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**Memorial of the delegates of the Cherokee, Creek, and Choctaw Nations of Indians, remonstrating against the passage of the bill (S. 679) to organize the Territory of Oklahoma, consolidate the Indian tribes under a territorial government, and carry out the provisions of the Treaties of 1866 with certain Indian tribes.**

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## MEMORIAL

OF

# THE DELEGATES OF THE CHEROKEE, CREEK, AND CHOCTAW NATIONS OF INDIANS,

REMONSTRATING

*Against the passage of the bill (S. 679) to organize the Territory of Oklahoma, consolidate the Indian tribes under a territorial government, and carry out the provisions of the treaties of 1866 with certain Indian tribes.*

MAY 23, 1870.—Referred to the Committee on Indian Affairs and ordered to be printed.

SENATORS: Shall we stand dumb before you like a sheep before its shearer? Shall we lie down supinely and see our national governments destroyed and ourselves despoiled of our lands? Shall our altars be desecrated, and we be the painful witnesses of our own ruin? These are great questions with us, and we must meet them as men, husbands, and fathers.

When we reached Washington about the first of January last we found a thoroughly organized party operating against every Indian interest. The most persistent efforts were being made to intensify public feeling against us as a race, and at one time it seemed that we would be overwhelmed. Denounced without stint, and hunted with remorseless ferocity, it appeared that no age, sex, or condition would be spared, no rights of property respected, nor the slightest regard paid to the most solemn obligations of your government. Yet the leaders of this cruel warfare were for a while concealed under the specious pretext of being instigated solely by a desire to benefit the Indians.

Every measure brought forward, it was claimed, was intended to operate for their advantage, not that of your government, and each was attempted to be clothed in the attractive garb of humanity, when, in reality, each had only the object in view of destroying them. They were invited with fair words into a charnel house, where they were to be left to perish. Mr. Fitch, of Nevada, however, a leader in the speculators' interest, at last threw off the mask, and boldly avowed himself in favor of extermination, and of seizing the Indians' lands. This was the message he sent to the Indians from the House of Representatives a few days ago; and this he proclaims to be his Indian policy, and calls upon Congress to adopt it! We had hoped that if our lands were seized that our lives might be spared, until God, in His own wise providence, called us away; but, alas! the sentiment has gone forth that we must be obliterated from the human family by the power of war, and not one of us be left, as at Thermopylæ, to tell the tale of our destruction. We apprehend that if we had no rich lands we might, at least for a time, escape the wrath of our pursuers. But these lands are wanted, and every possible device is resorted to for the purpose of obtaining them. As bad as

we are represented to be, we are thought by our enemies to be worthy of having a territorial representative in Congress; and then again we are told we are in the way of progress, and that "manifest destiny" has specially marked us for its victims; that it is all folly for us to repine at or attempt to avert our fate; that we must be driven on in one great procession to premature graves, and that our homes must become the home of the white settler. All the measures which have been concocted look to these ends, and still their authors pretend to be our friends. Friends, indeed! It is the friendship or attachment which the foreigner showed to the Hindoo religion when he consented to become one of its priests, that he might rifle the temple of Juggernaut of the diamond eye. We know, we feel, that we have friends in Congress, men of large souls and just views, who rise far above any selfish consideration, and to them and to our God we commit our cause. The plea of "manifest destiny" is the plea of those who fear not God and covet their neighbor's goods. There is one feature which distinctly marks the course of our pretended friends. They are swift to hunt up every fragment of record which they suppose will militate against the Indians, distort its meaning, and parade it before the public gaze, but suppress every particle of record which is favorable to the Indians, and refuse to fulfill the most solemn treaties with them.

