation to settle within the limits of the jurisdiction of the Creek Nation as citizens (thereof) shall have and enjoy all the rights and privileges of native citizens, including an equal interest in the soil and national funds, and the laws of the said nation shall be equally binding upon and give equal protection to all such persons and all others, of whatsoever race or color, who may be adopted as citizens or members of said tribe." (14 Stat., 786.)

In the treaty of 1866 with the Seminoles, article 2 is to the same effect. (14 Stat., 756.)

In the Cherokee treaty of 1866 a right to occupy and improve the land, and "all the rights of native Cherokees" are accorded to the Cherokee freedmen and certain other free colored persons, by articles 4, 5, 6, 7, 8, 9, etc. (14 Stat., 800.)

There was no reason why the same principle of justice and right should not have been secured to the Choctaw and Chickasaw freedmen; and with the equality of rights, privileges, and immunities, including the interest in the tribal estate, so fully

acknowledged and recognized in the reconstructed treaties negotiated and concluded with the Creek, Seminole, and Cherokee nations, of the Five Civilized Tribes, to the former slaves of the people of said tribes, it is a cause for great wonder that the United States finally concluded any treaty at that time with the Choctaw and Chickasaw nations which did not fully recognize the equal rights and interests of the former slaves of said tribes in and to the tribal estates.

Who is responsible for this unjust and ruinous discrimination against the Choctaw and Chickasaw freedmen? To whom should they apply but to the United States for the proper measures of relief and reparation?

#### SUBSEQUENT INEFFECTUAL EFFORTS TO REMEDY ADMITTED TREATY INJUSTICE.

The Choctaw and Chickasaw treaty of 1866 failed to establish and define the status of the freedmen of said tribes. This failure was soon found to have been a serious mistake, the responsibility for which was certainly not with the Choctaw and Chickasaw freedmen.

It has been subsequently sought at various times to secure legislation by Congress to correct this mistake. And the justice of the claim that is here set up in behalf of the Choctaw freedmen, has been heretofore stated with great force and clearness by the honorable Secretary of the Interior (C. Delano) in a report made by him to the Senate Committee on Indian Affairs, on a bill (Stat., 680) for the relief of certain persons of African descent, resident in the Choctaw and Chickasaw nations, which had been objected to by these nations (see Senate Mis. Doc. No. 118, Forty-third Congress, first session). Therein, after referring to the condition of the Choctaw and Chickasaw freedmen, the provisions of the treaty of 1866 as to them, and the failure of fulfillment thereof by both the Choctaw and Chickasaw nations and the United States, the Secretary says:

"Now for the facts. Neither the Choctaw nor the Chickasaw nations have secured to said persons of African descent the rights, privileges, and immunities, including the right of suffrage, provided for in treaty. The United States has not removed any persons of African descent, because such persons are so identified by marriage and customs with said nations as to be unwilling to break up their homes and go elsewhere.

"The \$300,000 has not been invested nor paid to the Choctaw and Chickasaw nations; and the said persons of African descent, who are the most industrious and useful portion of the population of each nation, are without the rights, privileges, and immunities of citizens, without the right of suffrage, without land, and without money, and with a disinclination, under all the painful embarrassments, to leave their homes, friends, and relatives, and go elsewhere, for the pitiful sum of \$100 per capita. They are as meritorious, to say the least, as the average Choctaw and Chickasaw population. They have probably done as much toward securing the wealth possessed by said nations, per capita, as the average Choctaw and Chickasaw population. Under these circumstances their condition is not simply anomalous; it is unjustifiable, oppressive, and wrong, and ought to be remedied.

"Now for the provisions of the bill. It provided that the persons of African descent, before alluded to, shall have all the rights, privileges, and immunities, including the right of suffrage, of citizens of said nations, respectively, and in the annuities, moneys, and public domain claimed by or belonging to said nations, respectively. Is this wrong? The Choctaw and Chickasaw nations are under treaty obligations to secure these people the rights, privileges, and immunities, of citizens, including the right of suffrage. They ought to have done so long since. Their failure to do so is a great wrong, and a great injustice, which should be speedily corrected. But ought these people to have an equal right in the annuities and public domain of the Choctaw and Chickasaw nations? Let us see. The present annuity fund of these nations amounts to about \$100 per capita. The United States, by the treaty aforesaid, secured to these persons of African descent, under certain conditions, \$100 per capita, and that is about what the said \$300,000 amounts to.

"By the second section of the bill objected to, this \$300,000 is to be invested and paid in trust for the use and benefit of the Choctaw and Chickasaw nations, so that these persons of African descent will bring to the trust fund of said nations a sum per capita equal to the amount per capita of the present annuity trust fund of the nations.

"This, it seems to me, answers satisfactorily the objections to the bill so far as it relates to the rights of the Africans in the annuity funds of the Choctaw and Chickasaw nations.

"But the bill also gives to these Africans an equal right in the public domain claimed by said nations. Is this wrong? Lands are not held in severalty by these nations; they are held in *common*. The treaty contemplated making the Africans citizens, with equal rights and privileges with the Choctaws and Chickasaws, and upon this principle, in justice and equity, the common property of the nations should

belong as much to the Africans made citizens, as to the native-born citizens of said nations.

"The argument against this provision, drawn from a pretended analogy between this case and the case of the liberated slaves of the United States, does not rest upon a solid foundation. The liberated slaves of the United States did not become entitled to the property held by individual citizens of the United States, in severalty, but to so much of the public domain and other property of the United States as was not the separate property of individuals. These liberated slaves, when they became citizens, did become entitled to equal rights and privileges as other American citizens.

"If you look at the manner in which the Choctaw and Chickasaw nations acquired their property, and if you consider that the improvements made thereon have been made by the labor of the African people, in as large, if not larger proportion, than by the labor of native Choctaws and Chickasaws, you will see that there is not any injustice in giving to these persons of African descent, made free and made citizens, equal rights in all respects with native Choctaw and Chickasaw people.

"A failure to pass this bill will leave the treaty of 1866 unexecuted; will continue the African people among the Choctaws and Chickasaws in their present unjust and disastrous situation; will preserve the strife, animosity, and disturbance incident to these relations, and therefore I can not too earnestly or too urgently recommend the passage of the bill during the present session of Congress.

"I beg your careful and attentive consideration of this subject, and hope you will bring it before such of your colleagues as feel an interest in the welfare of these people, and that if you concur with me in this opinion you will endeavor to secure the passage of the measure referred to immediately."

Like other projected measures of legislation designed to correct the mistakes made in negotiating the treaty of 1866, and to remedy the wrong brought thereby upon the Choctaw and Chickasaw freedmen, the bill referred to failed to become a law. It may be that this failure of legislation was due, as much as anything else, to the poverty of these people, and their consequent inability to provide for the employment of competent legal counsel to represent them and to press their case before Congress.

#### DUTY OF UNITED STATES AS TO FREEDMEN OF THE FIVE CIVILIZED TRIBES.

Justice I. C. Parker, in the case of *United States v. D. L. Payne*, tried in the United States district court for the western district of Arkansas, in the May term, 1881, referring to the right of the Government to locate freedmen in the country ceded by the Seminole Nation by treaty of 1866, containing the language, "In compliance with the desire to locate other Indians and freedmen thereon," says:

"We find that colored people were held in slavery in all the civilized tribes of the Indian Territory. Slavery was abolished there, as well as elsewhere in the United States, by the emancipation proclamation of the President, and by the thirteenth amendment to the Constitution, adopted the 13th of December, 1865, and such abolition was recognized by these tribes in the several treaties made with them in 1866.

"The Government was desirous of protecting these freedmen and of securing them homes. It was not known how well the several tribes who had held them in slavery would observe their pledges to secure them the same rights they enjoyed. It was feared that prejudice, growing out of their former condition as slaves, and of race, would be so strong against them that they would not be protected by the Indians. The Government had given them the boon of freedom, and it was in duty bound to secure it, in all that the term implied to them."

That this duty would ultimately be fully performed by the United States—notwithstanding the long delay of year after year—the Choctaw freedmen confidently hoped and believed; and they as confidently hoped and believed that reparation would be made, as far as possible, for the damage and injury suffered during the long years of waiting.

#### INJUSTICE SUFFERED BY CHOCTAW FREEDMEN.

The unsettled condition of the Choctaw and Chickasaw freedmen, and the need for some speedy adjustment of the matter, was frequently mentioned in the annual reports and other documents by the Indian Office, and of the Department of the Interior.

Agent T. D. Griffith, in his annual report for 1872, referring to these freedmen, says:

"But it is of great importance that they should somewhere have well-defined rights. As they are here now, I can not encourage them to make permanent improvements; and without them they are but hewers of wood for others. There should also be means provided for the education of their children. They are not able to employ suitable teachers, and the consequence is, many of these children are growing up ignorant, as their fathers were before them. It would cost something to

establish a school system for them and carry it on until they could do it themselves, but they will do all in their power to aid, and it will be cheaper to educate them than to allow them to grow up, as they are now growing, in ignorance." (Annual Report Indian Office, 1872, p. 238.)

The Commissioner of Indian Affairs, in his annual report for 1874, page 70, says: "The negroes who were formerly owned as slaves by the Choctaws and Chickasaws are in an anomalous condition. They have their freedom, but are without equal rights and privileges. There is no reason in justice and equity why these negroes should not be treated by the Government as a constituent part of these Indian nations, and share with them in all the right of landed property and educational facilities. They are orderly, industrious, and eager for the education of their children, and yet are obliged to spend their labor upon farms to which they have no title, and which, when once well improved, are not infrequently taken from them. Their children grow up in ignorance in sight of schoolhouses in which they may not enter."

Such quotations from official reports might be continued to a further extent. The foregoing are deemed sufficient to show that at least from the close of the war of the rebellion till the Choctaw legislature passed the act of May 21, 1883, adopting the Choctaw freedmen, the Choctaw freedmen continued to exist under great disadvantages, without any pretense at fulfillment of even treaty stipulations concerning them, either by the Choctaw Nation or by the United States.

No positive remedy can reach those who have passed away under unmerited afflictions. Nor can the damage and injury suffered by the living be wholly repaired; but the fullest possible measure of justice should be secured to them, especially for the benefit of the rising generation.

#### INSUFFICIENCY OF LAW ADOPTING CHOCTAW FREEDMEN FOR FULFILLMENT OF EVEN TREATY STIPULATIONS.

There has been little improvement in the condition of the Choctaw freedmen in many respects since the passage of the Choctaw act of May 21, 1883 (copy herewith, Exhibit 2).

Under that law no equal or adequate facilities for the education of their children are provided. No sufficient protection in the use and occupation of even the forty acres of the public domain guaranteed to them in the treaty of 1866 is secured. In these and many other respects the laws enacted by the Choctaw Nation are not equal in their operation upon the Choctaws and the negroes. No survey has been made by the United States of the Choctaw domain, as stipulated and provided in the treaty of 1866. This failure has added greatly to the embarrassments suffered by the Choctaw freedmen in the use and occupation of land for cultivation, and hindered them in asserting their claims for protection against intrusion upon their improvements and the fruits of their labors, or for dispossession thereof.

