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Letter of the Secretary of the Interior, communicating. In compliance with a resolution of the Senate of the 16th instant, information relative to the present status of the claims of loyal Choctaw and Chickasaw Indians, under the forty-ninth article of the treaty with those tribes of April 28, 1866.

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LETTER

OF THE

SECRETARY OF THE INTERIOR,

COMMUNICATING,

In compliance with a resolution of the Senate of the 16th instant, information relative to the present status of the claims of loyal Choctaw and Chickasaw Indians, under the forty-ninth article of the treaty with those tribes of April 28, 1866.

JUNE 18, 1868.—Read, referred to the Committee on Indian Affairs, and ordered to be printed

DEPARTMENT OF THE INTERIOR.

Washington, D. C., June 17, 1868.

SIR: I have the honor to acknowledge the receipt of a resolution adopted by the Senate on the 16th instant, as follows, viz:

Resolved, That the Secretary of the Interior be requested to furnish the Senate, as soon as practicable, any information in his possession relative to the present status of the claims of loyal Choctaw and Chickasaw Indians, under the forty-ninth article of the treaty with those tribes of April 28, 1866, and to inform the Senate what moneys or securities are held by the United States for said tribes.

On the 9th day of July, 1866, Messrs. E. W. Rice and A. H. Jackson were appointed by my predecessor to examine and determine the claims of Choctaws and Chickasaws under the 49th article of the treaty of April 28, 1866, with said tribes. On the 31st December, 1866, said commissioners submitted to this department their report, accompanied by a record of the testimony taken and the awards made thereon by them.

These papers being very voluminous, the department, on the 2d January, 1867, referred them to the Commissioner of Indian Affairs with instructions to cause a thorough examination thereof to be made, and, with the least practicable delay, to report the results with his opinion thereon to the department.

That report has never been received by this department.

On the 27th of April, 1868, the Commissioner of Indian Affairs addressed a letter to the department, in which the reasons for the delay in making the report upon the awards, as directed, are assigned. A copy of that letter is hereto appended, marked A.

Copies of the compromises, compacts, or agreements, referred to in said letter, purporting to have been made by the agents or attorneys of all the parties having an interest in the awards, are appended hereto, marked B and C.

The commissioners, Messrs. Rice and Jackson, awarded to the claimants of the Choctaw nation the sum of \$109,742 08, with interest thereon at the rate of six per cent. per annum, from the 1st day of October, 1863, to the date of the ratification of the award; and to the claimants of the Chickasaw nation the sum of \$233,008, with interest thereon from the 1st November, 1861, at the same annual rate, and to the same time.

It will be seen that, by the terms of the compromises or agreements, above

referred to, copies of which are herewith transmitted, the Choctaw nation is to pay, and the claimants of the Choctaw nation are to receive, the sum of \$108,900, in full of all demands, including interest; and the Chickasaw nation is to pay, and the claimants of that nation to receive, the sum of \$150,000, in full of all demands, including interest.

The Commissioner of Indian Affairs, in transmitting these compromises to the department, recommended that they should be accepted as "a full, final, and conclusive settlement of all claims under the 49th article of the treaty of April 28, 1866, against the said Choctaw and Chickasaw nations, and a full compliance with the stipulations contained in said article."

In view of the authority conferred and the duty imposed upon me by the article of the treaty referred to, I did not feel at liberty to adopt the recommendation of the Commissioner of Indian Affairs, and on the 11th day of June addressed him a letter, communicating the decision of the department and the reasons therefor. A copy of this letter, marked D, is hereto appended.

A statement of the amount of moneys and securities held by the United States for said tribes, marked E, is also herewith transmitted.

Very respectfully, your obedient servant,

O. H. BROWNING,
Secretary.

Hon. BENJAMIN F. WADE,
President pro tem. United States Senate.

A.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., April 27, 1868.

SIR: Under the provisions of the 49th and 50th articles of the treaty with the Choctaw and Chickasaw Indians, of April 28, 1866, (Statutes at Large, vol. 14, pp. 780-'81,) Messrs. E. W. Rice and A. H. Jackson were appointed commissioners to examine and determine the claims of such Choctaws and Chickasaws as alleged they have been driven, during the late rebellion, from their homes in the Choctaw and Chickasaw nations on account of their adhesion to the United States, for damages sustained by reason thereof.

On the 2d of January, 1867, the report of the commissioners, dated December 31, 1866, accompanied with a record of the testimony taken and the awards made by them, was transmitted from your office to the Hon. L. V. Bogy, at that time Commissioner of Indian Affairs, with instructions to cause a thorough examination of all the papers connected with these claims to be made, and, with the least practicable delay, report the results, with his opinion thereon, to your department.

The clerical examination of these papers has long since been completed, but for the purpose of enabling the counsel for the Choctaw and Chickasaw nations, Mr. John H. B. Latrobe, and the counsel for the claimants, General James G. Blunt, to show cause why the awards made by Messrs. Rice and Jackson should or should not be ratified, I have, from time to time, deferred making my final report on the case.

This delay has caused a very large accumulation of additional testimony and lengthy arguments, filed by the two counsels, and ultimately resulting in a compromise between the parties interested, which will hereafter be referred to.