It cannot have escaped your notice, senators, that the earliest and fiercest assaults which have been made upon us at the present session originated in the House of Representatives, and proceeded from a few members. Two territorial bills were introduced there for our future government; also a bill looking to the divestment of our landed titles: a resolution to direct the Judiciary Committee to inquire if we are citizens by virtue of the fourteenth amendment, when it is so obvious to all that it does not change our political status under the Constitution, leaves us just as we were; and still other measures tending to our injury and overthrow. Now, the House is silent on these subjects. Even the resolution which had passed that body providing for a Joint Committee on Indian Affairs, and which, after a persistent and protracted struggle, passed the Senate, with amendments, is now no more heard of, for the reason, as we are informed and believe, that its special friends ascertained they would not be upon that committee if the resolution passed, and, consequently, had no further use for it.

After looking over the whole ground, the party organized against us thought best to change the theater of action to the Senate, and bring to bear all available force on that body in favor of one bill which would embrace all the objects in view, and which, if passed, would answer all their purposes. We do not charge that they can or will effect anything in the Senate, nor do we wish to be understood as casting any aspersion on the motives of any senator; but we conceive it to be our province and duty to examine, in a respectful and dignified manner, the bill of Senator Rice, and ascertain its scope and effect. The bill was referred to the Committee on the Territories, reported back by Senator McDonald, Senator Rice's colleague, and its passage recommended. It involves at least three grave and important legal questions, which we suppose it would be proper for the Judiciary Committee to pass upon, and not the Committee on the Territories.

First. Whether Congress has the constitutional right, in view of our status, treaties, and existing laws, to establish a territorial government over us.

Second. Whether we are citizens under the fourteenth amendment to the Constitution.

Third. Whether the bill does not contain provisions violative of our treaty stipulations.

We believe it to be wrong in principle on all these questions, and various others. We believe it to be fraught with danger to the Indians; so much so, indeed, that if it should become a law and be enforced by the bayonet, (it could never be enforced in any other way,) it would end our career as a people, and turn us out upon the world a penniless race. We know too well what would follow, not to stand at the threshold and warn our friends at home of the impending danger, and implore you, senators, by the sacred memories of the past, and your exalted sense of justice, to protect us from the invaders of our soil, and save us from final extinguishment. May the Great Father of us all, who cannot look upon oppression with the least degree of allowance, guide you in your efforts to protect the weak and helpless.

Until the almost countless swarm of squatters reached the borders of our lands, around which they are now hovering, impatiently awaiting the hour when they can enter upon them, and the iron rail pointed in their direction, and the speculator saw they were fair to look upon, each making common cause with the border politician, who could well understand we had no votes to give to him, the "new Indian policy" of which we have spoken was not dreamed of—a policy vastly different from the peace policy of the President; the first a policy of war and extermination; the last a policy of peace and preservation. The struggle forced upon us is one between our rights and existence on the one hand, and the speculator and land pirate on the other. We are few and poor, and they are many and rich. We may go to the wall, but it will only be when all our efforts fail to protect our wives and children, and shield our homes from the devastating step of the intruder; or, to use the common expression applied to us, when we must yield to "manifest destiny," and sleep beneath the sod which the plow-share turns over our final resting-place. It is folly to tell us that those who are engaged in these schemes are our friends, seeking to promote our welfare. They mean no such thing as friendship—friends never act as they do. They believe with, and act upon the principle of, Mr. Fitch, that "the only good Indians are the dead Indians," and we would be deluding ourselves, and false to our people, if we did not proclaim the fact now and here. The notes of their siren song fall upon our ears like the dull heavy notes of death, and our feet are asked to keep time with the funeral march to the grave. We cannot, senators, we dare not be silent. We mean to be respectful, but we must speak the truth in our own defense.

The territorial bill, now pending before your body, contains more extended and alarming provisions than are embraced in either of the two House bills which we have heretofore discussed. We do not think it necessary, however, to dwell upon its usual organic details. We have heretofore said enough upon that point. To assume that it is based upon the grants made in our treaties is to assume that error is truth. Where is the treaty in which can be found a provision surrendering our national independence, and consenting to the abolition of our own local governments? Where and when have we consented to the establishment of such a court among us as the bill provides for—the appointment of judges, secretary, marshals, &c., by the President and Senate? Where is the treaty which expresses a desire on our part to become citizens of the United States? When and where have we conceded the right to make us such? We have been taught by the experience of the past and the observation of the present that our only safety is in remaining by ourselves, and maintaining intact our homogeneity.

