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**Letter of the Secretary of the Interior, communicating papers relating to the rights of freedmen under the 3d article of the treaty with the Choctaw and Chickasaw Nations of Indians, concluded April 28, 1866.**

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## LETTER

OF

# THE SECRETARY OF THE INTERIOR,

COMMUNICATING

*Papers relating to the rights of freedmen under the 3d article of the treaty with the Choctaw and Chickasaw nations of Indians, concluded April 28, 1866.*

JULY 24, 1868.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,  
*Washington, D. C., July 23, 1868.*

SIR: I transmit, herewith, copy of a letter from the Commissioner of Indian Affairs to this department, dated the 20th instant, together with copies of the papers referred to by him, all relating to the rights of freedmen under the 3d article of the treaty with the Choctaw and Chickasaw nations of Indians, concluded April 28, 1866.

The said 3d article is as follows:

The Choctaws and Chickasaws, in consideration of the sum of \$300,000, hereby cede to the United States the territory west of the 98° 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 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, 40 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 Kausas Indians have made their selections as herein provided; and immediately on the enactment of such laws, rules, and regulations, the said sum of \$300,000 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 \$100 per capita, as shall be sufficient to pay such persons of African descent, before referred to, as within 90 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 \$300,000 shall cease to be held in trust for the said Choctaw and Chickasaw nations, and be held for the use and benefit of such 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 90 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 \$300,000, or any part thereof, but shall be upon the same footing as other citizens of the United States in the said nations.

The sum of \$300,000 referred to in this article has never been appropriated and invested, and is not, consequently, subject to the control of this department. Two years from the ratification of the treaty having expired, and the legis-

latures of the Choctaw and Chickasaw nations having failed to make such laws, rules, and regulations in regard to persons of African descent resident in said nations at the date of the treaty of Fort Smith, as are contemplated by the foregoing article of the treaty of April 28, 1866, it becomes the duty of the United States, within 90 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.

There is no designation of a place to which such persons shall be removed, nor is there any provision made, either by the treaty or by law, for the cost of removal.

Under these circumstances, the department can take no action for carrying this article of the treaty into effect, and the whole matter is, therefore, submitted for the consideration of Congress, and its early attention earnestly invited to the subject.

Very respectfully, your obedient servant,

O. H. BROWNING, *Secretary.*

Hon. BENJAMIN F. WADE,

*President pro tempore United States Senate.*

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

*Washington, D. C., July 20, 1868.*

SIR: I have the honor to submit herewith, for your consideration and direction in the matter, a letter from Superintendent Wortham, dated 27th ultimo, transmitting a resolution passed by the freedmen among the Choctaws and Chickasaws in council, and a petition from them relative to their rights under the treaty with the Choctaws and Chickasaws, concluded April 28, 1866.

The petitioners refer to the 3d article of that treaty, (Statutes at Large, vol. 14, p. 769,) which stipulates that for the cession to the United States by the Choctaws and Chickasaws of the country known as the "leased district," \$300,000 shall be paid, and the amount invested and held by the United States, at interest, in trust for said nations, until their legislatures respectively shall have made such laws, rules, and regulations as may be necessary to give all persons of African descent, resident among them at the date of the treaty of Fort Smith, and their descendants heretofore held in slavery, all the rights, privileges, and immunities, including the right of suffrage, of Choctaw and Chickasaw citizens, except in the annuities, moneys, and public domain claimed by or belonging to said nations; and also to give to such persons and their descendants 40 acres of land each, when the land of these nations shall have been surveyed, and they and the Kansas Indians shall have made their selections as provided in the treaty, whereupon the \$300,000, less such sum, at the rate of \$100 per capita, as shall be sufficient to pay such persons of African descent referred to, as shall, within 90 days after the passage of such laws, rules and regulations, elect to remove, and actually remove, from said nations, shall be paid over to said nations. Should, however, their legislatures not make the required laws, &c., within two years from the ratification of the treaty, then the said sum of \$300,000 shall cease to be held in trust for them, but shall be held for the use and benefit of persons of African descent as may be willing to remove, and as the United States shall remove, from the country of the Choctaws and Chickasaws, in such manner as may be deemed proper; the removal to be made within 90 days after the expiration of the said two years, those remaining, or those returning after having been removed, to have no benefit in that fund. The petitioners then ask, inasmuch as the Chickasaws passed an act in November,

1866, refusing to grant them and their people the rights mentioned in said 3d article, as also did the Choctaws at the last session of their council, that they, the freedmen and free negroes, be removed from the Choctaw and Chickasaw nations, and that the \$300,000 alluded to be expended in such manner as the government may deem best, for their use and benefit; and further, that a delegation from them be permitted to visit Washington to consult with this office in regard to their future.