By the report of the commissioners, it appears that under the 49th article of the treaty herein referred to they have awarded to claimants of the Choctaw nation the sum of \$109,742 08, with interest on the same at the rate of six per

cent. per annum, from the 1st of October, 1863, to the date of ratification of the awards, and to the Chickasaw claimants the sum of \$233,008, with interest from the 1st of November, 1861, at the same annual rate, and up to the same time.

By computing the interest allowed by the commissioners up to May 1, 1868, and adding the same to the principal awarded, it will be seen that the total amount awarded to the Choctaw claimants, principal and interest combined, is equal to \$139,921 13, and to the Chickasaw claimants \$323,881 12.

By the compromise above referred to and herewith enclosed, which was made on the 20th instant between the national attorney and delegates of the Choctaw nation and the counsel and attorney for the claimants, it is agreed that the Choctaw nation shall pay, and their claimants receive, the sum of \$108,942, in full of all demands, (including interest,) by virtue of the 49th article of the late treaty with Choctaws and Chickasaws, and the awards made by the commissioners under its provisions; and by a similar compact between the counsel for the Chickasaw nation and the counsel for the claimants, dated April 21, 1868, and herewith enclosed, it is likewise agreed that said nation shall pay, and their claimants receive, the sum of \$150,000 in full of all demands as aforesaid, including interest.

Upon a full and thorough examination of the report of Commissioners Rice and Jackson, and the testimony adduced in support of the various claims, and in consideration of all the circumstances connected with the case, I am satisfied that the compromise above referred to is fair, and do therefore recommend that, from the national fund of their respective nations, the sum of \$108,942 be paid to the Choctaw claimants, and the sum of \$150,000 to the Chickasaw claimants, pro rata to the amount awarded by the commissioners in each case, after correcting such clerical errors as appear in their computations; and that this shall be a full, final, and conclusive settlement of all claims under the 49th article of the treaty of April 28, 1866, against the said Choctaw and Chickasaw nations, and a full compliance with the stipulations contained in said article.

I have the honor herewith to return the report of Messrs. Rice and Jackson, late commissioners, &c., with all the papers connected with the same.

Very respectfully, your obedient servant,

N. G. TAYLOR,
Commissioner.

Hon. O. H. BROWNING,
Secretary of the Interior.

B.

This agreement made and entered into at the city of Washington, District of Columbia, by and between Sampson Folsom, national attorney of the Choctaw nation, Israel Folsom and Peter P. Pitchlynn, delegates from the Choctaw nation at Washington, D. C., and James G. Blunt, agent and attorney in fact for the loyal Choctaw Indians, claiming under the award made by Messrs. Rice and Jackson, late commissioners under the 49th article of the treaty of April 28, 1866, between the United States and the Choctaw and Chickasaw nation, witnesseth:

That the said Sampson Folsom, as such national attorney on behalf of the Choctaw nation, and the said Israel Folsom and Peter P. Pitchlynn, agree and assent to the payment by the honorable Secretary of the Interior of the sum of one hundred and eight thousand nine hundred and forty-two dollars (\$108,942) to the loyal Choctaw claimants, in full satisfaction of any and all claims or demands arising under and by virtue of the said 49th article of the treaty of

April, 1866, and in full satisfaction of the interest accrued upon the award of Messrs. Rice and Jackson in favor of claimants under said 49th article, and with this express understanding, that when the said sum of one hundred and eight thousand nine hundred and forty-two dollars (\$108,942,) shall have been paid by the United States for and on behalf of the Choctaw nation, the same shall be a full performance on the part of said nation of the requirements and condition of the said 49th article of the treaty of April 28, 1866, and a full, final and conclusive settlement and payment and satisfaction by the Choctaw nation of all claims and demands against said nation or the moneys thereof growing out of the said 49th article of the treaty aforesaid.

And the said James G. Blunt, as such agent and attorney in fact, agrees to accept the same on the terms and conditions above stipulated and set forth.

In testimony whereof we have hereto set our hands and seals this 20th day of April, A. D. 1868.

SAMPSON FOLSOM.	[SEAL.]
ISRAEL FOLSOM.	[SEAL.]
P. P. PITCHLYNN.	[SEAL.]
JAS. G. BLUNT,	[SEAL.]
<i>Attorney for Claimants.</i>	

Witnesses:

JOHN KING.

C. G. LOMBARDI,

For E. Folsom and P. P. Pitchlynn.

C.

