

University of Oklahoma College of Law

University of Oklahoma College of Law Digital Commons

American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899

7-6-1868

Treaty with Choctaw Indians. (To accompany H.R. 1195.).

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



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

Recommended Citation

H.R. Rep. No. 77, 40th Cong., 2nd Sess. (1868)

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

TREATY WITH CHOCTAW INDIANS.

[To accompany H. R. 1195.]

JULY 6, 1868.—Ordered to be printed.

Mr. WINDOM, from the Committee on Indian Affairs, made the following

R E P O R T.

The Committee on Indian Affairs, to whom was referred the bill to carry into effect certain treaty stipulations with the Choctaw Indians, having carefully investigated the same, report :

That the claim of said Indians originated in the treaty of September 27, 1830, whereby they ceded to the United States their lands in the State of Mississippi, amounting to over 10,000,000 acres. The Choctaws persistently claimed that by the understanding at the time, the fair construction of that treaty, they were entitled to receive the proceeds of the sale of said lands, and on the 22d day of June, A. D. 1855, a treaty was concluded between them and the United States, whereby it was stipulated and agreed as follows :

The government of the United States not being prepared to assent to the claim set up under the treaty of September 27, 1830, and so earnestly contended for by the Choctaws as a rule of settlement, but justly appreciating the sacrifices, faithful services, and general good conduct of the Choctaw people, and being desirous that their rights and claims against the United States shall receive a just, fair, and liberal consideration, it is therefore stipulated that the following questions be submitted for adjudication to the Senate of the United States :

"1. Whether the Choctaws are entitled to, or shall be allowed, the proceeds of the lands ceded by them to the United States by the treaty of September 27, 1830, deducted therefrom the cost of their survey and sale, and all just and proper expenditures and payments under the provisions of said treaty ; and if so, what price per acre shall be allowed to the Choctaws for the lands remaining unsold, in order that a final settlement with them may be promptly effected." Or,

"2. Whether the Choctaws shall be allowed a gross sum in further and full satisfaction of all their claims, national and individual, against the United States, and if so, how much."

Pursuant to this treaty stipulation, the Senate, on the 9th of March, 1859, made their award in the form of a resolution in the following words, namely : (Senate journal, second session, Thirty-fifth Congress, 1858-59, page 493.)

"Whereas the eleventh article of the treaty of June 22, 1855, with the Choctaw and Chickasaw Indians provides that the following questions be submitted for decision to the Senate of the United States :

"1. Whether the Choctaws are entitled to or shall be allowed the proceeds of the sales of the lands ceded by them to the United States by the treaty of September 27, 1830, deducting therefrom the costs of their survey and sale, and all just and proper expenditures and payments under the provisions of said treaty ; and if so, what price per acre shall be allowed to the Choctaws for the lands remaining unsold, in order that a final settlement with them may be promptly effected. Or.

"2. Whether the Choctaws shall be allowed a gross sum, in further and full satisfaction of all their claims, national and individual, against the United States, and if so, how much.

"Resolved, That the Choctaws be allowed the proceeds of the sale of such lands as have been sold by the United States on the 1st day of January last, deducting therefrom the costs of their survey and sale and all proper expenditures and payments under said treaty ; excluding the reservations allowed and secured, and estimating the scrip issued in lieu of reservations at the rate of \$1 25 per acre ; and further, that they also be allowed twelve and a half cents per acre for the residue of said lands.

"Resolved, That the Secretary of the Interior cause an account to be stated with the Choctaws, showing what amount is due them according to the above prescribed principles of settlement, and report the same to Congress." (See Reports Senate, No. 374, second session. Thirty-fifth Congress, 1858-59.)

The account stated by the Secretary of the Interior under this order exhibits the following facts, viz :

That the Choctaws had ceded by the treaty of September 27, 1830, (acres).....	10, 423, 139.69
Secured to the Choctaws for reservations....	334, 101.02
Actually sold by the United States (acres,)...	5, 912, 664.63
Granted away by Congress to the State of Mississippi as swamp lands and for railroads and schools, (acres).....	2, 292, 766.00
Remaining undisposed of.....	1, 883, 608.04
	<hr/>
	10, 423, 139.68

The Senate having awarded to the Choctaws the proceeds of the sale of such lands as had been sold by the United States, on the 1st day of January, 1859, the Secretary of the Interior reported the proceeds of said lands to be.....

\$7, 556, 578 05

And the Senate having awarded to the Choctaws 12½ cents per acre for the residue of said lands, the Secretary reported the residue to be 4,176,374.04 acres, and allowed therefor at 12½ cents per acre.....

522, 046 75

8, 078, 614 80

The Senate having directed the deduction of "the costs of survey and sale, and all proper expenditures and payments under said treaty," the Secretary of the Interior charged the

expenses of survey and sale at 10 cents per acre upon the whole amount of the land ceded (10,423,139.69 acres,) making or on all other payments and expenditures under the treaty...