We will venture the prediction that if you establish over us such a government as the bill provides for, your officers would not get into our Territory before it would be overrun by squatters, who would look to them for protection. Indeed, they would regard their very appointment as an invitation to go, and if Congress were to place an army around our territorial borders they could not be kept back. We have been taught in too many instances, not to be admonished by the lesson that where squatters have the slightest pretext to take possession of Indian lands they do it, and they would take shelter under your territorial bill and the officers appointed by it. Do you ask, senators, what the result would be? Every trouble between an Indian and a white man would be laid to the fault of the Indian. Nothing would please the squatters and their confederates better than to get up difficulties, and they would get them up. A cruel, relentless, and exterminating war would follow. They would glory in such a war; nothing would please them better than for an Indian to kill a white man, even in self-defense. Men will wade through blood for a throne, and they will wade through it for territory. If gentlemen want trouble, we do not see but their wish would be gratified by opening the gateway to our possessions, and turning the squatter and speculator loose upon us. However much our people might seek to avoid difficulty, their object and interest would be to provoke it. We think we hazard nothing in saying that in nineteen out of twenty cases of hostility between the Indians and whites, it was engendered by the class of persons we have just described, or the failure of the government to keep its treaty stipulations. The civilized Indian when wronged, or when he thinks he is wronged, is conscious he is without civil redress, and hence seeks for compensation in reprisals, not having yet learned better. The soldier follows his retreating steps, and the question between them resolves itself into one of life or death. But it is not our purpose to discuss this point. We present it only as an illustration. We want to say that the white man whom it is proposed to send in among us, will have no desire for our perpetuation or prosperity, and in the nature of things ill-feeling would be engendered between them and us. Our whole civil fabric being overthrown, and a new government policy inaugurated, and new officers of another race placed over us, with our institutions and altars lying in ruin around us, it will not and cannot be for the interest, welfare, or honor of either race to harmonize with the other. Why, then, is the proposed change urged? Can you manage the uncivilized Indian any better in a territorial government than you can now? No. Who, then, is sought to be brought under the control of this proposed territorial government? The civilized Indians, and they only. What are they doing that makes them either troublesome, expensive, or dangerous to your government? They do not ask Congress to clothe them or feed them; only to pay them what the government owes them for their lands. They are not making war upon the white race or any other, but living quietly in the home which your government guaranteed "to them and to their descendants forever," and pledged its most sacred faith in writing, that "*no State or territorial line should ever be extended around it or over it.*" Would not both parties be injured by violating this pledge and making the proposed change? The reasoning which is applied to the uncivilized Indians, who cannot be brought under its control or influence, is applied to the civilized Indians where it is wholly inapplicable. We defy our assailants to produce one sound argument to show that either the government or the Indian nations would be benefited by the establishment of the proposed territorial government. It would not contrib

ute to peace, it would not add to the prosperity or wealth of either, but would entail the territorial expenses on the United States, whereas the local Indian governments do not cost them a dollar. Moreover, it would not advance the cause of humanity or Christian philanthropy; for we imagine it will not be insisted that the class of men who would get in among us would take any interest in matters of that kind; and to bring these suggestions to a close, we now affirm, from the deepest convictions of our hearts, and before you and the world, that the "new Indian policy," as it is called, means the seizure of our lands and the adoption of any and every measure which it is thought will contribute to the consummation of these ends; and it means nothing less than this.

The object to be attained is exhibited far more plainly in the bill introduced by Senator Rice than it has ever been before. The first section of that bill would deprive the various Indian nations of several million acres of land to which they are as religiously entitled as any other acre they own; but as this question may probably be amicably settled between them and the government, it is not necessary to discuss it here.

#### THE REPORT.

The report of Senator McDonald, accompanying the bill, deserves some notice. It may be said of it, it is smooth in its sophistry, incorrect in its history, incongruous in its logic, and destructive in its object.