This is to certify that the counsel of the loyal Chickasaw Indians, for and in behalf of said Indians, hereby agrees, with the counsel of the Chickasaw nation, to receive the sum of \$150,000 in lieu of all claims for damages, both principal and interest, which they the said loyal Chickasaw Indians may have, under and by reason of the 49th article of the agreement and convention, made between the United States and the Choctaw and Chickasaw nations of Indians, on the 28th day of April, 1866, and under and by reason of the award made by Messrs. Rice and Jackson, commissioners appointed under said article; and it is further hereby agreed by and between the counsel respectively of the loyal Chickasaw Indians and the Chickasaw nation, that this payment as aforesaid shall be a full and final settlement of all claims, both principal and interest, on the part of said loyal Chickasaw Indians under the said article of said agreement and convention and under the award aforesaid. And for and in consideration that when made it shall be final and conclusive as to the loyal Chickasaw Indians and the Chickasaw nation, under said article, the counsel of the Chickasaw nation, for and in behalf of said nation, hereby agrees that the above award of \$150,000 shall be made and paid to the said loyal Chickasaw Indians, or their attorney, by the Secretary of the Interior in accordance with the terms of this agreement. It being hereby expressly understood that the adoption of this agreement and settlement by the Secretary of the Interior as the final award to the said loyal Chickasaw Indians under the said 49th article, shall be a full, final, and conclusive settlement of said article, and a full compliance therewith so far as the loyal Chickasaw Indians and the Chickasaw nation are concerned, otherwise this agreement to be void and of no effect.

In witness whereof the counsel of the said loyal Chickasaw Indians and of

the Chickasaw nation have each hereunto set his hand and seal this twenty-first day of April, in the year eighteen hundred and sixty-eight.

JAMES G. BLUNT, [SEAL.]

Counsel for Chickasaw Claimants, under 49th Article.

JOHN H. B. LATROBE, [SEAL.]

Per F. C. LATROBE,

Attorney, Counsel for Chickasaw Nation.

Witness: D. H. COOPER.

The words "and interest" in the sixth line of the first page, and the words "nation of" in the ninth line of the first page, and the words "and paid" in the 25th line of the first page, being interlined before execution; and in the 26th of the first page the words "or their attorney" being interlined before execution.

[U. S. revenue stamp.]

D.

DEPARTMENT OF THE INTERIOR,

Washington, D. C., June 11, 1868.

SIR: I have carefully considered your letter of the 27th April, in relation to the awards made by Commissioners Rice and Jackson, under the provisions of the 49th article of the treaty between the United States and the Choctaw and Chickasaw Indians, proclaimed July 10, 1866.

The report of the commissioners was transmitted to your office on the 2d day of January, 1867, with a record of the testimony taken and awards made, and you inform me that you have delayed making a final report, pursuant to the instructions of the department, for the purpose of enabling counsel to show cause why the awards of the commissioners should or should not be ratified. This delay has resulted in a compromise, which you recommend should be accepted as a final and conclusive settlement of the claims arising under said article, and a full compliance with the stipulations thereof.

The terms of the compromise are set forth in two papers accompanying your letter, one signed by "James G. Blunt, counsel for Choctaw claimants under 49th article," and "John H. B. Latrobe, per J. C. Latrobe, attorney, counsel for Chickasaw nation;" and the other by Mr. Blunt, as attorney, and Sampson Folsom, "national attorney of the Choctaw nation," and Israel Folsom and Peter P. Pitchlynn, "delegates of the Choctaw nation." A paper also accompanies your letter, for my signature, approving and ratifying so much of the awards as amounts to the sum fixed upon as a compromise.

I am unable to concur in your recommendation. The 49th article imposes a specific duty upon the Secretary of the Interior. The report of the commissioners, without his ratification, has no binding effect. The awards with the proofs must therefore be carefully examined, and I cannot recognize the authority of the parties to the papers just referred to, to determine, by their arbitrament or otherwise, the amount of the claims in question, and to give to their agreement the force and effect of the ratification contemplated by the treaty. I therefore return all the papers accompanying your letter, with a renewal of the instructions heretofore communicated to you on the subject.

I am, sir, very respectfully, your obedient servant,

O. H. BROWNING, *Secretary.*

THE COMMISSIONER OF INDIAN AFFAIRS.

E.

Condensed statement of moneys and securities held by the United States for the benefit of the Choctaw and Chickasaw Indians.

AMOUNT HELD BY THE SECRETARY OF THE INTERIOR.

Choctaws' General Fund.

Stocks, 6's	\$454,000 00
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School Fund.

Stocks, 6's	121,000 00
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Total	575,000 00
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Amount held in trust by the United States, per 13th article, treaty June 22, 1855, (Statutes at Large, vol. 11, p. 614,) on which interest is paid annually, at 5 per cent.	500,000 00
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Total amount held for Choctaws	1,075,000 00
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AMOUNT HELD BY THE SECRETARY OF THE INTERIOR.

Chickasaw Incompetents.

Stocks, 5's	\$2,000 00
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Amount held by the Secretary of the Treasury for the Chickasaw national fund	1,308,808 20	
	<u>1,310,808 20</u>	1,310,808 20

Amount of annuities due Chickasaws, now to their credit	1,500 00
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Carrying into effect treaty with Chickasaws ..	66,502 46	
	<u>68,002 46</u>	68,002 46

Total of stocks and moneys held for the Chickasaw Indians	1,378,810 66
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Total amount held for the benefit of the Choctaws and Chickasaws, in moneys and securities	2,453,810 66
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RECAPITULATION.

Total of moneys and securities held for the Choctaws by the United States	\$1,075,000 00
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Total of moneys and securities held for the Chickasaws by the United States	1,378,810 66
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Total amount held for both tribes, of moneys and securities	2,453,810 66
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