When said Choctaw act of May 21, 1883, was submitted to the Commissioner of Indian Affairs, as a compliance with the treaty provisions on the subject, it was objected to by him as not a satisfactory and sufficient compliance with the stipulations of the treaty, and as not calculated to secure the objects and purposes of said treaty stipulations. He therefore declined to give it his approval, but recommended that either the freedmen be removed to the Oklahoma district or that stringent laws be passed compelling the respective tribes to adopt their freedmen, as provided in their treaty. (See Annual Report Indian Office, 1883, p. 53.)

The Secretary of the Interior, however, subsequently held that the said act was a substantial compliance with the third article of the treaty of 1866. (See Annual Report Indian Office, 1884, p. 45.)

Accordingly, money appropriated by the act of Congress of May 17, 1882, for the education of the freedmen was paid to the Choctaw Nation instead.

Subsequently final balance of the claim of the Choctaw Nation upon the \$300,000 mentioned in the treaty of 1866, was placed to the credit of that nation, and its obligations under the treaty, so far as making the laws, rules, and regulations required by the treaty, have been treated as closed.

The practical operation of the provisions of that act of the Choctaw legislature has demonstrated how unsatisfactory and insufficient it is for securing and accomplishing the intents, objects, and purposes of the treaty stipulations on behalf of and for the benefit of the Choctaw freedmen. The children of the Choctaw freedmen are yet growing up in ignorance because of the inadequacy and insufficiency of proper school facilities and advantages. The Choctaw freedmen have no proper security and protection in their homes, property, etc., and whether or not the laws be considered equal in their provisions and purposes, without distinction against the Choctaw freedmen, they are not equal in their application and operation. The Choctaw freedmen feel and suffer the effects and results of discrimination against them in the administration of all departments and branches of the Choctaw government.

In the midst of such embarrassment the Choctaw freedmen have very little of the hope of better things to encourage them to industry, to make permanent improvements in their homes, or other proper efforts to advance in civilization.

The Choctaw freedmen have believed it to be, as it has been judicially declared to be, the duty of the United States, which gave them the boon of freedom, "to secure it, in all that the term implied, to them." They have waited and hoped, and are still waiting and hoping, that the United States will put them in possession and enjoyment of all the rights, privileges, and immunities, without any sort of limitation or distinction thereon, possessed and enjoyed by the Choctaw citizens by blood. And they appeal to the United States, and to your honorable Commission to whom they have been referred by the honorable Secretary of the Interior as the representative of the United States in these matters, to effectuate, by proper, just, and suitable negotiations, the necessary arrangements for securing to them full rights, privileges and immunities as Choctaw citizens, as well in the national estate as otherwise. And they further urge that such arrangements and provisions be so framed and made as to cover the past and present unjust discrimination and the consequent injuries resulting therefrom, as well as to relieve them from any future discrimination, injury, etc.

The immigrant recently landed upon the shores of the United States who has taken the preliminary steps of citizenship becomes entitled to appropriate as much of the public domain as a native-born American citizen, though he has done nothing to defend and maintain the Government, nothing to increase the value of the public domain, and nothing to add to the wealth of the country.

Why were not the Choctaw freedmen, born upon the soil of the United States, with the right of domicil and domiciled in the Choctaw country, whose labor had largely contributed to the wealth of the Choctaw Nation, given an equal interest with the Choctaw citizens by blood, in the lands and other common property of the Choctaw Nation?

To be a citizen of a free country, under a government of the people, by the people, and for the people, without the right to share in the common property of that government, is an absurdity. Such base citizenship inspires no loyalty, but debases and degrades the citizen, and dishonors the government that bestows it.

#### THE POWER OF CONGRESS TO REMEDY TREATY WRONGS BY LEGISLATION.

It is in the power of the United States, through Congress, to remedy the wrongs brought upon the Choctaw freedmen by the unjust treaty of 1866.

"Under the Constitution, treaties as well as statutes are the law of the land; both the one and the other, when not inconsistent with the Constitution, stand upon the same level, and being of equal force and validity; and, as in the case of all laws emanating from an equal authority, the earlier in date yields to the later." (Op. of Atty Gen<sup>l</sup> U. S., Dec. 15, 1870, 13 Op., 354.)

"A treaty may supersede a prior act of Congress (Foster and Elam v. Neilson, 2 Peters, 314) and an act of Congress may supersede a prior treaty (Tailor v. Morton, 2 Curt., 454; The Clinton Bridge, 1 Walworth, 155). In the cases referred to, these principles were applied to treaties with foreign nations. Treaties with the Indian nations within the jurisdiction of the United States, whatever considerations of humanity and good faith may be involved and require their faithful observance, cannot be more obligatory. They have no higher sanctity, and no greater inviolability or immunity from legislative invasion can be claimed. The consequences in all such cases give rise to questions which must be met by the political department of the Government. They are beyond the sphere of judicial cognizance." (The Cherokee Tobacco, 11 Wall., 616.)

"In short, we are of opinion that, so far as a treaty made by the United States with any foreign nation can become the subject of judicial cognizance in the courts of this country, it is subject to such acts as Congress may pass for its enforcement, modification, or repeal." (Head-money cases, 112 U. S., 580; Whitney v. Robertson, 124 U. S., 190; Chinese exclusion cases, 130 U. S., 581.)

#### CLAIMS OF THE CHOCTAW FREEDMEN.

No claims not warranted by right and justice are asserted by the Choctaw freedmen.

#### FULL RIGHTS AS CHOCTAW CITIZENS, AND INDEMNITY FOR PAST WRONGS AND INJURIES.

The Choctaw freedmen claim that they should have and enjoy, and should be secured by the United States in the full possession and enjoyment of, all the rights, privileges, and immunities, including the right of suffrage, of citizens of the Choctaw Nation, and also including the right to share per capita in the annuities, moneys,

and public domain claimed by or belonging to said nation. They claim that these rights should have been fully secured to them by the United States when the treaty of 1866 was negotiated and concluded; and that the loss, damage, and injury suffered by them by reason of the failure to secure them in the full and equal rights of Choctaw citizens, including the estate of the Choctaw Nation, should be repaired and provided for as far as possible.

This is the claim which they present for consideration of your Commission. And they ask that the fullest possible measure of their claim, within the power of your commission to obtain, be secured to the Choctaw freedmen.

The mistakes and injuries of the past, as well as the hardships and wrongs of the present, suffered by the Choctaw freedmen, should be kept in view in any present or future negotiations that may be had and concluded with the Choctaw Nation; or in any laws that may be enacted by Congress in ratification of any agreements that may be negotiated with them by the United States; or in any laws that may be enacted in carrying out any policy that may be adopted by the Congress with reference to the Choctaw Indians, upon failure of negotiations with them for modification of their existing treaties; and such remedies as may be right and just should be provided.

#### CLAIM TO AN INTEREST IN THE "LEASED DISTRICT" PAYMENTS.

In the Indian appropriation act of March 3, 1891, provision was made for the payment to the Choctaw and Chickasaw nations of \$2,991,450 as additional compensation for a part of the Choctaw "Leased district." In submitting that matter to Congress for further consideration President Harrison, in his special message of February 17, 1892, said:

"In view of the fact that the stipulations of the treaty of 1866, in behalf of the freedmen of these tribes, have not, especially in the case of the Chickasaws, been complied with, it would seem that the United States should, in a distribution of this money, have made suitable provision in their behalf. The Chickasaws have steadfastly refused to admit the freedmen to citizenship, as they stipulated to do in the treaty referred to, and their condition in that tribe, in a lesser degree in the other, strongly calls for the protective intervention of Congress." (Senate Ex. Doc. No. 42, Fifty-second Congress, first session, p. 3.)

That money has been paid to the Choctaws and Chickasaws; and it has been paid out to the Choctaw citizens by blood. The Choctaw freedmen have not received any portion thereof, nor derived any benefits from that large sum of money, a part of the Choctaw national estate.

A much larger sum is yet claimed by the Choctaw and Chickasaw nations for the remainder of said "Leased district," the payment of which they are expecting to receive when the pending agreements made with other Indians residing upon the land shall have been ratified by Congress.

The part payment already made upon the "Leased district" claim may be taken as a recognition, at least, by the United States, that there is merit in the further payment claimed by the Choctaw Nation on that account, when the remainder of said "Leased district" lands shall be opened to public settlement. It will require legislation by Congress to finally settle that claim. The Choctaw freedmen most respectfully and humbly urge and insist that in any plans, propositions, and arrangements considered by your Commission, in your negotiations with the Choctaw Nation, looking to any agreement with that nation, proper stipulations be incorporated therein for securing to the Choctaw freedmen a just and equitable share of any money that may be hereafter paid to the Choctaw Nation, or the citizens thereof, on account of that claim. They certainly indulge the hope that "the protective intervention of Congress," so strongly urged by President Harrison in their behalf as to the legislation for the payment already made on that claim, may be interposed without any failure in any future legislation on the subject.

#### THE SURVEY OF THE CHOCTAW LANDS.

The Choctaw freedmen desire and claim that the lands of the Choctaw Nation be surveyed, and also that provision be made for title in severalty to the Choctaw freedmen to the land to which they are justly entitled. They desire this that they may select and settle upon, and cultivate and improve their holdings, establish and furnish their homes, and surround themselves with more of the comforts of life, with some adequate security that they will be fully protected in the use and enjoyment of the fruits of their labors.

#### SUITABLE EDUCATIONAL FACILITIES.

The Choctaw freedmen desire, claim, and urge that sufficient and suitable provisions and facilities be secured to them at the earliest possible moment for the proper education of their children.

They were for so many years without schools of any sort, and those educational facilities now accorded to their children are so meager and limited that the Choctaw freedmen enjoy almost nothing of the great benefits of education. Their ignorance is pitiable and deplorable.

The past can not be redeemed; but the future can be made so bright that the past, if not atoned for, may be buried and forgotten. They therefore most humbly implore your honorable Commission to provide amply for the education of their children. We would not insult the intelligence and statesmanship of your Commission by consuming more of your time in urging the necessity and benefits of education to the rising generation of the Choctaw freedmen. These benefits we can not have while we continue in our present embarrassed condition; and our poverty is too universal for us to provide, as we should and desire, for the education of our children.

#### FULL AND EQUAL PROTECTION UNDER JUST LAWS.

Finally, we appeal for emancipation and extrication from our present peculiar and deplorable condition and embarrassments.

We claim and urge that our status be so clearly established, fixed, and defined that we shall be free in deed and in fact, in all that freedom implies. That we be secured in full and adequate protection under just and equal laws, in our person, our property, and our liberty.

When we shall be thus made free, with an equal chance for our lives, liberties, and homes, we shall be encouraged to set ourselves diligently about the task of improving our condition and surroundings, elevating ourselves, and advancing in the ways of civilization.

We ask that your Commission make such personal investigation as may be necessary to satisfy you of the facts in any of the matters herein alleged.

As you will see by the proceedings of our convention, Hon. R. V. Belt, of Washington, D. C., and Hon. Joseph P. Mullen, of Fort Smith, Ark., have been retained as our attorneys in these matters.

Valuable information concerning the Choctaw freedmen will be found in the following public document, one copy of which is herewith submitted:

Senate Ex. Doc. No. 82, Fortieth Congress, second session.