The words of his mouth were smoother than butter, but war was in his heart; his words were softer than oil, yet were they drawn swords.

Failing to accomplish our ruin by direct assaults upon our independence and treaties; failing to establish over us by constitutional authority a territorial government, and thus destroy our local institutions and turn us over to the tender mercies of the speculator and the squatter, resort is had to the pretext that we have agreed to all the material features of the bill by certain treaty provisions, when a careful examination of them will show the very reverse to be true. We have in previous communications so often and so clearly pointed out the fallacy of such pretension, and the guarantees extending over our lands and local governments, which were not "in all future time to be disturbed," that it would be a work of supererogation to go over the subject again.

The honorable chairman of the Territorial Committee commences his report by saying: "This bill is in all material respects in conformity with the treaties with the Choctaw, Chickasaw, Creek, Seminole, and Cherokee Indian tribes," (could he not have said "nations?") and he adds at the close of the paragraph the words: "The eighth article of the Choctaw and Chickasaw treaty has been the standard in drawing the bill."

Now, it will be observed that he does not claim the right on the part of the government of the United States, independent of the parties to be affected by it, to establish a territorial government over the Indians designated, but places the right on the assumption that said nations have agreed that such a bill might become a law. We thank the honorable chairman for admitting this much, if no more. He not only asserts that they have consented to the passage of such a bill, but he attempts to prove it by quotations from treaties, thus confirming the doctrine that such a government can only be established by the consent of those to be governed by it. He predicates the bill altogether on treaties, and if they fail to sustain it, the bill itself must fall. In examining this question it must not be overlooked that each Indian nation is in-

dependent of the other, and each makes its treaties for itself. It will not do, therefore, for the honorable chairman to take treaties made by one or two nations, as he admits he has done, and adopt them as a standard for all the balance. He has no right to do so, and no authority to do so. Suppose the Choctaw and Chickasaw treaties subserve his purpose, where does he find the legal warrant that the Creeks, Seminoles, and Cherokees can be embraced within the provisions of a law based upon said treaties, which they took no part in making, and by which they are in no wise bound. The thing is an absurdity in itself, and the honorable chairman seems to have been aware that he stumbled on a difficulty in this, for he says "it was found impossible to make a bill accord in every respect with all the treaties." Claiming to derive his authority for the bill from the treaties themselves, and confessing that he has based a general bill on treaties with *all* the nations, and that it is not in harmony with all said treaties, but violative of at least a portion of them, the bill itself must fall on his own reasoning. We believe the honorable chairman of the Territorial Committee is not a lawyer but a banker, and it is not therefore strange that he should overlook the governing legal principle of his case, and otherwise attempt to supply its absence. He states frankly that he found it "impossible to make the bill accord in every respect with all the treaties," and assumes to point out wherein it does not accord with them. For instance, in this, that the Choctaw and Chickasaw treaty provides that the "legislative council shall be presided over by the superintendent of Indian affairs, who is styled the governor of the Territory of Oklahoma;" that in the Cherokee treaty the "council shall be presided over by such person as may be designated by the Secretary of the Interior," without saying he shall be styled governor of said Territory, or recognizing him as such, certainly a wide difference; that "the treaties provide that the superintendent of Indian affairs shall be *ex officio* governor, while the bill provides that the governor shall be *ex officio* superintendent," a distinction without a difference. There certainly is a difference between a superintendent of Indian affairs who shall be *ex officio* governor, authorized to preside over the council, and a *bona fide* governor nominated by the President and confirmed by the Senate, and be *ex officio* superintendent. But what treaties does the honorable chairman refer to? The conclusion is inevitable that he means all the treaties, whereas only the Chickasaw and Choctaw treaty so provides.

Further comment is unnecessary.

The honorable chairman states further that "the treaty limits the session of the legislative council to forty days, (the treaty itself says thirty,) while the bill extends the time to sixty and forty days," and he concludes by adding: "In all material respects the bill is specially provided for almost word for word by the treaties before mentioned." This is a broad declaration, and if it is borne out by the facts, we concede that other matters are quite immaterial. But is it thus borne out? We shall show that it is not, and that the honorable chairman is mistaken.