This office has not been officially advised of the acts of the Choctaw and Chickasaw nations to which the petitioners refer, but it is believed that what they state is substantially true. The treaty in question was ratified on the 10th of July, 1866, and with the 10th of this month expired the time within which the Choctaws and Chickasaws could, by legislative acts, give to the freedmen and free negroes the rights, privileges, and immunities of citizens of said nations. Failing or declining to do so, and these now desiring to be removed, the obligation is with the government to take action, within 90 days after the last named date, to effect their removal, and to use for their benefit, in such manner as may be deemed most proper, the money provided therefor in the said 3d article of the treaty of 1866.

I therefore suggest that steps be taken at once to adopt measures for the fulfilment of that stipulation of the treaty; and I think it would be advisable that the request of the petitioners, to send a delegation of four of their number, with the Choctaw agent, to this city, in reference to the matter be granted, and so recommend, as I have no doubt but that a better and more satisfactory understanding can be thus had in regard to their future location, wants, and interests than could be obtained by the ordinary way of communication through the superintendent or Indian agent.

Very respectfully, your obedient servant,

N. G. TAYLOR, *Commissioner.*

Hon. O. H. BROWNING,

*Secretary of the Interior.*

WASHINGTON, D. C., June 27, 1868.

SIR: I have the honor to transmit the action of council and petition of freedmen of the Choctaw and Chickasaw nations, and respectfully ask that the same receive the consideration that, in the opinion of the honorable Commissioner, it may seem to be entitled to.

I have the honor to be, respectfully, your obedient servant,

JAMES WORTHAM,

*Superintendent Indian Affairs, Southern Superintendency.*

Hon. N. G. TAYLOR,

*Commissioner Indian Affairs.*

*Resolved*, By the Choctaw and Chickasaw freedmen; in council assembled, that James Squire Wolf, Squire Butler, Isaac Anderson, and Anderson Brown, be and are hereby appointed delegates to confer with Major M. W. Chollar, United States Indian agent for the Choctaws and Chickasaws, the superintendent of Indian affairs, and the Commissioner of Indian Affairs, in regard to the interest of our people; and the said delegates are hereby instructed to present the views set forth in our petition of this date, and respectfully urge the government to take early action in all matters affecting our interest; and we pledge the delegation herein appointed the earnest and hearty support of our people, satisfied that this delegation will be true to the trust reposed in them, having the interest of our race at heart.

*Resolved further*, That this resolution, with our petition, be presented by the delegation above mentioned to Major M. W. Chollar, United States Indian agent for the Choctaws and Chickasaws, with the request that he take the proper steps to lay these matters before the government at the earliest day practicable.

Done at Boggy Depot, this 10th day of June, 1868.

JAMES SQUIRE <sup>his</sup> × WOLF, *President of Council.*  
mark.

FLETCHER FRAZIER, *Secretary of Council.*

We, the delegates of the Choctaw and Chickasaw freedmen in council assembled, respectfully present this our humble petition, praying that your honor will grant this our prayer.

We understand that, in accordance with the last treaty made between the government and the Choctaw and Chickasaw Indians, that should the said Indians fail to give our people the right of suffrage and incorporate us into their tribes within two years from the ratification of the treaty, that the sum of \$300,000 (the purchase money of the leased district) should be used for our benefit.