Senate Ex. Doc. No. 71, Forty-first Congress, second session.

H. R. Mis. Doc. No. 46, Forty-second Congress, second session.

H. R. Ex. Doc. No. 212, Forty-third Congress, first session.

We have the honor to be, very respectfully, your obedient servants,

E. D. COLBERT,

D. B. BARROWS,

WESLEY MCKENNEY,

*Committee of the Choctaw Colored Citizens' Association.*

R. V. BELT, *Washington, D. C.,*

J. P. MULLEN, *Fort Smith, Ark.,*

*Attorneys and Counselors for the Choctaw Colored Citizens' Association.*





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STATEMENT OF THE CHICKASAW FREEDMEN,  
SETTING FORTH  
THEIR WRONGS, GRIEVANCES, CLAIMS, AND NEEDS.

1894.

Submitted to HON. HENRY L. DAWES, Chairman,  
HON. MEREDITH H. KIDD,  
HON. ARCHIBALD S. MCKENNON,  
*United States Commission to the Five Civilized Tribes of Indians,  
Muscogee, Indian Territory.*

By CHAS. COHEE,  
ISAAC C. KEMP,  
GEO. W. HALL,  
MACK STEVESON,  
*Committee of Chickasaw Freedmen's Association.*



Hon. HENRY L. DAWES, *Chairman*,  
Hon. MEREDITH H. KIDD,  
Hon. ARCHIBALD S. MCKENNON,  
*Commission to the Five Civilized Tribes, Muscogee, Ind. T.*

GENTLEMEN: The undersigned, a committee appointed by the Chickasaw freedmen in convention assembled, as shown by the accompanying copy of the proceedings of said convention, to present to and lay before your honorable Commission the grievances, condition, claims, and the wants of the Chickasaw freedmen, most respectfully request that you give careful consideration to the "Memorial of the Chickasaw freedmen," adopted at said convention, and contained in the copy of the proceedings thereof before referred to; and also to what we, the duly authorized and empowered committee of the said convention of Chickasaw freedmen shall herein present in their behalf.

#### THEIR HOPE AND CONFIDENCE IN THE DAWES COMMISSION.

Coming, as does your honorable Commission, to the Indian Territory, with the authority of Congress, to negotiate with the Five Civilized Tribes, to such extent as will "enable the ultimate creation of a State or States of the Union which shall embrace the lands within said Indian Territory," the Chickasaw freedmen, whose domicile is within the Chickasaw country, where they have been born and reared, and where they have treaty rights unfulfilled, deem it right and proper that they should lay before your honorable Commission their condition and grievances, and present to you their claims, needs, and wants. And they do this with the greater confidence, because they recognize in the members of your honorable Commission men of great ability and broad statesmanship, desirous of ascertaining the true state and condition of the whole of the population domiciled within the domain of several Indian nations comprising the Five Civilized Tribes; what rights, if any, they have, their grievances, and the wrongs they have suffered, and not only anxious, but abundantly able to find and report what is the true remedy for the existing evils, and the proper measure of relief for those who have been compelled to suffer injustice at the hands either of the Chickasaw Nation or the United States.

The chairman of your Commission, the Hon. Henry L. Dawes, is a statesman of exalted national reputation, having had long and wide experience in both Houses of the Congress of the United States, where he was recognized as peculiarly and especially skilled in all matters concerning the relation of the Indian and negro population of the country to the United States Government, and where his wisdom and statesmanship have contributed to the satisfactory solution and adjustment of so many of the difficult problems connected therewith. Therefore we the more rejoice that it is our high privilege to lay our matters before your Commission, and we indulge in great hope that the dark night of our existence will soon give way to the dawn of a better day.

#### ATTORNEYS FOR THE CHICKASAW FREEDMEN.

We have secured for cooperation with our local attorney, Hon. Joseph P. Mullen, of Fort Smith, Ark., the assistance of Hon. R. V. Belt, late Assistant Commissioner of Indian Affairs, and so long connected with the Indian branch of the Department of the Interior under Secretaries Teller, Lamar, Vilas, and Noble, in the future prosecution of our claims, so long neglected for want of proper help.

#### TREATY PROVISIONS CONCERNING CHOCTAW AND CHICKASAW FREEDMEN.

The treaty relations between the Choctaw and Chickasaw nations of Indians existing at the outbreak of the war of the rebellion were broken and interrupted during that conflict, when loyalty to the United States was renounced and adhesion to the Southern Confederacy was proclaimed by treaty, and in which many of the members of those nations gave active aid against the United States. After the close of that conflict, which resulted in the emancipation of African slavery wherever it existed in this country, it became necessary to reconstruct and reestablish treaty relations between the United States and the Five Civilized Tribes in the Indian Territory. The treaty of April 28, 1866, with the Choctaw and Chickasaw nations is the result as to them.

The provisions of that treaty, so far as they sought to establish and fix the status of the persons of African descent, formerly held in slavery by the Chickasaw Indians, and their descendants, are found in articles two, three, and four thereof, which are as follows:

"ART. III. The Choctaws and Chickasaws hereby covenant and agree that henceforth neither slavery nor involuntary servitude, otherwise than in punishment of crime whereof the parties shall have been duly convicted, in accordance with laws applicable to all members of the particular nation, shall exist in said nations."

"ART. III. The Choctaws and Chickasaws, in consideration of the sum of three hundred thousand dollars, hereby cede to the United States the territory west of the 98th degree west longitude, known as the leased district, provided that the said sum shall be invested and held by the United States, at an interest not less than five per cent, in trust for the said nations, until the legislature of the Choctaw and Chickasaw nations respectively shall have made such laws, rules, and regulations as may be necessary to give all persons of African descent, resident in the said nations, at the date of the treaty of Fort Smith, and their descendants, heretofore held in slavery among said nations, all the rights, privileges, and immunities, including the right of suffrage, of citizens of said nations, except in the annuities, moneys, and public domain claimed by or belonging to said nations respectively; and also to give to such persons who were residents as aforesaid, and their descendants, forty acres each of the land of said nations on the same terms as the Choctaws and Chickasaws, to be selected on the survey of said lands, after the Choctaws and Chickasaws and Kansas Indians have made their selections as herein provided; and immediately on the enactment of such laws, rules, and regulations, the said sum of three hundred thousand dollars shall be paid to the said Choctaw and Chickasaw nations in the proportion of three-fourths to the former and one-fourth to the latter—less such sum, at the rate of one hundred dollars per capita, as shall be sufficient to pay such persons of African descent before referred to as within ninety days after the passage of such laws, rules, and regulations shall elect to remove and actually remove from the said nations respectively. And should the said laws, rules, and regulations not be made by the legislatures of the said nations respectively within two years from the ratification of this treaty, then the said sum of three hundred thousand dollars shall cease to be held in trust for the said Choctaw and Chickasaw nations, and be held for the use and benefit of such of said persons of African descent as the United States shall remove from the said territory in such manner as the United States shall deem proper—the United States agreeing, within ninety days from the expiration of the said two years, to remove from said nations all such persons of African descent as may be willing to remove; those remaining or returning after having been removed from said nations to have no benefit of said sum of three hundred thousand dollars, or any part thereof, but shall be upon the same footing as other citizens of the United States in the said nations."

"ART. IV. The said nations further agree that all negroes, not otherwise disqualified or disabled, shall be competent witnesses in all civil and criminal suits and proceedings in the Choctaw and Chickasaw courts, any law to the contrary notwithstanding; and they fully recognize the right of the freedmen to a fair remuneration on reasonable and equitable contracts for their labor, which the law should aid them to enforce. And they agree on the part of their respective nations that all laws shall be equal in their operation upon Choctaws, Chickasaws, and negroes, and that no distinction affecting the latter shall at any time be made, and that they shall be treated with kindness and be protected against injury; and they further agree that while the said freedmen, now in the Choctaw and Chickasaw nations, remain in said nations, respectively, they shall be entitled to as much land as they may cultivate for the support of themselves and families, in cases where they do not support themselves and families by hiring, not interfering with existing improvements without the consent of the occupant, it being understood that in the event of the making of the laws, rules, and regulations aforesaid, the forty acres aforesaid shall stand in the place of the land cultivated as last aforesaid." (14 Stat., 769.)

#### NONFULFILLMENT OF TREATY STIPULATIONS.

The stipulations of the treaty of 1866, concerning the Chickasaw freedmen, have never been fulfilled nor carried out. The action of both parties to that treaty, the United States and the Chickasaw Nation, can best be shown by the acts passed by the Congress of the United States and by the Chickasaw legislature. It must be remembered that the Chickasaw freedmen had no voice in the making of the treaty of 1866, and were in no wise represented in the making thereof, except as their interests may have been looked after by the United States.

#### ACTION BY THE CHICKASAW LEGISLATURE.

November 9, 1866, the Chickasaw legislature passed an act declaring it to be the unanimous desire of the legislature that the United States hold the share of the Chickasaw Nation in the \$300,000, stipulated for the cession of the "Leased dis-

trict," for the benefit of the Chickasaw freedmen, and remove them beyond the limits of the Chickasaw Nation according to the third article of the treaty of 1866.

In 1868, similar action was taken by the Chickasaw legislature asking for the removal, by the United States, of the Chickasaw freedmen from the Chickasaw country.

January 10, 1873, the Chickasaw legislature passed an act entitled "An act to adopt the negroes of the Chickasaw Nation, etc." That act was submitted by the governor of the Chickasaw Nation, by letter of the same date, to the President of the United States, and was submitted by the Secretary of the Interior to the Speaker of the House of Representatives, on February 10, 1873, with recommendation for appropriate legislation for extending the time for the execution of the third article of the treaty. The papers were referred to the Committee on Freedmen Affairs, but no action thereon was had. (See Annual Report Indian Office, 1882, p. 57; and H. R. No. Doc. 207, Forty-second Congress, third session.)

October 18, 1876, the Chickasaw legislature adopted a resolution providing for a commission, to confer with a like Choctaw commission, looking to the agreement upon some plan for removing and keeping the freedmen from the Choctaw and Chickasaw country (Chickasaw laws, 1878, p. 148).

February 17, 1877, the Chickasaw legislature passed an act entitled "An act confirming the treaty of 1866." In section 3 thereof, "the United States are requested to remove the said negroes beyond the limits of the Chickasaw Nation according to the requirements of the third article of the treaty of April 28, 1866" (Chickasaw laws, 1890, p. 121).

October 4, 1887, the Chickasaw legislature passed the following:

"And, whereas, the Chickasaw people have kindly and friendly feeling towards the freedmen, their former slaves, and wishing them to receive full valuation of the places they live upon, for their support, as provided for in section 4 of the treaty of 1866, do hereby agree that they shall have two years from the passage of this act to sell their improvements in the Chickasaw Nation to the best advantage, that no loss may accrue to them: Therefore,

*Be it resolved by the legislature of the Chickasaw Nation,* That the nation shall refund to the United States the sum of \$55,000 to be used in removing the freedmen in the Chickasaw Nation to their new home as provided under the third and fourth articles of the treaty of 1866, made between the United States and the Choctaw and Chickasaw nations of Indians." (See Sen. Ex. Doc. 166, Fiftieth Congress, first session.)