#### COUNCIL.

"The council shall consist" (we shall quote from the Choctaw and Chickasaw treaty, the honorable chairman's standard,) "of one member from each tribe or nation whose population shall exceed five hundred, and an additional one for each one thousand Indians, native or adopted, or each fraction of a thousand greater than five hundred, being members of any tribe lawfully resident in said Territory."



From this it will be seen that the basis of apportionment is "native or adopted" citizens of the nation or tribe, and none others.

#### HOW SELECTED.

The treaty provides they "shall be selected by the tribes or nations respectively who may assent to the establishment of said general assembly."

Of course no one can vote for a delegate except "a member of a tribe lawfully resident in said Territory;" that is, he must be a citizen of said Territory, and the qualification of citizenship is a matter which each tribe or nation fixes for itself, and there is nothing in the treaties which changes this, but the contrary principle is affirmed by them.

The fifth section of the bill changes the qualification of voters, which Congress cannot do without violating treaties, and makes "members of the tribe (all are called tribes in the bill) over twenty-one years of age, who have adopted the customs of civilized life, voters at the first election, and the council is authorized by the bill to fix the qualifications of voters at all subsequent elections. This is also clearly in violation of the Choctaw and Chickasaw treaty, as well as all other treaties. The proviso of this section (fifth) is this:

"That no person shall be deprived of the right to vote or hold office in said Territory on account of race, or color, or previous condition of servitude."

Can the honorable chairman find in any of the treaties a provision making applicable the proviso to the Indian nations? We hold that no man, of whatever race or color he may be, and we are especially afraid of the white man, shall be allowed to enjoy the right to vote or hold office in our respective nations, unless he is a citizen thereof, and then his right would exist by virtue of our own laws and not by virtue of the proviso, which seeks to confer upon him these rights irrespective of citizenship. The term to be "lawfully a member of a tribe or nation" means to be a member legally in accordance with law, *i. e.*, a citizen and not a mere sojourner.

The second section of Article VIII of the Choctaw and Chickasaw treaty, as we have already shown, declares the delegates to the council "shall be selected by the tribes or nations respectively who may assent to the establishment of said general assembly." If, therefore, a tribe or nation withholds its assent, it could not be brought under the jurisdiction of the council. Each tribe or nation holds the right of free choice for itself whether it will enter into said council and become a part of said Territory or not. The government, under its treaty with said tribe or nation, has no right to make a choice for it, and to do so would be violative of said treaty.

The first section of the bill enacts: "That there be and is hereby, created and established within the Indian Territory, bounded as follows" &c., "a temporary government by the name of the Territory of Oklahoma."

Here we see that it is proposed to establish, absolutely by Congress, a government over the Indian nations, not only against their consent, but when they are protesting most solemnly against it as detrimental to their interest, contrary to their established rights from the organization of your government, and violative of their treaties; and this is also called substantially complying with their treaties. We are unable to see it in that light.



## JURISDICTION.

We hope, senators, you will not overlook the following:

The fourth section of the eighth article of the Choctaw and Chickasaw treaty is as follows:

"The general assembly shall have power to legislate upon all subjects and matters pertaining to the intercourse and relations of the Indian tribes and nations resident in said Territory; the arrest and extradition of criminals escaping from one tribe to another; the administration of justice between members of the several tribes of the said Territory, and persons other than Indians and members of the said tribes and nations; the construction of works of internal improvement; and the common defense and safety of the nations of the said Territory."

This article clearly shows, what elsewhere appears, that the proposed council was to be a congress of equal and independent nations, for their joint protection and benefit. Its jurisdiction is expressly defined and limited, and the Congress of the United States has no authority to enlarge that jurisdiction.