Now, as the Chickasaws passed an act about November, 1866, refusing to grant us any of the rights mentioned in the 3d article of the treaty of 1866; and as the Choctaws, by an act passed at the last session of their council, known as the Sampson Folsom act, refused to grant us the rights above referred to, and as the disposition shown by the Choctaws and Chickasaws is so well known to our people; and as the two years mentioned in the 3d article of the treaty of 1866 has so nearly elapsed, and our people are so uneasy and restless, being in ignorance of their fate, and the country being full of rumors in regard to these matters, our people decided to call upon the government, through their delegates, to relieve their minds of suspense. Trusting in the justice and humanity of the government, towards which we feel the profoundest respect and gratitude, we present this our petition:

We respectfully pray that we be removed from the Choctaw and Chickasaw nations at an early day, and that the sum of three hundred thousand dollars, before mentioned, be used by the government, as the government may deem fit, for our use and benefit; and as this matter is one of vital interest to our people, we humbly pray that your honor will authorize and order that a delegation of our people, selected by this council and herein named, composed of James Squire Wolf, Squire Butler, Isaac Alexander, and Anderson Brown, shall proceed to Washington, in company with Major M. W. Chollar, agent for the Choctaws and Chickasaws, (who is the first friend and protector our people have ever known,) to lay the views and wishes of our people before the government, and to consult with yourself and the venerable superintendent of Indian affairs for this territory, the Hon. Colonel Wortham, (whose acts have shown us that he is our true friend in whom we can rely,) in regard to the future of our people.

Done at Boggy Depot, C. N., June 10, 1868.

JAMES SQUIRE <sup>his</sup> × WOLF.  
mark.

<sup>his</sup>  
Henry × Kemp.

<sup>his</sup>  
Edmond × Clarke.  
mark

<sup>mark</sup>  
<sup>his</sup>  
Stephen × Colbert.

<sup>his</sup>  
Jack × Brown.

<sup>mark</sup>  
<sup>his</sup>  
Emanuel × Colbert.

<sup>mark</sup>  
<sup>his</sup>  
Isaac × Alexander.

<sup>mark</sup>  
<sup>his</sup>  
Downey × Allen.  
mark.

<sup>mark</sup>  
<sup>his</sup>  
Henry × Ro-shi-ka.  
mark.

Byington <sup>his</sup> × Colbert.  
mark.  
 Isam <sup>his</sup> × Love.  
mark.  
 Richard <sup>his</sup> × Love.  
mark.  
 Cæsar <sup>his</sup> × Nelson.  
mark.  
 Richard <sup>his</sup> × Stevenson.  
mark.  
 Phillip <sup>his</sup> × Stevens.  
mark.  
 Fletcher Frazier, *Secretary.*

<sup>his</sup> Anderson × Brown.  
mark.  
<sup>his</sup> Dick × Brashears.  
mark.  
<sup>his</sup> Henry × Johnson.  
mark.  
<sup>his</sup> Watson × Brown,  
mark.  
<sup>his</sup> Smith × Brown.  
mark.  
<sup>his</sup> John × Scott.  
mark.  
<sup>his</sup> Francoisa × Chako.  
mark.  
<sup>his</sup> Sampson × Dick.  
mark.  
<sup>his</sup> Jack × O'Dair.  
mark.  
<sup>his</sup> Squire × Butler.  
mark.  
<sup>his</sup> Ben. × James.  
mark.

<sup>his</sup> Mose × ———  
mark.  
<sup>his</sup> King × Blue.  
mark.  
<sup>his</sup> Bartlett × Franklin.  
mark.  
<sup>his</sup> Nathan × Cochran.  
mark.  
<sup>his</sup> Jack × Blue.  
mark.  
<sup>his</sup> Isanu × Flint.  
mark.  
<sup>his</sup> Joshua × Love.  
mark.  
<sup>his</sup> Henry × Harris.  
mark.  
<sup>his</sup> Nathan × Madison.  
mark.  
<sup>his</sup> Henry × Crittendon.  
mark.  
<sup>his</sup> Sam × Freaney.  
mark.  
<sup>his</sup> Dan × Colbert.  
mark.  
<sup>his</sup> Henry × Garven.  
mark.  
<sup>his</sup> Joseph × Morris.  
mark.  
<sup>his</sup> Ned × Shoals.  
mark.  
<sup>his</sup> Solomon × Rytchlynn.  
mark.  
<sup>his</sup> Elijah × Harris.  
mark.  
<sup>his</sup> Anthony × McKinney.  
mark.

Hon. COMMISSIONER OF INDIAN AFFAIRS,  
*Washington, D. C.*