The Chickasaw legislature had previously, on October 22, 1885, passed an act rejecting the adoption of the freedmen of the Chickasaw Nation (Chickasaw laws, 1890, p. 171).

#### ACTION BY THE CONGRESS OF THE UNITED STATES.

In the Indian appropriation act of May 17, 1882, the following provision of law was enacted by Congress:

"That the sum of ten thousand dollars is hereby appropriated out of the three hundred thousand dollars reserved by the third article of the treaty with the Choctaws and Chickasaws concluded April 8 (?), 1866, for the purpose of educating freedmen in said tribes, to be expended under the direction of the Secretary of the Interior, three-fourths thereof for the freedmen among the Choctaws, and one-fourth for the freedmen among the Chickasaws: *Provided,* That said sum of ten thousand dollars shall be deducted in like proportion from any moneys in this act appropriated to be paid said Choctaws and Chickasaws: *And provided further,* That either of said tribes may, before such expenditure, adopt and provide for the freedmen in said tribe in accordance with said third article, and in such case the money herein provided for such education in said tribe shall be paid over to said tribe, to be taken from the unpaid balance of the three hundred thousand dollars due said tribe" (22 Stat., 72).

(Under and subsequent to the foregoing provision of law the Choctaw national legislature passed an act adopting the freedmen of the Choctaw Nation.)

In the Indian appropriation act passed by Congress, August 15, 1894 (Public No. 197, p. 56), the following is contained:

"SEC. 18. That the approval of Congress is hereby given to 'An act to adopt the negroes of the Chickasaw Nation,' and so forth, passed by the legislature of the Chickasaw Nation and approved by the governor thereof, January 10, 1873, particularly as set forth in a letter from the Secretary of the Interior, transmitting to Congress a copy of the aforesaid act, contained in House Executive Document numbered two hundred and seven, Forty-second Congress, third session."

What effect, if any, this action by Congress will have upon the status of the Chickasaw freedmen, in view of the subsequent action of the Chickasaw legislature, directly the reverse of its action in the said act of January 10, 1873, is a problem for future solution. It is at least encouraging to the Chickasaw freedmen, notwithstanding it seems to be confusing an already badly confounded matter. It indicates

a desire on the part of the Congress of the United States to do something to carry out its pledges on behalf of the Chickasaw freedmen; and we feel sure that any proper and feasible plan for their relief that shall be formulated and presented by you for the consideration of Congress will receive consideration and action by that body.

#### ACTION BY THE CHICKASAW FREEDMEN.

The Chickasaw freedmen have waited many long and weary years for the settlement of their status, and the adjustment of their rights, privileges, immunities, claims, etc., so that they might have some security in the enjoyment of the fruits of their labors, educate their children, and surround themselves and their homes with some of the comforts of civilization. From time to time they have memorialized the United States, and laid their grievances before such officers thereof as they could reach, and who would hear them.

When the Chickasaw legislature passed the act of 1866 against the adoption of the Chickasaw freedmen, the latter, by a petition, represented to the United States the bitter feeling existing against them among the Chickasaws, and stated their anxiety to leave the Chickasaw country, and that they would settle on any land that might be designated for them by the United States; and they asked that transportation to such designated land be provided for themselves and families, and that they be furnished with supplies sufficient to enable them to make a start in their new homes.

No attention was given to this petition.

A similar petition was presented on June 10, 1868, which was laid before Congress but no action was taken thereon (see Senate Ex. Doc. 82, Fortieth Congress, second session).

In February, 1869, a delegation of the freedmen went to Washington and there submitted a memorial urging the fulfillment by the United States of the treaty stipulations.

Nothing was accomplished by this mission.

Complaints were presented from time to time, of the denial of rights, privileges, etc., to the freedmen by the Chickasaws; that their children were growing up in ignorance, and that they were all in great distress and poverty; but no action for our relief was taken, except, as shown hereinbefore, in the act of Congress of 1882; and that extended only for the one year, and only for the education of our children, to the extent of \$2,500. With that exception our children, growing up in the very midst of the most advanced civilization of the age, have been absolutely with no greater advantages for their education than if they were living in the very heart of the "Dark Continent."

#### CONDITION AND TRIALS OF THE CHICKASAW FREEDMEN.

From and after the ratification of the treaty of 1866, the condition of the Chickasaw freedmen has frequently been made the subject of investigation and report by officials of the United States. The results of these investigations can be ascertained by reference to the special reports, in the proper archives of the United States Government.

The annual reports of the United States Indian agents having charge of the Chickasaw Indians, as well as the annual reports of the Commissioner of Indian Affairs, as will be found by reference to the published volumes thereof, have year after year represented the wretched and deplorable condition of these Chickasaw freedmen; and have urged such appropriate and necessary legislation as the facts and circumstances from time to time seemed to them to require and warrant, to afford the proper relief.

In his annual reports for 1869 and 1870, the United States Indian agent, George T. Olmstead, captain, United States Army, strongly urged the necessity for the settlement of the status of the Chickasaw freedmen; and he suggested the negotiation of a supplemental treaty, under which they could be fairly settled and established as citizens of the Choctaw and Chickasaw nations (see Indian Office Annual Report, 1869, p. 409, and 1870, p. 292).

United States Indian agent, T. D. Griffith, in his annual reports for the years 1871 and 1872, invites special attention to the condition of the Choctaw and Chickasaw freedmen. In the latter report he says:

"As they are here now, I can not encourage them to make permanent improvements, and without them they are but hewers of wood for others. There should also be means provided for the education of their children. They are not able to employ suitable teachers, and the consequence is many of these children are growing up ignorant as their fathers were before them. It would cost something to establish a school system for them and carry it on until they could do it themselves, but they will do all in their power to aid, and it will be cheaper to educate them than to allow them to

grow up as they are now growing, in ignorance." (See Ind. Office Annual Rpt., p. 238.)

In his annual report for 1873, United States Indian agent, A. Parsons, stated that—"Some of the freedmen are improving farms and accumulating property. They seem very well satisfied, in all respects, except their uncertainty of their right to vote and the want of any educational opportunities for them. The honorable Secretary of the Interior decided that they clearly had the right to vote, but the disposition of the Chickasaws and Choctaws have been to oppose it, and the freedmen have, therefore, not voted for fear of offending them. The freedmen seem very anxious to have school privileges, and say they will furnish school buildings if by any means teachers and books can be obtained for them." (See Ind. Office Annual Rpt., p. 209.)

Hon. Edward P. Smith, Commissioner of Indian Affairs, states as follows, in his annual report for 1874, page 71:

"The negroes who were formerly owned as slaves by the Choctaws and Chickasaws are in an anomalous condition. They have their freedom, but are without equal rights and privileges. There is no reason in justice or equity why these negroes should not be treated by the Government as a constituent part of these Indian nations, and share with them in all the rights of landed property and educational facilities. They are orderly, industrious, and eager for the education of their children, and yet are obliged to expend their labor upon farms to which they have no title, and which once well improved are not infrequently taken from them. Their children grow up in ignorance, in sight of schoolhouses which they may not enter."

Action was strenuously urged upon Congress in the matter by Hon. Hiram Price, Commissioner of Indian Affairs, in his annual reports for 1881, 1882, 1883, and 1884.

Hon. J. D. C. Atkins, Commissioner of Indian Affairs, in his annual report for 1887, concludes a brief statement of the previous action of the United States with reference to the Chickasaw freedmen, as follows:

"During the year several complaints have been received from the freedmen relative to the denial of their rights, and particularly as to the utter lack of educational facilities. Recently Agent Owen held a conference with some of the leading freedmen, at which they expressed a desire to remain in the nation if their rights, especially in the matter of schools, could be accorded them, but signified their willingness to submit to the decision of the Government. The Chickasaw authorities positively refuse to take any steps looking to their adoption, and even refuse to provide for their education. This reluctance to carry out the stipulations of the treaty, is doubtless caused in great measure by the fear that the freedmen will out vote the Chickasaws, they being fully as numerous as the Indians. These people, therefore, whose rights, protection, and education were guaranteed by treaty, are left in ignorance, without civil or political rights, and with no hope of improvement.

Under these circumstances, I believe their removal from the nation is the only practicable method by which they can be afforded education and other privileges. It has been decided by Judge Parker, of the district court of the western district of Arkansas, that the United States may settle freedmen belonging to the Five Civilized Tribes upon lands acquired from the Seminoles and Creeks, and Agent Owen suggests that the Chickasaw freedmen be removed to that portion of Oklahoma lying on the Canadian River, west of the Pottawatomie Reservation.

"Many of the freedmen have doubtless made improvements on the lands which they and their fathers have occupied but not possessed; and if, because they can acquire no title thereto, they are forced to abandon these improvements, it would be but sheer justice to pay them the full value thereof, in addition to the \$100 per capita which the treaty promised them if they should emigrate.

"I have no reason to suppose that the Chickasaws would object to legislation requiring them to return the \$55,125 to the United States, provided, by the same legislation, they could be relieved of the presence of their freedmen. Congress has heretofore been asked to enact the necessary legislation for the removal of these freedmen, and in my opinion the recommendation should be renewed. A special report upon the subject with a draft of the necessary legislation will be prepared and submitted for your consideration before the meeting of Congress." (See pp. LXIII and LXIV.)

The foregoing is reiterated in his special report on the subject to the Secretary of the Interior, Hon. Wm. F. Vilas, who submitted said report with the draft of the bill, and the detailed and full information accompanying it, to the Congress for its consideration and action, on May 9, 1888. (See Senate Ex. Doc. 166, Fiftieth Congress, first session.)

We will not further weary your patience, nor consume your valuable time with recitals from the published reports of the officers of the United States Government, whose duty it is to present the facts, as to the condition of the Chickasaw freedmen to the attention and consideration of Congress, except to quote from the report of Dew. M. Wisdom, United States Indian agent for 1893, the following:



"The status of the freedmen also in the Chickasaw and Cherokee nations is a vexed problem.' In the former nation those people have never by any law or statute of that nation been incorporated into its 'body politic.' They do not vote or hold office, and are denied participation in its funds devoted to educational purposes. The negroes are clamorous for schools and for full recognition of their rights as citizens of the nation. Many of them were slaves to Chickasaw masters or owners, and were born upon Chickasaw soil, are well grounded in the customs and usages of that people, and speak the language as fluently as the natives themselves. They predicate their right to citizenship upon article 4 of the treaty of 1866, and upon the Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution of the United States. This class of citizens, it is said, exceed in number the native population, and the Chickasaws in defense of their denial to them of the rights of citizenship assert that if the negroes were made citizens they would take charge of the Government and convert it into another Hayti. Doubtless this fear has controlled their course toward them; but nevertheless the condition of the negro is one to be deplored, and it would seem to be difficult to mitigate or remedy, and I have felt it my duty to suggest their condition to the Indian Bureau, without further amplification in the way of details." (See Indian Office Annual Report, 1893, p. 145.)