First. The council would be authorized to legislate upon matters pertaining to the intercourse and relations of the Indian tribes and nations resident in said Territory, that is, to establish the intercourse and relations between them as nations; to provide for the arrest and extradition of criminals escaping from one nation to another; to see that justice was administered between the members of the several nations, that is, to see that a member of one nation should not deny justice to a member of another nation, or to persons other than Indians, if members of one of the nations; to construct works of internal improvement, that is, to provide for joint improvements by way of constructing railroads or highways through the different nations; and to provide for the common defense and safety of the nations of said Territory, that is, to pass such laws as would protect each and all alike, and thus contribute to their joint defense and safety. Here the jurisdiction stops, and to this extent, we presume, each nation will be willing to go, but no further.

How is it with the bill? The sixth section provides: "That the legislative power of the Territory shall extend to all rightful subjects and matters pertaining to the intercourse and relations of the Indian tribes, and members of different tribes resident in said Territory; the arrest and extradition of criminals escaping from one tribe to another; the administration of justice between members of any of the tribes of said Territory and all other persons; the creation of bodies corporate with all adequate powers for the construction and operation of works of internal improvement; and the common defense and safety of the nations of said Territory, and grant aid to all such bodies corporate; the punishment of crimes, and the civilization and improvement of the people."

It will be seen that this section greatly enlarges the legislative power of the proposed council; that it authorizes the "creation of bodies corporate with all adequate powers;" that it authorizes such council to "grant aid to all such bodies corporate;" and to provide for the "punishment of crimes," and for the civilization and improvement of the people. In short, it provides for a system of general legislation, and extends legislative jurisdiction over the soil and individual members of the different nations. And this, too, is asserted to be a compliance with the treaties. We stand confounded before this proposed assumption of power.

We might go further, and show other proposed violations of our treaties, but we forbear from doing it, as it is not necessary, and as we do

not wish to trespass too long upon your time. We certainly have shown, senators, enough to convince you that instead of the bill complying "in all material respects" with "the treaties before mentioned," it abrogates them in "all material respects." It is useless to attempt to disguise the fact that it will, if enacted into a law, destroy our local independent governments; leave each without a head or a legislative body, or a separate judiciary, for all would be swallowed up by the new executive, legislative, and judicial powers which the bill would establish; and this is proposed to be done in violation of our treaties. The Choctaw and Chickasaw treaty provides for limiting the legislation of the proposed council; it says: "Such legislation shall not in any wise interfere with or annul their present tribal organization, or their respective legislatures, or judiciaries, or the rights, laws, privileges, or customs of the Choctaw and Chickasaw nations, respectively."

The honorable chairman quotes this language in his report, and thus answers himself; for such a law as he proposes would destroy the tribal organizations, the rights, laws, and civil institutions of the Choctaw and Chickasaw nations, and place them under the control of a government established by the United States.

As with the Choctaws and Chickasaws so with the other nations of Indians.

We have shown that the bill confers powers upon the proposed legislative council "to create bodies corporate with all adequate powers," and "to grant aid to all such bodies corporate." Here opens the railroad feature of the measure; here is opened the door for railroad companies and speculators to come in with their money and obtain, if possible, such charters as they desire, by offering sufficient temptations; and we confess to you, senators, that we tremble for the safety of our people at their approach. What "aid" is it contemplated shall be granted by the council to bodies corporate? It is provided that the government shall pay the expenses of the council; and they will be destitute of the power of bestowing any money aid. What aid, then, can it bestow? The answer is plain. The railroad men and the speculators are looking to our lands, and if they cannot obtain them in any other way, they hope to possess themselves of them through the medium of the legislative council. They hope they will be able to induce that body to grant them, and this, it looks to us, is the primary object they have in view. Certainly such will be the effect of the legislation.

But the bill, not willing to leave the determination of the question entirely to chance, goes further.

The sixteenth, seventeenth, and eighteenth sections of said bill are grossly violative of the Indian treaties, and lay every Indian nation at the feet of railroad monopolies. In all cases where Congress has made any kind of a grant of land to railroad companies, either in the present or prospective, it provides that they shall be permitted to have such lands withdrawn to the extent of said grant or grants, and said lands shall be patented to said railroad companies, in fee simple, by the government of the United States. The language of the section is, "*that in all cases*" where grants have been made this shall be done, and even the legislative council is prohibited from exercising any authority or control over them.