1, 042, 313 96

4, 055, 053 54

5, 097, 367 50

2, 981, 247 30

sum deducted from the \$8,078,614 80, left due the Choctaws the sum of.....

The Senate, on revising this statement of the Secretary of the Interior, made a further deduction of five per cent. on the net proceeds of the actual sales of said lands (5,912,664.13 acres) which the United States had paid to Mississippi amounting to \$362,100 70, and also decided that so much of the account as is composed of 12½ cents per acre, or lands which had been given to the State of Mississippi, under the swamp land act, and for railroads and schools, amounting to \$286,595 75, should be deducted, amounting in all to \$648,696 45, leaving the balance due to the Choctaws, under the final award of the Senate, \$2,332,550 85

It is difficult to see why, under the treaty, the Indians should have been charged with the 10 cents per acre on the unsold lands, amounting to \$451,047 50 or with the money and lands given away by Congress to the State of Mississippi, amounting, as shown above, to \$286,595 75, and to 2,292,766 acres of land; but as, by the treaty, the award of the Senate was to be final, your committee are not disposed to question it. It turns out that the Choctaws not only received nothing from the "unsold lands," but, by the system of charges and deductions adopted by the Senate, they were compelled to pay on account of unsold lands the sum of \$182,186 40. These facts are referred to merely for the purpose of showing that the Senate, when acting in the character of referee, did not show any favor to the Indians. The amount of their final award was arrived

at by making every possible deduction from the gross amount of money received from the sale of said lands, so that the said sum of \$2,332,560 85 thus found to be due, was the net profit the United States had realized in the transaction, a sum which was then in the treasury belonging to said Indians.

Congress, by act of 2d March, 1861, (Statutes-at-Large, volume twelve, page 238,) made an appropriation of \$500,000 on account of this claim, in the following form :

The payment to the Choctaw nation or tribe of Indians, on account of their claim, under the eleventh and twelfth articles of the treaty with said nation or tribe, made the 22d of June, 1855, the sum of \$500,000; \$250,000 of which sum shall be paid in money, and for the residue the Secretary of the Treasury shall cause to be issued to the proper authorities of the nation or tribe, on their requisition, bonds of the United States authorized by law at the present session of Congress: *Provided*, That in the future adjustment of the claim of the Choctaws, under the treaty aforesaid, the sum shall be charged against the said Indians.

Congress, by this act, clearly recognized and affirmed the former award of the Senate.

Deducting this appropriation, there still remains due to said Indians \$1,832,560 85.

By treaty concluded with the Choctaws and Chickasaws on the 28th of April, 1866, it was stipulated and agreed as follows, namely, (Act first session 39th Congress, pages 90 and 95:)

ARTICLE X. The United States reaffirms all obligations arising out of treaty stipulations, or acts of legislation with regard to the Choctaw and Chickasaw nations, entered into prior to the late rebellion and in force at that time, not inconsistent herewith, and further agrees to renew the payment of all annuities and other moneys accruing under such treaty stipulations and acts of legislation from and after the close of the fiscal year ending on the 30th June, in the year 1866.

ARTICLE XLV. All the rights, privileges, and immunities heretofore possessed by said nations or individuals thereof, or to which they were entitled under the treaties and legislation heretofore made and had in connection with them, shall be, and are hereby declared to be, in full force, so far as they are consistent with the provisions of this treaty.

This debt is based upon monies actually received by the United States, belonging to said Indians, and the most of it has been in the treasury for more than twenty-five years. It would seem that even a slight measure of justice would require that, after having used this money for twenty-five years, we should repay at least the principal sum so received. The claim has received the sanction of two treaties—of the award of the Senate when acting as referee—and has been ratified and affirmed by an act of Congress. It has also been twice reported favorably by the committee on appropriations of this house.

In conclusion, your committee recommend the passage of the accompanying bill, and beg leave to quote a portion of the memorial of Governor Pitchlynn, Choctaw delegate.

This is no longer a claim—it is a debt, ascertained and settled, due under treaty stipulations; a debt of a peculiar and sacred obligation. These moneys are trust moneys. Will you pay other creditors with our moneys, because we are Indians and the world will not hear our complaint of injustice? Your own Senate was made the arbitrator. It found the evidences of our claim on your own records. The account has been taken by your own officers. Every possible charge against us, to which ingenuity could impart a color of justice, has been allowed. *The matter is in judgment.* Surely we may be heard to implore you to do our people justice. And shall we ask the government of this great nation to pay the moneys due our people, and shall we ask in vain?

And shall we again return home to our country and tell our people that we have done all that man can do, and all was done in vain?

May the Great Spirit open your hearts, for we once more appeal for justice.