When we look at the condition of the Creek and Seminole nations, with their large preponderance of persons of African descent and blood, admitted by their treaties of 1866 to full membership into those nations, with equal rights in the nation's funds, domain or other estate, and behold the peace and prosperity within their borders, we must insist that the fears of the Chickasaws that the full adoption of the Chickasaw freedmen as Chickasaw citizens, with the right to share in the national estate, in whatever character or form it exists, will be detrimental to the welfare and interests of the Chickasaw Nation are not well founded. Some other reason must be found for their excuse for denying to the Chickasaw freedmen their just rights, privileges, and claims. Whether that reason be selfishness or unwillingness to accord that justice and equity to their freedmen that they insist for themselves from the United States or otherwise, is left to those who must pass in judgment upon these matters to determine.

Under a resolution of the Senate, March 29, 1894, the committee on the Five Civilized Tribes of Indians, of which Hon. H. M. Teller is chairman, visited the Indian Territory "to inquire into the present condition of the Five Civilized Tribes of Indians, and the white citizens dwelling among them, and the legislation required and appropriate to meet the needs and welfare of such Indians."

While this resolution did not in terms authorize an inquiry as to that class of persons who are neither Indians or white citizens, a class of persons left by Congress in 1866 without defined rights, and with no certain status, and whose condition and existence have been almost continuously ignored during the past twenty-eight years, the committee thought proper to bring to the attention of the Congress the following: "The Indians maintain schools for their own children. The Choctaws, Cherokees, and Creeks maintain schools for the children of recognized colored citizens, but the Chickasaws have denied to these freedmen not only the right of suffrage, especially provided for in the treaty of 1866, but have also denied the children of freedmen the right to participate in their schools. We find in the Chickasaw country a freedman population somewhat in excess of that of the Indian population, not only deprived of citizenship, but denied the privileges of schools, so that the children of that class are growing up in ignorance, except in a few cases where schools have been maintained by individual means for the education of the freedmen children. This is a plain and open violation of the treaty of 1866."

The committee might have added further that this condition had existed since the making of the treaty of 1866. However, the committee did not complete its work, for it concluded its report as follows:

"As the matters submitted are so complicated and of such grave importance, the committee has thought proper to submit this preliminary report, and hopes, upon further investigation, to be able to make such further and more specific recommendation as to necessary legislation as will lead to a satisfactory solution of this difficult question." (See Senate Report No. 377, Fifty-third Congress, second session.)

This promise of prospective legislation holds out to us a gleam of hope, especially when the standing of the men making the report is considered.

It remains for your commission to present to the Congress some feasible plan of legislation for correcting the existing evils, to secure early legislation on the subject.

Such is our condition as officially reported by the constituted authorities of the United States. We are willing to let it pass without any further amplification. We might add material evidences and facts that would more strongly represent our real situation; but we do not desire even to seem to exaggerate our wrongs, distress, and embarrassments.

Surely we will not be left much longer in our deplorable situation.

Had we existed under such wrongs and hardships in any other land, we believe

that our cries for relief would ere this have been heard by the sympathetic and liberty-loving people of this country; and we would not only have had their pity, and their benevolence reached out to lift us out of our degradation and distress, but such influence in our behalf would have been exerted that the good offices of this great Government would have interposed for the amelioration of our condition long ere this.

We are prone to believe that had our cries of distress come from some distant island of the sea, instead of from the midst of an Indian tribe right here in the United States, the power and influence of the Government of the United States would have been exerted to extricate us from our bondage and barbarism.

Many have died in the midst of great sufferings while waiting and hoping for deliverance; they are now past relief here; others survive, suffer, and hope, having grown up in ignorance, and without the comforts of the civilization that surrounds them, and whose benefits they have longed for; others, still, are growing up to manhood and womanhood, and unless relief soon comes to us another generation must bear through life the blight of wrong and injustice which were inflicted upon their fathers and mothers.

Full and adequate remedy can never be provided. But the measure of relief to the living, and especially to the rising generation, should be as commensurate with the evils endured as it is possible to afford after the lapse of so great a time.

#### FAILURE OF CONGRESS TO ENACT PROPOSED LEGISLATION FOR FULFILLMENT OF TREATY STIPULATIONS, AND FOR RELIEF OF CHOCTAW AND CHICKASAW FREEDMEN.

The necessity for legislative action in the matter of the Chickasaw freedmen has been laid before Congress at various times, by the Executive Department of the Government, always urging speedy action, and sometimes submitting drafts of proposed legislation, which the condition, circumstances, justice, and equity of their case seemed to demand.

The efforts in this direction, to some extent, are shown by the contents of various Congressional documents on the subject, some of which are here briefly set forth:

Senate Exe. Doc. No. 82, Fortieth Congress, second session, contains a petition from delegates of the Choctaw and Chickasaw freedmen, stating the failure of their adoption by the legislatures of the Choctaw and Chickasaw nations, and asking that the \$300,000, stipulated in the treaty to be held for their benefit, be so used; and that they be removed from the Choctaw and Chickasaw country. This petition, with other papers, was submitted to Congress, with a letter from the Secretary of the Interior, Hon. O. H. Browning, dated July 20, 1868, informing that body of the terms of the treaty as to the freedmen; that the two years within which the legislatures of the nations should act had expired, and the freedmen had not been adopted; and that the duty of their removal, consequently, devolved upon the United States as a treaty obligation; but as no place had been designated to which they should be removed, and no funds provided, by treaty or otherwise, to defray the expense of removal, no action could be taken until Congress should enact the necessary legislation for carrying the treaty into effect. Early attention was earnestly invited to the subject. Congress did not heed this appeal; and no place was designated, and no funds were provided for the removal of the freedmen in fulfillment of the treaty obligations.

The Executive Document H. R. No. 207, Forty-second Congress, second session, contains the act of the Chickasaw legislature, of January 10, 1873, providing for the adoption of the Chickasaw freedmen. This was submitted to Congress by the Secretary of the Interior, concurring in the recommendation of the Commissioner of Indian Affairs, that necessary and appropriate legislation, suggested in the correspondence, be enacted.

It is remarkable that Congress, with such an opportunity for doing something in the matter, neglected to use it, and took no action on that enactment of the Chickasaw legislature for the adoption of their freedmen, from 1873 till 1894, a period of over twenty-one years, during which the Chickasaw legislature had, by several acts passed at different times, taken action directly the reverse of that contained in the act of 1873. By a provision in the Indian appropriation act of August 15, 1894, Congress gave its approval to the Chickasaw act of 1873, as hereinbefore set forth. This may involve the Chickasaw freedmen in a more doubtful status, which they fear not only will not be solved to their advantage, but will, on the other hand, serve to protract the delay in securing effective legislation for their relief.

The Executive Document, H. R. No. 212, Forty-third Congress, first session, contains the draft of a bill submitted to Congress by Acting Secretary of the Interior B. R. Cowan, by his letter of April 4, 1874, wherein he urged its adoption for the relief of the Choctaw and Chickasaw freedmen.

That proposed legislation recites, so far as necessary for its purpose, the provisions of the treaty of 1866; states the failure of fulfillment thereof; that the freedmen

were then anxious to remain in the Choctaw and Chickasaw country and to become incorporated as citizens thereof; and it provided—

“That all persons of African descent who were resident in the territory of the Choctaw or Chickasaw nations on the 28th day of April, A. D. 1866, and who had before that been held in slavery among said nations, or either of them, and all the descendants of such persons, shall be entitled to all the rights, privileges, and immunities, including the right of suffrage, of citizens of said nations, respectively, and the annuities, moneys, and public domain claimed by or belonging to said nations, respectively.”

The further provisions of said proposed legislation provided for disposing of the \$300,000 held under the treaty of 1866, and for carrying the measure into effect.

In urging Congress to take that action, the Acting Secretary, Mr. Cowan, said:

“Almost eight years have passed since the ratification of the treaty above referred to, and the legislatures of the Choctaw and Chickasaw nations have not enacted any laws, rules, and regulations in behalf of the persons of African descent above referred to.

“The ancestors of these negroes came to the Indian Territory with the Choctaw and Chickasaw nations from the State of Mississippi, and have been with them continuously since that time in the capacity of slaves. They were freed by the treaty of 1866, and have been since enjoying the privileges of freedom. They are reported to be industrious, sober, and frugal people, desirous to learn, anxious to secure to themselves homes in severalty, and, above all, anxious to remain in the country where they now live, and which is the only home they have ever known. And, so far as the Department has been able to ascertain, none of them will ever leave that country voluntarily. They have formed strong attachments to the soil; they have acquired, as far as the peculiar laws and regulations governing the Indian nations will permit, homesteads, and have cultivated farms. A strong prejudice seems to exist against these freedmen on the part of the Choctaw and Chickasaws, which will account in some measure for the failure of these nations to provide by law for the division among them of the lands of the nations.

“The Creek, Seminole, and Cherokee nations have each adopted the freedmen into their tribes, and given them equal rights and privileges with other citizens of the nation. The Choctaws and Chickasaws, I understand, have refused to do so. The condition of these negroes strongly appeals to the United States Government for some action that will fix their status, and give them all that they are entitled to by the terms of the treaty above quoted.

“I have the honor to submit herewith the draft of a bill which in my judgment will secure to these freedmen all the rights and privileges to which they are entitled under the treaty. The bill also gives them the right of suffrage, and an equal share in the annuities, moneys, and public domain claimed by or belonging to said nations, respectively. While this may not be exactly in accordance with the letter of the treaty, I am satisfied that it is simply a matter of justice to this class of persons who have always been residents of said nations and who are now industrious, law abiding, and useful citizens thereof.

“I respectfully invite the attention of Congress to this subject and trust that it may receive favorable consideration.”

The legislation thus proposed met with the opposition of the Choctaws and Chickasaws, who have always been able to have near the Capitol of the United States, especially during the sessions of Congress, duly accredited representatives, to watch legislation, and to otherwise look out for the interests of said nations respectively. It is not complained that this is so. It is right that they should take care of their affairs. But if the Choctaw and Chickasaw freedmen had been possessed of a small portion of the wealth that their years of unrequited toil had secured to the Choctaw and Chickasaw people, they too would have had active and energetic representatives present to intelligently press these measures for their relief.

As usual, the cause of the freedmen was strongly espoused by the executive branch of the Government. The Senate Committee on Indian Affairs sent the objections to the proposed bill, made by the representatives of the Choctaw and Chickasaw nations, to the Secretary of the Interior, for the report of his views thereon. His report is contained in Senate Mis. Doc. No. 118, Forty-third Congress, first session, wherein, after setting forth the then condition of the freedmen, Secretary C. Delano expressed his views vigorously and forcibly, as follows:

“Now for the facts. Neither the Choctaw nor the Chickasaw nations have secured to said persons of African descent the rights, privileges, and immunities, including the right of suffrage, provided for in the treaty. The United States has not removed any of said persons of African descent, because such persons are so identified by marriage and customs with said nations as to be unwilling to break up their homes and go elsewhere.