The seventeenth section provides, "That after the withdrawal of the lands indicated in the foregoing section for the discharge of existing obligations of the government toward railroad companies under laws previously enacted, the legislative council aforesaid shall have power to grant alternate sections of land to other companies organized for con-

struction of railroads or other works of internal improvement, and give valid title thereto: *Provided*, That the same shall in no wise interfere or conflict with the grants specified or referred to in the preceding section."

The second proviso of said section confers upon the government the right to sell the alternate sections reserved for the benefit of the Indians, at \$2 50 per acre, which is to be placed to their credit on the books of the Treasury.

The eighteenth section provides, "That six months' time shall be given to all Indians and freedmen, members of any of the nations or tribes incorporated by this act in the Territory of Oklahoma, to make selections of land under the provisions of this act." \* \* \* "That said selections shall be made by the inhabitants of each tribe or nation within six months after the survey of the occupied portions of the lands of such tribe or nation; the said six months to begin to run from the published notice of the register of the land office that the survey of a certain tract or tracts is completed and ready for such selections."

We submit, senators, that nothing can be made out of this bill but this: that it provides for annulling all Indian titles to lands; that it virtually declares them to be public lands belonging to the United States; that we are not privileged to claim any more right in them than other settlers who may come upon them, the simple right by pre-occupancy, of homestead or pre-emption, of one hundred and sixty acres each; that it abolishes our several local governments, and leaves us without the right to insist on the observance of our treaties, or even to plead that we have bought and paid for our possessions. When we contemplate these things, we confess to you, senators, that our hearts grow sick, and we are led to exclaim, Has justice fled from the earth?

Why is all this proposed to be done? The honorable chairman of the Committee on Territories tells us in his report; he says:

"It is clear, in the light of history, that the civilized nations of the Indian country, either by contact and association with their barbarous brethren of the savage tribes, or from some other cause or causes, have deteriorated in enlightenment in the last quarter of a century, while, at the same time, they have decreased in population."

Is this true? Take the Cherokee nation as an example. When they were removed from Georgia and North Carolina to their present home they numbered no more than fourteen thousand souls, all told. At the breaking out of the late civil war they numbered twenty-two thousand. At the close of the war they numbered about fifteen thousand. They have increased from two to three thousand since then, and all the increase has been from natural causes, and not from emigration.

But the honorable chairman says we have "deteriorated in enlightenment in the last quarter of a century." Not a great while longer than a quarter of a century ago the Cherokees generally wore their native dress, were destitute of school-houses, and lived principally by hunting. Now they have adopted the dress of the American citizen; the school-house is seen everywhere among them; they have forty free schools in successful operation, and are constantly increasing them; they have two seminaries; they have numerous churches, and a language of their own, in which the Bible is printed; they have the newspaper press; their children are educated for the responsibilities and duties of civilized life; they have a written constitution, and laws, and courts of justice. Long before the prohibitory law was in force in Maine it was in force in the Cherokee and Choctaw nations, and has been ever since then, and is now, in force. The white man with his whisky barrel is excluded; their married women have their individual property secured to them by law, and it cannot be

taken for the husband's debts. At the close of the war the colored people—mostly their former slaves—were given lands, adopted into the nation as citizens, and now share, head and head alike, with them all they have or all they receive in money or otherwise. Mechanics ply the various trades; their women use the spinning-wheel, the loom, and the sewing-machine; industrious and skillful farmers cultivate the soil; they meet faithfully their obligations, and molest none under their own vine and fig-tree. Go where you will in their country, you meet with hospitality and kindness. The Choctaws, Chickasaws, and Creeks have made like improvement in civilization, and no other people in the world ever advanced so rapidly in all the arts of peace, and none appropriate so great a proportion of their resources to educational purposes.