“The \$300,000 has not been invested nor paid to the Choctaw and Chickasaw

nations; and the said persons of African descent, who are the most industrious and useful portion of the population of each nation, are without the rights, privileges, and immunities of citizens, without the right of suffrage, without land, and without money, and with a disinclination, under all these painful embarrassments, to leave their homes, friends, and relatives, and go elsewhere for the pitiful sum of \$100 per capita. They are as meritorious, to say the least, as the average Choctaw and Chickasaw population. They have probably done as much toward securing the wealth possessed by said nations, per capita, as the average Choctaw and Chickasaw population. Under these circumstances their condition is not simply anomalous; it is unjustifiable, oppressive, and wrong, and ought to be remedied.

"Now for the provisions of the bill. It provides that the persons of African descent, before alluded to, shall have all the rights, privileges, and immunities, including the right of suffrage, of citizens of said nations, respectively, and in the annuities, moneys, and public domain claimed by or belonging to said nations, respectively. Is this wrong? The Choctaw and Chickasaw nations are under treaty obligations to secure these people the rights, privileges, and immunities of citizens, including the right of suffrage. They ought to have done so long since. Their failure to do so is a great wrong and a great injustice, which should be speedily corrected. But ought these people to have an equal right in the annuities and public domain of the Choctaw and Chickasaw nations? Let us see. The present annuity fund of these nations amounts to about \$100 per capita. The United States, by the treaty aforesaid, secured to these persons of African descent, under certain conditions, \$100 per capita, and that is about what the \$300,000 amounts to.

"By the second section of the bill objected to this \$300,000 is to be invested and paid in trust for the use and benefit of the Choctaw and Chickasaw nations, so that these persons of African descent will bring to the trust fund of said nations a sum per capita equal to the amount per capita of the present annuity trust fund of these nations.

"This it seems to me answers satisfactorily the objections to the bill so far as it relates to the rights of the Africans in the annuity funds of the Choctaw and Chickasaw nations.

"But the bill also gives to these Africans an equal right in the public domain claimed by said nations. Is this wrong? Lands are not held in severalty by these nations; they are held in *common*. The treaty contemplated making the African citizens with equal rights and privileges with the Choctaws and Chickasaws, and upon this principle, in justice and equity, the common property of the nations should belong as much to the African made citizens as to the native-born citizens of said nations.

"The argument against this provision drawn from a pretended analogy between this case and the case of the liberated slaves of the United States does not rest upon a solid foundation. The liberated slaves of the United States did not become entitled to the property held by individual citizens of the United States in severalty, but so much of the public domain and other property of the United States as was not the separate property of individuals these liberated slaves when they became citizens did become entitled to equal rights and privileges as other American citizens.

"If you look at the manner in which the Choctaw and Chickasaw nations acquired their property, and if you consider that the improvements made thereon have been made by the labor of the African people in as large, if not larger, proportion than by the labor of native Choctaws and Chickasaws, you will see that there is not any injustice in giving to these persons of African descent, made free and made citizens, equal rights in all respects with native Choctaw and Chickasaw people.

"A failure to pass this bill will leave the treaty of 1866 unexecuted; will continue the African people among the Choctaws and Chickasaws in their present unjust and disastrous situation; will preserve the strife, animosity, and disturbance incident to their relations, and therefore I can not too earnestly or too urgently recommend the passage of the bill during the present session of Congress.

"I beg your careful and attentive consideration of this subject, and hope you will bring it before such of your colleagues as feel an interest in the welfare of these people, and that if you concur with me in this opinion you will endeavor to secure the passage of the measure referred to immediately."

This clear and forcible exposition of the justice of the then pending measure shows how strongly the executive branch of the Government of the United States has become convinced of the great injustice brought upon the Chickasaw freedmen by the ratification of the treaty of 1866.

The presence of active and energetic agents representing the Chickasaw Nation before the committees of Congress, and the absence of any such representatives of the freedmen, may account for the failure of enactment by Congress of that or some other remedial legislation for the fulfillment of the treaty stipulations as to the Chickasaw freedmen, and for securing to them the rights in the estate of the Chickasaw Nation to which they are so justly entitled.

The Senate Ex. Doc. No. 166, Fiftieth Congress, first session, contains another effort to secure legislation for the relief of the Chickasaw freedmen. That is the measure drawn under the direction of Hon. J. D. C. Atkins, Commissioner of Indian Affairs, providing for their removal to the Oklahoma district, the appraisement of and payment for their improvements before removal, and the payment to them of a per capita distribution of money to enable them to make a start in their new homes. That measure was submitted to Congress by Hon. Wm. F. Vilas, Secretary of the Interior, as hereinbefore shown, but, like all other appeals and measures presented to Congress for the relief of the Chickasaw freedmen, or even for carrying out the stipulations of the treaty which secured to them such limited, base, and indifferent rights, privileges and immunities, it bore no fruit whatever.

It is thus seen that Congress has taken no action for the fulfillment of its treaty obligations on behalf of the Chickasaw freedmen, nor adopted any measures for their permanent relief, notwithstanding the urgent requests made therefor by the Executive branch of the Government as above shown.

As late as the administration of President Harrison, Congress was appealed to for remedial legislation in their behalf, as will hereinafter appear, but it failed to embrace the opportunity then presented to accomplish something for their relief.

#### THE DUTY OF THE UNITED STATES TO SECURE NOT ONLY FREEDOM BUT JUSTICE TO THE FORMER SLAVES OF THE FIVE CIVILIZED TRIBES.

Justice I. C. Parker, in the case of *United States v. D. L. Payne*, tried in the United States district court for the western district of Arkansas, in the May term, 1881, referring to the right of the Government to locate freedmen in the country ceded by the Seminole Nation by treaty of 1866, containing the language "In compliance with the desire to locate other Indians and freedmen thereon," says:

"We find that colored people were held in slavery in all the civilized tribes of the Indian Territory. Slavery was abolished there as well as elsewhere in the United States by the emancipation proclamation of the President and by the thirteenth amendment to the Constitution, adopted the 13th of December, 1865, and such abolition was recognized by these tribes in the several treaties made with them in 1866.

"The Government was desirous of protecting these freedmen and of securing them homes. It was not known how well the several tribes who had held them in slavery would observe their pledges to secure them the same rights they enjoyed. It was feared that prejudice growing out of their former condition as slaves and of race would be so strong against them that they would not be protected by the Indians. The Government had given them the boon of freedom, and it was in duty bound to secure it, in all that the term implied, to them."

That this duty would ultimately be fully performed by the United States, notwithstanding the long delay of year after year, the Chickasaw freedmen confidently hoped and believed, and they confidently hoped and believed, that reparation would be made as far as possible for the damage and injury suffered during the long years of waiting.

There has not only been delay and neglect on the part of the United States in the performance of its clear duty toward the Chickasaw freedmen, but there has been absolute injustice and great damage to them in what has been done.

#### WHO IS RESPONSIBLE FOR THE UNJUST TREATY DISCRIMINATION AGAINST THE CHICKASAW FREEDMEN?

The Chickasaw freedmen had no voice in the making of the reconstruction treaty of 1866 with the Choctaws and Chickasaws. They had just been relieved from the bondage of slavery, as the result of the war of the rebellion. Their interests and welfare were wholly and absolutely in the keeping and power of the United States. For whatever they received, whether of good or evil, the United States must have the credit or bear the blame.

The time to have settled forever their status was when the treaty of 1866 was negotiated.

The treaty rights of those nations had been forfeited. They were seeking their restoration. Justice and right should then have been insisted upon for the freedmen. No treaty should have been concluded that did not secure to the freedmen the fullest rights that they were justly entitled to. The failure to do what should then have been done has not only entailed untold hardships and misery upon the Chickasaw freedmen that no legislation can ever fully remedy, but this problem so left unsolved, and the protracted delay, and the aggregated neglect to define, fix, settle, and establish the status and rights of the Chickasaw freedmen have made a dark page on the history of the United States.

The United States entered upon the negotiations for reestablishing the treaty relations with the Cherokees, Creeks, Seminoles, and the Choctaws and Chickasaws, comprising the Five Civilized Tribes, with the right purpose in view, and upon just

principles. The commission charged with the preliminary negotiations went to their duty with the distinct instructions that such treaties must contain seven distinct stipulations; the third of these stipulations, which they presented to each tribe, read as follows:

"The institution of slavery, which has existed among several of the tribes, must be forthwith abolished, and measures taken for the unconditional emancipation of all persons held in bondage, and for their incorporation into the tribes on an equal footing with the original members, or suitably provided for." (See Annual Report Indian Office, 1865, pp. 298, 320, etc., and H. R. Report No. 3147, Fifty-first Congress, first session, p. 11.)

The Chickasaw delegates, at least those representing the element in that nation that had remained loyal to the United States, expressed their assent to that proposition without change or qualification.

That the United States did not insist upon engrafting that stipulation into the treaty of 1866, that was finally concluded, has been a cause no less of wonder than of trouble and distress.

The provisions on the subject that were incorporated in that treaty show great skill in the methods of negotiation, and high attainments in the art of diplomacy, on the part of the Choctaw and Chickasaw nations and the learned counsel they employed and paid so well for assisting them in conducting those negotiations.

What was stipulated was shown by the second, third, and fourth articles of that treaty. The adoption of the freedmen was left optional with the Choctaw and Chickasaw legislatures. If they did not adopt the freedmen within two years from date of ratification of the treaty, the United States were to remove them elsewhere, pay each \$100, etc.

The promise was little; the performance has been nothing by either party to the treaty.

Let us see what was accomplished for the freedmen of the other tribes among which slavery had existed.

In the treaty of 1866, with the Creeks, this provision is made:

"ART. II. The Creeks hereby covenant and agree that henceforth neither slavery nor involuntary servitude, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted in accordance with laws applicable to all members of said tribe, shall ever exist in said nation; and inasmuch as there are among the Creeks many persons of African descent who have no interest in the soil, it is stipulated that hereafter those persons lawfully residing in said Creek country under their laws and usages, or who have been thus resident in said country, and may return within one year from the ratification of this treaty, and their descendants, and such others of the same race as may be permitted by the laws of the said nation to settle within the limits of the jurisdiction of the Creek Nation as citizens (thereof) shall have and enjoy all the rights and privileges of native citizens, including an equal interest in the soil and national funds, and the laws of the said nation shall be equally binding upon and give equal protection to all such persons, and all others, of whatsoever race or color, who may be adopted as citizens or members of said tribe." (14 Stat., 786.)

In the treaty of 1866, with the Seminoles, Article II is to the same effect. (14 Stat., 756.)

In the Cherokee treaty of 1866 the right to occupy and improve the land and "all the rights of native Cherokees" are accorded to the Cherokee freedmen, and certain other free colored persons, by articles 4, 5, 6, 7, 8, 9, etc. (14 Stat., 800.)

When it is thus seen how fully the former slaves of the Creek, Seminole, and Cherokee nations were adopted as citizens of those nations, with equality of rights of other members by blood of those nations, in the respective national estates, it is past understanding why the same measure of justice was not insisted upon by the United States for the freedmen of the Choctaw and Chickasaw nations.

The status of the former slaves of the Indian tribes, among which slavery existed, after their liberation as a result of the war of the rebellion, was not in many respects analogous to that of the liberated slaves of the other sections of the country. The latter were made citizens of the United States, and of the States in which they resided, by amendment to the Constitution. They became thereby owners in common, with equal rights and interests, with all other citizens of the United States, in all of the common property of the United States; and with the citizens of their respective States, of the common property of said States, and became entitled to full and equal enjoyment of all benefits and advantages derived therefrom.

If the land and other property in the States had been held in common by the citizens thereof, instead of in severalty, as was and is the case, the former slaves and newly made citizens would have become entitled to a pro rata share thereof according to their numbers.

As the land, invested funds, annuities, and other moneys belonging to or claimed by the Chickasaw Nation and constituting the estate of said nation were—as they are

yet—held in common by the citizens of the Chickasaw Nation, the former slaves of the Chickasaw Indians, when liberated as a consequence of the war of the rebellion, should have been recognized at once as Chickasaws in all respects, and entitled to all the rights, privileges, and immunities, including the right of suffrage, of citizens of said nation, and also including the right to share equally with the citizens of said nation in the annuities and other moneys and public domain belonging to or claimed by said nation. If this was not right and just, why was it required of the Creeks, Seminoles, and Cherokees, of the Five Civilized Tribes, as hereinbefore set forth?

Had the latter nations been more disloyal to the United States than the Choctaws and Chickasaws? Or were the former slaves of the latter less deserving than those of the other nations? Certainly the unjust discrimination against the Chickasaw freedmen can not be justified on these accounts.

#### THE POWER OF CONGRESS TO REMEDY TREATY WRONGS BY LEGISLATION.

It is in the power of the United States, through Congress, to remedy the wrongs brought upon the Choctaw freedmen by the unjust treaty of 1866.

"Under the Constitution, treaties as well as statutes are the law of the land; both the one and the other, when not inconsistent with the Constitution, stand upon the same level and being of equal force and validity; and, as in the case of all laws emanating from an equal authority, the earlier in date yields to the later." (Op. of Attorney-General U. S., Dec. 15, 1870, 13 Op., 354.)

"A treaty may supersede a prior act of Congress (Foster and Elam v. Neilson 2, Peters, 314), and an act of Congress may supersede a prior treaty. (Taylor v. Morton, 2 Curt., 454; The Clinton Bridge, 1 Walworth, 155). In the cases referred to these principles were applied to treaties with foreign nations. Treaties with Indian nations within the jurisdiction of the United States, whatever considerations of humanity and good faith may be involved and require their faithful observance, can not be more obligatory. They have no higher sanctity, and no greater inviolability or immunity from legislative invasion can be claimed. The consequences in all such cases give rise to questions which must be met by the political department of the Government. They are beyond the sphere of judicial cognizance. (The Cherokee Tobacco, 11 Wall, 616.)

"In short, we are of opinion that, so far as a treaty made by the United States with any foreign nation can become the subject of judicial cognizance in the courts of this country, it is subject to such acts as Congress may pass for its enforcement, modification, or repeal." (Head-Money Cases, 112 U. S., 580; Whitney v. Robertson, 124 U. S., 190; Chinese Exclusion Cases, 130 U. S., 581.)

The Chickasaw freedmen have no redress for the evils brought upon them by the treaty of 1866, and no remedy for the wrongs they have consequently suffered thereunder, except through legislation by Congress.

While no more treaties are made with the Indian tribes of the country by the treaty-making power of this Government, agreements are entered into between the United States and said tribes, which, if acceptable, are ratified by acts of Congress, and become the law of the land. Your Commission can, if the Chickasaws are willing, negotiate an agreement with them for our relief. If this can not be accomplished to the satisfaction of all parties, then we ask that you formulate and propose to Congress such legislation as you may be able to recommend for our relief, and for fixing and defining our status, taking into your careful consideration the requests herein presented.

#### THE CHOCTAW AND CHICKASAW CLAIM FOR ADDITIONAL COMPENSATION FOR THE "LEASED DISTRICT" LANDS, AND PRESIDENT HARRISON'S APPEAL FOR USING A PORTION OF THE MONEY FOR THE FREEDMEN.

It is well known that the Choctaw and Chickasaw nations of Indians asserted claim to further compensation to the land known as the "leased district," ceded by the treaty of 1866 to the United States, claiming that the cession made by that treaty was only for the purpose of locating other Indians and freedmen on said lands, and that if other disposition be made of said lands by the United States, they should have further compensation therefor.

When Congress had under consideration the opening to public settlement of the surplus lands of the Cheyenne and Arapahoe Reservation, a portion of which was included in the said "Leased district," it gave full consideration to the claim of the Choctaw and Chickasaw nations for further compensation for said land, and finally appropriated the sum of \$2,991,450.

President Harrison was not satisfied that the United States were legally or equitably bound to pay the Choctaw and Chickasaw nations anything further for said lands, holding that the treaty of 1866 passed the full title of the Indians to and in said lands.

So fully was he impressed with his belief on the subject he declined to pay over the money to those nations, but resubmitted the matter for the further consideration of Congress, taking occasion, in his special message on the subject, to call

attention to the facts that preparations were being made by those nations to distribute that money to the members thereof by blood only, excluding from participation therein the white persons adopted into the tribes, and also the former slaves thereof, and their descendants.

In this latter connection he said:

"In view of the fact that the stipulations of the treaty of 1866, in behalf of the freedmen of these tribes, have not, especially in the case of the Chickasaws, been complied with, it would seem that the United States should, in a distribution of this money, have made suitable provision in their behalf. The Chickasaws have steadfastly refused to admit the freedmen to citizenship, as they stipulated to do in the treaty referred to, and their condition in that tribe, and in a lesser degree in the other, strongly calls for the protective intervention of Congress." (Senate Ex. Doc. No. 42, Fifty-second Congress, first session, p. 3.)

The matter was further considered by Congress and resulted in a resolution affirming the position already taken by that body as to the justice of the claim of the Choctaw and Chickasaw nations.

The money has, accordingly, been paid over by the United States to the credit of the proper authorities of those nations; and it has been by those nations distributed to the members thereof by blood only.

When that claim was first reported upon by the Indian Office, attention was invited to the unfulfilled treaty stipulations as to the Chickasaw freedmen, and it was urged:

"In any adjustment that may be made of this claim the interests of the Chickasaw freedmen should be guarded and protected." (See H. R. Report No. 3147, Fifty-first Congress, first session, p. 15.) Congress, however, failed to take any action to guard and protect the interests of the Chickasaw freedmen in its adjustment of the claim as recommended by the Indian Office, or to interpose any protective intervention in behalf of the Chickasaw freedmen in the distribution of the money, as so strongly urged by President Harrison.

The amount already paid is for so much of the "Leased district" as was within the boundaries of the Cheyenne and Arapahoe Reservation, opened to public settlement April 19, 1892. The balance of the claim is for so much of the "Leased district" as is within the reservations of the Kiowa and Comanche, and the Wichita, etc., Indians, embracing an area of 3,712,503 acres, which, at the same rate of additional compensation—\$1.05 per acre—allowed for the proportion in the Cheyenne and Arapahoe reservations (aggregating nearly \$3,000,000), makes the balance of that claim amount to about \$3,520,264.65, the allowance and payment of which the Choctaw and Chickasaw nations are seeking from Congress in connection with the ratification of the pending agreements, with the occupying tribes above-named, for opening the surplus lands to public settlement.

The nearly \$3,000,000 already paid to the Choctaws and Chickasaws in part settlement of their claim may be taken as a recognition, at least, by Congress that the claim is an equitable one, and that full payment will ultimately be made, unless the trust upon which the lands are recognized to be held is applied.

The Chickasaw freedmen received no share of the nearly \$3,000,000 heretofore paid, nor have they been participants in anywise in the benefits of said payment. But of that immense sum of money not a schoolhouse was built for the education of the children of the freedmen, now and heretofore growing up in ignorance in the Chickasaw country, and not a cent of it was in any way used to ameliorate and improve the condition or to advance the welfare and interests of the Chickasaw freedmen.

Will Congress pay the balance of the claim and make no provision out of it for the benefit of the Chickasaw freedmen? Will Congress let what seems to be the last opportunity pass without applying some suitable remedy for the wrongs and sufferings of the Chickasaw freedmen at the hands of the Chickasaw Nation?

The claims of the Chickasaw Nation upon the Government of the United States in the matter of this claim are certainly no greater and no more just than are the claims of the Chickasaw freedmen herein presented. If "the protective intervention of Congress," so strongly but vainly urged by President Harrison in behalf of the Chickasaw freedmen, for a share of the payment already made is not interposed in their behalf when the legislation is enacted as to the balance of the claim, then the Chickasaw freedmen can see little hope but to look to the Treasury of the United States alone for redress of their grievances and payment of the claims they have for damages and otherwise resulting to them, not only by reason of failure of fulfillment of treaty stipulations, but by reason of unreasonable and unjust treaty discrimination against them.

#### RIGHTS OF THE CHICKASAW FREEDMEN IN THE "LEASED DISTRICT."

It will be observed that in the third article of the treaty of 1866, by which the Choctaws and Chickasaws ceded "to the United States the territory west of the 98° west longitude, known as the leased district," there are no words of express limitation upon the title to said land thus conveyed to the United States,



That cession is unlike the cession made at the same time by the Cherokees, Creeks, and Seminoles.

The trust upon which the United States received the lands ceded by these latter nations will be found as follows:

In article 16 of the Cherokee treaty of 1866 (14 Stat., 804). In article 3 of the Creek treaty of 1866 (14 Stat., 786). In article 3 of the Seminole treaty of 1866 (14 Stat., 756).

In the treaties with the Creeks and Seminoles the trust is expressed in these words: "In compliance with the desire of the United States to locate other Indians and freedmen thereon."

There are no such words in the Choctaw and Chickasaw treaty; but those nations were able to satisfy the Congress of the United States, by reference to the records of the negotiations and otherwise, that it was the intention of the parties to that treaty that the lands ceded thereby were coupled with the same trust as expressed in the treaties with the Creeks and Seminoles.

The Chickasaw Nation strongly urged this contention, as will appear in the declarations of B. C. Burney and Overton Love, their accomplished and intelligent delegates, in their "memorial of the Chickasaws relating to the President's message of February 17, 1892," presented to Congress February 26, 1892, wherein they said:

"The President expresses the opinion that the conditions attached to the cessions in the Creek and Seminole treaties of 1866 were the same as those which were attached to the lease in the Choctaw and Chickasaw treaty of 1855, and that, therefore, the claim of the Choctaws that the cession in their latter treaty of 1866 was encumbered by a condition, or trust, is not supported by any analogies of the Creek and Seminole cases. This is a mistake. The trusts created in the Creek and Seminole treaties of 1866 were trust (1) for the location of friendly Indians, in general, without restriction, and (2) for the location of freedmen. Neither of these two trusts were created by the Choctaw and Chickasaw treaty of 1855. Neither of them existed, in the case of the leased district, until created by the Choctaw and Chickasaw treaty of 1866. The trust created by the Choctaw and Chickasaw treaty of 1855 was a trust not to locate Indians in general but to locate certain Indians whose ranges were included within the boundaries designated in the treaty. This treaty of 1855 contained no trust whatever for the location of freedmen. That trust was first created for the leased district by the Choctaw and Chickasaw treaty of 1866.