The Choctaws, in 1820, set apart fifty-two sections of their best lands in Mississippi to obtain means to educate their children. In their various treaties made since with the United States they have provided liberally for educational and other purposes of internal improvement. And it can be said of the Chickasaws, that they are probably expending more money for educational purposes than any other Indian nation. Yet all these evidences of progress are declared to be so many evidences of Indian retrogression. We can survive truth; but may perish under misrepresentation and avarice.

But in the very next sentence following the one which we have just quoted, in speaking of the Indians, the honorable chairman says: "They are now fitted for citizenship, or a very large proportion of them." Strange, strange logic! In one breath we are told, by an American senator, that we have retrograded in enlightenment and civilization; in the next, that we are fit to become citizens of the United States.

The honorable chairman carries his reasoning further. He says: "It is in consonance with the new policy of the government, born of the war and matured by the fifteenth amendment, that no alien race shall exist upon our soil." Were the colored people an alien race in your government, or was it the object of the war and the fifteenth amendment to assert the fact that they were not aliens when born under its laws and jurisdiction, and entitled to their freedom? The war grew out of their relations to the government, and not ours, and how then could it have been "born of the war and matured by the fifteenth amendment," that we were to be affected by them in our political relations to your government? Strange, strange logic!

The honorable chairman says, moreover, "It is a part of the inexorable logic of the times," (ah! this is the plea of "manifest destiny" again,) "that the Indian must adapt himself to the rights and duties of citizenship," that is, he means that the Indian must be compelled to abandon his present organized government, surrender what he has, and disappear before the white race. He thinks we are deserving of a better fate, and we think so too, and we are struggling to maintain that better fate.

It is computed in the report of the honorable chairman that the proposed Territory will contain 85,000 souls, and he says of these 85,000 that only 20,000 of them are uncivilized. He further says, in speaking of the 85,000: "In the main, they are educated and intelligent," (query, if this is so, how could we have deteriorated in enlightenment?) "and the government should cease to treat them as wards." Wards! In what sense does he mean? Does he wish it to be understood that we are "wards," who are fed and clothed by the government of the United States? Yes, there is where he leaves it, for that will be the way his

will be understood. We defy the honorable chairman, or any other gentleman, to show that we are costing the government of the United States a single dollar in the way of contribution or charity.

No one can deny that our relations with the government of the United States are more or less complex. From time to time we have sold lands to it, and variously contracted with it, so that there are some grave legal questions involved in our relations with it, while it is vastly, in a fair settlement, indebted to us. It is to solve these legal questions upon a basis of justice to our nation, as well as to the United States, that we have employed legal advice from that class of professional gentlemen, acknowledged with just pride by all civilized governments. And if we are to be animadverted upon, and referred to in disparaging terms by a class of speculators who have about as much regard for the *honor of your government* and its *sacred obligations* as they have for an Indian's rights, our apology is that we have but followed in the wake of your own government, which has salaried attorneys and representatives at every hinge of its entire machinery.

We have filed in the House of Representatives remonstrances signed by thousands upon thousands of our voters against a territorial government being extended over them by Congress, to which we respectfully call your attention. The legislative councils of the respective Indian nations have each passed resolutions protesting against it, and we venture to assert that not ten voters in all of them would consent to the establishment of such a government, although it is falsely circulated that they desire it.

Senators, we are done. We hope we have said nothing offensive; if we have, we cheerfully retract it. We have spoken plainly, we admit; but men in despair, encompassed on every hand by the cunning and crafty, would be doing injustice to themselves and to those they represent if they did not tell the tale of their wrongs in plain language.

All of which is hopefully and respectfully submitted.

LEWIS DOWNING,

*Principal Chief Cherokee Nation.*

SAM'L SMITH,

ARCHIE SCRAPER,

J. P. DAVIS,

C. N. VANN,

W. P. ADAIR,

*Cherokee Delegation.*

G. W. STIDHAM,

S. W. PERRYMAN,

*Creek Delegates.*

P. P. PITCHLYNN,

*Choctaw Delegate.*