"It is true that these two trusts of the Choctaw and Chickasaw treaty of 1866 are not created by express words qualifying the grant; but this is also true of the Creek and Seminole treaties. In those treaties the trusts are not expressed, but are implied in words used in recitals only. They are not implied in either of those treaties in words used in the body of the grant. The recital in each case is in the following words: 'In compliance with the desire of the United States to locate other Indians and freedmen thereon,' etc. The words of the grant are even stronger in the Creek and Seminole treaties than in the Choctaw and Chickasaw treaty. The Choctaws and Chickasaws 'cede;' but the Creeks and Seminoles 'cede and convey.'

"These trusts, in the Choctaw and Chickasaw treaty of 1866, are implied in the language of the third article, in which the words of conveyance, the statement of consideration, and the arrangements for the freedmen are placed in such juxtaposition as not only to warrant, but to necessitate the inference that it was the object of the parties and the effect of the treaties to authorize the United States to locate upon these lands Indians whose ranges were not embraced within the limits designated in the treaty of 1855, and also to locate Choctaw and Chickasaw freedmen thereon, and that the cession was encumbered by corresponding trusts. (See Senate Mis. Doc. No. 82, Fifty-second Congress, first session.)

The same position had been taken by the Chickasaws in their memorial, presented to Congress March 19, 1890, by B. C. Burney, chairman Chickasaw commission, and J. D. Collins and Overton Love, Chickasaw delegates, wherein they state as follows:

"One-fourth of the interest of the Choctaws in the proceeds of the land west of the one hundredth meridian had been acquired by the Chickasaws in the purchase of 1837.

"On the 28th day of April, 1886, the Choctaws and Chickasaws, by a treaty of that date, conveyed a trust estate in the lands between the ninety-eighth and one hundredth meridians to the United States. The trust created by this treaty was to remove to and settle on said lands 3,000 Choctaw and Chickasaw freedmen, if willing to be removed. These lands thenceforth remained subject to the trust for the settlement of Indian tribes and bands, whose homes and ranges were within certain designated limits, which trust had been created by the lease of 1855, and also subject to this second trust for the settlement of freedmen thereon. But the Choctaws and Chickasaws surrendered and lost by this treaty all right to settle on those lands themselves, which right had been reserved by the lease of 1855. The United States have located upon the lands west of the ninety-eighth meridian a small number of Indians, and

have also paid for the emigration thereto of 72 Choctaw freedmen. Whether these freedmen emigrated to said lands, or remained in the Choctaw or Chickasaw district, your memorialists are not advised. (See Senate Mis. Doc. No. 107, Fifty-first Congress, first session.)

That contention was settled in favor of the claims of the Choctaws and Chickasaws, as will be seen by the report of the Senate Committee on Indian Affairs, of which Senator Henry L. Dawes was chairman, which declared as follows:

In the message of the President, transmitted to Congress February 17, 1892, he says:

"After a somewhat careful examination of the question, I do not believe that the lands for which this money is to be paid were, to quote the language of section 15 of the Indian appropriation bill already set out, 'ceded in trust by article 3 of treaty between the United States and said Choctaw and Chickasaw nations of Indians, which was concluded April 28, 1866.'

"The President is of the opinion that the lands in question were not ceded in trust to the United States by this treaty. He thinks that an absolute, unqualified title was conveyed by the treaty, and as he elsewhere says, that the United States paid the Choctaws and Chickasaws therefor the sum of \$300,000. On the contrary your committee believe that the estate conveyed was a trust estate only; that whereas the treaty of 1855 empowered the United States to locate upon these lands only those Indians whose ranges were included within certain specified limits, this treaty of 1866 authorized the United States—

"(1) To locate upon these lands Indians like the Cheyennes and Arapahoes, whose ranges were not within the limits designated in the treaty of 1855, and whom, prior to the treaty of 1866, the United States had no right to locate upon the lands.

"(2) To locate upon the lands Choctaw and Chickasaw freedmen.

"(3) Deprived the Choctaws and Chickasaws themselves of the right to settle thereon." (See Senate Report No. 552, Fifty-second Congress, first session, p. 11.)

Provision was made for the payment of the portion of the claim then contended for, by the act of March 3, 1891 (26 Stat., 1025), appropriating the sum of \$2,991,450.

There are within the occupancy of the Kiowa and Comanche and the Wichita, etc., Indians 3,712,503 acres, which is the remainder of the "leased district," and the basis of the unsettled portion of the claim of the Choctaw and Chickasaw nations for additional compensation.

The statement of these facts and conclusions are here set forth to serve as the basis of an alternative proposition for the settlement of the claims of the Chickasaw freedmen, to be hereinafter stated.

#### CLAIMS OF THE CHICKASAW FREEDMEN.

##### The Chickasaw freedmen claim

##### FULL AND EQUAL RIGHTS, ETC., AS CHICKASAW CITIZENS.

They insist that they were justly and equitably entitled to be, and that they should have been invested, by the treaty of 1866, with full and equal rights, privileges, and immunities with the Chickasaw citizens by blood, including the right of suffrage, the right to equal educational privileges for their children, the right to equal protection under equal and just laws, and the right to share equally in the annuities and other moneys, and in the public domain claimed by and belonging to the Chickasaw Nation, or in which said nation is interested. And that the refusal and denial of the rights so claimed, and the failure and neglect to secure to them said rights, etc., the same as were secured for the freedmen of the Creek and Seminole nations, have been the cause of great damage, loss, and injury to the Chickasaw freedmen, for which they are justly and equitably entitled to indemnification.

The Chickasaw freedmen claim and insist that they be now invested with the full rights, etc., so claimed.

The Chickasaw freedmen claim and insist that they be now indemnified for the damage, loss, and injury sustained and suffered by them from 1866 till they shall be invested with the full rights as Chickasaw citizens, and for the damage, loss, and injury, sustained and suffered by them by reason of the denial of said rights and the failure and neglect to secure said rights to them; and also by reason of the failure and neglect of both parties to the treaty of 1866, or either of them, as shall be determined to fulfill and carry out the stipulations for the very limited rights and benefits provided for them thereunder.

The measure of their claim for indemnification for damages, etc., can be ascertained by the statement of an account of the moneys that have come into the possession of the Chickasaw Nation from payment of annuities, licenses, taxes, and other public charges, and from payments for lands, or on any other account; and prorating the moneys so received between the Chickasaws who received the benefits thereof, and the former slaves of Chickasaws and their descendants.

The amount of the damage, etc., so ascertained, to be paid by the United States directly out of the Treasury, or by the Chickasaw Nation out of its national funds, according as it shall be determined which of the parties are chargeable for such damages, etc.

The funds of the Chickasaw Nation in the custody of the United States, amount to \$1,337,695.65 (not including certain permanent treaty provisions for goods), upon which that nation receives annually from the United States as interest the sum of \$68,221.44.

Out of the payment of the claim for damages the Chickasaw freedmen desire and propose to provide suitable and sufficient educational facilities for their children, and otherwise improve their condition and surroundings.

The Chickasaw freedmen also desire and claim that when they shall be invested with the full rights, etc., so claimed, the lands occupied by the Chickasaw Nation should be surveyed and sectionized, and that provision be made for title in severalty, at least to the Chickasaw freedmen, for the quantity thereof that they would be severally entitled to have and to hold.

The Chickasaw freedmen claim and insist that the foregoing claims are right, just, and equitable; and they insist and urge that said claims be adjusted by an agreement between the United States and the Chickasaw Nation; and that the claim for damages, etc., be speedily paid to and for the Chickasaw freedmen.

#### PLANS FOR THE ADJUSTMENT OF THE CLAIMS OF THE CHICKASAW FREEDMEN.

We greatly desire that the adjustment of our claims be effected by an agreement between the United States and the Chickasaw Nation. That the adjustment be such as shall be just to both parties, the Chickasaw Nation, and the Chickasaw freedmen, and also to the United States. We desire to remain in the land of our birth, among the people with whose language, customs, and habits we are trained and familiar, and whose friendship we desire and esteem, and against whom we have refrained from stating anything in this paper not necessary to a clear presentation of our case.

If, however, it is found impossible to so adjust our said relations and claims, then and in that event we insist and urge that the adjustment be made by the appropriate and necessary legislation by Congress. Both the right and the duty of Congress to do this have been hereinbefore shown.

#### ANOTHER FEASIBLE METHOD FOR ADJUSTMENT.

If the claims and relations of the Chickasaw freedmen can not be adjusted on either of the plans above suggested, and it shall be found absolutely necessary for the Chickasaw freedmen to remove from the Chickasaw country, for the public welfare as well as for their own best interests, then, as a dernier resort, we suggest that a sufficient quantity of the surplus lands within the present reservations of the Kiowa and Comanche and the Wichita, etc., Indians, which comprise what remains of the "leased district," be set apart and designated as the land for the location for the Chickasaw freedmen, under the treaty of 1866. That the said freedmen be removed to said land at the expense of the United States. That an appropriation be made of a sum sufficient to pay to each of said freedmen entitled thereto, a per capita payment of \$100, as provided for in the treaty of 1866, with interest thereon from the date said per capita payment should have been made to the date of the payment thereof. That the quantity of land so set apart and designated for the location of the said freedmen thereon shall contain a sufficient number of acres, which, at the rate of \$1.05 per acre, will cover the fair and reasonable amount of damages, loss, and injury sustained and suffered by the Chickasaw freedmen, by reason of the failure and neglect of the parties to the treaty of 1866, to secure to them their just and equitable rights, and the denial, refusal, and neglect of said parties to fulfill the stipulations of that treaty providing for the very limited rights and benefits as therein set forth, and also for the value of the improvements made and put by them on land in the Chickasaw country. That the land so set apart and designated for the location of the Chickasaw freedmen be allotted and patented to them on a fair and just basis, with such limitations and restrictions as to alienation, incumbrance, and so forth, as will prevent the disposal thereof of more than one-fourth the first year, one-fourth after the expiration of five years, and with the right to receive title in fee simple for the remainder after the expiration of ten years.

The right of the United States to locate the Chickasaw freedmen on the lands of the "leased district" has been fully set forth in this paper.

Such disposition of the lands of the "leased district," or what remains thereof undisposed of, will serve double purpose of adjusting the Chickasaw freedmen problem, and at the same time dispose of a large part, if not the whole, of the remainder of the claim of the Choctaw and Chickasaw nations for additional compensation for said lands.

Finally, we beseech your Commission to consider our case carefully, and mature

and put in form some measure for adoption by Congress that will extricate us from our present deplorable and distressed situation, a condition worse than slavery, in which we have been compelled so long to remain, without proper effort for our relief, or remedy for our wrongs.

We hope that your Commission will use the opportunity, while present in the Indian Territory, to acquaint yourselves with all the facts necessary to a full understanding of our claims, our needs, and of the remedies and the measures of relief that right, justice, and equity require to be provided, in order to correct, as far as it can possibly be done at this time, the evils, wrongs, and great injustice under which we have been so long, and are yet, existing.

We hold ourselves in readiness to respond to any demands your Commission may make upon us for facts, information, suggestions, or otherwise, so far as it may be in our power to comply therewith.

Very respectfully, your obedient servants,

CHAS. COHEE,  
ISAAC C. KEMP,  
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